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Appeal Filed:	1/08/2015
49th Day:	Waived
Staff:	Daniel Robinson - SC
Staff Report:	2/26/2016
Hearing Date:	3/10/2016

APPEAL STAFF REPORT: SUBSTANTIAL ISSUE DETERMINATION & DE NOVO HEARING

Appeal Number:	**A-3-SLO-15-0001**
Applicant:	**Jack Loperena**
Appellants:	Commissioners Howell and Shallenberger; San Luis Obispo Coastkeeper; Ethel Pludow and Cynthia Sugimoto; Jack Loperena
Local Government:	San Luis Obispo County
Local Decision:	Approved by the San Luis Obispo County Board of Supervisors on December 9, 2014 (County application number DRC2005-00216).
Project Location:	Seaward of Studio Drive at its northern end (approximately 250 feet southwest of the intersection of Studio Drive and Highway 1) fronting Morro Strand State Beach in the unincorporated Cayucos community of San Luis Obispo County (APN 064-253-007).
Project Description:	**For Substantial Issue Determination:** The project approved by the County provides for construction of a new, roughly 1,400-square foot, 3-story single-family residence with an attached garage and an elevated driveway platform connecting to Studio Drive. **For De Novo CDP Determination:** The project proposed by the Applicant in a de novo review requests approval for construction of a new, roughly 2,200-square foot, 3-story single-family residence with an attached garage and an elevated driveway platform connecting to Studio Drive.

Staff Recommendation: Substantial Issue Exists; Approval with Conditions

IMPORTANT HEARING PROCEDURE NOTE

The Commission will not take testimony on this "substantial issue" recommendation unless at least three Commissioners request it. The Commission may ask questions of the Applicant, any aggrieved person, the Attorney General or the Executive Director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to three minutes total per side. Only the Applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow (unless it has been postponed) during which the Commission will take public testimony. (See California Code of Regulations Title 14 Sections 13115(b), 13115(c), and 13117.)

SUMMARY OF STAFF RECOMMENDATION

San Luis Obispo County approved a coastal development permit (CDP) to allow construction of a single-family dwelling on a small undeveloped parcel occupying a bluff face and sandy beach area in the unincorporated community of Cayucos in San Luis Obispo County. The project site is located seaward of Studio Drive at its northern end (approximately 250 feet southwest of the intersection of Studio Drive and Highway 1) and is directly adjacent to Morro Strand State Beach.

Three Appellants contend that the County-approved project is inconsistent with San Luis Obispo County Local Coastal Program (LCP) policies related to coastal hazards (including with respect to bluff setbacks, sea level rise, and shoreline armoring), public views, environmentally sensitive habitat, public access, drainage, and creek setbacks. The other Appellant is the Applicant, Mr. Jack Loperena. Mr. Loperena contends that the parcel does include a coastal bluff feature and therefore does not require a minimum 25-foot bluff setback as approved by the County, and that the County-approved project will not allow development of an LCP and code-compliant residence, and thus the County's approval represents a taking of private property and denial of a reasonable economic use of same.

In the time since the appeals were filed, staff has worked closely with the Applicant and the Appellants to understand the facts of the case and their relative positions; has received additional information from the Applicant regarding coastal hazards and lot legality/parcel history; has thoroughly reviewed the County administrative file that was provided; has visited the proposed project site on numerous occasions; has met multiple times with all interested parties who have asked to meet; and has evaluated the County-approved project, as well as the Applicant's revised proposed project should substantial issue be found, for consistency with the LCP and the Coastal Act's access (and recreation in de novo review) policies. In addition, given one of the fundamental project issues relates to site geology, the record includes a significant body of geologic/geotechnical work from all parties, particularly from the Applicant's consultants and

the County's record. The Commission's Senior Engineer, Dr. Lesley Ewing, as well as the Commission's Senior Geologist, Dr. Mark Johnsson, who has, reviewed all the relevant geologic/geotechnical and related materials and has visited the site on numerous occasions, have inputted into this report. On the critical question of whether the site includes a coastal bluff feature, Dr. Johnsson has concluded that the project area meets the definition of a coastal bluff, and that the proposed residence would actually be located on the coastal bluff face (Dr. Johnsson's memo is attached as Exhibit 10 of this report). The LCP does not allow residential development on a bluff face; requires blufftop setbacks that cannot be met at this location; and does not allow shoreline protection with new development, and thus the County-approved project raises a substantial issue with the LCP in these regards.

With respect to public views, the approved project will appear to be a relatively large, 33-foot-tall, three-story residence as seen from adjacent Morro Strand State Beach and Highway 1 (a State Scenic Highway and National Scenic Byway at this location) and related public viewing areas, and will not be visually compatible with the existing pattern of one- and two-story residences along the blufftop seaward of Studio Drive. Thus, the County-approved project raises a substantial LCP conformance issue with the LCP's visual protection policies, including the Studio Drive Small Scale Neighborhood Design standards. Furthermore, the County-approved project will eliminate at least one regularly used public access path that leads from Studio Drive to the sandy beach. Thus, the appeal also raises a substantial issue with respect to conformance with Coastal Act and LCP public access policies.

Regarding Mr. Loperena's contentions, residential development at this location is not allowed under the LCP, including because it cannot meet the LCP's blufftop setback requirement because the entire site is seaward of the blufftop edge. Bracketing for a moment this fundamental inconsistency, the County's approval would provide for an approximately 500 square-foot building footprint with up to three levels of development (i.e., basement, main floor, and upper floor) which, with LCP-required yard and other setbacks, would result in a roughly 1,400 square-foot residence, which is within the size range of existing residences on other similarly-sized lots along Studio Drive. Thus, Mr. Loperena's contentions do not raise a substantial LCP conformance issue.

For the reasons stated above, though, staff recommends that the Commission find that the appeal raises a substantial issue with respect to hazards, visual resources, and public access, and also recommends that the Commission take jurisdiction over the CDP application.

In the de novo CDP application evaluation, the Applicant has modified his proposed project. The Applicant is no longer proposing the project that he originally proposed to the County in his CDP application (i.e., a three-story, 3,097 square-foot residence modern-style home extending out and over the beach by some 20 feet). Instead, despite the fact that it was dismissed by the County Board of Supervisors in their approval that is the subject of this appeal, the Applicant is here proposing that the Coastal Commission approve an almost identical version to the project that was approved by the County Planning Commission. Specifically, in de novo, the Applicant is proposing a 2,195-square-foot, three-story, 33-foot-tall residence that would extend to the edge of the sandy beach (via proposed cantilevered elements) (see **Exhibit 6**). In other words, the Applicant's revised proposal is a significantly larger structure than the approximately 1,400

square-foot residence approved by the County Board of Supervisors. In any case, however, because the LCP does not allow residential development on a bluff face, the proposed project cannot be found consistent with the LCP in this regard. In addition, the proposed project is unable to meet the LCP's blufftop setback requirements given the site is located entirely seaward of the blufftop edge. The proposed project raises other coastal resource concerns that would probably be able to be addressed via conditions, but because of these fundamental and fatal LCP inconsistencies, approval consistent with the LCP is not possible, and the LCP directs project denial in this case. However, consistent with the mandate of Coastal Act Section 30010, and since any economic use of the subject property would likely result in some degree of LCP inconsistency, staff recommends approval of reduced residential development to provide for a reasonable use of the property intended to avoid a potential unconstitutional taking of private property for public use.

In this takings approval context, staff has tried its best to limit coastal resource impacts while still providing the Applicant with a reasonable residential project. Staff and the Applicant have had numerous lively dialogues in this respect and, as of the date of the staff report, are not in agreement on the approvable project, with the overwhelming issue being the size and location of the building and building footprint. The Applicant continues to press for the Commission to approve a version of the house similar to was approved by the County's Planning Commission (i.e., without a bluff setback at all). Staff does not believe that a project of this proposed scale that would be located as far seaward as the edge of the sandy beach would be appropriate, especially given its prominence in the public viewshed, particularly as seen from the north (i.e., along the State Beach, at the State Beach parking lot, and along Highway 1) and given its location at the end of the row of houses extending downcoast that only serves to increase its prominence in the public viewshed. The Applicant's proposal would place a significantly large three-story structure in the back beach area that would extend down the slope to roughly beach level, with a proposed main floor cantilever. This would be a significant development anomaly for this stretch of coast, and would appear significantly different than other residential development that better meets LCP requirements and objectives.

Staff instead supports a residential project that is pulled back off of the sandy beach so as to provide at least some visual separation between the beach and the residence, with berming and landscaping fronting the basement level so that the project at least appears to be a two-story structure as much as possible such as might be allowed at most on nearby residential lots (and would not appear as a three-story structure as is *not* allowed in blufftop cases). Staff's recommendation recognizes that this is not a typical fairly flat lot with space available to develop inland of the blufftop edge, as is more common along Studio Drive. On the contrary, because the portion of the lot that is not occupied by sandy beach is relatively small (almost 50% of the lot, or roughly 1,700 square feet, is sandy beach, leaving only about 1,745 square feet that is not beach sand), there is little space inland on the lot to achieve such separation from the beach area and to site residential development. To help identify an appropriate footprint area, staff looked to the surrounding area to understand the relative size and scale of structures in the neighborhood, and have applied this to the Applicant's site and its geography in a way meant to respect LCP objectives, including in terms of the LCP vision for blufftop development along Studio Drive. In terms of the later, the LCP requires a *minimum* setback of 25 feet from the *blufftop* edge. Immediately adjacent development does not currently meet this setback (i.e., the next three houses extending downcoast), but it will be required to in the future when it redevelops, similar

to houses developed since the LCP has been in effect (e.g., the houses just past the first adjacent three that meet the minimum 25-foot setback requirement). Staff mapped out both a 25-foot setback from the sandy beach, as well as the general trend of the LCP-required minimum blufftop setback along this shoreline area (as it might apply were there to be blufftop extending across the Applicant's site). These lines are roughly coterminous (see **Exhibit 12**). When applied, they would allow the Applicant space within which to develop an approximately 1,400 square foot residence (akin and consistent with the size of house approved by San Luis Obispo County after they undertook diligent review and analysis) over three levels, where the basement level is screened from public view so that the development appears as much like a two-story residence as possible. A house at roughly 1,400 square feet with a basement level screened from view would appear more proportional to the site, including in light of surrounding development characteristics, and more appropriately address the fact that the portion of the lot that is not sandy beach is not much larger than 1,400 square feet itself (i.e., at 1,745 square feet).

Even with these mitigations, the project will be highly visible, but it represents an appropriate compromise given the takings considerations, the physical characteristics of the site and the surrounding area, and LCP requirements for development associated with bluffs and blufftops. It also is more equitable than the Applicant's proposal inasmuch as the adjacent residences will be required to meet the minimum 25-foot blufftop setback when/if they redevelop, and doing so would mean they would be required by the LCP to be back *behind* the Applicant's proposal by some 20-25 feet (blocking views, etc.) if the Applicant's proposal were to be approved. Staff's proposal ensures that these setbacks for neighboring properties roughly match up by following the actual LCP blufftop setback line trend for this stretch of coast. This is a fair way of allowing residential development here at the same time as ensuring that its impacts do not unduly and unfairly harm either the surrounding public viewshed or neighboring property owners who are required to adhere to the LCP. To do otherwise, and to allow this Applicant to have significantly larger development significantly closer to the beach is akin to rewarding the fact that the lot is not residentially buildable under the LCP to the detriment of coastal resource protection, and is simply not appropriate. A revised project as staff recommends addresses these issues and the public viewshed issues at the same time, and represents a fair compromise in this case that respects both as much as possible if a residence is built on this significantly constrained lot.

In addition, staff recommends a series of conditions to address coastal hazards and public access, including conditions that require small-scale design techniques; that prohibit future shoreline armoring and require the Applicant to assume all risks for developing at this location; that require construction BMPs to reduce impacts to trees and nesting birds; that require a post-construction drainage and runoff control plan; and that require a public access easement over the sandy beach area.

Staff believes that the project, as conditioned, will allow a reasonable residential use (on a site that would otherwise prohibit residential use) while still protecting coastal resources as much as possible in light of takings considerations, and appropriately responds to the unique circumstances of this case. Thus, Staff recommends that the Commission approve the CDP subject to the recommended conditions. The motion is found on page 7 bel

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I. MOTIONS AND RESOLUTIONS

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

Motion: *I move that the Commission determine that Appeal Number A-3-SLO-15-0001 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act, and I recommend a no vote.*

Resolution to Find Substantial Issue: *The Commission hereby finds that Appeal Number A-3-SLO-15-0001 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.*

CDP Determination
Staff recommends that the Commission, after public hearing, **approve a CDP** for the proposed development, subject to the conditions in this staff report. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned in this staff report and adoption of the following resolution and findings. Conversely, failure of this motion would result in denial of the CDP application. The motion passes only by affirmative vote of a majority of the Commissioners present.

Motion: *I move that the Commission approve Coastal Development Permit Number A-3-SLO-15-0001 pursuant to the staff recommendation, and I recommend a yes vote.*

Resolution to Approve CDP: *The Commission hereby approves Coastal Development Permit Number A-3-SLO-15-0001 and adopts the findings set forth below on grounds that the development as conditioned is necessary to avoid a potential unconstitutional taking of private property while allowing for the proposed use. The development will otherwise be in conformity with San Luis Obispo County Local Coastal Program policies and Coastal Act access and recreation policies to the maximum extent possible. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittees or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittees to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Final Plans**. PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit two full size sets of Final Plans to the Executive Director for review and approval. The Final Plans shall be prepared by a licensed professional or professionals (i.e., architect, surveyor, geotechnical engineer, etc.), shall be based on current professionally surveyed and certified topographic elevations for the entire site, and shall include a graphic scale. The Final Plans shall clearly show the development's siting and design, including through elevation and site plan views and shall comply with the following requirements:

    a. **Approved Footprint.** All development (including all projecting elements) on the subject property shall be located within the building footprint as shown on **Exhibit 9** (i.e., a closed polygon that extends along the inland property line, with side setbacks consistent with the Studio Drive Small Scale Design Neighborhood standards shown in **Exhibit 8,** and along the 25-foot beach setback line)**.** All such development outside of the subject property (i.e., in the County's public right-of-way, including the driveway, retaining walls and drainage systems, etc.), shall be accompanied by evidence of all required San Luis Obispo County approvals, including in terms of encroachment permits.

    b. **Parking/Garage.** The driveway/parking area may be removed from the footprint (as described above) and located between the subject property and Studio Drive (on the

County's right-of-way area) provided it is minimized to the maximum degree feasible in size and scale while providing space for two standard-sized vehicles and pedestrian access from Studio Drive, and provided the Applicant submits evidence of a San Luis Obispo County encroachment permit to the Executive Director for review and approval.

c. Height. All development shall extend no higher than a horizontal plane across the site that is at an elevation that is 15 feet as measured at a point on the centerline of Studio Drive closest to the easternmost corner of the subject property.

d. Upper Floor Setbacks. The Final Plans shall show the upper floor setbacks consistent with the upper floor setback requirements of the Studio Drive Small Scale Design Neighborhood standards shown in **Exhibit 8.**

e. Design. All development shall incorporate architectural details and varied materials to reduce the apparent mass of the residence. Building facades should be broken up by varied rooflines, offsets and building elements in order to avoid a box-like appearance. Variations in wall planes, roof lines, detailing, materials and siding should be utilized to create interest and promote a small scale appearance. Roof styles and roof lines for first and second stories should match. All siding shall be wood or wood-like in natural colors. All windows and other surfaces shall be as non-glare and non-reflective as possible, and all lighting shall be minimized to avoid light wash visible from public viewings areas, including the beach.

f. Foundation and Retaining Walls. All foundation and retaining wall elements shall utilize standard retaining wall and foundation design (e.g., perimeter foundation with cross beams; slab on-grade, etc.); shall not utilize extraordinary measures (such as deep piers or caissons); shall not be designed or engineered to address ocean-related forces (e.g., wave attack, ocean flooding, erosion, etc.) except to the extent that such design may facilitate future removal of the foundation and associated structures; and shall be sited and designed consistent with standard engineering and construction practices in such a way as to best meet the objectives and performance standards of these conditions (including to facilitate removal if required – see **Special Conditions 6** and **7**). All foundation elements shall be sited and designed to be removable, including in terms of limiting extent of excavation or disturbance beyond the immediate development footprint, and including providing for modularity to the extent that it may facilitate removal of the foundation and associated structural development in response to an eroding shoreline (see also **Special Conditions 4 and 5**).

g. Basement Level Screening. The Final Plans may show a basement level provided the basement level is located below grade as much as possible in order to limit views of the basement as seen from public viewing areas (e.g., the beach, the State Park parking lot upcoast, Highway 1, etc.). Any portions of the basement that extend above grade are required to be screened with soil berming and landscaping (atop the berming where possible, and by itself where berming is not possible) to the maximum extent feasible. All screening vegetation shall consist of native plants appropriate to the Cayucos area that are best capable of providing thorough screening (see also **Condition 1(h)** below).

h. Landscaping. All non-native and/or invasive plants on the site, including iceplant, shall be removed and the site shall be kept free of such plants for as long as any portion of the approved development exists at this site. All landscaping areas outside of the approved building footprint (see **Special Condition 1(a)** above) and outside of the sandy beach area shall consist of appropriate drought-resistant California native species. All landscaped areas on the project site shall be maintained in a litter-free, weed-free, and healthy growing condition. All irrigation systems shall limit water use to the maximum extent feasible, including using irrigation measures designed to facilitate reduced water use (e.g., micro-spray and drip irrigation). No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be so identified from time to time by the State of California, and no plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be planted or allowed to naturalize or persist on the site.

i. Drainage and Runoff Control. A post-construction drainage and runoff control system shall be provided that is sited and designed: to collect, filter, treat, and direct all site drainage and runoff in a manner intended to protect and enhance coastal resources as much as possible; to prevent pollutants, including increased sediments, from entering coastal waters as much as possible; to filter and treat all collected drainage and runoff to minimize pollutants as much as possible prior to infiltration or discharge from the site; to retain runoff from roofs, driveways, decks, and other impervious surfaces onsite as much as possible; to use low impact development (LID) best management practices (BMPs) as much as possible; to be sized and designed to accommodate drainage and runoff for storm events up to and including at least the 85th percentile 24-hour runoff event (allowing for drainage and runoff above that level to be likewise retained and/or conveyed in as non-erosive a manner as possible).

j. Public Access. The Final Plans shall show the sandy beach public access easement area required by **Special Condition 9** below and as generally described in **Exhibit 14**. The public access easement shall cover all areas of the sandy beach located on the Permittee's property.

k. Cypress Tree Fencing. Final Plans shall show tree protection fencing within 25 feet of the trunk of the Monterey Cypress tree on the site.

All requirements above shall be enforceable components of this CDP. The Permittee shall undertake construction in accordance with the approved Final Plans.

2. Construction Plan. PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit two copies of a Construction Plan to the Executive Director for review and approval. The Construction Plan shall, at a minimum, include the following:

a. Construction Areas. The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors (to the construction site and staging areas) in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to have the least impact on public access and ocean

resources, including by using inland areas for staging and storing construction equipment and materials as feasible.

b. Construction Methods. The Construction Plan shall specify the construction methods to be used, including all methods to be used to keep the construction areas separated from public recreational use areas (including using inland areas for staging, storage, and construction activities to the maximum extent feasible), and including using unobtrusive fencing (or equivalent measures) to delineate construction areas, and including all methods to be used to protect the beach and ocean. All erosion control/water quality best management practices to be implemented during construction and their location shall be noted. The Plans shall limit construction activities to avoid coastal resource impacts as much as possible, including verification that equipment operation and equipment and material storage will not significantly degrade public views during construction to the maximum extent feasible.

c. Construction Requirements. The Construction Plan shall include the following construction requirements specified by written notes on the Construction Plan. Minor adjustments to the following construction requirements may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

- All work shall take place during daylight hours, and lighting of the beach and ocean area is prohibited.

- Development in sandy beach areas is prohibited, except that removal of existing debris, concrete, rubble, etc., is allowed in these areas.

- Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.

- Equipment washing, servicing, and refueling shall only be allowed at a designated inland location as noted on the Plan. Appropriate best management practices shall be used to ensure that no spills of petroleum products or other chemicals take place during these activities.

- The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain, including covering exposed piles of soil and wastes; dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach; etc.).

- All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each workday. At a minimum, silt fences, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from entering the beach or ocean.

- All public recreational use areas impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction. Any native materials impacted shall be filtered as necessary to remove all construction debris.

- The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least three working days in advance of commencement of construction or maintenance activities, and immediately upon completion of construction or maintenance activities.

The Permittee shall undertake construction in accordance with the approved Construction Plan. All requirements above and all requirements of the approved Construction Plan shall be enforceable components of this CDP.

3. **Construction Site Documents & Construction Coordinator.** DURING ALL CONSTRUCTION:

   a. **Construction Site Documents.** Copies of the signed CDP and the approved Construction Plan shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.

   b. **Construction Coordinator.** A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and the coordinator's contact information (i.e., address, email, phone numbers, etc.) including, at a minimum, a telephone number and email address that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas at the same time as limiting public view impacts as much as possible, along with an indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the contact information (e.g., name, address, email, phone number, etc.) and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.

4. **Sensitive Bird Species.** PRIOR TO COMMENCEMENT OF CONSTRUCTION activities taking place between February 1st and August 31st that have the potential for significant noise impacts, the Permittee shall ensure that a qualified biologist shall conduct a pre-construction survey for the presence of nesting birds at the project site. If an active nest of a Federal or State-listed threatened or endangered bird species, bird species of special concern, or any species of raptor is identified during such preconstruction surveys, or is otherwise identified during construction, the Permittee shall notify all appropriate State and Federal agencies within 24 hours, and shall develop an appropriate action plan specific to each incident that shall be consistent with the recommendations of those agencies. The Permittee

shall notify the Executive Director in writing within 24 hours and consult with the Executive Director regarding the determinations of the State and Federal agencies. At a minimum, if the active nest is located within 250 feet of construction activities (within 500 feet for raptors), the Permittee shall submit a report, for Executive Director review and approval, that demonstrates how construction activities shall be modified to ensure that nesting birds are not disturbed by construction-related noise.

5. **Monterey Cypress.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall retain a certified arborist to conduct and site preparation activities requiring cuts or impacts to the root zone of the existing mature cypress tree on the site. The certified arborist shall monitor work within the root zone, including grading and excavation for the retaining wall and utility work. The certified arborist shall verify that tree protection fencing, as shown on the Final Plans (**Special Condition 1k**), is installed prior to ground disturbance within 25 feet of the trunk of the tree. The Permittee shall comply with methods identified by the certified arborist to avoid unnecessary damage to the root zone, including use of hand tools within 25 feet of the trunk of the tree, protection and treatment of exposed roots during construction, and use of tunneling under shallow roots for utility installation in lieu of standard trenching.

6. **Coastal Hazards Risk.** By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of himself and all successors and assigns, to all of the following:

   a. **Coastal Hazards.** That the site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tsunami, tidal scour, coastal flooding, liquefaction and the interaction of same.

   b. **Assume Risks.** To assume the risks to the Permittee and the property that is the subject of this CDP of injury and damage from such coastal hazards in connection with this permitted development.

   c. **Waive Liability.** To unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such coastal hazards.

   d. **Indemnification.** To indemnify and hold harmless the Coastal Commission, its officers, agents, and employees with respect to the Commission's approval of the development against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such coastal hazards.

   e. **Property Owner Responsible.** That any adverse effects to property caused by the permitted development shall be fully the responsibility of the property owners.

7. **Coastal Hazards Response.** By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of himself and all successors and assigns, that:

a. CDP Intent. The intent of this CDP is to allow for the approved development to be constructed and used consistent with the terms and conditions of this CDP for only as long as it remains safe for occupancy and use without additional measures beyond ordinary repair and/or maintenance (all as articulated in this condition below) to protect it from coastal hazards (as these hazards are defined by **Special Condition 6(a)** above). The intent is also to ensure that development is removed and the affected area restored under certain circumstances (including as further described and required in this condition), including that development is required to be removed, consistent with the Removal and Restoration Plan required in subsection (d) of this special condition.

b. Shoreline Protective Structures Prohibited. Shoreline protective structures (including but not limited to seawalls, revetments, retaining walls, tie backs, piers, groins, pilings, caisson, and grade beam systems, etc.) intended to protect the approved development from shoreline hazards are prohibited.

c. Shoreline Protective Structure Waiver. Any rights to construct such shoreline protective structures, including rights that may exist under the San Luis Obispo County Local Coastal Program, or any other applicable law, are waived.

d. Removal and Restoration Plan. The Permittee shall immediately submit two copies of a Removal and Restoration Plan (RRP) to the Executive Director for review and approval when any of the following criteria are met, which RRP shall also be implemented subject to all of the following:

1. **Unsafe Conditions**. If any portion of the approved development is damaged by coastal hazards (as these hazards are defined by **Special Condition 6(a)** above), and if a government agency has ordered that the damaged portion of the approved development is not to be occupied or used, and if such government agency concerns cannot be abated by ordinary repair and/or maintenance, the RRP shall provide that all development meeting the "do not occupy or use" criteria is removed to the degree necessary to allow for such government agency to allow occupancy to the remainder of the development, after implementation of the approved RRP. For purposes of this special condition, "ordinary repair and/or maintenance" shall include sealing and waterproofing and repair and/or maintenance that does not involve significant alteration to the building's major structural components, including exterior walls, floor and roof structures, and foundation (as those terms are defined in Special Condition 7(d)(2), below).

2. **Major Structural Components.** If any portion of the approved development's major structural components (including exterior walls, floor and roof structures, and foundation) are subject to coastal hazards and must be significantly altered (including renovation and/or replacement) to abate those coastal hazards, then the RRP shall provide that such structural components be removed. For purposes of this special condition, "exterior wall major structural components" shall include exterior cladding and/or framing, beams, sheer walls, and studs; "floor and roof structure major structural components" shall include trusses, joists, and rafters; and "foundation

major structural components" shall include any portion of the foundation and retaining walls.

3. **Daylighting.** If any portion of the approved foundation and/or subsurface elements (other than any approved above-grade basement elements, which must be screened with vegetation and/or berming as required by **Special Condition 1(f)**) becomes visible, then the RRP shall provide that such elements shall be screened consistent with the approved Final Plans (see **Special Condition 1(g)**) or, in the event that such screening is not possible, that all development supported by these elements, as well as the elements themselves, that cannot be successfully screened as required be immediately removed.

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

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

8. **San Luis Obispo County Conditions.** The proposed development was approved by San Luis Obispo County through its action on the Minor Use Permit/Coastal Development Permit Number DRC2015-00216. Any County conditions associated with that action that are imposed pursuant to an authority other than the Coastal Act (including the LCP) remain in full force and effect. In the event of conflict between any such conditions imposed by the County and the terms and conditions of this CDP, the terms and conditions of this CDP shall prevail.

9. **Public Access Easement.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall execute and record a document, in a form and content acceptable to the Executive Director, granting or irrevocably offering to dedicate to a political subdivision, public agency or private association approved by the Executive Director either fee title or an easement for public access (Public Access Dedication). The Public Access Dedication shall apply to all sandy beach access areas described in **Special Condition 1j** and generally depicted in **Exhibit 14**. The Public Access Dedication area shall be ambulatory, including that the easement area shall move inland if the sandy beach moves inland and shall move seaward if the sandy beach moves seaward. The Public Access Dedication shall be recorded free of all prior liens and encumbrances that the Executive Director determines may affect the interest

being conveyed. The Public Access Dedication shall include a legal description and graphic depiction of the legal parcel subject to the CDP and a metes and bounds legal description and graphic depiction of the Public Access Dedication area prepared by a licensed surveyor based on an on-site inspection, drawn to scale, and approved by the Executive Director.

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

IV. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. PROJECT LOCATION

The proposed project is located at the northern end and on the seaward side of Studio Drive in the unincorporated community of Cayucos in San Luis Obispo County. Studio Drive is located between the Pacific Ocean and Highway 1, and runs parallel to both, and it provides intermittent public views of the ocean on one side and of the Cayucos foothills on the other, just as does Highway 1 itself. The project site is located 150 feet southwest of the intersection of Studio Drive and Highway 1. Morro Strand State Beach is directly to the west and north of the site. Several informal trails exist between Studio Drive and the sandy beach, including both on the project site and on the adjacent State Beach property. The mouth of Old Creek is located approximately 600 feet north of the site.

The subject parcel is a 3,445-square-foot sloping lot that includes both sandy beach and a mostly iceplant-covered upland area. This upland portion of the lot is comprised of primarily greywacke sandstone overlain by fill material.[1] The sandy beach portion of the lot occupies approximately 50% of the lot (i.e., 1700 square feet of the lot is occupied by sandy beach). In other words, the non-sandy beach portion of the lot is about 1,745 square feet in size.

[1] Greywacke sandstone is composed mostly of sand-sized grains of more than one mineral in each grain—generally called "lithic fragments"—imbedded in a clayey matrix. Previous adjacent development has resulted in layers of fill material placed on the site, raising its height.

The parcel is within the Single-Family Residential (SFR) land use designation and is the northernmost parcel within the LCP's identified Community Small Scale Design Neighborhood (Studio Drive), which allows for single-family development subject to specific height, setbacks, parking, and other design parameters meant to limit size and scale, and to help maintain community character.

See **Exhibit 1** for project location maps and **Exhibit 2** for site photos.

B. PROJECT DESCRIPTION, BACKGROUND, AND COUNTY APPROVAL

The Applicant applied for a CDP from the County for a residential project on the site in May of 2006. Ultimately, the County required additional information and CEQA analysis, culminating in a Final EIR (FEIR) for the then-proposed 3,097 square-foot residential structure in December 2013. The County requested Commission staff input during this process, and Commission staff consistently advised the County that the project site raised serious LCP issues, particularly related to bluff setbacks and approvable development (letters dated August 5, 2013, January 2, 2014, and June 3, 2014). On April 10, 2014, the San Luis Obispo County Planning Commission considered and ultimately approved a CDP to allow for construction of a 2,374-square-foot single-family residence to include a basement floor, a main floor that cantilevered over the basement floor by approximately 22 feet and over the sandy beach by approximately 10 feet, a mezzanine level,[2] and a garage as part of the main floor. Although Commission staff noted at the time that the project site included a coastal bluff and raised serious LCP consistency issues requiring the inclusion of coastal bluff setback policies, the Planning Commission did not find that the site included a coastal blufftop, and thus did not apply any coastal bluff setback. Because the subject parcel is located approximately 40 feet from the paved portion of Studio Drive, the Planning Commission's approval also allowed for retaining walls and a bridged driveway to be installed in the County's undeveloped right-of-way (ROW) that would allow vehicular and pedestrian access from Studio Drive to the approved residence. The Planning Commission's CDP decision was appealed by one party, which is one of the current appellants, to the San Luis Obispo County Board of Supervisors.

On December 9, 2014, the Board of Supervisors, on appeal from the Planning Commission's decision, considered, and decided on, the appeal of the Planning Commission decision. As with the Planning Commission hearing, Commission staff again provided comments on the pending project, recommending to the Board that the project not be approved due to its fundamental inconsistencies with the hazard policies of the LCP. Ultimately, the Board also approved a project on the site (see **Exhibit 3** for the County's Final Local CDP Action Notice (FLAN)); however, the Board's approval differed from the Planning Commission's approval. In its decision, the Board determined that the site is includes a coastal bluff[3] and applied a 25-foot development setback from the seaward "edge of the rocks on the property." In essence, although identified as a blufftop setback, the Board required a 25-foot setback from the edge of the sandy beach (to allow, essentially a reasonable sized residence), and did not apply a setback from the

[2] Per the LCP, a mezzanine is an intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one-third of the area of the room or space in which the level or levels are located.

[3] As discussed below, the Commission's Staff Geologist, Dr. Mark Johnsson, has determined that the project site is located on a coastal bluff face, where the actual blufftop edge is located entirely landward of the subject parcel.

blufftop edge. The Board's setback requirement, along with the LCP's Small Scale Design Neighborhood standards for Studio Drive, required that the residence be reduced in size from the residence originally approved by the Planning Commission. Specifically, the Board's approval required the Applicant to revise the site plan and submit revised construction documents to show the house and all projections (including decks and cantilevers) located at least 25 feet inland from the Board's identified setback line. The Board's approval was conditioned to require revised final plans to show:

1. *Compliance with the Cayucos small scale neighborhood standards (height, setbacks, upper floor setbacks, gross structural area requirements) and the design shall remain in the nautical style with natural appearing siding as illustrated in the Planning Commission approved project.*
2. *The maximum height of the structure shall be 15 feet above the centerline elevation of Studio Drive.*
3. *The house (including all projections such as decks and cantilevers) shall be set back a minimum of 25 feet from the edge of the rocks and ice plant along the western side of the property as noted on the basement floor plan.*

Because the Board's approval of the project was subsequently appealed, no specific project plans exist that depict the Board's approved project. However, the Board's approval did include an exhibit ("Attachment 4") that depicts the County-determined bluff line (denoted as "2011") and the required 25-foot bluff setback line (see **Exhibit 5**).

The Board-approved project also includes new landscaping, as well as removal of existing ice plant, non-native grasses, and a small pine tree during grading activities, and retention of an existing mature Monterey cypress tree located just off the parcel on the adjacent County ROW.[4] The project's drainage plan includes removal of an existing drain and construction of a new storm drain system including a drain with a fossil filter, stormwater inlet, and stormwater outlet with energy dissipators. Rainfall from the roof would be collected by a gutter system and facilitated to an underground holding tank below the driveway grade. As with the Planning Commission approval, the Board also approved a bridged driveway structure and supportive retaining walls in the adjacent County ROW property to provide access from Studio Drive to the approved residence. Retaining walls were also approved along the northern and southern property boundaries. The residence would be served by the County Service Area 10A for water supply and Cayucos Sanitary District for wastewater collection, treatment, and disposal. Cayucos Fire would provide fire protection. The Board's approval would provide for an approximately 500 square-foot building footprint with up to three levels of development (basement, main floor, and upper floor) which, with LCP-required yard and other setbacks, would result in a roughly 1,400 square-foot residence.

The County's FLAN was received by the Coastal Commission's Central Coast District Office on Wednesday, January 7, 2015. The Coastal Commission's ten-working day appeal period for this action began on Thursday, January 8, 2015 and concluded at 5pm on Thursday, January 22, 2015. Four valid appeals (see below) were received during the appeal period (**see Exhibit 4**).

[4] No landscaping or other development would take place seaward of the residence, or on the sandy beach portion of the property.

C. APPEAL PROCEDURES

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP (see Coastal Act Sections 30603(a)(1)-(4)). In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission (see Coastal Act Section 30603(a)(5)). This project is appealable because it is located between the first public road and the sea, and is within 300 feet of the beach and coastal bluff.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the certified LCP or to the public access policies of the Coastal Act (Section 30603(b)(1)). Section 30625(b) of the Coastal Act requires the Commission to conduct the de novo portion of the hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations.[5] Under Section 30604(b), if the Commission considers the CDP de novo and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. This project is located between the nearest public road and the sea, and thus this additional finding would need to be made if the Commission approves the project following a de novo hearing.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant (or his representatives), persons opposed to the project who made their views known before the local government (or their representatives), and the local government (see California Code of Regulations Title 14 Section 13117). Testimony from other persons regarding substantial issue must be submitted in writing (Again see Section 13117). Any person may testify during the de novo CDP determination stage of an appeal.

[5] The term "substantial issue" is not defined in the Coastal Act or in its implementing regulations. In previous decisions on appeals, the Commission has generally been guided by the following factors in making substantial issue determinations: the degree of factual and legal support for the local government's decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government's decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance. Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of a local government's CDP decision by filing a petition for a writ of mandate pursuant to the Code of Civil Procedure, Section 1094.5.

D. SUMMARY OF APPEAL CONTENTIONS

As mentioned above, four appeals were received by the Commission for the County-approved project. Certain Appellants contend that the County-approved project is inconsistent with LCP policies and standards related to coastal hazards, visual resource protection, and the protection of sensitive species and environmentally sensitive habitat area (ESHA). Appellants Ethel Pludow and Cynthia Sugimoto contend the approved project is inconsistent with numerous LCP policies and standards related to coastal hazards, creek setbacks, drainage, scenic and visual resource protection, and public access, including specific contentions that: 1) the County misinterpreted the coastal bluff line used to demarcate the 25-foot bluff setback line and that the home was approved on a bluff face inconsistent with the LCP; 2) the EIR failed to propose adequate alternatives as required by the California Environmental Quality Act (CEQA), and also that the approved residence: 3) would be built in a hazardous area and with a shoreline protective device, inconsistent with LCP policies prohibiting such devices with new development; 4) is inconsistent with visual resource policies related to public views and siting of the development, and is inconsistent with the Community Small Scale Design Neighborhood standards for Studio Drive; 5) includes retaining walls for the driveway that are located on County ROW property that would prevent access to the beach; 6) fails to adequately protect the existing Monterey cypress tree on the site, and; 7) does not protect existing public access to the sea. Two Coastal Commissioners appealed citing the approved project's inconsistency with LCP policies related to coastal hazards and shoreline protection, visual resources (including design), and environmentally sensitive habitat. Finally, San Luis Obispo Coastkeeper contends that the approved project is inconsistent with the coastal hazards policies of the LCP, including those related to bluff setbacks, sea level rise, and shoreline protection.

In addition, Jack Loperena, the Applicant, is also an Appellant. Mr. Loperena contends that the subject parcel is not a coastal bluff parcel and, because of this, the County should not have required a 25-foot coastal bluff setback. This Appellant claims that the 25-foot bluff setback was improperly and arbitrarily applied, and that this setback, coupled with the overall constraints of the lot, including its narrow width, precludes the ability of the Applicant to build a residence in compliance with applicable building codes and the LCP, thereby constituting a de facto taking of private property without just compensation.

See **Exhibit 4** for the four appeals and their respective contentions.

E. SUBSTANTIAL ISSUE DETERMINATION

The standard of review for this substantial issue determination is the San Luis Obispo County LCP and the public access policies of the Coastal Act.

1. Coastal Hazards, Bluff and Shoreline Protection

Cited and Relevant LCP Policies

The San Luis Obispo County LCP is premised on hazard avoidance, and requires that new development be sited and designed to ensure long-term structural integrity, minimize future risk, and to avoid landform-altering protective measures in the future, including:

> **Hazards Policy 1: New Development.** *All new development proposed within areas subject*

to natural hazards from geologic or flood conditions (including beach erosion) shall be located and designed to minimize risks to human life and property. Along the shoreline new development (with the exception of coastal-dependent uses or public recreation facilities) shall be designed so that shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, will not be needed for the life of the structure. Construction of permanent structures on the beach shall be prohibited except for facilities necessary for public health and safety such as lifeguard towers.

Hazards Policy 2: Erosion and Geologic Stability. *New development shall ensure structural stability while not creating or contributing to erosion or geologic instability.*

Hazards Policy 4: Limitations on the Construction of Shoreline Structures. *Construction of shoreline structures that would substantially alter existing landforms shall be limited to projects necessary for: a. protection of existing development (new development must ensure stability without depending upon shoreline protection devices); b. public beaches and recreation areas in danger of erosion; c. coastal dependent uses; d. existing public roadway facilities to public beaches and recreation areas where no alternative routes are feasible. These structures shall be permitted provided they are sited and designed to eliminate or mitigate adverse impacts on local shoreline sand supply, fish and wildlife provided that non-structural methods (e.g., artificial nourishment) have been proven to be infeasible or impracticable. Shoreline structures include revetments, breakwaters, groins, harbor channels, seawalls, cliff-retaining walls and other such structures that alter natural shoreline processes. Retaining walls shall be permitted only where necessary to stabilize bluffs where no less environmentally damaging alternative exists or where necessary for those projects defined above. Where shoreline structures are necessary to serve the above, siting shall not preclude public access to and along the shore and shall be sited to minimize the visual impacts, erosive impacts on adjacent unprotected property, encroachment onto the beach and to provide public overlooks where feasible and safe. The area seaward of the protective devices shall be dedicated for lateral public access. The protective devices shall utilize materials which require minimum maintenance and shall specify within the plans the agencies or persons responsible for maintenance. …[THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]*

Hazards Policy 6: Bluff Setbacks. *New development or expansion of existing uses on blufftops shall be designed and set back adequately to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years without construction of shoreline protection structures which would require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist based upon an on-site evaluation that indicates that the bluff setback is adequate to allow for bluff erosion over the 75 year period. Specific standards for the content of geologic reports are contained in the Coastal Zone Land Use Ordinance.*

Hazards Policy 7. Geologic Study Area Combining Designation. *The GSA combining designation in coastal areas of the county is amended to include all coastal bluffs and cliffs greater than 10 feet in vertical relief and that are identified in the Assessment and Atlas of*

Shoreline Erosion (DNOD, 1977) as being critical to future or present development. Maps clearly distinguish the different geologic and seismic hazards which the county covers by the GSA combining designation. These hazards shall include steep slopes, unstable slopes, expansive soils, coastal cliff and bluff instability, active faults, liquefaction and tsunami. [THIS POLICY SHALL BE IMPLEMENTED BY DESIGNATING GSA AREAS ON THE COMBINING DESIGNATION MAPS AND PURSUANT TO SECTION 23.07.080 OF THE CZLUO.]

Visual and Scenic Resources Policy 11: Development on Coastal Bluffs. ***New development on bluff faces shall be limited to public access stairways and shoreline protection structures.*** *Permitted development shall be sited and designed to be compatible with the natural features of the landform as much as feasible. New development on bluff tops shall be designed and sited to minimize visual intrusion on adjacent sandy beaches. (emphasis added)*

Estero Area Plan, Chapter 7, Areawide Standard I-4. Bluff Setbacks. The *bluff setback is to be determined by the engineering geology analysis required in I.1.a. above* ***adequate to withstand bluff erosion and wave action for a period of 100 years. In no case shall bluff setbacks be less than 25 feet.*** *Alteration or additions to existing development that is non-conforming with respect to bluff setbacks that equals or exceeds 50 percent of the size of the existing structure, on a cumulative basis beginning July 10, 2008, shall not be authorized unless the entire structure is brought into conformance with this setback requirement and all other policies and standards of the LCP. On parcels with legally established shoreline protective devices, the setback distance may account for the additional stability provided by the permitted seawall, based on its existing design, condition, and routine repair and maintenance that maintain the seawall's approved design life. Expansion and/or other alteration to the seawall shall not be factored into setback calculations. (emphasis added)*

Estero Area Plan, Chapter 7, Areawide Standard I-5. Seawall Prohibition. *Shoreline and bluff protection structures shall not be permitted to protect new development. All permits for development on blufftop or shoreline lots that do not have a legally established shoreline protection structure shall be conditioned to require that prior to issuance of any grading or construction permits, the property owner record a deed restriction against the property that ensures that no shoreline protection structure shall be proposed or constructed to protect the development, and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235 and the San Luis Obispo County certified LCP.*

CZLUO Section 23.07.086. Geologic Study Area Special Standards: *All uses within a Geologic Study Area are to be established and maintained in accordance with the following, as applicable:…c. Erosion and geologic stability. New development shall insure structural stability while not creating or contributing to erosion, sedimentation or geologic instability.*

CZLUO Section 23.04.118(a). *Bluff retreat setback method: New development or expansion of existing uses on blufftops shall be designed and set back from the bluff edge a distance sufficient to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years without construction of shoreline protection structures that*

would in the opinion of the Planning Director require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist based upon an on-site evaluation that indicates that the bluff setback is adequate to allow for bluff erosion over the 75 year period according to County-established standards.

LCP Coastal Bluff Definition (Estero Area Plan-Appendix C). *A steep bank or cliff generally having a relief of 10 feet or more and the toe of the bluff may be subject to marine erosion.*

Analysis

Appellants' Contentions

The County's LCP requires hazard avoidance and hazard minimization for new development along the shoreline. This site is located in an area known for overall geologic instability (including due to wave run-up, unconsolidated soils, erosion, tsunamis, etc.) and is located within an LCP-mapped Geologic Study Area, as defined in LCP Hazard Policy 7, which includes all areas of the County where coastal bluffs and cliffs are greater than 10 feet in vertical relief.

Three appeals raise similar contentions related to the project's inconsistencies with the LCP's coastal hazard policies and standards. For example, these Appellants all cite Estero Area Plan, Chapter 7, Areawide Standard I-4, LCP Hazards Policies 1 and 2, and Coastal Zone Land Use Ordinance (CZLUO)[6] Section 23.07.086, which collectively require that new development ensure structural stability while not creating or contributing to erosion or geological instability. The Appellants also cite Areawide Standard I-5 and Hazards Policy 4, which explicitly prohibit armoring to serve new development. In addition, these Appellants cite Hazard Policy 6, CZLUO Section 23.04.118(a), and Areawide standard I-4, which require new development to be set back to accommodate at least 100 years of erosion.[7] Lastly, and critically, Appellants Pludow and Sugimoto contend that the approved residence would allow for a residence to be built on a bluff face, which is not allowed per LCP Visual and Scenic Resources Policy 11. On the other hand, Appellant Loperena contends the property is not even located on a coastal bluff parcel, so a blufftop building setback should not even be required.

Coastal Bluff

The project parcel is comprised of an upland area and a sandy beach area, adjacent to Morro Strand State Beach, on the northern end and seaward side of Studio Drive. The general area surrounding the project site is characterized by coastal features, including beachfront adjacent to relatively low bluffs that range in elevation from approximately 30 to 50 feet. The mouth of Old Creek is located approximately 600 feet north of the project site and the project lies at the southern edge of the creek's broad mouth and alluvial valley, which appear to have historically been even wider than exists today. The site is located in a Geologic Study Area (GSA), which the LCP Hazards Policy 7 describes as areas of the County with coastal bluffs and cliffs greater than 10 feet in vertical relief and subject to hazards, including "steep slopes, unstable slopes,

[6] The County's CZLUO is the Implementation Plan (IP) portion of its LCP.

[7] Note that the CZLUO standard identifies 75 years as the operative time frame, but that the Estero Area Plan requires a 100-year time frame. The LCP is structured so that the specific standards of the Area Plans take precedence over the standards of the CZLUO where they are different. **Thus, 100 years of stability is required at this location.**

expansive soils, coastal cliff and bluff instability, active faults, liquefaction and tsunami." The parcel is composed of sandy beach area and upland area, but the proposed project would be located only on the upland area that consists of bedrock (greywacke sandstone with minor shale interbeds), fill, and is covered mostly with iceplant. Project site elevations range from slightly less than 10 feet above mean sea level for the sandy beach portion of the site to approximately 26 feet above mean sea level for the portion of the site (not including the County's right of way area between the lot and Studio Drive) located closest to Studio Drive.[8]

Throughout the local CDP process, the key geologic question has been where the site is located relative to the coastal bluff at this location, and to what degree the proposed project meets LCP requirements associated with hazard avoidance (e.g., required minimum coastal blufftop setbacks designed to ensure new development does not need shoreline protective devices, etc.). Determining the location of the blufftop edge presents difficulties because the natural bluff materials (bedrock and minor marine terrace deposits) on the site have been covered with artificial fill over the course of the last half century or so as a result of adjacent roadway and residential development. As shown in **Exhibits 1** and **2**, the site is located at the end of adjacent residential development along the seaward side of Studio Drive, but the site is physically unlike the blufftop lots to the south, which lie practically at grade with Studio Drive. The subject site appears more similar to the adjacent State Beach property immediately to the north, which slopes down almost 20 feet from the elevation of Studio Drive to the sandy beach. As mentioned above, the mouth of Old Creek is located approximately 600 feet north of the project site and the project lies at the southern edge of the creek's broad mouth and alluvial valley, and thus the project site is located near where the coastal bluff begins to turn inland to form the bluff associated with the historic creek bank.

It is difficult, however, to visually distinguish between the coastal bluff and any inland facing fluvial bluff given that the site has been the subject of various fill placement episodes as mentioned above. In 1937, Cabrillo Highway (currently Highway 1) was a primitive road located east of its present location, along what are now Ocean Boulevard and Cabrillo Avenue. Studio Drive ran parallel to the coastline but did not exist in its current location (i.e., it turned northeast and connected to the highway approximately 200 feet south of the present property frontage). The lowland area immediately north of the project site appeared to contain alluvial sediments in the broad valley of Old Creek. In 1937, the area between and including the project site and the then-active creek channel inland of the beach, contained a low, broad, slightly vegetated dune. By 1949, Cabrillo Highway had been realigned slightly west within the Old Creek drainage, including a new bridge over Old Creek. By 1959, most of the lots on the west side of Studio Drive were developed (see **Exhibit 13** for historical photos of the area).

[8] On its western seaward end, the lot lies at an elevation of approximately +10 feet NAVD88. On its eastern end (including the County's Right of Way along Studio Drive, where the driveway would be located) and southerly ends (near the adjacent neighboring home), the elevation is more in line with the grade of Studio Drive (i.e., approximately +31 feet NAVD88). The Sea Level Datum of 1929 was the vertical control datum established for vertical control surveying in the United States of America by the General Adjustment of 1929. The datum was used to measure elevation (altitude) above, and depression (depth) below, mean sea level (MSL). It was renamed the National Geodetic Vertical Datum of 1929 (NGVD 29) in 1973. The NGVD 29 was subsequently replaced by the North American Vertical Datum of 1988 (NAVD 88) based upon the General Adjustment of the North American Datum of 1988. Thus, +15 feet NAVD88 is approximately 15 feet above MSL.

Aerial photographs from 1963 show major roadway changes in the area (which were largely completed by 1965), including the realignment and widening of Highway 1 and the extension of Studio Drive approximately 450 feet northwest of where it was originally located, where it then intersected and connected to Highway 1. This is now the current alignment of Studio Drive and Highway 1 today (see aerial photo in **Exhibit 2 and 13**). The layers of fill that exist on the site today (with a fill thickness ranging between 4.5 and 10.5 feet) were pushed onto the project site during different periods of time, including as a result of these road projects and from subsequent development of the adjacent residential property immediately to the south.

Because of this history, much geologic study was undertaken to determine the site's pre-development geologic condition, irrespective of the fill that has been laid on top of it throughout the years, as it is this original configuration that applies for bluff determination purposes (i.e., artificial manipulation cannot move the coastal bluff location, and Coastal Act/LCP bluff investigation is based on the bluffs historical condition). The initial geologic investigations of the site were meant to determine whether a coastal bluff exists on the site or whether the rock outcropping extending out to the western edge of the site is a fluvial (i.e., riverine) bluff. Later investigations were focused on determining the actual blufftop edge location.

The County completed an EIR for the then proposed 3,097 square-foot residential structure, which included a substantial amount of site-specific geotechnical information (FEIR, December 2013).[9] The EIR determined that the site did not contain a coastal bluff, stating that, "Based upon review of available data and a sequence of aerial photographs dating back to 1937, from a geological perspective, the landward portion of the site sits atop or slightly straddles a bedrock remnant of a fluvial bluff that is now mostly buried by artificial fill materials." The Applicant's geotechnical consultant, Shoreline Engineering, made use of orthophoto-rectified[10] aerial photographs from 1953 in conjunction with photos from an aerial survey in 2014, to define the ground surface on and adjacent to the subject parcel in 1953 and 2014. The former approximates the natural topography before the addition of large amounts of fill during the relocation of Highway 1 in the 1960s that obscured the natural bluff edge throughout much of the area. Using the information developed by Shoreline Engineering, the EIR identifies the coastal bluff terminus (where the coastal bluff ends and the fluvial bluff begins) to be located to the southeast and off the subject site entirely. Thus, the EIR found that the project site is not a bluff or blufftop parcel, therefore meaning that the LCP's coastal bluff setback policies should not apply. The Applicant and Shoreline Engineering also do not believe that any portion of the site is more than 10 feet in height, and indicates that this further supports their position that the site does not contain a coastal bluff, and as a result, should not be within the LCP's mapped Geologic Study Area, as defined in LCP Hazard Policy 7.

[9] The Final EIR evaluated a proposed project that was different and larger than what was approved by the County Planning Commission on April 10, 2014, and much different and much larger than what was approved by the Board of Supervisors on December 9, 2014. The originally proposed project analyzed under the FEIR was 3,097 square feet and included an approximately 325-square-foot main floor cantilever of living space and covered deck that extended over the beach. The Planning Commission and the Board of Supervisors both certified revised CEQA finding sections to reflect their respective approval actions. See Exhibit 3 for these sections, which are included in the County's Final Local Action Notice.

[10] This means that the aerial photographs used have been geometrically corrected such that the scale is uniform (i.e., the photos have the same correction for distortion as does a map). Unlike an uncorrected aerial photograph, an orthophotograph can be used to measure true distances because it is an accurate representation of the Earth's surface, having been adjusted for topographic relief, lens distortion, and camera tilt.

Commission staff has tracked the progress of this project since the time it has been pending at the local jurisdiction level, and has actively communicated concerns about project issues with County staff, including the submission of numerous comment letters and various discussions and meetings. Commission staff went so far as to recommend that the Board of Supervisors deny the proposed project due to the significant issues associated with it (again, see letter dated June 3, 2014). After the project was appealed to the Commission, staff worked with the Applicant and the Applicant's representatives to ensure sufficient information necessary to act on the project, as required by the County's LCP. In addition, the Commission's Senior Geologist, Dr. Mark Johnsson, has reviewed all the relevant materials (including over 20 geotechnical reports and associated material, as included in Appendix A), and has visited the site on numerous occasions to verify the reports and their conclusions. Dr. Johnsson has concluded that that the project site is part of a coastal bluff feature that meets the definition of a coastal bluff, as that term is defined in the Commission's implementing regulations and the LCP (see Estero Area Plan – Appendix C), and that the project site is seaward and northerly of the blufftop edge and consists entirely of bluff face and sandy beach (see Dr. Johnsson's memo in **Exhibit 10**).

The San Luis Obispo County LCP defines coastal bluffs in the Estero Area Plan (EAP) as: "A steep bank or cliff generally having a relief of 10 feet or more and the toe of the bluff may be subject to marine erosion." In addition, Title 14 of the California Code of Regulations (CCR) Section 13577(h), which is used to determine precise boundaries of jurisdictional areas for purposes of Coastal Act section 30603 (post-LCP certification appeals), defines coastal bluffs as "those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion."[11]

Applying Section 13577(h) of the Coastal Commission Regulations (CCR), the site clearly has been subject to marine erosion within the last 200 years which indicates that the western side of the property is part of a coastal bluff feature. Evidence of this includes marine forces, high tides, storm surge, etc., upon the bluff and kelp wrack at the toe of and on the bluff face itself (see photos in **Exhibit 2** and Photo 1, taken January 22, 2016:

[11] Section 13577(h) states in relevant part: Coastal Bluffs. Measure 300 feet both landward and seaward from the bluff line or edge. Coastal bluff shall mean: 1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and 2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2).

Photo 1, taken January 22, 2016 (photo: Gordon Hensley)

In addition, Dr. Johnsson states that although parts of the bluff are now covered by fill, it is likely that the portion of the site labeled by the Applicant's consultants as "fluvial bluff" (i.e., that portion of the bluff aligned more east/west) was also subject to marine erosion before placement of the fill. Therefore, the project site conclusively meets the definition of "coastal bluff" under CCR Section 13577(h), with the blufftop edge actually located inland and southerly of the parcel itself.

Under the Estero Area Plan portion of the LCP, coastal bluffs are defined as a steep bank or cliff generally having a relief of 10 feet or more and for which the toe of the bluff may be subject to marine erosion. As a preliminary matter, it is worth noting that the site is mapped within the LCP's Geologic Study Area (GSA), which denotes areas containing coastal bluffs and cliffs greater than 10 feet in vertical relief (see Hazards Policy 7 above and the official combining designation map in **Exhibit 11**). By contrast, the Applicant's geotechnical consultant has stated that no portions of the site have a relief of 10 feet or more. However, Dr. Johnsson analyzed the project's geotechnical reports and visited the site to determine the height of the bluff on the site, and found no evidence indicating that the bluff at the Loperena property is consistently less than 10 feet in relief, either in its present state or prior to the fill deposition (see **Exhibit 10**). In fact, one report (the Cleath-Harris report – see Appendix A) shows that the estimated bedrock profile (i.e., the profile with fill material removed) is consistently between approximately 11 feet and 22 feet. Thus, according to Dr. Johnsson, although some parts of the bluff may intermittently dip slightly below the 10-foot metric, the majority of the bluff consistently exceeds 10 feet in height. In addition, the toe of the bluff, largely located at the sand/bluff interface has been subject to marine erosion, as demonstrated by the photos (again, see **Exhibit 2**). Thus, the project site includes a coastal bluff feature as defined by the LCP as well. Again, Dr. Johnsson has concluded that the site is located entirely seaward and northerly of the blufftop edge, and thus is entirely bluff face nearest Studio Drive, and sandy beach nearest the Pacific Ocean.

Thus, Dr. Johnsson's review concludes that the site does contain a coastal bluff, meaning that the LCP's bluff related requirements would apply to the project. Even if the bluff in this case were not subject to marine erosion generally over the last 200 years, which it clearly is and has been, the definition of "coastal bluff" under CCR Section 13577(h)(2) describes a process to ensure that minor indentations and undulations of the State's coastal bluffs are not excluded from meeting the definition of a coastal bluff just because they face a different direction than normal, stating:

> *The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations.*

In this case, the line that was used in the FEIR's analysis regarding the bluff was only 300 feet long as opposed to the minimum 500-foot-long line required by CCR Section 13577(h)(2) to determine the point at which the coastal and fluvial bluffs converge. The change in orientation of the bluff that the Applicant's geotechnical representatives use to delineate a coastal bluff from a

fluvial bluff does not constitute a change in the bluff from a "coastal bluff" as defined in the CCR Section 13577(h)(2). Thus, the FEIR findings are based on an assessment of the bluff that does not comply with the requirements of CCR Section 13577(h).

LCP CZLUO Section 23.04.118 requires that the *bluff edge* be used to identify the proper setback line. However, as indicated in Dr. Johnsson's memo, the cross sections and plan views provided by the Applicant show that the bluff top edge actually lies landward and southerly of the entire parcel, and thus the natural topography and ground surface of the entire parcel is either located on the natural *bluff face* or sandy beach[12] and the bluff edge lies inland and southerly of the subject site.[13] LCP Visual and Scenic Resources Policy 11 allows *only stairways and shoreline protective devices on bluff faces.* A single-family residence is not an allowed use on a bluff face and thus the County's approval of a residence on this site is inconsistent with Visual and Scenic Resources LCP Policy 11. In addition, the project is wholly inconsistent with the LCP's required minimum blufftop setbacks as it is located seaward and northerly of the required minimum blufftop setback line (as is the entire parcel given it is actually located seaward and southerly of the blufftop edge).

Shoreline Protection and Coastal Erosion

While the main focus area of the project has been related to whether the site contains a coastal bluff feature or not, certain Appellants also claim that the approved residence includes shoreline armoring in the form of a concrete basement wall, and also contend that the residence will be constructed in an area that will not allow it to withstand bluff erosion and wave action for the LCP-required period of **100 years** (without such shoreline protection). LCP policies cited for these contentions include Hazard Policy 6, CZLUO Section 23.04.118(a), and Areawide Standard I-4, which require new development to withstand bluff erosion and wave action for a period of 100 years,[14] and Hazards Policy 1, EAP Areawide Standard I-5, and Hazards Policy 4, which explicitly prohibit armoring to serve new development.

An overview of the geotechnical site specifics is necessary to determine whether the approved project is consistent with these policies. At this location, the beach is relatively wide during the summer and fall months, with wave runup reaching the sand-bluff interface during spring tides and high tides associated with storm surf conditions.[15] A site-specific study in 1981 estimated a coastal erosion rate of 0.6 inches per year for the sandstone materials exposed in the rock outcrop (Cleath and Associates 2006), and later geologic reports have not cited a different erosion rate than the 1981 rate. The site has been relatively stable because marine erosional forces acting upon it have been relatively infrequent, albeit consistent over time, events. The project site is not currently mapped in the County's flood hazard combining designation. Based on review of the

[12] This is corroborated by more recent studies and mapping undertaken by Shoreline Engineering, Inc., and AT GeoSystems, which were done after completion of the FEIR, and which show the blufftop edge alignment in this location (see Appendix A for full citations).

[13] The County approved the project with a 25-foot setback from where the sandy beach meets the rock on the western end of the property (see **Exhibit 5**). Thus, the approved residence was not set back from the bluff edge, as required by the LCP, but rather from the sandy beach.

[14] Id (Estero Area Plan standards requiring 100-year setbacks take precedence over CZLUO standards that would otherwise allow for 75 year setbacks).

[15] Cleath and Associates, 2006.

current Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map for Cayucos, the area proposed for development is located above and outside the AE/VE hazard zone.[16]

In order to assure stability, it is necessary to demonstrate that the building envelope will be safe from flooding under the most extreme conditions anticipated during its 100-year design life. The Applicant's geotechnical consultant (GeoSoils, Inc.) performed several wave run-up analyses for the (non-Board of Supervisors approved) project, with some of the results being included in the project's FEIR (December 2013). The March 14, 2011 GeoSoils Inc. report evaluated a scenario with storm surge, sea level rise (*of 2.5 feet over the next 100 years*), and scour of the beach in front of the rock outcropping down to elevation 3.1 feet NAVD88, using a design wave height of 5.5 feet. In this scenario, the maximum wave runup was found to be at an elevation that would periodically reach the basement level of the approved residence (located at +15.0 feet NAVD88). Given the Applicant's consultant used a fairly low estimate for sea level rise (i.e., 2.5 feet over the next 100 years), flooding issues could be even worse at this location over time. In fact, using best available science on sea level rise (i.e., 5.5 feet by 2100 according to the National Research Council), wave runup would reach elevations of 21.1 to 22.9 feet MSL elevations, meaning both the basement and the main floor would be likely be affected at certain times in such scenario.[17]

As summarized by Dr. Johnsson in his memo:

> *Such an analysis is provided in reference (2) [GeoSoils, 2011], that found a maximum wave runup on an infinite slope to be to elevation 15 feet MSL, well below the top of the bedrock outcrop on the coastal bluff (elevation 17 MSL). This study was supplemented by a more rigorous assumption of sea level rise (5.5 feet by the year 2100, per the "high" estimate in the Commission's Sea Level Rise Guidance Document) in reference 16, and found that wave runup would reach elevations of 21.1 to 22.9 feet MSL (using datum NAVD88). This was cited as evidence that the basement wall, founded as low as 15 feet MSL would function as a de facto seawall (see reference 17 [Haro Kasunich and Associates, 2014]). However, as explained reference (18) [GeoSoils, 2014]:*
>
> *The slope that the wave runs up terminates at the top of the rock outcropping at about elevation +17 feet NAVD88. When the runup reaches that height, 17 feet NAVD88, it becomes an overtopping wave bore with a finite height. As shown in our March 14 [sic],*

[16] Properties within the AE and VE zone are subject to flood insurance purchase requirements and floodplain management standards (FEMA 2012). On the project site, the AE/VE zone is approximately equivalent to elevation 12.92 feet NAVD88. FEMA elevations do not take into account sea level rise associated with global climate change, which has been estimated to be as high as 5.5 feet by the year 2100, and thus these current FEMA flood hazard elevations need to be understood in that context as well.

[17] In addition, in 2013, GeoSoils, Inc. produced a supplement to its March 14, 2011 coastal hazard and wave runup study, based upon additional information, which addressed coastal hazard issues raised in public comments received on the project as well as from the County's review of the Draft EIR for the project. This 2013 supplemental report, similar to the 2011 GeoSoils Inc. report, addressed extreme wave runup and wave runup reflection under future sea level rise scenarios, and the potential for tsunami impacts on the development, and it indicated similar conclusions to the 2011 study: that the proposed residence (as proposed in the FEIR) is "reasonably safe from coastal hazards over its economic life," "that new shore protection will not be required to protect the proposed residence over the next 100 years," and that, "the proposed residence will neither create nor contribute to erosion, geologic instability, or destruction of the site or adjacent area."

2014 analysis [reference 16], for 5.5 feet of future SLR, the height of the bore is 1.06 feet. Therefore, the total wave runup height is 18.06 feet NAVD88 at the seaward top of the outcropping.

This means that, under extreme wave conditions and under the highest sea level rise assumption based on current best available science, the approved development, even set back 25 feet from the beach as required by the County would be subject to splashing and marine flooding. Thus, based on the fact that the subject lot is located partly on the beach, and in an area that already receives and is expected to receive wave uprush, high tides, and marine flooding, all of which will be exacerbated by projected sea level rise, on a periodic basis over the next 100 years, and based on the most conservative sea level rise analysis for this site (which was undertaken by the Applicant's representatives), portions of the approved residence (i.e., the basement and main floors), will be subject to periodic wave runup and splashing and flooding over the next 100 years.

The County's approved project, even though it is required to be set back 25 feet from the sandy beach, did not prohibit the use of a steel-reinforced basement wall, and in fact required pilings and caissons, and a deepened pier foundation system. Such a foundation system at this location and under these circumstances acts as protection against shoreline erosion, flooding and wave action, and constitutes shoreline armoring. In fact, the County specifically conditioned its approval to ensure the project maintains stability and structural integrity and can withstand a minimum 100 years of coastal processes through its conditions of approval. Specifically, Condition 10 requires that "all buildings or structures be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns," and Special Condition 30 requires the applicant to submit grading and construction plans, "which include the use of deepened pier foundations." Again, in this circumstance, these requirements constitute shoreline protective devices. Because the LCP does not allow such shoreline protective devices to protect new development (see LCP Policies Hazards Policy 1, EAP Areawide Standard I-5, and Hazards Policy 4), the proposed project is inconsistent with the LCP on these points.

Conclusion

Thus, for the reasons above, the County's approval raises substantial LCP conformance issues with respect to LCP coastal hazard related policies that prohibit residential development on bluff faces, that require 100-year and 25-foot minimum setbacks from blufftop edges, and that prohibit shoreline protective devices to protect new development.

2. Visual Resources

Cited and Relevant LCP Policies

The San Luis Obispo County LCP includes strong protections for visual and scenic resources along the coast and requires that coastal structures be sensitive to the natural setting and that they minimize alteration of the natural shoreline:

Scenic and Visual Resources Policy 1. Protection of Visual and Scenic Resources. *Unique and attractive features of the landscape, including, but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved and protected.*

Scenic and Visual Resources Policy 2. Site Selection for New Development. *Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas.* ***Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors.*** *In particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion. (emphasis added)*

Scenic and Visual Resources Policy 3. Stringline Method for Siting New Development. *In a developed area where new construction is generally infilling and is otherwise consistent with Local Coastal Plan policies, no part of a proposed new structure, including decks, shall be built farther onto a beachfront than a line drawn between the most seaward portions of the adjoining structures; except where the shoreline has substantial variations in landform between adjacent lots in which case the average setback of the adjoining lots shall be used. At all times, this setback must be adequate to ensure geologic stability in accordance with the policies of the Hazards chapter. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.118 OF THE CZLUO.]*

Scenic and Visual Resources Policy 5. Landform Alterations. Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. *Where feasible, contours of the finished surface are to blend with adjacent natural terrain to achieve a consistent grade and natural appearance. (emphasis added)*

Scenic and Visual Resources Policy 6: Special Communities and Small-Scale Neighborhoods. *Within the urbanized areas defined as small-scale neighborhoods or special communities, new development shall be designed and sited to complement and be visually compatible with existing characteristics of the community which may include concerns for the scale of new structures, compatibility with unique or distinguished architectural historical style, or natural features that add to the overall attractiveness of the community. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO CHAPTER 23.11 (DEFINITIONS) OF THE CZLUO.]*

Scenic and Visual Resources Policy 11: Development on Coastal Bluffs. New development on bluff faces shall be limited to public access stairways and shoreline protection structures. Permitted development shall be sited and designed to be compatible with the natural features of the landform as much as feasible. *New development on bluff tops shall be designed and sited to minimize visual intrusion on adjacent sandy beaches. (emphasis added)*

ESHA Policy 29: Protection of Terrestrial Habitats. … *Development adjacent to environmentally sensitive habitat areas and holdings of the State Department of Parks and Recreation shall be sited and designed to prevent impacts that would significantly degrade such areas and shall be compatible with the continuance of such habitat areas. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.176 OF THE CZLUO.]*

In addition, the LCP provides more specific policies for "small scale design neighborhoods," which apply to the Studio Drive neighborhood (and the Pacific Avenue neighborhood immediately to the north). The intent of these policies is described below on page 10-7 of the

Estero Area Plan, including that residential structures should maintain a lower profile to preserve community character:

> *Studio Drive and Pacific Avenue are residential neighborhoods characterized by 25 to 40 foot wide lots.* ***Most of the structures are low profile one-story houses.*** *The Studio Drive area is immediately adjacent to Highway 1, from which a view of the ocean is usually available. Any structure within the northern portion of Studio Drive will block some view of the ocean, but two-story structures will also eliminate vistas of the distant ocean and the horizon, cutting off all visual connection with the ocean. One-story structures on Studio Drive, however, do not block vistas from the highway. Based on these criteria,* ***the Studio Drive area should remain as a lower profile area of one-story structures, where two-story structures would block these vistas, to preserve community character.*** *A public view of the ocean from Highway 1 exists for nearly all of the length of Pacific Avenue. An even more significant public view exists from the major public ocean front road, Pacific Avenue. In addition, the neighborhood is predominantly one-story houses. (emphasis added)*

The Estero Area Plan thus identifies a small-scale community standard that is focused on allowing low-lying one-story structures to avoid public viewshed degradation. The Estero Area Plan also provides specific policies including requirements for setbacks, size, height, parking, and other design features and additional guidelines for residential development on Studio Drive, including site layout, building design, landscaping, and fencing (see **Exhibit 8** for such standards).

Analysis

Appellants' Contentions

Appellants Pludow and Sugimoto contend that the County's approval is inconsistent with LCP Visual and Scenic Resources Policies 1, 2, 5, 6, and 11, and with the Estero Area Plan's Studio Drive Small Scale Design Neighborhood standards (shown in **Exhibit 8**).[18] These Appellants claim that the County also ignored Visual and Scenic Resources Policy 3 of the LCP, which describes a stringline method for ensuring that, in developed areas, new development shall be built no farther onto a beachfront than a line drawn between the most seaward portions of the adjoining structures. Other Appellants also contend the approved project is inconsistent with LCP Visual and Scenic Resources Policies 1, 2, 5, and 11 and with the Estero Area Plan's Small Scale Design Neighborhood standards for Studio Drive, ESHA Policy 29,[19] and CZLUO Section 23.04.210.[20]

[18] These Appellants' concerns are based on the fact that the actual buildout design of the County-approved project is undefined and that there likely will be visual inconsistencies even with the Board-approved project's revised design, even though the residence will be smaller (because of the 25-foot setback from the inland edge of sandy beach) than the Planning Commission-approved project.

[19] Although EHSA Policy 29 is primarily an ESHA protection policy, it also includes a component (similar to Coastal Act Section 30240) that refers to protecting state park and recreation areas from inappropriate development adjacent to them, stating that "development adjacent to state park and recreation lands shall be sited and designed to prevent impacts that would significantly degrade such areas" (here, Morro Strand State Beach). Thus, public viewshed impacts associated with potential degradation of the visual resource elements of the State Beach all into the general rubric of this policy as well.

[20] CZLUO Section 23.04.210 applies to areas located within LCP designated Critical Viewsheds, Scenic Corridors, and Sensitive Resource Areas (SRAs). The project is not located within an LCP-designated SRA, scenic corridor, or critical viewshed, and thus CZLUO section 23.04.210 is not applicable to the project.

Local Setting
The community of Cayucos is located on a gently-sloped marine terrace situated between the Pacific Ocean and a series of low foothills rising up to the Santa Lucia Mountain Range. The diverse geologic features that characterize the region contribute to the high scenic quality of Cayucos and the coast. The most notable natural visual resources are Morro Rock near Morro Bay to the south, the fertile valleys and hills east of town, and shoreline area that includes the sandy beaches and the Pacific Ocean. Cayucos is a beach community that retains a small-town character and follows an overall linear form as it hugs the coast below the foothills. Highway 1, a State Scenic Highway and National Scenic Byway, generally parallels the coastline through Cayucos, and is located just inland of the subject site.

The residential neighborhoods that extend from the downtown area also contribute to the beach town aesthetic of the community. Relatively modest homes on relatively small lots help to form the small-town character of the area, including along Studio Drive. The buildings that help to greatly define the coastal community aesthetic tend to be one or (a maximum of) two stories, with gable roofs and horizontal wood siding, some of which include a mix of more modern-style architecture that employs flat or shed rooflines with clerestory windows. Increasingly over time, many of the older structures have been remodeled or replaced. Some newer buildings maintain the appearance of the small beach town in terms of architecture and scale; however, there has clearly been a trend toward newer structures that appear somewhat larger than that that has historically defined the aesthetic character of the community. The trend toward maximizing building envelopes, and the use of Mediterranean architecture and contemporary materials and colors, appears to be slowly changing the visual identity of Cayucos. The Studio Drive neighborhood is located south of the main town portion of Cayucos along the beach (and south of the Pacific Avenue Small Scale Design Neighborhood), and it reflects this current aesthetic and scale debate.

Approved Project
As mentioned earlier, the County Board of Supervisors reduced the scale of the Planning Commission-approved project to address LCP issues. The Board-approved project included a 25-foot setback from the sandy beach, which would result in a residential footprint of approximately 500 square feet.[21] The County's approval allows an essentially three-story design (basement, main floor, upper floor) and includes a number of conditions designed to protect visual resources (see **Exhibit 3**). For example, the County conditioned its approval to require that the residence: 1) be built in a nautical architectural style with "natural appearing siding;" 2) comply with the Small Scale Design Neighborhood standards for height, setbacks, upper floor setbacks, and gross structural area requirements, etc.; and 3) have no cantilevered portions or decks that extend seaward of the County's 25-foot setback line.

Because the project was appealed to the Commission soon after the Board's approval of the reduced project, no revised plans were produced or submitted by the Applicant showing these

[21] The County's Attachment A (see Exhibit 5) illustrated a line to be used to designate the 25-foot setback distance; however, the graphic is a photo-representation which is not as accurate as a surveyed line, which the Applicant showed on the plans approved by the Planning Commission. Regardless, both lines approximate the edge of beach and using either line would result in an approximately 500-square foot building footprint, including yard setbacks.

"as-approved" requirements. Thus it is difficult to completely and accurately assess the approved project for visual resource protection purposes. In the absence of these more specific plans, the project has been analyzed based on the County's conditions. With these in mind, the approved residence, assuming it is built with a lower basement level, main floor level, and an upper level as proposed, would conservatively result in an approximately 33-foot-tall[22] three-story residence of approximately 1,400 square-feet,[23] including an attached garage. Associated approved development includes retaining walls and a bridged driveway to provide access to the residence from the paved portion of Studio Drive across the undeveloped and vegetated County ROW and to the Applicant's site, and a new stormwater drain that would daylight at the northern end of the project site in the County's right-of-way.

Per the LCP's Visual and Scenic Resources policies, new development must be sited and designed to protect views to and along the ocean and scenic coastal areas (Policies 1 and 2), to avoid allowing development that would be visible from major public view corridors where possible (Policy 2), to minimize visual intrusion (Policy 2), and minimize grading, earthmoving, and landform alteration within public view corridors (Policy 5). In addition, LCP Visual and Scenic Resources Policy 6 requires that the siting and design of new development, including as it relates to scale and architecture of new structures, complement and be visually compatible with existing characteristics of the community, including with respect to scale and protection of natural features that add to the overall attractiveness of the community. The LCP also requires new development in this neighborhood to be designed and sited to complement and be visually compatible with the existing characteristics of the community per the LCP's Community Small-Scale Design Neighborhood for Studio Drive. In addition, Scenic and Visual Resources Policy 11 prohibits residential development on bluff faces, and only allows allowed development on bluff faces if it is sited and designed to be compatible with the natural features of the landform as much as feasible. And ESHA Policy 29 requires that development adjacent to state park and recreation lands be sited and designed to prevent impacts that would significantly degrade such areas.

Major public views related to this project are from Highway 1, a State Scenic Highway and National Scenic Byway at this location, which runs inland of the subject lot and parallel to the ocean, from Morro Strand State Beach, which lies immediately adjacent to the lot to the west and north, from the State Beach parking lot (to the north of the site) and from Studio Drive itself.

Visual Impacts from Highway 1

Because of its location west of Highway 1 and because there are no significant structures or vegetation between it and the Highway, the project would be visible in varying degrees from both the northbound and southbound lanes of Highway 1. Visitors traveling southbound will be

[22] The LCP's Small Scale Design Neighborhood standards for this area require that residential development not exceed a maximum height limit of 15 feet as seen from the centerline of Studio Drive. The residence approved by the Planning Commission (and subsequently appealed to the Board of Supervisors) was 33 feet in height, but visual simulations for that project showed that it met the 15-foot Studio Drive height limitation due to the sloping nature of the site (i.e., the site slopes significantly from Studio Drive down to the beach). Thus, assuming a similar project height for the project approved by the Board of Supervisors, the project would meet the 15-foot height maximum as seen from Studio Drive.

[23] The 1,400-square-foot estimate assumes a 500-square-foot footprint and a three-level structure (i.e., basement, main floor, and upper floor) and generally takes into account the Small Scale Design Neighborhood's required side yard setbacks and upper floor setback from the walls of the main floor.

able to view the main and upper floors of the approved project, but the basement level would be constructed below the grade of Studio Drive (which itself lies at a lower grade than Highway 1) and therefore would be partially blocked in the southbound Highway 1 view. Traveling northbound, the upper floor and a portion of the main floor would be visible due to view blockage by adjacent development to the south and due to the grade of Highway 1 being higher than Studio Drive and the subject lot. Thus, both the main and upper floors of the residence would block some of the existing beach and blue water ocean views from both the northbound and southbound lanes of Highway 1, and all three stories would be partly visible in the southbound view. These impacts are tempered somewhat because existing residential development along Studio Drive currently limits views of the ocean and beach from Highway 1, and this project adds only incrementally (one new home) to this impact. In addition, the project would constitute one additional residence[24] along the most upcoast portion of Studio Drive, before the area transitions to State Beach immediately to the north.

Even so, however, the project will incrementally degrade Highway 1 views, including in terms of its three story design, and thus: has not been sited and designed to protect views to and along the ocean and scenic coastal areas (inconsistent with Policies 1 and 2); allows development that would be visible from this major public view corridor (inconsistent with Policy 2); has not minimized visual intrusion (inconsistent with Policy 2); has not minimized grading, earthmoving, and landform alteration within the Highway 1 public view corridor (inconsistent with Policy 5); is not sited and designed to complement and be visually compatible with existing characteristics of the community, including with respect to scale and protection of natural features that add to the overall attractiveness of the community (inconsistent with Policy 6).; appears as three levels instead of one (inconsistent with the LCP's Community Small-Scale Design Neighborhood standards for Studio Drive; allows residential development on the bluff face that is not compatible with the natural features of the landform (inconsistent with Policy 11); and would significantly degrade the Morro Strand State Beach public viewshed (inconsistent with Policy 29).The County-approved project raises substantial LCP issues related to Highway 1 views.

Visual Impacts from Morro Strand State Beach and Parking Lot
Because of its location at the far northern end and seaward side of Studio Drive, the project would be starkly visible from Morro Strand State Beach, which is an extremely popular public beach and includes a scenic overlook/parking lot located just north of the project site. Visitors enjoying the beach and looking toward the project would see beach sand and a coastal bluff in the foreground, residential areas in the fore and mid-ground, and open space hills as a backdrop. From many vantage points (e.g., from the west, southwest, north and northwest), the approved residence would appear as a massive, 33-foot-tall, three-story development. This is because, due to the sloping nature of the site from Studio Drive to the sandy beach, the basement, main floor and upper floor would all be visible above grade. Thus, from most anywhere on the sandy beach, the residence would appear as a three-story, 33-foot tall structure stepping down the bluff face with clear views of the basement, main, and upper floors. This view would be in dramatic contrast to the current makeup of residential development along Studio Drive, which includes houses of one or two stories maximum located on and inland of the blufftop. These homes, for

[24] This is the last residential parcel on the upcoast end of Studio Drive.

the most part, do not show a full basement and thus they appear as relatively smaller-scale one- or two-story residences as seen from the beach, as required by the LCP's small scale design parameters that apply to Studio Drive. This site is unique compared to adjacent residential development in that it is located on the bluff face and not the blufftop, and the sloping nature of the site will allow all three stories to be starkly visible from beach vantage points. As such, the approved project will negatively impact important State Beach and State Beach parking lot views inconsistent with the above-referenced policies (including significantly degrading the Morro Strand State Beach public viewshed, inconsistent with Policy 29).

Studio Drive Views and Compatibility
Views from Studio Drive would be impacted in similar ways as those from Highway 1, just from a closer perspective, raising similar LCP conformance issues. In addition, Chapter 10 of the County's Coastal Plan Policies identifies "special communities and neighborhoods" along the coast. The project site is located along Studio Drive, an LCP-defined Small Scale Design Neighborhood, for which the LCP states:

> *Studio Drive (and Pacific Avenue) are residential neighborhoods characterized by 25 to 40 foot wide lots. Most of the structures are low profile and one story houses. The Studio Drive area is immediately adjacent to Highway 1, from which a view of the ocean is usually available. Special coastal communities and neighborhoods are an integral part of the experience of the coast, and are often built on the most scenically-desirable areas. Coastal neighborhoods with distinctive qualities are a value to both local residents as well as visitors. Maintaining their present qualities will often require retaining the present scale and mix of development. Within the urban areas defined as small-scale neighborhoods or special communities, new development shall be designed and sited to complement and be visually compatible with existing characteristics of the community which may include concerns for the scale of new structures, compatibility with unique or distinguished architectural historical style, or natural features that add to the overall attractiveness of the community.*

Because the project is located within a Small Scale Design Neighborhood, a number of requirements for new development must be adhered to in order to ensure that the scale, design, and architectural style of new development are compatible with the existing characteristics of the community. Specifically, to ensure homes built in this area do not appear starkly in contrast to the neighborhood, the standards contain strict requirements, including for size, front and side setbacks, upper floor setbacks for two-story construction, building height limitations, and parking requirements (see **Exhibit 8)**. Importantly, the standards also speak to maintaining single story design and scale, with the LCP stating: *"the Studio Drive area should remain as a lower profile area of one-story structures, where two-story structures would block these vistas, to preserve community character."* In this case, although the County-approved residence appears to be consistent with height requirements of the small scale design standards (15 feet as measured from the centerline of Studio Drive), it would appear as a three-story building in contrast to the small scale policy direction inconsistent with the LCP. Regarding size, the Small Scale Design Neighborhood standards allow for different maximum residential gross structural area square footages depending on whether the home is located on a blufftop lot or non-blufftop

lot.[25] However, these size standards inherently apply only to lots in which residential uses are allowable under the LCP in the first place. As discussed above, the project site is located on a bluff face and the LCP does not allow residential use on a bluff face. By virtue of this fact, the approved project cannot be found consistent with the Small Scale Design Neighborhood standards regarding size – regardless of whether a blufftop or non-blufftop standard is considered.

The Small Scale Design Neighborhood standards include guidelines for new development with respect to site layout, building design, and landscaping and fencing. Because of this, the Board's approval required both a nautical theme and "natural appearing siding" to ensure compliance with the Small Scale Design Neighborhood standards and to ensure compatibility with the surrounding built environment. However, the project would appear as a three-story, 33-foot-tall structure when viewed from the beach and inland areas due to the sloping nature of the lot, which is in stark contrast to other residential development in the area that is one or two stories and built on relatively flat blufftop lots. Thus, the project as approved would not maintain the small-scale character of Studio Drive from a beach view perspective, inconsistent with the Small Scale Design Neighborhood standards and Visual and Scenic Resources Policy 6.

Stringline

Appellants Pludow and Sugimoto contend that the County did not implement LCP Visual and Scenic Resources Policy 3, which describes a stringline method for ensuring that new development does not extend seaward beyond adjoining structures. In this case, there is no adjoining development on the upcoast side of the lot, and thus it would be difficult to apply the LCP's stringline policies to the proposed project. It is clear however that the objective of the stringline, including to keep development behind certain blufftop setbacks, cannot be met in this case as the entire development is seaward of the blufftop. Thus, the County approval raises a substantial issue of LCP conformance in this regard.

Landform Alteration

Appellants Pludow and Sugimoto contend that the approved project will result in substantial landform alteration of the bluff face, inconsistent with the LCP. LCP Visual and Scenic Resources Policy 5 requires that: 1) any grading, earthmoving, major vegetation removal and other landform alterations within public view corridors be minimized and; 2) where feasible, contours of the finished surface are to blend with adjacent natural terrain to achieve a consistent grade and natural appearance. In this case, the approved project allows for an essentially three-story residence to be built on a sloping lot in view of Highway 1, Morro Strand State Beach, and other public viewing areas. The lot would be scraped of existing fill and the basement level would be dug into the lot at a finished floor elevation of 15 feet NAVD88. Such a project does not minimize landform alteration. Instead, it proposes to create a cavity in the bluff face into which residential development would be placed. This cannot be considered 'minimizing

[25] For homes on blufftop lots, a maximum gross structural area (GSA) of 3,500 square feet is allowed. On non-blufftop lots, a maximum of 2,500 square feet of GSA is allowed (or 55% percent of the usable lot, whichever is less). GSA is defined as the measurement of all interior areas, expressed in square feet of floor area, within the volume of the structure including living areas, storage, garages and carports, and does not include open exterior decks or interior mezzanines added within the height limitation to gain additional square footage.

landform alteration' as is required by the LCP. Thus, this contention also raises a substantial LCP conformance issue.

Conclusion
As described above, the approved project will appear to be a relatively massive, 33-foot-tall, three-story residence as seen from almost all areas of adjacent Morro Strand State Beach and Highway 1, and will not be visually compatible with the existing one- and two-story residences along Studio Drive, and it does not minimize landform alteration. Thus, the approved project raises a substantial LCP conformance issue with respect to the LCP's visual resource protection requirements, including Visual and Scenic Resources Policies 1, 2, 3, 5, 6, and 11, ESHA Policy 29 and the Studio Drive Small-Scale Design Standards, including with respect to size and number of stories.

3. Biological Resources and Environmentally Sensitive Habitat Area (ESHA)

Cited and Relevant LCP Policies
San Luis Obispo County's LCP requires protection of terrestrial habitats (ESHA Policy 29), native vegetation (ESHA Policy 30), rare and endangered species (CZLUO Section 23.07.176), and requires restoration of damaged habitats when feasible (ESHA Policy 3). ESHA Policy 1 also requires that new development within or adjacent to locations of ESHA shall: 1) not significantly disrupt the resource; 2) demonstrate that there will be no significant impact on sensitive habitats; and 3) be consistent with the biological continuance of the habitat. ESHA Policy 2 requires that new development will not have a significant impact on sensitive habitats. The Estero Area Plan establishes required development setbacks from coastal streams. Lastly, ESHA Policy 29 also requires development adjacent to state park and recreation lands to be sited and designed to prevent impacts that would significantly degrade such areas and be compatible with the continuance of such habitat areas.

> ***ESHA Policy 1. Land Uses Within or Adjacent to Environmentally Sensitive Habitats.*** *New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed within the area. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE COASTAL ZONE LAND USE ORDINANCE (CZLUO).]*
>
> ***ESHA Policy 2: Permit Requirement.*** *As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat. … [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE CZLUO.]*
>
> ***ESHA Policy 3: Habitat Restoration.*** *The county or Coastal Commission should require the restoration of damaged habitats as a condition of approval when feasible. …[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.170 OF THE CZLUO.]*

ESHA Policy 29: Protection of Terrestrial Habitats*. Designated plant and wildlife habitats are environmentally sensitive habitat areas and emphasis for protection should be placed on the entire ecological community. Only uses dependent on the resource shall be permitted within the identified sensitive habitat portion of the site. Development adjacent to environmentally sensitive habitat areas and holdings of the State Department of Parks and Recreation shall be sited and designed to prevent impacts that would significantly degrade such areas and shall be compatible with the continuance of such habitat areas. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.176 OF THE CZLUO.]*

ESHA Policy 30: Protection of Native Vegetation. *Native trees and plant cover shall be protected wherever possible. Native plants shall be used where vegetation is removed. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.176 OF THE CZLUO.]*

CZLUO Section 23.07.176. Terrestrial Habitat Protection. *The provisions of this section are intended to preserve and protect rare and endangered species of terrestrial plants and animals by preserving their habitats. Emphasis for protection is on the entire ecological community rather than only the identified plant or animal.*

a. Protection of vegetation. Vegetation that is rare or endangered, or that serves as habitat for rare or endangered species shall be protected. Development shall be sited to minimize disruption of habitat.

b. Terrestrial habitat development standards:

(1) Revegetation. Native plants shall be used where vegetation is removed.

(2) Area of disturbance. The area to be disturbed by development shall be shown on a site plan. The area in which grading is to occur shall be defined on site by readily-identifiable barriers that will protect the surrounding native habitat areas.

(3) Trails. Any pedestrian or equestrian trails through the habitat shall be shown on the site plan and marked on the site. The biologist's evaluation required by Section 23.07.170a shall also include a review of impacts on the habitat that may be associated with trails.

Estero Area Plan Sensitive Resource Area (SRA) Setbacks – Coastal Streams. *Development shall be setback from coastal streams as shown in Table 7-2. Riparian setbacks shall be measured from the upland edge of riparian vegetation or the top of stream bank where no riparian vegetation exists.*

Table 7-2 COASTAL STREAM SETBACK (FEET) Old Creek - 50 fee**Analysis**

Appellants' Contentions

Certain Appellants contend that there may be ESHA on the property and Appellants Pludow and Sugimoto raised contentions related to alleged harmful impacts of the drainage plan (and retaining walls on the County's property), creek setbacks, and the protection of trees, including

one mature Monterey cypress located in the County's right-of-way immediately adjacent to the site.

Site Habitat
As mentioned, the subject parcel includes an upland portion comprised of unconsolidated fills atop greywacke sandstone and a lowland portion comprised of sandy beach. The upland portion of the site is primarily covered with invasive iceplant and other non-native grasses. The site also includes sandy beach nearest the ocean.

Sensitive Species and ESHA
The FEIR indicates that the sandy beach portion of the parcel provides foraging habitat and potential nesting habitat for a variety of birds, including the federally threatened western snowy plover. However, the approved project does not include any development on the beach and thus should not impact the ability of birds to forage and/or nest on the beach. Regarding bird nesting, the County's approval included pre-construction surveys and protocols for ceasing construction during nesting season if nesting activity is identified in the vicinity of the project site (see **Exhibit 3**). In addition, the site does not contain any sensitive plant species. For the reasons cited above, the project site does not constitute ESHA and thus this contention does not raise a substantial LCP-conformance issue with the LCP's sensitive habitat policies.

Monterey Cypress
Certain Appellants contend that the mature Monterey cypress tree, which is located in the County right-of-way but has roots that extend into the project site, is inadequately protected by the County's approval, inconsistent with LCP ESHA Policy 30 and CZLUO Section 23.07.176. These LCP sections require protection of rare and endangered terrestrial vegetation or terrestrial vegetation that serves as habitat for rare and endangered species. In this case, Monterey cypress is neither a rare or endangered tree species, nor is there any evidence that this tree serves as habitat for rare and endangered species, and thus these cited LCP provisions do not apply. Even so, the County found that there would be an impact to the tree by the approved development and the County required a condition to minimize impacts to the Monterey cypress' root zone during construction, including through protective fencing, the retention of a certified arborist, and the required use of hand tools within 25 feet of the tree's trunk, etc. (see County Condition of Approval 33 in **Exhibit 3**). The project also includes a bridged driveway to protect the tree's root zone, further minimizing the chances for impacts to the Monterey cypress tree. Thus, the appeal contentions regarding inadequate protection of the Monterey cypress tree do not raise a substantial issue of LCP conformance.

Drainage
Appellants Pludow and Sugimoto contend that the project's drainage plan, including the project's retaining walls, will adversely impact the adjacent Morro Strand State Beach area, inconsistent with ESHA Policy 29. Drainage plans associated with the approved project include removal of an existing drain along Studio Drive and construction of a new storm drain system in the same general location to include a drain with a fossil filter, stormwater inlet, and stormwater outlet with energy dissipators. Similar to the existing drainage pattern on the site, stormwater would flow from the outlet in a northwesterly direction offsite and onto the County's right-of-way immediately to the north of the subject lot. Rainfall from the roof would be collected by a

gutter system and facilitated to an underground holding tank below the driveway grade. Captured runoff would be used as gray water for toilet flushing and landscape watering.

In this case, runoff would be expected to increase both in volume and discharge rate because the proposed project would result in additional impervious surface and would move the existing drainage infrastructure from a vegetated depression into a culvert. In addition, pollutants in runoff could be expected to increase at the site from residentially related activities, including due to oil from additional cars at the site as well as potential fertilizers used for plants at the site, ultimately potentially resulting in increased degradation of the beach. The project's retaining walls, designed to support the driveway, and constructed on the adjacent County property, could also hypothetically divert flows to the beach. However, the approved drainage plan is essentially mimicking existing runoff patterns at this site, which contains existing drainages for runoff from the site and Studio Drive, and the retaining walls will not substantially affect this pattern. In addition, the County's approval required the Applicant to submit a drainage plan, to be coordinated with the sedimentation and erosion control plan, which would specifically include engineered energy dissipators and controls that would limit peak runoff to pre-development levels. Similar to the existing drainage pattern currently onsite, under the proposed drainage plan stormwater would flow in a northwesterly direction offsite onto the County's right-of-way. It would be anticipated that the County's review of the required drainage plan would result in the types of post-construction BMPs typically employed for shoreline development (e.g., filtering and treating all collected runoff, preventing increased pollutant loading, applying maximum LID techniques, appropriate sizing for flows, etc.). In addition, the County required drainage BMPs during construction as well. Thus the approved project does not raise a substantial issue of LCP conformance with respect to drainage impacts.

Creek Setbacks

Finally, Appellants contend that the project was approved without creek setbacks, as required by the Estero Area Plan, Cayucos section, Sensitive Resource Area Table 7-2. The mouth of Old Creek generally lies approximately 600 feet to the north of the project site, with occasional flows, primarily in the wintertime, extending out from the mouth onto a wider portion of the beach. The main channel of the creek is located even farther from the project site than the creek mouth. The Estero Area Plan requires a minimum creek setback of 50 feet. The project site, however, is located approximately 600 feet from the closest portion of the creek (i.e., the creek mouth). While the creek does fluctuate in location at its mouth, the project is adequately set back from the creek and this contention does not raise a substantial issue of LCP conformance with respect to the Estero Area Plan's required creek setbacks.

Conclusion

In summary, the site does not contain ESHA and the County appropriately conditioned the project to ensure habitat protection, including for snowy plovers, during construction, and to minimize impacts to the Monterey cypress tree, consistent with the LCP. The County also appropriately conditioned the project to not adversely affect nesting birds or the existing Monterey cypress tree, and to require construction and post-construction drainage BMPs, consistent with the LCP. Thus, for all of the above reasons, these appeal contentions do not raise a substantial issue with respect to the County-approved project's conformance with the biological resource protection policies and standards of the LCP.

4. Public Access

Cited and Relevant LCP and Coastal Act Policies

Coastal Act Section 30604(c) requires that every CDP issued for any development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." The County-approved project is located seaward of the first through public road (Studio Drive). The following cited Coastal Act sections are applicable to the project. The San Luis Obispo County LCP includes similar requirements, including Shoreline Access Policy 1.

> ***Section 30210.*** *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*
>
> ***Section 30211.*** *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*
>
> ***Section 30212.****(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway. …*
>
> ***Section 30214.*** *(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following: (1) Topographic and geologic site characteristics. (2) The capacity of the site to sustain use and at what level of intensity. (3)The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses. (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*
>
> *(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. …*

Consistent with public access policies contained within the Coastal Act, the LCP also requires that public access be protected and maximized through a variety of policies, including:

> ***Shoreline Access Policy 1.*** *Protection of Existing Access. Public prescriptive rights may*

exist in certain areas of the county. Development shall not interfere with the public's right of access to the sea where acquired through historic use or legislative authorization. These rights shall be protected through public acquisition measures or through permit conditions which incorporate access measures into new development.

Shoreline Access Policy 2. *Maximum public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development. Exceptions may occur where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources; (2) adequate access exists nearby, or; (3) agriculture would be adversely affected. Such access can be lateral and/or vertical. Lateral access is defined as those accessways that provide for public access and use along the shoreline. Vertical access is defined as those accessways which extend to the shore, or perpendicular to the shore in order to provide access from the first public road to the shoreline.*

CZLUO Section 23.04.420(d)(3) Lateral access dedication. *All new development shall provide a lateral access dedication of 25 feet of dry sandy beach available at all times during the year. Where topography limits the dry sandy beach to less than 25 feet, lateral access shall extend from the mean high tide to the toe of the bluff. Where the area between the mean high tide line (MHTL) and the toe of the bluff is constrained by rocky shoreline or other limitations, the County shall evaluate the safety and other constraints and whether alterative siting of accessways is appropriate. This consideration would help maximize public access consistent with the LCP and the California Coastal Act*

Analysis

Appellants' Contentions

Appellants Pludow and Sugimoto contend that the approved project is inconsistent with the Coastal Act's public access provisions (specifically Section 30211) because the approved residence, when built, would interfere with a trail leading from Studio Drive to the beach in this area. These Appellants explain that residents, visitors, and surfers have used this and other paths in and adjacent to the subject site to access the beach for decades (see **Exhibit 2** for photos of the project site that show these trails) and that the residence and retaining walls would interfere with the public's right to access the beach.

Analysis

As described above, the project site fronts Morro Strand State Beach, which is a very popular coastal recreational destination. The project site contains at least one informal public access path that stretches from Studio Drive to the sandy beach below. Use of this informal vertical access trail will be effectively precluded by the approved development. While there are other trails on the adjacent State Parks property, it is clear that this trail is in regular use by members of the public, who park along Studio Drive and walk down the site to the beach. In addition, the retaining walls approved to be constructed on the County's property, would also preclude some vertical access. As part of its approval, the County Board of Supervisors did require the Applicant to execute and record an offer of dedication for lateral access which includes the area from "the western property line adjacent to the public beach to the toe of the bluff to be available at all times during the year (pursuant to the requirements of the Estero Area Plan and Section 23.04.420 of the CZLUO)," but this lateral access easement does not compensate for the

extinguishment of the existing informal vertical access trail onsite because it would not account for all of the sandy beach area of the lot.[26]

Conclusion
Although the County attempted to condition the project to offset the loss of the publicly used trail on the site, the condition could lead to incomplete implementation due to its language and its citations, as described above. Thus, as approved, the mitigation is incomplete, and the approved project raises substantial LCP and Coastal Act issues.

5. Applicant's Contentions – County's Approval is Not Buildable
Finally, the Applicant contends that the County-approved project will not allow him to build a residence that is building code and LCP compliant, and thus the County's approval represents a taking of private property and denial of a reasonable economic use of his property. In particular, the Applicant states that the approval would: 1) force the Applicant to construct a two-story residence, which he states is against County policies for this area of Cayucos; 2) prevent a basement from achieving the proper lighting and ventilation to be habitable space per the California Building Code (citing Safety Element Standard S-60) and; 3) violate parking standards (CZLUO Section 23.04.166(c)(5) [27] and the Small Scale Design Neighborhood standard related to parking (see **Exhibit 8**) by not allowing for adequate parking on the site (i.e., two spaces, at least one covered).

Regarding these contentions, first, the County's approval would in actuality appear to allow for a full three stories, not two (whether the upper floor is called a "mezzanine" or not, or whether the lower floor is called a "basement" or not) As described above, this scale of development is not appropriate under the intent of the LCP's small scale standards; by the same token, the County's approval did not actually limit the approved development to two-stories. Thus, this contention does not raise a substantial issue of LCP conformance.

Second, the requirements of the California Building Code and County Safety Element Standard S-60 are not part of the LCP, and thus are not the applicable standards of review. Thus, this contention does not raise a substantial issue of LCP conformance.

Finally, in terms of the Appellant's parking contentions, the County's approval did not prevent compliance with LCP parking standards. Per CZLUO Section 23.04.166(c)(5), single-family dwellings require two parking spaces. Per the Small Scale Neighborhood Design standards, at least one off-street parking space is required to be enclosed with an interior space a minimum size of 10 feet by 20 feet. The second space can be located in the driveway within the required front setback area, if the front yard setback from the property line to the garage is at least 20 feet. Thus, through a redesign of the project (based on the Board's approval of a reduced scale project as compared to the Planning Commission's approval), the Applicant was a allowed a three-

[26] CZLUO Section 23.04.420 requires a 25-foot wide lateral access dedication when the topography does not limit the dry sandy beach to less than 25 feet. Here the topography does not limit the dry sandy beach to less than 25 feet, and thus the County's condition would effectively not include the entirety of the sandy beach to the toe of the bluff, contrary to the stated language of the condition.

[27] CZLUO Section 23.04.166.(c)(5) requires single-family dwellings to have two parking spaces.

dimensional space within which to develop his residence and garage, and bridged driveway providing access to same that could allow for uncovered parking. There is little doubt that such an approval results in less interior space for the Applicant were he to develop plans consistent with the Board's direction, but the County's approval did not violate parking standards. Thus, this contention does not raise a substantial issue of LCP conformance with respect to parking.

Finally, the County's approval would provide for an approximately 500 square-foot building footprint with up to three levels of development (basement, main floor, and upper floor) which, with LCP-required yard and other setbacks, would result in a roughly 1,400 square-foot residence, which is within the size range of existing residences on other similarly-sized lots along Studio Drive. This would provide the Applicant with a reasonable economic use of his property, albeit with problematic coastal resource concerns as described above. Thus, although the County's approval raises other substantial issues as discussed above, when evaluated through a takings lens, the County's approval would appear to appropriately protect against takings, and contentions that the approved project represents a taking of private property that would not afford the Applicant a reasonable economic use of his property do not raise a substantial issue with the certified LCP.

6. CEQA

Appellants Pludow and Sugimoto's contend that the EIR failed to evaluate adequate alternatives to the project (and that the County failed to adequately consider these alternatives), as required by CEQA. However, the grounds for appeal under Coastal Act Section 30603 are limited to allegations that the development does not conform to the certified LCP or to the public access policies of the Coastal Act. Arguments regarding the adequacy of discussion of alternatives in the EIR should have been raised with the County in the first instance as the CEQA lead agency. Thus, this contention does not raise an LCP-consistency issue.

7. Substantial Issue Conclusion

In its consideration of an appeal, the Commission must first determine whether the project raises a substantial issue of LCP conformity, such that the Commission should assert jurisdiction over a de novo CDP for such development. As described above, the Commission has been guided in its decision of whether the issues raised in a given case are "substantial" by the following five factors: the degree of factual and legal support for the local government's decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government's decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance. In this case, these five factors, considered together, support a conclusion that this project does, in fact, raise a substantial issue of LCP conformance.

First, as detailed in the substantial issue findings above, the County's conclusion that, as conditioned, the approved project is consistent with the certified LCP and would not otherwise have adverse impacts to coastal resources is not well supported by the record because the County approved a residential development with shoreline protection on a bluff face located seaward of the required minimum blufftop setback that applies for this area, which is not allowed per the LCP. Also, the approved development will degrade public views, including

appearing as three stories from Morro Stand State Beach, Highway 1 and related public viewing areas in prominent contrast to other homes along Studio Drive, and result in significant landform alteration inconsistent with the LCP. In addition, the approved development will eliminate an existing public accessway between Studio Drive and the beach without adequate mitigation for the loss of access. For these reasons, the project raises a substantial issue with respect to LCP scenic and visual resources, hazards, and public access (and Coastal Act public access policies).

Second, in terms of the extent and scope of the development, the approved project is for one single-family residence at the edge of a row of single family residences, but one which would have significant viewshed impacts on a highly popular public beach, and one that would raise concerns about significant coastal hazard impacts over time. Thus, the extent and scope of this project, while seemingly minor, weigh in favor of a finding of substantial issue.

Third, the approved development will be constructed on a bluff face in a low-lying beachfront location in a significant public viewshed. Thus, significant coastal resources are expected to be affected by this approval, further weighing in favor of a substantial issue.

Fourth, given the resources involved and the inconsistencies with Coastal Act and the certified LCP policies, a finding of no substantial issue will create an adverse precedent for future interpretation of the LCP.

Finally, the project raises issues of regional and statewide significance with respect to the manner in which cases like these (i.e., potential takings approvals) are evaluated and takings concerns addressed under, and as directed, by the Coastal Act.

Therefore, the five factors weigh in favor of a finding that the County approval raises substantial LCP (and Coastal Act public access) conformance issues with respect to consistency and protection of scenic and visual resources, public access, and hazards. Given that the record does not support the County's action and the County's approval includes a project with significant coastal resource impacts, and fails to comply with applicable LCP and Coastal Act provisions, the Commission finds that the appeal raises a substantial issue of conformance with the LCP and Coastal Act public access policies, and takes jurisdiction over the CDP application for the proposed project.

F. COASTAL DEVELOPMENT PERMIT DETERMINATION

The standard of review for this CDP determination is the San Luis Obispo County LCP and the access policies of the Coastal Act. All Substantial Issue Determination findings above are incorporated herein by reference.

In the de novo CDP application evaluation, the Applicant has modified his proposed project. The Applicant is no longer proposing the project that he originally proposed to the County in his CDP application (i.e., a modern style, three-story, 3,097 square-foot residence with extensive cantilever extending out and over the beach). Instead, despite the fact that it was dismissed by the

County Board of Supervisors in their approval that is the subject of this appeal, the Applicant is here proposing that the Coastal Commission approve a similar version of the project that was ultimately approved by the County Planning Commission. The proposed project here entails a 2,195-square-foot (not including 200 square feet of uncovered parking), three-story, 33-foot-tall residence with 0-foot setback from the edge of sandy beach on the western portion of the site (because of the main floor cantilever). In other words, a significantly larger structure than the 1,400 square-foot residence approved by the County Board of Supervisors. The Applicant's proposed 2,195 square foot residence is almost identical to the County Planning Commission approved project (which was 2,374 square feet).[28]

The project that was approved by the Planning Commission allowed for a 2,374-square-foot residence with a 841 square-foot main floor living space that cantilevered out over the sandy beach with an exterior deck, a 814 square-foot basement level, a 280-square-foot mezzanine (upper floor level), an attached 239-square-foot garage, and 200 square feet of on-site parking outside of the garage.[29] The Planning Commission approved project also included a 79-square-foot exterior deck off of the main floor and a 179-square-foot deck[30] off the mezzanine, as well as a bridged driveway, retaining walls, a new drainage system, and landscaping.

The project now proposed by the Applicant adds 151 square feet to the upper floor level (from 280 to 431) and removes 130 square feet of main floor level (from 841 to 711). The footprint (basement level) is exactly the same as the Planning Commission approved project (814 square feet). Other changes include eliminating the main floor deck on the western side of the project and reducing the upper floor deck to a total of 93 square feet (from 179). The proposed project includes a 10-foot long cantilevered portion of main floor which extends seaward of the basement level and up to the edge of the sandy beach; thus with the cantilever, the project proposes a 0-foot beach setback on the western side of the property. The now proposed project remains a three-story residence, approximately 33 feet tall, and includes all other associated development (e.g., driveway, retaining walls, and drainage in the County right-of-way, landscaping, etc.) as approved by the County Planning Commission.[31] While the Planning Commission approved project included pilings and caissons and a deepened pier foundation, the Applicant here proposes a standard slab-on-grade foundation. See **Exhibit 6** for proposed project plans and **Exhibit 7** for the Applicant's one visual simulation showing the proposed residence

[28] The Planning Commission approved project included in its 2,374 square foot total, 200 square feet of on-site parking (outside the garage). This was to be under a carport. The proposed project under de novo review includes 200 feet of on-site parking without a carport, but to be consistent with the County staff's methodology, we are including the 200 square feet in the proposed project.

[29] Again, the 200 square feet of on-site parking outside of the garage was included in the County's total of 2,374 square feet.

[30] The square footage of these decks is not included in the 2,374-square-foot total.

[31] For example, the proposed project on de novo review also includes removal of existing ice plant, nonnative grasses, and a small pine tree on the site. The project proposes to retain an existing mature Monterey cypress tree located just off site in the area of the County's right-of-way (ROW). The proposed project also includes a landscaping plan. The project's drainage plan includes removal of an existing drain and construction of a new storm drain system including a drain with a fossil filter, stormwater inlet, and stormwater outlet with energy dissipators. Rainfall from the roof would be collected by a gutter system and facilitated to an underground holding tank below the driveway grade. Retaining walls would be constructed on the adjacent County ROW property to support the driveway (which will also be built on the County's ROW). Retaining walls are proposed to be constructed along the northern and southern property boundary. The proposed residence would be served by the County Service Area 10A for water supply and Cayucos Sanitary District for wastewater collection, treatment, and disposal. Cayucos Fire would provide fire protection

from the northwest on Morro Strand State Beach.

1. Applicant-Proposed Project on De Novo review is Inconsistent with the LCP

As discussed in the "Substantial Issue Determination" section above, the parcel consists of about 50% bluff face and about 50% sandy beach. The residence is proposed to be built on the bluff face portion of the parcel, which is not allowed under LCP Visual and Scenic Resources Policy 11. LCP Visual and Scenic Resources Policy 10[32] also prohibits residential development on the beach. Thus ***any*** residence proposed in a de novo review would also be inconsistent with the LCP. In addition, the proposed project is inconsistent with the access policies of the LCP and Coastal Act. These inconsistencies are summarized below:

Residential development on a bluff face and Hazards
The LCP includes numerous policies directed at this shoreline interface, including policies limiting allowable development on the beach and bluff, requiring blufftop setbacks, requiring siting and design to provide 100 years of stability, and prohibiting certain types of shoreline structures (including LCP Visual and Scenic Resources Policies 10 and 11, Hazard Policies 1, 2, and 6, and Estero Area Plan, Chapter 7, Areawide standard I-4 and I-5). As described above, the proposed project cannot meet these LCP requirements.

First, and most critically, the LCP contains strict requirements for what is allowed on both coastal bluff faces and open sandy beaches. LCP Visual and Scenic Resources Policy 11 allows very limited development on bluff faces (i.e., public beach staircases/accessways; and shoreline protection), none of which is residential development. As described above, the proposed project would be located on a coastal bluff face seaward of Studio Drive. Thus, the proposed project is fundamentally inconsistent with LCP Visual and Scenic Resources Policy 11 and on that basis alone warrants denial.

Second, as described above, the LCP requires residential development to be set back from the bluff top edge a sufficient distance as to be safe for at least 100 years, and requires a *minimum* setback of at least 25 feet from the blufftop edge to meet this requirement for residential development (LCP Hazard Policy 6, Estero Area Plan (EAP) Areawide standard I-4, and CZLUO Section 23.04.118). Clearly, a primary intent of this policy is to avoid shoreline hazards (erosion, bluff retreat, flooding, etc.) by siting new development away from the shoreline hazards and far enough back from bluff edges as to be safe for 100 years. As such, the LCP does not even contemplate development on bluff faces, as this area is within the shoreline hazard area that is being avoided through application of the stated blufftop setback policies. The project cannot be set back as required by the LCP (i.e., a minimum of 25 feet from the blufftop edge) because the parcel is located seaward and northerly of the blufftop. Thus, the proposed project is fundamentally inconsistent with the above cited policies and on those bases warrants denial.

Third, the LCP prohibits development that would require shoreline protection now or within the

[32] Visual and Scenic Resources Policy 10. Development on Beaches and Sand Dunes. Prohibit new development on open sandy beaches, except facilities required for public health and safety (e.g., beach erosion control structures). Limit development on dunes to only those uses which are identified as resource dependent in the LCP. Require permitted development to minimize visibility and alterations to the natural landform and minimize removal of dune stabilizing vegetation. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

next 100 years (LCP Hazard Policies 1 and 6, and EAP Areawide standard I-5). As described above, the subject parcel is within the range of numerous hazards (including coastal flooding, episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunami, landslides, bluff and geologic instability, and the interaction of these elements). The proposed home, with a 0-foot setback from the beach (not the bluff edge) on the northwestern side of the project, cannot meet the setback provisions of the LCP (as discussed in the preceding paragraph). The Board of Supervisors approved project included a 25-foot setback from the edge of the sandy beach because the County determined the site to include a coastal bluff, as well as to attempt to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 100 years without construction of shoreline protective devices that would substantially alter natural landforms, as required by EAP Areawide Standard I-4. Because the residence is proposed to be constructed directly adjacent to the beach in the northwestern corner, at least a portion of the proposed project would be impacted by direct wave action over the required LCP evaluation period of 100 years. This area on concrete wall and slab (i.e., the basement area) would function as a shoreline protective device over this time frame, and thus the residence's walls and foundation system themselves would constitute shoreline protection. Even if these structures weren't considered shoreline protection, the proposed project will very likely require shoreline protection within the next 100 years because of its proposed location (directly adjacent to the beach). Lastly, the proposed project would substantially alter the natural landform at this site, because the landform would not be able to adjust naturally to the dynamic shoreline processes playing out at this location, and instead would be unnaturally altered for as long as the development was in place at this location, inconsistent with the above cited LCP policies. Thus, the proposed project is inconsistent with the above-cited LCP provisions and on those bases warrants denial.

Public Views

Because of its location at the far northern end and seaward side of Studio Drive, the project would be starkly visible from many public viewpoints and from many viewing directions, including Morro Strand State Beach and Highway 1. Because the site slopes down to the beach from Studio Drive, the basement, main floor and upper floor would all be partly visible from significant public viewpoints. Thus, from most locations on the adjacent beach and inland, the residence would appear as a three-story, 33-foot-tall structure stepping down the bluff face to beach level. This visual impact would be in dramatic contrast to the current makeup of residential development along Studio Drive, which includes houses that appear as one or two stories maximum located on and inland of the blufftop edge. This site is unique compared to nearby residential development in that it is located on the bluff face, and the sloping nature of the site will allow all three stories to be starkly visible from multiple public viewing areas. As such, the approved project will negatively impact important public views inconsistent with the LCP's visual resource protection requirements, including Visual and Scenic Resources Policies 1, 2, 3, 5, 6, and 11, ESHA Policy 29 and the Studio Drive Small-Scale Design Standards, including with respect to size and number of stories.

Public Access

As described above, the project site fronts immediately adjacent to Morro Strand State Beach, a very popular coastal recreational site. The project site contains at least one informal public access path that stretches from Studio Drive to the sandy beach below. Use of this informal trail will be effectively precluded by the approved development. While there are other trails on the

adjacent State Parks property, it is clear that this trail is in regular use by members of the public, who park along Studio Drive and walk down the site to the beach. In addition, the retaining walls approved to be constructed on the County's property, would also preclude some access. Thus, the proposed project is inconsistent with Coastal Act and LCP access policies cited above.

Conclusion
Although some of the above inconsistencies could be remedied by special conditions if the project were otherwise able to be sited in such a way as to be consistent with the LCP and Coastal Act, a fundamental issue exists that requires denial of the project. Namely, the project is sited on a bluff face, and no number or type of conditions can correct this fundamental and critical inconsistency. Thus, the LCP directs that the project be denied.

G. TAKINGS

Avoiding a Potential Unconstitutional Taking of Private Property
As discussed above, the proposed project is inconsistent with the LCP and Coastal Act in a way that cannot be rectified by conditions of approval. Therefore, as a matter of LCP consistency the project must be denied. However, when the Commission considers denial of a project, a question may arise as to whether the denial results in an unconstitutional "taking" of the Applicant's property without payment of just compensation. Coastal Act Section 30010 addresses takings and states as follows:

> *The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefore. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.*

Consequently, although the Commission is not a court and may not ultimately adjudicate whether its action constitutes a taking, the Coastal Act imposes on the Commission the duty to assess whether its action might constitute a taking so that the Commission may take steps to avoid it. If the Commission concludes that its action does not constitute a taking, then it may deny the project with some confidence that its actions are consistent with Section 30010. If the Commission determines that its action could constitute a taking, then the Commission could also find that application of Section 30010 would overcome the presumption of denial. In this latter situation, the Commission will oftentimes propose modifications to the development to minimize its Coastal Act and LCP inconsistencies while still allowing some reasonable amount of development.[33]

[33] For example, in CDP A-1-MEN-03-029 (Claiborne and Schmitt), the Commission in 2004 approved residential development on a site that was entirely ESHA, even though it was not resource-dependent development and thus was inconsistent with the LCP (which was the standard of review in that case).

In the remainder of this section, the Commission considers whether, for purposes of compliance with Section 30010, its denial of all development on the single parcel could constitute a taking. As discussed further below, the Commission finds that to avoid a takings in compliance with Section 30010, the Commission will allow a reasonable residential development on the subject property that is designed to avoid coastal resource impacts and LCP inconsistencies as much as possible.

General Takings Principles

The Fifth Amendment of the United States Constitution provides that private property shall not "*be taken for public use, without just compensation.*"[34] Article 1, section 19 of the California Constitution provides that "*[p]rivate property may be taken or damaged for public use only when just compensation…has first been paid to, or into court for, the owner.*"

The idea that the Fifth Amendment proscribes more than the direct appropriation of property is usually traced to *Pennsylvania Coal Co. v. Mahon* ("if regulation goes too far it will be recognized as a taking").[35] Since *Pennsylvania Coal*, most of the takings cases in land use law have fallen into two categories.[36] First, there are the cases in which government authorizes a physical occupation of property or actually takes title.[37] Second, there are the cases whereby government regulates the use of property such that the regulation has unfairly singled out the property owner to bear a burden that should be borne by the public as a whole.[38] A taking may be less likely to be found when the interference with property "arises from some public program adjusting the benefits and burdens of economic life to promote the common good" (in other words, application of a regulatory program) rather than a physical appropriation.[39]

In its recent takings cases, the Supreme Court has identified two discrete categories of regulatory action as compensable without case-specific inquiry into the public interest advanced in support of the restraint. The first involves regulations that compel the property owner to suffer a physical "invasion" of property.[40] The second involves regulation that denies all economically beneficial or productive use of property.[41] Courts have recognized, however, that government land-use regulations result in a taking only under extraordinary circumstances.[42] The *Lucas* court

[34] The Fifth Amendment was made applicable to the States by the Fourteenth Amendment (see *Chicago, B. & Q. R. Co. v. Chicago* (1897) 166 U.S. 226).

[35] (1922) 260 U.S. 393, 415.

[36] See *Yee v. City of Escondido* (1992) 503 U.S. 519, 522-523.

[37] See, for example, *Loretto v. Teleprompter Manhattan CATV Corp.* (1982) 458 U.S. 419, 426.

[38] *See, e.g., Penn Central Transportation C. v. NYC* (1978) 438 U.S. 105, 123-25 ("*Penn Central*").

[39] *Keystone Bituminous Coal Ass'n v. DeBenedictis* (1987) 480 U.S. 470, 488-489, fn. 18.

[40] *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 1015.

[41] Id, at p. 1014.

[42] *See, e.g., U.S. v. Riverside Bayview Homes* (1985) 474 U.S. 121, 126 ["governmental land-use regulation may under extreme circumstances amount to a 'taking' of the affected property"].)

emphasized that a regulation resulting in *no* permitted productive or economically beneficial use of land is an "extraordinary circumstance" and a "relatively rare situation."[43]

Outside of the "total" categorical takings identified in *Lucas*, courts have "generally eschewed any set formula for determining how far is too far, preferring to engage in essentially ad hoc, factual inquiries".[44] The *Penn Central* court identified several factors for determining whether a regulation has gone "too far," including: an examination into the character of the government action; its economic impact; and its interference with reasonable, investment-backed expectations.[45] In sum, where physical occupation of land is not an issue, the *Lucas* "denial of all economically beneficial or productive use of land" test and the *Penn Central* multi-factor inquiry constitute the "two basic forms of regulatory taking."[46]

Final Government Determination Required ("Ripeness")
Before a landowner may seek to establish a taking under either the *Lucas* or *Penn Central* formulations, however, it must demonstrate that the taking claim is "ripe" for review. This means that the takings claimant must show that government has made a "final and authoritative" decision about the use of the property.[47] Premature adjudication of a takings claim is highly disfavored, and the Supreme Court's cases "uniformly reflect an insistence on knowing the nature and extent of permitted development before adjudicating the constitutionality of the regulations that purport to limit it."[48] Except in the rare instance where reapplication would be futile, the courts generally require that an applicant resubmit at least one application for a modified project before it will find that the taking claim is ripe for review.[49]

In this case, and as discussed further below, because the LCP instructs the Commission to deny ***any*** development (other than vertical stairs or shoreline protective devices) that would be located on a coastal bluff face, the Commission's denial of the single-family residence would similarly mean that any subsequent resubmitted application for residential development by the Applicant would be futile because the LCP would again require project denial. However, as discussed further below, the subject property, APN 064-253-007 is planned and zoned for residential use, and to deny the Applicant a residential use of the parcel would significantly limit economic use of the property, thus resembling a *Lucas*-type "denial of all economically beneficial or productive use of land" takings situation. In these circumstances, the Applicant could potentially successfully argue that the Commission has made a final and authoritative decision about the use of the subject property. Therefore, the Applicant could successfully argue that the Commission's denial is a taking because a taking claim is "ripe."

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[43] *Lucas, supra*, 505 U.S. at 1017-18. Even when a challenged regulatory act prohibits all economically beneficial use of land, government may avoid a taking if the restriction inheres in the title of the property itself; that is, background principles of state property and nuisance law would have allowed government to achieve the results sought by the regulation. (*Id*. at pp. 1028-32.)

[44] *Penn Central, supra,* 438 U.S. at 124.

[45] Id, at p. 124; *Ruckelshaus v. Monsanto Co.* (1984) 467 U.S. 986, 1005.

[46] *Palazzolo v. Rhode Island* (2001) 533 U.S. 606, 648 [Ginsburg dissenting opinion].

[47] For example, see *Williamson County Regional Planning Com. v. Hamilton Bank* ((1985) 473 U.S. 172, 186), and *MacDonald, Sommer & Frates v. County of Yolo* ((1986) 477 U.S. 340, 348 ("*Macdonald*")).

[48] *MacDonald, supra,* 477 U.S. at p. 351.

[49] *See, e.g., Id.*

Determination of Unit of Property Against Which Takings Claim Will be Measured
As a threshold matter, before a taking claim can be analyzed, it is necessary to define the parcel of property against which the taking claim will be measured. In this case, the Applicant owns the subject vacant parcel proposed to be developed with a single-family residence (APN 064-253-007). Mr. Loperena purchased APN 064-253-007 for approximately $10,000 from Joe and Jean Warnagieris on January 2, 1975, and a Grant Deed was recorded in Book 1812, page 178 of the Official Records, San Luis Obispo County Recorder's Office, effectively transferring and vesting fee-simple ownership to the Applicant. In 2002, the County of San Luis Obispo issued a single non-conditional Certificate of Compliance for the parcel.[50] Commission staff independently confirmed through chain of title analysis that the parcel is a legal lot.

The adjoining parcels are owned by others. The adjoining parcel directly to the south (APN 064-253-006) is owned by Pludow and Sugimoto. The parcel to the east is owned by the County, and the adjacent parcel to the west and north is owned by the State of California Department of Parks and Recreation (Morro Strand State Beach).

Therefore, the evidence, including the evidence of lot legality, establishes that the Commission should treat APN 064-253-007 as a single parcel for the purpose of determining whether a taking occurred.

Reasonable Residential Development to Avoid a Taking

Categorical Taking
Section 30010 of the Coastal Act provides that the Coastal Act shall not be construed as authorizing the Commission to exercise its power to grant or deny a permit in a manner which will take private property for public use. Application of Section 30010 may overcome the presumption of denial in some instances. The subject of what government action results in a "total categorical taking" was addressed by the U.S. Supreme Court in *Lucas*.

In *Lucas*, the Court held that where a permit applicant has demonstrated that he or she has a sufficient real property interest in the property to allow the proposed project, and that project denial would deprive his or her property of <u>all</u> economically viable use, then denial of the project by a regulatory agency might result in a taking of the property for public use, unless the proposed project would constitute a nuisance under State law.

The Commission interprets Section 30010, together with the *Lucas* decision, to mean that if an applicant demonstrates that Commission denial of the project would deprive his or her property of all reasonable economic use, the Commission may be required to allow some development even where a Coastal Act or LCP provision would otherwise prohibit it, unless restrictions on the proposed project inhere in the title of the property. In other words, unless the proposed project would be inconsistent with a background principles of State property and nuisance law, the applicable provisions of the certified LCP cannot be read to deny all economically beneficial or productive use of land because these sections of the certified LCP cannot be interpreted to require the Commission to act in an unconstitutional manner. In complying with this requirement, however, a regulatory agency may deny a specific development proposal, while

[50] Certificate of Compliance Number C02-113, Doc #2002041431, May 26, 2002.

indicating that a more modest alternative proposal could be approved, and thus assure the property owner of some economically viable use.

Table O in the San Luis Obispo County LCP's Framework for Planning document sets forth the permitted uses in the residential land use category, which include: 1) single-family dwellings; 2) supportive housing; 3) transitional housing; 4) temporary dwellings; 5) secondary dwellings, 6) residential vacation rentals; 7) residential care; 8) residential accessory uses; 9) mobilehome; 10) mobilehome parks; 11) home occupations; 12) homestays; 13) pre- to secondary schools; 14) food and beverage sales; 15) temporary offices; 16) personal services; 17) public safety facilities; 18) accessory storage; 19) temporary construction yards; 20) public utility facilities; 21) churches; 22) communication facilities; 23) water wells and impoundments; 24) pipelines and transmission lines; 25) animal raising and keeping; 26) crop production and grazing; 27) specialized animal facilities; 28) outdoor sports and recreation; 29) passive recreation; and 30) coastal accessways.

The Commission finds that in this particular case, none of the other permitted uses at the subject property would avoid development on a bluff face while at the same time providing the property owners with a reasonable investment backed and economically viable use. The Applicant's property is located adjacent to a State-owned park and open space area. This fact suggests there may be an impetus for a public agency to purchase the Applicant's property. However, there is no evidence in the record suggesting that the State's purchase of the Applicant's property is an economically feasible option. Other allowed uses (as a matter of zoning), such as a mobile home, which would require a foundation, would likely come with the same types of impacts to coastal resources as a small single-family residence. Moreover, approval of a mobile home instead of a small single-family residence would be out of character with the other homes downcoast on Studio Drive. Finally, the fact that the project site is situated half on sandy beach and half on a coastal bluff face (which precludes any development besides public access stairways and shoreline protective devices) means that a mobile home could not be approved on the site as a matter of LCP consistency. Although it is possible that some form of more temporary development (as a matter of zoning), such as a kiosk for food and beverage sales, or for beach equipment rental or similar purposes associated with beach and shoreline activities, that could be brought to the site during times of heavier beach use, could provide an appreciable economic use, it is somewhat speculative as to the ability of such an approval to avoid a takings claim (i.e., the Applicant's investment-backed expectation when purchasing the property likely was not to operate a temporary food and beverage sales kiosk onsite). Finally, as discussed, the fact that the project site is situated half on sandy beach and half on a coastal bluff face (which precludes any development besides public access stairways and shoreline protective devices) means that a temporary kiosk could not be approved on the site as a matter of LCP consistency.

Thus, the Commission finds that it is reasonable to conclude that denial of a residential use could be determined to deprive the Applicant of all economically viable use of his property. In fact, LCP Visual and Scenic Resources Policy 11 prohibits ***any*** development on the property (since it is situated half on sandy beach and half on a coastal bluff face) other than a public access stairway or shoreline protective device on the coastal bluff face portion of the property. Neither of these options would appear to provide an economically viable or productive use of the subject property at the current time. Therefore, regardless of whether denial of the permit would constitute a taking under the *ad hoc* inquiry required by *Penn Central* (as discussed below), the

Commission finds it necessary to approve some residential use of the property to avoid a categorical *Lucas*-type taking.

Taking Under Penn Central

Although the Commission has already determined it is necessary to approve some residential use to avoid a categorical taking under *Lucas*, a court may also consider whether the permit decision would constitute a taking under the ad hoc inquiry stated in *Penn Central*.[51] This ad hoc inquiry generally requires an examination into factors such as the sufficiency of the applicant's property interest, the regulation's economic impact, and the regulation's interference with reasonable, investment-backed expectations.

Sufficiency of Interest

The Applicant purchased APN 064-253-007 for approximately $10,000 with a closing date of January 2, 1975. The same day, a Grant Deed was recorded in Book 1812, page 178 of the Official Records, San Luis Obispo County Recorder's Office, effectively transferring and vesting fee-simple ownership to the Applicant, Jack Loperena. Upon review of these documents, the Commission concludes that the Applicant has demonstrated that he has sufficient real property interest in the subject parcel to allow pursuit of the proposed project.

Reasonable Investment-Backed Expectations

In this case, the Applicant may have had an investment-backed expectation and a reasonable expectation that the subject property could be developed with a residence; however it could be argued that a reasonable person would not have had a reasonable expectation to build a house of the size and scale as that proposed.

To determine whether the Applicant had an investment-backed expectation to construct a house on APN 064-253-007, it is necessary to assess what the Applicant invested when he purchased the lot. To determine whether an expectation to develop a property as proposed is reasonable, one must assess, from an objective viewpoint, whether a reasonable person would have believed that the property could have been developed for the Applicant's proposed use, taking into account all the legal, regulatory, economic, physical, and other restraints that existed when the property was acquired.

The Applicant purchased APN 064-253-007 a 3,445 square foot parcel, for a single purchase price of approximately $10,000.[52] The $10,000 price is comparable to what other vacant parcels of a similar size in the Studio Drive community sold for in the same timeframe as when the Applicant purchased the subject property. For example, evidence in the record suggests that the neighboring property to the south, which is 7,757 square feet (according to Realquest.com), or slightly more than double the size of the subject property, was for sale for around $22,000 in the same timeframe.[53]

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[51] (1978) 438 U.S. 104, 123-125.

[52] Approximately 1,700 feet of the parcel, or almost exactly half, is occupied by sandy beach habitat, with the remaining approximately 1,745 square feet of the parcel constituting bluff face.

[53] Based on the Applicant's data. It is not clear to what degree parcels with sandy beach portions, like the subject parcel, enjoyed discounted purchase prices as a result.

Aside from the purchase price itself, the the size, shape, and physical orientation of the lot (that slopes away from Studio Drive down to sandy beach as opposed to providing any relatively flat blufftop area), and the distance from the road itself to the lot across undeveloped ROW (a strip of ROW land some 40 feet long by 25 feet wide), there is no evidence that has been provided to date to suggest that the Applicant knew that the property might be undevelopable at the time of purchase. When the Applicant purchased the property in 1975, other homes had been built or were being built in the surrounding vicinity. In fact, many of the blufftop homes along Studio Drive had been built by the time the Applicant had purchased the property.[54] In 1980, the Applicant applied for and received a building permit for a single family residence on the site, which later expired without the residence being built. No coastal development permit, however, was ever applied for or issued for that project.[55] Finally, in 2002, a Certificate of Compliance (COC) was recorded, which could also indicate that the Applicant may have been led to believe that some form of development would be possible even with the constraints of the site. Consequently, the Applicant may have had a reasonable investment-backed expectation that he had purchased a lot that could be developed with a residence, and his investment was made under the assumption that the future development of a residential use could be approved on APN 064-253-007. Given that other homes were in existence along the seaward side of Studio Drive at the time of the property purchase, and given that the property was zoned for residential use, viewed objectively, a reasonable person could thus have had a reasonable expectation that APN 064-253-007 could be developed as a residential parcel.

While the *Penn Central* inquiry looks to a purchaser's expectations at the time of purchase, in the absence of detailed information in the Commission's record in this case on the size of surrounding homes when the Applicant's predecessor-in-interest purchased the subject lot, staff researched the current size and bulk of existing homes in the area. Thus, to assess whether the Applicant had a reasonable expectation to build a 2,195 square foot house on the subject lot, Commission staff calculated the average square footage of homes and the average residential lot size of parcels located seaward of Studio Drive. The average square footage of the nearest 30 homes in the surrounding area (seaward of Studio Drive and south of the subject site) is 1,963 square feet. The average lot size of these 30 parcels is 5,130 square feet, with virtually all of these parcels consisting of developable blufftop area. By contrast, here, nearly half of the subject lot is undevelopable sandy beach. Of these 30 surveyed parcels, nine parcels are similar in size to the subject lot (with lot sizes between 3,000 and 3,999 square feet). The average square footage of the residences on these nine LCP-developable blufftop lots is 1,702 square feet. Again, however, the developable areas of these other lots are not restricted by being half-situated on sandy beach such as the subject lot (which consists of approximately 1,700 square feet of sandy beach on the 3,445 square foot lot), and thus this average 1,702 square foot figure is ***proportionally*** lower to the relevant surveyed lot sizes as compared to the developable area on the subject parcel. In other words, the Applicant is proposing a house that is substantially larger than the average home in the vicinity on a parcel that is substantially smaller than the average-sized residential parcel in the area. The subject parcel also includes almost 50% sandy beach unlike other parcels along Studio Drive, and thus the upland bluff face portion of the lot is much smaller than adjacent parcels of similar size.

[54] Photos from 1973 show almost the entire blufftop strip along Studio Drive developed with single family residences.

[55] At this time, pre-certification of the County's LCP, the Coastal Commission would have needed to issue the CDP.

Thus, a purchaser of the subject parcel would not have had a reasonable expectation that he or she could build on or over the beach, when no other homes in the vicinity were built on the beach at the time this property was purchased.[56] Thus, while it can be argued that the Applicant had an investment-backed expectation and a reasonable expectation that the subject property could be developed with a residence, a reasonable person would ***not*** have a reasonable expectation to build a house of the size and scale as that proposed by the Applicant, given the average size of surrounding homes and lots, and given the size of the portion of the lot that does not constitute sandy beach area (i.e., what might have been inferred by the Applicant as a developable area even though it is actually bluff face and not residentially developable under the LCP). Even without factoring in the unbuildable sandy beach portion of the parcel, the Applicant is proposing a home some **600 square feet larger** than the average size of homes in the area on similarly sized lots.

Economic Impact
In this case, the evidence in the record suggests that Commission denial of any residential development on this parcel would likely have a substantial impact on the value of the subject property, as well as the Applicant's investment backed expectations.

Considering the above, to preclude a claim of takings and to assure conformance with California and United States Constitutional requirements, as provided by Coastal Act Section 30010, this CDP allows for the construction of a reduced-scale residential development to provide a reasonable economic use of the subject property. This determination is based on the Commission's finding in this report that some form of residential development is commensurate with the investment-backed expectations for the property, and that none of the uses otherwise allowable under the certified LCP would provide an adequate economic use.

Background Principles of State Property Law to Avoid a Taking
As an alternative basis for avoiding a taking of property, *Lucas* provides that a regulatory action does not constitute a taking if the restrictions inhere in the title of the affected property; that is, "background principles" of state real property law would have permitted government to achieve the results sought by the regulation.[57] These background principles include a State's traditional public nuisance doctrine or real property interests that preclude the proposed use, such as restrictive easements. Here, it does not appear that the proposed project would constitute a public nuisance, or that other background principles of real property law are implicated, so as to preclude a finding that the Commission's denial of the project would constitute a taking.

California Civil Code Section 3479 defines a nuisance as follows:

> *Anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property,*

[56] One home at 2614 Studio Drive, originally built in 1969, does contain a slight cantilever over the bluff, but this is an exception to the rule along Studio Drive, where the majority of homes are set back from the top of bluff without the use of cantilevers and do not include development on the sandy beach seaward of their homes. In addition, post-LCP development is fairly uniformly sited inland of the minimum 25-foot blufftop setback line.

[57] *Lucas, supra,* 505 U.S. at pp. 1029-30.

> *or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance.*

California Civil Code Section 3480 defines a public nuisance as follows:

> *A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.*

There is no evidence that construction of a residence on the subject property would create a nuisance under California law. The site is located in a residential area where some form of small scale single-family residential development would be compatible with adjacent land uses to the south. Additionally, water service will be provided to the single-family residential development by the CSA 10 and sewer service will be provided by the Cayucos Sanitary District, and both districts have confirmed that there is service available for the property. This ensures that the proposed new residence would not create public health problems in the area. Furthermore, the proposed use is residential, rather than, for example, industrial, which might create noise or odors or otherwise create a public nuisance. It also appears that development can be sited, designed, and conditioned at this location in such a way as to avoid becoming damaged and falling onto the beach, or to be removed if this were to occur, which if this occurrence could not be avoided might suggest a public nuisance (due to debris, as well as impacts from severed infrastructure, etc.).

Therefore, the Commission finds an appropriately conditioned single-family residence would not constitute a public nuisance that would preclude a finding that the regulatory action constitutes the taking of private property without just compensation.

Takings Conclusion

To preclude a claim of takings and to assure conformance with California and United States Constitutional requirements, as provided by Coastal Act Section 30010, this CDP approval allows for the construction of a residential development to provide a reasonable economic use of the subject property. In view of the evidence, there is a reasonable possibility that a court might determine that the Commission's denial of a residential use, based on the inconsistency of this use with the LCP, would constitute a taking (since reapplication would be futile). Therefore, the Commission determines that the inconsistency with the County LCP in this case does not preclude a residence that is appropriately conditioned to minimize coastal resource impacts and LCP inconsistencies as much as possible on the basis of potential takings.

Having reached this conclusion, however, the Commission also finds that the LCP only instructs the Commission to construe the resource protection policies of the San Luis Obispo County LCP in a manner that will avoid a taking of property. It does not authorize the Commission to otherwise suspend the operation of or ignore these policies in acting on this appeal. Thus, the Commission must still comply with the requirements of the LCP by avoiding, to the maximum extent feasible, coastal resource impacts and LCP inconsistencies.

H. APPROVABLE PROJECT

Maximizing LCP Conformity while Avoiding Takings

Though applicants are entitled under Coastal Act Section 30010 to an assurance that the Commission will not act in such a way as to result in an unconstitutional taking of their property, this section does not authorize the Commission to otherwise abandon application of the policies and standards of the certified LCP and the Coastal Act, including LCP policies related to coastal hazards and visual and scenic resources, for example. Instead, the Commission is only directed to avoid construing these applicable policies in a way that would unconstitutionally take private property for public use. Aside from this limitation, the Commission is still otherwise directed to enforce the requirements of the LCP and the Coastal Act. Therefore, in this situation, the Commission must still comply with other applicable LCP and Coastal Act policies by requiring measures to mitigate adverse environmental effects on coastal bluffs, public access, and scenic views from the development of a single-family residence.

Minimizing Adverse Coastal Resource Impacts

To achieve consistency with the LCP's policies in light of constitutional takings issues, the Commission approves development of a single-family residence with special conditions to minimize adverse effects on the coastal bluff face, public access and visual resources.

As discussed in previous sections of this report, the proposed residence is inconsistent with the coastal hazards, public access, and visual resources policies and standards of the LCP. However, the Commission finds it will approve a residence on the site in order to avoid a potential constitutional takings claim. In general, when a project is approved to avoid a taking, the project will still include implementation of mitigation measures necessary to minimize the impacts of development on sensitive coastal resources, such as coastal bluffs, public access and scenic views.

The siting of the single-family residence on the most inland portion of the lot adjacent to Studio Drive allows for a reasonable economic use of the property while ensuring the project is consistent as possible with hazards avoidance and visual protection policies of the LCP. Such a residential project that is pulled back off of the sandy beach so as to provide at least some visual separation between the beach and the residence, with berming and landscaping fronting the basement level so that the project at least appears to be a two-story structure such as might be allowed at most on nearby residential lots (and would not appear as a three story structure as is not allowed in blufftop cases). Because the portion of the lot that is not occupied by sandy beach is relatively small (some 50% of the lot, or roughly 1,700 square feet, is sandy beach, leaving only about 1,745 square feet that is not beach sand), there is little space inland on the lot to achieve such separation from the beach area.

To help identify an appropriate footprint area, Commission staff looked to the surrounding area to understand the relative size and scale of structures in the neighborhood, and have applied this to the Applicant's site and its geography in a way meant to respect LCP objectives, including in terms of the LCP vision for blufftop development along Studio Drive. In terms of the later, the LCP requires a minimum setback of 25 feet from the blufftop edge. Immediately adjacent development does not currently meet this setback (i.e., the next three houses extending downcoast), but it will be required to in the future when it redevelops, similar to houses developed since the LCP has been in effect (e.g., the houses just past the first adjacent three that

meet the minimum 25-foot setback requirement). Staff mapped out both a 25-foot setback from the sandy beach, as well as the general trend of the LCP-required minimum blufftop setback (as it might apply were there to be blufftop at the Applicant's site). These lines are roughly coterminous (see **Exhibit 12**). When applied, they would allow the Applicant space within which to develop an approximately 1,400 square foot residence (akin to the size of house approved by San Luis Obispo County, after conducting an exhaustive analysis) over three levels, where the basement level is screened from public view so that the development appears as much like a two-story residence as possible.

Even with these mitigations, the project will be highly visible, but it represents an appropriate compromise to otherwise maximize LCP and Coastal Act consistency given the takings considerations and the physical characteristics of the site and surrounding area. It also is more appropriate than the Applicant's proposal inasmuch as the adjacent residences will be required to meet the minimum 25-foot blufftop setback when/if they redevelop, and doing so would mean they would be back *behind* the Applicant's proposal by some 20-25 feet (blocking views etc.) if it were to be approved. Such an approval ensures that these setbacks for neighboring properties roughly match up by following the actual blufftop setback line trend for this stretch of coast. This is a fair way of allowing residential development here at the same time as ensuring that its impacts do not unduly and unfairly harm either the surrounding public viewshed or neighboring property owner's. To do otherwise, and to allow this Applicant to have significantly larger development significantly closer to the beach counter-intuitively allows for unnecessary development that does not otherwise maximize LCP and Coastal Act consistency.

Thus, **Special Condition 1** requires revised final plans to be submitted prior to issuance of the coastal development permit. **Special Condition 1(a)** requires Final Plans to show all development set back 25 feet from where the sandy beach meets the rocky bluff face, thus ensuring the residence is located as far back on the lot as possible while still providing a reasonable economic use. This setback is measured from what approximates the visual toe of a bluff (i.e., where it generally intersects beach sand), and it also generally conforms to the general orientation of the shoreline at this location, making it an appropriate feature from which to address potential development on this site. Development 25 feet landward of this line should be relatively stable in the future, although, as discussed above, it may be subject to wave runup in extreme events. This setback is similar in distance to the LCP's minimum 25-foot blufftop setback requirements for adjacent homes along Studio Drive.

A 25-foot setback from the sandy beach will allow for an approximately 1,400-square-foot residence, including a garage and exterior parking space. However, within the Commission's approved development parameters, the Applicant has the option to remove the parking areas from the footprint and park on the County's right-of-way via a County encroachment permit (see **Special Condition 1b**). This would provide about 400 more square feet for living space. In discussions with County Planning staff, securing an encroachment permit for parking in the County's right-of way would be allowed and is common throughout the County.[58]

[58] Phone conversations between Coastal Commission staffer Daniel Robinson and Ryan Hostetter of the County Planning and Building Department (January 2016) and Fred Andrews of the County Public Works Department (February 2016). In addition, the Applicant could also pursue through the County abandonment of the County's portion of the ROW.

Special Conditions 1(c)(d)(e) require the residence to: extend no higher than 15 feet as measured from the centerline of Studio Drive; include front and side setbacks for the upper floor consistent with the Estero Area Plan's Small Scale Design Neighborhood standards; and be designed in a manner that reduces the apparent massing of the residence, including through the use of variations in wall planes, roof lines, detailing, materials and siding to promote a small scale appearance. To ensure visual compatibility with the surrounding small scale neighborhood, **Special Condition 1g** requires the Applicant to locate the basement level below grade as much as possible and to screen any above-grade basement elements with berming and/or the planting of native vegetation so that the basement is not visible in public views as much as possible, and the residence presents visually as a two-story residence. In addition, **Special Condition 1h** requires all non-native and invasive plants to be removed from the site and the site to be landscaped with drought-resistant native species and **Special Condition 1k** requires Final Plans to show tree protecting fencing within 25 feet of the trunk of the Monterey cypress tree.

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

Although the Applicant is proposing a standard foundation, there are times when the foundation and lower portion of residential structure itself (i.e., the basement) would constitute a shoreline protection device when it would act in that manner in response to hazards. This is not allowed for new development under the LCP. Instead, new development is required to avoid shoreline protection over its lifetime. **Special Condition 1(f)** thus requires the construction of foundational and retaining wall elements that use a standard design and prohibits the use of piers and caissons and any other foundation elements that are designed or engineered to address ocean and related forces, including wave attack, ocean flooding, or erosion. Instead these ocean-related forces are to be addressed through the project's setback and removal over time, as described below.

In order to ensure that the proposed development maintains its prohibition on shoreline armoring in the future, **Special Condition 7(b)** prohibits all shoreline protective structures, including but not limited to seawalls, revetments, groins, and caisson/grade beam systems in the event the development is threatened in the future. **Special Condition 7(c)** extinguishes any rights that may exist to construct such shoreline protective devices. **Special Condition 7(a)** articulates that the intent of the CDP is to ensure that development does not use structural armoring as a mechanism

to cope with any potential coastal hazards, and that, in lieu of armoring, the response to abate such hazards is through removal and restoration over time. **Special Condition 7(d)** ensures that the development will only be allowed to remain onsite if it is safe for occupancy and use without additional measures beyond ordinary repair and maintenance and without shoreline protection. The condition is meant to define when the project (or a portion of the project) is impermissibly located within a hazardous location necessitating shoreline protection and when the project (or a portion of the project) itself is impermissibly functioning as shoreline armoring. When either or both of these situations arise, the project will then be inconsistent with LCP requirements that prevent development within hazardous locations and that do not allow new development from using shoreline protective devices to abate any coastal hazards. Specifically, the condition requires the Applicant to submit a plan for removal of development if any of three triggers is met: (1) if a government agency has ordered that any portion of the approved residence is not to be occupied or used due to one or more coastal hazards, and such government agency concerns cannot be abated by ordinary repair and/or maintenance;[59] (2) if any portions of the residence's major structural components, including exterior walls, floor and roof structures, and foundation, must be significantly altered (including renovation and/or replacement) to abate coastal hazards[60]; or (3) if any portion of the approved foundation becomes visible.

To provide consistency with the performance standards of the LCP, **Special Conditions 2 and 3** require submission of a construction plan to ensure Best Management Practices (BMPs) are implemented during construction to avoid water quality and other coastal resource impacts during construction, to prohibit construction encroachment on the beach, to require that copies of the CDP and the approved construction plan be maintained at the site during construction, and to require a construction coordinator to be available to respond to any inquiries that arise during construction. Also to protect sensitive bird species during construction and the Monterey cypress tree, **Special Condition 4 and 5** are added, which include requiring a qualified biologist to conduct pre-construction surveys for nesting birds, and the retention of a certified arborist to ensure protection of the tree's root zones during construction.

Special Condition 1(i) requires stormwater and drainage infrastructure and related water quality measures (e.g., pervious pavements, etc.), with preference given to natural BMPs (e.g., bioswales, vegetated filter strips, etc.), to minimize any adverse impacts to the adjacent beach and ocean. Such infrastructure and water quality measures shall provide that all project area stormwater and drainage is: filtered and treated to remove expected pollutants prior to discharge to protect coastal resources as much as possible. The condition requires runoff from the project to be retained onsite to the maximum extent feasible. Infrastructure and water quality measures shall be sized and designed to accommodate runoff from the site produced from each and every storm event up to and including the 85th percentile 24-hour runoff event, which is a standard water quality protection metric.

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

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

The Commission's action on this CDP has no effect on conditions imposed by San Luis Obispo County pursuant to an authority other than the Coastal Act. Thus, **Special Condition 8** specifies that in the event of conflict between the terms and conditions imposed by the local government pursuant to an authority other than the Coastal Act/LCP and those of this CDP, the terms and conditions of coastal development permit A-3-SLO-15-0001 shall prevail.

Coastal Act Section 30604(c) requires that every CDP issued for any development between the nearest public road and the sea "include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." The proposed single-family residence would be located seaward of the first through public road and thus such a finding is required for a CDP approval. Coastal Act Sections 30210 through 30213 and 30221 specifically protect public access and recreation. The LCP includes policies with similar requirements. These overlapping policies protect the adjacent County park and open space area, the beach (and access to and along it) and offshore waters for public access and recreation purposes, including lower-cost access and recreational opportunities.

The proposed project will eliminate an existing access trail that extends across the property to the beach and adjacent access via proposed retaining walls on the adjacent County ROW. Although other public access to Morro Strand State Beach is available in the vicinity, the loss of the existing access trail on the property will result in a reduction of access opportunities in the vicinity. To mitigate for the project's impacts to this existing access trail, **Special Condition 9** requires a public access easement over the sandy beach portion of the property, as depicted on **Exhibit 13**, and requires the recordation of a document granting or irrevocably offering to dedicate either fee title or an easement for the sandy beach area of the property.

Finally, to ensure that future property owners are properly informed regarding the terms and conditions of this approval, this approval is also conditioned for a deed restriction to be recorded against the property involved in the application (see **Special Condition 10**). This deed restriction will record the conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property.

The Commission finds that, as conditioned, the approved project represents a reasonable use of the property (on a site that would otherwise prohibit residential use) that will avoid an unconstitutional taking of private property for public use, will avoid coastal resource impacts and provide consistency with the LCP and the Coastal Act to the maximum extent feasible, and appropriately responds to the unique circumstances of this case.

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

San Luis Obispo County, acting as lead agency, completed an Environmental Impact Report

(EIR) for this project. This document analyzed the impacts for a single-family residence of 3,097 square feet, which included a basement and a mezzanine and a cantilevered portion of the main floor which extended out over the sandy beach portion of the subject lot. Key significant impacts and mitigation measures were identified for the following issue areas: 1) aesthetic resources; 2) air quality; 3) biological resources; 4) geology and soils; 5) noise; and 6) water. Four project alternatives were identified as well: 1) no project alternative; 2) Design Alternative A – Reduced Project, Pilings; 3) Design Alternative B – Reduced Project, Traditional Design; and 4) Design Alternative C – Vegetation and Articulation. The proposed project was deemed to be the Environmentally Superior Alternative. Additionally, revised CEQA findings were included in the County's Final Local Action Notice upon approval of the project at the Board of Supervisor's meeting on December 9, 2014, as well as previously for the Planning Commission approval on April 10, 2014. The latest revised County findings (see Attachment 2 of Exhibit 3) included changes to the EIR's Geology and Soils section, related to coastal hazards. The Commission's analysis in this report is consistent with the *revised* CEQA findings for hazards which indicate the site includes a coastal bluff.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The preceding coastal development permit findings discuss the relevant coastal resource issues with the proposal, and the permit conditions identify appropriate modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above, which are incorporated herein in their entirety by reference.

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

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

1) Final Environmental Impact Report (FEIR), December 2013, and as revised pursuant to San Luis Obispo County Board of Supervisor Approval and Certification, December 9, 2014.

2) Cleath and Associates, 2006. “Geologic Conditions at the Loperena Property, Studio Drive, Cayucos, California, Assessor’s Parcel Number 064-253-007.”

3) GSI Soils, 2007. “Geotechinical Investigation, Proposed Residence, Lot 41 Studio Drive, Cayucos, California, Project No. 6-4210” and Addendum, 2007.

4) Haro Kasunich and Associates, 2007, "Review of residential development on coastal bluff and supporting geologic and geotechnical reports prepared for development, Loperena property, APN 064-253-07, Lot 41, Studio Drive, Cayucos, San Luis Obispo County, California", 5 p. letter report dated 12 November 2007 and signed by J. E. Kasunich (GE 455).

2) GeoSoils, 2011, "Discussion of coastal hazards and wave runup, northwest and immediately adjacent to 2612 Studio Drive (APN 064-253-07), Cayucos, San Luis Obispo County, California", 12 p. report dated 14 March 2011 and signed by D. W. Skelly (RCE 47857).

3) Cotton Shires and Associates, 2011, "Technical Report, geotechnical and coastal hazards review, Loperena Minor Use Permit/Coastal Development Permit, APN 064-253-07), Studio Drive, Cayucos, San Luis Obispo County, California", 34 p. report dated 31 May 2011 and signed by M. B. Phipps (CEG 1832) and P. O. Shires (GE 770).

4) GeoSoils, 2011, "Updated geotechnical investigation, Proposed residence, Lot 41, Studio Drive, Cayucos, California", 18 p. geotechnical report dated 27 December 2011 and signed by R. Church (GE 2184).

5) Shoreline Engineering, 2012, "Engineering evaluation, Studio Drive residence, Cayucos, APN 064-253-007", 38 p. report dated January 2012 and signed by B. S. Elster (CE 32981).

6) Haro Kasunich and Associates, 2012, "Review of additional documents, residential development on coastal bluff, Loperena property, APN 064-253-07, Lot 41, Studio Drive, Cayucos, San Luis Obispo County, California", 6 p. letter report dated 13 March 2012 and signed by J. E. Kasunich (GE 455) and M. Foxx (CEG 1493).

7) Cleath-Harris Geologists, 2012, "Updates to engineering geology reports for the proposed Loperena residence, Lot 41, Studio Drive, Cayucos, California", 3 p. letter report dated 25 June 2012 and signed by D. R. Williams and T. S. Cleath (CEG 1102).

8) Cotton Shires and Associates, 2012, "Supplemental geotechnical peer review for Environmental Impact Report preparation, Loperena Minor Use Permit/Coastal Development Permit, Studio Drive, Cayucos, San Luis Obispo County, California", 4 p. letter report dated 21 August 2012 and signed by M. B. Phipps (CEG 1832) and D. T. Schrier (GE 2334).

9) Cleath-Harris Geologists, 2012, "Update #2 to engineering geology reports for the proposed Loperena residence, Lot 41, Studio Drive, Cayucos, California", 3 p. letter report dated 19 September 2012 and signed by D. R. Williams and T. S. Cleath (CEG 1102).

10) Shoreline Engineering, 2012, "Loperena, County of San Luis Obispo, Response to supplemental geotechnical peer review for EIR preparation, 8/21/12", 1 p. report dated 20 September 2012 and signed by B. S. Elster (CE 32981).

11) GeoSoils, 2012, "Response to supplemental geotechnical peer review, Loperena residence, Lot 41, Studio Drive, Cayucos, California", 2 p. letter report dated 1 October 2012 and signed by R. Church (GE 2184).

12) Cotton Shires and Associates, 2012, "Second supplemental geotechnical peer review for Environmental Impact Report preparation, Loperena Minor Use Permit/Coastal Development Permit, Studio Drive, Cayucos, San Luis Obispo County, California", 2 p. letter report dated 31 October 2012 and signed by M. B. Phipps (CEG 1832) and D. T. Schrier (GE 2334).

13) GeoSoils, 2013, "Supplemental discussion of coastal hazards and wave runup, APN 064-253-07, Cayucos, San Luis Obispo County, California", 7 p. report dated 10 April 2013 and signed by D. W. Skelly (RCE 47857).

14) Cotton Shires and Associates, 2013, "Additional geotechnical and coastal engineering review and response to technical comments, Loperena Minor Use Permit/Coastal Development Permit, Studio Drive, Cayucos, San Luis Obispo County, California", 5 p. letter report dated 17 May 2013 and signed by M. B. Phipps (CEG 1832) and P. O. Shires (GE 770).

15) Haro Kasunich and Associates, 2013, "Loperena Minor Use Permit, Coastal Development Permit DRC 2005-00216, SCH No. 2007081044", 8 p. letter report dated 1 August 2013 and signed by J. E. Kasunich (GE 455) and M. Foxx (CEG 1493).

16) GeoSoils, 2014, "Sea level rise and coastal hazard discussion, northwest and immediately adjacent to 2612 Studio Drive (APN 064-253-07) Cayucos, San Luis Obispo County, California", 6 p. report dated 12 March 2014 and signed by D. W. Skelly (RCE 47857).

17) Haro Kasunich and Associates, 2014, "Mark Foxx, CEG 1493, John E. Kasunich, GE 455 comments on March 12, 2014 sea level rise and coastal hazard letter from GeoSoils and the revised plans for the Loperena residence by C.P. Parker dated 3/14/2014, Loperena Minor Use Permit/Coastal Development Permit DRC 2005-00216, SCH No. 2007081044", 10 p. letter report dated 31 March 2014 and signed by J. E. Kasunich (GE 455) and M. Foxx (CEG 1493).

18) GeoSoils, 2014, "Response to Haro, Kasunich, and Associates, Inc. Comments on GeoSoils Inc. March 12, 2014 report dated 31 March 2014", 8 p. report dated 4 April 2014 and signed by D. W. Skelly (RCE 47857).

19) Shoreline Engineering, 2014, "Current and historic mapping of Loperena property", 4 p. letter report dated 24 August 2014 and signed by B. S. Elster (CE 32981).

20) Shoreline Engineering, 2014, "Evaluation of bluff geometry adjacent to Loperena property, Minor Use Permit/Coastal Development Permit DCR2005-00216", 14 p. report dated 28 September 2014 (revised 6 December 2014) and signed by B. S. Elster (CE 32981).

21) Haro Kasunich and Associates, 2014, "Review of 'Evaluation of Bluff Geometry Adjacent to Loperena Property' prepared by Shoreline Engineering dated 9/28/14", 6 p. review letter dated 2 December 2014 and signed by J. E. Kasunich (GE 455) and M. Foxx (CEG 1493).

22) Central Coast Aerial Mapping, 2015, "Loperena Mapping Procedures and Estimated Accuracies", 2 p. letter dated 14 July 2015 and signed by R. Lafica (CP).

23) ATGeoSystems, 2015, "Loperena Survey Control", 1 p. letter dated 14 July 2015 and signed by A. L. Volbrecht (PLS).

Figure ES-1. Project Vicinity Map

Figure ES-2. Project Location Map

Figure 3-1. Site Map

Exhibit 2
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Exhibit 2
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Exhibit 2
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Exhibit 2
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Typical view from adjacent beach parking lot at Morro Strand State Beach (Studio Drive lot)

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Exhibit 2
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Typical view from beach parking lot at
Morro Strand State Beach (Pacific Avenue lot)

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Exhibit 2
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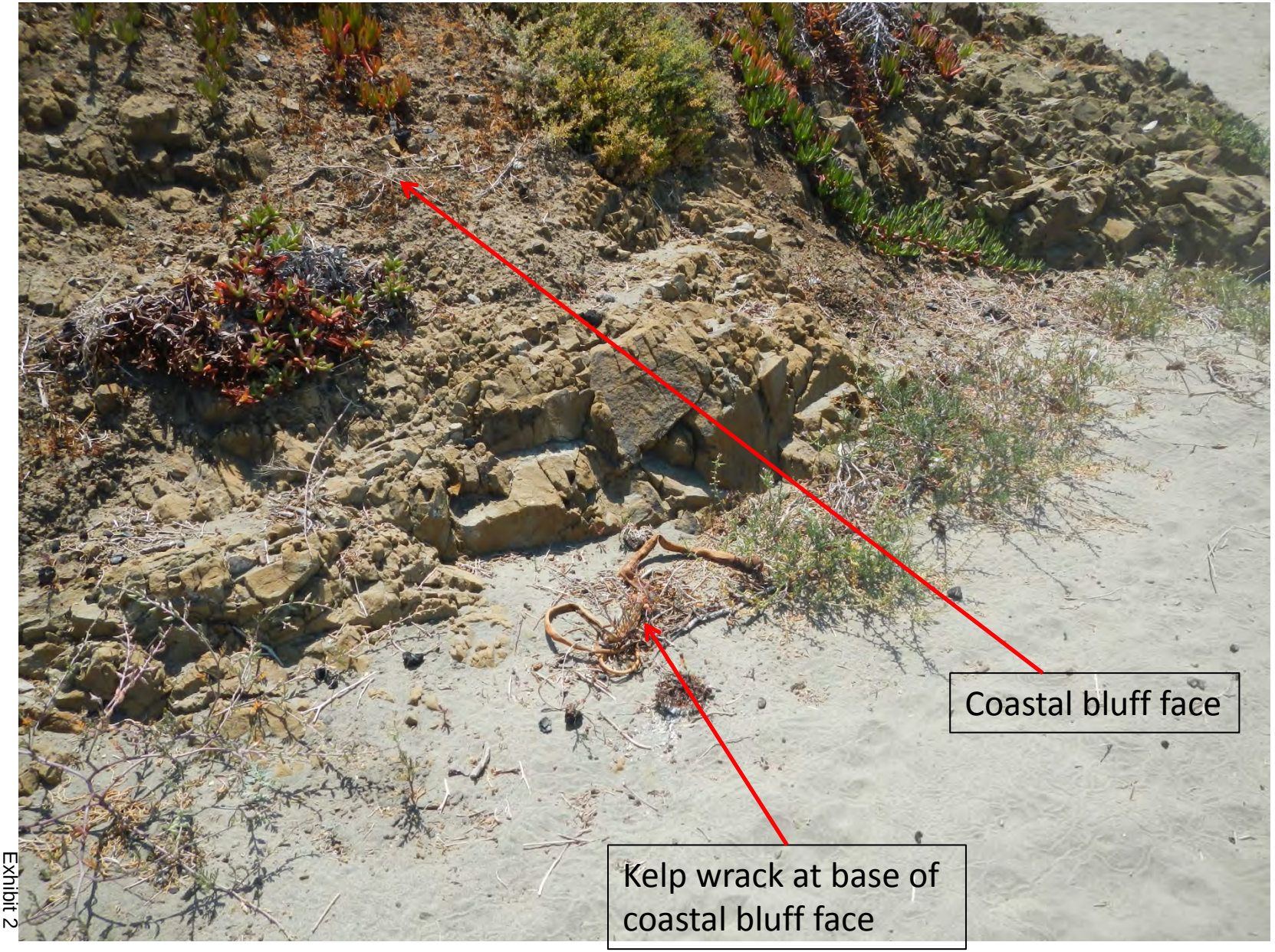

Exhibit 2
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SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

FINAL LOCAL ACTION NOTICE
REFERENCE # 3-SLO-15-0024
APPEAL PERIOD 1/7/15 - 1/22/15

RECEIVED
JAN 07 2015
CALIFORNIA COASTAL COMMISSION CENTRAL COAST AREA

January 5, 2015

Cathy Novak
P.O. Box 296
Morro Bay, CA 93443

1/8 - 1/22
appeal filed

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: December 9, 2014

SUBJECT: County File No. DRC2005-00216 –
Minor Use Permit/Coastal Development Permit

LOCATED WITHIN COASTAL ZONE: YES

The above-referenced application was approved by the Board of Supervisors, based on the approved Findings and Conditions, which are attached for your records. This Notice of Final Action is being mailed to you pursuant to Section 23.02.033(d) of the Land Use Ordinance.

This action is appealable to the California Coastal Commission pursuant to regulations contained in Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The regulations provide the California Coastal Commission ten (10) working days following the expiration of the County appeal period to appeal the decision. This means that no construction permits can be issued until both the County appeal period and the additional Coastal Commission appeal period have expired without an appeal being filed.

Exhaustion of appeals at the county level is required prior to appealing the matter to the California Coastal Commission. This second appeal must be made directly to the California Coastal Commission Office. Contact the Commission's Santa Cruz Office at (831) 427-4863 for further information on their appeal procedures.

If the use authorized by this Permit approval has not been established, or if substantial work on the property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated through conditions of approval of this Permit, this approval shall expire and become void unless an extension of time has been granted pursuant to the provisions of Section 23.02.050 of the Land Use Ordinance.

976 OSOS STREET, ROOM 300 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600
EMAIL: planning@co.slo.ca.us • FAX: (805) 781-1242 • WEBSITE: http//www.sloplanning.org

If the use authorized by this Permit approval, once established, is or has been unused, abandoned, discontinued, or has ceased for a period of six (6) months, or conditions have not been complied with, such Permit approval shall become void.

If you have questions regarding your project, please contact me at (805) 781-5612.

Sincerely,

RAMONA HEDGES
Custodian of Records

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

Sinsheimer Juhnke McIvor and Stroh
Attn: Kevin Elder
P.O. Box 31 San Luis Obispo, CA 93406

(Planning Department Use Only – for California Coastal Commission)

Date NOFA copy mailed to Coastal Commission: after 12/30/14

Enclosed:
__X__ Staff Report(s) dated 6/3/14 & 12/9/14
__X__ Resolution with Findings and Conditions

COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL

(1) DEPARTMENT	(2) MEETING DATE	(3) CONTACT/PHONE
Planning and Building	12/9/2014	Ryan Hostetter, Senior Planner\ (805) 788-2351

(4) SUBJECT
Hearing to consider an appeal by Kevin Elder on behalf of Ethel Pludow and Cynthia Sugimoto of the Planning Commission's approval of a Minor Use Permit/Coastal Development Permit and Environmental Impact Report to allow for the construction of a 2,374 square foot single family residence within the Residential Single Family land use category on the west side of Studio Drive in the community of Cayucos. Hearing continued from October 7, 2014. District 2.

(5) RECOMMENDED ACTION
It is recommended that the Board:

1. Hold the continued public hearing on the appeal of the approval by the Planning Commission as set forth in the attached Exhibits and staff report.

2. Adopt and instruct the chairman to sign the revised December 9, 2014 resolution affirming and modifying the decision of the Planning Commission, and certifying the Environmental Impact Report in accordance with the applicable provisions of CEQA, and approving Minor Use Permit/Coastal Development Permit DRC2005-00216 for a revised project based on the amended findings in Exhibits A and C and the amended conditions in Exhibit B.

(6) FUNDING SOURCE(S)	(7) CURRENT YEAR FINANCIAL IMPACT	(8) ANNUAL FINANCIAL IMPACT	(9) BUDGETED?
Department Budget	$0.00	$0.00	Yes

(10) AGENDA PLACEMENT
{ } Consent { } Presentation {X} Hearing (Time Est. 120 min) { } Board Business (Time Est.)

(11) EXECUTED DOCUMENTS
{X} Resolutions { } Contracts { } Ordinances { } N/A

(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)	(13) BUDGET ADJUSTMENT REQUIRED?
N/A	BAR ID Number: { } 4/5 Vote Required {X} N/A

(14) LOCATION MAP	(15) BUSINESS IMPACT STATEMENT?	(16) AGENDA ITEM HISTORY
N/A	No	{ } N/A Date: June 3, 2014 & October 7, 2014

(17) ADMINISTRATIVE OFFICE REVIEW
Lisa M. Howe

(18) SUPERVISOR DISTRICT(S)
District 2

County of San Luis Obispo

TO: Board of Supervisors

FROM: Planning and Building / Ryan Hostetter, Senior Planner

VIA: Ellen Carroll, Planning Manager / Environmental Coordinator

DATE: 12/9/2014

SUBJECT: Hearing to consider an appeal by Kevin Elder on behalf of Ethel Pludow and Cynthia Sugimoto of the Planning Commission's approval of a Minor Use Permit/Coastal Development Permit and Environmental Impact Report to allow for the construction of a 2,374 square foot single family residence within the Residential Single Family land use category on the west side of Studio Drive in the community of Cayucos. Hearing continued from October 7, 2014. District 2.

RECOMMENDATION

It is recommended that the Board:

1. Hold the continued public hearing on the appeal of the approval by the Planning Commission as set forth in the attached Exhibits and staff report.

2. Adopt and instruct the chairman to sign the revised December 9, 2014 resolution affirming and modifying the decision of the Planning Commission, and certifying the Environmental Impact Report in accordance with the applicable provisions of CEQA, and approving Minor Use Permit/Coastal Development Permit DRC2005-00216 for a revised project based on the amended findings in Exhibits A and C and the amended conditions in Exhibit B.

DISCUSSION

Board Direction

On June 3, 2014 the Board continued the subject hearing and directed staff to explore issues and interpretations related to the project's consistency with the County's Local Coastal Program. Specifically, the Board continued the hearing in order to allow time for staff and the applicant to explore two items:

1. Work within the existing property boundaries to design a project that takes into consideration Coastal Commission staff and geologist's interpretations regarding the site containing a coastal bluff; and
2. Explore modifications to the project that could potentially involve a property exchange and/or County property (right of way) purchase in an effort to move the project closer to Studio Drive.

Meeting with Coastal Commission Staff

After the June 3 hearing, County Planning Staff coordinated a meeting on July 31, 2014 with Coastal Commission staff to better understand the Commission staff's interpretation and position on the definition of "coastal bluff" and coastal hazards. The meeting was attended by County and Coastal Commission staff, Coastal Commission Geologist Dr. Mark Johnsson, and the County's EIR consultants including, geologist Mike Phipps, CEG (Cotton Shires and Associates Inc.), EIR consultant Shawna Scott (SWCA Inc.) and coastal hazards expert David Skelly (GeoSoils Inc.). During this meeting Coastal Staff explained that:

1. The site contains a coastal bluff based on the definition in the State regulations (CCR Title 14 Sec. 13577(h)(1)). However, given the disturbed nature of the site due to the placement of fill from Highway 1 and Studio Drive construction, it is unclear as to the extent of that coastal bluff. Additional mapping and borings was recommended as a way to determine the extent of the bedrock undemeath the fill in order to more accurately outline the location of the bluff.

   It was recognized that these additional borings and mapping may involve the property (owned by State Parks) to the north of the subject site. Coastal staff also acknowledged that even if the bedrock bluff could be delineated, it would still be difficult to determine its extent as a "coastal bluff" due to the presence of the stabilized fill.

2. Construction of any structure within the area for potential wave run-up would be considered a shoreline structure or a seawall. This would include the area of wave run-up for the maximum assumed estimate for sea level rise. Coastal staff did recognize that the Coastal Commission may not have been consistent in this interpretation in consideration of projects in other areas of the state which have been approved within proximity to future wave run up.

County staff relayed the information from the July 31, 2014 meeting to the applicant and suggested that additional mapping of the bluff would be useful and ultimately may be required by the Coastal Commission Staff in the event this project is appealed to the Coastal Commission.

Additional Information Submitted by Applicant

The applicant has opted to not complete the additional mapping requested by Coastal Staff. However, the applicant's team has since put together an additional report including historic 1950s Caltrans aerial photography and review by a photogrammetrist of the information related to the historic bluff. The applicant's engineer Mr. Bruce Elster compiled this information into a report dated September 28, 2014 (Attachment 2). The applicant feels that this additional historic information supports the position that, the site does not contain a coastal bluff, and that the site was primarily subject to fluvial activity.

This information was reviewed by the County's EIR team geologist Mike Phipps, CEG (Cotton Shires and Associates Inc.). While Mr. Phipps identified some data gaps and areas of clarification, he concluded that the report generally supports the analysis found in the technical report prepared for the EIR. The conclusion of this report is that the "coastal bluff" termini is located generally at or near the western boundary of the Loperena site. The historic photo information does not support historic marine activity extending around the northern side of the historic bluff.

Recommendations and Options

The Board of Supervisors has several options in proceeding with the project:

1. *Deny the Project.* This option would not allow the project to continue and would not be appealable to the Coastal Commission. The Board would need to continue this item to allow staff to prepare findings for denial and should provide staff with direction as to the basis for these findings.

2. *Continue the Project and require the applicant to prepare additional information*. If the Board feels that is would be useful to consider the bedrock bluff mapping information suggested by Coastal Commission staff, the project could be continued until this information is submitted by the applicant. As was noted previously, preparation of this information may require borings or other investigative techniques to be conducted on the property to the north of the subject site, which is out of the ownership or control of the applicant. As such, access to the property cannot be guaranteed. However, as also noted previously, the physical determination of the extent of the bedrock bluff, would not resolve the issue of the determination of the extent of the "coastal bluff".

3. Deny the appeal and approve the project as presented on June 3 and as approved by the Planning Commission. This would include the findings and conditions determining that there is no coastal bluff within the bounds of the project site. This would likely result in an appeal to the Coastal Commission.

4. *Affirm and modify the Planning Commission decision by approving a revised project.* The revised project would recognize the existence of a coastal bluff on the western side of the subject property based on the additional photogrammetry information, and observation of marine influence. Consistent with that information and the analysis in the EIR the coastal bluff extent would not extend to the northern side of the parcel where the historic bedrock bluff is nearly perpendicular to the beach. This would require that the applicant revise their site plan to show the bluff line, and submit revised construction documents which indicates all construction and structures at least 25 feet from the edge of this coastal bluff line. This line is shown in Attachment 3 and includes acknowledgement of a fluvial bluff along the northern side of the property, and a coastal bluff on the western side of the property.

Staff Comments

Based on all the information submitted, staff recommends Option #4 and has prepared revised findings and conditions of approval that the Board could use to approve the revised project. This option takes into consideration the Board's direction, the comments submitted by the Coastal Commission staff, as well as balancing all of the information in the record. This revised project is appealable to the Coastal Commission.

OTHER AGENCY INVOLVEMENT/IMPACT

The project was referred to: Cayucos Citizens Advisory Council, Public Works, Cayucos Fire Protection District, Cayucos Sanitary District, Paso Robles Beach Water Association, California Coastal Commission, CA Department of Fish and Wildlife, CA State Lands Commission, Air Pollution Control District, County Counsel, CA Department of Conservation, Regional Water Quality Control Board, Native American Heritage Commission, CA Department of Parks and Recreation, Federal Emergency Management Agency, and the US Army Corps of Engineers.

FINANCIAL CONSIDERATIONS

This project is within the Coastal Zone, therefore no appeal fee was charged and funding for the appeal was processed using department general funds.

RESULTS

Affirming and modifying the Planning Commission decision by partially denying and partially approving the appeal will mean the Final Environmental Impact Report and Minor Use Permit/Coastal Development Permit DRC2005-00216 are approved. Upholding the appeal would mean the Minor Use Permit/Coastal Development Permit is denied. This action would be consistent with the countywide goals of providing livable and well governed communities.

ATTACHMENTS

Attachment 1 Board Resolution
Attachment 2 Revised California Environmental Quality Act (CEQA) Findings
Attachment 3 Letter from Applicant
Attachment 4 Bluff Line

"EXHIBIT C"

CEQA REQUIRED FINDINGS FOR THE LOPERENA MINOR USE PERMIT/ COASTAL DEVELOPMENT PERMIT ENVIRONMENTAL IMPACT REPORT

1.0 ENVIRONMENTAL DETERMINATION

The Environmental Impact Report (EIR) was prepared, pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code [PRC] §21000 et seq.), to evaluate the environmental impacts resulting from approval of the Loperena Minor Use Permit / Coastal Development Permit (MUP/CDP) (project). The County of San Luis Obispo (County) is the CEQA Lead Agency for the project.

The EIR addresses the potential environmental effects associated with the project. A number of federal, state, and local governmental agencies require an environmental analysis of the proposed project consistent with the requirements of CEQA in order to act on the project. These agencies include the California Coastal Commission.

The findings and recommendations set forth below (Findings) are adopted by the County Board of Supervisors as the County's findings under CEQA and the CEQA Guidelines (California Code of Regulations [CCR] Title 14, §15000 et seq.) relating to the project. The Findings provide the written analysis and conclusions of this commission regarding the project's environmental impacts, mitigation measures, and alternatives to the project.

1.1 PROCEDURAL BACKGROUND

Pursuant to CEQA and the CEQA Guidelines, the County determined that an EIR would be required for the project. On August 7, 2009, the County issued a Notice of Preparation (NOP) for the EIR which was circulated to responsible agencies and interested groups and individuals for review and comment. A copy of the NOP is included in Appendix A of the Loperena MUP/CDP EIR.

The Draft EIR was available for public review and comment from June 14, 2013, through August 5, 2013, and was filed with the State Office of Planning & Research under State Clearinghouse No. 2007081044.

The County prepared written responses to the comments received during the comment period and included these responses in the Final EIR, which was published by the County on December 12, 2013. The Final EIR with responses was made available to all commenters.

2.0 PROJECT DESCRIPTION

The applicant, Mr. Jack Loperena (landowner) and architect, Mr. James Maul, request a Minor Use Permit / Coastal Development Permit (MUP/CDP) to allow for the construction of a single-family residence. A description of the project location, project history, and project elements are discussed in the sections below.

2.1 GENERAL BACKGROUND

2.1.1 Project Location

The project site is located in the unincorporated community of Cayucos, within San Luis Obispo County, California. The project site is located adjacent to State of California Department of Parks and Recreation (State Parks) property on the northern end of Studio Drive, approximately 250 feet south of the intersection of Studio Drive and Highway 1. The project site consists of a single 3,445-square-foot parcel (Assessor Parcel Number 064-253-007).

2.1.2 Project Background

The applicant submitted an application for a MUP/CDP in May of 2006. At the time, the environmental document prepared and issued by the County was a Mitigated Negative Declaration (MND) (August 9, 2007). A Planning Department Hearing was scheduled for August 17, 2007, to consider the proposed project and MND. At the hearing, staff requested a continuance until September 21, 2007 because the MND had been re-issued and re-noticed, and required a 30-day public review period. On August 23, 2007, County staff received a Request for Review of the MND, and requested that the project be continued off calendar to address issues raised in the Request for Review. Based on the comments included in the Request for Review, County staff consulted with County experts in geology, cultural resources, emergency services, air quality, and public works and drainage. Information and data obtained from County experts were incorporated into an amended MND, which was re-circulated for public review (April 2, 2009). A Planning Department Hearing was scheduled for May 15, 2009. A Request for Review of the amended MND was received by County staff on April 16, 2009, and County staff requested that the project be continued off calendar a second time.

Based on the issues raised in the April 2009 Request for Review, the County Environmental Coordinator determined that a fair argument was raised regarding the significance of potential environmental impacts. Upon consideration of these issues, the applicant proposed that an EIR be prepared for the proposed project.

The project application along with the Final EIR were scheduled and noticed for the Planning Commission on January 23, 2014. The Planning Commission discussed the project and opened public comment however the Commission elected to continue the project to their April 10, 2014 meeting in order for the applicant to bring back a reduced/revised project. The reduced project was then reviewed and approved at the April, 10 2014 Planning Commission hearing. The Planning Commission decision was subsequently appealed to the County Board of Supervisors and scheduled on the June 3, 2014 hearing.

2.2 PROJECT OBJECTIVES

The objectives of the project are to:

- Develop a single-family residence on Studio Drive, within an existing, developed, single-family residential neighborhood;
- Allow development consistent with the County General Plan and Local Coastal Program
- Provide coastal access

In addition, the applicant provided the following project objectives:

- Reduce visual impacts by design;
- Avoid development on the sandy beach and minimize site grading and disruption of the natural contours; and,
- Incorporate green building considerations into the design, and maximize exposure for solar panels.

2.3 PROPOSED PROJECT EVALUATED FOR THE EIR

The project evaluated in the EIR includes a proposal to grade for and construct a 3,097-square-foot residence, including approximately:

- 1,097 square feet of main floor living space
- 1,040-square-foot basement
- 338-square-foot mezzanine
- 242-square-foot garage and 200 square foot carport; and,
- 180-square-foot covered deck.

The residence would consist of one main floor and a basement. The footprint of the house would be 1,040 square feet. The maximum width of the structure would be 18 feet, and the maximum length would be 95 feet. A paved driveway would provide access from Studio Drive. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive. The basement would be located below the elevation of Studio Drive. The applicant proposes a cantilevered design, which would be elevated above the sandy beach. This portion would include approximately 325 square feet of living space and a covered deck.

The residence would be constructed on a structural mat slab supported on deepened/deadman footings and/or drilled piers. The footing on the east side of the residence would extend the full width of the structure (18 feet), and be 6 to 8 feet deep and 18 feet long. The purpose of the deadman footings will be to resist the cantilever loading of the west side of the residence, which would extend 28 feet over the sand. The mat slab would be located at basement level (15 feet above mean sea level). Cuts varying from approximately 5 feet on the north side of the pad to 12 feet on the south side are anticipated. Temporary excavation support would be provided by steel soldier beams installed in drilled holes filled with lean concrete. The soldier beams would be lagged with steel plates to provide support during construction. The soldier beams and lagging would be removed once the excavated area is backfilled. The exterior walls of the structure would be concrete and would retain soils along the southern, eastern, and northern sides of the residence. Retaining walls will also be constructed adjacent to Studio Drive with continuous footings extending into the underlying bedrock materials.

All other aspects to the revised project such as the foundation and proposed site preparation are similar to the original proposed project, but are slightly smaller in size or area, and are set back farther from the beach at a higher elevation then the original design due to the shorter footprint (the basement went from an elevation of 15 feet to 16 feet at the lowest corner). The foundation will no longer need a 6' deep foundation to support the long cantilevered portion of the original design, but will include a 2' deep mat foundation. The site preparation will remain as outlined in the geotechnical recommendations in the EIR. This Planning Commission revised project is consistent with the project that was evaluated in the EIR and will not contain any additional impacts that were not already evaluated. This revised project will comply with the County Green Building Ordinance and while solar panels are not shown with this design on the plans, the project is not precluded from allowing solar panels within the new pitched roofline.

Board of Supervisors approved project:

The Planning Commission approved project listed above was appealed to the Board of Supervisors. The project continued to undergo additional modifications based on testimony from the California Coastal Commission staff, as well as other public testimony in the record and direction from the Board of Supervsors at their June 3, 2014 hearing. The Board directed staff to come back with a modified project that takes into account the information submitted by the Coastal Commission. The revised project based on the Board hearing of June 3, 2014 and December 9, 2014 includes revised conditions of approval which require a bluff setback of 25 feet. This assumes the house will be reduced in size further from the Planning Commission approved project in order to allow for the residence on the property within the confines of the setbacks and requirements of the Small Scale Neighborhood of Cayucos. This Board of Supervisors revised project is conditioned to comply with the ordinance and is smaller in scope from the original project evaluated in the EIR. There are no new, or additional impacts as a result of this Board of Supervisors revised project beyond what has been evaluated in the EIR.

3.0 GENERAL FINDINGS

3.1 CEQA GENERAL FINDINGS

A. The County Board of Supervisors finds that changes or alterations have been incorporated into the project to eliminate or substantially lessen all significant impacts where feasible. These changes or alterations include mitigation measures and project modifications outlined herein and set forth in more detail in the Loperena Minor Use Permit/Coastal Development Permit EIR.

B. The County Board of Supervisors finds that the project, as approved, includes an appropriate Mitigation Monitoring Program. This mitigation monitoring program ensures that measures that avoid or lessen the significant project impacts, as required by CEQA and the State CEQA Guidelines, will be implemented as described.

C. Per CEQA Guidelines §15126.4(a)(1)(B), the proposed project includes performance-based conditions relating to environmental impacts and include requirements to prepare more detailed plans that will further define the mitigation based on the more detailed plans to be submitted as a part of the construction phase. Conditions and mitigation measures contain performance-based standards and therefore avoid the potential for these conditions or measures to be considered deferred mitigation under CEQA.

3.2 LEAD AGENCY AND RESPONSIBLE AGENCY USE OF THE FINAL EIR AND FINDINGS

The County, as the CEQA lead agency, is responsible for administering the preparation of the EIR and certifying the Final EIR. The Board of Supervisors will use the Final EIR as an informational document to assist in the decision-making process, ultimately resulting in the approval, denial, or assignment of conditions to the project.

The CEQA Guidelines authorizes lead agencies (public agencies that have principal responsibility for carrying out or approving a project and for implementing CEQA) to approve a project with significant effects if there is no feasible way to lessen or avoid the significant effects and the project's benefits outweigh these effects. Responsible agencies (public agencies other than the lead agency that have responsibility for carrying out or approving a project and for complying with CEQA) have a more limited authority to require changes in the project to lessen or avoid only the effects, either direct or indirect, of that part of the project which the agency will be called on to carry out or approve (PRC §21104(c), §21153(c); CEQA Guidelines §15041(b), §15042).

3.3 THE RECORD

For purposes of CEQA and these Findings, the Record of Proceedings for the proposed project consists of the following documents and other evidence, at a minimum:

- The NOP and all other public notices issued by the County in conjunction with the proposed project;
- The Final EIR for the proposed project which consists of the Draft EIR, the technical appendices, and the Response to Comments;
- The Draft EIR;

- All written comments submitted by agencies or members of the public during the public review comment period on the Draft EIR;
- All responses to written comments submitted by agencies or members of the public during the public review and comment period on the Draft EIR;
- All written and verbal public testimony presented during noticed public hearings for the proposed project at which such testimony was taken;
- The Mitigation Monitoring and Reporting Program;
- The documents, reports, and technical memoranda included or referenced in the technical appendices of the Final EIR;
- All documents, studies, EIRs, or other materials incorporated by reference in the Draft and Final EIR;
- The Ordinances and Resolutions adopted by the County in connection with the proposed project, and all documents incorporated by reference therein;
- Matters of common knowledge to the County, including but not limited to federal, state, and local laws, regulations, and policy documents;
- Written correspondence submitted to the County in connection with the project;
- All documents, County Staff Reports, County studies, and all written or oral testimony provided to or by the County in connection with the project;
- The County's Local Coastal Plan, General Plan, and related ordinances;
- All testimony and deliberations received or held in connection with the project; and,
- Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e) (excluding privileged materials).

3.4 CERTIFICATION OF THE LOPERENA MUP/CDP EIR

The County Board of Supervisors makes the following findings with respect to the Loperena MUP/CDP Final EIR:

A. The County Board of Supervisors has reviewed and considered the documents and other information listed in Section 2.7 above.

B. The Final EIR has been completed in compliance with CEQA.

C. The County Board of Supervisors has considered the information contained in the Final EIR, the public comments and responses currently and previously submitted, and the public comments and information presented at the public hearings.

D. All information was considered by the Board of Supervisors before taking an action on the project.

E. The Board of Supervisors hereby finds and determines that:

1. All significant effects that can be feasibly avoided have been eliminated or substantially lessened as determined through the findings and supporting evidence set forth in Sections 7.0, 8.0, and 9.0.

2. Based on the Final EIR and other documents in the record, specific environmental, economic, social, legal, and other considerations make infeasible other project alternatives identified in the Final EIR.

3. Should approval of the Loperena MUP and CDP have the potential to result in adverse environmental impacts that are not anticipated or addressed by the Final EIR, subsequent environmental review shall be required in accordance with CEQA Guidelines §15162(a).

4.0 STATEMENT OF OVERRIDING CONSIDERATIONS

The Final EIR has identified and discussed significant effects that will occur as a result of the proposed project. With the implementation of the mitigation measures identified in the Final EIR, these effects can be mitigated to a level of insignificance. Therefore, no statement of Overriding Consideration is required.

IMPACT ANALYSIS: Impacts of the proposed project and alternatives have been classified using the categories Class I, II, III, and IV as described below:

- **Class I:** Class I impacts are significant and unavoidable. To approve a project resulting in Class I impacts, the CEQA Guidelines require decision makers to make findings and a statement of overriding considerations that discusses as applicable the economic, legal, social, technical and other benefits of the proposed project against the unavoidable environmental risks. The proposed project has not resulted in any Class I impacts.

- **Class II:** Class II impacts are significant but can be mitigated to a level of insignificance by measures identified in the Final EIR and the project description. When approving a project with Class II impacts, the decision-makers must make findings that;

    1. Changes or alternatives to the project have been incorporated that reduce the impacts to a less than significant level, or

    2. That such changes or alternatives are within the responsibility and jurisdiction of another governmental agency and not the Lead Agency making the finding, and that such other governmental agency can and should adopt the required project changes or alternatives.

- **Class III:** Class III impacts are adverse but not significant. Mitigation measures may still be required for these impacts as long as there is rough proportionality between the environmental impacts caused by the project and the mitigation measures imposed on the project.

- **Class IV:** Class IV impacts would have a beneficial environmental impact.

5.0 FINDINGS FOR IMPACTS IDENTIFIED AS LESS THAN SIGNIFICANT

The findings below are for Class III impacts. Class III impacts are impacts that are adverse, but not significant. Pursuant to Section 15091(a)(1) of the State CEQA Guidelines, the Board of Supervisors finds that each of the following effects have been avoided or will have a less than significant impact, as identified in the Final EIR. The less than significant effects (Impacts) are stated fully in the Final EIR. The following are brief explanations of the rationale for this finding for each impact:

A. Agricultural Resources (Insignificant Impact/Not Applicable)

1. **Convert Prime Agricultural Land to Non-Agricultural Use.** The project is located in a non-agricultural area with no agricultural activities occurring at or adjacent to the project site. The project site is classified as Urban and Built-Up Land by the DOC, Division of Land Resource Protection's Farmland Monitoring and Mapping Program (DOC 2008). No important farmland would be converted to non-agricultural use; therefore, there would be no impact.

2. **Impair Agricultural Use of Other Property or Result in Conversion to Other Uses.** No agricultural uses occur in the immediate vicinity of the project site. Based on the location of the project, it would not impair agricultural use of other properties in the region or result in conversion to non-agricultural uses. Therefore, there would be no impact.

3. **Conflict with Existing Zoning or Williamson Act Program.** The project site is within the residential land use category, and is not under Williamson Act contract. No parcels in the project vicinity are within the agricultural land use category or are subject to a Williamson Act contracts. No significant impacts to agricultural resources would to occur.

B. Aesthetics (Class III)

1. **Create an Aesthetically Incompatible Site Open to Public View.** From surrounding viewing locations, the overall height of the project would appear visually consistent with the heights of existing houses lining Studio Drive, and particularly the existing houses closest to the site. It is anticipated that as seen from most viewpoints, the height of the project would not be unexpected at this residential location.

   The project evaluated in the EIR includes a building with a distinctly modern-style, architecture, and form. This style of architecture is seen regularly in the Studio Drive neighborhood and throughout the community. Although residential buildings often associated with the coastal community aesthetic tend to be beach bungalow style, modern style architecture is also part of the eclectic vernacular. These mid-century style buildings often employ simple forms, and flat rooflines with clerestory windows, similar to the proposed project evaluated in the EIR. This neighborhood consists of a variety of post modern, modern, and beach bungalow design styles constructed over time. The Planning Commission revised project includes additional traditional beach bungalow features such as wood or wood appearing siding, pitched roofline, and articulated walls as required by the Small Scale Neighborhood standards of the Estero Area Plan. This revised design which is before the Board of Supervisors for

approval is consistent with the character of this neighborhood and is compatible with the neighboring development.

Because of the existing residential setting, and the proposed structure's general consistency with the scale and architecture of the Studio Drive neighborhood, the project would be aesthetically compatible with the area, and potential impacts to public views is considered to be *less than significant* (CEQA Class III).

2. **Introduce a Use within a Scenic View Open to Public View.** Because of its location on the bluff, the project would be visible from many public viewpoints and from many viewing directions. The project's proximity to the beach and Studio Drive allows for up-close viewing opportunities by the public. The greatest number of potential viewers would be traveling on Highway 1, from where the project would occupy a portion of the mid-ground view, with the Pacific Ocean in the background. From Highway 1, the project would be more noticeable from the southbound lanes, since views from the northbound lanes would be mostly blocked by adjacent development. As seen from all areas on Highway 1, the lowest portion of the building and associated retaining walls would have limited visibility. The upper part of the residence would block a portion of the existing ocean view, from both the northbound and southbound lanes of Highway 1. From the southbound lanes, blue-water ocean views and the horizon line would be blocked a minor amount. As seen from the northbound lanes, blue-water views would also be briefly blocked, however views of the horizon and of the distant coastline hills would not be affected.

   Although the project would block a portion of the ocean, the effect on the viewing experience would be minor. As seen from the highway it is estimated that the project would only block an insignificant percentage of the existing available ocean view. No views of unique, historic, or singularly memorable coastal resources would be affected. The existing residential development along Studio Drive currently limits views of the ocean and beach from Highway 1. It is anticipated that to most viewers, the project's small incremental effect on the scenic vista would just appear as an extension of the existing neighborhood condition. The high quality of the scenic vista would not be affected, and the extent of view loss would be minor or even un-noticed in the context of the remaining scenic viewshed.

   As seen from southbound Studio Drive, the visual effect of the project would be similar to that from Highway 1; only a small portion of the total available ocean view would be affected, and the majority of the project would be seen within the visual silhouette of the adjacent development. From northbound Studio Drive south of the project, views of the ocean are blocked by existing homes. From the northbound direction, coastal views begin to open up as the viewer approaches the project site and begins to see around the northernmost residence. With construction of the project, existing coastal view blockage in the northbound direction and directly in front of the project would be extended a distance of approximately 150 feet along the street frontage. Outside of this 150-foot section, northbound views along Studio Drive would not be affected. Because existing coastal views along the approximately one mile length of Studio Drive are currently blocked, and there is approximately 300 feet of protected ocean views to the north of the site and extending to the Old Creek parking area, the additional 150 feet of affected view would be minor. The visual affect as seen from a vehicle would be approximately one second. Because of the short length, viewing durations from pedestrian and bicyclist viewpoints would also

be very brief. Similar to the views from Highway 1, the project's small incremental effect on the scenic vista would likely appear as an extension of the existing neighborhood condition. The high quality of the existing scenic vista would be unaffected, and the extent of view loss would be minor or even un-noticed in the context of the remaining scenic viewshed.

Viewpoints from the beach toward the project would be generally oriented inland and away from the ocean. From these viewing areas, scenic coastal resources such as the hills east of the highway are somewhat compromised by existing residential areas as well as the highway. The uppermost portions of the hills however are undeveloped and can be seen from much of the beach area. Because of the existing homes along the Studio Drive bluff, public viewers closer to the base of the bluff can see less of the hills across the highway to the east. From most beach viewpoints northwest of the project, the proposed residence would not extend beyond the visual silhouette of the adjacent development behind it. As seen from certain viewpoints directly west and southwest of the project, the upper portion of the new building would block a portion of the hillside to the northeast. From some closer viewpoints, the residence would block brief views of the ridgeline as well. Although a portion of the hillside views would be blocked by the project, the overall effect on the scenic vista would be minor. Views to the hills would not be blocked as seen from the majority of the beach area. No unique rock outcroppings or other memorable features are present within affected hillside areas. In addition, other hillside views would remain in the viewshed. The project and its subsequent effect on hillside views would appear to most viewers as an extension of the existing visual condition. Scenic ocean views from the neighborhood east of the highway would not be affected because the proposed residence would be consistent with the heights of the existing adjacent homes along Studio Drive.

Because the project would affect only a minor percentage of the available ocean and hillside views as seen from Highway 1 or from public roadways in the surrounding neighborhood or public beach, and because what would be affected would appear as an incremental extension of the existing visual condition along Studio Drive, the project's effect on scenic views is considered to be *less than significant* (CEQA Class III).

Specific Scenic Resources as Seen from the State Scenic Highway. As discussed in the previous section, the greatest number of potential viewers would be traveling on Highway 1, an Officially Designated State Scenic Highway and a National Scenic Byway. The upper part of the residence would block a portion of the existing ocean view, from both the northbound and southbound lanes of Highway 1. From the southbound lanes, blue-water ocean views and the horizon line would be blocked a minor amount. As seen from the northbound lanes, blue-water views would also be briefly blocked, however views of the horizon and of the distant coastline hills would remain.

Although the project would block a portion of the ocean, the effect on the viewing experience would be minor. As seen from the highway it is estimated that the project would only block an insignificant percentage of the existing available ocean view. No views of unique, historic, or singularly memorable coastal resources would be affected. The existing residential development along Studio Drive currently limits views of the ocean and beach from Highway 1. It is anticipated that to most viewers,

the project's small incremental effect on the scenic vista would just appear as an extension of the existing neighborhood condition. The high quality of the scenic vista would not be affected, and the extent of view loss would be minor or even un-noticed in the context of the remaining scenic viewshed.

As a result, the project would have no adverse effect on scenic resources as seen from Officially Designated State Scenic Highway 1. Because the project would affect only a minor percentage of the available ocean and hillside views as seen from Highway 1 and because what would be affected would appear as an incremental extension of the existing visual condition along Studio Drive, the project's effect on scenic vistas is considered to be *less than significant* (CEQA Class III).

3. **Change the Visual Character of an Area.** The project site occupies one of the more visible residential locations in the community. The proximity to Highway 1 and Morro Strand State Beach greatly increases the potential number of viewers of the project. The volume of traffic on Highway 1 in the vicinity of the project averages approximately 11,000 vehicles per day (Caltrans 2008). Because of this large number of viewers and highly visible location, the appearance of the project would have an influence on the visual character of the neighborhood. Any development of the site would include an inherent alteration of visual character. The change in character brought about by this project would be most noticeable it terms of its height, form, and architecture.

   The project site itself is mostly covered with non-native vegetation such as iceplant and ornamental plantings. The visual context of the site is one of a residential beach neighborhood. Although the site's topography provides some visual interest to the setting, it is not memorable or unique. The exposed rock area along western portion of the site is a relatively insignificant portion of a larger, continuous rock face extending south along the bluffs. As noted above, the height of the project would not be unexpected at this residential location and the proposed architecture is aesthetically compatible with the character of the existing residences in the Studio Drive neighborhood.

   Because of the existing residential setting, and the proposed structure's general consistency with the scale and architecture of the Studio Drive neighborhood, the effect of the project on visual character and quality of the site is considered to be *less than significant* (CEQA Class III).

4. **Impact Unique Geological or Physical Features.** As mentioned previously, the visual context of the site is one of a residential beach neighborhood. The project site is mostly covered with non-native vegetation such as iceplant and ornamental plantings. Although the site's topography provides some visual interest to the setting, it is not memorable or unique. The exposed rock area along western portion of the site is a relatively insignificant portion of a larger, continuous rock face extending north-south along the bluffs. Furthermore, the project would not block or adversely affect views of any unique off-site geological or physical features. As a result, the effect of the project on unique geological or physical features is considered to be *less than significant* (CEQA Class III).

C. Air Quality (Class III)

1. **Violate Air Quality Standard or Exceed Emission Threshold.** As proposed, the project would result in the disturbance of approximately 3,000 square feet, including driveways, walkways, the residential structure coverage, and landscaping. This would result in the creation of construction dust, as well as short-term vehicle emissions. Long-term operational impacts would include an increase in vehicle emissions on surrounding roads. Based on the CEQA Air Quality Handbook, the project would result in less than 10 pounds per day of pollutants, which is below the threshold warranting mitigation. Therefore, potential impacts would be *less than significant* (Class III).

2. **Create or Subject Individuals to Objectionable Odors.** The project consists of a residence, which will not require the storage or use of any materials or equipment that would generate objectionable odors. Therefore, potential impacts would be *less than significant* (Class III).

3. **Clean Air Plan Consistency.** The project is consistent with the general level of development anticipated and projected in the CAP, including promotion of residential infill in proximity to essential services and alternative transportation services. Therefore, potential impacts would be *less than significant* (Class III).

4. **Generate GHG Emissions.** The proposed project would result in an increased use of vehicles and electricity, each of which generate small amounts of CO_2, N_2O, and HFCs. The APCD provided comments on the project that indicated through URBEMIS modeling that the project would result in approximately 84 pounds per day of CO_2 in the summer and 102 pounds per day in the winter (APCD Comment Letter dated December 23, 2008).

   Based on *Table 1-1: Operational Screening Criteria for Project Air Quality Analysis* (SLOAPCD 2012), construction and operation of one single-family residence would not exceed 1,150 MT of CO_2e/year threshold. In addition, the project includes elements that will reduce GHG emissions, including compliance with current Title 24 Energy requirements and Green Building Ordinance (electricity reduction for cooling/heating) , location within a garbage service area that is recycling over 50% of its wastes (electricity reduction), and requirement to recycle at least 50% of its construction wastes.

   Because the project proposes only one single-family residence in an existing residential neighborhood, and is consistent with land use components necessary to meet the goals of AB32 and set forth in the Clean Air Plan, this increase in GHGs is not considered significant. Therefore, no significant adverse GHG impacts would occur as a result of the proposed project, and no mitigation measures are necessary (Class III).

5. **Conflict with Applicable Plan, Policy, or Regulation.** The proposed project is consistent with the APCD's CEQA Handbook and County's EnergyWise Plan because it consists of a residential development within an urban area, in proximity to recreational resources and opportunities for alternative transportation, such as walking and bicycling. As noted above, the project includes energy-efficiency measures, including compliance with the County's Green Building Ordinance and

Title 24 energy requirements. Potential impacts would be *less than significant* (Class III).

D. Cultural Resources (Class III)

1. **Pre-historic Resources.** The project site is located within a culturally sensitive region; however, the field studies and background research conducted by the applicant's consultant and EIR archaeologist did not identify the presence of any significant cultural resources within the project site. As with any ground disturbing activities, the potential for encountering previously undocumented cultural resources exists. In the event of inadvertent discovery, compliance with Section 23.05.140 of the CZLUO will be required. Potential impacts to pre-historic resources would be *less than significant* (Class III).

2. **Historic Resources**. No historic resources are located within the project site or within 0.5-mile. No impacts to historic resources are anticipated, therefore, no mitigation measures are required. No significant impact to historic resources would occur.

3. **Paleontological Resources.** The proposed project would be located within formations that are not known to contain significant paleontological resources. Impacts to paleontological resources would be *less than significant* (Class III). No mitigation is required.

E. Hazards and Hazardous Materials (Insignificant Impact/Not Applicable)

1. Risk of Explosion, Release, or Exposure to Hazardous Substances. The project does not propose the use or storage of hazardous materials; therefore, the risk of explosion or release of hazardous substances is not likely. The project would not result in the routine transport, use, or disposal of hazardous materials and does not create the potential for the release of hazardous materials through upset and/or accident conditions. Therefore, no hazards associated with the handling of hazardous materials would result. The project site is not located within 0.25 mile of an existing or proposed school, and is not included on the Cortese List or any other list of hazardous materials sites and would not create associated risks to the public or environment. No impacts due to hazards or hazardous materials would occur.

2. Interfere with Emergency Response or Evacuation Plan. Although it places residential uses within an area covered by the Dam and Levee Failure Evacuation Plan, Cities Nuclear Power Plant Emergency Response Plan, and Tsunami Response Plan, the proposed use is suitable for the location and within the general level of development projected in the response plans. The proposed project would not inhibit emergency alert, evacuation or response actions and would not conflict with any regional evacuation plan, because it is located with an existing residential lot, on a paved roadway (Studio Drive). No impacts to emergency response or evacuation plans will occur.

3. Airport Flight Patterns. The project site is not located within any airport review area and would not expose people to safety risks associated with airport flight patterns, therefore no impacts will occur.

4. High Fire Risk. The project is not located within a high fire hazard zone and does not present a significant fire safety risk, therefore no impacts will occur.

5. Other Hazards. The County Office of Emergency Services prepares for catastrophic (though highly unlikely) worst case scenario events that would include a 50 foot tsunami wave run-up. However, based on review by the County Geologist and the project consultant geologist, a 9.5 foot wave run-up is considered more appropriate for a 100-year tsunami event. The project has been designed and conditioned to avoid impacts from a 100-year tsunami event and potential impacts related to wave run-up and tsunami hazards for the proposed development will be taken into account through the foundation design and finished floor elevations of the proposed residence.

An in depth analysis of tsunami and/or wave run-up hazards associated with the proposed project is included in Section **4**.3, Geology and Soils. Refer to that section for additional information. No other significant adverse impacts would occur as a result of the proposed project, and no mitigation measures are necessary (Class III).

F. Geology and Soils (Class III)

1. **Exposure to or Production of Unstable Earth Conditions.** Seismic ground shaking associated with a large earthquake on one of several nearby and regional faults (the Oceanic, Hosgri, Los Osos, and San Luis Range faults) is considered to be a high potential hazard for the project area. Peak ground accelerations up to 0.35g could potentially affect structures at the site in the future. The project site was positioned on the USGS Seismic Hazard Maps for a 2% probability of exceedance in 50 years to determine the maximum considered earthquake spectral response accelerations. The Code-required design acceleration coefficients for short periods (SDS) and at one-second (SD1) would be 0.980g and 0.491g, respectively; therefore, a site class C is recommended for structure design (GSI Soils, Inc. 2011).

   Mitigation of seismic hazards due to strong ground motion is addressed through proper structural design in accordance with the applicable building codes (presently the 2009 International Building Code [IBC] and 2010 California Building Code [CBC] documents related to Earthquake Loads) at the time of building permit application. Seismically-induced ground failure mechanisms include: landsliding, liquefaction, lurching, differential compaction, lateral spreading, and dry sand settlement.

   Landslides. The central coast region of California has not yet been mapped by the California Geological Survey under the Seismic Hazards Mapping Act program. No landslides have been mapped or found on the property. A large earthflow landslide terminates approximately 400 feet northeast of the site across Highway 1. The landslide and the project site are separated by over 400 feet of very low gradient topography that is overall flatter than 15:1 (horizontal:vertical). Significant portions of that horizontal distance are nearly level (e.g., the width of Highway 1). Consequently the potential for risk of landslides adversely impacting the site is considered to be low. Potential impacts related to landslides are *less than significant* (Class III), and no mitigation measures are necessary.

Earthquakes. As noted in Section 4.3.1.1 Existing Conditions, Regional Setting, Geologic Setting, fault systems are present in the region; however, no known active faults trend through the property. No topographic anomalies in the area are suggestive of faulting, and the potential for surface faulting and ground rupture at the site to be low. Therefore, potential impacts would be *less than significant* (Class III), and no mitigation measures beyond compliance with the CBC are necessary.

Earthquake-Induced Landsliding. The only significant slope that would exist at the site upon completion of the project is the fill slope descending from Studio Drive to the property; however, the plans indicate this slope will be filled over and supported by retaining walls; hence the potential for seismically-induced landsliding is low. Therefore, potential impacts would be *less than significant* (Class III), and no mitigation measures are necessary.

Lateral Spreading. Conditions that typically induce lateral spreading include liquefaction of a subsurface layer or layers of soil, and site topography that contains an open topographic face which exposes the soil profile overlying the liquefiable layer(s). Both conditions potentially exist at the site but require further review by the project applicant's consultants. Based on the proposed foundation design, site grading, and confined condition of the sands near the center of the building pad, the potential for lateral spreading displacements would be negligible (GSI Soils, Inc. 2011). Therefore, based on the design of the project, potential impacts would be *less than significant* (Class III), and no mitigation beyond compliance with the CBC is necessary.

Dry Sand Settlement. Due to the limited depth of sand (approximately 6 feet) within the building pad area, dry settlements of these sands during seismic ground shaking is expected to be less than 0.5 inch. With the proposed grading, these settlements are anticipated to be less than 0.25 inch (GSI Soils, Inc. 2011). Therefore, potential impacts would be *less than significant* (Class III), and no mitigation beyond compliance with the CBC is necessary.

Land Subsidence. Land subsidence occurs when large amounts of groundwater have been excessively withdrawn from an aquifer. Water supply in Cayucos is provided by the Whale Rock Reservoir and Nacimiento Water Project. There is no identified Level of Severity for water supply in the Cayucos area (County of San Luis Obispo 2012), and the project site is not located within a designated groundwater basin. There is no evidence of land subsidence on or in the vicinity of the project site, and implementation of the project would not create a demand for water supply that would result in land subsidence. Therefore, no significant impact would occur.

2. **"Alquist-Priolo" Earthquake Fault Zone.** The project site is not located within an Alquist-Priolo Earthquake Fault Zone as defined by maps prepared by the California Geological Survey. Therefore, no significant impact would occur.

3. **Soil Erosion, Topographic Changes, Loss of Topsoil, and Instability**

***Soil Erosion* – Long Term.** In the long term, the project would not create any changes that would result in significant soil erosion. The proposed drainage plan includes stormwater diffusers to slow down runoff during rain events and minimize the potential for storm-related beach erosion. Therefore, potential long-term impacts

would be *less than significant* (Class III), and no mitigation beyond compliance with existing regulations is necessary. Long-term erosion related to sea level rise and wave runup is discussed below under Coastal Hazards.

4. **Change Rates of Soil Absorption or Runoff.** As noted above, the project includes a drainage plan that would replace the existing County drain pipe with a new stormwater system. This system would change the direction of surface runoff from the street onto the beach, but would not be significantly different than the current situation. The project would create additional area of impervious surface, and a stormwater management system, consistent with the County's regulations and policies for Low Impact Development (LID). Based on the location, size, and design of the project, it would not significantly change the rates of soil absorption or amount and direction of surface runoff. Therefore, potential impacts would be *less than significant* (Class III), and no mitigation beyond compliance with existing regulations is necessary.

5. **100 year Flood Zone.** The project site is not located within a 100-year flood hazard zone, and the area proposed for development is located above and outside the AE/VE hazard zone which has a 100-year flood elevation of 10 feet (NGVD29), which is approximately equivalent to elevation 12.92 feet NAVD88. The proposed basement finish floor elevation of the Planning Commission revised project is16 feet NAVD88 and is approximately 3.08 feet higher than the AE/VE flood elevation. Therefore, no significant impact would occur.

6. **County's Safety Element Consistency**. Applicable geology and soils-related goals and policies identified in the County's Safety Element include the following:

Geologic and Seismic Hazards, Goal S-5: Minimize the potential for loss of life and property resulting from geologic and seismic hazards.

Based on compliance with the CBC, County Code, and incorporation of recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, and Engineering Evaluation (Shoreline Engineering), dated January 2012, the project would be consistent with this goal.

Geologic and Seismic Hazards, Policy S-21: Slope Instability. The County acknowledges that areas of known landslide activity are generally not suitable for residential development. The County will avoid development in areas of known slope instability or high landslide risk when possible, and continue to encourage that developments on sloping ground use design and construction techniques appropriate for those areas.

The project site is not located within an area of high landslide risk; however, short-term slope instability may occur during construction. Based on incorporation of recommendations identified in the Updated Geotechnical Investigation and Engineering Evaluation, which include use of a temporary shoring system to stabilize cut slopes during excavation and construction, the project would be consistent with this policy.

Geology and Seismic Hazards, Policy S-23: Coastal Bluffs. Development shall not be permitted near the top of eroding coastal bluffs.

The project site is unique in that the underlying geology consists of a fluvial bluff, which has been buried under artificial fill. The Technical Analysis (Cotton Shires and Associates 2011), which is included in Appendix C (Geology and Soils Background Information) and incorporated by reference in this EIR section, included an assessment of potential coastal erosion hazards, and did not identify any significant adverse effects or safety hazards related to coastal erosion. Therefore, the project is consistent with the intent of this policy.

Geology and Seismic Hazards, Program S-63: Require coastal bluff erosion studies to determine the rate or erosion and the resulting safe distance from the top of the bluff for development, in accordance with the LCP.

Preparation of the EIR included a comprehensive analysis of potential erosion hazards, both short- and long-term. Based on the analysis, the project would not result in a safety issue related to erosion, thus meeting the intention of this Program.

Geologic and Seismic Hazards, Implementation Measures, Standard S-56: For developments in areas of known slope instability, landslides, or slopes steeper than 20 percent, the stability of slopes shall be addressed by registered professionals practicing in their respective fields of expertise.

The applicant submitted technical reports and plans completed by registered engineers, and independently peer reviewed during the EIR analysis, consistent with this implementation measure.

Geologic and Seismic Hazards, Implementation Measures, Standard S-59: Development proposals will be required to mitigate the impacts that their projects contribute to landslides and slope instability hazards on neighboring property, and appurtenant structures, utilities, and roads; such as emergency ingress and egress to the property, and loss of water, power or other lifeline facilities.

Based on incorporation of recommendations identified in the Updated Geotechnical Investigation and Engineering Evaluation, which include use of a temporary shoring system to stabilize cut slopes during excavation and construction, the project would be consistent with this implementation measure and would not destabilize areas adjacent to Studio Drive and the neighboring developed property to the south.

Geologic and Seismic Hazards, Implementation Measures, Standard S-60: Enforce current building code requirements and applicable ordinances and sections of the General Plan that pertain to development on sloping ground.

The County requires compliance with the CBC, Estero Area LUE and LCP, and CZLUO, consistent with this implementation measure. Based on the technical reports peer reviewed and incorporated by reference into this EIR analysis, the project would be consistent with the Safety Element, and no significant impacts would occur.

7. **Valuable Mineral Resource:** The project site is not located in an area designated for mineral extraction, and no valuable minerals are known to occur onsite. Therefore, no significant impacts would occur.

8. **Coastal Hazards.** The potential coastal hazards associated with the proposed residential development include shoreline erosion, wave runup, and coastal flooding.

Draft and Final EIR Analysis: The following erosion hazard, oceanographic flooding hazard, breaking wave elevation, and wave run-up hazard analyses are based on data provided in the Draft and Final EIR.

Erosion Hazard

The shoreline in front of the subject property has been relatively stable over the long term (USGS 2006). On the basis of the USGS study, aerial photograph review spanning 39 years, the elevation of the proposed development, and the presence of hard rock material between the shoreline and the proposed residence:

- there has been very little erosion or retreat of the shoreline over the last four decades;
- a 2.5-foot rise in sea level will likely not result in a significant impact on the erosion rate or the proposed residence; and,
- there is no potential significant marine erosion hazard at the site over the next 100 years.

Therefore, the potential for significant erosion due to sea level rise would not be significant in this location.

Oceanographic Flooding Hazard

The primary hazard due to flooding from ocean waters is storm surge. The highest recorded water elevation on record in the vicinity of Cayucos (Port San Luis) is 7.57 feet NAVD88 and includes all oceanographic effects on sea level except for long-term sea level rise predictions (NOAA 2011). Incorporating a potential sea level rise of 2.5 feet in the next 100 years, the future design maximum sea level would be 10.1 feet NAVD88, which is considered to be in excess of a 100-year recurrence interval water level. The proposed residence would be located at and above an elevation of 16.0 feet NAVD88; therefore, the site would not be adversely affected by flooding from the ocean over the next 100 years.

Breaking Wave Elevation

The project incorporates a cantilevered design. The proposed first floor would be located at elevation +26 feet NAVD88, and will extend ocean-ward beyond the basement floor; therefore, the Coastal Hazards and Wave Runup report (GeoSoils, Inc. 2011, 2012) evaluated the potential maximum breaking wave crest elevation. The breaking wave elevation analysis calculated that the maximum wave crest elevation at the project site is approximately +14.5 feet NAVD88, which is well below the proposed cantilevered first floor elevation of +26 feet NAVD88. Therefore, the cantilevered portion of the structure would not be adversely affected by breaking wave forces.

Wave Runup Hazard

A wave runup analysis was performed under extreme (worst-case) design oceanographic conditions including storm surge, sea level rise of 2.5 feet over the next 100 years, and scour of the beach in front of the rock outcropping down to elevation 3.1 feet NAVD88, utilizing a design wave height of 5.5 feet. In this worst-case scenario, the maximum wave runup would be at elevation +22.7 feet NAVD88, and may reach the basement of the proposed residence at +15.0 feet NAVD88 over the next 100 years (GeoSoils, Inc. 2011). However, the runup is characterized as a pulse of water reaching the basement wall rather than a continuous or sustained flow over time. Based on calculations, the depth of the water overtopping the rock outcrop and reaching the residence would be approximately 0.14 foot deep. The runup analysis indicates that the velocity of the wave runup bore will not be sufficient to cause damage to the structure, assuming the basement wall is constructed of steel-reinforced concrete; however, the structure will be subject to spray and splash from wave runup striking the rock outcropping. The rock outcropping at its average elevation of 17 feet NAVD88 would be overtopped by the design wave (5.5 feet) at a rate of about 0.27 cubic feet/second-feet. Based on this low height of water (0.14 foot) and relatively low velocity, the proposed project would not be adversely affected. In addition, based the initial low velocity, and reduction in wave height and velocity following potential contact with the proposed basement wall, any wave refraction would not adversely affect the adjacent property.

In addition to wave runup, the analysis considered exposure to tsunami. Based upon review of historical data and tsunami forecast modeling by the University of Southern California Tsunami Research Center, a 6.5-foot-high tsunami wave occurring at the project site would be a 500-year recurrence interval event. The wave runup analysis used a design wave height of 5.5 feet, which also represents a suitable site-specific tsunami runup at the site.

As proposed, the basement would be located at elevation 15 feet NAVD88, and basement concrete would be reinforced with steel; therefore, wave runup will not adversely impact the proposed residence over the next 100 years. An extreme tsunami may reach as high as the basement, but, for the reasons stated above, a tsunami will not adversely impact the residence. Based on the analysis presented above, and incorporated by reference from the coastal hazards and wave runup analysis report (GeoSoils, Inc. 2011, 2012), no significant impacts related to coastal hazards, including sea level rise, shoreline erosion, wave runup, and coastal flooding would occur, and the proposed residence would neither create nor contribute to erosion, geologic instability, or destruction of the site or adjacent area.

Supplemental Analysis: The following information with regards to coastal hazards is provided as supplemental information supplied during the public hearing, however does not alter the conclusions identified in the Final EIR.

In response to public comments and questions from the San Luis Obispo County Planning Commission, the County's consultant (SWCA and GeoSoils, Inc.) conducted a supplemental analysis, which was included in the Planning Commission Staff Report (April 10, 2014) and public record. The results of the analysis provide clarification, and support the impact determination identified in the Final EIR. The results of the supplemental analysis are summarized below.

A supplemental *Sea Level Rise and Coastal Hazards Discussion* (GeoSoils, Inc., March 12, 2014) and response to public comment (GeoSoils, Inc., April 4, 2014) were prepared, including a wave runup analysis, which considered extreme (worst-case) design oceanographic conditions including sea level rise (up to 5.5 feet based on California Coastal Commission Draft Sea-Level Rise Guidance), very high tide, storm surge, and scour of the beach down to bedrock. Based on this supplemental analysis, the wave height at the toe of the rock outcrop would be 7.7 feet.

The still water elevation (including 5.5 feet of sea level rise and 7.6-foot very high tide) would be 13.1 feet NAVD88. Wave runup as result of storm surge would be 12.9 feet. Under these extreme conditions, the maximum wave runup would be 26 feet NAVD88 if the bedrock outcropping was not present. In this worst-case scenario, the height of the water overtopping the bedrock outcropping would be 1.06 feet, and the velocity would be 4.76 feet per second. The overtopping rate would be 3.4 cubic feet/second-foot, and would be a pulse of water, not a sustained flow or water elevation. The water would overtop the bedrock outcropping and reach the basement wall at a height of approximately one foot. This condition would occur over a period of one hour during the high tide under the extreme storm surge plus sea water rise estimates.

The velocity of the wave runup bore would not be sufficient to cause damage to the structure, assuming the basement wall is constructed of steel-reinforced concrete, and the foundation set in the underlying bedrock (as proposed by the applicant). Additional features proposed by the applicant include storm/marine windows and doors. In addition, based on the velocity and reduction in wave height following contact with the basement wall, wave refraction would not adversely affect the adjacent property.

Based on review of historical data and tsunami forecast modeling by the University of California Tsunami Research Center, a 6.5-foot high tsunami wave occurring at the project site would be a 500-year recurrence interval event. The County of San Luis Obispo Local Hazard Mitigation Plan (Draft December 2013) identifies tsunami run-up ranging from 9.5 feet to 24.2 feet (100-year and 500-year events, respectively). This run-up estimate includes "astronomical high tides". If a tsunami occurred during a meteorological high tide (storm surge), the runup values would increase to 24 feet to 39 feet above mean sea level (100-year and 500-year events). The plan notes that the probability of this occurring is low.

The analysis considered a design wave height of 7.7 feet, which represents a suitable site-specific tsunami runup at the site. As proposed, the basement would be located at elevation 15 feet NAVD88, and basement concrete would be reinforced with steel and founded in underlying bedrock; therefore, wave runup would not adversely impact the structural integrity of the residence over the next 100 years. An extreme tsunami would reach the residence; however, for the reasons noted above, it would not adversely affect the structure.

Based on the analysis presented above and incorporated by reference from the coastal hazards and wave runup analysis (GeoSoils, Inc.; 2011, 2012, 2014), no significant impacts related to coastal hazards, including sea level rise, shoreline erosion, wave runup, and coastal flooding would occur, and the proposed residence would neither create nor contribute to erosion, geologic instability, or destruction of the site or adjacent area.

G. Noise (Class III)

1. **Generate Increases in the Ambient Noise Level.** The project proposes construction of one single-family residence in an existing neighborhood. The project would result in the addition of some vehicle trips on local roads (approximately 9.6 per day), but the traffic noise associated with a single residence is not considered significant. Therefore, the project would not generate significant increases in the ambient noise levels for adjoining areas.

   The project would also generate construction-related noise and vibration associated with construction and development of the structure. However, the project does not propose any significant sources of man-made vibration (i.e., sonic booms, blasting, pile driving, pavement breaking, and demolition). Per the County's Land Use Ordinance, §23.06.042d, construction noise between the hours of 7:00 a.m. and 9:00 p.m. on Mondays through Fridays, and 8:00 a.m. and 5:00 p.m. on Saturdays and Sundays, is exempt from control or mitigation. This type of noise is considered a short-term impact and *less than significant* (Class III). Therefore, the project is not expected to expose people to severe noise or vibration, or to result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity.

2. **Severe Noise or Vibration.** The proposed project is not located within any airport land use plan or two miles of a public or private airstrip, and would not expose people to excessive noise levels, therefore no impacts are expected to occur.

H. Public Services and Utilities

1. **Effect or Result in the Need for New/Altered Public Services**. The proposed project would potentially result in additional demand on public services, including emergency protection, schools, roads, solid waste disposal, parks, water supply and wastewater treatment systems. However, development is limited to one single-family residence and it is not likely that any public service or utility would be significantly impacted by the slight increase in service demand. The project applicant would pay all applicable school and public facility fees which would reduce these impacts to a less then significant level.

   The proposed project is not located within a high fire severity zone, and response times are generally two to three minutes. Although the Cayucos Fire Protection District and County Sheriff's Office are considered understaffed for the populations they serve, the addition of a single residence within an existing neighborhood would not have a significant effect upon fire or police protection, and no new or altered emergency services would be required. Area schools, roads and parks are operating at acceptable levels of service, and the project will be served by private solid waste disposal, water, and wastewater systems, all of which have sufficient capacity to accommodate the proposed residential use. Therefore, no significant impact on these services would result from the project.

   All stormwater would be handled onsite, either collected and used as gray water for toilet flushing and landscaping or directed westward onto the beach. Therefore, no new stormwater drainage facilities or expansion of existing facilities would be required. County landfills have sufficient permitted capacity to accommodate the

small increase in solid waste resulting from the proposed project. Applicable water service providers and wastewater treatment facilities are capable of supporting the proposed development and no new entitlements, new facilities or expansion of existing facilities would be required. The project would comply with all statutes and regulations related to solid waste. The project would not adversely affect a community water service provider or community wastewater service provider, therefore no impacts are expected to occur.

2. **Wastewater.** The project would connect to the existing sewer system managed by the Cayucos Sanitary District, and would not require an onsite system subject to the Central Coast Basin Plan. The Cayucos Sanitary District is currently operating at acceptable levels and can accommodate the proposed project (one residence).

   No significant adverse impacts would occur as a result of the proposed project, and no mitigation measures are necessary.

I. Recreation (Class III)

1. **Increase Use of Recreational Resources.** The project proposes the development of one single-family residence in an existing developed residential area, and would not create a significant increase in the use or demand of recreational areas or facilities. The project applicant will pay all applicable public facility fees to address increased demand on area recreational facilities. Therefore, potential impacts would be *less than significant* (Class III).

2. **Affect Access to Recreation**. Beach access is provided directly adjacent to the project site, and lateral access would be provided from the toe of the rock outcropping to the westward property line. Access to trails, parks or other recreational opportunities would not be impacted by the proposed development. The future Morro Bay to Cayucos connector bike path would be located along Studio Drive, and development of the project would not affect this project, because it is limited to the existing residential parcel boundaries. The project does not include any components for the development of recreational facilities that may have an adverse physical effect on the environment. No significant adverse impacts would occur as a result of the proposed project, and no mitigation measures are necessary.

J. Transportation, Circulation, and Traffic (Class III)

1. **Increase Vehicle Trips / Level of Service.** The project proposes one single-family residence within an existing residential area with all roads operating at acceptable levels. While the project would add trips to the local circulation system (approximately 9.6 per day), all roads in the area are operating at acceptable levels and are capable of accommodating the small increase in trips. A referral was sent to the County Department of Public Works requesting their review of the project. They had no comments related to traffic concerns associated with the proposed project other than that an encroachment permit would be required for the new driveway. Therefore, no significant increase to local or areawide circulation systems is anticipated, and potential impacts would be *less than significant* (Class III).

2. **Unsafe Conditions.** The project includes a private driveway, which would connect to Studio Drive. Based on review by the County Department of Public Works, a standard Encroachment Permit will be required. The project does not include any

features that would result in unsafe traffic conditions; therefore, potential impacts would be *less than significant* (Class III).

3. **Emergency Access.** The project consists of a single-family residence on an existing lot. The site is accessible to emergency services by Studio Drive, which connects to Highway 1, and occupants have clear access out of the area. Potential impacts related to emergency access would be *less than significant* (Class III).

4. **Parking Capacity.** Sufficient parking for the proposed residential development is proposed at the project site, including a private driveway, carport, and garage. Therefore, potential impacts related to parking capacity would *be less than significant* (Class III).

5. **Internal Traffic Circulation.** The project is a single-family residence; therefore this threshold does not apply and no impact would occur.

6. **Alternative Transportation Policies Plans, and Programs**. Transportation and circulation policies relevant to the proposed project exist in local and state documents. These documents generally encourage the development of alternative transportation as a means to reduce traffic congestion and increase safety, among other things. The policy documents reviewed as part of this EIR section include the County's Estero Area Plan and Bikeways Plan. The proposed project is *consistent* with these plans because it consists of a single-family residence located within an existing residential neighborhood, with access to pedestrian and bicycle paths.

7. **Air Traffic Patterns.** The project is not located within two miles of a public or private airport or airstrip, and is not located at an elevation that would affect air traffic patterns. Modern solar panel technology incorporates anti-glare coatings that absorb, rather than reflect, sunlight. Therefore, the project would not affect air traffic, and potential impacts would be *less than significant* (Class III).

K. Water Resources (Class III)

1. **Change the Quality of Groundwater**. The project site is not located in an area where development would affect the quality of groundwater resources; therefore, no impact would occur.

2. **Change the Quantity or Movement of Surface or Groundwater.** The project would not create a demand of water exceeding the capacity of the water service provider, and would not require a significant level of additional groundwater pumping by the provider to serve the project. Therefore, the project would not change the quantity or movement of groundwater.

   As noted above, the project includes improvements to the existing stormwater drain onsite. The project has been reviewed by the County Department of Public Works, and the proposed plan has been approved at a preliminary level by County staff. Stormwater currently flows into a County drain, and onto the beach via the stormwater system or surface flow. The proposed system would direct water through the project site and onto the beach. Energy dissipaters are included to slow down storm water flow and minimize the potential for erosion at the outlet. Based on the proposed plan, and compliance with existing regulations identified in the County CZLUO, potential impacts would be *less than significant* (Class III).

3. **Adversely Affect Community Water Service Provider.** Long-term use of a single-family residence is expected to require approximately 0.270 afy, or 4,375.8 gallons/month (City of Santa Barbara 1989; County of San Luis Obispo 2011). As noted above, the project would be served by CSA 10A, which has adequate water supply to serve the project. A preliminary will-serve letter was issued for the project in 2006. Therefore, potential impacts would be *less than significant* (Class III).

6.0 FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT BUT MITIGABLE (CLASS II)

Pursuant to §15091(a)(1) of the CEQA Guidelines, the Board of Supervisors finds that, for each of the following significant effects as identified in the Final EIR, changes or alterations (mitigation measures) have been required in, or incorporated into, the project which avoid or substantially lessen each of the significant environmental effects as identified in the Final EIR. The significant effects (impacts) and mitigation measures are stated fully in the Final EIR. The following are brief explanations of the rationale for this finding for each impact:

6.6 AESTHETIC RESOURCES

AES Impact 1	
Visibility of night lighting would affect views resulting in a direct long-term impact.	
Mitigation	**AES/mm-1** Prior to issuance of the building permit, the applicant shall submit interior and exterior lighting plans to the Department of Planning and Building for review and approval consistent with the following: a. The point source of all exterior lighting shall be shielded from off-site views, including beach areas. b. All required security lights shall utilize motion detector activation. c. Light trespass from exterior lights shall be minimized by directing light downward and utilizing cut-off fixtures or shields. d. Lumination from exterior lights shall be the lowest level allowed by public safety standards.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The EIR analysis assumes that exterior lighting would be included as part of the project. Because of the project's configuration and its proximity to public roadways and the beach, night lighting would be seen from the surrounding area. Unshielded light sources or bright-lights reflected on exterior walls would result in potential impacts. Fog is a common atmospheric condition of the area and increases the "glow-effect" as potentially seen from great distances. Although existing night lighting can be seen in the adjacent neighborhood, the project would increase the visibility of night lighting in the area.

6.7 AIR QUALITY

AQ Impact 1	
Construction of the proposed project would generate fugitive dust, which could become a nuisance to local residents and businesses in proximity to the construction site.	
Mitigation	AQ/mm-1 Prior to initiation of construction, the project applicant shall implement the following dust control measures: a. Reduce the amount of the disturbed area where possible; b. Use water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 miles per hour. Reclaimed (non-potable) water should be used whenever possible; c. All dirt stockpile areas should be sprayed daily as needed; and

AQ Impact 1	
	d. All roadways, driveways, sidewalks, etc., to be paved should be completed as soon as possible, and building pads should be lain as soon as possible after grading unless seeding or soil binders are used.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project is located in proximity to sensitive surrounding land uses, and homeowners in the vicinity of the proposed project have expressed concern related to the impacts construction activities would have on surrounding properties. Construction activities can generate fugitive dust, which could be a nuisance to residents and businesses in proximity to the project site. Dust complaints could result in a violation of the APCD's 402 Nuisance Rule. In addition, operation of construction equipment, including equipment idling, generates diesel particulate matter, which can have an adverse effect on sensitive receptors.

AQ Impact 2	
Use of construction equipment would generate diesel particulate matter, potentially resulting in an adverse effect to sensitive receptors within 1,000 feet of the project site.	
Mitigation	**AQ/mm-2** Prior to issuance of construction permits, the applicant shall include the following measures on applicable grading and building plans: **Idling Restrictions near Sensitive Receptors for Both On and off-Road Equipment** a. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors; b. Diesel idling within 1,000 feet of sensitive receptors is not permitted; c. Use of alternative fueled equipment is recommended whenever possible; and, d. Signs that specify the no idling requirements must be posted and enforced at the construction site. **Idling Restrictions for On-road Vehicles** a. Section 2485 of Title 13, the California Code of Regulations limits diesel-fueled commercial motor vehicles that operate in the State of California with gross vehicular weight ratings of greater than 10,000 pounds and licensed for operation on highways. It applies to California and non-California based vehicles. In general, the regulation specifies that drivers of said vehicles: 1. Shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location, except as noted in Subsection (d) of the regulation; and, 2. Shall not operate a diesel-fueled auxiliary power system (APS) to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5.0 minutes at any location when within 100 feet of a restricted area, except as noted in Subsection (d) of the regulation. Signs must be posted in the designated queuing areas and job sites to remind drivers of the 5 minute idling limit. The specific requirements and exceptions in the regulation can be reviewed at the following web site: www.arb.ca.gov/msprog/truck-idling/2485.pdf. **Idling Restrictions for off-Road Equipment** a. Off-road diesel equipment shall comply with the 5 minute idling restriction identified in Section 2449(d)(3) of the California Air Resources Board's In-Use off-Road Diesel regulation: www.arb.ca.gov/regact/2007/ordiesl07/frooal.pdf. b. Signs shall be posted in the designated queuing areas and job sites to remind off-road equipment operators of the 5 minute idling limit.

AQ Impact 2	
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project is located in proximity to sensitive surrounding land uses, and homeowners in the vicinity of the proposed project have expressed concern related to the impacts construction activities would have on surrounding properties. Construction activities can generate exhaust from equipment, which could be a nuisance to residents and businesses in proximity to the project site. In addition, operation of construction equipment, including equipment idling, generates diesel particulate matter, which can have an adverse effect on sensitive receptors

6.8 BIOLOGICAL RESOURCES

BR Impact 1	
Construction of the project may have an adverse impact on special-status species and their habitats, including off-site use of equipment, storage of materials, and inadvertent transport of debris or discharge of oils, fuels, and other pollutants into the beach area.	
Mitigation	**BR/mm-1** Prior to issuance of construction permits, the applicant shall submit documentation verifying designation of a qualified environmental monitor for all measures requiring environmental mitigation to ensure compliance with Conditions of Approval and EIR mitigation measures. The monitor shall be responsible for: (1) ensuring that procedures for verifying compliance with environmental mitigations are followed; (2) lines of communication and reporting methods; (3) daily and weekly compliance reporting; (4) construction crew training regarding environmentally sensitive areas; (5) authority to stop work; and (6) action to be taken in the event of non-compliance. Monitoring shall be at a frequency and duration determined by the affected natural resource agencies (e.g., USACE, CDFW, RWQCB, California Coastal Commission, USFWS, and the County). **BR/mm-2** Prior to the initiation of construction, the environmental monitor shall conduct environmental awareness training for all construction personnel. The environmental awareness training shall include discussions of sensitive habitats and animal species in the immediate area. Topics of discussion shall include: general provisions and protections afforded by the Endangered Species Act; measures implemented to protect special-status species; review of the project boundaries and special conditions; the monitor's role in project activities; lines of communications; and procedures to be implemented in the event a special-status species is observed in the work area. **BR/mm-3** At the time of application for construction permits all grading plans shall clearly show the location of project delineation fencing, including protection fencing surrounding the Monterey cypress tree on the southern property boundary. **BR/mm-4** Prior to the initiation of construction, the applicant's contractors and the environmental monitor shall coordinate the placement of project delineation fencing throughout the work areas. The environmental monitor shall field fit the placement of the project delineation fencing to minimize impacts to sensitive resources. The project delineation fencing shall remain in place and functional throughout the duration of the project. During construction, no project related work activities shall occur outside of the delineated work area. **BR/mm-5** At the time of application for grading permits, all applicable plans shall clearly show stockpile and staging areas. Stockpiles and staging areas shall not be placed in areas that have potential to experience significant runoff during the rainy season. All project-related spills of hazardous materials within or adjacent to project sites shall be cleaned up

BR Impact 1	
	immediately. Spill prevention and cleanup materials shall be on-site at all times during construction. The staging areas shall conform to standard BMPs applicable to attaining zero discharge of storm water runoff. At a minimum, all equipment and vehicles shall be checked and maintained on a daily basis to ensure proper operation and to avoid potential leaks or spills. Maintenance, cleaning, and refueling of equipment and vehicles shall not be permitted onsite, within adjacent beach areas, or on Studio Drive. **BR/mm-6** Prior to issuance of construction permits, the applicant shall submit a detailed sediment and erosion control plan for approval, which shall address both temporary and permanent measures to control erosion and reduce sedimentation. Erosion and soil protection shall be provided on all cut and fill slopes. Revegetation shall be facilitated by mulching, hydro-seeding or other methods, and shall be initiated as soon as possible after completion of grading, and prior to the onset of the rainy season (October 15). Permanent revegetation and landscaping shall emphasize native shrubs, and trees, to improve the probability of slope and soil stabilization without adverse impacts to slope stability due to irrigation infiltration and long-term root development. All plans shall show that sedimentation and erosion control measures are installed prior to any other ground disturbing work.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project site is located on beachfront property, immediately west of Studio Drive. The site is covered with common iceplant on the upper slope, and sea rocket (invasive weed) on the beach sands. The site does not include any features suitable for aquatic species. The sandy beach area provides foraging habitat for a variety of birds, including western snowy plover (*Charadrius alexandrinus*), California black rail (*Laterallus jamaicensis coturniculus*), California brown pelican (*Pelecanus occidentalis*), and California least tern (*Sterna antillarum browni*). The mature cypress tree (to remain) and adjacent pine (to be removed) along the southern property boundary may provide tree nesting opportunities for birds. Due to the location of the project site and presence of suitable habitat in the area, precautionary measures are recommended to ensure impacts to snowy plover and other bird species are avoided. The project site provides suitable habitat for coast horned lizard and other common reptiles. Grading activities could result in direct take of coast horned lizard and other reptiles if present. Direct take may include being struck by equipment, entrapped in stockpiled materials or trenches, or trampled or collected by construction personnel. Old Creek provides habitat for a variety of special-status species noted above. The project is located approximately 600 feet from the creek, and would not directly affect the ESHA or special-status species within the creek. Inadvertent impacts to special-status species may occur including use of equipment and storage of materials outside the property boundary, and leaks, spills, and debris adversely affecting the beach areas surrounding the parcel. Degradation of habitat would have an adverse effect on special-status species, and other wildlife in the area.

BR Impact 2	
Construction activities conducted during the nesting season (March through September) could directly or indirectly impact nesting western snowy plover and other bird and bat species.	
Mitigation	**BR/mm-7** Upon application for construction permits, the following measure shall be included on all applicable plans: The applicant shall avoid ground disturbing activities conducted during the snowy plover nesting season to the extent feasible. If work activities must occur during the nesting season the following measures shall be taken:

BR Impact 2	
	a. Prior to installation of the project delineation fencing and the commencement of site grading, a qualified biologist shall conduct a series of pre-construction nesting bird surveys for western snowy plover. Surveys shall be conducted every other day for two weeks prior to any project related disturbances. b. Surveys for snowy plovers shall include walking through all potential nesting and foraging habitat within 300 feet of the site on each survey day. The survey area shall include all available snowy plover nesting habitat within 300 feet of anticipated project activities. c. The number of snowy plover individuals observed and their activities (e.g. nesting, foraging, resting, etc.) shall be documented. All documented occurrences would be reported to USFWS and documented on the CNDDB. d. If nesting activity is identified, all project activities within 300 feet of the nest shall be delayed until the nesting activity has ceased. e. During construction, the environmental monitor shall conduct snowy plover surveys twice a week (preferably two to three days apart). **BR/mm-8** Upon application for construction permits, the following measure shall be included on all applicable plans: If commencement of construction begins between March and September, the environmental monitor shall conduct pre-construction nesting bird surveys. If nesting activity is identified, the following measures shall be implemented: a. If active nest of common passerine or shorebird species' are observed in the work area or within 100 feet of the work area, construction activities shall be modified and or delayed as necessary to avoid direct take or indirect disturbance of the nests, eggs, or young. b. If active nest sites of raptors or other special-status species are observed within the work area or 300 feet of the work area, the environmental monitor shall establish a suitable buffer around the nest site. Construction activities in the buffer zone shall be prohibited until the young have fledged the nest and achieved independence. c. Active raptor or special-status species nests should be documented by a qualified biologist and a letter report should be submitted to the County, USFWS, and CDFW, documenting project compliance with the MBTA and applicable project mitigation measures.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The sandy beach area provides foraging habitat for a variety of birds, including western snowy plover (*Charadrius alexandrinus*), California black rail (*Laterallus jamaicensis coturniculus*), California brown pelican (*Pelecanus occidentalis*), and California least tern (*Sterna antillarum browni*). The mature cypress tree (to remain) and adjacent pine (to be removed) along the southern property boundary may provide tree nesting opportunities for birds. Due to the location of the project site and presence of suitable habitat in the area, precautionary measures are recommended to ensure impacts to snowy plover and other bird species are avoided.

BR Impact 3	
The proposed project could result in direct take of coast horned lizard during project grading and construction.	
Mitigation	**BR/mm-9** Upon application for construction permits, the following measure shall be included on all applicable plans: Prior to site grading, the environmental monitor shall conduct a survey for coast horned lizard and other reptiles. The surveyor shall utilize hand search methods in areas of disturbance where coast horned-lizards are expected to be found (e.g., under shrubs, other vegetation, or debris). Any lizards located during this survey should

BR Impact 3	
	be safely removed from the construction area and placed in suitable habitat.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project site provides suitable habitat for coast horned lizard and other common reptiles. Grading activities could result in direct take of coast horned lizard and other reptiles if present. Direct take may include being struck by equipment, entrapped in stockpiled materials or trenches, or trampled or collected by construction personnel. Old Creek provides habitat for a variety of special-status species noted above. The project is located approximately 600 feet from the creek, and would not directly affect the ESHA or special-status species within the creek. Inadvertent impacts to special-status species may occur including use of equipment and storage of materials outside the property boundary, and leaks, spills, and debris adversely affecting the beach areas surrounding the parcel. Degradation of habitat would have an adverse effect on special-status species, and other wildlife in the area.

BR Impact 4	
Construction of the project may impact the root zone or result in inadvertent disturbance of a mature cypress tree.	
Mitigation	Implement **BR/mm-3** and **BR/mm-4**.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	One cypress tree is located adjacent to the project site, which is considered an important native species along the California coastline. This tree would remain. One small pine tree would be removed; however, this species is not considered native or important vegetation in this location. No other native or important vegetation would be directly affected by the project. Mitigation is recommended to ensure protection of the cypress tree.

6.9 GEOLOGY AND SOILS

GS Impact 1	
The proposed residence would be exposed to the effects of liquefaction during a ground-shaking event.	
Mitigation	**GS/mm-1** Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Engineering Evaluation (Shoreline Engineering 2012) and Updated Geotechnical Investigation (GSI Soils, Inc.) dated December 27, 2011, specifically the recommendations identified in Section 5.2 – Preparation of the Building Pad, Section 5.3 – Structural Fill, Section 5.4 – Drilled Piers, Section 5.5 – Conventional Deepened Foundation, Section 5.6 – Slab Construction, and Section 5.9 – Surface and Subsurface Drainage.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	Soil liquefaction is a phenomenon in which a saturated, cohesionless, near-surface soil layer loses strength during cyclic loading (such as typically generated by earthquakes). During the loss of strength, the soil acquires "mobility" sufficient to permit both horizontal and vertical ground movements. Soils that are most susceptible to liquefaction are clean, loose,

GS Impact 1	
	saturated, uniformly graded, fine-grained sands that are generally located within 50 feet depth beneath the ground surface. Gravels with similar characteristics and non-plastic clays and silts have also been shown to be susceptible to liquefaction. Based on the potential presence of perched water conditions during wet winter months in the upper 5 feet of soils above the dense bedrock materials, the current potential for liquefaction is moderate to high. This potentially significant impact can be successfully addressed and mitigated via implementation of typical geotechnical recommendations for site processing, grading, and/or foundation design. Therefore, the resulting liquefaction potential at the project site would be low, and would generally result in minor to cosmetic damage to the proposed structure, and total settlements would be approximately 0.5 inch (GSI Soils, Inc. 2012). This amount of settlement is considered tolerable for the proposed project, and is indicative of liquefaction in the negligible category. Therefore, potential impacts can be mitigated to a *less than significant* level (Class II).

GS Impact 2	
The proposed residence would be exposed to the effects of ground lurching and differential compaction during a ground-shaking event.	
Mitigation	**GS/mm-2** Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.) dated December 27, 2011, and specifically the following: a. All surface and subsurface deleterious materials shall be removed from the proposed building area and disposed of offsite. This includes, but is not limited to, any buried utility lines, loose fills, debris, building materials, and any other surface and subsurface structures. b. Voids left from site clearing shall be cleaned and backfilled as recommended for structural fill. c. Once the site has been cleared, the exposed ground surface shall be stripped to remove surface vegetation and organic soil.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The potential for lurching and differential compaction (densification) of the existing undocumented fill is considered to be high due to the generally loose nature of the soil. This potential impact can be mitigated by removal and/or removal and backfilling as structural fill (GSI Soils, Inc. 2011). Based on compliance with these project-specific recommendations, potential impacts can be mitigated to *less than significant* (Class II).

GS Impact 3	
Grading and excavation required for the construction of the project would result in significant, short-term, adverse impacts related to erosion and down-gradient sedimentation.	
Mitigation	*Implement **BIO/mm-4**, **BIO/mm-5**, and **BIO/mm-6**.*
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).

GS Impact 3	
Supportive Evidence	Implementation of the project will require grading and removal of sand, soil, and vegetation. Grading activities would disturb approximately 3,000 square feet of the 3,445-square-foot parcel, including 400 cubic yards of cut (foundation) and 150 cubic yards of fill (driveway). The average depth of cut would be 5 feet (minimum 1 foot, maximum 12 feet). Approximately 250 cubic yards of soil would be exported offsite. During construction, exposed soils may result in erosion during rain events, or wave runup. Compliance with the County CZLUO and implementation of project-specific erosion-control measures are necessary to retain soils onsite and avoid down-gradient sedimentation into the Pacific Ocean. Based on compliance with existing regulations, and recommended mitigation measures, potential short-term impacts would be mitigated to a *less than significant* level (Class II).

GS Impact 4	
The creation of steep cut slopes during site preparation and grading associated with construction of the proposed residence would result in short-term slope instability.	
Mitigation	GS/mm-3 Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the following: recommendations for slope stability identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.10 – Temporary Excavations and Slopes; and Shoring Detail prepared by Shoreline Engineering (January 2012, updated September 20, 2012). Plans shall demonstrate how construction would be conducted such that no activity would compromise the neighboring structure. Construction of all site preparation and shoring activities shall be monitored by the project Engineer of Record, and daily monitoring reports shall be prepared and submitted to the County Department of Planning and Building on a weekly basis.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	Construction cuts for basement retaining walls may exceed 12 feet in depth on the south and east sides of the proposed residence. The potential for instability of temporary (construction) slopes is a significant concern, and there is a moderate to high potential for temporary slope instability impacting the project site and the adjacent property. To address this issue, the applicant proposes to retain temporary slopes with a shoring system consisting of soldier piles and steel plate lagging. The shoring system would be removed following permanent stabilization of the slope. Based on implementation of this strategy, and compliance with the recommendations presented in the *Updated Geotechnical Investigation* (GSI Soils, Inc. 2011), potential short-term impacts would be *less than significant* (Class II).

GS Impact 5	
Beach sand scour caused by heavy surf may periodically and temporarily create unstable slopes adjacent to the proposed residence.	
Mitigation	**GS/mm-4** Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which include the use of deepened pier foundations identified in the Engineering Evaluation (Shoreline Engineering, Inc.), dated January 2012, and Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.2 – Preparation of Building Pad, Section 5.4 – Drilled Piers, and Section 5.5 – Conventional Deepened Foundation.

GS Impact 5	
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	Construction of the proposed driveway will result in structural fill placement against the existing 2:1 gradient fill slope of Studio Drive, with the fill being supported by retaining walls. Upon completion of the project, no significant slopes will exist that could pose a slope instability hazard to the property. Significant scour of beach sand due to heavy surf may temporarily create a steep bedrock slope ocean-ward of the existing bedrock outcropping. Provided the proposed residence is constructed on deepened pier foundations as proposed, temporary beach scour should not pose a slope instability hazard to the residence.

GS Impact 6	
The proposed residence would be constructed on soils with a high expansion potential, resulting in a potentially significant long-term impact.	
Mitigation	**GS/mm-5** Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.1 – Clearing and Stripping, Section 5.2 – Preparation of Building Pad, and Section 5.3 – Structural Fill.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	A single expansion index test was conducted by GSI Soils, Inc. (2007) on a sandy clay sample from Boring B-2 at 6 feet. The reported expansion index was 92, which indicates a high expansion potential. The material in B-2 at this depth is likely weathered mudstone bedrock. Based on the geotechnical report, onsite sand soils free of organic and deleterious material are suitable for use as non-structural fill below the select fill cap. Structural fill using onsite inorganic soil or approved imported soil should be placed in layers, conditioned, and compacted, pursuant to engineer's specifications. Therefore, potentially significant impacts related to expansive soil can be mitigated to *less than significant* (Class II).

GS Impact 7	
The proposed stormwater drainage plan may result in erosion down-gradient of the proposed drain outlet.	
Mitigation	**GS/mm-6** Prior to issuance of grading and construction permits, the applicant shall submit a drainage plan for review and approval by the County Department of Public Works. The drainage plan shall be coordinated with the sedimentation and erosion control plan, be consistent with CZLUO §23.050.036 and 040, and specifically include engineered energy dissipators and controls that would limit peak runoff to pre-development levels.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The applicant's proposed site drainage improvements would convey both Studio Drive runoff and driveway runoff to a drainage exit structure, which would outlet into a natural drainage swale. The natural drainage channel consists of highly erodible sands, and erosion in the channel has been accelerated by foot traffic from people accessing Morro Strand State Beach from Studio Drive. The swale would incorporate bollard style energy dissipators and a gravel/cobble invert, which are intended to reduce stormwater flow velocity and erosion

GS Impact 7	
	potential. Rainfall from the residence roof is proposed to be collected by a roof gutter system and held in a cistern for gray water use and landscape irrigation. Construction of the proposed impermeable concrete driveway would result in an increase in surface runoff onsite, which increases the potential for erosion in the natural drainage swale. This impact can be mitigated through appropriate civil engineering drainage design. CZLUO §23.05.050 requires a Drainage Plan for development located on a site adjacent to any coastal bluff, or if the project may change the offsite drainage pattern. Based on the location of the project on the beach-side of Studio Drive, and proposed changes to the existing stormwater system, a Drainage Plan would be required, which would be based on the preliminary drainage plan summarized above. The proposed project would not result in substantial onsite or offsite flooding, because stormwater would continue to flow west towards the Pacific Ocean (similar to existing conditions, which do not result in flooding), and would be filtered and dissipated by the proposed system. Based on review of the preliminary drainage plan, compliance with the CZLUO, and incorporation of mitigation identified below, potential long-term impacts would be mitigated to a *less than significant* level (Class II).

6.10 NOISE

N Impact 1	
Construction of the proposed project would potentially expose people to transportation-related noise levels that exceed the County Noise Element thresholds.	
Mitigation	**N/mm-1** Upon application for building permits, the project applicant shall include in the project design the following standard mitigation measures for interior noise mitigation provided in the Noise Element for levels in the 60-65 dBA range: a. Air conditioning or a mechanical ventilation system; b. Windows and sliding glass doors mounted in low air infiltration rate frames (0.5 cubic feet per minute or less, per American National Standards Institute [ANSI] specifications); and, c. Solid core exterior doors with perimeter weather stripping and threshold seals.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project proposes a noise sensitive use within the vicinity of Highway 1. Per the County Noise Element, 60 dBA is considered the maximum acceptable exterior noise exposure level for residential uses and 45 dBA is the maximum acceptable exposure level for interior uses. Uses within this range will not require mitigation. The eastern boundary of the project site is located approximately 160 feet from the centerline of Highway 1. The topography between the highway and the site consist of generally flat areas to Studio Drive, and then the property slopes down several feet (approximately 5 to 8 feet) from Studio Drive to the beach. According to the County Noise Element contour maps, the 65 dBA range extends from the centerline of the highway 209 feet west. Therefore the easternmost 50 feet of the project site is located within the 65 dBA range, and the remainder is located within the 60 dBA range. The project has been designed to provide a noise buffer between Highway 1 and the proposed living space. The project proposes a driveway and parking garage on the eastern portion of the site, which are not considered outdoor uses subject to the 60 dBA limit. The living area is also proposed below the grade of the highway by approximately 8 to 10 feet. Because the topography of the subject lot is below the street elevation, the ground will buffer most of the noise from Highway 1, thereby allowing for a minimal impact from noise to the livable areas of the home. In addition, the project would conform to the latest edition of the

N Impact 1	
	Uniform Building Code (UBC); normal construction practices in the Code would provide a noise level reduction of approximately 15 dBA (County of San Luis Obispo 1992), potentially bringing resultant noise levels within the interior 45 dBA threshold. However, because a portion of the project site is located in an area that currently exceeds Noise Element thresholds, and normal construction practices and natural buffers may be insufficient to bring noise levels within acceptable ranges, some mitigation may be necessary. The County Noise Element recommends standardized mitigation measures for reducing interior noise levels in the 60-65 dBA range. These measures are referenced in the FEIR and County Noise Element.

6.11 WATER RESOURCES

WAT Impact 1	
The project would include construction activities that would require ground disturbance and use of heavy equipment, which may result in the discharge of sediment and other pollutants, potentially affecting surface water quality.	
Mitigation	**WAT/mm-1** Upon application for construction permits, the applicant shall submit grading and construction plans showing BMPs, and shall implement BMPs during grading and construction activities. Best Management Practices (BMP's) shall include, but not be limited to, the following: a. Erosion control barriers shall be applied, such as silt fences, hay bales, drain inlet protection, and gravel bags; b. Disturbed areas shall be stabilized with vegetation or hard surface treatments upon completion of construction in any specific area. c. All inactive disturbed soil areas are required to be stabilized with both sediment and temporary erosion control prior to the onset of the rainy season (October 15 to April 15). **WAT/mm-2** Prior to issuance of grading and construction permits, the applicant shall submit a copy of the Regional Water Quality Control Board (RWQCB)-issued stormwater construction permit. The permit shall be on-site during all major grading and construction activities. Implement **BR/mm-1**, **BR/mm-5**, and **BR/mm-6**.
Findings	After implementation of the mitigation measures, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The Clean Water Act has established a regulatory system for the management of storm water discharges from construction, industrial and municipal sources. The State Water Resources Control Board (SWRCB) has adopted a National Pollutant Discharge Elimination System (NPDES) Storm Water General Permit, which requires the implementation of a Storm Water Prevention Pollution Plan (SWPPP) for discharges regulated under the SWRCB program. Currently, construction sites of 1 acre and greater may need to prepare and implement a SWPPP that focuses on controlling storm water runoff. The RWQCB, the local extension of the SWRCB, currently monitors these SWPPPs. Based on review by the RWQCB, the applicant will be required to obtain a stormwater construction permit due to the project's proximity to surface waters (Pacific Ocean). Proposed grading activities would disturb soil and sand, and potentially result in off-site sedimentation. Standard erosion and sedimentation control measures would be required,

WAT Impact 1	
	including staking or flagging the development footprint; use of fiber rolls and silt fencing to retain soil and sand on-site; covering soil stockpiles; and restoration and revegetation of disturbed soils. Implementation of these measures would ensure avoidance of adverse effects to water quality. The project includes removal of the existing County storm drain, and construction of a new storm water management system, including an inlet with a filter and outlet with energy dissipaters. Stormwater would continue to flow onto the beach area to the northwest. Discharge of sediment, hydrocarbons, and other pollutants from the roadway into stormwater and drainage infrastructure (which eventually discharge into surface waters) would affect water quality. Implementation of BMPs and Low Impact Design (LID) techniques consistent with CZLUO §23.05.050.e(1) (Water Runoff, Best Management Practices – Residential development) would avoid or minimize the project's contribution to water quality issues affecting the Pacific Ocean. Additional mitigation is included under the Biological Resources analysis, including BR/mm-5 (stockpile and staging areas, management of hazardous materials, and implementation of BMPs) and BR/mm-6 (erosion and sedimentation control). In addition, an environmental monitor would be present to verify and document compliance with mitigation measures related to the protection of biological resources, including aquatic habitat and surface waters (BR/mm-1). The project includes a preliminary drainage plan, which has been reviewed and approved by the County Department of Public Works. In the long-term, the project would not result in any significant impacts to water quality, because the proposed stormwater system includes energy dissipaters that would allow stormwater to continue flowing onto the beach in a non-erosive manner.

7.0 FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT AND UNAVOIDABLE

No significant and unavoidable impacts (Class I) were identified for the proposed project.

8.0 CUMULATIVE AND GROWTH INDUCING IMPACTS

8.1 CUMULATIVE IMPACTS

State CEQA *Guidelines* §15355 defines cumulative impacts as

> *"two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts". Further, "the cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time."*

The Guidelines require the discussion of cumulative impacts to reflect the severity of the impacts and their likelihood of occurrence. However, the discussion need not be as detailed as the analysis of impacts associated with the project, and should be guided by the rule of reason. Cumulative impacts associated with this project are discussed in the topical analysis sections provided in Chapter 4 of the Final EIR.

8.1.1 Air Quality (Class III)

The cumulative study area for air quality impacts is the South Central Coast Air Basin (SCCAB). The project would contribute criteria pollutants during project construction and long-term operational use, including ozone precursors and particulate matter. No major projects are proposed in the immediate vicinity of the project site; however, a number of large development projects are currently under review by the County, and cities within the county, including mixed-use, residential, commercial, and solar energy projects. These projects may be under construction simultaneously with the project and, in the long term, would be generating similar air emissions due to use of construction equipment, increased traffic trips, and energy use.

Depending on construction schedules and actual implementation of projects in the air basin, generation of fugitive dust and pollutant emissions during construction could result in short-term increases in air pollutants. Analysis conducted specifically for this project concluded that implementation of the proposed project would not significantly contribute to cumulative long-term operational air quality impacts because it would not exceed the daily ROG+NO_x threshold. GHG impacts, including those described above, all contribute cumulatively with those produced worldwide, to affect climate change. Compliance with identified air quality, energy efficiency, and water conservation mitigation measures would reduce the project's contribution to cumulative GHG emissions, and subsequent climate change. Cumulative effects would be *less than significant* (Class III).

8.1.2 Biological Resources (Class III)

No major projects are scheduled to be constructed during a similar timeframe as the project. The closest known project is the Morro Bay to Cayucos Connector, which would run along Studio Drive adjacent to the project site, within the paved area. The timing for construction of that project is currently undetermined. Based on the location and size of the project, and implementation of recommended mitigation measures, the project would not have any significant residual direct or indirect adverse impacts to sensitive biological resources, including special-status species, habitats, and wildlife. The site is not within a designated Environmentally Sensitive Habitat Area (ESHA). The project would not significantly contribute to the loss of

species or sensitive habitat. Therefore, potential cumulative impacts would be *less than significant* (Class III).

8.1.3 Cultural Resources (Class III)

The destruction of cultural resources can have the potential for significant cumulative impacts as they are inherently important to the descendants of native peoples and make the study of pre-historic and historic life unavailable for study by scientists. Given the prevalence of cultural resource sites in San Luis Obispo, and the number of construction activities that involve disturbance of archaeologically sensitive areas that are not regulated, it is likely that significant pre-historic and historic resources are often not identified and are permanently lost. For the proposed project, no prehistoric archaeological resources were identified with the project site, and implementation of the proposed project would not contribute to the cumulative degradation of significant cultural resources in the County. Based on lack of significant resources at the project site, and compliance with the CZLUO, potential cumulative impacts resulting from the proposed project are considered *less than significant* (Class III). No additional mitigation is required.

8.1.4 Geology and Soils (Class III)

Implementation of the pending and approved projects listed in the cumulative development scenario would increase development in the immediate area. No projects requiring grading or construction would occur in the immediate vicinity of the project, and no existing adverse geologic or drainage conditions are present on or adjacent to the project site.

Additional development, including the proposed project, would increase the number of people and structures exposed to a variety of geologic and soils hazards within the County, including liquefaction, ground shaking, and temporary exposure to sea level rise and storm surge. Potential impacts related to geologic, soils, and seismic hazards are all site-specific, and mitigation measures are applied to each project to minimize the potential for significant geologic impacts. All development projects are required to comply with State and local regulations regarding grading and construction; therefore, no cumulative impacts related to these issues have been identified. Implementation of mitigation measures identified above, and compliance with existing regulations would mitigate impacts to *less than significant* (Class III), and no additional measures are necessary.

8.1.5 Hazards and Hazardous Materials (Class III)

Due to the type of project proposed, and lack of hazards or hazardous materials within or near the project site, construction and operation of the project would not contribute to environmental impacts related to hazards. Cumulative impacts would be *less than significant (Class III)*. No additional mitigation is required.

8.1.6 Recreation (Class IV)

As with any new residential development, the project has the potential to result in a cumulative effect on recreational resources, by adding demand on public parks, trails, and recreational areas. However, the project's cumulative impacts are within the general assumptions of allowed use for the subject property. Adequate public facility fee programs have been adopted to address these impacts. Impacts to the area recreational resources and facilities will be mitigated through the payment of appropriate fees prior to issuance of a building permit for the proposed project. The future Morro Bay to Cayucos connector bike path is proposed to run along Studio Drive directly adjacent to the project site, which will create a *beneficial impact* (Class IV) on

recreational resources by providing additional pedestrian and biking trails in the project vicinity and connecting other recreational opportunities in the city of Morro Bay and community of Cayucos.

8.1.7 Transportation and Circulation (Class III)

Population and tourism in the areas surrounding the proposed project are expected to slowly and steadily increase in the future, resulting in a corresponding steady increase in traffic, parking demands, and safety conflicts in the Cayucos area. The proposed project would contribute to cumulative traffic volumes in the area; however, because it is not resulting in an increase in residential density, the increase would be minor, and at a level anticipated in by the Estero Area Circulation Element. Therefore, potential cumulative impacts would be *less than significant* (Class III).

8.1.8 Water Resources (Class III)

Water demand for the proposed use represents a small percentage of total water demand in the Cayucos area, and the boundaries of CSA 10A (approximately 0.6%). As previously discussed, CSA 10A has available water to serve this project, in addition to others within the service area. Therefore, potential cumulative impacts would be *less than significant* (Class III).

8.2 GROWTH-INDUCING IMPACTS

CEQA Guidelines §15126.2(d) requires an EIR to discuss the growth inducing impacts of a proposed project, including the ways in which the project would foster economic or population growth, encourage the construction of additional housing, or remove an obstacle to population growth in the surrounding environment, either directly or indirectly. The goal of the growth inducing impacts section of the EIR is to address the effects the proposed project may have on surrounding facilities and activities by assessing the ways in which a project could encourage population or economic growth, increase employment opportunities or employment growth in support of an industry, or stimulate the construction of new housing or service facilities.

Based on the CEQA Guidelines criteria outlined above, the proposed project was evaluated in order to determine if any part of the project demonstrates the potential to result in growth inducing impacts. The project proposes one single-family residence on one of the few undeveloped lots in an existing developed neighborhood. The use is consistent with the general level of development currently existing along Studio Drive and anticipated under the Residential Single Family (RSF) land use designation. Other than temporary employment associated with construction of the residence, the project would not create new jobs or facilitate employment growth. Given its small scale and limited function, the project would not induce population or economic growth in the area. Impacts would be *less than significant*.

9.0 ALTERANTIVES

CEQA, §15126.6(a), requires an EIR to "describe a reasonable range of alternatives to a project, or to the location of a project, which could feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives". Through the scoping process, if an alternative was found to be infeasible, as defined above, then it was dropped from further consideration. In addition, CEQA states that alternatives should " attain most of the basic objectives of the project..." Please refer to Chapter 5, Alternatives Analysis, of the EIR for a detailed discussion of the alternatives. The following alternatives were selected for more detailed review.

9.1.1 No Project Alternative

The No Project Alternative would include none of the components of the proposed project. If a project is not built at this time, a residential project may be proposed in the future.

9.1.2 Design Alternative A – Reduced Project, Pilings

The project site is located on the beachside of Studio Drive, and would be exposed to coastal hazards including sea level rise, wave-up, and storm surge. Independently, these conditions would not adversely affect the proposed structure; under extreme conditions, ocean water may reach the 22.2-foot elevation, and may overtop the existing rock outcrop and splash against the basement wall.

An alternative to this would be to eliminate the basement and construct the residence on steel-reinforced concrete pilings. This would allow ocean water to flow under the structure entirely before receding back. Under this alternative, the main floor and mezzanine, including the cantilevered portion, would remain.

This alternative consists of an approximately 1,857-square-foot residence including:

- 1,097 square feet of main floor living space
- 338-square-foot mezzanine
- 242-square-foot garage and 200-square-foot carport
- 180-square-foot covered deck
- Solar panels installed on the south-facing slopes of the roof

The residence would consist of one main floor supported on pilings. The maximum width of the structure would be 18 feet, and the maximum length would be 95 feet. A paved driveway would provide access from Studio Drive. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive. It is expected that retaining walls would be necessary adjacent to Studio Drive, and along a portion of the southern and northern sides of the residence, with continuous footings extending into the underlying bedrock materials.

9.1.3 Design Alternative B – Reduced Project, Traditional Design

This design alternative incorporates a more traditional design, as opposed to the modern structure proposed by the applicant. It does not include the extended cantilevered main floor, or a substantial reduction in the extension, and provides sloped roofs. This alternative is

considered a reduced design option, and consists of an approximately 2,572-square-foot residence including:

- 772 square feet of main floor living space
- 1,040-square-foot basement
- 338-square-foot mezzanine
- 242-square-foot garage and 200-square-foot carport
- 180-square-foot covered deck
- Solar panels installed on the south-facing slopes of the roof

The residence would consist of one main floor and a basement. The footprint of the house would be 1,040 square feet. The maximum width of the structure would be 18 feet, and the maximum length would be 70 feet. A paved driveway would provide access from Studio Drive. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive. The basement would be located below the elevation of Studio Drive.

The exterior walls of the structure would be concrete and would retain soils along the southern, eastern, and northern sides of the residence. Retaining walls will also be constructed adjacent to Studio Drive with continuous footings extending into the underlying bedrock materials.

9.1.4 Design Alternative C – Vegetation and Articulation

As noted above, no significant aesthetic resource impacts were identified; however, a reasonable alternative to the project includes additional features to articulate the design and blend it into the beach landscape. This includes incorporation of native, low-growing shrubs and vegetation along the northern and western aspects, and the use of native (or simulated native) rocks along the driveway retaining wall. This alternative would consist of the same size, footprint, width, and height, as the proposed project.

9.1.5 Planning Commission-Approved Project Alternative

Based on direction from the Planning Commission, the applicant revised the project which reduced the size of the proposed project from what was evaluated in the EIR. The revised project is a reduced project with a traditional architectural style and reduced cantilever. This revised project is approximately 543 square feet smaller than the proposed project and the large cantilevered portion has been significantly reduced by approximately 16 feet shorter in living area.

9.2 Environmentally Superior Alternative

CEQA requires the alternatives section of an EIR to describe a reasonable range of alternatives to the project that avoid or substantially lessen any of the significant effects identified in the EIR analysis while still attaining most of the basic project objectives. The alternative that most effectively reduces impacts while meeting project objectives should be considered the "environmentally superior alternative." In the event that the No Project Alternative is considered the environmentally superior alternative, the EIR should identify an environmentally superior alternative among the other alternatives.

In this EIR, the No Project Alternative results in the fewest environmental impacts, although it does not meet any of the project objectives, including the primary objective to build a single-family residence.

As proposed, and with incorporation of recommended mitigation measures, the proposed project would not result in any significant, unavoidable environmental effects, and would meet project objectives. All proposed alternatives would meet the project objectives, and would not result in any significant, adverse, and unavoidable (Class I) impacts upon implementation of mitigation measures similar to those identified for the proposed project.

The proposed Reduced Project and Design Alternatives (A, B, and C) provide some variation in size and project design in response to public comment, and include alternatives to the proposed basement, cantilevered living space, and exterior design elements. Design Alternative A – Reduced Project, Pilings, would marginally reduce the intensity of identified geology and soils impacts, primarily related to coastal hazards, and would still require substantial engineered design and incorporation of design-specific mitigation measures. Design Alternative B – Reduced Project, Traditional Design does not include the cantilevered portion of the residence, which may be more consistent with Small Scale Neighborhood Standards. Alternatives A, B, and C (Vegetation and Articulation) may reduce the perceived mass of the structure as seen from Studio Drive and the beach area, and may be more consistent with County Plans and Policies related to visual resources.

The Planning Commission approved Project is consistent with the EIR alternatives discussed and is consistent with EIR Alternative B. The Planning Commission approved project is reduced in size and scale from the original project evaluated in the Final EIR (approximately 16 feet shorter). This shorter design includes less coverage of the lot and therefore less of a visual impact from the original project (even though the original design did not contain a significant visual impact). Additionally, the amended project design is traditional in style versus the original modern design. The traditional architectural style is in keeping with the majority of the smaller traditional beach bungalow style residences in this neighborhood. The roofline is now pitched similar to the neighboring residences rather than a flat roof and the proposed colors and materials blend into the environment with darker browns, tans and wood appearing materials. Overall this revised project is consistent with many of the design comments supplied by members of the community and will improve the look of the neighborhood.

Based strictly on an analysis of the relative environmental impacts, the proposed project, with adoption and incorporation of recommended mitigation measures, is considered the Environmentally Superior Alternative. The decision-making body will consider the whole of the record when considering the approved project including, but not limited to, public comment and testimony related to the size and design of the residence. The decision-making body may select the project as proposed, an Alternative, or a specified combination of particular elements identified in the Alternatives, as the approved project. In all scenarios, the Mitigation and Monitoring Program (MMRP) would be applied to the approved project.

10.0 MITIGATION AND MONITORING PROGRAM

PRC §21081.6 requires the lead agency, when making the findings required by PRC §21081(1)(a), to adopt a reporting or monitoring program for the changes to the project that it has adopted, in order to ensure compliance during project implementation. The County is the lead agency responsible for the adoption of the reporting or monitoring program. A Mitigation Monitoring and Reporting Plan (MMRP) has been prepared that requires the County to monitor mitigation measures designed to reduce or eliminate significant impacts, as well as those mitigation measures designed to further reduce environmental impacts that are less than significant.

The MMRP designates responsibility and anticipated timing for the implementation of mitigation measures within the jurisdiction of the County. Implementation of the mitigation measures specified in the Final EIR and the MMRP will be accomplished through administrative controls over project planning and implementation. Monitoring and enforcement of these measures will be accomplished through verification in periodic Mitigation Monitoring Reports and periodic inspection by appropriate County personnel. The County reserves the right to make amendments to and/or substitutions of mitigation measures if, in the exercise of discretion of the County, it is determined that the amended or substituted mitigation measure will mitigate the identified significant environmental impact to at least the same degree of significance as the original mitigation measure it replaces, or would attain an adopted performance standard for mitigation, and where the amendment or substitution would not result in a new significant impact on the environment that cannot be mitigated.

As lead agency for the Loperena MUP/CDP EIR, the County hereby certifies that the MMRP set forth in Chapter 7 of the Final EIR, which has been designed to ensure compliance during construction of the proposed project and includes all of the mitigation measures identified in the Final EIR and adopted and incorporated into the project, is adequate to ensure the implementation of the mitigation measures described herein.

CATHY • NOVAK

September 30, 2014

County of San Luis Obispo Department of Planning and Building
Attn: Ryan Hostetter
County Government Center, Room 200
San Luis Obispo, CA 93408-2040

RE: Loperena (DRC2005-00216) – Bluff geometry evaluation

Dear Ryan,

Attached please find a copy of the evaluation that the project team has completed in regards to the bluff or no bluff issue on the Loperena property.

This report is being provided to you well in advance of the December 9, 2014 in order to allow sufficient time for the county staff and others to review the report. We would certainly be happy to meet with you to discuss the findings of this report in more detail if you desire. Please don't hesitate to contact me with any questions.

Regards,

Cathy Novak

Cathy Novak

Project Representative

cc: Mr. Jack Loperena

Attachment:

Evaluation of bluff geometry adjacent to Loperena property - Shoreline Engineering, September 28, 2014

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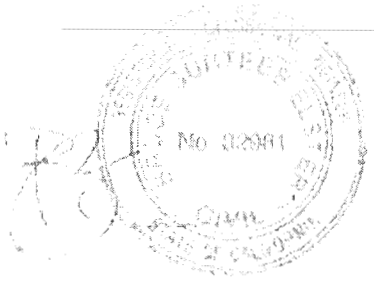
Shoreline Engineering, Inc
Structural / Civil / Forensic / Engineer-Divers

28 September 2014
Job #293-02

EVALUATION OF BLUFF GEOMETRY ADJACENT TO LOPERENA PROPERTY MINOR USE PERMIT / COASTAL DEVELOPMENT PERMIT DCR2005-00216



Summary Statement

The purpose of this engineering evaluation is to identify whether or not the Loperena property is on a coastal bluff or not. The evaluation is in keeping with Coastal Commission policies that determine the coastal and fluvial bluff geometry prior to development and compare pre-development bluff geometry with current bluff geometry. In general, the engineering evaluation compares CALTRANS archival photogrammetric survey information made in 1953 with current 2014 photogrammetric survey information prepared by ATGeoSystems.

Coastal bluff termination was evaluated by Cotton-Shires, independent geotechnical/geologic consultants for the County of San Luis Obispo. They found the coastal bluff terminated to the south of the Loperena property. Their findings and methodology are published in the Final EIR.

Bluff definitions used to determine whether or not the Loperena Property is on a coastal bluff were taken from Coastal Commission for Local Governments Glossary and the California State Public Resources Code.

The engineering evaluation includes the following materials:

a.	Evaluation Parameters:	Items 1 through 6
b.	Bluff Definitions:	Coastal Commission Glossary
c.	Public Resources Code	
d.	2014 Survey	(1 sheet)
e.	1953 Survey	(1 sheet)
f.	Coastal Bluff Sections	(3 sheets)
g.	Fluvial Bluff Sections	(3 sheets)
h.	1953 Camera Calibration Report	(4 sheets)

The engineering evaluation concludes:

a. The Loperena property is not located on a coastal bluff.
b. The bluffs (both coastal and fluvial) landforms have been altered by development adjacent to the Loperena property.
c. No portion of the pre-development coastal bluff or the fluvial bluff is more than ten feet in height.

Evaluation Parameters

1. Information contained herein compares archival photogrammetric survey information made in 1953 with current 2014 photogrammetric survey information.
   a. The photogrammetric surveyor, in preparing the 1953 mapping, has delineated a zone within which the top edge of the bluff terminates. This determination has been made within the limits of accuracy of the 1953 photogrammetric images.
2. Surveying:
   a. ATGeoSystems. Boundary survey, horizontal/vertical control
   b. Central Coast Aerial Mapping. Photogrammetric aerial mapping.
3. All mapping included in the evaluation is based on the same coordinate system.
   a. Horizontal: NAD83 (epoch 2011), California State Plane Coordinate System Zone 5.
   b. Vertical NAVD88
4. Bearings and Distances shown hereon were taken from a boundary survey recorded in Book 84 Page 14 of Records of Surveys in the office of county recorder
5. Benchmark. USC&GS Brass Disk P693-1943. Elevation = 23.86' NAVD-88.
6. Source, 1953 Photogrammetric survey information:
   a. CALTRANS
   b. Photo/s information: V SLO 4 20-23, 3627-20-23
   c. Date of flight: 12-2-1953

Bluff Definitions

CC Resources for Local Governments glossary. *Definition. "Bluff (or cliff) - A scarp or steep face of rock, weathered rock, sediment or soil resulting from erosion, faulting, folding, or excavation of the land mass. The cliff or bluff may be simple planar or curved surface or it may be steplike in section. For purposes of (the Statewide Interpretive Guidelines), cliff or bluff is limited to those features having vertical relief of ten feet or more and seacliff is a cliff whose toe is or may be subject to marine erosion."*

From Public Resources Code, 14 CCR § 13577.
(h) Coastal Bluffs. Measure 300 feet both landward and seaward from the bluff line or edge. Coastal bluff shall mean:

(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and

(2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2).

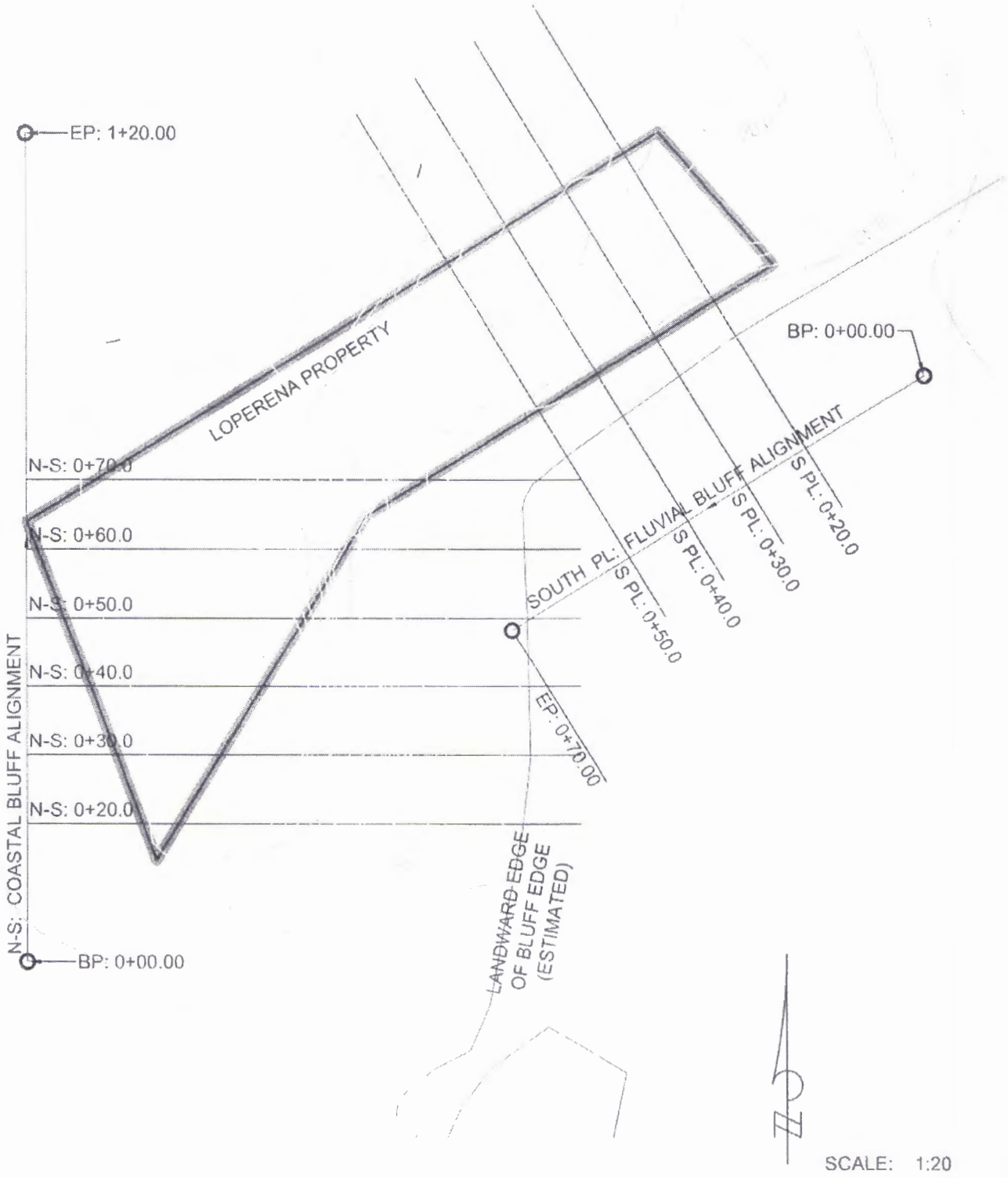
Bluff line or edge shall be defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge. The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations.

From Public Resources Code, 14 CCR § 30603

30603. (a) After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments:

(1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance.

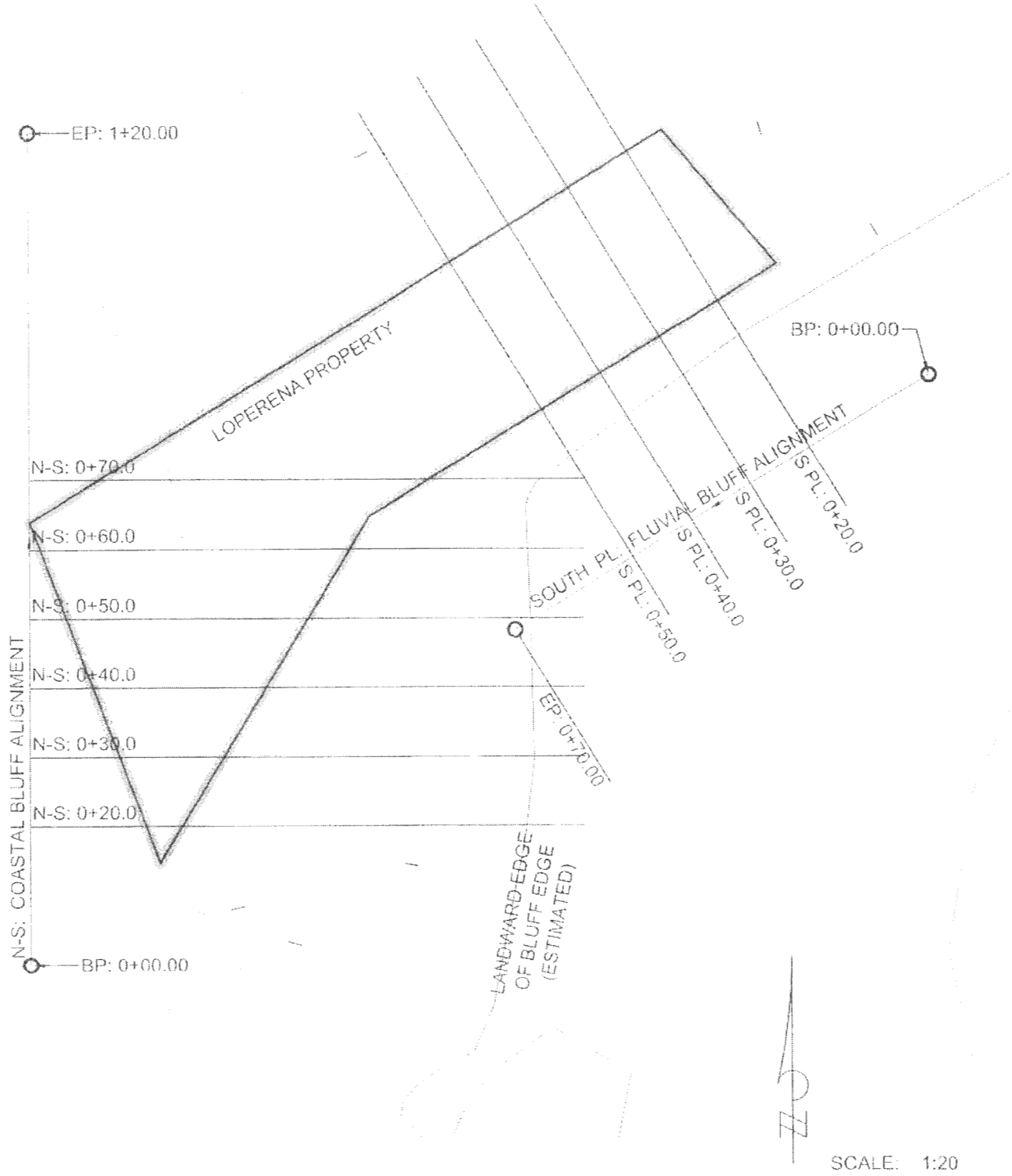
(2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.



Shoreline Engineering, Inc
Structural/Civil/Forensic/Engineer-Divers

Loperena: Studio Drive, Cayucos

2014 Topographic Survey

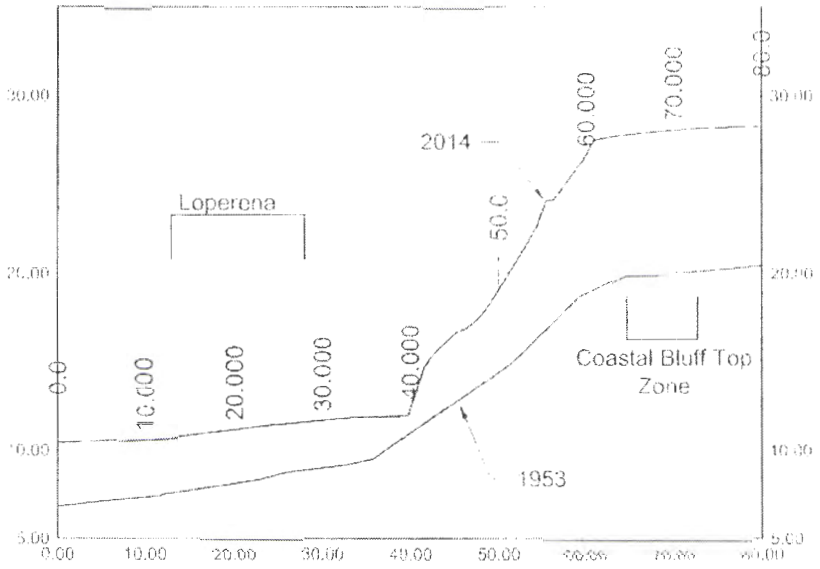


Shoreline Engineering, Inc
Structural/Civil/Forensic/Engineer-Divers

Loperena: Studio Drive, Cayucos

1953 Topographic Survey

Coastal Bluff Sections
N-S Line Alignment



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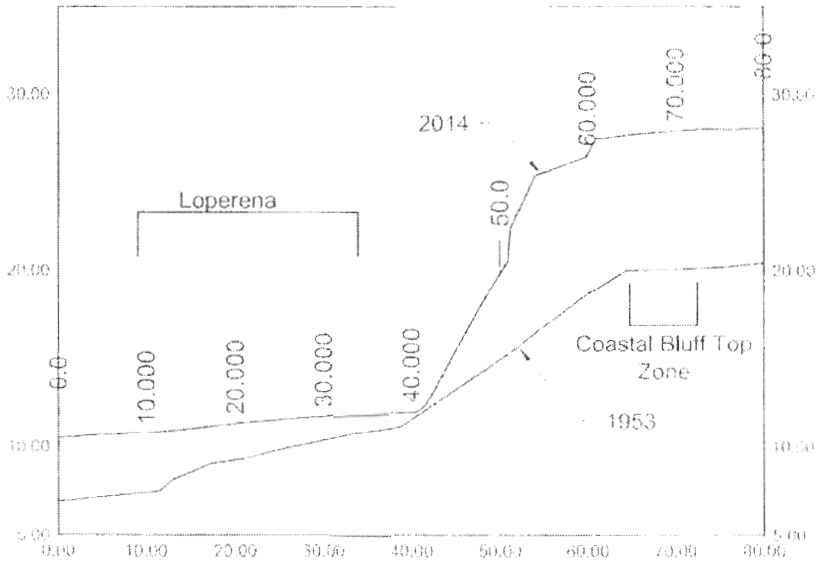

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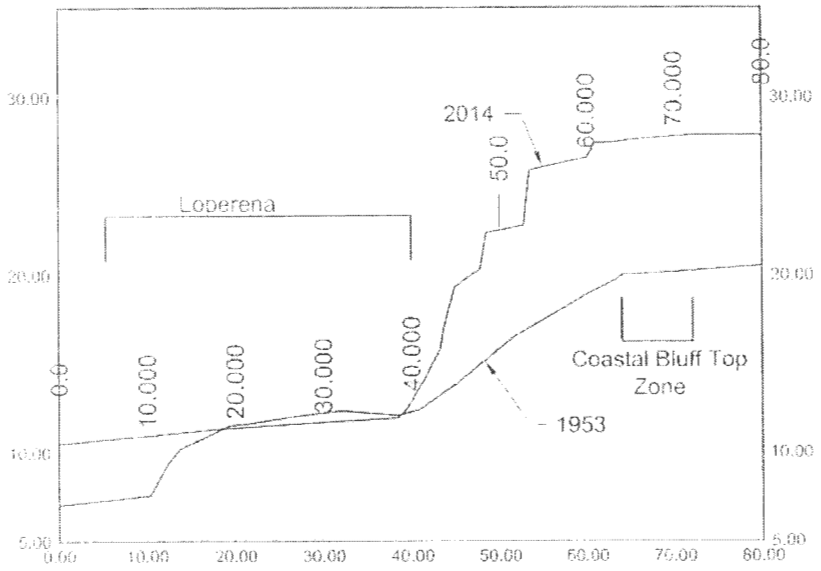
SCALE: 1:20, HORIZ; 1:10, VERT
SECTIONS LOOKING NORTHERLY

Shoreline Engineering, Inc
Structural/Civil/Forensic/Engineer-Divers

Loperena: Studio Drive, Cayucos

Bluff Study: Coastal Bluff Alignment

Coastal Bluff Sections
N-S Line Alignment



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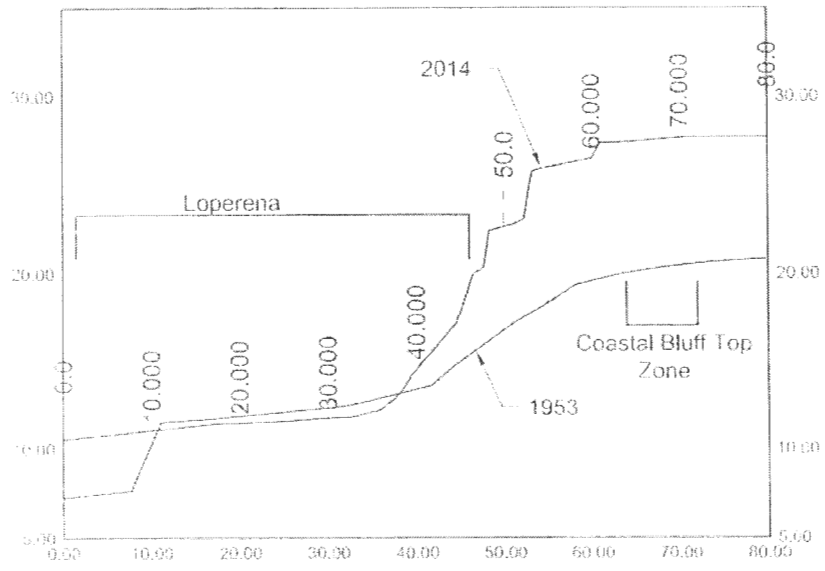

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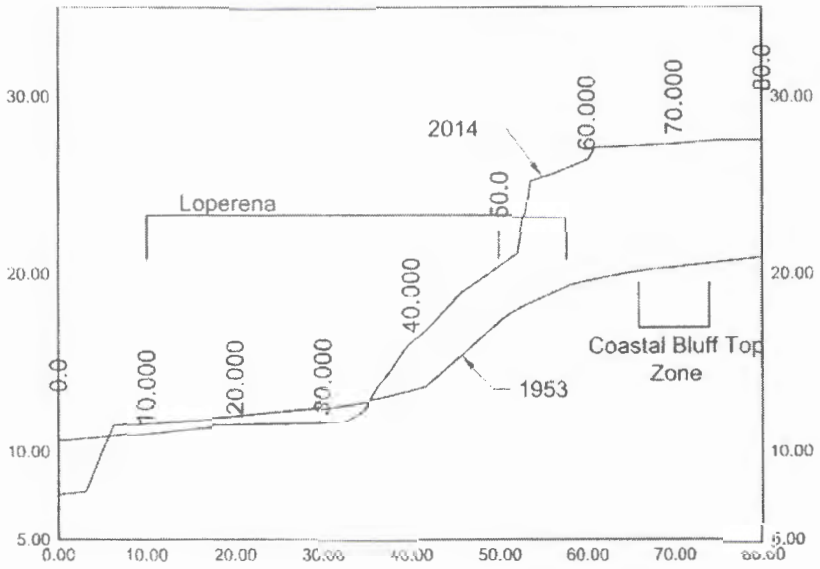
SECTIONS LOOKING NORTHERLY



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Coastal Bluff Sections
N-S LIne Alignment

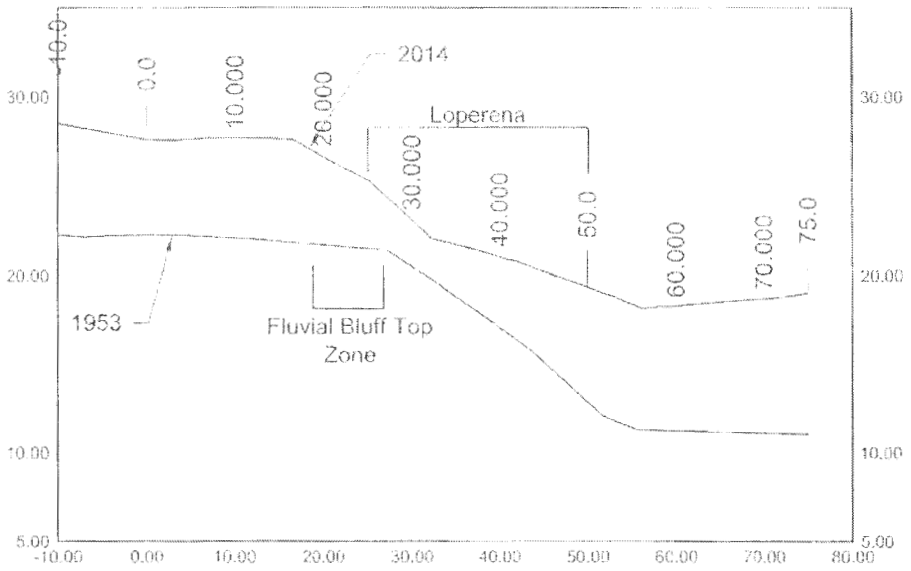
SCALE: 1:20, HORIZ; 1:10, VERT
SECTIONS LOOKING NORTHERLY

Shoreline Engineering, Inc
Structural/Civil/Forensic/Engineer-Divers

Loperena: Studio Drive, Cayucos

2014 Topographic Survey

Fluvial Bluff Sections
South Property LIne Alignment



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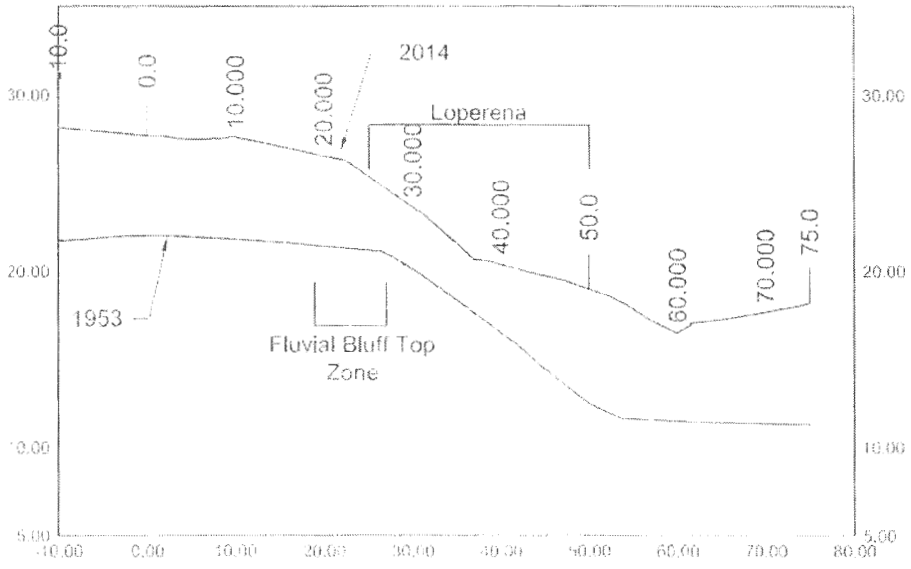

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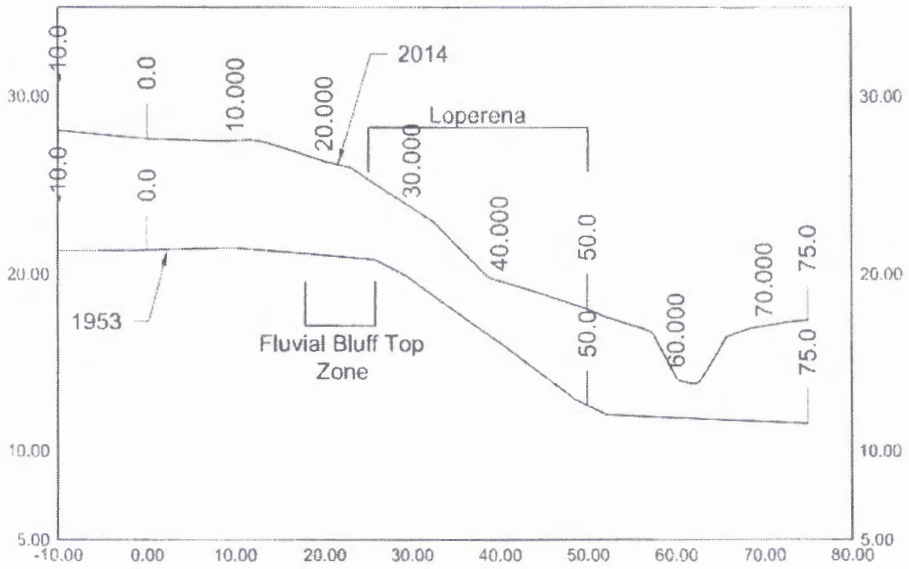
SCALE: 1:20, HORIZ; 1:10, VERT
SECTIONS LOOKING WESTERLY

Fluvial Bluff Sections
South Property LIne Alignment



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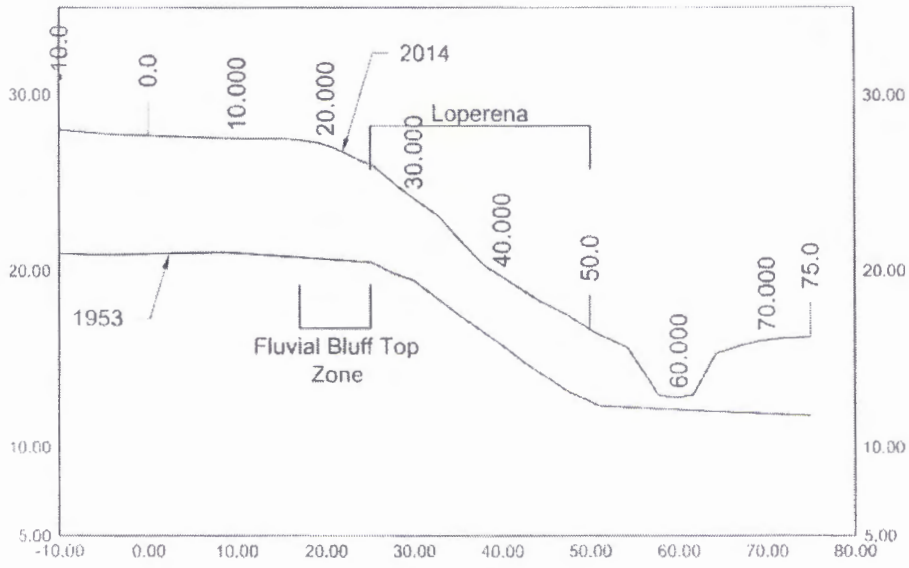


Align: South PL 0+50.00

SCALE: 1:20, HORIZ; 1:10, VERT
SECTIONS LOOKING WESTERLY

1953 Camera Calibration

August 7, 2014

Prepared for

AT GeoSystems, Inc.
dba VOLBRECHT SURVEYS
3590 Sacramento Dr. Suite 110
San Luis Obispo, CA 93401

Prepared by

Riadh Munjy
Pixel Mapping, Inc.
1894 E. Decatur
Fresno, CA 93720
munjy@pixel-mapping.com

1 OBJECTIVE

Pixel Mapping, Inc. was provided four 230 x 230 mm aerial photos from Caltran scanned at 0.012 mm. The photos were taken in 1953 and no camera calibration certificate. The objective of this effort is to provide camera calibration for this photography.

2 METHODOLOGY

To provide ground control for the 1953 photography, a new aerial strip with ten photos were flown in July 2014 using a calibrated aerial camera. The new photography had 11 ground control points.

Fifteen ground points were photo identified between the old and new photography. These points consisted of roof tops and rocks in the area. Using the new photography the ground coordinates was established for these points using the bundle block adjustment approach. Then these fifteen points were used as ground control to find the exterior and interior orientation (camera calibration) of the 1953 photography.

3 1953 PHOTOS CAMERA CALIBRATION

Each old photograph has four side fiducial marks. These marks were not well defined and designed to be used with analog photogrammetric mapping instruments that were used in the fifties. The marks were measured on each photo and a two dimensional transformation was used to transform the pixels coordinates to a photo coordinate system. The average results of the fiducial marks in the photo coordinate system are as follows:

Point No	x(mm)	y(mm)	x St. Err	y St. Err
F1	[illegible]	[illegible]	[illegible]	[illegible]
F2	[illegible]	[illegible]	[illegible]	[illegible]
F3	[illegible]	[illegible]	[illegible]	[illegible]
F4	[illegible]	[illegible]	[illegible]	[illegible]

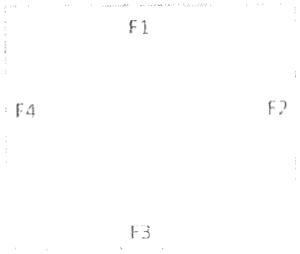


Table 1

These fiducial marks are shown in table 2:

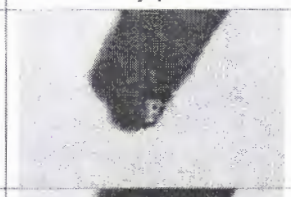
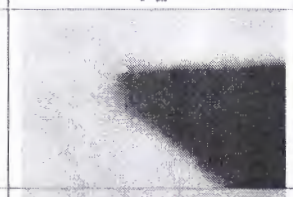
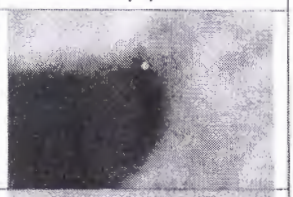
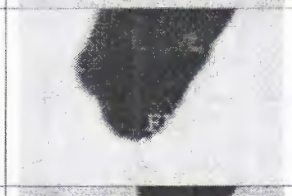
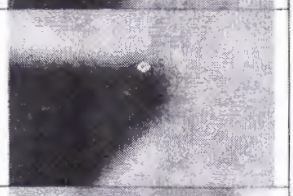
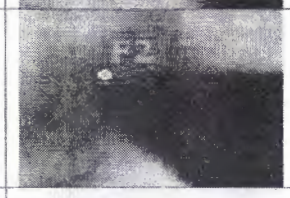
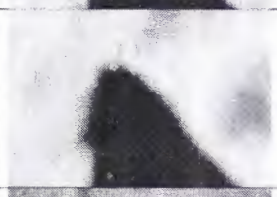
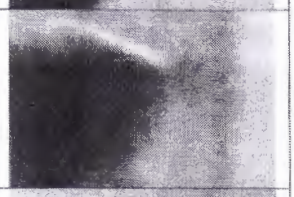
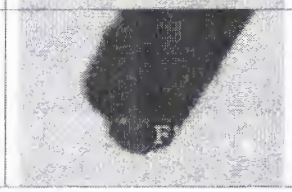
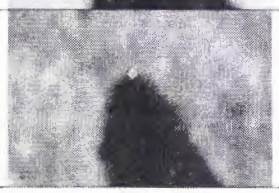
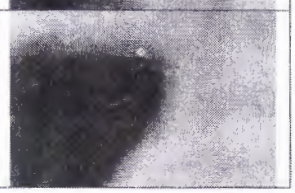
Photo	F1	F2	F3	F4
20				
21				
22				
23				

Table 2

The calibrated focal length = 305.0663 mm

Principal Point

X = -0.0534 mm
Y = -0.0900 mm

Radial Lens Distortion

K1 = 0.0
K2 = -1.519111422E-008
K3 = -1.700886359E-013

K4 = -3.086956228E-016

Radial lens distortion mathematical model

$$dr = K_1 r + K_2 r^3 + K_3 r^5 + K_4 r^7$$

Tangential Distortion parameters

P1 = -2.685236712E-006
P2 = -3.573793129E-007

Tangential lens distortion mathematical model:

$$dx = P_1(2x^2 + y^2) + 2P_2xy$$
$$dy = P_2(2x^2 + y^2) + 2P_1xy$$

Note: On some mapping software the sign of the radial and tangential distortion parameters have a reversed sign. The sign adopted in this report is similar to the definition adopted by the recent USGS camera calibration report.

4 1953 PHOTOS EXTERIOR ORINETAION

Using the bundle adjustment for aerotrianguation, the photo exterior orientation results are shown in Table 3

Photo No	Easting(ft)	Northing(ft)	Elev(ft)	Omeg(deg)	Phi(deg)	Kappa (deg)
20	5703301.545	2354439.082	4663.402	0.417235	0.240070	123.472699
21	5702503.881	2355700.371	4668.206	-0.352779	0.509571	121.309848
22	5701756.524	2356972.299	4662.907	1.003216	-0.092606	121.030239
23	5701452.309	2357483.518	4666.906	1.704867	-1.745550	123.454880

Table 3


25' Bluff Buffer
2011 Bluff
1957 Bluff

Fw: Appeal of San Luis Obispo County Planning Commission Decision Certifying Final Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) and Approval of Project

Board of Supervisors cr_board_clerk Clerk Recorder 12/08/2014 01:05 PM
Jocelyn Brennan

----- Forwarded by Jocelyn Brennan/BOS/COSLO on 12/08/2014 01:05 PM -----

From: Gail Floyd <GFloyd@SJMSLaw.com>
To: "boardofsups@co.slo.ca.us" <boardofsups@co.slo.ca.us>
Cc: Kevin Elder <KElder@SJMSLaw.com>
Date: 12/08/2014 12:09 PM
Subject: FW: Appeal of San Luis Obispo County Planning Commission Decision Certifying Final Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) and Approval of Project

Dear Satacha,
Thank you for taking my call this morning.
Please forward the attached letter to each of the Board of Supervisors.
Thank you,

Gail G. Floyd | Secretary to Kevin D. Elder, Esq
Sinsheimer Juhnke McIvor & Stroh, LLP

gfloyd@sjmslaw.com | www.sjmslaw.com

From: Gail Floyd
Sent: Wednesday, December 03, 2014 11:29 AM
To: 'Bruce Gibson'; 'Debbie Arnold'; 'Adam Hill'; 'Frank Mecham'; 'Caren Ray'
Cc: Kevin Elder (KElder@SJMSLaw.com)
Subject: Appeal of San Luis Obispo County Planning Commission Decision Certifying Final Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) and Approval of Project

Dear Supervisors,
Please find the attached correspondence of today's date from Kevin Elder.
Thank you,

Gail G. Floyd | Secretary to Kevin D. Elder, Esq.
Sinsheimer Juhnke McIvor & Stroh, LLP

gfloyd@sjmslaw.com | www.sjmslaw.com

17BOSLtr-120314.pdf

SJMS

[illegible]

[illegible]
Brian Gibson
Debbie Arnold
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MIMI-MAIL
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fmecham *a* co.slo.ca.us
cray *a* co.slo.ca.us

Re: Appeal of San Luis Obispo County Planning Commission Decision Certifying Final Environmental Impact Report for Deperana Minor Use Permit/Coastal Development Permit (DRC 2013-00021) and Approval of Project

Dear Supervisors Gibson, Arnold, Hill, Mecham and Ray:

On behalf of Donald M. Bladen and Cynthia R. Sagstetter, this letter provides supplemental comments regarding the Project, including comments regarding a new study that was prepared on behalf of Joel Deperana (the "Applicant"). This letter is supplemental to all "Points and Authorities" previously submitted to the County relating to the Project, including but not limited to the April 30, 2014 letter submitted by Stradling Yocca Carlson & Rauth, LLP.

Haro, Kasunich and Associates, Inc. ("HKA") reviewed the "Evaluation of Bluff Geometry Adjacent to Deperana Property" prepared by Shoreline Engineering ("Shoreline") on behalf of the Applicant and dated September 28, 2014, and associated Cal Trans photographs from 1983 and 1965. The results of HKA's analysis of the Shoreline Engineering Study ("Shoreline Study") are set forth in HKA's letter to Ryan Hostetter, Senior County Planner, dated December 2, 2014 and attached as Attachment A.

The Shoreline Study included figures illustrating topographic mapping and cross-sections from 2014 and 1965. Based on analysis of the photographs, Shoreline concludes that the Deperana property is not "coastal bluff" and no portion of the area developed is located within or on the "coastal bluff" as more than ten feet in height. Based on this novel theory, Shoreline purports to support the Applicant's asserted position that the property is "exempt" from coastal setback requirements.

HKA disagrees with the Shoreline Study conclusions. In fact, HKA finds the study's profiles and cross sections prove that the Project is on a bluff and most of the Project is located below the top of the bluff and on the bluff face, in direct contravention of the County LCP.

HKA further explains how to properly determine the vertical elevation difference of the slope and concludes that Shoreline misinterpreted the bluff definition and the results of their analysis. In sum, Shoreline's conclusion is wrong, because it is based on a flawed methodology.

Moreover, HKA indicates that the Caltrans photographs provide additional evidence of marine erosion at the toe of this bluff and therefore, by definition the bluff is a coastal bluff. HKA also found inconsistencies between the Shoreline Study and the FHR Geologic analysis, which raises questions about the accuracy of the Shoreline Study.

The 1953 cross sections in the Shoreline Study show the pre-fill conditions and are useful to determine the amount of natural vertical relief to confirm whether the slope is a bluff or not. They are also helpful in determining the location of the natural bluff top edge, upon which the appropriate setback can be applied. Based on HKA's review, it is apparent that Shoreline misinterpreted the definition of a "bluff", and their results are based on a flawed methodology, which lead to the wrong conclusion that the bluff is not a coastal bluff.

HKA's letter explains that bluff height must include the entire slope, not just the portion within the Toperena property boundaries, which is Shoreline's methodology. The bluff height measurements on the 1953 profiles should include the height between the step-like features indicating the bluff base up to the "Coastal Bluff Top Zone". The 1953 cross sections show the base of bluff elevations varying from elevation 7 to 12 and the top edge of bluff at an elevation between 20 and 21. The resulting difference indicates 8 to 14 feet of vertical relief, depending on the cross section. Therefore, the slope meets the definition of Bluff, because it has a vertical relief of ten (10) feet or more; and the cross sections prove that the entire 1953 slope is in fact a bluff.

Additionally, the definition states that "The cliff or bluff may be simple planar or curved surface or it may be step-like in section." Therefore, a bluff may have some areas that are flatter and some that are steeper. Just because the Toperena property happens to cover a small portion of bluff, which has slightly less than 10 feet of vertical relief, does not change the classification of the geological feature; it is still a bluff. There is nothing in the definition that indicates that a bluff is determined based on the amount of vertical relief on a limited or piecemeal or parcel by parcel basis.

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[1] SLO County Coastal Plan Policies, Policies for Visual and Scenic Resources, Policy 11: Development on Coastal Bluffs: "New development on bluff faces shall be limited to public access stairways and shoreline protection structures."

[2] Per the Coastal Commission Resources for Local Governments glossary *"Bluff or cliff - Escarp or steep face of rock, weathered rock, sediment or soil resulting from erosion, faulting, folding, or excavation of the land mass. The cliff or bluff may be simple planar or curved surface or it may be steplike in section. For purposes of the Statewide Interpretive Guidelines, cliff or bluff is limited to those features having vertical relief of ten feet or more and so cliff is a cliff whose toe is or may be subject to marine erosion."*

The Shoreline Study cross sections also indicate that most of the Loperena property is located below the top of the bluff and on the bluff face. Since SLO Coastal Plan Policy 11 limits new development on bluff faces to public access stairways and shoreline protection structures, the Project on its face clearly violates the LCP.

The Caltrans photographs used in the Shoreline Study provide additional evidence that the toe of the bluff has historically been subject to marine erosion; and therefore in accordance with 14 CCR § 13577 this bluff is a coastal bluff.

HKA found inconsistencies between the 1953 profile and the FIR Geologic Cross Section 1-1', which raises questions about the accuracy of their Study. If we are debating about a couple of feet of vertical relief, it is important to remember that the level of accuracy of Shoreline's analysis has not been established. Also note that the amount of vertical relief has varied over the past 200 years and could have been even greater at some time prior to or after this single 1953 data point. Generally, the Shoreline Study uses data selectively and in a piecemeal fashion, resulting in an erroneous conclusion.

Unfortunately, the Board and your staff has not been provided the topographic surveys prepared by Central Coast Aerial Mapping and or AllGeoMapping that Shoreline used to prepare their report. In order to ascertain the validity of the Shoreline Study, your staff must obtain a copy of the Central Coast Aerial Mapping work products for public review and scrutiny. We also recommend an additional profile be prepared for the area not analyzed, and that erosion and wave run-up analysis be conducted using this new profile.

Because the property is clearly on a coastal bluff, all coastal bluff requirements must be applied including, appropriate set-backs (75 or 100 years of erosion and a minimum of 25 feet) from the natural (pre-fill) top of the bluff, including compliance with LCP limits regarding development on bluff faces, limitations on cantilevering of development beyond set-back areas, and prohibitions on seawalls and residential development masquerading as seawalls.

If for some reason it is determined that any portion of the property is not a coastal bluff, but instead is a "low laying coastal adjacent property" then the Applicant's unprecedented position exempting itself from any set-back whatsoever does not logically follow. Instead, a reasonable and safe set-back must still be applied to this portion of the property by this Board. In order to determine a safe set-back, the Board must require a wave run-up analysis using profiles that account for projected future erosion of the fill on that portion of the property to show where wave run-up will reach during the life of the development. However, in no case should development occur seaward of the 25 foot contour line on the property as it currently exists, based on the Applicant's most recent wave run-up study. In addition, if part of the property is determined to be a fluvial bluff, instead of a coastal bluff, then an additional 50 foot riparian setback must be applied where appropriate along the fluvial bluff.

In conclusion, it is clear the Applicant's oceanfront property is on a coastal bluff. Yet even if it weren't, that does not support the Applicant's illogical position that no set-back is appropriate and that a home cantilevered out over the sandy beach is somehow allowable. Instead some reasonable set-back is mandated to protect the public beach as well as the future residents of any development on the site. At a minimum, a 25 ft set-back is required from the top of the bluff, which has yet to be established. We look forward to working with your Board to resolve these important questions.

Sincerely,

SINSHEIMER JUHKE McIVOR & STROH LLP

KEVIN D. HIDER

KDH:ggt
K:\Pleadings\003 Lopez\ena Ltr 12BOSLtr-120314.doc
Enclosure

cc: Ms. Ryan Hostetter, Senior County Planner (via e-mail)

Hall K

2 December 14
Project No. SLO9515

Re: Review of Bluff Geometry Adjacent to Loperena Property
prepared by Shoreline Engineering dated 9/28/14

Reference: Loperena Major Use Permit/Coastal Development Permit DRC2005-00216
ER No. 05-EIR-44

Dear Ms. Hostetter

We are in receipt of the Evaluation of Bluff Geometry Adjacent to Loperena Property prepared by Shoreline Engineering dated 9/28/14 as well as aerial photography obtained from Cal Trans dated December 1953 and 1963 that Shoreline Engineering subsequently provided.

Based on our review, we believe Shoreline Engineering misinterpreted the bluff definition contained in the Glossary of the California Coastal Commission Resources for Local Governments webpage (http://www.coastal.ca.gov/la/glossary.html) which contains the following definition: "Bluff or cliff. A high steep face of rock, weathered rock, sediment or soil resulting from erosion, faulting, or excavation of the land mass. The cliff or bluff may be simple planar or curved surface or it may be steplike in section. For purposes of the State Coastal Conservancy's program, a cliff or bluff is limited to those features having vertical relief of ten feet or more and a cliff or bluff face which is or may be subject to marine erosion." and the results of our own analysis. We conclude that the cross sections prove that the entire 1953 slope below elevation 20 to 21 is in fact a bluff. The 1953 cross sections indicate this slope meets the definition of Bluff, because it has a vertical relief of ten (10) feet or more.

In fact, the bluffs on the Loperena property are contoured just like classic coastal bluffs are as defined by the Glossary on the California Coastal Commission Resources for Local Governments webpage which states that "The cliff or bluff may be simple planar or curved surface or it may be stepike in section." Therefore, by definition a bluff may have some areas that are flatter and some that are steeper. Just because the Loperena property happens to cover a small portion of a bluff which has slightly less than 10 feet of vertical relief does not change the geomorphic classification of the area. It is still a bluff. Even if Shoreline Engineering were correct that an insignificant portion of the bluff has a total height less than 10 feet (nothing in the definition indicates that a bluff is determined based on the portion of it's height within the boundaries of the parcel proposed for development).

The cross sections also indicate that most of the Loperena property is located below the top of the bluff and in the bluff face. The Visual and Scenic Resources section of the County of San Luis Obispo Local Coastal Program Policy Document entitled "Coastal Plan Policies" states that "New development on bluff faces shall be limited to public access stairways and shoreline protective structures" the latter of which are applicable to the proposed development on the Loperena property.

The Caltrans photographs used in the Shoreline Engineering study provide additional evidence that the toe of the bluff has historically been subject to marine erosion; and therefore this bluff is a coastal bluff. Figures 5 and 6 (attached) are the Caltrans photographs, which show evidence of recent erosion on both the Sugimoto and Loperena properties. The evidence of erosion includes areas of barren rock and areas stripped of vegetation. Evidence of ocean wave runup onto the Loperena property is visible in both Figures 5 and 6 and on Figure 8 (taken before the construction of Highway 1) and Figure 9 (taken after the construction of Highway 1 which involved placement of fill on the Loperena property). Our submittal "Review of Draft EIR Comments" dated 1 August 2013 photographically documents wave runup reaching and impacting the bluff face on the Loperena property during the last few years.

We request a copy of the Central Coast Aerial Mapping work products that are signed and stamped by the preparer. We recommend an additional profile be prepared for the area not analyzed, and that erosion and wave run-up analysis be conducted using this new profile. San Luis Obispo County staff and the EIR consultants must have a copy of this information to verify the position of the top edge of the bluff and the bluff face on the Loperena property relative to the position of the proposed development and the geologic and coastal hazards it is exposed to, including coastal erosion and wave runup.

The following comments provide more detail on these issues.

1. The Bluff Geometry document included figures illustrating topographic mapping and cross sections from 2014, as well as topographic mapping and cross sections from 1953. We have not seen complete copies of the 1953 and 2014 topographic surveys prepared by Central Coast Aerial Mapping that Shoreline Engineering used to prepare these figures.

   The Shoreline figure depicting 2014 topography has a one foot contour interval and the Shoreline figure depicting 1953 topography has a three foot contour interval. The nine accompanying cross sections suggest that the photogrammetrist at Central Coast Aerial Mapping had sufficient photogrammetric detail to illustrate one foot contours on the 1953 topography. We request the opportunity to review the complete set of work products prepared by Central Coast Aerial Mapping. We anticipate that one foot contours on the 1953 topographic map will make the bluff face position more apparent on that map.

2. The cross sections associated with the 1953 and 2014 Topographic Surveys reveal approximately 7 feet of fill blanketing the upper portion of the cross sections in 2014 , as shown on attached Figure 1. The 1953 cross sections show the pre-fill conditions and may be useful to determine the amount of natural vertical relief to confirm that the slope is a bluff. It is also helpful in determining the location of the natural bluff top edge, upon which the appropriate setback can be applied.

3. Shoreline states "No portion of the pre-development coastal bluff or the fluvial bluff is more than ten feet in height." We disagree.

   The bluff height must include the entire slope, not just the portion within the Loperena property boundaries. The bluff height measurements on the 1953 profiles should include the height of the steplike features shown on Sections N-S 0+50.00 and 60.00, and up to the "Coastal Bluff Top Zone" see attached Figure 1. The 1953 cross sections show the top edge of bluff at elevation 20 to 21 NAVD88, and the base of bluff elevations varying from elevation 7 to 12 NAVD88. The units of measurement were not indicated on the Shoreline cross sections, but are presumably in feet. The resulting difference indicates 8 to 14 feet of vertical relief, depending on the cross section.

4. Bluff faces are frequently stepped. Erosion and the [illegible] position of the bluff edge may be changed by a variety of processes. While the ultimate landward retreat of the bluff edge through coastal erosion or human activities to beach elevation also result in changes in bluff height. The elevation of the base of the bluff in 1953 is determined by the step in elevation on the cross sections (natural, undisturbed slopes). Figure 1 and comparison to the 1953 photo showing the change in the sandy beach to the bluff toe. The height of "steps" in the cross sections should be included in the total bluff height. Although the back edge of the nearshore step (+12 feet NAVD88) could be included, elevation 12 as shown on the 1953 cross sections is not a bluff. Bluff toe elevations vary between elevation 7 and 12 depending on the cross section.

The step-like feature may be a bedrock bluff top or may consist of a stable, vegetated sand. If the step is bedrock, it is the lower portion of the natural bluff and its height should be included in the measurement of total bluff height. It should be delineated as the "Bottom of 1953 Bluff" and the elevation of the "Top Edge of 1953 Bluff" where indicated on Figure 1. If it is accumulated beach sand, then when the sand is naturally removed at the back edge of the beach, the buried lower portion of the cliff is exposed and the total bluff height can be measured. If the step is not bedrock, then historical erosion at the toe of the coastal bluff should be included in the measurement of total bluff height using the elevation of the "Bottom of Bluff with erosion" and the elevation of the "Top Edge of 1953 Bluff" where indicated on Figure 1. In either case, there is ten feet or greater of vertical relief in 1953, substantiating that the area is a bluff.

Sandy back beach areas typically vary seasonally and some may episodically from year to year and periodically erode until the full bluff height consists of a stable bluff is similar in gradient. It is our opinion that

a) scour sometimes historically has reached the back of the beach [illegible] decreasing the visible bluff height
b) at such low elevations, ocean wave impact likely acts directly at the toe of bluff faces on the Loperena property, thereby causing "marine erosion" as defined in 14 CCR section 13577 (h) (2).

The Shoreline Engineering study developed cross sections based on a detailed and complicated analysis of 1953 photographs and estimated the elevation of the bluffs. Based on our interpretation of the cross sections as provided by the Shoreline Engineering analysis, there was ten feet or greater of vertical relief in 1953 substantiating that the area is a bluff. If Shoreline Engineering wants to debate over a couple of feet of vertical relief, it is important to remember 1) that their analysis is subject to error and the level of accuracy of their analysis has not been established, and 2) the amount of vertical relief has varied over the past 200 years and could have been even greater at some time prior to or after this single 1953 data point, since beach scour and accretion naturally exposes greater or lesser amounts of bluff face height year to year and season to season.

We ask that you consider that the present 2014 bluff top area is at an elevation of +27 feet NAVD88, as shown on Figure 1. Using the current beach sand elevation of +12 feet NAVD88, that makes the current 2014 bluff face 15 feet high. In their analysis of wave runup, Geosoils Inc. projects that vertical erosion (beach scour) at the base of the present bluffs fronting the Loperena property will occur down to an elevation of +3 feet NAVD88, approximately 9 feet below the existing elevation of the sub-aerial landward edge of the beach. Accounting for this scour and erosion, that makes the bluff face 24 feet high.

5. A large gap exists in the array of cross sections provided in the Shoreline Engineering Study; between N-S 0+70.00 and S-P.L. 0+50.00. Figures 2 and 3 shows the

recommended location for an additional cross section, highlighted in pink, on the 2014 and 1953Topographic Surveys from pages 4 and 5 of the Shoreline Engineering study, respectively This is the area of the Loperena Property most exposed to future erosion and bluff recession and where the EIR geologist (Cotton Shires) has indicated that beach sand underlies a portion of the proposed building area footprint (see Cotton Shires Geologic Cross Section 1-1') We recommend Shoreline Engineering prepare another profile in this area where shown on attached Figures 2 and 3. Additionally we recommend erosion and wave run-up analysis be conducted using that profile as well as 2014 Profile N-S 0+70 00

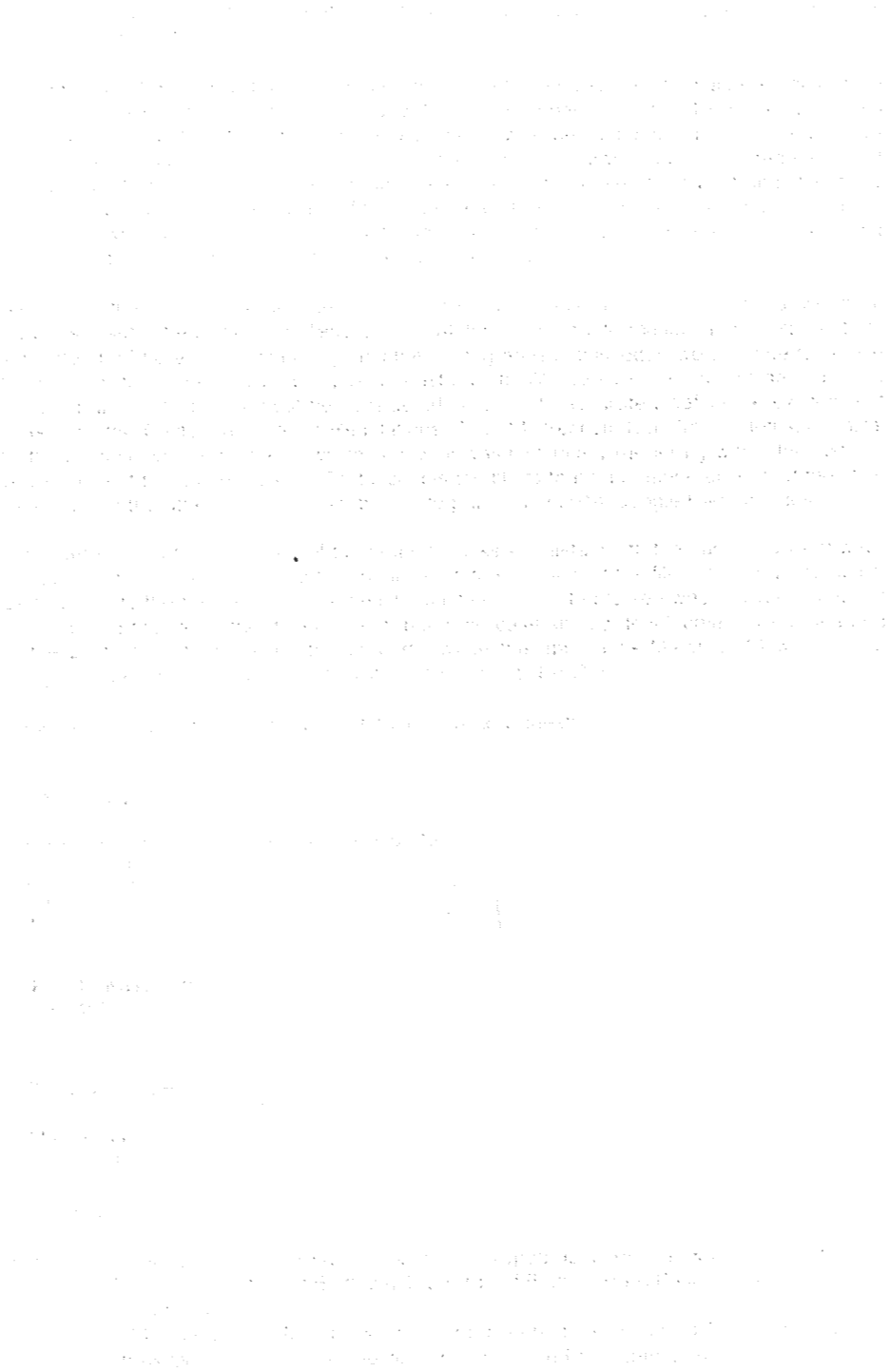
6 Comparison of the 2014 Sections and the 1953 Sections S PL 0+20 00 30 00 40 00 and 50 00 indicate that fill exists down to elevation 12 on the Loperena property This material was placed on the Loperena property between 1953 and 2014 and is subject to future erosion Because of rising sea level, future erosion at the elevation where this fill is located is a significant hazard. Blufftop setbacks should be determined using this anticipated future erosion of this fill and the resultant bluff recession Wave run-up analysis should be conducted using profiles that account for projected future erosion of this fill, which extends out to the back edge of the beach

7 The N-S profiles are incompatible with the geology previously mapped by Cotton Shires Cotton Shires mapped bedrock exposed in the bluff face adjacent to the back edge of the beach sand (see Cotton Shires Geologic Cross Section 1-1'). Where the ground surface on the 2014 profile is higher in elevation or further seaward than the position of the 1953 profile that should be because there is fill or beach sand that has been placed or accumulated there There is bedrock presently exposed on portions of the bluff face in areas where the 1953 profile is shown at lower elevation or landward position see attached Figure 2 That casts doubt on the accuracy of the 1953 profiles. because bedrock has only eroded since 1953, not accreted

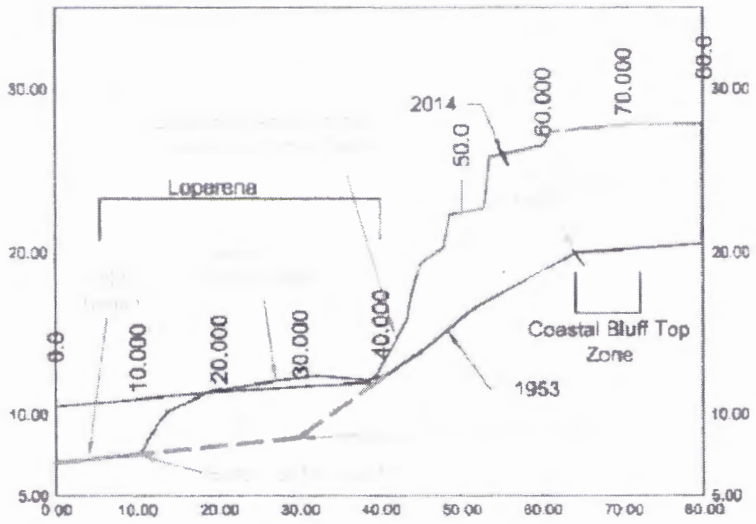
8 California Coastal Commission (CCC) Engineering Geologist Dr Mark Johnsson indicated that if a portion of the bluffs on the upcoast area of the Loperena property were classified as fluvial bluffs where bluff edge setbacks do not apply then minimum coastal development setbacks should be determined and applied based on the inland extent of wave run-up that may occur during the expected life of the development. Based on the March 12, 2014 wave runup study by the applicant's consultant (GeoSoils Inc) using 5 5 feet of sea level rise, this indicates, that development must be located inland from the 25 foot contour line on the property. This is calculated as follows: Scoured beach elevation of +3 1 feet NAVD88 plus Ds of 9 feet plus R of 12.95 feet = Runup Elevation of 25 05 Feet NAVD88 An analysis of wave run-up using profiles that account for projected future erosion of the fill on the property, which extends out to the back edge of the beach, may result in higher run-up elevations and further landward setbacks Riparian setbacks may also apply along a fluvial bluff

9 Based on the 1953 cross sections provided in the Shoreline Engineering study, we have mapped the top edge of the natural 1953 bluff on the 1953 and 2014 topographic maps provided Shoreline Engineering, see attached Figures 2 and 3 Most of the proposed development on the Loperena property is located below the top of the bluff and on the bluff face SLO Coastal Plan Policies page 10-10, Policy 11 Development on Coastal Bluffs states 'New development on bluff faces shall be limited to public access stairways and shoreline protection structures. Our understanding of Policy 11 is that a residential development is not allowed on the bluff face

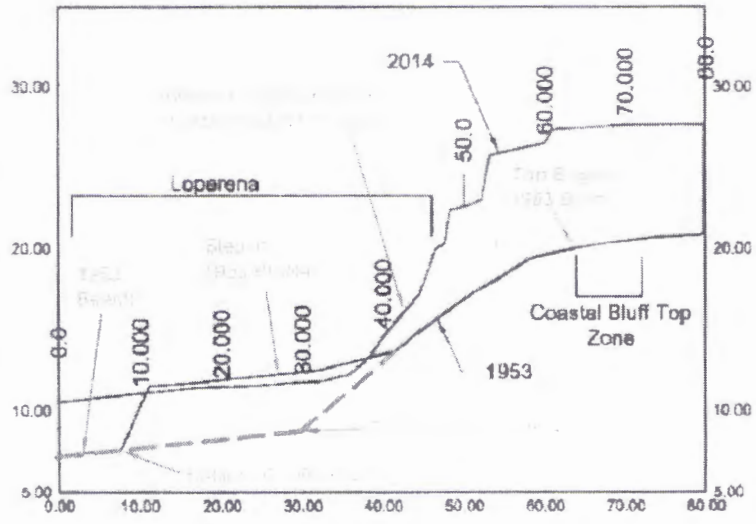
10 We have put the approximate property boundaries on a 2013 Google Earth image 1965 Caltrans aerial photo and on a 1953 Caltrans aerial photo and have made prints at



Coastal Bluff Sections
N-S Line Alignment



Align: N-S 0+50.00

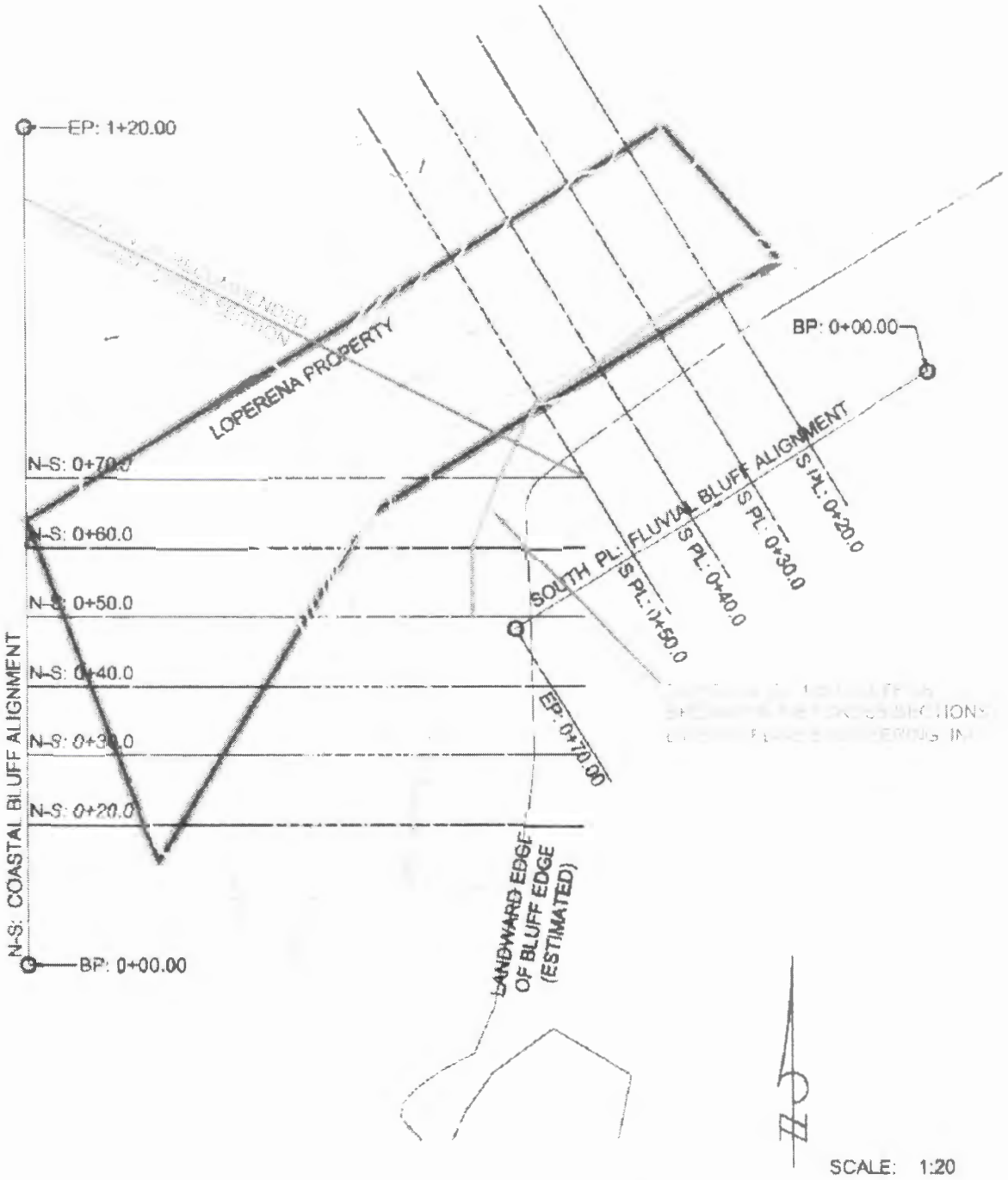


Align: N-S 0+60.00

SCALE: 1:20, HORIZ; 1:10, VERT
SECTIONS LOOKING NORTHERLY

Loperena: Studio Drive, Cayucos

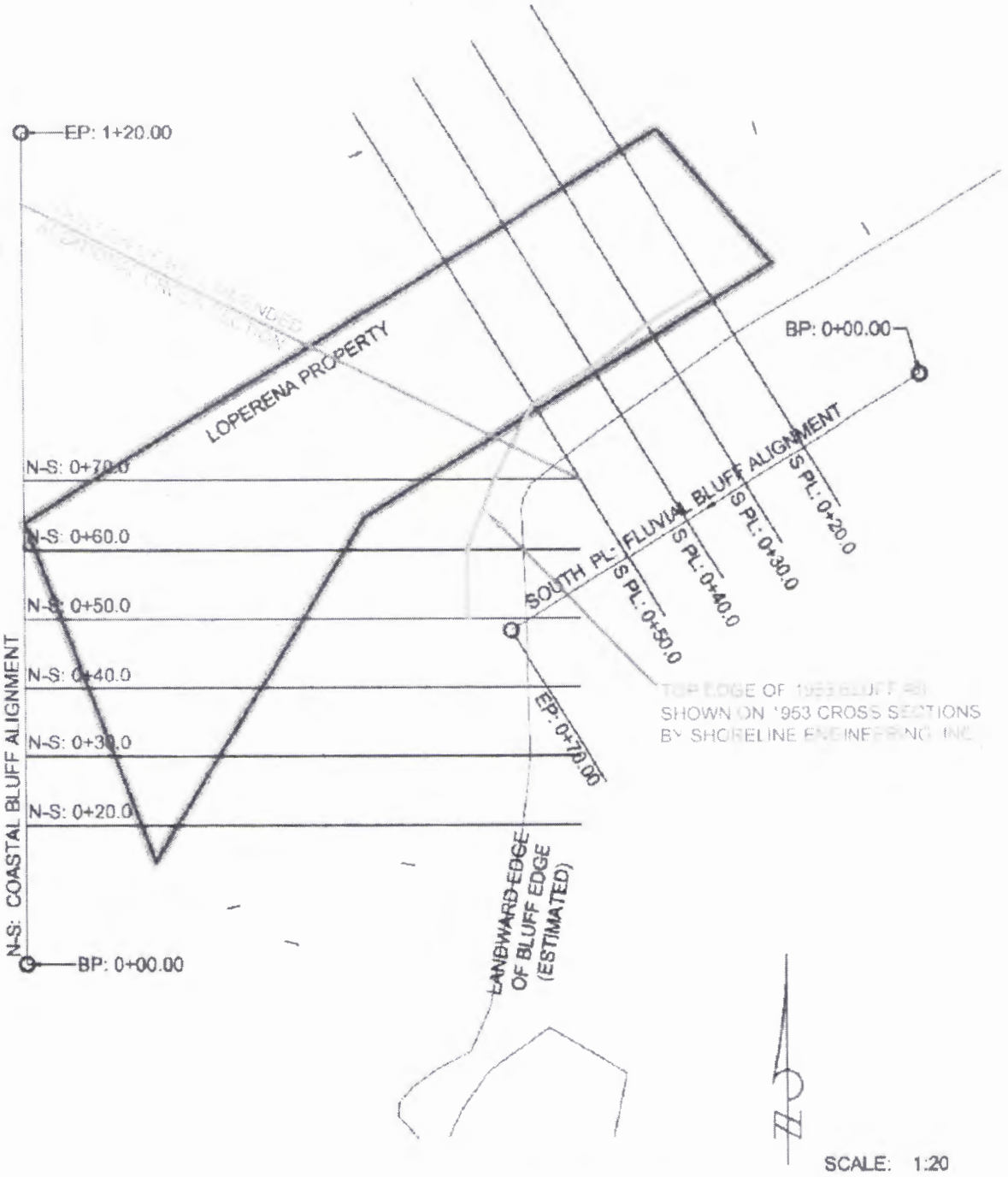
2014 Topographic Survey



Loperena: Studio Drive, Cayucos

2014 Topographic Survey

MARIO KASUNICH & ASSOCIATES INC.



Loperena: Studio Drive, Cayucos

1953 Topographic Survey

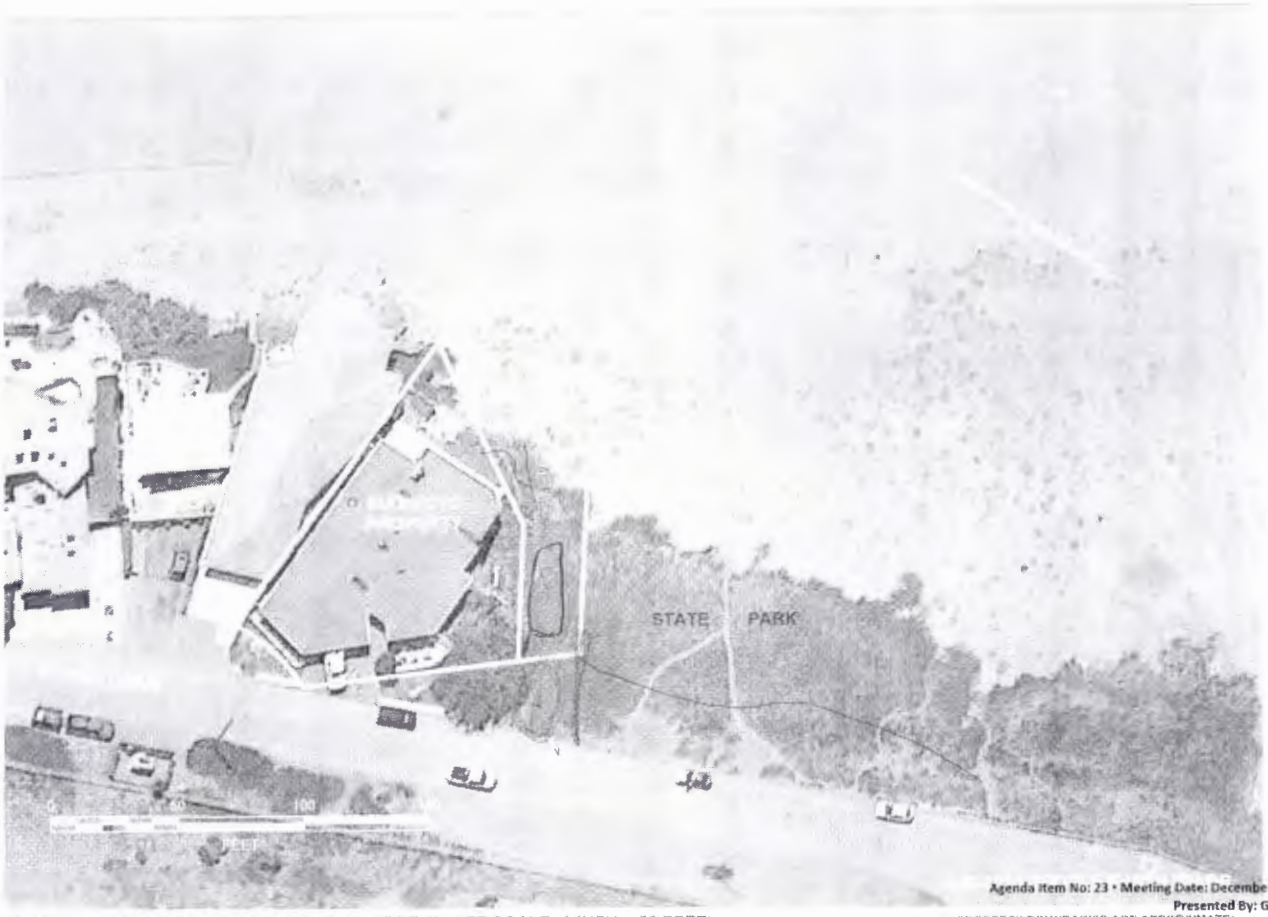


FIGURE 4 - 2013 GOOGLE EARTH IMAGE (APPROXIMATE SCALE: 1 INCH = 50 FEET)

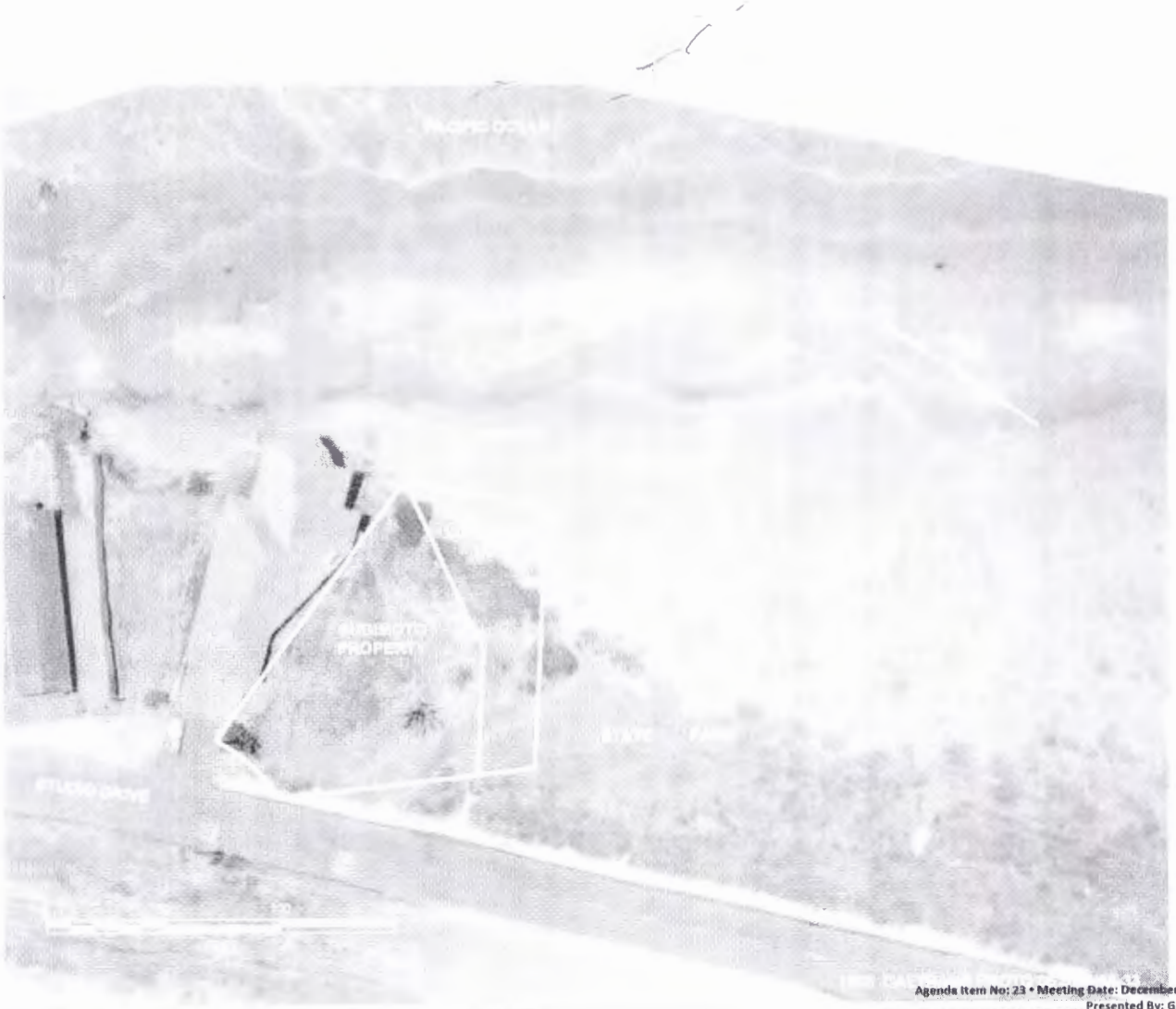


FIGURE 5 - 1965 CALTRANS AERIAL PHOTOGRAPH (APPROXIMATE SCALE: 1 INCH = 50 FEET)

(PROPERTY BOUNDARIES ARE APPROXIMATE)

FIGURE 8 - 1965 CALTRANS AERIAL PHOTOGRAPH (APPROXIMATE SCALE: 1 INCH = 200 FEET)

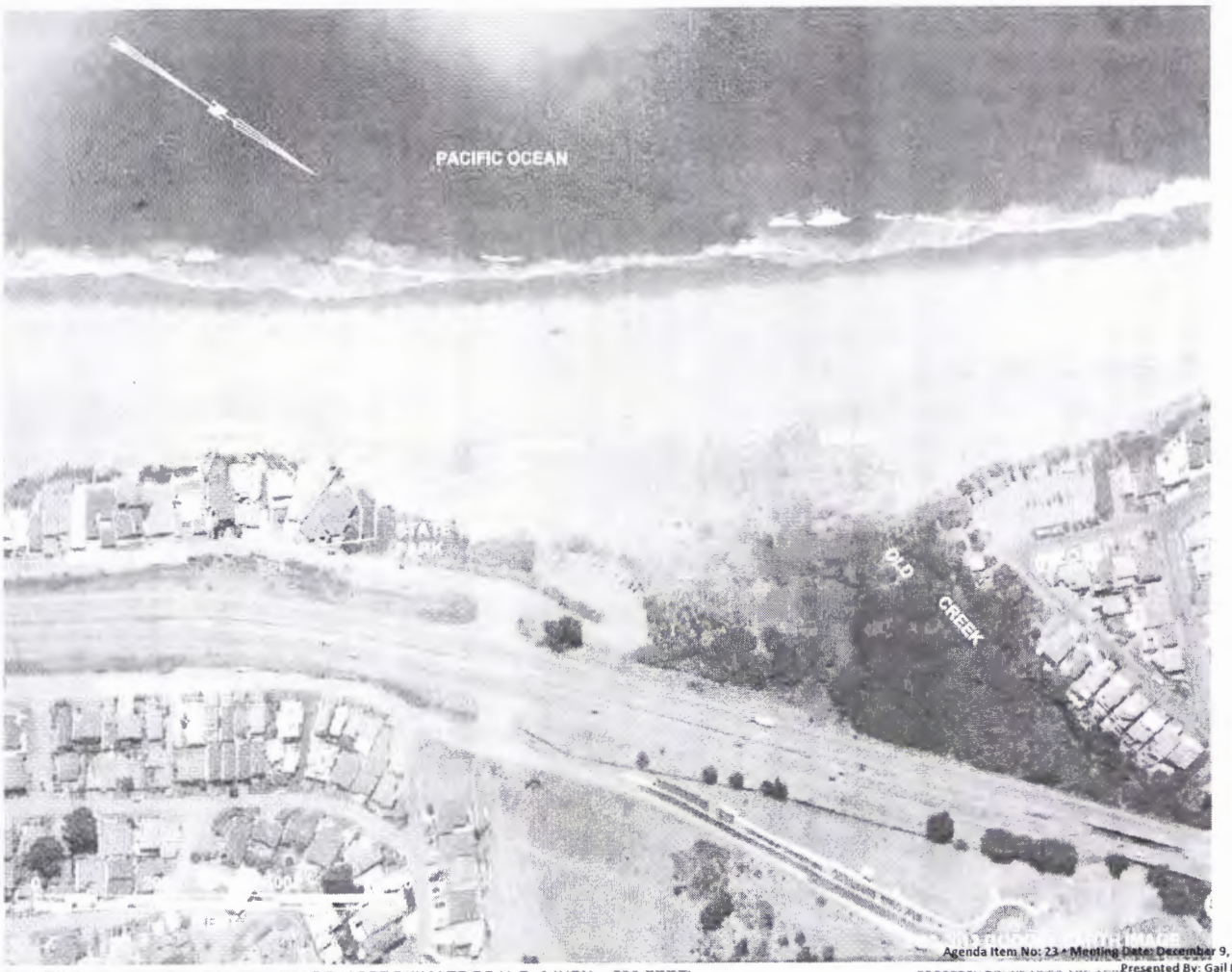


FIGURE 7 - 2013 GOOGLE EARTH IMAGE (APPROXIMATE SCALE: 1 INCH = 200 FEET)

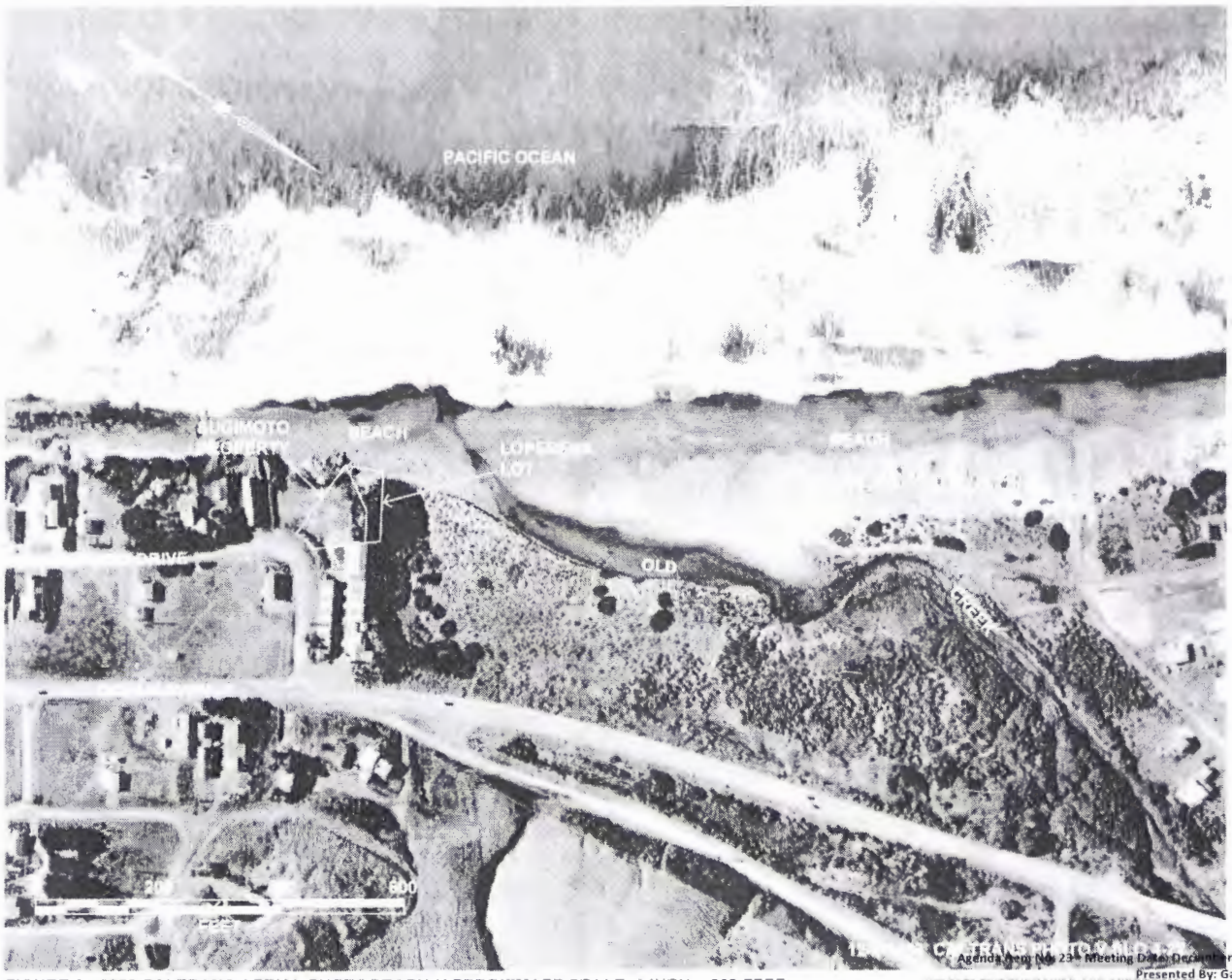


FIGURE 9 - 1953 CALTRANS AERIAL PHOTOGRAPH (APPROXIMATE SCALE: 1 INCH = 200 FEET)

Fw: Appeal of San Luis Obispo County Planning Commission Decision Certifying Final Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) and Approval of Project

Board of Supervisors — BOS_Legislative Assistants, cr_board_clerk Clerk Recorder — 12/08/2014 01:09 PM

Cytasha Campa

----- Forwarded by Cytasha Campa/BOS/COSLO on 12/08/2014 01:09 PM -----

From: Kevin Elder <KElder@SJMSLaw.com>
To: Gail Floyd <GFloyd@SJMSLaw.com>, "boardofsups@co.slo.ca.us" <boardofsups@co.slo.ca.us>,
Date: 12/08/2014 12:14 PM
Subject: RE: Appeal of San Luis Obispo County Planning Commission Decision Certifying Final Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) and Approval of Project

Dear Satacha, please note that the letter was originally emailed to each supervisor on December 3rd, as indicated in the first email below. It was transmitted that way at the instruction of the clerk of the board. I hope that the original delivery date is relayed to the supervisors.

Thank you for your assistance.

Kevin

Kevin D. Elder | Associate
Sinsheimer Juhnke McIvor & Stroh, LLP

kelder@sjmslaw.com | www.sjmslaw.com

From: Gail Floyd
Sent: Monday, December 08, 2014 12:07 PM
To: boardofsups@co.slo.ca.us
Cc: Kevin Elder
Subject: FW: Appeal of San Luis Obispo County Planning Commission Decision Certifying Final Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) and Approval of Project

Dear Satacha,
Thank you for taking my call this morning.
Please forward the attached letter to each of the Board of Supervisors.
Thank you,

Sinsheimer Juhnke Mclvor & Stroh, LLP

gfloyd@sjmslaw.com www.sjmslaw.com

From: Gail Floyd
Sent: Wednesday, December 03, 2014 11:29 AM
To: 'Bruce Gibson'; 'Debbie Arnold'; 'Adam Hill'; 'Frank Mecham'; 'Caren Ray'
Cc: Kevin Elder (kElder@SJMSLaw.com)
Subject: Appeal of San Luis Obispo County Planning Commission Decision Certifying Final Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) and Approval of Project

Dear Supervisors,
Please find the attached correspondence of today's date from Kevin Elder.
Thank you,

Sinsheimer Juhnke Mclvor & Stroh, LLP

Agenda Item No: 23 • Meeting Date: December 9, 2014
Presented By: Kevin Elder
Rec'd prior to the meeting & posted on: December 8, 2014

Fw: Appeal of San Luis Obispo County Planning Commission Decision Certifying Final Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) and Approval of Project

Cytasha Campa | BOS_Legislative Assistants, cr_board_clerk Clerk Recorder | 12/08/2014 01:23 PM

Kindest regards,

Cytasha Campa

Board Secretary

Board of Supervisors

San Luis Obispo County

805-781-4335

----- Forwarded by Cytasha Campa/BOS/COSLO on 12/08/2014 01:22 PM -----

From: Ryan Hostetter/Planning/COSLO
To: Cytasha Campa/BOS/COSLO@Wings,
Date: 12/08/2014 11:45 AM
Subject: Fw: Appeal of San Luis Obispo County Planning Commission Decision Certifying Final Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) and Approval of Project

Hi Cytasha,

After meeting with Supervisor Mecham this morning I found out that the Board may not have received the correspondence below. They wanted to send directly to the Board so I am hoping you can help? This is for an agenda item on tomorrows Board hearing (agenda item no. 23) Thanks so much!

Ryan Hostetter, LEED AP
County of San Luis Obispo
Current Planning and Permitting
(805) 788-2351

Dec 3 letter from neighbor 17BOSLtr-120314.pdf

----- Forwarded by Ryan Hostetter/Planning/COSLO on 12/08/2014 11:38 AM -----

From: Annette Ramirez/ClerkRec/COSLO
To: Ryan Hostetter/Planning/COSLO@Wings
Cc: Catrina Christensen/ClerkRec/COSLO@Wings
Date: 12/08/2014 11:38 AM
Subject: Re: Appeal of San Luis Obispo County Planning Commission Decision Certifying Final Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) and Approval of Project

Hi Ryan,

This email doesn't look like it ever was sent to the Clerk of the Board. So unless the Board or the Board's secretary forwards them to us, we are unaware of the emails that they receive.

You may want to check with Cytasha in the Board of Supervisors Office since I believe she assists with the emails the Board receives.

Annette Ramirez | Deputy Clerk-Recorder | San Luis Obispo County Clerk-Recorder
1055 Monterey Street, Suite D120 | San Luis Obispo, CA 93408
Telephone: (805) 781-5145 | Fax: (805) 781-1111 | Website: www.SLOvote.com
www.facebook.com/slocountyclerkrec | www.twitter.com/slocountyclerk

Ryan Hostetter Hi Catrina and/or Annette, I just met with Supervi... 12/08/2014 10:31:43 AM

From: Ryan Hostetter/Planning/COSLO
To: Catrina Christensen/ClerkRec/COSLO@Wings, Annette Ramirez/ClerkRec/COSLO@Wings
Cc: Kevin Elder <KElder@SJMSLaw.com>, Gail Floyd <GFloyd@SJMSLaw.com>
Date: 12/08/2014 10:31 AM
Subject: Re: Appeal of San Luis Obispo County Planning Commission Decision Certifying Final Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) and Approval of Project

Hi Catrina and/or Annette,

I just met with Supervisor Mecham and I mentioned that a packet was sent to them from Kevin Elder (see email below) and he had not received it. Can you check for me to make sure that all the Board members are receiving the information in the email below with the attachment?

Thank You,

Ryan Hostetter, LEED AP
County of San Luis Obispo
Current Planning and Permitting
(805) 788-2351

Gail Floyd Dear Ms. Hostetter, Please find the attached cor... 12/03/2014 11:34:16 AM

SJMS

December [illegible], 2014

San Luis Obispo County Board of Supervisors
Frank Mecham
Debbie Arnold
John Ash
Adam Hill
Caleb Mountjoy
Glen Ray
County Government Center, Room D430
San Luis Obispo, California 93408

VIA E-MAIL
bgibson@co.slo.ca.us
darnold@co.slo.ca.us
jhill@co.slo.ca.us
fmecham@co.slo.ca.us
cmountjoy@co.slo.ca.us
gray@co.slo.ca.us

Re: Appeal of San Luis Obispo County Planning Commission's December 5, 2013 Final Environmental Impact Report for the Operena Mixed Use Project and Development Permit DRC2006-00126; Appeal No. A-3-SLO-14-0068

Dear Supervisors Gibson, Arnold, Hill, Mecham and Ray:

On behalf of Jack Operena (the "Applicant"), I write to supplement the Applicant's previous comments regarding the Project, including comments submitted on January 31, 2014 by Stolfus & Associates on behalf of the Applicant and previously submitted to the County relating to the Project, and the April 28, 2014 letter submitted by Stephanie Rexrode of Stolfus & Associates (the "April 28, 2014 Letter").

Hexagon Transportation Consultants, Inc. ("Hexagon") reviewed the "Evaluation of Bluff Recession Adjacent to Operena Property" prepared by Shoreline Engineering ("Shoreline") on behalf of the Applicant and dated September 28, 2014, and assessed California photographs from 1985 and 2005. The results of Hexagon's analysis of the Shoreline Engineering Study ("Shoreline Study") are set forth in Hexagon's letter to Ryan Hostetter, Senior County Planner, dated December 2, 2014 and attached as Attachment A.

The Shoreline Study included figures illustrating historic bluff recession rates over the 29-year period from 2014 and 1985, based on analysis of the photographs. Shoreline concludes that the Operena property is not located on coastal bluff and that portions of the property located on the coastal bluff is more than ten feet to its north. Based on this novel theory, Shoreline, presumably, takes the unprecedented position that the Project is not subject to any bluff setback requirements.

HKA disagrees with the Shoreline Study conclusions. In fact, HKA finds the study's profiles and cross sections prove that the Project is on a bluff and most of the Project is located below the top of the bluff and on the bluff face, in direct contravention of the County LCP[1].

HKA further explains how to properly determine the vertical elevation difference of the slope and concludes that Shoreline misinterpreted the bluff definition and the results of their analysis. In sum, Shoreline's conclusion is wrong, because it is based on a flawed methodology.

Moreover, HKA indicates that the Caltrans photographs provide additional evidence of marine erosion at the toe of this bluff and therefore, by definition the bluff is a coastal bluff. HKA also found inconsistencies between the Shoreline Study and the EIR Geologic analysis, which raises questions about the accuracy of the Shoreline Study.

The 1953 cross sections in the Shoreline Study show the pre-fill conditions and are useful to determine the amount of natural vertical relief to confirm whether the slope is a bluff or not. They are also helpful in determining the location of the natural bluff top edge, upon which the appropriate setback can be applied. Based on HKA's review, it is apparent that Shoreline misinterpreted the definition of a "bluff"[2], and their results are based on a flawed methodology, which lead to the wrong conclusion that the bluff is not a coastal bluff.

HKA's letter explains that bluff height must include the entire slope, not just the portion within the Loperena property boundaries, which is Shoreline's methodology. The bluff height measurements on the 1953 profiles should include the height between the step-like features indicating the bluff base up to the "Coastal Bluff Top Zone". The 1953 cross sections show the base of bluff elevations varying from elevation 7 to 12 and the top edge of bluff at an elevation between 20 and 21. The resulting difference indicates 8 to 14 feet of vertical relief, depending on the cross section. Therefore, the slope meets the definition of Bluff, because it has a vertical relief of ten (10) feet or more; and the cross sections prove that the entire 1953 slope is in fact a bluff.

Additionally, the definition states that "The cliff or bluff may be simple planar or curved surface or it may be step-like in section." Therefore, a bluff may have some areas that are flatter and some that are steeper. Just because the Loperena property happens to cover a small portion of bluff, which has slightly less than 10 feet of vertical relief, does not change the classification of the geological feature; it is still a bluff. There is nothing in the definition that indicates that a bluff is determined based on the amount of vertical relief on a limited or piecemeal or parcel by parcel basis.

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[1] SLO County Coastal Plan Policies, Policies for Visual and Scenic Resources, Policy 11: Development on Coastal Bluffs. "New development on bluff faces shall be limited to public access stairways and shoreline protection structures."

[2] Per the Coastal Commission Resources for Local Governments glossary *"Bluff or cliff: A steep or steplike face of rock, decomposed rock, sediment or soil resulting from erosion, faulting, folding, or excavation of the land mass. The cliff or bluff may be simple planar or curved surface or it may be steplike in section. For purposes of this Statewide Interpretive Guideline, cliff or bluff is limited to those features having vertical relief of ten feet or more and a cliff or bluff face, which is or may be subject to marine erosion."*

The Shoreline Study cross sections also indicate that most of the Loperena property is located below the top of the bluff and on the bluff face. Since SLO Coastal Plan Policy 11 limits new development on bluff faces to public access stairways and shoreline protection structures, the Project on its face clearly violates the LCP.

The Caltrans photographs used in the Shoreline Study provide additional evidence that the toe of the bluff has historically been subject to marine erosion; and therefore in accordance with 14 CCR § 13577 this bluff is a coastal bluff.

HKA found inconsistencies between the 1953 profile and the FIR Geologic Cross Section 1-1', which raises questions about the accuracy of their Study. If we are debating about a couple of feet of vertical relief, it is important to remember that the level of accuracy of Shoreline's analysis has not been established. Also note that the amount of vertical relief has varied over the past 200 years and could have been even greater at some time prior to or after this single 1953 data point. Generally, the Shoreline Study uses data selectively and in a piecemeal fashion, resulting in an erroneous conclusion.

Unfortunately, the Board and your staff has not been provided the topographic surveys prepared by Central Coast Aerial Mapping and or AllGeoMapping that Shoreline used to prepare their report. In order to ascertain the validity of the Shoreline Study, your staff must obtain a copy of the Central Coast Aerial Mapping work products for public review and scrutiny. We also recommend an additional profile be prepared for the area not analyzed, and that erosion and wave run-up analysis be conducted using this new profile.

Because the property is clearly on a coastal bluff, all coastal bluff requirements must be applied including, appropriate set-backs (75 or 100 years of erosion and a minimum of 25 feet) from the natural (pre-fill) top of the bluff, including compliance with LCP limits regarding development on bluff faces, limitations on cantilevering of development beyond set-back areas, and prohibitions on seawalls and residential development masquerading as seawalls.

If for some reason it is determined that any portion of the property is not a coastal bluff, but instead is a "low laying coastal adjacent property" then the Applicant's unprecedented position exempting itself from any set-back whatsoever does not logically follow. Instead, a reasonable and safe set-back must still be applied to this portion of the property by this Board. In order to determine a safe set-back, the Board must require a wave run-up analysis using profiles that account for projected future erosion of the fill on that portion of the property to show where wave run-up will reach during the life of the development. However, in no case should development occur seaward of the 25 foot contour line on the property as it currently exists, based on the Applicant's most recent wave run-up study. In addition, if part of the property is determined to be a fluvial bluff, instead of a coastal bluff, then an additional 50 foot riparian setback must be applied where appropriate along the fluvial bluff.

In conclusion, it is clear the Applicant's oceanfront property is on a coastal bluff. Yet even if it weren't, that does not support the Applicant's illogical position that no set-back is appropriate and that a home cantilevered out over the sandy beach is somehow allowable. Instead, some reasonable set back is mandated to protect the public beach as well as the future residents of any development on the site. At a minimum, a 25-ft set-back is required from the top of the bluff, which has yet to be established. We look forward to working with your Board to resolve these important questions.

Sincerely,

SINSHEIMER JUHNKE McIVOR & STROH LLP

KEVIN D. LEDER

KDL:ggf
K:\Pladow\E 003 Coperena Ltr 12BOS1-12031.docx
Enclosure

cc: Ms. Ryan Hostetter, Senior County Planner (via e-mail)

Agenda Item No: 23 • Meeting Date: December 9, 2014
Presented By: Planning and Building Staff
Rec'd prior to the meeting & posted on: December 8, 2014

[illegible]

[illegible]
[illegible]
[illegible] and Building
[illegible] Government Center Room 200
[illegible] 2040

[illegible] E Kaminski/E 455

[illegible] Review of Bluff Geometry Adjacent to [illegible] Property
[illegible] by Shoreline Engineering dated 9/28/14

[illegible] Minor Use Permit Coastal Development Permit
[illegible] 044

[illegible]

We are in receipt of a Evaluation of Bluff Geometry Adjacent to [illegible] Property prepared by Shoreline Engineering dated 9/28/14 as well as aerial photographs [illegible] plans dated December 2, 1953 and 1961 that Shoreline Engineering subsequently provided.

Upon review we believe Shoreline Engineering misinterpreted the definition contained in the Glossary on the California Coastal Commission Resources for Local Governments webpage (http://www.coastal.ca.gov/la/glossary.html) which provides the following definition: *Bluff or cliff: A scarp or steep face of rock, weathering, folding or excavation of the land mass, wherein the inclination is very steep to vertical. A cliff may be simple planar or curved surface or it may be steplike in section. For purposes of this definition, a cliff or bluff is limited to those features having a vertical relief of ten feet or more, and a bluff is a cliff whose toe is or may be subject to marine erosion.* We have reviewed the cross sections and the results of their own analysis. We conclude that the cross sections clearly show that the entire 1953 slope below elevation 20 to 21 is in fact a bluff. The 1953 cross sections clearly indicate this slope meets the definition of Bluff, because it has a vertical relief of ten (10) feet or more.

In fact, the bluffs on the Loperena property are contoured just like classic coastal bluffs are as defined by the Glossary on the California Coastal Commission Resources for Local Governments webpage which states that "The cliff or bluff may be simple planar or curved surface or it may be steplike in section." Therefore, by definition a bluff may have some areas that are flatter and some that are steeper. Just because the Loperena property happens to cover a small portion of bluff which has slightly less than 10 feet of vertical relief does not change the geomorphic classification of the area it is still a bluff. Even if Shoreline Engineering were correct that an insignificant portion of the bluff has a total relief less than 10 feet (nothing in the definition indicates that a bluff is determined based on that portion that might exist within the boundaries of the parcel proposed for development).

The cross-sections also indicate that most of the Loperena property is located [illegible] of the bluff and on the bluff face. The Visual and Scenic Resources [illegible] Coastal Land Use Plan (a Coastal Program Policy Document entitled "Coastal [illegible] states that "New development on bluff faces shall be limited to public [illegible] stairways, protective structures (either of which are applicable to the [illegible] on the [illegible]

The Coastal Hazards Report (Section 3.0) states that the Engineering Study (2014) provides additional evidence that the bluff has historically been subject to the processes and mechanisms that define a Coastal Bluff. Figures 5 and 6 attached are the Cleveland photographs which provide evidence of recent erosion on both the Dignity and Lopez/Lu properties. The existence of these recent scarps of bare soil and roots suggests an undercut. Survey data from the Lopez property is also visible in both Figures 5 and 6. Figure 5 is taken before the construction of Highway 1 and Figure 6 is taken after the construction of Highway 1. The only development on the Lopez/Lu property is the construction of a [illegible] dated 1 August 2013. Photographic documentation of the additional erosion that has occurred on the Lopez/Lu property during the last few years.

We requested a copy of the Central Coast Aerial Mapping work products that are signed and stamped by the preparer. We recommend an additional profile be prepared for the area not depicted in the most recent survey and that erosion and wave run-up analysis be conducted using this new profile. San Luis Obispo County staff and the Cliff's consultants must have a copy of this information to verify the location of the top edge of the bluff and the bluff face on the Lopez/Lu property relative to the location of the proposed development and the geologic and coastal hazards as proposed to [illegible] coastal erosion and wave runup.

The following comments provide more detail on these issues:

1. The Bluff Retreat Study Attachment included figures illustrating topographic mapping and cross sections from 2014 as well as topographic mapping and cross sections from 1953. We have not been provided copies of the 1953 and 2014 topographic surveys prepared by Central Coast Aerial Mapping that Shoreline Engineering used to create these figures.

   The Shoreline Figure depicting 2014 topography has a one foot contour interval and the Shoreline figure depicting 1953 topography has a three foot contour interval. The now accompanying cross sections suggest that the photogrammetrist at Central Coast Aerial Mapping had sufficient photogrammetric detail to illustrate one foot contours on the 1953 topography. We request the opportunity to review the complete set of work products prepared by Central Coast Aerial Mapping. We anticipate that one foot contours on the 1953 topographic map will make the bluff face position more apparent on that map.

2. The cross sections associated with the 1953 and 2014 Topographic Surveys reveal approximately 3 feet of fill blanketing the upper portion of the cross sections in 2014 as shown on attached Figure 1. The 1953 cross sections show the pre-fill conditions and may be useful to determine the amount of natural vertical relief to confirm that the slope is a Bluff. It is also helpful in determining the location of the natural bluff top edge, upon which the appropriate setback can be applied.

3. Shoreline states "No portion of the pre-development coastal bluff or the fluvial bluff is more than ten feet in height." We disagree.

   The bluff height must include the entire slope and not just the portion within the Lopez/Lu property boundaries. The bluff height measurements on the 1953 profiles should include the height of the stepped features shown on Sections N-S 0+50.00 and 60.00 and up to the "Coastal Bluff Top Zone" (see attached Figure 1). The 1953 cross sections show the top edge of bluff at elevation 20 to 21 NAVD88, and the base of bluff elevations varying from elevation 7 to 10 NAVD88. The units of measurement were not indicated on the Shoreline cross sections, but are presumably in feet. The resulting difference indicates 10 to 14 feet of vertical relief, depending on the cross section.

4 Bluff faces are frequently stepped or benched as shown in cross section The position of the bluff edge may be changed by a variety of processes Most obvious is the landward retreat of the bluff edge through coastal erosion. Changes in beach elevation also result in changes in bluff height The location of the base of the bluff in 1953 is determined by the step in elevation on the cross sections near elevation 7 as shown in Figure 1, and comparison to the 1953 photo showing the edge of the sandy beach at that point. The height of "steps" in the cross section should be included in the total bluff height Although the back edge of the beach sand is now (2014) at approximately elevation 12, as shown on the 1953 cross sections the base of the bluff varied between elevation 7 and 12 depending on cross section

The step-like feature may be a bedrock outcrop or may consist of accumulated beach sand If the step is bedrock it is the lower portion of the coastal bluff and it's height should be included in the measurement of total bluff height; using the elevation of the "Bottom of 1953 Bluff" and the elevation of the "Top Edge of 1953 Bluff" where indicated on Figure 1 If it is accumulated beach sand, then when the sand is naturally removed at the back edge of the beach the buried lower portion of the bluff is exposed and the total bluff height can be measured. If the step is not bedrock, then historical erosion (scour) at the toe of the coastal bluff should be included in the measurement of total bluff height; using the elevation of the "Bottom of Bluff with erosion" and the elevation of the "Top Edge of 1953 Bluff" where indicated on Figure 1 In either case there was ten feet or greater of vertical relief in 1953 substantiating that the area is a bluff

Sandy back beach areas typically vary seasonally and sometimes dramatically from year to year and periodically erode until the full bluff height consists of a slope that is similar in gradient It is our opinion that

a) scour sometimes historically has reached the back of the beach; thus increasing or decreasing the visible bluff height
b) at such low elevations ocean wave impact likely acted on all of the 1953 bluff faces on the Loperena property thereby causing "marine erosion" as defined in 14 CCR section 13577 (h) (2).

The Shoreline Engineering study developed cross sections based on a detailed and complicated analysis of 1953 photographs and estimated the elevation of the bluffs Based on our interpretation of the cross sections, as provided by the Shoreline Engineering analysis, there was ten feet or greater of vertical relief in 1953, substantiating that the area is a bluff If Shoreline Engineering wants to debate over a couple of feet of vertical relief, it is important to remember 1) that their analysis is subject to error and the level of accuracy of their analysis has not been established, and 2) the amount of vertical relief has varied over the past 200 years and could have been even greater at some time prior to or after this single 1953 data point, since beach scour and accretion naturally exposes greater or lesser amounts of bluff face height year to year and season to season

We ask that you consider that the present 2014 bluff top area is at an elevation of +27 feet NAVD88, as shown on Figure 1 Using the current beach sand elevation of +12 feet NAVD88, that makes the current 2014 bluff face 15 feet high In their analysis of wave runup, Geosoils Inc projects that vertical erosion (beach scour) at the base of the present bluffs fronting the Loperena property will occur down to an elevation of + 3 feet NAVD88, approximately 9 feet below the existing elevation of the surface of the landward edge of the beach. Accounting for this scour and erosion, that makes the bluff face 24 feet high.

5 A large gap exists in the array of cross sections provided in the Shoreline Engineering Study; between N-S 0+70 00 and S PL 0+50 00 Figures 2 and 3 shows the

recommended location for an additional cross section highlighted in pink on the 2014 and 1953Topographic Surveys from pages 4 and 5 of the Shoreline Engineering study, respectively This is the area of the Loperena Property most exposed to future erosion and bluff recession and where the EIR geologist (Cotton Shires) has indicated that beach sand underlies a portion of the proposed building area footprint (see Cotton Shires Geologic Cross Section 1-1') We recommend Shoreline Engineering prepare another profile in this area where shown on attached Figures 2 and 3 Additionally we recommend erosion and wave run-up analysis be conducted using that profile as well as 2014 Profile N-S 0+70.00

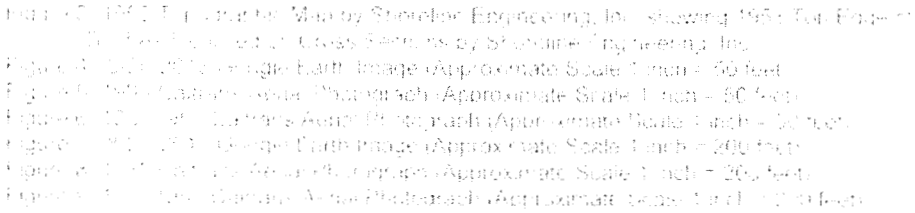
6 Comparison of the 2014 Sections and the 1953 Sections S PL 0+20 00 30 00, 40 00, and 50.00 indicate that fill exists down to elevation 12 on the Loperena property. This material was placed on the Loperena property between 1953 and 2014 and is subject to future erosion Because of rising sea level future erosion at the elevation where this fill is located is a significant hazard. Blufftop setbacks should be determined using this anticipated future erosion of this fill and the resultant bluff recession Wave run-up analysis should be conducted using profiles that account for projected future erosion of this fill, which extends out to the back edge of the beach

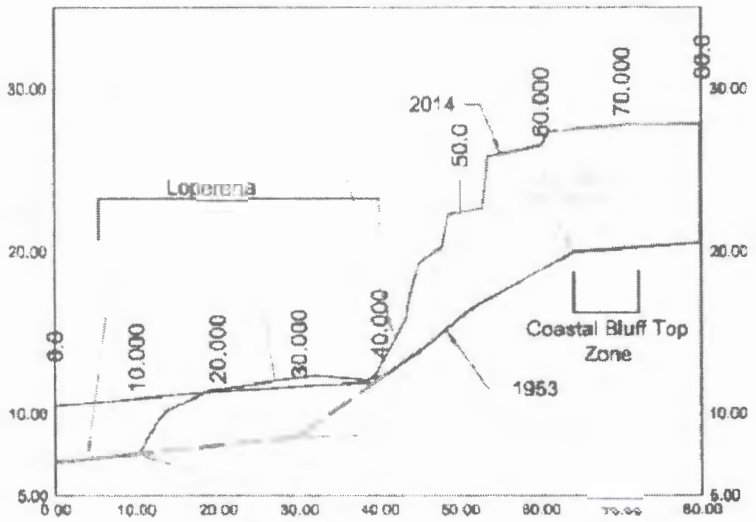
7 The N-S profiles are incompatible with the geology previously mapped by Cotton Shires. Cotton Shires mapped bedrock exposed in the bluff face adjacent to the back edge of the beach sand (see Cotton Shires Geologic Cross Section 1-1') Where the ground surface on the 2014 profile is higher in elevation or further seaward than the position of the 1953 profile that should be because there is fill or beach sand that has been placed or accumulated there There is bedrock presently exposed on portions of the bluff face in areas where the 1953 profile is shown at lower elevation or landward position, see attached Figure 2 That casts doubt on the accuracy of the 1953 profiles, because bedrock has only eroded since 1953 not accreted

8 California Coastal Commission (CCC) Engineering Geologist Dr Mark Johnsson indicated that if a portion of the bluffs on the upcoast area of the Loperena property were classified as fluvial bluffs where bluff edge setbacks do not apply then minimum coastal development setbacks should be determined and applied based on the inland extent of wave run-up that may occur during the expected life of the development. Based on the March 12, 2014 wave runup study by the applicant's consultant (GeoSoils Inc) using 5 5 feet of sea level rise, this indicates that development must be located inland from the 25 foot contour line on the property This is calculated as follows Scoured beach elevation of +3 1 feet NAVD88 plus Ds of 9 feet plus R of 12 95 feet = Runup Elevation of 25 05 Feet NAVD88 An analysis of wave run-up using profiles that account for projected future erosion of the fill on the property which extends out to the back edge of the beach, may result in higher run-up elevations and further landward setbacks Riparian setbacks may also apply along a fluvial bluff

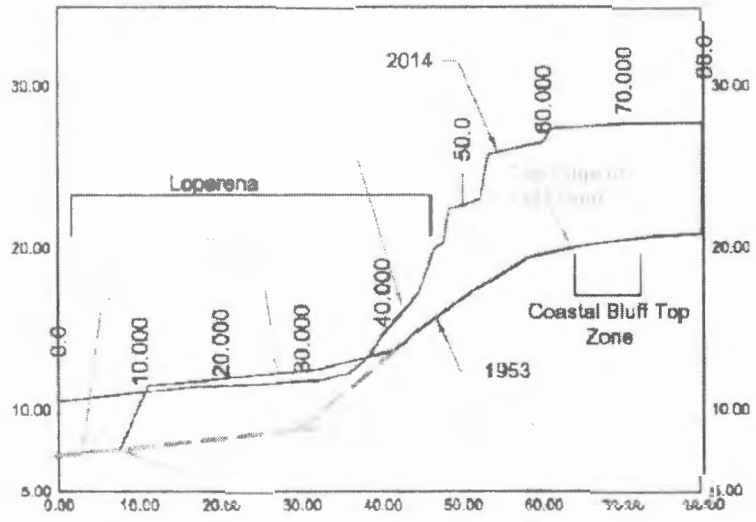
9 Based on the 1953 cross sections provided in the Shoreline Engineering study, we have mapped the top edge of the natural 1953 bluff on the 1953 and 2014 topographic maps provided Shoreline Engineering see attached Figures 2 and 3 Most of the proposed development on the Loperena property is located below the top of the bluff and on the bluff face SLO Coastal Plan Policies page 10-10 Policy 11 Development on Coastal Bluffs states "New development on bluff faces shall be limited to public access stairways and shoreline protection structures." Our understanding of Policy 11 is that a residential development is not allowed on the bluff face

10 We have put the approximate property boundaries on a 2013 Google Earth image 1965 Caltrans aerial photo and on a 1953 Caltrans aerial photo and have made prints at





Align: N-S 0+50.00



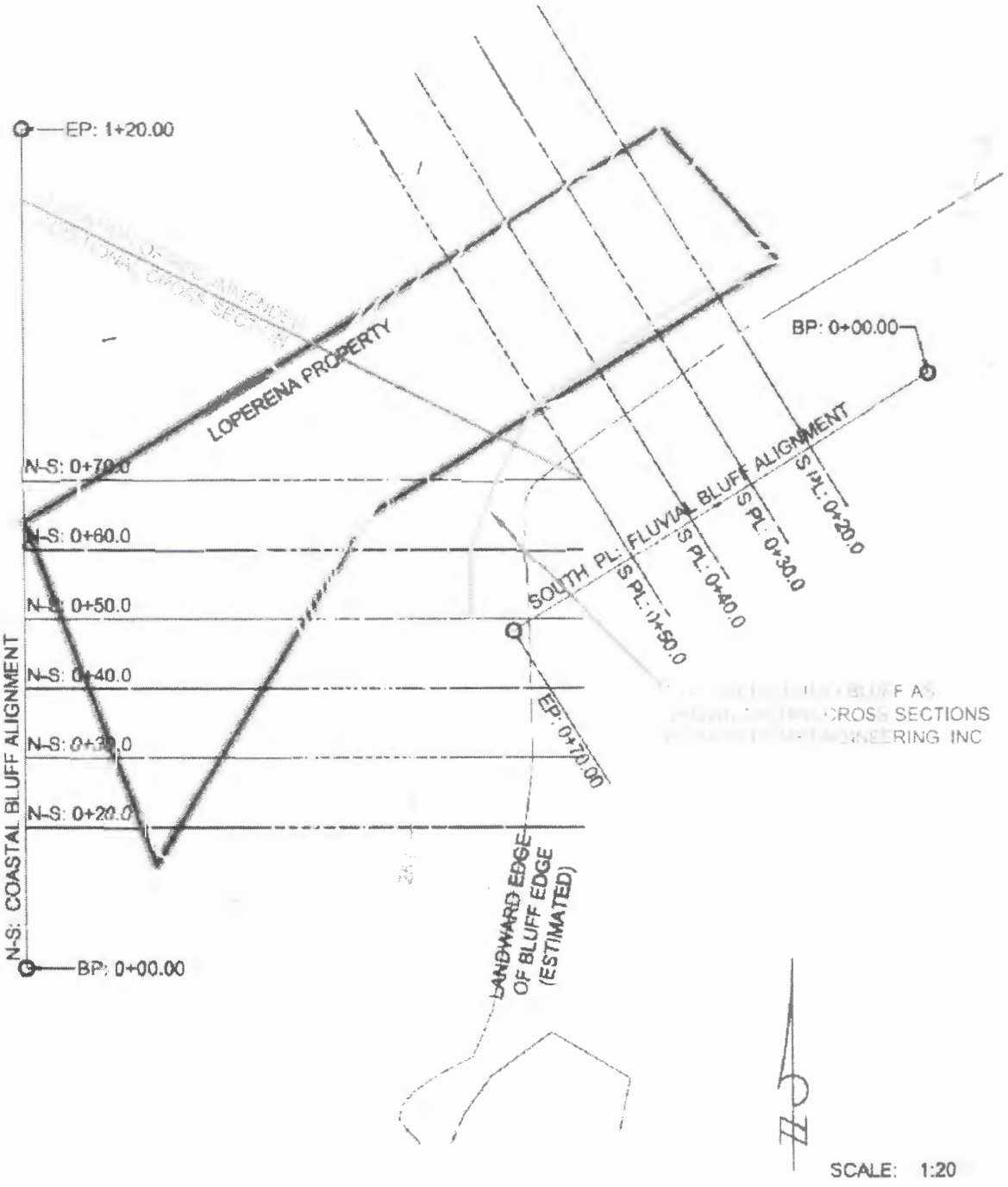
Align: N-S 0+60.00

Coastal Bluff Sections
N-S Line Alignment

SCALE: 1:20, HORIZ; 1:10, VERT
SECTIONS LOOKING NORTHERLY

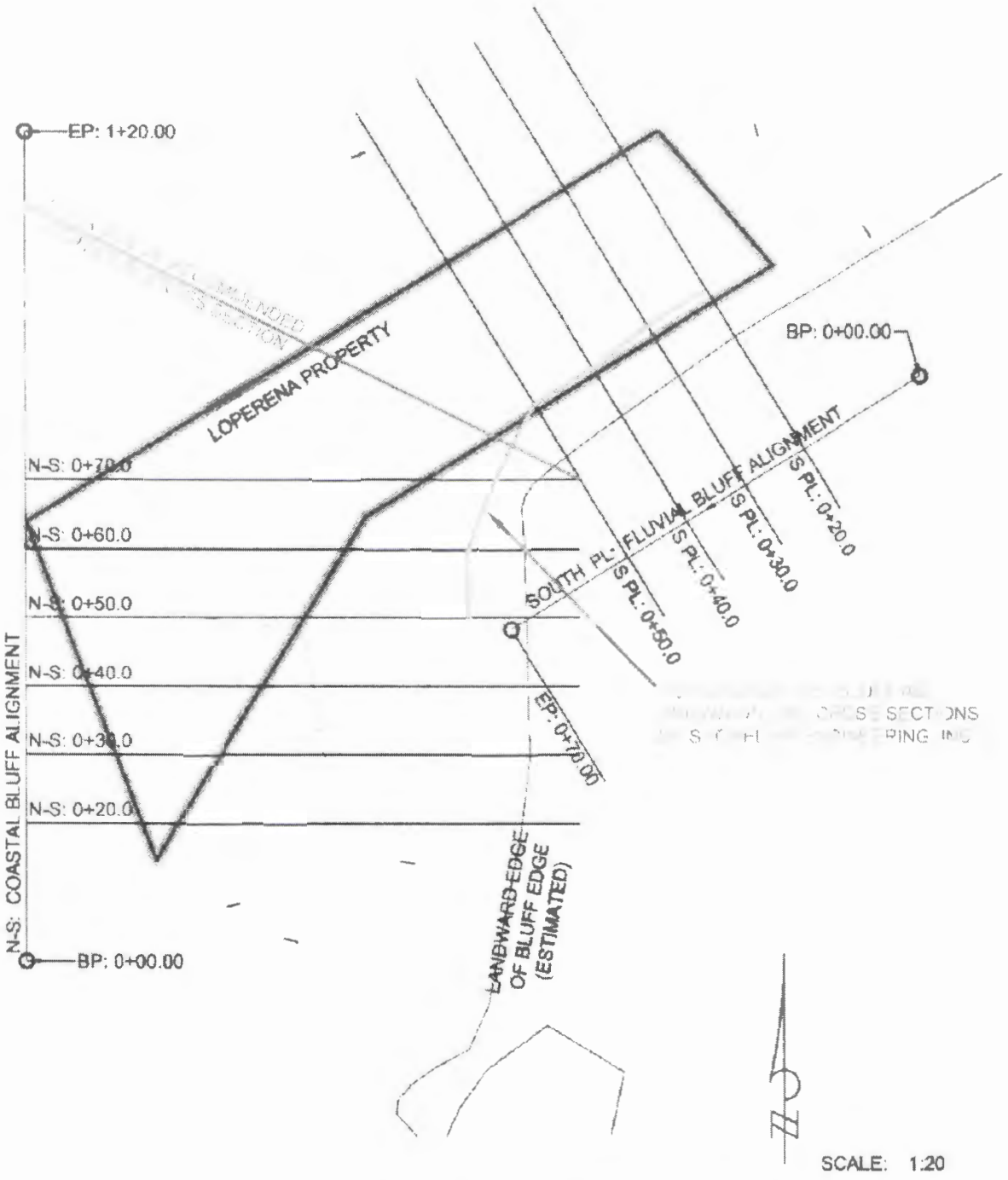
Loperena: Studio Drive, Cayucos

2014 Topographic Survey



Loperena: Studio Drive, Cayucos

2014 Topographic Survey



Loperena: Studio Drive, Cayucos

1953 Topographic Survey

RICHARD KASUNICH & ASSOCIATES, INC.

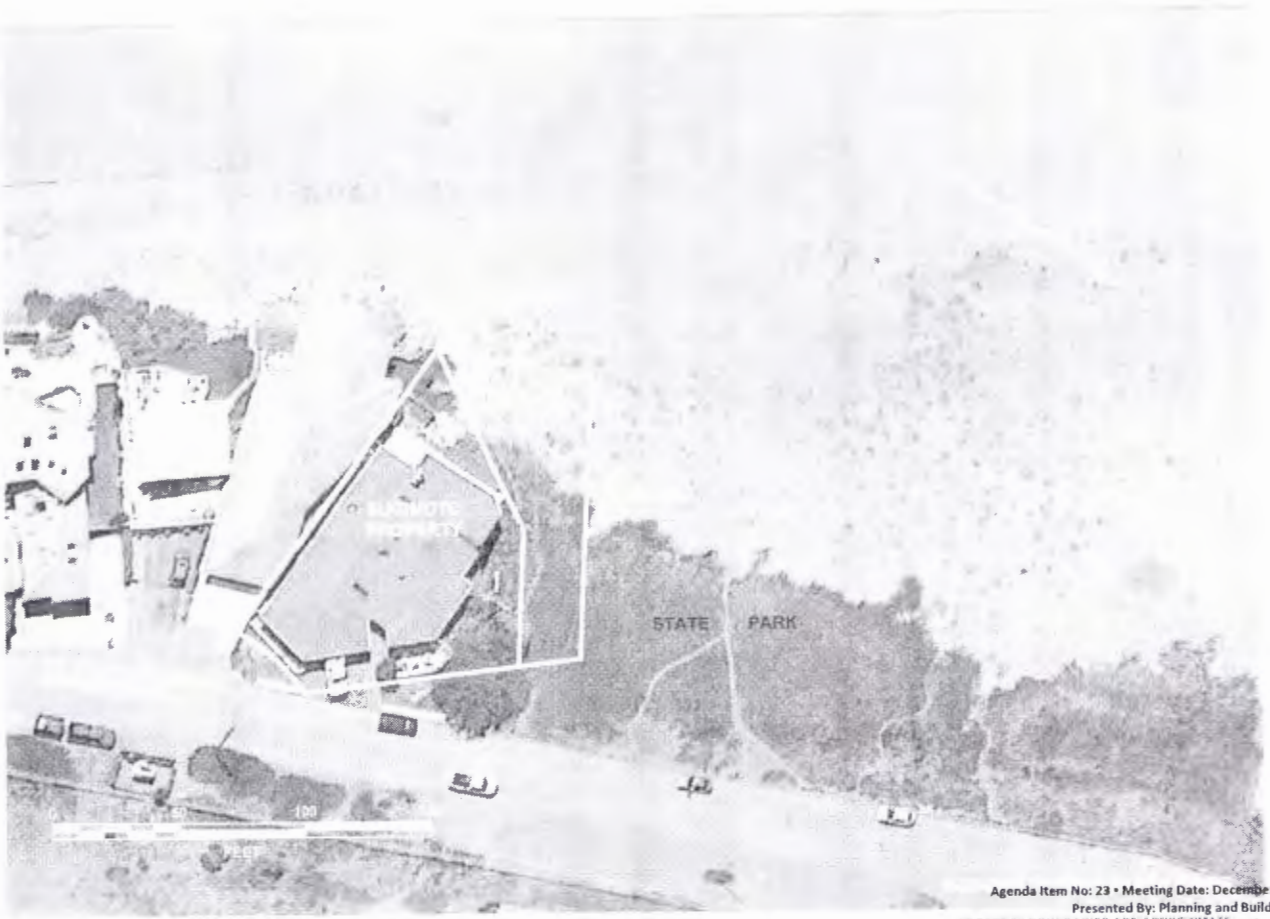


FIGURE 4 - 2013 GOOGLE EARTH IMAGE (APPROXIMATE SCALE: 1 INCH = 50 FEET)

FIGURE 6 - 1953 CALTRANS AERIAL PHOTOGRAPH (APPROXIMATE SCALE: 1 INCH = 50 FEET)

FIGURE 5 - 1965 CALTRANS AERIAL PHOTOGRAPH (APPROXIMATE SCALE: 1 INCH = 50 FEET)

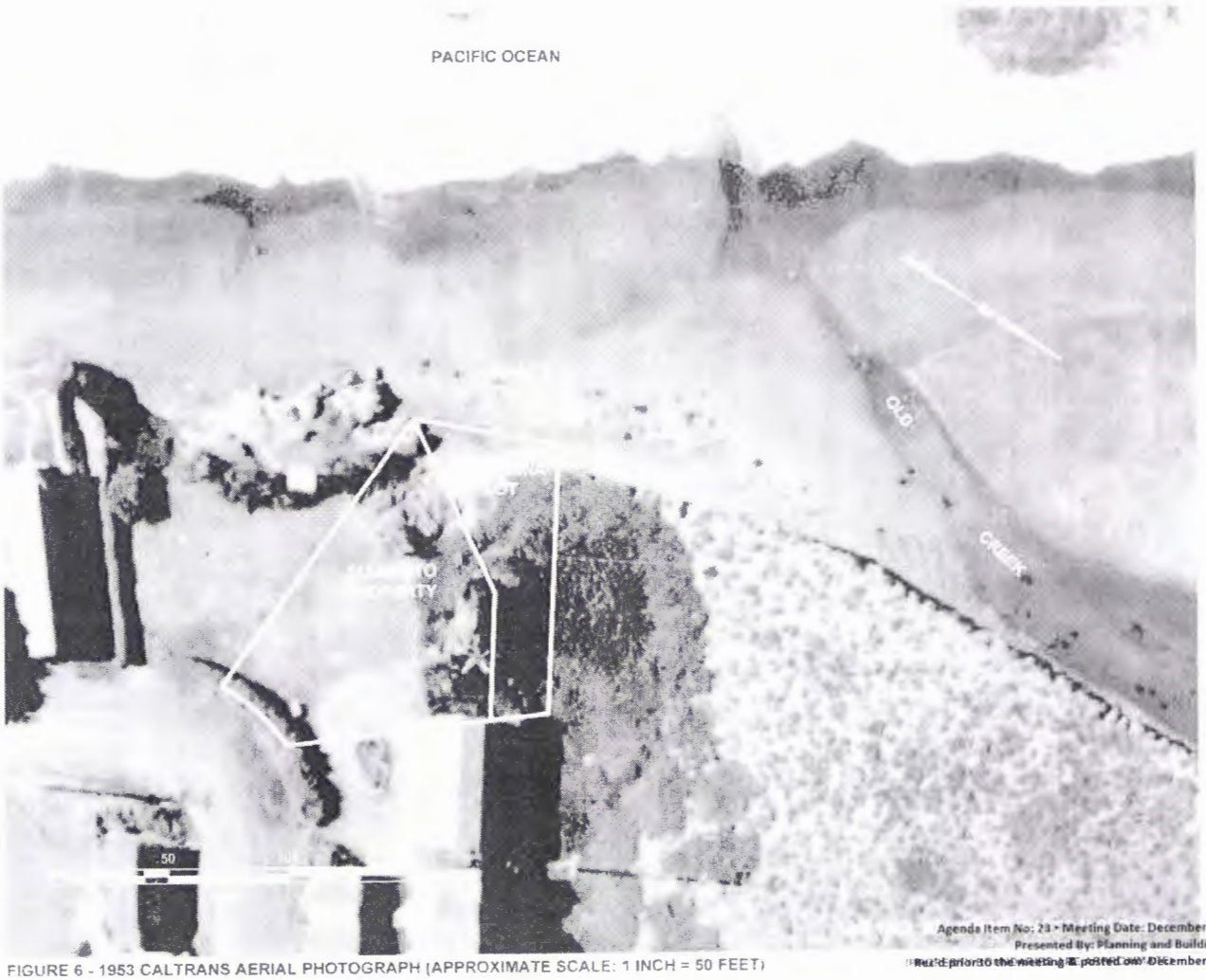


FIGURE 6 - 1953 CALTRANS AERIAL PHOTOGRAPH (APPROXIMATE SCALE: 1 INCH = 50 FEET)

FIGURE 7 - 2013 GOOGLE EARTH IMAGE (APPROXIMATE SCALE: 1 INCH = 200 FEET)

FIGURE 8 - 1965 CALTRANS AERIAL PHOTOGRAPH (APPROXIMATE SCALE: 1 INCH = 200 FEET)

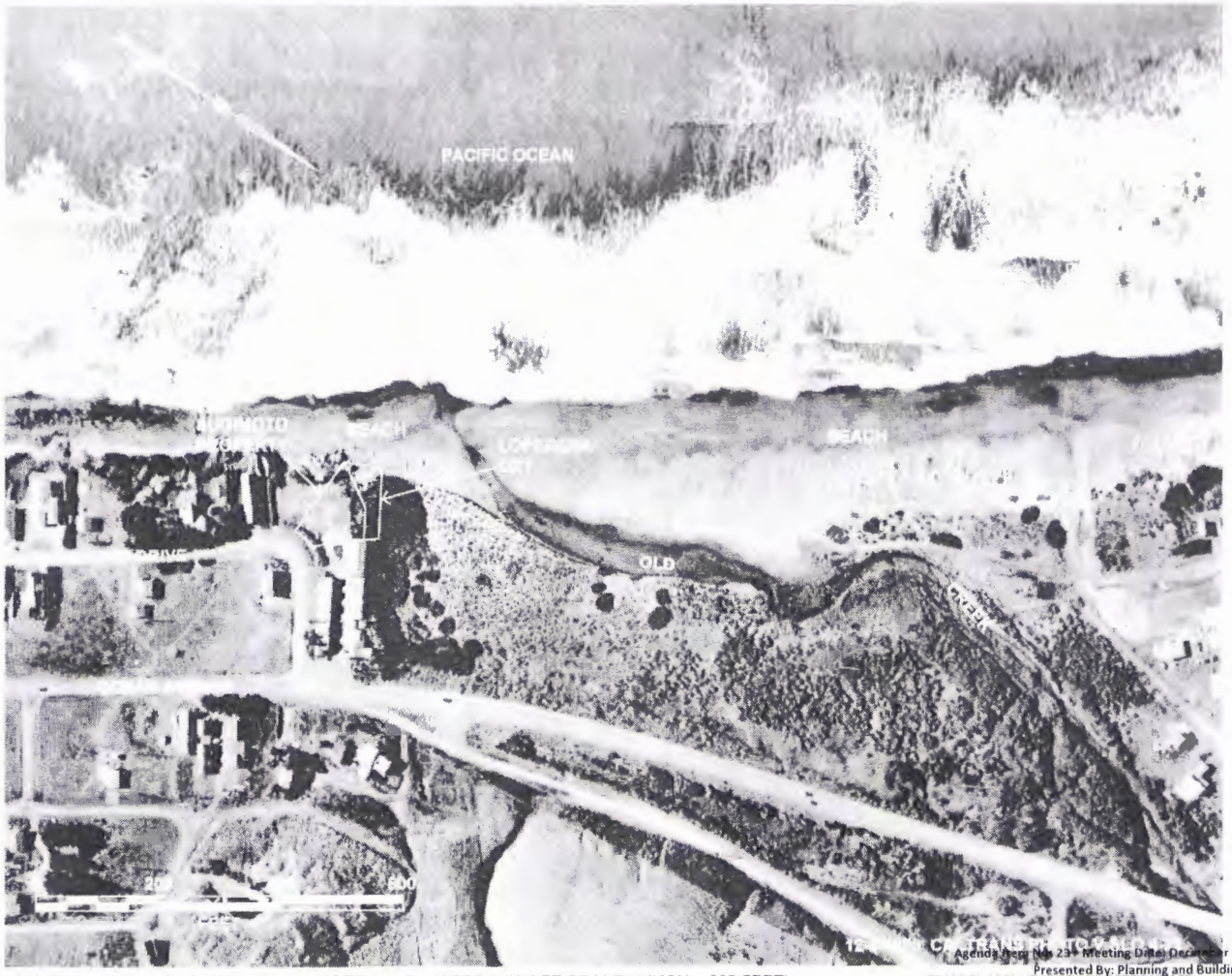


FIGURE 9 - 1953 CALTRANS AERIAL PHOTOGRAPH (APPROXIMATE SCALE: 1 INCH = 200 FEET)

late email re. Hearing item no. 23 tomorrow for the Board members
Fw: FINAL comments on latest Loperena report
Ryan Hostetter Cytasha Campa 12/08/2014 04:25 PM
Annette Ramirez, Catrina Christensen

Hi Cytasha,

I just got the info below for the Board to distribute.... I have cc'd the clerk as well. Thank You!

Ryan Hostetter, LEED AP
County of San Luis Obispo
Current Planning and Permitting
(805) 788-2351
----- Forwarded by Ryan Hostetter/Planning/COSLO on 12/08/2014 04:23 PM -----

From: "Robinson, Daniel@Coastal" <Daniel.Robinson@coastal.ca.gov>
To: "rhostetter@co.slo.ca.us" <rhostetter@co.slo.ca.us>, "brobeson@co.slo.ca.us" <brobeson@co.slo.ca.us>
Date: 12/08/2014 03:58 PM
Subject: FINAL comments on latest Loperena report

From: Johnsson, Mark@Coastal
Sent: Monday, December 08, 2014 3:11 PM
To: Robinson, Daniel@Coastal
Subject: FINAL comments on latest Loperena report

Shoreline Engineering, 2014, "Evaluation of bluff geometry adjacent to Loperena property, Minor Use Permit/Coastal Development Permit DCR2005-00216", 14 p. report dated 28 September 2014 and signed by B. S. Elster (CE 32981).

I offer the following comments:

1) The Shoreline Engineering report made use of orthophotrectified aerial photographs obtained from Caltrans and flown in 1953, in conjunction with an aerial survey flown in 2014, to define the ground surface on and adjacent to the subject parcel in 1953 and 2014. The former approximates the natural topography, before the addition of large amounts of fill during the relocation of Highway 1 in the 1960s, that obscured the natural bluff edge throughout much of the area. I concur that the methodologies employed were appropriate.

2) Coastal Commission Staff made several recommendations for obtaining information regarding obtaining the natural topography beneath the artificial fill during a meeting with County staff on 31 July 2014. This method was one method recommended; other methods might have provided helpful information on the State Park parcel to the northwest, but such information has thus far not been provided by the Applicant.

3) Although the bluff edge of both the "coastal bluff" and the "fluvial bluff" are only broadly defined on the cross sections that are provided, the plan views show the natural bluff edge to lie landward of the

entire Loperena parcel. Thus, the natural topography and ground surface of the entire parcel is either on the natural bluff face or beach.

4) For reasons indicated repeatedly in previous Coastal Commission staff letters to the County, and at the 31 July 2104 meeting, staff, including myself, believes that the bluff definitely meets the definition of a Coastal Bluff in Section 13577 (h) (2) of the Coastal Act regulations. That is, it clearly has beer subject to marine erosion in the recent past. Although parts of the bluff are now covered by fill, it is reasonable to believe that the portions labeled "fluvial bluff" were subject to marine erosion before placement of the fill.

5) The Shoreline Engineering report reaches the following conclusions, without commenting on their significance:

a. The Loperena property is not located on a coastal bluff.
b. The bluffs (both coastal and fluvial) landforms have been altered by development adjacent to the Loperena property.
c. No portion of the pre-development coastal bluff or the fluvial bluff is more than ten feet in height.

With regard to (a), no evidence is provided that the property is not located on a coastal bluff. As described above in (4), and previously, staff continues to believe that the property is located on a coastal bluff.

With regard to (b), it is not clear how the author of the report believes that the landforms have been altered by development adjacent to the property. If the author is referring to the addition of fill, I concur that much of the natural bluff top, edge, and face has been buried beneath artificial fill.

With regard to (c), it is unclear of what the significance would be of the bluff being less than ten feet in height. Nowhere in the Coastal Act regulations nor in the LCP is a figure of ten feet specified for the definition of a Coastal Bluff. The report makes reference to the Commissions outdated Statewide Interpretive Guidelines, but these are not regulatory in nature. Further, as observed by staff analyst Joseph Street:

> 2014: Bluff appears to exceed 10 ft in relief in all cross sections (N-S 0+30, 0+40, 0+50, 0+60).
>
> 1953: In several cases it is difficult to tell based on the cross-section alone where the toe of the bluff is, and without the photos themselves it is impossible to evaluate the accuracy of the cross-sections.
>
> - The 0+60 section was greater than 10 ft from toe to bluff top IF the "hump" between 10-40 ft on the horizontal axis represents the bluff toe; if this feature is just the winter beach profile, then the bluff was less than 10 ft in relief in this cross-section.
> - 0+50 cross section: Same issue (bluff relief depends on whether platform/hump at bottom of profile is bluff or beach)
> - 0+40 cross section: Again, whether or not the bluff exceeds 10 ft in relief along this cross-section depends on where the bluff toe actually occurs – in this

section, there are two inflection points in the profile that could represent the bluff toe.
- 0+30 cross section: Assuming the lower inflection point (at ~9.5 ft on vertical axis) is the bluff toe, the bluff appears to exceed 10 feet in relief along this cross-section.

The study is incomplete in that it does not examine or attempt to reconstruct cross-sections for the portions of the slope in between the N-S (coastal) and "Fluvial Bluff" cross sections. However, this portion of the bluff was examined by Cleath-Harris (see cross section C-C', figure 1 in the 19 September 2012 Cleath-Harris Report). The estimated bedrock profile (ie, profile with fill material removed) along this cross section would appear to exceed 10 ft in relief (~11 ft to 22 ft).

In summary, the information available in the recent report by Shoreline Engineering and previous in geologic reports (The 19 September 2012 Cleath-Harris report in particular) does not support the conclusion that the bluff at the Loperena property is less than 10 feet in relief, either in its present state or prior to the fill deposition. While it may be the case that the bluff is less than 10 ft in relief along certain cross sections, there appear to be cross sections along which the relief exceeds 10 ft.

I concur with his analysis.

Thus, it appears that the entire parcel is seaward of the bluff edge, whether the bluff is a coastal bluff or an [undefined] "fluvial bluff." The change in orientation of the bluff that the applicant uses to delineate a coastal bluff from a fluvial bluff does not, in my opinion, constitute a change in the bluff from a "coastal bluff" as defined in the Coastal Act regulations (13577 (h)). Thus, as mentioned before in previous letters, this project triggers the coastal bluff setback requirements of the LCP at this location.

I hope that these comments are useful. Please do not hesitate to contact me if you have any further questions.

Mark Johnsson

Mark J. Johnsson, Ph.D. Staff Geologist
California Coastal Commission

COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL

(1) DEPARTMENT	(2) MEETING DATE	(3) CONTACT/PHONE
Planning and Building	6/3/2014	Ryan Hostetter, Senior Planner\(805) 788-2351

(4) SUBJECT

Hearing to consider an appeal by Kevin Elder on behalf of Ethel Pludow and Cynthia Sugimoto of the Planning Commission's approval of a Minor Use Permit/Coastal Development Permit to allow for the construction of a 2,374 square foot single family residence within the Residential Single Family land use category on the west side of Studio Drive in the community of Cayucos, District 2.

(5) RECOMMENDED ACTION

That the Board:

1. Hold the public hearing on the appeal of the approval by the Planning Commission as set forth in the attached Exhibits and staff report.
2. Adopt and instruct the chairman to sign the resolution affirming and modifying the decision of the Planning Commission, and certifying the Environmental Impact Report in accordance with the applicable provisions of CEQA, and approving Minor Use Permit/Coastal Development Permit DRC2005-00216, based on the revised findings in Exhibits A and C and the revised conditions in Exhibit B attached to the resolution.

(6) FUNDING SOURCE(S)	(7) CURRENT YEAR FINANCIAL IMPACT	(8) ANNUAL FINANCIAL IMPACT	(9) BUDGETED?
Department Budget	$7,400	$7,400	Yes

(10) AGENDA PLACEMENT

{ } Consent { } Presentation {X} Hearing (Time Est. 120 minutes) { } Board Business (Time Est.___)

(11) EXECUTED DOCUMENTS

{X} Resolutions { } Contracts { } Ordinances { } N/A

(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)	(13) BUDGET ADJUSTMENT REQUIRED?
N/A	BAR ID Number: { } 4/5 Vote Required {X} N/A

(14) LOCATION MAP	(15) BUSINESS IMPACT STATEMENT?	(16) AGENDA ITEM HISTORY
Attached	No	{X} N/A Date: _____

(17) ADMINISTRATIVE OFFICE REVIEW

(18) SUPERVISOR DISTRICT(S)

District 2

County of San Luis Obispo

TO: Board of Supervisors

FROM: Planning and Building / Ryan Hostetter, Senior Planner

VIA: Ellen Carroll, Planning Manager / Environmental Coordinator

DATE: 6/3/2014

SUBJECT: Hearing to consider an appeal by Kevin Elder on behalf of Ethel Pludow and Cynthia Sugimoto of the Planning Commission's approval of a Minor Use Permit/Coastal Development Permit and Environmental Impact Report to allow for the construction of a 2,374 square foot single family residence within the Residential Single Family land use category on the west side of Studio Drive in the community of Cayucos, District 2.

RECOMMENDATION

That the Board:

3. Hold the public hearing on the appeal of the approval by the Planning Commission as set forth in the attached Exhibits and staff report.
4. Adopt and instruct the chairman to sign the resolution affirming and modifying the decision of the Planning Commission, and certifying the Environmental Impact Report in accordance with the applicable provisions of CEQA, and approving Minor Use Permit/Coastal Development Permit DRC2005-00216, based on the revised findings in Exhibits A and C and the revised conditions in Exhibit B.

DISCUSSION

Summary

This appeal addresses a Planning Commission action to approve a single family residence on a highly constrained parcel on a beach front lot in the community of Cayucos. The appeal issues focus primarily on some highly technical subjects including the definition of a "coastal bluff", the resulting appropriate setback from the "bluff" edge, coastal hazards including sea level rise, and visual impacts. These issues have been evaluated and discussed in an Environmental Impact Report (EIR) prepared for the project, at two Planning Commission hearings, and have involved experts in coastal erosion processes and hazards.

This proposed project is located on a unique property at the northern end of the developed Studio Drive neighborhood (on the West side). The parcel is a legal lot, a large portion of which consists of sandy beach, while the eastern portions of the lot contains fill deposited during the construction of Highway 1 and Studio Drive. The property is adjacent to the public State Beach area at Studio Drive/Old Creek. The parcel boundaries are such that they wrap around the adjacen developed property to the south which creates a situation where the viewshed of neighbor to the south is potentiall affected by the proposed project. The appeal has been filed on behalf of the neighboring property owner to the south Because of the unique characteristics of the project site including sandy beach characteristics and lot configuration relation to the neighboring property owner, this project has undergone a very detailed review to ensure that all issue were adequately resolved.

Background

On January 23, 2014 and April 10, 2014, the Planning Commission heard a proposal by Mr. Jack Loperena for a Minor Use Permit (MUP)/Coastal Development Permit (CDP) for the construction of a single family residence in the Studio Drive neighborhood of Cayucos. The Planning Commission approved the project with modifications to the project design, findings, and conditions of approval. A timely appeal of the Planning Commission decision was filed by Kevin Elder with Sinsheimer, Juhnke, McIvor and Stroh LLP on behalf of Ethel M. Pludow and Cynthia R. Sugimoto on April 24, 2014. Staff recommends that your Board *affirm and modify* the decision of the Planning Commission because staff has recommended modifications to the Planning Commission approved findings (added findings I, J, & K) and conditions of approval (no's 33, 34, 35, 36 & 47) based on the issues raised in Mr. Elder's appeal. Copies of the findings and conditions showing the modifications in strikethrough and underline have been added as separate attachments for your review.

Project History and Timeline

The applicant, Mr. Jack Loperena, submitted an application for a MUP/CDP in May of 2006. During that time Planning reviewed and processed the application and completed a Mitigated Negative Declaration (MND) (August 9, 2007) for compliance with the California Environmental Quality Act (CEQA). Planning Department hearings were scheduled however staff received two request for reviews (appeals) of the CEQA document. Based on the comments included in the Request for Reviews, staff continued the item off calendar to address the issues raised in the requests for review. County staff consulted with County experts in geology, cultural resources, and emergency services during this time, however due to the controversy of the project the applicant and Planning staff elected to complete an Environmental Impact Report (EIR) for the project.

A Notice of Preparation for the EIR was distributed on August 7, 2009 before preparation of the draft EIR (DEIR) was undertaken. The DEIR was released on June 14, 2013 and the public as well as other agencies had until August 5, 2013 to comment on the DEIR. The County received many comments which are included in the Final EIR (FEIR) along with responses to these comments. The FEIR, was released in December 2013. The project was heard before the Planning Commission on January 23, 2014 and was continued with direction from the Commission to the applicant and staff to consider a revised, scaled back project. The project was revised, and considered by the Planning Commission on April

10, 2014 where a decision was made to approve a revised project. This decision was subsequently appealed and is the subject of today's hearing.

The proposed residence is visible from Highway 1 and Studio Drive, and especially from the public beach area to the north and west. The original design included a modern style with a large cantilevered portion that extended over the beach area of the applicant's property (also the project evaluated in the FEIR). During the Commission hearing on January 23, 2014 the Commission directed the applicant to revise the project and include a more neighborhood friendly design with a shorter cantilever and reduced scale. Additionally the Commission asked that staff evaluate the finished floor of the basement and the hazards relating to sea level rise and impacts that would occur as a result using the latest sea level rise data.

Following is a table outlining the original project characteristics and the Planning Commission Revised Design:

	Original Design Sq Ft	Revised Design Sq Ft
Basement	1,040	814
Main level	1,097	841
Mezzanine	338	280
Garage	242	239
Car Port	200	200 (partially covered)
TOTAL	2,917	2,374

This revised reduced project was discussed at the April 10, 2014 Planning Commission hearing and was approved by the Commission.

Appeal Issues

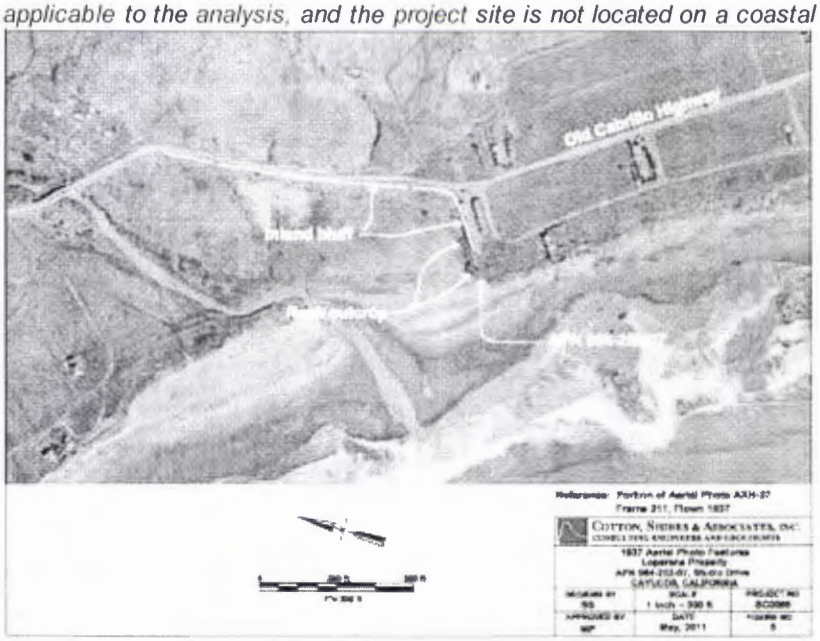
Many issues were outlined in the appeal letter by Mr. Elder dated April 24, 2014. The appeal letter discusses a "summary of proceedings" which accurately summarizes the process and history to date. Many of the appeal issues (begin on Page 3 of the letter) have been discussed in previous testimony before the Planning Commission and are published as comments in the Final EIR. Below is a summary of the issues outlined in the letter and a staff response to these issues:

Issue 1 Coastal Bluff (Appeal Items 2.1, 3.1, 3.2, 3.3, 3.6, 3.7, and 8.1). The appellant states the project site is a coastal bluff because bluffs are "(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion" (excerpted from California Code of Regulations Title 14). In addition, a letter by Haro Kasunich and Associates states that the site is on a coastal bluff.

Staff Response:
Cotton Shires and Associates's (CSA) 2011 report clearly acknowledges and represents that there is an active beach on the property, adjacent to a bedrock outcropping that faces partially southwest (oceanward). This outcropping is capped by fill soils placed circa 1960. The outcropping (identified as "Toe Of Bluff") is shown in the 1955 State of California Acquisition Map for Morro Strand State Beach produced by HKA (2013) and is very consistent with the location of outcropping mapped by Cleath (2006) and CSA (2011), the latter using the project survey and topography prepared by Volbrecht. The position of the top of the bedrock outcrop, mapped on a topographic survey map of the property, is consistent with the bluff edge line (blue line) presented on CSA Figure 6 (2011). Therefore, notwithstanding the scale used in the analysis, it is of sufficient accuracy to determine that the project site is located immediately north of the coastal bluff terminus.

The buried fluvial bluff underlying the Loperena property is clearly oriented perpendicular to the general trend of the coastal bluff along Studio Drive. A 300-foot general trend was used for the inland bluff component of the analysis. The logic for this approach was explained in detail (see CSA, 2011, Section 3.4, page 17). Beyond 300 feet, the inland bluff turns to a N15W trend on the east side of the Old Creek drainage, and any reasonable interpretation of a general trend for the inland bluff will result in a determination of the coastal bluff terminus being located southeast of the project site. If an additional 200 feet long segment of inland/fluvial bluff trending N15W is considered to establish the general trend of the inland bluff, the coastal bluff terminus would plot hundreds of feet south of the project site. In another example, if the analysis considers the oceanward 300-foot long segment of fluvial/inland bluff that is perpendicular to the coast, plus a 200 foot long segment of fluvial/inland bluff that trends N15W up Old Creek, the resultant vector between the endpoints of these segments trends approximately N30E, and the coastal bluff terminus still plots southeast of the project site. In summary, based on the evidence summarized above and provided in detail in the EIR, termini of bluff diagrams are

applicable to the analysis, and the project site is not located on a coastal bluff.



The coastal bluff interpretation is addressed in the Technical Report appended to the EIR (Cotton Shires and Associates, May 31, 2011), and is summarized in Section 4.3 Geology and Soils. A detailed analysis of the site terrain, development history, geologic setting, surface conditions, and interpretation of coastal bluff was provided in the Draft EIR and Appendices (see CSA, 2011, Section 2.1 Terrain, 2.2 Development History, 2.3 Geologic Setting, 3.1 Surface Conditions, and 3.4 Coastal Bluff Interpretation). The coastal bluff interpretation presented in CSA's 2011 report is based on strict application of the definition of bluff edges and coastal bluff termini contained in the California Code of Regulations, along with guidelines prepared by, and received from, California Coastal Commission geologist Mark Johnson in a personal communication from April, 2011. Those guidelines state the following important items:

- *A bluff line or edge shall be defined as the upper termination of a bluff, cliff, or seacliff.*
- *A bluff edge line is the locus of points defining bluff edge in profile*
- *Fill adjacent to a bluff edge does not change a bluff edge*
- *Fill on a bluff face does not alter the position of the bluff edge*
- *Grading resulting in fill generally does not alter a bluff edge*

Based on this, it appears inappropriate to consider that manmade features such as artificial fill prisms graded for roadway developments comprise "bluffs". An analysis to determine the terminus of a natural feature, such as a coastal bluff, should not be based upon manmade topographic features.

County staff's recommended bluff interpretation is supported by substantial evidence documented in the Final EIR, the Planning Commission Staff Report, the Planning Commission hearing presentation, and responses to questions and comments during the Planning Commission hearings. The project site's exposure to marine erosion is documented and disclosed in all documents, and it is County staff's recommendation that this fact by itself does not support a conclusion that the project would be located on a coastal bluff. County staff responded to the California Coastal Commission's comments and concerns in the Final EIR Response to Comments (refer to pages 9-14 through 9-16). The January 22, 2104 Coastal Commission letter did not identify any additional concerns not already included in their response to the Draft EIR. Staff has received and considered all correspondence from the Coastal Commission. While we recognize Coastal Commission staff's concerns, we have not received a formal response or indication of an in depth evaluation of all the geologic information from the Coastal Commission's geologist.

This site would be affected by coastal processes including potential wave run-up with extreme weather events potentially after year 2100. These events would include king tides in conjunction with severe storm surge, and sea level rise. The fact that this property is subject to coastal processes does not in itself determine that the bluff on the property is in fact a "coastal bluff" and the issue is in fact quite complicated.

Coastal Zone Land Use Ordinance regulations and Estero Area Plan, San Luis Obispo County Local Coastal Program, and Safety Element policies are addressed in Final EIR Table 3-1 Consistency with Plans and Policies and in the Planning Commission Staff Report. Staff finds the Planning Commission approved reduced project is consistent with these standards. Based on review of substantial evidence documented in the Final EIR and appendices (Cotton Shires and Associates 2011, 2012), it is County staff's recommendation that the site is not interpreted to be a coastal bluff, and the subsequent coastal bluff setbacks are not applicable.

Regarding comments about the fluviual bluff, the geologic description of the project site and surrounding area is described in the EIR and technical appendix (Cotton Shires and Associates 2011). As noted in these documents, the site is located on a bedrock remnant of a fluvial bluff that is now mostly buried under artificial fill material that was put in place during construction of Studio Drive and Highway 1. This portion of the bedrock outcrop was formed by fluvial erosion from the ancestral flow of Old Creek at a time when the creek was located south of its current location. The coastal bluff terminates southeast of the project site. The current alignment and floodplain of Old Creek (and associated Environmentally Sensitive Habitat Area [ESHA] designation) are located approximately 600 feet to the northeast, and features between the site and the creek include Studio Drive (and associated fill prism) and a parking area. The project site is located well outside of the buffer zone and noted 50-foot setback for the creek, and would not have an adverse effect on sensitive habitat, surface waters, or vegetation present within Old Creek.

Issue 2 Local Coastal Program Compliance (Appeal Item 2.1 and 3.9). The appellant states that the project triggers the "Estero Area Plan and the San Luis Obispo County Local Coastal Program (LCP) coastal bluff policies including: Areawide Standard 1-4, Hazards Policy 1 and 6, Coastal Zone Land Use Ordinance (CZLUO) Section 23.04.118, and Safety Elements of the General Plan Sections S-23 and S-63." The appellant states that the revised Planning Commission approved project is inconsistent with all of these standards and policies.

Staff response: The project complies with all of the standards and policies as outlined in the Planning Commission Staff Report. Following is a summary response to the items specifically noted in the appeal letter:

Areawide Standard I-4:
Estero Area Plan areawide standard I(4) relates to coastal bluff setback requirements. The requirement states, "The bluff setback is to be determined by the engineering geology analysis required in I.1.a. [above] adequate to withstand bluff erosion and wave action for a period of 100 years. In no case shall bluff setbacks be less than 24 feet…." This project has undergone the required geologic analysis to determine the bluff erosion rate and is included with the project's Environmental Impact Report. In summary, this site is situated behind a rock outcrop that has existed unchanged based on review of photographic evidence over the course of 70 years (analysis includes photograph dated 1937 which is published in the FEIR). The lot includes fill from when Highway 1 was improved and this fill is placed landward of the rock outcrop which remains in place today. The rock outcrop has partially protected the fill on the lot from coastal processes (outcrop listed as edge of rocks on site plan). Additionally, the County geologists have determined that the site is located off of the coastal bluff, and that a portion of the lot includes an old fluvial bluff (which is perpendicular to the sea)from when Old Creek existed in this area prior to Whale Rock dam being constructed. Because the County has determined that this is outside the coastal bluff, the coastal bluff setback did not apply in this unique case. The geologic analysis however does include the required coastal erosion analysis and has determined that the proposed development is located within a stable area which will not be impacted by erosion over a 100 year period (mostly due to the stability of the existing rock outcrop).

Coastal Hazards Policies 1 & 6:
Coastal Hazards Policies 1 and 6 discuss new development requirements along the coast and bluff setbacks. Specifically Policy 1 requires that new development include designs which minimize risks to life and property, and that shoreline protective devices shall not be required for the life of the structure. Additionally, permanent structures are not allowed on the beach. The proposed project does not include any shoreline protective devices. The house foundation is not considered a shoreline protective device because it is constructed of concrete and is intended to withstand any future extreme coastal hazard. The foundation is intended to withstand extreme events to eliminate potential hazards when reviewing extreme high tide scenarios with sea level rise after the year 2100. The natural rock outcrop on the site acts as a natural barrier for the proposed residence as it is shown as being very erosion resistant. The lower level of the proposed residence on the southern side is approximately 26 feet from the edge of the rocks and approximately 12 feet from the edge on the northern side (due to the angle of the edge of rocks relative to the property lines).
Policy 6 requires that development include a geologic evaluation showing an appropriate bluff setback to withstand 100 years of wave erosion. Similarly to Policy 1 the project shall be able to withstand 100 years of waver action without any

shoreline protective devices. This project complies with this requirement as outlined in the geologic evaluation conducted for the project (also included in the FEIR).

CZLUO Section 23.04.118 (Blufftop Setbacks):
This section of the Coastal Zone Land Use Ordinance is intended to implement Coastal Hazards Policies 1 and 6 above. The project is required to include a geologic evaluation and a bluff setback shall be implemented based on the evaluation which would essentially allow for 75 years or 100 years (based on Estero Area Plan) of wave action. This 100 year erosion rate will establish an appropriate buffer or setback between the proposed development and the edge of the bluff. This project complies with these requirements and is sited to withstand at least 100 years of coastal processes.

Safety Element Sections 23 and 63:
Safety Element Policy S-23 Coastal Bluffs states "Development shall not be permitted near the top of eroding coastal bluffs." This proposed project is located on a site which is not subject to bluff erosion, and geologic evaluation have been conducted which show that the site is able to withstand 100 years of coastal processes.

Safety Element Section 63 states, "Require coastal bluff erosion studies to determine the rate or erosion and the resulting safe distance from the top of the bluff for development, in accordance with the LCP." Similar to S-23 above, this project complies with this requirement.

Issue 3 Bluff Setback Requirements, Creek Setbacks, and Shoreline Protective Devices (Appeal Item 2.6, 3.6, 3.7). The appellant states that the project is not in compliance with bluff setback and creek setback requirements and that the project includes shoreline protective devices which are not allowed.

Staff Response:
The Planning Commission reduced project does not include a seawall or shoreline protection device. . The structure itself would be designed consistent with geotechnical recommendations, which would "minimize risks to human life and property", and "ensure structural stability while not creating or contributing to erosion or geologic instability" (Coastal Hazards Policies 1 and 2). Aerial photos show that the bedrock outcrop west of the structure would withstand direct wave action and exposure, and would not require protection over the next 100 years. Beach scour would occur naturally at the toe of the bedrock, and would not adversely affect the structure. While the residence and associated components (i.e., foundation, structure walls, and retaining walls perpendicular to the beach) would be constructed to maintain integrity in a coastal environment, these features are not considered shoreline protection because no features would extend beyond the structure and driveway in order to prevent erosion of land and any other hazard typically addressed by sea walls (e.g., bluff instability resulting in the residence falling into the beach area).

With regards to bluff setbacks, refer to Local Coastal Program Compliance, Estero Area Plan Areawide Standard I-4 (discussed in Appeal Issue 2 above). The creek setback requirements have been evaluated and it was determined that they are not applicable in this case. While the site contains a bluff that was historically formed by fluvial forces from Old Creek , the site conditions have been irrevocably altered by the construction of Highway 1 and Studio Drive, and most importantly, by the installation of Whale Rock Dam. Old Creek transitions from a creek with defined riparian corridor to a lagoon with associated wetlands and no defined bank. During sufficiently high flows, the lagoon will breach the beach sand barrier and exit to the ocean. Based on aerial photographs, the Old Creek lagoon is located approximately 500 feet from the Old Creel lagoon, over 600 feet from the wetland areas associated with the creek mouth, and 500 - 700 feet from the closest riparian vegetation. Studio Drive and the Studio Drive parking area are located between the subject property and Old Creek. The creek or riparian setbacks identified in the Estero Area Plan, and the Coastal Zone Land Use Ordinance are not applicable in this case.

Issue 4 Visual Resources (Appeal Item 2.2 and 4). The appellant states that the revised project approved by the Planning Commission still poses a significant impact to the visual resources of the area. A 33 foot high structure with a 21 foot cantilever (11 feet over the sand) is inconsistent with the LCP Visual and Scenic Resources Policies 1, 2, 5, 6, and 11.

Staff Response: The project complies with all of the design requirements of the Estero Area plan for both bluff top and non bluff top standards due to its size (i.e. gross structural area), setbacks and the height. These standards which are outlined in the Estero Area Plan for the Cayucos Small Scale Neighborhood are intended to implement the LCP Visual and Scenic Resources policies listed above. The height requirement for this area of Cayucos is a maximum of 15 feet from the centerline elevation of Studio Drive (which is at an elevation of 31 feet). The maximum elevation of the roofline is

proposed to be at 46 feet which complies with this requirement. The project is conditioned to include survey height checks while under construction to ensure that the house complies with this requirement during construction.

The project site is located within a very visible area from the public beach, Studio Drive and portions of Highway 1. The Final EIR outlined specifically how this project will impact the aesthetics of the area, however the conclusions were that basically the construction of this single family residence within this small lot in a developed neighborhood was not going to introduce a significant visual impact, and will essentially extend an existing neighborhood. For specific information please refer to the Final EIR section 4.1 on aesthetic resources. Additionally, the Planning Commission approved reduced project will include less of a visual impact due to the fact that the project is much smaller in size (cantilever is 16 feet shorter), and the architectural style has been revised to include a more traditional design which will blend into the surrounding neighborhood.

Issue 5 Coastal Hazards (Appeal Items 2.3, 3.4, 3.6, 3.7, and 5). The appellant states that the coastal hazards are underestimated in the Final EIR, and that the appellant's geologist, Haro, Kasunich and Associates Inc. identified inconsistencies in the EIR conclusions.

Staff Response
The Final EIR, the technical reports in the public record (GeoSoils, Inc. 2013, 2014), and the Planning Commission Staff Report address and assess exposure to coastal hazards, and support staff's recommendation that the noted exposure (including future hazards over the next 100 years) would not have a significant adverse effect on structural integrity. Based on the low height and velocity of extreme wave runup water reaching the basement wall (refer to GeoSoils, Inc. 2014), wave runup deflection would not adversely affect neighboring properties.

Based on the presence of erosion-resistant bedrock, and compliance with mitigation measure GS/mm-4, which requires the use of deepened pier foundations identified in the Engineering Evaluation (Shoreline Engineering 2012) and Updated Geotechnical Investigation (GSI Soils, Inc. 2011), the project would maintain stability and structural integrity, and would withstand erosion and wave action. There is no evidence that shoreline protection structures would be required for the structure, provided it is constructed pursuant to mitigation identified in the Final EIR and following the recommendations identified in referenced geotechnical reports. The evidence presented in the Final EIR and associated and subsequent technical reports support the conclusion that that exposure to rising sea level over the life of the structure and associated coastal hazards would not result in substantial adverse effects to the structure, including compromised structural integrity.

Noted concerns regarding Sea Level Rise and Coastal Hazard Discussion, are addressed in Response to Haro, Kasunich, and Associates, Inc.(HKA), Comments on GeoSoils Inc. March 12, 2014 Report dated 31 March 2014 (GeoSoils, Inc., April 4, 2014). The profile chosen for the analysis uses the cross-section most vulnerable to wave run-up attack. The northern property line is at an angle (not parallel) to incoming waves, and therefore would not be subject to worst-case wave run-up conditions. In addition, mitigation (GS/mm-4) would require deepened pier foundations consistent with the geotechnical report (GSI Soils, Inc. 2011) and subsequent peer review (Cotton Shires and Associates 2011) prepared for the project. This measure is applicable to both the previously proposed project and the applicant's redesigned project approved by the Planning Commission, and remains necessary to avoid significant erosion hazards over the next 100 years.

The bluff edge delineation is presented in the EIR Appendix (refer to Cotton Shires and Associates 2011, Figure 6). The Final EIR figures and revised figures for the Planning Commission approved reduced project submitted by the applicant show site topography. The project plans do not show the coastal bluff setbacks because, based on the recommended interpretation and site-specific conditions, bluff setbacks would not apply in this case.

Issue 6 Sea Level Rise (Appeal Items 2.4, 6, 6.1, 6.3, and 6.4)**.** The appellant states that the Final EIR is inconsistent with the General Plan in its assumptions of the sea level rise and its resulting effect on the project.

Staff Response:
The issue of climate change and possible sea level rise is a quickly evolving subject with a number of different science based estimates for projected sea level rise. The predicted estimate for sea level rise is based on best available recent information provided in California Coastal Commission (CCC) Draft Guideline document (which only identifies sea level rise up to the year 2100) and the County's most recent Local Hazard Mitigation Plan (draft December 2013 to County Board of Supervisors). The appellants concerns regarding sea level rise and potential effects at the project site have been addressed on several occasions including in the FEIR and in supplemental memos and staff reports prepared for the

Planning Commission. These concerns are discussed in the most recent sea level rise memo presented to the Planning Commission (GeoSoils, Inc., March 12, 2014) as well as comments provided in the GeoSoils Inc. March 12, 2014 Report dated 31 March 2014 (GeoSoils, Inc., April 4, 2014). It has been determined that, the project would be engineered to withstand coastal processes and maintain structural integrity.

The EnergyWise Plan which is the County's Climate Action Plan (November 2011) provides information, including an estimate for sea level rise in the Adaptation Chapter. The Plan does not include a policy or standard requiring use of a specific sea level rise estimate. The Plan states an estimated sea level rise from 3.3 to 4.6 feet by 2100, which is not as conservative as the most recent CCC Draft Guidelines used in the project analysis (5.5 feet). The EIR is an informational document, and presents the analysis, impact assessment methodology, and cited references and evidence used to support the analysis and resulting conclusions. The EIR itself is not to be evaluated for consistency with the General Plan. Supplemental documentation provided after completion of the Final EIR is included in the Administrative Record, which will considered by your Board to make findings regarding the project's consistency with the County General Plan and related policies.

County staff has prepared revised CEQA Findings for the Board's consideration to incorporate the information in this supplemental documentation.

Issue 7 Lateral Access (Appeal Item 2.5, 7, 7.1 and 7.2). The appellant states that the project does not comply with the lateral access requirements of the Local Coastal Plan, the Estero Area Plan and the Coastal Zone Land Use Ordinance. The appellant states that the lateral access should extend from the mean high tide to the toe of the bluff, no cantilevered structures allowed over the access area, and that the access must be dedicated prior to any permits being issued.

Staff Response: Staff agrees with the appellants on this issue and, for that reason, recommends that your Board partially uphold the appeal. The Estero Area Plan requires dedication of lateral access from the toe of the bluff to either the mean high tide or to the inland boundary of the public beach. Because this site is unique, staff has submitted a revised condition of approval which requires an offer to dedicate lateral access extending from the seaward property line to the toe of the rock outcrop. The seaward property line represents that inland boundary of the public beach, and the toe of the rock outcropping is equivalent to the toe of the bluff. This revised condition of approval requires recordation of the lateral access prior to issuance of any construction permits. Additionally there are no structures allowed within this lateral access easement.

Issue 8 Coastal Plan Policies for Visual and Scenic Resources Policy 3 Stringline Method (Appeal Item 2.7 and 9). The appellant states that the project is inconsistent with the Coastal Plan Policy 3 stringline method for siting new development because this development extends beyond the adjacent residence.

Staff Response: Coastal Plan Policy 3 for Visual and Scenic resources describes a stringline method for siting new development along the coast. The policy states that "no part of a proposed new structure, including decks, shall be built farther into a beachfront then a line drawn between the most seaward portions of the adjoining structures; except where the shoreline has substantial variations in landform between adjacent lots in which case the average setback of the adjoining lots shall be used." Generally on other projects the County relies on the setback requirements outlined in the geologic evaluation which in most cases determines the limits of development. The property with this proposed project is not located in line with the adjacent bluff top neighborhood to the south, does not include adjacent development to the north, and can't be compared to the adjacent property for setback requirements. The parcel boundary wraps entirely around the adjoining property to the south along the beach which creates a unique situation where the adjacent property does not contain a property line along the beach. This project site is essentially in front of, and wraps almost entirely around the parcel adjacent. Using the stringline method along the bluff to include the residences to the south, this proposed project would not extend further toward the beach than the neighborhood to the south.

Issue 9 Estero Area Plan – Cayucos Small Scale Neighborhood Standards (Appeal Item 2.8 and 10). The appellant states that the project does not comply with the Small Scale Neighborhood Standards and is inconsistent with the character of the community.

Staff Response: The project was originally designed and reviewed for consistency with the standards for traditional bluff top lots on Studio Drive with regards to the gross structural area, height, setbacks and ordinance requirements. During the Planning Commission hearings one of the commissioners stated that the standards for "non bluff" lots should be

considered. The non-bluff standards are generally applied to properties that are located on the east side of Studio Drive and contain traditional setbacks and yard areas. The Commission discussed the fact that if this property is not considered a "coastal bluff" then perhaps the "non bluff top standards" should apply. The applicant through their revised design reviewed these standards and designed the residence to comply. Essentially, homes on the west side of Studio Drive can build up to 3,500 square feet, however lots that are on the inland side of Studio are limited in gross structural to a percentage of the property size based on the size of the lot (or "usable lot"). In this case, the revised design complies with the 55% of the usable lot size standard (which in this case is 3,444 square feet) for "gross structural area." The gross structural area definition does not include a mezzanine, but includes all interior square footage including garages and carports. The proposed gross structural area for the project is 1,894 square feet which is 55% of the lot size of 3,444 square feet. Other residences along the west side of Studio Drive on the bluff could build up to 3,500 square feet.

With regards to aesthetics and visual character refer to discussion on visual resources above.

Issue 10 Cypress Tree (Appeal Item 2.9 and 11). The appellant states that based on an arborist review (Chip Tamagni, Certified Arborist) the existing cypress tree would be impacted by the development and that it would be "physically impossible" to save the tree. Additionally, the EIR should be revised to include information relating to the Cypress tree removal.

Staff Response:
As noted in the EIR, implementation of the project would require the removal of the pine tree, and would result in impacts to the noted cypress tree including impacts to the root zone (refer to BR Impact 4). The gas line that would require removal is located under the proposed residence, and removal would not affect the cypress tree. At this time, County Staff is not recommending total avoidance of the tree; however, this may be considered by the Board. The majority of root zone impacts would occur as a result of the constructed retaining wall and drainage improvements. Mitigation is identified to avoid unnecessary disturbance of the tree, and impacts to the root zone, including placement of protection fencing to avoid inadvertent disturbance. County staff has considered the noted concerns, and recommends the following revised condition to provide further protection of the tree during construction (additional clarifications are underlined):

"Prior to issuance of grading permits, the applicant shall retain a certified arborist to conduct any site preparation activities requiring cuts or impacts to the root zone of the existing mature cypress tree. The certified arborist shall monitor work within the root zone, including grading and excavation for the retaining wall, and utility work. The certified arborist shall verify that tree protection fencing shown on the plans and approved by the County is installed prior to ground disturbance within 25 feet of the trunk of the tree. The applicant shall comply with methods identified by the certified arborist to avoid unnecessary damage to the root zone, including use of hand tools within 25 feet of the trunk of the tree, protection and treatment of exposed roots during construction, and use of tunneling under shallow roots for utility installation in lieu of standard trenching."

Issue 11 California Building Code (Appeal Item 2.10 and 12). The appellant states that a condition should be placed on the project that requires compliance with the California Building Code.

Staff Response: San Luis Obispo County is legally charged with ensuring that all building permits issued and finaled comply with building code requirements. This is not a land use permit issue, but is a legal building code requirement. The project is legally obligated to comply with building code when permits are issued. Therefore a separate condition of approval on the discretionary land use permit is not warranted and does not occur with other projects.

Issue 12 Project Alternatives (Appeal Items 2.11 and 13). The appellant states that the board should not certify the Final EIR and the project should be denied because the EIR failed to properly analyze a range of alternatives.

Staff Response:
Please refer to EIR Chapter 5 Alternatives Analysis, which presents a reasonable range of alternatives, including design alternatives for consideration. These alternatives include a residence that does not include a basement (Design Alternative A – Reduced Project, Pilings), a more traditional design (Design Alternative B – Reduced Project, Traditional Design), and an option that includes additional visual articulation (Design Alternative C – Vegetation and Articulation). The Planning Commission approved reduced project would result in a reduction in the size of the structure compared to the originally proposed project and is consistent with Alternative B which was outlined in the FEIR. Please refer to responses above regarding the coastal bluff analysis and coastal bluff setback requirements.

Issue 13 Public Outreach (Appeal Item 2.12 and 14). The appellant requests that the Board deny certification of the Final EIR and deny the project because a scoping meeting was not conducted.

Staff Response: A scoping meeting was not conducted for this proposed project because scoping meetings are held for projects with state wide or regional significance. The county determined that a project for a single family residence within a developed neighborhood, on an existing legal lot of record zoned for the intended use, was not a project of regional or statewide significance. While the project is unique and many characteristics of this property are unlike other parcels in San Luis Obispo County, the nature of the proposed development does not trigger the requirements for a scoping meeting. Additionally, due to the extensive process conducted for this particular project through multiple community advisory meetings and discussions, opportunities for comment on the previously drafted environmental documents (multiple Mitigated Negative Declarations released for review) and previous Planning Department Hearings, comments through the EIR process and the two Planning Commission hearings, staff concludes that there has been ample opportunity for members of the public to comment on the project.

Issue 14 New Project Impact on Morro Strand State Beach/New Project Details (Appeal Item 2.13 and 15). Mr. Elder states that the Planning Commission revised project shows additional retaining walls and fill located on the State Parks beach area. The appellant states that the project revision impedes coastal access and triggers re-circulation of the Final EIR.

Staff Response: This project does not include any work on the State Beach. The project does require improvements which are all within the County right of way including the walls the appellant is referring to which are shown on the plans. The work necessary to construct the driveway will require stabilization of the slope along the roadway. All work within the County right of way is required to be reviewed and approved through an encroachment permit from the County.

Issue 15 Story Pole Study (Appeal Item 3.5). The Final EIR does not include or describe the story pole study.

Staff Response:
Please refer to EIR Section 4.1.4.1 Aesthetic Resources, Impact Assessment and Methodology, Analysis and Methodology, which explains the use of the story poles during the visual analysis. A stand-alone study was not conducted; the full analysis is presented in the EIR section itself. The photograph of the story poles is included in the project file for public review, and is included in the Final EIR (refer to Figure 4.1-8 Story Poles). The story poles were used for the visual analysis, and were not part of the geology and soils and coastal hazards analysis.

Issue 16 Limitation on Cantilevered Structures Beyond Setback (Appeal Item 3.8). The appellant states that the revised project has a 21 foot cantilevered living space and deck extending beyond the basement wall, bluff edge, and bluff setback requirements. Additionally the project does not comply with the Coastal Zone Land Use Ordinance section for exceptions to setback requirements.

Staff Response: The project does not request an exception to the setback requirements of the Coastal Zone Land Use Ordinance. Refer to our discussion regarding the coastal bluff setback in Issue 3 above. The project is not projecting into any of the setback areas.

Issue 17 FEIR Must be Re-Circulated (Appeal Item 6.2). The appellant states that the EIR must be re-circulated because new information has been added to the EIR and the public has been deprived of the opportunity to review the new material.

Staff Response
Pursuant to CEQA Guidelines Section 15088.5 (Recirculation of an EIR Prior to Certification): "A lead agency is required to recirculate an EIR when significant new information is added to the EIR....the term "information" can include changes in the project or environmental setting as well as additional data or other information New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation include, for example, a disclosure showing that:

(1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.

(2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
(3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the projects' proponents decline to adopt it.
(4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded."

County staff carefully reviewed new information provided in the Final EIR and during the hearing process to determine if the information is significant, and if the new information triggers recirculation based on the parameters noted above. The additional analysis and documentation provide further substantial evidence supporting the conclusions documented in the EIR and recommended CEQA Findings and do not result in a new significant impact or increase the severity of identified impacts. The applicant has agreed to the recommended mitigation measures and has complied with the Planning Commission's request for a reduced project alternative, similar to alternatives provided in the Final EIR. Therefore, the new information does not require recirculation of the EIR because the new information merely clarifies and amplifies the substantial evidence already presented in an adequate Final EIR. Additionally, all information was submitted and posted prior to the public hearings with opportunity for the public to review and comment.

Issue 18 FEIR is Inconsistent with General Plan (Appeal Item 6.3). The appellant states that the Final EIR is not consistent with the General Plan. The inclusion of the additional wave run up and sea level rise analysis through the Planning Commission hearing continues to be out of compliance with the County Energy Wise Plan. Since there is an inconsistency between the standard adopted in the Energy Wise Plan and the Final EIR, the Final EIR is inconsistent with the General Plan and cannot be approved until the sea level rise figures are rectified in the Final EIR.

Staff Response: The Final EIR is provided as an informational document for the decision makers to utilize in their evaluation of the project's impacts to the environment, and if they are considered significant. The EIR is not required to be in compliance with the General Plan, however the EIR does evaluate which standards and policies apply to an individual project. The additional wave runup and hazards analysis provided was a result of questions from the Planning Commission, and a response to those questions as a part of the public hearing process. The Final EIR does not require any amendment, and the final conclusions of the EIR remain consistent with inclusion of the additional analysis that was brought before the Planning Commission.

Inaccurate Findings (Appeal Item 6.4). The appellant states that the findings adopted by the Planning Commission were not accurate and do not reflect the most recent wave run-up analysis.

Staff Response: Amended findings are attached to this staff report for review and consideration, and include the updated wave run-up analysis (although the Final EIR conclusions remain unchanged).

Incorrect Conditions (Appeal Item 16). The appellant states that the conditions of approval adopted by the Planning Commission are incorrect. Conditions to include should be 1) recordation of a deed restriction stating that no shoreline protection structure shall be constructed, 2) lateral access shall be recorded prior to issuance of permits, and 3) a deed restriction shall be executed which acknowledges and assumes risks and waives future claims of damage or liability.

Staff Response: Staff agrees with the appellants on this issue and, for that reason, recommends that your Board partially uphold the appeal. The project has been amended to include the above suggested conditions of approval.

OTHER AGENCY INVOLVEMENT

The project was referred to: Cayucos Citizens Advisory Council, Public Works, Cayucos Fire Protection District, Cayucos Sanitary District, Paso Robles Beach Water Association, California Coastal Commission, CA Department of Fish and Wildlife, CA State Lands Commission, Air Pollution Control District, County Counsel, CA Department of Conservation, Regional Water Quality Control Board, Native American Heritage Commission, CA Department of Parks and Recreation, Federal Emergency Management Agency, and the US Army Corps of Engineers.

FINANCIAL CONSIDERATIONS

This project is within the Coastal Zone, therefore no appeal fee was charged and funding for the appeal was processed

using department general funds.

RESULTS

Affirming and modifying the Planning Commission decision by partially denying and partially approving the appeal will mean the Final Environmental Impact Report and Minor Use Permit/Coastal Development Permit DRC2005-00216 are approved. This action would be consistent with the countywide goals of providing livable and well governed communities.

ATTACHMENTS

1. Attachment 1- Board of Supervisors Resolution with Findings and Conditions Exhibits A, B & C
2. Attachment 2 - Appeal letter with attachments
3. Attachment 3 - April 10, 2014 Planning Commission Staff Response Memo
4. Attachment 4 - April 10, 2014 Planning Commission Staff Report
5. Attachment 5 - Minutes from the April 10, 2014 Planning Commission
6. Attachment 6 - January 23, 2014 Planning Commission Staff Report
7. Attachment 7 - Minutes from the January 23, 2014 Planning Commission
8. Attachment 8 - Clerks File of all other correspondence in the record
9. Attachment 9 - Letter from Mr. Jack Loperena
10. Attachment 10 – Redline Version of Findings and Conditions Exhibits A & B
11. Attachment 11 – Redline Version of Exhibit C CEQA Findings

Attachment 1
Loperena Resolution with Findings and Conditions Exhibits A, B & C

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 20___

PRESENT: Supervisors

ABSENT:

RESOLUTION NO._____

RESOLUTION AFFIRMING AND MODIFYING THE DECISION OF THE PLANNING COMMISSION AND CONDITIONALLY APPROVING THE APPLICATION OF JACK LOPERENA FOR A MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT DRC2005-00216

The following resolution is now offered and read:

WHEREAS, on April 10, 2014, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the Planning Commission) duly considered and conditionally approved the application of Jack Loperena for a Minor Use Permit/Coastal Development Permit DRC2005-00216; and

WHEREAS, Kevin Elder, on behalf of Ethel Pludow and Cynthia Sugimoto, has appealed the Planning Commission's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the Board of Supervisors) pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on June 3, 2014, and determination and decision was made on June 3, 2014; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be upheld in part and denied in part, that the decision of the Planning Commission should be affirmed and modified, and that the application should be approved subject to the findings and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct and valid.

2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibits A and C attached hereto and incorporated by reference herein as though set forth in full.

3. That the Final Environmental Impact Report prepared for this project, is hereby certified as complete and adequate and as having been prepared in accordance with the provisions of the California Environmental Quality Act.

4. That the Board of Supervisors certifies that it has reviewed and considered the information contained in the Final Environmental Impact Report together with all comments received during the public review process prior to approving the project.

5. That the Board of Supervisors certifies that the Final Environmental Impact Report reflects the County's independent judgment and analysis.

6. That the appeal filed by Kevin Elder on behalf of Ethel Pludow and Cynthia Sutimoto is hereby upheld in part and denied in part, that the decision of the Planning Commission is affirmed and modified, and that the application of Jack Loperena for Minor Use Permit / Coastal Development Permit DRC2005-00216 is hereby approved subject to the conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

_____
Chairperson of the Board of Supervisors

ATTEST:

_____
Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: _____
Deputy County Counsel

Dated: May 22, 2014

STATE OF CALIFORNIA,)
) ss.
County of San Luis Obispo,)

I, _____, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this day of _____, 20__.

County Clerk and Ex-Officio Clerk of the Board of Supervisors

(SEAL)

By_____
Deputy Clerk.

EXHIBIT A - FINDINGS

Minor Use Permit

A. The proposed project or use is consistent with the San Luis Obispo County General Plan, because a single-family residence is an allowable use, and as conditioned, is consistent with all of the General Plan policies as outlined in the staff report.

B. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.

C. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use, because the construction of a single-family residence does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety, and welfare concerns.

D. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development, because the proposed single-family residence is similar in nature to, and will not conflict with, the surrounding lands and residential uses.

E. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project, because the project is located on Studio Drive, a local road constructed to a level able to handle the minor amount of additional traffic associated with the project.

Coastal Access

F. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is conditioned to require dedication of coastal lateral access from the western property line to the toe of the rock outcrop, and because adequate vertical access to the coast already exists adjacent to the site to the North.

Small Scale Design Neighborhood

G. The proposed project meets the Community Small-scale Design Neighborhood standards and guidelines, and is therefore consistent with the character and intent of the Cayucos Community Small-Scale Design Neighborhood.

H. Public views of the ocean from Highway One and the respective neighborhood are not being further limited because the proposed single family residence is directly adjacent to existing residential development.

Coastal Bluff and Setback

I. The project site does not contain a coastal bluff based on the data presented in Cotton Shires Associates 2011 report (also outlined in the Final Environmental Impact Report). The data is based on the strict application of the definition of bluff edges and coastal bluff termini contained in the California Code of Regulations, along with guidelines prepared by, and received from, California Coastal Commission geologist Mark Johnson in a personal communication from April, 2011. Those guidelines state the following important items:

- A bluff line or edge shall be defined as the upper termination of a bluff, cliff, or seacliff.
- A bluff edge line is the locus of points defining bluff edge in profile
- Fill adjacent to a bluff edge does not change a bluff edge
- Fill on a bluff face does not alter the position of the bluff edge
- Grading resulting in fill generally does not alter a bluff edge

Because the site consists of fill from the construction of the Highway 1 alignment in this area, it is the County's determination that the coastal bluff is located outside the property boundaries of this site. Based on this, it appears inappropriate to consider that manmade features such as artificial fill prisms graded for roadway developments comprise "bluffs". An analysis to determine the terminus of a natural feature, such as a coastal bluff, should not be based upon manmade topographic features. Because of this, the standard coastal bluff setback requirements do not apply to this specific case.

Hazards

J. Based on the presence of erosion-resistant bedrock, and compliance with mitigation measure GS/mm-4, which requires the use of deepened pier foundations identified in the Engineering Evaluation (Shoreline Engineering 2012) and Updated Geotechnical Investigation (GSI Soils, Inc. 2011), the project would maintain stability and structural integrity, and would withstand erosion and wave action. There is no evidence that shoreline protection structures would be required for the structure and are prohibited in this case. The project is proposed to withstand coastal processes for a minimum of 100 years provided it is constructed pursuant to mitigation identified in the Final EIR and following the recommendations identified in referenced geotechnical reports. The evidence presented in the Final EIR and associated and subsequent technical reports support the conclusion that that exposure to rising sea level over the life of the structure and associated coastal hazards would not result in substantial adverse effects to the structure, including compromised structural integrity, or to adjacent properties.

Sea Level Rise

K. The EnergyWise Plan (November 2011) provides information, including an estimate for sea level rise in the Adaptation Chapter. The Plan does not include a policy or standard requiring use of a specific sea level rise estimate. The Plan states an estimated sea level rise from 3.3 to 4.6 feet by 2100. The proposed project includes updated sea level rise calculations which include the most recent California Coastal Commission Draft Guidelines used in the project analysis (5.5 feet). Those calculations support the

conclusion that that exposure to rising sea level over the life of the structure and associated coastal hazards would not result in substantial adverse effects to the structure, including compromised structural integrity, or to adjacent properties.

EXHIBIT B - CONDITIONS OF APPROVAL

Approved Development

1. This approval authorizes a request by Jack Loperena for a Minor Use Permit/Coastal Development Permit to allow for the construction of a single family residence which will include:

    a. 1,935square feet of living space;
    b. 814-square foot basement;
    c. 280-square foot mezzanine;
    d. 239-square foot garage and 200-square foot carport; and,
    e. 79-square foot deck.
    f. The residence would consist of one story with a mezzanine and a basement.
    g. The footprint of the house would be 863 square feet.
    h. The maximum width of the structure would be 19 feet, and the maximum length would be 70 feet.
    i. An approximately 200-square foot paved driveway would provide access from Studio Drive.
    j. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive.

Conditions required to be completed at the time of application for construction permits

Site Development

2. At the time of application for construction permits, plans submitted shall show all development consistent with the approved site plan, floor plan, architectural elevations, and landscape plan and shall be in conformance with condition no. 1 above.

Biological Resources

3. (BR/mm-3) At the time of application for construction permits all grading plans shall clearly show the location of project delineation fencing, including protection fencing surrounding the Monterey cypress tree on the southern property boundary.

4. (BR/mm-5) At the time of application for grading permits, all applicable plans shall clearly show stockpile and staging areas. Stockpiles and staging areas shall not be placed in areas that have potential to experience significant runoff during the rainy season. All project-related spills of hazardous materials within or adjacent to project sites shall be cleaned up immediately. Spill prevention and cleanup materials shall be on-site at all times during construction. The staging areas shall conform to standard BMPs applicable to attaining zero discharge of storm water runoff. At a minimum, all equipment and vehicles shall be checked and maintained on a daily basis to ensure proper operation and to avoid potential leaks or spills. Maintenance, cleaning, and refueling of equipment and vehicles shall not be permitted onsite, within adjacent beach areas, or on Studio Drive.

5. (BR/mm-7) Upon application for construction permits, the following measure shall be

included on all applicable plans: The applicant shall avoid ground disturbing activities conducted during the snowy plover nesting season to the extent feasible. If work activities must occur during the nesting season the following measures shall be taken:

a. Prior to installation of the project delineation fencing and the commencement of site grading, a qualified biologist shall conduct a series of pre-construction nesting bird surveys for western snowy plover. Surveys shall be conducted every other day for two weeks prior to any project related disturbances.
b. Surveys for snowy plovers shall include walking through all potential nesting and foraging habitat within 300 feet of the site on each survey day. The survey area shall include all available snowy plover nesting habitat within 300 feet of anticipated project activities.
c. The number of snowy plover individuals observed and their activities (e.g. nesting, foraging, resting, etc.) shall be documented. All documented occurrences would be reported to USFWS and documented on the CNDDB.
d. If nesting activity is identified, all project activities within 300 feet of the nest shall be delayed until the nesting activity has ceased.
e. During construction, the environmental monitor shall conduct snowy plover surveys twice a week (preferably two to three days apart).

6. (BR/mm-8) Upon application for construction permits, the following measure shall be included on all applicable plans: If commencement of construction begins between March and September, the environmental monitor shall conduct pre-construction nesting bird surveys. If nesting activity is identified, the following measures shall be implemented:
   a. If active nest of common passerine or shorebird species' are observed in the work area or within 100 feet of the work area, construction activities shall be modified and or delayed as necessary to avoid direct take or indirect disturbance of the nests, eggs, or young.
   b. If active nest sites of raptors or other special-status species are observed within the work area or 300 feet of the work area, the environmental monitor shall establish a suitable buffer around the nest site. Construction activities in the buffer zone shall be prohibited until the young have fledged the nest and achieved independence.
   c. Active raptor or special-status species nests should be documented by a qualified biologist and a letter report should be submitted to the County, USFWS, and CDFW, documenting project compliance with the MBTA and applicable project mitigation measures.

7. (BR/mm-9) Upon application for construction permits, the following measure shall be included on all applicable plans: Prior to site grading, the environmental monitor shall conduct a survey for coast horned lizard and other reptiles. The surveyor shall utilize hand search methods in areas of disturbance where coast horned-lizards are expected to be found (e.g., under shrubs, other vegetation, or debris). Any lizards located during this survey should be safely removed from the construction area and placed in suitable habitat.

Noise

8. (N/mm-1) Upon application for building permits, the project applicant shall include in the

project design the following standard mitigation measures for interior noise mitigation provided in the Noise Element for levels in the 60-65 dBA range:

a. Air conditioning or a mechanical ventilation system;
b. Windows and sliding glass doors mounted in low air infiltration rate frames (0.5 cubic feet per minute or less, per American National Standards Institute [ANSI] specifications); and,
c. Solid core exterior doors with perimeter weather stripping and threshold seals.

Water

9. (WAT/mm-1) Upon application for construction permits, the applicant shall submit grading and construction plans showing BMPs, and shall implement BMPs during grading and construction activities. BMPs shall include, but not be limited to, the following:
   a. Erosion control barriers shall be applied, such as silt fences, hay bales, drain inlet protection, and gravel bags;
   b. Disturbed areas shall be stabilized with vegetation or hard surface treatments upon completion of construction in any specific area.
   c. All inactive disturbed soil areas are required to be stabilized with both sediment and temporary erosion control prior to the onset of the rainy season (October 15 to April 15).

Coastal Hazards

10. All buildings or structures shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood elevation level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards.

11. All new construction and other development shall be located on the landward side of the reach of mean high tide.

12. Man-made alteration of sand dunes that would increase potential flood damage is prohibited.

13. The Director of Planning and Building and/or the Public Works Director shall obtain and maintain the following records.
   a. Certification by a registered engineer or architect that a proposed structure complies with Subsection D.3.a.
   b. The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all buildings and structures, and whether such structures contain a basement.

Conditions to be completed prior to issuance of a construction permit

Water

14. (WAT/mm-2) Prior to issuance of grading and construction permits, the applicant shall submit a copy of the RWQCB-issued stormwater construction permit. The permit shall be on-site during all major grading and construction activities.

Fees

15. Prior to issuance of a construction permit, the applicant shall pay all applicable school and public facilities fees.

Public Works

16. Prior to issuance of a construction permit, the applicant shall apply for and obtain an encroachment permit for any improvements within the right of way from the County Department of Public Works.

17. The applicant shall submit a drainage plan for review and approval by County Public Works Department. The applicant shall show the finished floor at a minimum of one foot above the 100 year storm surge level for review and approval by County Public Works and the Department of Planning and Building.

Services

18. Prior to issuance of a construction permit, the applicant shall submit to the Development Review staff evidence from the **Cayucos Sanitary District** that all of their requirements, including payment of fees, have been met.

19. Prior to issuance of a construction permit, the applicant shall provide a letter from the **CSA 10A** stating that they are willing and able to service the property.

20. Prior to issuance of a construction permit, the applicant shall receive any necessary approvals from the Regional Water Quality Control Board.

Fire Safety

21. Prior to issuance of a construction permit, the applicant shall provide the county Department of Planning and Building with a fire safety plan approved by the Cayucos Fire Protection District.

Lighting

22. Prior to issuance of a construction permit, the applicant shall prepare a lighting plan for review and approval. The plan shall comply with the requirements of 23.04.320 (outdoor lights) of the Coastal Zone Land Use Ordinance.

Biological Resources

23. (BR/mm-1) Prior to issuance of construction permits, the applicant shall submit documentation verifying designation of a qualified environmental monitor for all measures requiring environmental mitigation to ensure compliance with Conditions of Approval and EIR mitigation measures. The monitor shall be responsible for: (1) ensuring that procedures for verifying compliance with environmental mitigations are

followed; (2) lines of communication and reporting methods; (3) daily and weekly compliance reporting; (4) construction crew training regarding environmentally sensitive areas; (5) authority to stop work; and (6) action to be taken in the event of non-compliance. Monitoring shall be at a frequency and duration determined by the affected natural resource agencies (e.g., USACE, CDFW, RWQCB, California Coastal Commission, USFWS, and the County).

24. (BR/mm-6) Prior to issuance of construction permits, the applicant shall submit a detailed sediment and erosion control plan for approval, which shall address both temporary and permanent measures to control erosion and reduce sedimentation. Erosion and soil protection shall be provided on all cut and fill slopes. Revegetation shall be facilitated by mulching, hydro-seeding or other methods, and shall be initiated as soon as possible after completion of grading, and prior to the onset of the rainy season (October 15). Permanent revegetation and landscaping shall emphasize native shrubs, and trees, to improve the probability of slope and soil stabilization without adverse impacts to slope stability due to irrigation infiltration and long-term root development. All plans shall show that sedimentation and erosion control measures are installed prior to any other ground disturbing work.

Aesthetics

25. (AES/mm-1) Prior to issuance of the building permit, the applicant shall submit interior and exterior lighting plans to the Department of Planning and Building for review and approval consistent with the following:
    a. The point source of all exterior lighting shall be shielded from off-site views, including beach areas.
    b. All required security lights shall utilize motion detector activation.
    c. Light trespass from exterior lights shall be minimized by directing light downward and utilizing cut-off fixtures or shields.

Air Quality

26. (AQ/mm-2) Prior to issuance of construction permits, the applicant shall include the following measures on applicable grading and building plans:

Idling Restrictions Near Sensitive Receptors for Both On and off-Road Equipment

    a. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors;
    b. Diesel idling within 1,000 feet of sensitive receptors is not permitted;
    c. Use of alternative fueled equipment is recommended whenever possible; and,
    d. Signs that specify the no idling requirements must be posted and enforced at the construction site.

Idling Restrictions for On-road Vehicles

    e. Section 2485 of Title 13, the California Code of Regulations limits diesel-fueled commercial motor vehicles that operate in the State of California with gross vehicular weight ratings of greater than 10,000 pounds and licensed for operation on highways. It applies to California and non-California based vehicles. In general, the regulation specifies that drivers of said vehicles:

1. Shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location, except as noted in Subsection (d) of the regulation; and,
2. Shall not operate a diesel-fueled auxiliary power system (APS) to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5.0 minutes at any location when within 100 feet of a restricted area, except as noted in Subsection (d) of the regulation.

f. Signs must be posted in the designated queuing areas and job sites to remind drivers of the 5-minute idling limit. The specific requirements and exceptions in the regulation can be reviewed at the following web site: www.arb.ca.gov/msprog/truck-idling/2485.pdf.

Idling Restrictions for off-Road Equipment

g. Off-road diesel equipment shall comply with the 5 minute idling restriction identified in Section 2449(d)(3) of the California Air Resources Board's In-Use off-Road Diesel regulation: www.arb.ca.gov/regact/2007/ordiesl07/frooal.pdf.

h. Signs shall be posted in the designated queuing areas and job sites to remind off-road equipment operators of the 5 minute idling limit.

Geology and Soils

27. (GS/mm-1) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Engineering Evaluation (Shoreline Engineering 2012) and Updated Geotechnical Investigation (GSI Soils, Inc.) dated December 27, 2011, specifically the recommendations identified in Section 5.2 – Preparation of the Building Pad, Section 5.3 – Structural Fill, Section 5.4 – Drilled Piers, Section 5.5 – Conventional Deepened Foundation, Section 5.6 – Slab Construction, and Section 5.9 – Surface and Subsurface Drainage.

28. (GS/mm-2) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.) dated December 27, 2011, and specifically the following:

a. All surface and subsurface deleterious materials shall be removed from the proposed building area and disposed of offsite. This includes, but is not limited to, any buried utility lines, loose fills, debris, building materials, and any other surface and subsurface structures.

b. Voids left from site clearing shall be cleaned and backfilled as recommended for structural fill.

c. Once the site has been cleared, the exposed ground surface shall be stripped to remove surface vegetation and organic soil.

29. (GS/mm-3) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the following: recommendations for slope stability identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.10 – Temporary Excavations and Slopes; and Shoring Detail prepared by Shoreline

Engineering (January 2012, updated September 20, 2012). Plans shall demonstrate how construction would be conducted such that no activity would compromise the neighboring structure. Construction of all site preparation and shoring activities shall be monitored by the project Engineer of Record, and daily monitoring reports shall be prepared and submitted to the County Department of Planning and Building on a weekly basis.

30. (GS/mm-4) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which include the use of deepened pier foundations identified in the Engineering Evaluation (Shoreline Engineering, Inc.), dated January 2012, and Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.2 – Preparation of Building Pad, Section 5.4 – Drilled Piers, and Section 5.5 – Conventional Deepened Foundation.

31. (GS/mm-5) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.1 – Clearing and Stripping, Section 5.2 – Preparation of Building Pad, and Section 5.3 – Structural Fill.

32. (GS/mm-6) Prior to issuance of grading and construction permits, the applicant shall submit a drainage plan for review and approval by the County Department of Public Works. The drainage plan shall be coordinated with the sedimentation and erosion control plan, be consistent with CZLUO §23.050.036 and 040, and specifically include engineered energy dissipators and controls that would limit peak runoff to pre-development levels.

33. Prior to issuance of grading permits, the applicant shall retain a certified arborist to conduct any site preparation activities requiring cuts or impacts to the root zone of the existing mature cypress tree. The certified arborist shall monitor work within the root zone, including grading and excavation for the retaining wall, and utility work. The certified arborist shall verify that tree protection fencing shown on the plans and approved by the County is installed prior to ground disturbance within 25 feet of the trunk of the tree. The applicant shall comply with methods identified by the certified arborist to avoid unnecessary damage to the root zone, including use of hand tools within 25 feet of the trunk of the tree, protection and treatment of exposed roots during construction, and use of tunneling under shallow roots for utility installation in lieu of standard trenching.

Lateral Access

34. Prior to issuance of construction permits, the applicant shall execute and record an offer of dedication for lateral access which shall include the area from the western property line adjacent to the public beach to the toe of the rock outcrop to be available at all times during the year (pursuant to the requirements of the Estero Area Plan and Section 23.04.420 of the Coastal Zone Land Use Ordinance).

Deed Restriction/Shoreline Protection Device Prohibition

35. Prior to issuance of any grading or construction permits, the property owner shall record a deed restriction against the property that ensures that no shoreline protection structure

shall be proposed or constructed to protect the development, and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235 and the San Luis Obispo [County] certified Local Coastal Program.

36. Prior to issuance of any grading or construction permits, the property owner shall execute and record a deed restriction which acknowledges and assumes the risks of wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff and waives any future claims of damage or liability against the permitting agency and agrees to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.

Conditions to be completed during project construction

Biological Resources

37. (BR/mm-2) Prior to the initiation of construction, the environmental monitor shall conduct environmental awareness training for all construction personnel. The environmental awareness training shall include discussions of sensitive habitats and animal species in the immediate area. Topics of discussion shall include: general provisions and protections afforded by the Endangered Species Act; measures implemented to protect special-status species; review of the project boundaries and special conditions; the monitor's role in project activities; lines of communications; and procedures to be implemented in the event a special-status species is observed in the work area.

38. (BR/mm-4) Prior to the initiation of construction, the applicant's contractors and the environmental monitor shall coordinate the placement of project delineation fencing throughout the work areas. The environmental monitor shall field fit the placement of the project delineation fencing to minimize impacts to sensitive resources. The project delineation fencing shall remain in place and functional throughout the duration of the project. During construction, no project related work activities shall occur outside of the delineated work area.

Air Quality

39. (AQ/mm-1) Prior to initiation of construction, the project applicant shall implement the following dust control measures:
    a. Reduce the amount of the disturbed area where possible;
    b. Use water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 miles per hour. Reclaimed (non-potable) water should be used whenever possible;
    c. All dirt stockpile areas should be sprayed daily as needed; and,
    d. All roadways, driveways, sidewalks, etc., to be paved should be completed as soon as possible, and building pads should be lain as soon as possible after grading unless seeding or soil binders are used.

Building Height

40. The maximum height of the project is 15 feet as measured from the centerline of the fronting Street at a point midway between the two side property lines, projected to the

street centerline. Prior to approval of the roof nailing inspection, the applicant shall provide the building inspector with documentation that gives the height reference, the allowable height, and the actual height of the structure. A licensed surveyor or civil engineer shall prepare this certification.

Archaeology

41. In the event archaeological resources are unearthed or discovered during any construction activities, the following standards apply:

    a. Construction activities shall cease and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law.
    b. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.

Conditions to be completed prior to final building inspection

Landscaping

42. Prior to final building inspection, landscaping in accordance with the approved landscaping plan shall be installed or bonded for to ensure the implementation of landscaping. If bonded for, landscaping shall be installed within 60 days after final building inspection. All landscaping shall be maintained in a viable condition in perpetuity.

Fire Safety

43 Prior to final inspection, the applicant shall obtain final inspection and approval from Cayucos Fire Protection District for all required fire/life safety measures.

Miscellaneous

44. Prior to occupancy of any structure associated with this approval, the applicant shall contact the County Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

On-going conditions of approval (valid for the life of the project)

45. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Coastal Zone Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.

46. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Coastal Zone Land Use Ordinance.

47. The applicant shall, as a condition of approval of this minor use permit/coastal development permit defend, at his or her sole expense, any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this minor use permit/coastal development or the manner in which the County is interpreting or enforcing the conditions of this minor use permit/coastal development permit, or any other action by a third party relating to approval or implementation of this minor use permit/coastal development permit. The applicant shall reimburse the County for any court costs and attorney's fees which the County incurs as a result of such action, but the County's participation in any such litigation shall not relieve the applicant of his obligation under this condition.

"EXHIBIT C"

CEQA REQUIRED FINDINGS FOR THE LOPERENA MINOR USE PERMIT/ COASTAL DEVELOPMENT PERMIT ENVIRONMENTAL IMPACT REPORT

1.0 ENVIRONMENTAL DETERMINATION

The Environmental Impact Report (EIR) was prepared, pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code [PRC] §21000 et seq.), to evaluate the environmental impacts resulting from approval of the Loperena Minor Use Permit / Coastal Development Permit (MUP/CDP) (project). The County of San Luis Obispo (County) is the CEQA Lead Agency for the project.

The EIR addresses the potential environmental effects associated with the project. A number of federal, state, and local governmental agencies require an environmental analysis of the proposed project consistent with the requirements of CEQA in order to act on the project. These agencies include the California Coastal Commission.

The findings and recommendations set forth below (Findings) are adopted by the County Board of Supervisors as the County's findings under CEQA and the CEQA Guidelines (California Code of Regulations [CCR] Title 14, §15000 et seq.) relating to the project. The Findings provide the written analysis and conclusions of this commission regarding the project's environmental impacts, mitigation measures, and alternatives to the project.

PROCEDURAL BACKGROUND

Pursuant to CEQA and the CEQA Guidelines, the County determined that an EIR would be required for the project. On August 7, 2009, the County issued a Notice of Preparation (NOP) for the EIR which was circulated to responsible agencies and interested groups and individuals for review and comment. A copy of the NOP is included in Appendix A of the Loperena MUP/CDP EIR.

The Draft EIR was available for public review and comment from June 14, 2013, through August 5, 2013, and was filed with the State Office of Planning & Research under State Clearinghouse No. 2007081044.

The County prepared written responses to the comments received during the comment period and included these responses in the Final EIR, which was published by the County on December 12, 2013. The Final EIR with responses was made available to all commenters.

2.0 PROJECT DESCRIPTION

The applicant, Mr. Jack Loperena (landowner) and architect, Mr. James Maul, request a Minor Use Permit / Coastal Development Permit (MUP/CDP) to allow for the construction of a single-family residence. A description of the project location, project history, and project elements are discussed in the sections below.

GENERAL BACKGROUND

Project Location

The project site is located in the unincorporated community of Cayucos, within San Luis Obispo County, California. The project site is located adjacent to State of California Department of Parks and Recreation (State Parks) property on the northern end of Studio Drive, approximately 250 feet south of the intersection of Studio Drive and Highway 1. The project site consists of a single 3,445-square-foot parcel (Assessor Parcel Number 064-253-007).

Project Background

The applicant submitted an application for a MUP/CDP in May of 2006. At the time, the environmental document prepared and issued by the County was a Mitigated Negative Declaration (MND) (August 9, 2007). A Planning Department Hearing was scheduled for August 17, 2007, to consider the proposed project and MND. At the hearing, staff requested a continuance until September 21, 2007 because the MND had been re-issued and re-noticed, and required a 30-day public review period. On August 23, 2007, County staff received a Request for Review of the MND, and requested that the project be continued off calendar to address issues raised in the Request for Review. Based on the comments included in the Request for Review, County staff consulted with County experts in geology, cultural resources, emergency services, air quality, and public works and drainage. Information and data obtained from County experts were incorporated into an amended MND, which was re-circulated for public review (April 2, 2009). A Planning Department Hearing was scheduled for May 15, 2009. A Request for Review of the amended MND was received by County staff on April 16, 2009, and County staff requested that the project be continued off calendar a second time.

Based on the issues raised in the April 2009 Request for Review, the County Environmental Coordinator determined that a fair argument was raised regarding the significance of potential environmental impacts. Upon consideration of these issues, the applicant proposed that an EIR be prepared for the proposed project.

The project application along with the Final EIR were scheduled and noticed for the Planning Commission on January 23, 2014. The Planning Commission discussed the project and opened public comment however the Commission elected to continue the project to their April 10, 2014 meeting in order for the applicant to bring back a reduced/revised project. The reduced project was then reviewed and approved at the April, 10 2014 Planning Commission hearing. The Planning Commission decision was subsequently appealed to the County Board of Supervisors and scheduled on the June 3, 2014 hearing.

PROJECT OBJECTIVES

The objectives of the project are to:

Develop a single-family residence on Studio Drive, within an existing, developed, single-family residential neighborhood;

Allow development consistent with the County General Plan and Local Coastal Program

Provide coastal access

In addition, the applicant provided the following project objectives:

Reduce visual impacts by design;

Avoid development on the sandy beach and minimize site grading and disruption of the natural contours; and,

Incorporate green building considerations into the design, and maximize exposure for solar panels.

PROPOSED PROJECT EVALUATED FOR THE EIR

The project evaluated in the EIR includes a proposal to grade for and construct a 3,097-square-foot residence, including approximately:

1,097 square feet of main floor living space

1,040-square-foot basement

338-square-foot mezzanine

242-square-foot garage and 200 square foot carport; and,

180-square-foot covered deck.

The residence would consist of one main floor and a basement. The footprint of the house would be 1,040 square feet. The maximum width of the structure would be 18 feet, and the maximum length would be 95 feet. A paved driveway would provide access from Studio Drive. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive. The basement would be located below the elevation of Studio Drive. The applicant proposes a cantilevered design, which would be elevated above the sandy beach. This portion would include approximately 325 square feet of living space and a covered deck.

The residence would be constructed on a structural mat slab supported on deepened/deadman footings and/or drilled piers. The footing on the east side of the residence would extend the full width of the structure (18 feet), and be 6 to 8 feet deep and 18 feet long. The purpose of the deadman footings will be to resist the cantilever loading of the west side of the residence, which would extend 28 feet over the sand. The mat slab would be located at basement level (15 feet above mean sea level). Cuts varying from approximately 5 feet on the north side of the pad to 12 feet on the south side are anticipated. Temporary excavation support would be provided by steel soldier beams installed in drilled holes filled with lean concrete. The soldier beams would be lagged with steel plates to provide support during construction. The soldier beams and lagging would be removed once the excavated area is backfilled. The exterior walls of the structure would be concrete and would retain soils along the southern, eastern, and northern sides of the residence. Retaining walls will also be constructed adjacent to Studio Drive with continuous footings extending into the underlying bedrock materials.

A photovoltaic system would provide electricity for the residence, including 1,400 square feet of solar panels to be located on the south-facing slopes of the roof. Light tubes would be installed to allow outside light to filter through to the basement.

Grading Estimates

Grading activities would disturb approximately 3,000 square feet of the 3,445-square-foot parcel, including 400 cubic yards of cut (foundation) and 150 cubic yards of fill (driveway). The average depth of cut would be 5 feet (minimum 1 foot, maximum 12 feet). Approximately 250 cubic yards of soil would be exported offsite.

Drainage Plan

Proposed drainage plans include removal of an existing overside drain and construction of a new storm drain system including an overside drain with a fossil filter, stormwater inlet, and stormwater outlet with energy dissipators. Stormwater would flow from the outlet in a northwesterly direction offsite.

A concrete deck would be constructed over the new pipe system to allow entry to the property. Rainfall from the roof would be collected by a gutter system and facilitated to an underground holding tank below the driveway grade. Captured runoff would be used as gray water for toilet flushing and landscape watering. Runoff would be piped and directed westward to exit onto the beach.

Services and Utilities

An existing high pressure gas main would be re-routed so that no structures are located over the top of the pipeline. The proposed residence would be served by the County Service Area 10A for water supply and Cayucos Sanitary District for wastewater collection, treatment, and disposal. Cayucos Fire would provide fire protection.

REVISED PROJECT

Based on direction from the Planning Commission, the applicant revised the project which reduced the size of the proposed project from what was evaluated in the EIR. The revised project includes a home that is approximately 16 feet shorter in living area from the proposed project and has an approximate total length of 70 feet which includes an attached deck on the west side. The original 2,917 square foot home had a length of approximately 90 feet. The revised project is approximately 2,374 square feet which includes all interior area and the single car garage (approximately 543 square feet smaller then the original proposed project). The height of the revised project is not changing from the original proposed project. The revised project includes:

- 841 square feet of main floor living space
- 814 square foot basement
- 280 square foot mezzanine
- 239 square foot garage and 200 square foot car port

All other aspects to the revised project such as the foundation and proposed site preparation are similar to the original proposed project, but are slightly smaller in size or area, and are set back farther from the beach at a higher elevation then the original design due to the shorter

footprint (the basement went from an elevation of 15 feet to 16 feet at the lowest corner). The foundation will no longer need a 6' deep foundation to support the long cantilevered portion of the original design, but will include a 2' deep mat foundation. The site preparation will remain as outlined in the geotechnical recommendations in the EIR. This revised project is consistent with the project that was evaluated in the EIR and will not contain any additional impacts that were not already evaluated. This revised project will comply with the County Green Building Ordinance and while solar panels are not shown with this design on the plans, the project is not precluded from allowing solar panels within the new pitched roofline.

3.0 GENERAL FINDINGS

CEQA General Findings

A. The County Board of Supervisors finds that changes or alterations have been incorporated into the project to eliminate or substantially lessen all significant impacts where feasible. These changes or alterations include mitigation measures and project modifications outlined herein and set forth in more detail in the Loperena Minor Use Permit/Coastal Development Permit EIR.

B. The County Board of Supervisors finds that the project, as approved, includes an appropriate Mitigation Monitoring Program. This mitigation monitoring program ensures that measures that avoid or lessen the significant project impacts, as required by CEQA and the State CEQA Guidelines, will be implemented as described.

C. Per CEQA Guidelines §15126.4(a)(1)(B), the proposed project includes performance-based conditions relating to environmental impacts and include requirements to prepare more detailed plans that will further define the mitigation based on the more detailed plans to be submitted as a part of the construction phase. Conditions and mitigation measures contain performance-based standards and therefore avoid the potential for these conditions or measures to be considered deferred mitigation under CEQA.

Lead Agency and Responsible Agency Use of the Final EIR and Findings

The County, as the CEQA lead agency, is responsible for administering the preparation of the EIR and certifying the Final EIR. The Board of Supervisors will use the Final EIR as an informational document to assist in the decision-making process, ultimately resulting in the approval, denial, or assignment of conditions to the project.

The CEQA Guidelines authorizes lead agencies (public agencies that have principal responsibility for carrying out or approving a project and for implementing CEQA) to approve a project with significant effects if there is no feasible way to lessen or avoid the significant effects and the project's benefits outweigh these effects. Responsible agencies (public agencies other than the lead agency that have responsibility for carrying out or approving a project and for complying with CEQA) have a more limited authority to require changes in the project to lessen or avoid only the effects, either direct or indirect, of that part of the project which the agency will be called on to carry out or approve (PRC §21104(c), §21153(c); CEQA Guidelines §15041(b), §15042).

The Record

For purposes of CEQA and these Findings, the Record of Proceedings for the proposed project consists of the following documents and other evidence, at a minimum:

The NOP and all other public notices issued by the County in conjunction with the proposed project;

The Final EIR for the proposed project which consists of the Draft EIR, the technical appendices, and the Response to Comments;

The Draft EIR;

All written comments submitted by agencies or members of the public during the public review comment period on the Draft EIR;

All responses to written comments submitted by agencies or members of the public during the public review and comment period on the Draft EIR;

All written and verbal public testimony presented during noticed public hearings for the proposed project at which such testimony was taken;

The Mitigation Monitoring and Reporting Program;

The documents, reports, and technical memoranda included or referenced in the technical appendices of the Final EIR;

All documents, studies, EIRs, or other materials incorporated by reference in the Draft and Final EIR;

The Ordinances and Resolutions adopted by the County in connection with the proposed project, and all documents incorporated by reference therein;

Matters of common knowledge to the County, including but not limited to federal, state, and local laws, regulations, and policy documents;

Written correspondence submitted to the County in connection with the project;

All documents, County Staff Reports, County studies, and all written or oral testimony provided to or by the County in connection with the project;

The County's Local Coastal Plan, General Plan, and related ordinances;

All testimony and deliberations received or held in connection with the project; and,

Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e) (excluding privileged materials).

CERTIFICATION OF THE LOPERENA MUP/CDP EIR

The County Board of Supervisors makes the following findings with respect to the Loperena MUP/CDP Final EIR:

A. The County Board of Supervisors has reviewed and considered the documents and other information listed in Section 2.7 above.

B. The Final EIR has been completed in compliance with CEQA.

C. The County Board of Supervisors has considered the information contained in the Final EIR, the public comments and responses currently and previously submitted, and the public comments and information presented at the public hearings.

D. All information was considered by the Board of Supervisors before taking an action on the project.

E. The Board of Supervisors hereby finds and determines that:

1. All significant effects that can be feasibly avoided have been eliminated or substantially lessened as determined through the findings and supporting evidence set forth in Sections 7.0, 8.0, and 9.0.

2. Based on the Final EIR and other documents in the record, specific environmental, economic, social, legal, and other considerations make infeasible other project alternatives identified in the Final EIR.

3. Should approval of the Loperena MUP and CDP have the potential to result in adverse environmental impacts that are not anticipated or addressed by the Final EIR, subsequent environmental review shall be required in accordance with CEQA Guidelines §15162(a).

4.0 STATEMENT OF OVERRIDING CONSIDERATIONS

The Final EIR has identified and discussed significant effects that will occur as a result of the proposed project. With the implementation of the mitigation measures identified in the Final EIR, these effects can be mitigated to a level of insignificance. Therefore, no statement of Overriding Consideration is required.

IMPACT ANALYSIS: Impacts of the proposed project and alternatives have been classified using the categories Class I, II, III, and IV as described below:

Class I: Class I impacts are significant and unavoidable. To approve a project resulting in Class I impacts, the CEQA Guidelines require decision makers to make findings and a statement of overriding considerations that discusses as applicable the economic, legal, social, technical and other benefits of the proposed project against the unavoidable environmental risks. The proposed project has not resulted in any Class I impacts.

Class II: Class II impacts are significant but can be mitigated to a level of insignificance by measures identified in the Final EIR and the project description. When approving a project with Class II impacts, the decision-makers must make findings that;

1. Changes or alternatives to the project have been incorporated that reduce the impacts to a less than significant level, or

2. That such changes or alternatives are within the responsibility and jurisdiction of another governmental agency and not the Lead Agency making the finding, and that such other governmental agency can and should adopt the required project changes or alternatives.

Class III: Class III impacts are adverse but not significant. Mitigation measures may still be required for these impacts as long as there is rough proportionality between the environmental impacts caused by the project and the mitigation measures imposed on the project.

Class IV: Class IV impacts would have a beneficial environmental impact.

5.0 FINDINGS FOR IMPACTS IDENTIFIED AS LESS THAN SIGNIFICANT

The findings below are for Class III impacts. Class III impacts are impacts that are adverse, but not significant. Pursuant to Section 15091(a)(1) of the State CEQA Guidelines, the Board of Supervisors finds that each of the following effects have been avoided or will have a less than significant impact, as identified in the Final EIR. The less than significant effects (Impacts) are stated fully in the Final EIR. The following are brief explanations of the rationale for this finding for each impact:

Agricultural Resources (Insignificant Impact/Not Applicable)

1. **Convert Prime Agricultural Land to Non-Agricultural Use.** The project is located in a non-agricultural area with no agricultural activities occurring at or adjacent to the project site. The project site is classified as Urban and Built-Up Land by the DOC, Division of Land Resource Protection's Farmland Monitoring and Mapping Program (DOC 2008). No important farmland would be converted to non-agricultural use; therefore, there would be no impact.

2. **Impair Agricultural Use of Other Property or Result in Conversion to Other Uses.** No agricultural uses occur in the immediate vicinity of the project site. Based on the location of the project, it would not impair agricultural use of other properties in the region or result in conversion to non-agricultural uses. Therefore, there would be no impact.

3. **Conflict with Existing Zoning or Williamson Act Program.** The project site is within the residential land use category, and is not under Williamson Act contract. No parcels in the project vicinity are within the agricultural land use category or are subject to a Williamson Act contracts. No significant impacts to agricultural resources would to occur.

Aesthetics (Class III)

Create an Aesthetically Incompatible Site Open to Public View. From surrounding viewing locations, the overall height of the project would appear visually consistent with the heights of existing houses lining Studio Drive, and particularly the existing houses closest to the site. It is anticipated that as seen from most viewpoints, the height of the project would not be unexpected at this residential location.

The project evaluated in the EIR includes a building with a distinctly modern-style, architecture, and form. This style of architecture is seen regularly in the Studio Drive neighborhood and throughout the community. Although residential buildings often associated with the coastal community aesthetic tend to be beach bungalow style, modern style architecture is also part of the eclectic vernacular. These mid-century style buildings often employ simple forms, and flat rooflines with clerestory windows, similar to the proposed project evaluated in the EIR. This neighborhood consists of a variety of post modern, modern, and beach bungalow design styles constructed over time. The Planning Commission revised project includes additional traditional beach bungalow features such as wood or wood appearing siding, pitched roofline, and articulated walls as required by the Small Scale Neighborhood standards of the Estero Area Plan. This revised design which is before the Board of Supervisors for

approval is consistent with the character of this neighborhood and is compatible with the neighboring development.

Because of the existing residential setting, and the proposed structure's general consistency with the scale and architecture of the Studio Drive neighborhood, the project would be aesthetically compatible with the area, and potential impacts to public views is considered to be *less than significant* (CEQA Class III).

Introduce a Use within a Scenic View Open to Public View. Because of its location on the bluff, the project would be visible from many public viewpoints and from many viewing directions. The project's proximity to the beach and Studio Drive allows for up-close viewing opportunities by the public. The greatest number of potential viewers would be traveling on Highway 1, from where the project would occupy a portion of the mid-ground view, with the Pacific Ocean in the background. From Highway 1, the project would be more noticeable from the southbound lanes, since views from the northbound lanes would be mostly blocked by adjacent development. As seen from all areas on Highway 1, the lowest portion of the building and associated retaining walls would have limited visibility. The upper part of the residence would block a portion of the existing ocean view, from both the northbound and southbound lanes of Highway 1. From the southbound lanes, blue-water ocean views and the horizon line would be blocked a minor amount. As seen from the northbound lanes, blue-water views would also be briefly blocked, however views of the horizon and of the distant coastline hills would not be affected.

Although the project would block a portion of the ocean, the effect on the viewing experience would be minor. As seen from the highway it is estimated that the project would only block an insignificant percentage of the existing available ocean view. No views of unique, historic, or singularly memorable coastal resources would be affected. The existing residential development along Studio Drive currently limits views of the ocean and beach from Highway 1. It is anticipated that to most viewers, the project's small incremental effect on the scenic vista would just appear as an extension of the existing neighborhood condition. The high quality of the scenic vista would not be affected, and the extent of view loss would be minor or even un-noticed in the context of the remaining scenic viewshed.

As seen from southbound Studio Drive, the visual effect of the project would be similar to that from Highway 1; only a small portion of the total available ocean view would be affected, and the majority of the project would be seen within the visual silhouette of the adjacent development. From northbound Studio Drive south of the project, views of the ocean are blocked by existing homes. From the northbound direction, coastal views begin to open up as the viewer approaches the project site and begins to see around the northernmost residence. With construction of the project, existing coastal view blockage in the northbound direction and directly in front of the project would be extended a distance of approximately 150 feet along the street frontage. Outside of this 150-foot section, northbound views along Studio Drive would not be affected. Because existing coastal views along the approximately one mile length of Studio Drive are currently blocked, and there is approximately 300 feet of protected ocean views to the north of the site and extending to the Old Creek parking area, the additional 150 feet of affected view would be minor. The visual affect as seen from a vehicle would be approximately one second. Because of the short length, viewing durations from pedestrian and bicyclist viewpoints would also

be very brief. Similar to the views from Highway 1, the project's small incremental effect on the scenic vista would likely appear as an extension of the existing neighborhood condition. The high quality of the existing scenic vista would be unaffected, and the extent of view loss would be minor or even un-noticed in the context of the remaining scenic viewshed.

Viewpoints from the beach toward the project would be generally oriented inland and away from the ocean. From these viewing areas, scenic coastal resources such as the hills east of the highway are somewhat compromised by existing residential areas as well as the highway. The uppermost portions of the hills however are undeveloped and can be seen from much of the beach area. Because of the existing homes along the Studio Drive bluff, public viewers closer to the base of the bluff can see less of the hills across the highway to the east. From most beach viewpoints northwest of the project, the proposed residence would not extend beyond the visual silhouette of the adjacent development behind it. As seen from certain viewpoints directly west and southwest of the project, the upper portion of the new building would block a portion of the hillside to the northeast. From some closer viewpoints, the residence would block brief views of the ridgeline as well. Although a portion of the hillside views would be blocked by the project, the overall effect on the scenic vista would be minor. Views to the hills would not be blocked as seen from the majority of the beach area. No unique rock outcroppings or other memorable features are present within affected hillside areas. In addition, other hillside views would remain in the viewshed. The project and its subsequent effect on hillside views would appear to most viewers as an extension of the existing visual condition. Scenic ocean views from the neighborhood east of the highway would not be affected because the proposed residence would be consistent with the heights of the existing adjacent homes along Studio Drive.

Because the project would affect only a minor percentage of the available ocean and hillside views as seen from Highway 1 or from public roadways in the surrounding neighborhood or public beach, and because what would be affected would appear as an incremental extension of the existing visual condition along Studio Drive, the project's effect on scenic views is considered to be *less than significant* (CEQA Class III).

Specific Scenic Resources as Seen from the State Scenic Highway. As discussed in the previous section, the greatest number of potential viewers would be traveling on Highway 1, an Officially Designated State Scenic Highway and a National Scenic Byway. The upper part of the residence would block a portion of the existing ocean view, from both the northbound and southbound lanes of Highway 1. From the southbound lanes, blue-water ocean views and the horizon line would be blocked a minor amount. As seen from the northbound lanes, blue-water views would also be briefly blocked, however views of the horizon and of the distant coastline hills would remain.

Although the project would block a portion of the ocean, the effect on the viewing experience would be minor. As seen from the highway it is estimated that the project would only block an insignificant percentage of the existing available ocean view. No views of unique, historic, or singularly memorable coastal resources would be affected. The existing residential development along Studio Drive currently limits views of the ocean and beach from Highway 1. It is anticipated that to most viewers,

the project's small incremental effect on the scenic vista would just appear as an extension of the existing neighborhood condition. The high quality of the scenic vista would not be affected, and the extent of view loss would be minor or even un-noticed in the context of the remaining scenic viewshed.

As a result, the project would have no adverse effect on scenic resources as seen from Officially Designated State Scenic Highway 1. Because the project would affect only a minor percentage of the available ocean and hillside views as seen from Highway 1 and because what would be affected would appear as an incremental extension of the existing visual condition along Studio Drive, the project's effect on scenic vistas is considered to be *less than significant* (CEQA Class III).

Change the Visual Character of an Area. The project site occupies one of the more visible residential locations in the community. The proximity to Highway 1 and Morro Strand State Beach greatly increases the potential number of viewers of the project. The volume of traffic on Highway 1 in the vicinity of the project averages approximately 11,000 vehicles per day (Caltrans 2008). Because of this large number of viewers and highly visible location, the appearance of the project would have an influence on the visual character of the neighborhood. Any development of the site would include an inherent alteration of visual character. The change in character brought about by this project would be most noticeable it terms of its height, form, and architecture.

The project site itself is mostly covered with non-native vegetation such as iceplant and ornamental plantings. The visual context of the site is one of a residential beach neighborhood. Although the site's topography provides some visual interest to the setting, it is not memorable or unique. The exposed rock area along western portion of the site is a relatively insignificant portion of a larger, continuous rock face extending south along the bluffs. As noted above, the height of the project would not be unexpected at this residential location and the proposed architecture is aesthetically compatible with the character of the existing residences in the Studio Drive neighborhood.

Because of the existing residential setting, and the proposed structure's general consistency with the scale and architecture of the Studio Drive neighborhood, the effect of the project on visual character and quality of the site is considered to be *less than significant* (CEQA Class III).

Impact Unique Geological or Physical Features. As mentioned previously, the visual context of the site is one of a residential beach neighborhood. The project site is mostly covered with non-native vegetation such as iceplant and ornamental plantings. Although the site's topography provides some visual interest to the setting, it is not memorable or unique. The exposed rock area along western portion of the site is a relatively insignificant portion of a larger, continuous rock face extending north-south along the bluffs. Furthermore, the project would not block or adversely affect views of any unique off-site geological or physical features. As a result, the effect of the project on unique geological or physical features is considered to be *less than significant* (CEQA Class III).

Air Quality (Class III)

1. **Violate Air Quality Standard or Exceed Emission Threshold.** As proposed, the project would result in the disturbance of approximately 3,000 square feet, including driveways, walkways, the residential structure coverage, and landscaping. This would result in the creation of construction dust, as well as short-term vehicle emissions. Long-term operational impacts would include an increase in vehicle emissions on surrounding roads. Based on the CEQA Air Quality Handbook, the project would result in less than 10 pounds per day of pollutants, which is below the threshold warranting mitigation. Therefore, potential impacts would be *less than significant* (Class III).

Create or Subject Individuals to Objectionable Odors. The project consists of a residence, which will not require the storage or use of any materials or equipment that would generate objectionable odors. Therefore, potential impacts would be *less than significant* (Class III).

Clean Air Plan Consistency. The project is consistent with the general level of development anticipated and projected in the CAP, including promotion of residential infill in proximity to essential services and alternative transportation services. Therefore, potential impacts would be *less than significant* (Class III).

Generate GHG Emissions. The proposed project would result in an increased use of vehicles and electricity, each of which generate small amounts of CO_2, N_2O, and HFCs. The APCD provided comments on the project that indicated through URBEMIS modeling that the project would result in approximately 84 pounds per day of CO_2 in the summer and 102 pounds per day in the winter (APCD Comment Letter dated December 23, 2008).

Based on *Table 1-1: Operational Screening Criteria for Project Air Quality Analysis* (SLOAPCD 2012), construction and operation of one single-family residence would not exceed 1,150 MT of CO_2e/year threshold. In addition, the project includes elements that will reduce GHG emissions, including compliance with current Title 24 Energy requirements and Green Building Ordinance (electricity reduction for cooling/heating) , location within a garbage service area that is recycling over 50% of its wastes (electricity reduction), and requirement to recycle at least 50% of its construction wastes.

Because the project proposes only one single-family residence in an existing residential neighborhood, and is consistent with land use components necessary to meet the goals of AB32 and set forth in the Clean Air Plan, this increase in GHGs is not considered significant. Therefore, no significant adverse GHG impacts would occur as a result of the proposed project, and no mitigation measures are necessary (Class III).

Conflict with Applicable Plan, Policy, or Regulation. The proposed project is consistent with the APCD's CEQA Handbook and County's EnergyWise Plan because it consists of a residential development within an urban area, in proximity to recreational resources and opportunities for alternative transportation, such as walking and bicycling. As noted above, the project includes energy-efficiency measures, including compliance with the County's Green Building Ordinance and

Title 24 energy requirements. Potential impacts would be *less than significant* (Class III).

Cultural Resources (Class III)

1. **Pre-historic Resources.** The project site is located within a culturally sensitive region; however, the field studies and background research conducted by the applicant's consultant and EIR archaeologist did not identify the presence of any significant cultural resources within the project site. As with any ground disturbing activities, the potential for encountering previously undocumented cultural resources exists. In the event of inadvertent discovery, compliance with Section 23.05.140 of the CZLUO will be required. Potential impacts to pre-historic resources would be *less than significant* (Class III).

2. **Historic Resources**. No historic resources are located within the project site or within 0.5-mile. No impacts to historic resources are anticipated, therefore, no mitigation measures are required. No significant impact to historic resources would occur.

3. **Paleontological Resources.** The proposed project would be located within formations that are not known to contain significant paleontological resources. Impacts to paleontological resources would be *less than significant* (Class III). No mitigation is required.

Hazards and Hazardous Materials (Insignificant Impact/Not Applicable)

1. Risk of Explosion, Release, or Exposure to Hazardous Substances. The project does not propose the use or storage of hazardous materials; therefore, the risk of explosion or release of hazardous substances is not likely. The project would not result in the routine transport, use, or disposal of hazardous materials and does not create the potential for the release of hazardous materials through upset and/or accident conditions. Therefore, no hazards associated with the handling of hazardous materials would result. The project site is not located within 0.25 mile of an existing or proposed school, and is not included on the Cortese List or any other list of hazardous materials sites and would not create associated risks to the public or environment. No impacts due to hazards or hazardous materials would occur.

2. Interfere with Emergency Response or Evacuation Plan. Although it places residential uses within an area covered by the Dam and Levee Failure Evacuation Plan, Cities Nuclear Power Plant Emergency Response Plan, and Tsunami Response Plan, the proposed use is suitable for the location and within the general level of development projected in the response plans. The proposed project would not inhibit emergency alert, evacuation or response actions and would not conflict with any regional evacuation plan, because it is located with an existing residential lot, on a paved roadway (Studio Drive). No impacts to emergency response or evacuation plans will occur.

3. Airport Flight Patterns. The project site is not located within any airport review area and would not expose people to safety risks associated with airport flight patterns, therefore no impacts will occur.

4. High Fire Risk. The project is not located within a high fire hazard zone and does not present a significant fire safety risk, therefore no impacts will occur.

5. Other Hazards. The County Office of Emergency Services prepares for catastrophic (though highly unlikely) worst case scenario events that would include a 50 foot tsunami wave run-up. However, based on review by the County Geologist and the project consultant geologist, a 9.5 foot wave run-up is considered more appropriate for a 100-year tsunami event. The project has been designed and conditioned to avoid impacts from a 100-year tsunami event and potential impacts related to wave run-up and tsunami hazards for the proposed development will be taken into account through the foundation design and finished floor elevations of the proposed residence.

An in depth analysis of tsunami and/or wave run-up hazards associated with the proposed project is included in Section 4.3, Geology and Soils. Refer to that section for additional information. No other significant adverse impacts would occur as a result of the proposed project, and no mitigation measures are necessary (Class III).

Geology and Soils (Class III)

1. **Exposure to or Production of Unstable Earth Conditions.** Seismic ground shaking associated with a large earthquake on one of several nearby and regional faults (the Oceanic, Hosgri, Los Osos, and San Luis Range faults) is considered to be a high potential hazard for the project area. Peak ground accelerations up to 0.35g could potentially affect structures at the site in the future. The project site was positioned on the USGS Seismic Hazard Maps for a 2% probability of exceedance in 50 years to determine the maximum considered earthquake spectral response accelerations. The Code-required design acceleration coefficients for short periods (SDS) and at one-second (SD1) would be 0.980g and 0.491g, respectively; therefore, a site class C is recommended for structure design (GSI Soils, Inc. 2011).

   Mitigation of seismic hazards due to strong ground motion is addressed through proper structural design in accordance with the applicable building codes (presently the 2009 International Building Code [IBC] and 2010 California Building Code [CBC] documents related to Earthquake Loads) at the time of building permit application. Seismically-induced ground failure mechanisms include: landsliding, liquefaction, lurching, differential compaction, lateral spreading, and dry sand settlement.

   Landslides. The central coast region of California has not yet been mapped by the California Geological Survey under the Seismic Hazards Mapping Act program. No landslides have been mapped or found on the property. A large earthflow landslide terminates approximately 400 feet northeast of the site across Highway 1. The landslide and the project site are separated by over 400 feet of very low gradient topography that is overall flatter than 15:1 (horizontal:vertical). Significant portions of that horizontal distance are nearly level (e.g., the width of Highway 1). Consequently the potential for risk of landslides adversely impacting the site is considered to be low. Potential impacts related to landslides are *less than significant* (Class III), and no mitigation measures are necessary.

Earthquakes. As noted in Section 4.3.1.1 Existing Conditions, Regional Setting, Geologic Setting, fault systems are present in the region; however, no known active faults trend through the property. No topographic anomalies in the area are suggestive of faulting, and the potential for surface faulting and ground rupture at the site to be low. Therefore, potential impacts would be *less than significant* (Class III), and no mitigation measures beyond compliance with the CBC are necessary.

Earthquake-Induced Landsliding. The only significant slope that would exist at the site upon completion of the project is the fill slope descending from Studio Drive to the property; however, the plans indicate this slope will be filled over and supported by retaining walls; hence the potential for seismically-induced landsliding is low. Therefore, potential impacts would be *less than significant* (Class III), and no mitigation measures are necessary.

Lateral Spreading. Conditions that typically induce lateral spreading include liquefaction of a subsurface layer or layers of soil, and site topography that contains an open topographic face which exposes the soil profile overlying the liquefiable layer(s). Both conditions potentially exist at the site but require further review by the project applicant's consultants. Based on the proposed foundation design, site grading, and confined condition of the sands near the center of the building pad, the potential for lateral spreading displacements would be negligible (GSI Soils, Inc. 2011). Therefore, based on the design of the project, potential impacts would be *less than significant* (Class III), and no mitigation beyond compliance with the CBC is necessary.

Dry Sand Settlement. Due to the limited depth of sand (approximately 6 feet) within the building pad area, dry settlements of these sands during seismic ground shaking is expected to be less than 0.5 inch. With the proposed grading, these settlements are anticipated to be less than 0.25 inch (GSI Soils, Inc. 2011). Therefore, potential impacts would be *less than significant* (Class III), and no mitigation beyond compliance with the CBC is necessary.

Land Subsidence. Land subsidence occurs when large amounts of groundwater have been excessively withdrawn from an aquifer. Water supply in Cayucos is provided by the Whale Rock Reservoir and Nacimiento Water Project. There is no identified Level of Severity for water supply in the Cayucos area (County of San Luis Obispo 2012), and the project site is not located within a designated groundwater basin. There is no evidence of land subsidence on or in the vicinity of the project site, and implementation of the project would not create a demand for water supply that would result in land subsidence. Therefore, no significant impact would occur.

"Alquist-Priolo" Earthquake Fault Zone. The project site is not located within an Alquist-Priolo Earthquake Fault Zone as defined by maps prepared by the California Geological Survey. Therefore, no significant impact would occur.

Soil Erosion, Topographic Changes, Loss of Topsoil, and Instability

***Soil Erosion* – Long Term.** In the long term, the project would not create any changes that would result in significant soil erosion. The proposed drainage plan includes stormwater diffusers to slow down runoff during rain events and minimize the potential for storm-related beach erosion. Therefore, potential long-term impacts

would be *less than significant* (Class III), and no mitigation beyond compliance with existing regulations is necessary. Long-term erosion related to sea level rise and wave runup is discussed below under Coastal Hazards.

Change Rates of Soil Absorption or Runoff. As noted above, the project includes a drainage plan that would replace the existing County drain pipe with a new stormwater system. This system would change the direction of surface runoff from the street onto the beach, but would not be significantly different than the current situation. The project would create additional area of impervious surface, and a stormwater management system, consistent with the County's regulations and policies for Low Impact Development (LID). Based on the location, size, and design of the project, it would not significantly change the rates of soil absorption or amount and direction of surface runoff. Therefore, potential impacts would be *less than significant* (Class III), and no mitigation beyond compliance with existing regulations is necessary.

100 year Flood Zone. The project site is not located within a 100-year flood hazard zone, and the area proposed for development is located above and outside the AE/VE hazard zone which has a 100-year flood elevation of 10 feet (NGVD29), which is approximately equivalent to elevation 12.92 feet NAVD88. The proposed basement finish floor elevation of the Planning Commission revised project is16 feet NAVD88 and is approximately 3.08 feet higher than the AE/VE flood elevation. Therefore, no significant impact would occur.

County's Safety Element Consistency. Applicable geology and soils-related goals and policies identified in the County's Safety Element include the following:

Geologic and Seismic Hazards, Goal S-5: Minimize the potential for loss of life and property resulting from geologic and seismic hazards.

Based on compliance with the CBC, County Code, and incorporation of recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, and Engineering Evaluation (Shoreline Engineering), dated January 2012, the project would be consistent with this goal.

Geologic and Seismic Hazards, Policy S-21: Slope Instability. The County acknowledges that areas of known landslide activity are generally not suitable for residential development. The County will avoid development in areas of known slope instability or high landslide risk when possible, and continue to encourage that developments on sloping ground use design and construction techniques appropriate for those areas.

The project site is not located within an area of high landslide risk; however, short-term slope instability may occur during construction. Based on incorporation of recommendations identified in the Updated Geotechnical Investigation and Engineering Evaluation, which include use of a temporary shoring system to stabilize cut slopes during excavation and construction, the project would be consistent with this policy.

Geology and Seismic Hazards, Policy S-23: Coastal Bluffs. Development shall not be permitted near the top of eroding coastal bluffs.

The project site is unique in that the underlying geology consists of a fluvial bluff, which has been buried under artificial fill. The Technical Analysis (Cotton Shires and Associates 2011), which is included in Appendix C (Geology and Soils Background Information) and incorporated by reference in this EIR section, included an assessment of potential coastal erosion hazards, and did not identify any significant adverse effects or safety hazards related to coastal erosion. Therefore, the project is consistent with the intent of this policy.

Geology and Seismic Hazards, Program S-63: Require coastal bluff erosion studies to determine the rate or erosion and the resulting safe distance from the top of the bluff for development, in accordance with the LCP.

Preparation of the EIR included a comprehensive analysis of potential erosion hazards, both short- and long-term. Based on the analysis, the project would not result in a safety issue related to erosion, thus meeting the intention of this Program.

Geologic and Seismic Hazards, Implementation Measures, Standard S-56: For developments in areas of known slope instability, landslides, or slopes steeper than 20 percent, the stability of slopes shall be addressed by registered professionals practicing in their respective fields of expertise.

The applicant submitted technical reports and plans completed by registered engineers, and independently peer reviewed during the EIR analysis, consistent with this implementation measure.

Geologic and Seismic Hazards, Implementation Measures, Standard S-59: Development proposals will be required to mitigate the impacts that their projects contribute to landslides and slope instability hazards on neighboring property, and appurtenant structures, utilities, and roads; such as emergency ingress and egress to the property, and loss of water, power or other lifeline facilities.

Based on incorporation of recommendations identified in the Updated Geotechnical Investigation and Engineering Evaluation, which include use of a temporary shoring system to stabilize cut slopes during excavation and construction, the project would be consistent with this implementation measure and would not destabilize areas adjacent to Studio Drive and the neighboring developed property to the south.

Geologic and Seismic Hazards, Implementation Measures, Standard S-60: Enforce current building code requirements and applicable ordinances and sections of the General Plan that pertain to development on sloping ground.

The County requires compliance with the CBC, Estero Area LUE and LCP, and CZLUO, consistent with this implementation measure. Based on the technical reports peer reviewed and incorporated by reference into this EIR analysis, the project would be consistent with the Safety Element, and no significant impacts would occur.

Valuable Mineral Resource: The project site is not located in an area designated for mineral extraction, and no valuable minerals are known to occur onsite. Therefore, no significant impacts would occur.

Coastal Hazards. The potential coastal hazards associated with the proposed residential development include shoreline erosion, wave runup, and coastal flooding.

Draft and Final EIR Analysis: The following erosion hazard, oceanographic flooding hazard, breaking wave elevation, and wave run-up hazard analyses are based on data provided in the Draft and Final EIR.

Erosion Hazard

The shoreline in front of the subject property has been relatively stable over the long term (USGS 2006). On the basis of the USGS study, aerial photograph review spanning 39 years, the elevation of the proposed development, and the presence of hard rock material between the shoreline and the proposed residence:

there has been very little erosion or retreat of the shoreline over the last four decades;

a 2.5-foot rise in sea level will likely not result in a significant impact on the erosion rate or the proposed residence; and,

there is no potential significant marine erosion hazard at the site over the next 100 years.

Therefore, the potential for significant erosion due to sea level rise would not be significant in this location.

Oceanographic Flooding Hazard

The primary hazard due to flooding from ocean waters is storm surge. The highest recorded water elevation on record in the vicinity of Cayucos (Port San Luis) is 7.57 feet NAVD88 and includes all oceanographic effects on sea level except for long-term sea level rise predictions (NOAA 2011). Incorporating a potential sea level rise of 2.5 feet in the next 100 years, the future design maximum sea level would be 10.1 feet NAVD88, which is considered to be in excess of a 100-year recurrence interval water level. The proposed residence would be located at and above an elevation of 16.0 feet NAVD88; therefore, the site would not be adversely affected by flooding from the ocean over the next 100 years.

Breaking Wave Elevation

The project incorporates a cantilevered design. The proposed first floor would be located at elevation +26 feet NAVD88, and will extend ocean-ward beyond the basement floor; therefore, the Coastal Hazards and Wave Runup report (GeoSoils, Inc. 2011, 2012) evaluated the potential maximum breaking wave crest elevation. The breaking wave elevation analysis calculated that the maximum wave crest elevation at the project site is approximately +14.5 feet NAVD88, which is well below the proposed cantilevered first floor elevation of +26 feet NAVD88. Therefore, the cantilevered portion of the structure would not be adversely affected by breaking wave forces.

Wave Runup Hazard

A wave runup analysis was performed under extreme (worst-case) design oceanographic conditions including storm surge, sea level rise of 2.5 feet over the next 100 years, and scour of the beach in front of the rock outcropping down to elevation 3.1 feet NAVD88, utilizing a design wave height of 5.5 feet. In this worst-case scenario, the maximum wave runup would be at elevation +22.7 feet NAVD88, and may reach the basement of the proposed residence at +15.0 feet NAVD88 over the next 100 years (GeoSoils, Inc. 2011). However, the runup is characterized as a pulse of water reaching the basement wall rather than a continuous or sustained flow over time. Based on calculations, the depth of the water overtopping the rock outcrop and reaching the residence would be approximately 0.14 foot deep. The runup analysis indicates that the velocity of the wave runup bore will not be sufficient to cause damage to the structure, assuming the basement wall is constructed of steel-reinforced concrete; however, the structure will be subject to spray and splash from wave runup striking the rock outcropping. The rock outcropping at its average elevation of 17 feet NAVD88 would be overtopped by the design wave (5.5 feet) at a rate of about 0.27 cubic feet/second-feet. Based on this low height of water (0.14 foot) and relatively low velocity, the proposed project would not be adversely affected. In addition, based the initial low velocity, and reduction in wave height and velocity following potential contact with the proposed basement wall, any wave refraction would not adversely affect the adjacent property.

In addition to wave runup, the analysis considered exposure to tsunami. Based upon review of historical data and tsunami forecast modeling by the University of Southern California Tsunami Research Center, a 6.5-foot-high tsunami wave occurring at the project site would be a 500-year recurrence interval event. The wave runup analysis used a design wave height of 5.5 feet, which also represents a suitable site-specific tsunami runup at the site.

As proposed, the basement would be located at elevation 15 feet NAVD88, and basement concrete would be reinforced with steel; therefore, wave runup will not adversely impact the proposed residence over the next 100 years. An extreme tsunami may reach as high as the basement, but, for the reasons stated above, a tsunami will not adversely impact the residence. Based on the analysis presented above, and incorporated by reference from the coastal hazards and wave runup analysis report (GeoSoils, Inc. 2011, 2012), no significant impacts related to coastal hazards, including sea level rise, shoreline erosion, wave runup, and coastal flooding would occur, and the proposed residence would neither create nor contribute to erosion, geologic instability, or destruction of the site or adjacent area.

Supplemental Analysis: The following information with regards to coastal hazards is provided as supplemental information supplied during the public hearing, however does not alter the conclusions identified in the Final EIR.

In response to public comments and questions from the San Luis Obispo County Planning Commission, the County's consultant (SWCA and GeoSoils, Inc.) conducted a supplemental analysis, which was included in the Planning Commission Staff Report (April 10, 2014) and public record. The results of the analysis provide clarification, and support the impact determination identified in the Final EIR. The results of the supplemental analysis are summarized below.

A supplemental *Sea Level Rise and Coastal Hazards Discussion* (GeoSoils, Inc., March 12, 2014) and response to public comment (GeoSoils, Inc., April 4, 2014) were prepared, including a wave runup analysis, which considered extreme (worst-case) design oceanographic conditions including sea level rise (up to 5.5 feet based on California Coastal Commission Draft Sea-Level Rise Guidance), very high tide, storm surge, and scour of the beach down to bedrock. Based on this supplemental analysis, the wave height at the toe of the rock outcrop would be 7.7 feet.

The still water elevation (including 5.5 feet of sea level rise and 7.6-foot very high tide) would be 13.1 feet NAVD88. Wave runup as result of storm surge would be 12.9 feet. Under these extreme conditions, the maximum wave runup would be 26 feet NAVD88 if the bedrock outcropping was not present. In this worst-case scenario, the height of the water overtopping the bedrock outcropping would be 1.06 feet, and the velocity would be 4.76 feet per second. The overtopping rate would be 3.4 cubic feet/second-foot, and would be a pulse of water, not a sustained flow or water elevation. The water would overtop the bedrock outcropping and reach the basement wall at a height of approximately one foot. This condition would occur over a period of one hour during the high tide under the extreme storm surge plus sea water rise estimates.

The velocity of the wave runup bore would not be sufficient to cause damage to the structure, assuming the basement wall is constructed of steel-reinforced concrete, and the foundation set in the underlying bedrock (as proposed by the applicant). Additional features proposed by the applicant include storm/marine windows and doors. In addition, based on the velocity and reduction in wave height following contact with the basement wall, wave refraction would not adversely affect the adjacent property.

Based on review of historical data and tsunami forecast modeling by the University of California Tsunami Research Center, a 6.5-foot high tsunami wave occurring at the project site would be a 500-year recurrence interval event. The County of San Luis Obispo Local Hazard Mitigation Plan (Draft December 2013) identifies tsunami run-up ranging from 9.5 feet to 24.2 feet (100-year and 500-year events, respectively). This run-up estimate includes "astronomical high tides". If a tsunami occurred during a meteorological high tide (storm surge), the runup values would increase to 24 feet to 39 feet above mean sea level (100-year and 500-year events). The plan notes that the probability of this occurring is low.

The analysis considered a design wave height of 7.7 feet, which represents a suitable site-specific tsunami runup at the site. As proposed, the basement would be located at elevation 15 feet NAVD88, and basement concrete would be reinforced with steel and founded in underlying bedrock; therefore, wave runup would not adversely impact the structural integrity of the residence over the next 100 years. An extreme tsunami would reach the residence; however, for the reasons noted above, it would not adversely affect the structure.

Based on the analysis presented above and incorporated by reference from the coastal hazards and wave runup analysis (GeoSoils, Inc.; 2011, 2012, 2014), no significant impacts related to coastal hazards, including sea level rise, shoreline erosion, wave runup, and coastal flooding would occur, and the proposed residence would neither create nor contribute to erosion, geologic instability, or destruction of the site or adjacent area.

Noise (Class III)

1. **Generate Increases in the Ambient Noise Level.** The project proposes construction of one single-family residence in an existing neighborhood. The project would result in the addition of some vehicle trips on local roads (approximately 9.6 per day), but the traffic noise associated with a single residence is not considered significant. Therefore, the project would not generate significant increases in the ambient noise levels for adjoining areas.

   The project would also generate construction-related noise and vibration associated with construction and development of the structure. However, the project does not propose any significant sources of man-made vibration (i.e., sonic booms, blasting, pile driving, pavement breaking, and demolition). Per the County's Land Use Ordinance, §23.06.042d, construction noise between the hours of 7:00 a.m. and 9:00 p.m. on Mondays through Fridays, and 8:00 a.m. and 5:00 p.m. on Saturdays and Sundays, is exempt from control or mitigation. This type of noise is considered a short-term impact and *less than significant* (Class III). Therefore, the project is not expected to expose people to severe noise or vibration, or to result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity.

Severe Noise or Vibration. The proposed project is not located within any airport land use plan or two miles of a public or private airstrip, and would not expose people to excessive noise levels, therefore no impacts are expected to occur.

Public Services and Utilities

1. **Effect or Result in the Need for New/Altered Public Services**. The proposed project would potentially result in additional demand on public services, including emergency protection, schools, roads, solid waste disposal, parks, water supply and wastewater treatment systems. However, development is limited to one single-family residence and it is not likely that any public service or utility would be significantly impacted by the slight increase in service demand. The project applicant would pay all applicable school and public facility fees which would reduce these impacts to a less then significant level.

   The proposed project is not located within a high fire severity zone, and response times are generally two to three minutes. Although the Cayucos Fire Protection District and County Sheriff's Office are considered understaffed for the populations they serve, the addition of a single residence within an existing neighborhood would not have a significant effect upon fire or police protection, and no new or altered emergency services would be required. Area schools, roads and parks are operating at acceptable levels of service, and the project will be served by private solid waste disposal, water, and wastewater systems, all of which have sufficient capacity to accommodate the proposed residential use. Therefore, no significant impact on these services would result from the project.

   All stormwater would be handled onsite, either collected and used as gray water for toilet flushing and landscaping or directed westward onto the beach. Therefore, no new stormwater drainage facilities or expansion of existing facilities would be required. County landfills have sufficient permitted capacity to accommodate the

small increase in solid waste resulting from the proposed project. Applicable water service providers and wastewater treatment facilities are capable of supporting the proposed development and no new entitlements, new facilities or expansion of existing facilities would be required. The project would comply with all statutes and regulations related to solid waste. The project would not adversely affect a community water service provider or community wastewater service provider, therefore no impacts are expected to occur.

2. **Wastewater.** The project would connect to the existing sewer system managed by the Cayucos Sanitary District, and would not require an onsite system subject to the Central Coast Basin Plan. The Cayucos Sanitary District is currently operating at acceptable levels and can accommodate the proposed project (one residence).

   No significant adverse impacts would occur as a result of the proposed project, and no mitigation measures are necessary.

Recreation (Class III)

1. **Increase Use of Recreational Resources.** The project proposes the development of one single-family residence in an existing developed residential area, and would not create a significant increase in the use or demand of recreational areas or facilities. The project applicant will pay all applicable public facility fees to address increased demand on area recreational facilities. Therefore, potential impacts would be *less than significant* (Class III).

2. **Affect Access to Recreation**. Beach access is provided directly adjacent to the project site, and lateral access would be provided from the toe of the rock outcropping to the westward property line. Access to trails, parks or other recreational opportunities would not be impacted by the proposed development. The future Morro Bay to Cayucos connector bike path would be located along Studio Drive, and development of the project would not affect this project, because it is limited to the existing residential parcel boundaries. The project does not include any components for the development of recreational facilities that may have an adverse physical effect on the environment. No significant adverse impacts would occur as a result of the proposed project, and no mitigation measures are necessary.

Transportation, Circulation, and Traffic (Class III)

1. **Increase Vehicle Trips / Level of Service.** The project proposes one single-family residence within an existing residential area with all roads operating at acceptable levels. While the project would add trips to the local circulation system (approximately 9.6 per day), all roads in the area are operating at acceptable levels and are capable of accommodating the small increase in trips. A referral was sent to the County Department of Public Works requesting their review of the project. They had no comments related to traffic concerns associated with the proposed project other than that an encroachment permit would be required for the new driveway. Therefore, no significant increase to local or areawide circulation systems is anticipated, and potential impacts would be *less than significant* (Class III).

Unsafe Conditions. The project includes a private driveway, which would connect to Studio Drive. Based on review by the County Department of Public Works, a standard Encroachment Permit will be required. The project does not include any

features that would result in unsafe traffic conditions; therefore, potential impacts would be *less than significant* (Class III).

Emergency Access. The project consists of a single-family residence on an existing lot. The site is accessible to emergency services by Studio Drive, which connects to Highway 1, and occupants have clear access out of the area. Potential impacts related to emergency access would be *less than significant* (Class III).

Parking Capacity. Sufficient parking for the proposed residential development is proposed at the project site, including a private driveway, carport, and garage. Therefore, potential impacts related to parking capacity would *be less than significant* (Class III).

Internal Traffic Circulation. The project is a single-family residence; therefore this threshold does not apply and no impact would occur.

Alternative Transportation Policies Plans, and Programs. Transportation and circulation policies relevant to the proposed project exist in local and state documents. These documents generally encourage the development of alternative transportation as a means to reduce traffic congestion and increase safety, among other things. The policy documents reviewed as part of this EIR section include the County's Estero Area Plan and Bikeways Plan. The proposed project is *consistent* with these plans because it consists of a single-family residence located within an existing residential neighborhood, with access to pedestrian and bicycle paths.

Air Traffic Patterns. The project is not located within two miles of a public or private airport or airstrip, and is not located at an elevation that would affect air traffic patterns. Modern solar panel technology incorporates anti-glare coatings that absorb, rather than reflect, sunlight. Therefore, the project would not affect air traffic, and potential impacts would be *less than significant* (Class III).

Water Resources (Class III)

1. **Change the Quality of Groundwater**. The project site is not located in an area where development would affect the quality of groundwater resources; therefore, no impact would occur.

2. **Change the Quantity or Movement of Surface or Groundwater.** The project would not create a demand of water exceeding the capacity of the water service provider, and would not require a significant level of additional groundwater pumping by the provider to serve the project. Therefore, the project would not change the quantity or movement of groundwater.

   As noted above, the project includes improvements to the existing stormwater drain onsite. The project has been reviewed by the County Department of Public Works, and the proposed plan has been approved at a preliminary level by County staff. Stormwater currently flows into a County drain, and onto the beach via the stormwater system or surface flow. The proposed system would direct water through the project site and onto the beach. Energy dissipaters are included to slow down storm water flow and minimize the potential for erosion at the outlet. Based on the

proposed plan, and compliance with existing regulations identified in the County CZLUO, potential impacts would be *less than significant* (Class III).

3. **Adversely Affect Community Water Service Provider.** Long-term use of a single-family residence is expected to require approximately 0.270 afy, or 4,375.8 gallons/month (City of Santa Barbara 1989; County of San Luis Obispo 2011). As noted above, the project would be served by CSA 10A, which has adequate water supply to serve the project. A preliminary will-serve letter was issued for the project in 2006. Therefore, potential impacts would be *less than significant* (Class III).

6.0 FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT BUT MITIGABLE (CLASS II)

Pursuant to §15091(a)(1) of the CEQA Guidelines, the Board of Supervisors finds that, for each of the following significant effects as identified in the Final EIR, changes or alterations (mitigation measures) have been required in, or incorporated into, the project which avoid or substantially lessen each of the significant environmental effects as identified in the Final EIR. The significant effects (impacts) and mitigation measures are stated fully in the Final EIR. The following are brief explanations of the rationale for this finding for each impact:

6.6 AESTHETIC RESOURCES

AES Impact 1	
Visibility of night lighting would affect views resulting in a direct long-term impact.	
Mitigation	**AES/mm-1** Prior to issuance of the building permit, the applicant shall submit interior and exterior lighting plans to the Department of Planning and Building for review and approval consistent with the following: The point source of all exterior lighting shall be shielded from off-site views, including beach areas. All required security lights shall utilize motion detector activation. Light trespass from exterior lights shall be minimized by directing light downward and utilizing cut-off fixtures or shields. Lumination from exterior lights shall be the lowest level allowed by public safety standards.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The EIR analysis assumes that exterior lighting would be included as part of the project. Because of the project's configuration and its proximity to public roadways and the beach, night lighting would be seen from the surrounding area. Unshielded light sources or bright-lights reflected on exterior walls would result in potential impacts. Fog is a common atmospheric condition of the area and increases the "glow-effect" as potentially seen from great distances. Although existing night lighting can be seen in the adjacent neighborhood, the project would increase the visibility of night lighting in the area.

AIR QUALITY

AQ Impact 1	
Construction of the proposed project would generate fugitive dust, which could become a nuisance to local residents and businesses in proximity to the construction site.	
Mitigation	AQ/mm-1 Prior to initiation of construction, the project applicant shall implement the following dust control measures: a. Reduce the amount of the disturbed area where possible; Use water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 miles per hour. Reclaimed (non-potable) water should be used whenever possible; All dirt stockpile areas should be sprayed daily as needed; and

AQ Impact 1	
	All roadways, driveways, sidewalks, etc., to be paved should be completed as soon as possible, and building pads should be lain as soon as possible after grading unless seeding or soil binders are used.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project is located in proximity to sensitive surrounding land uses, and homeowners in the vicinity of the proposed project have expressed concern related to the impacts construction activities would have on surrounding properties. Construction activities can generate fugitive dust, which could be a nuisance to residents and businesses in proximity to the project site. Dust complaints could result in a violation of the APCD's 402 Nuisance Rule. In addition, operation of construction equipment, including equipment idling, generates diesel particulate matter, which can have an adverse effect on sensitive receptors.

AQ Impact 2	
Use of construction equipment would generate diesel particulate matter, potentially resulting in an adverse effect to sensitive receptors within 1,000 feet of the project site.	
Mitigation	**AQ/mm-2** Prior to issuance of construction permits, the applicant shall include the following measures on applicable grading and building plans: **Idling Restrictions near Sensitive Receptors for Both On and off-Road Equipment** a. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors; Diesel idling within 1,000 feet of sensitive receptors is not permitted; Use of alternative fueled equipment is recommended whenever possible; and, Signs that specify the no idling requirements must be posted and enforced at the construction site. **Idling Restrictions for On-road Vehicles** a. Section 2485 of Title 13, the California Code of Regulations limits diesel-fueled commercial motor vehicles that operate in the State of California with gross vehicular weight ratings of greater than 10,000 pounds and licensed for operation on highways. It applies to California and non-California based vehicles. In general, the regulation specifies that drivers of said vehicles: Shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location, except as noted in Subsection (d) of the regulation; and, Shall not operate a diesel-fueled auxiliary power system (APS) to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5.0 minutes at any location when within 100 feet of a restricted area, except as noted in Subsection (d) of the regulation. Signs must be posted in the designated queuing areas and job sites to remind drivers of the 5 minute idling limit. The specific requirements and exceptions in the regulation can be reviewed at the following web site: www.arb.ca.gov/msprog/truck-idling/2485.pdf. **Idling Restrictions for off-Road Equipment** a. Off-road diesel equipment shall comply with the 5 minute idling restriction identified in Section 2449(d)(3) of the California Air Resources Board's In-Use off-Road Diesel regulation: www.arb.ca.gov/regact/2007/ordiesl07/frooal.pdf. Signs shall be posted in the designated queuing areas and job sites to remind off-road

AQ Impact 2	
	equipment operators of the 5 minute idling limit.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project is located in proximity to sensitive surrounding land uses, and homeowners in the vicinity of the proposed project have expressed concern related to the impacts construction activities would have on surrounding properties. Construction activities can generate exhaust from equipment, which could be a nuisance to residents and businesses in proximity to the project site. In addition, operation of construction equipment, including equipment idling, generates diesel particulate matter, which can have an adverse effect on sensitive receptors

BIOLOGICAL RESOURCES

BR Impact 1	
Construction of the project may have an adverse impact on special-status species and their habitats, including off-site use of equipment, storage of materials, and inadvertent transport of debris or discharge of oils, fuels, and other pollutants into the beach area.	
Mitigation	**BR/mm-1** Prior to issuance of construction permits, the applicant shall submit documentation verifying designation of a qualified environmental monitor for all measures requiring environmental mitigation to ensure compliance with Conditions of Approval and EIR mitigation measures. The monitor shall be responsible for: (1) ensuring that procedures for verifying compliance with environmental mitigations are followed; (2) lines of communication and reporting methods; (3) daily and weekly compliance reporting; (4) construction crew training regarding environmentally sensitive areas; (5) authority to stop work; and (6) action to be taken in the event of non-compliance. Monitoring shall be at a frequency and duration determined by the affected natural resource agencies (e.g., USACE, CDFW, RWQCB, California Coastal Commission, USFWS, and the County). **BR/mm-2** Prior to the initiation of construction, the environmental monitor shall conduct environmental awareness training for all construction personnel. The environmental awareness training shall include discussions of sensitive habitats and animal species in the immediate area. Topics of discussion shall include: general provisions and protections afforded by the Endangered Species Act; measures implemented to protect special-status species; review of the project boundaries and special conditions; the monitor's role in project activities; lines of communications; and procedures to be implemented in the event a special-status species is observed in the work area. **BR/mm-3** At the time of application for construction permits all grading plans shall clearly show the location of project delineation fencing, including protection fencing surrounding the Monterey cypress tree on the southern property boundary. **BR/mm-4** Prior to the initiation of construction, the applicant's contractors and the environmental monitor shall coordinate the placement of project delineation fencing throughout the work areas. The environmental monitor shall field fit the placement of the project delineation fencing to minimize impacts to sensitive resources. The project delineation fencing shall remain in place and functional throughout the duration of the project. During construction, no project related work activities shall occur outside of the delineated work area. **BR/mm-5** At the time of application for grading permits, all applicable plans shall clearly show stockpile and staging areas. Stockpiles and staging areas shall not be placed in

BR Impact 1	
	areas that have potential to experience significant runoff during the rainy season. All project-related spills of hazardous materials within or adjacent to project sites shall be cleaned up immediately. Spill prevention and cleanup materials shall be on-site at all times during construction. The staging areas shall conform to standard BMPs applicable to attaining zero discharge of storm water runoff. At a minimum, all equipment and vehicles shall be checked and maintained on a daily basis to ensure proper operation and to avoid potential leaks or spills. Maintenance, cleaning, and refueling of equipment and vehicles shall not be permitted onsite, within adjacent beach areas, or on Studio Drive. **BR/mm-6** Prior to issuance of construction permits, the applicant shall submit a detailed sediment and erosion control plan for approval, which shall address both temporary and permanent measures to control erosion and reduce sedimentation. Erosion and soil protection shall be provided on all cut and fill slopes. Revegetation shall be facilitated by mulching, hydro-seeding or other methods, and shall be initiated as soon as possible after completion of grading, and prior to the onset of the rainy season (October 15). Permanent revegetation and landscaping shall emphasize native shrubs, and trees, to improve the probability of slope and soil stabilization without adverse impacts to slope stability due to irrigation infiltration and long-term root development. All plans shall show that sedimentation and erosion control measures are installed prior to any other ground disturbing work.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project site is located on beachfront property, immediately west of Studio Drive. The site is covered with common iceplant on the upper slope, and sea rocket (invasive weed) on the beach sands. The site does not include any features suitable for aquatic species. The sandy beach area provides foraging habitat for a variety of birds, including western snowy plover (*Charadrius alexandrinus*), California black rail (*Laterallus jamaicensis coturniculus*), California brown pelican (*Pelecanus occidentalis*), and California least tern (*Sterna antillarum browni*). The mature cypress tree (to remain) and adjacent pine (to be removed) along the southern property boundary may provide tree nesting opportunities for birds. Due to the location of the project site and presence of suitable habitat in the area, precautionary measures are recommended to ensure impacts to snowy plover and other bird species are avoided. The project site provides suitable habitat for coast horned lizard and other common reptiles. Grading activities could result in direct take of coast horned lizard and other reptiles if present. Direct take may include being struck by equipment, entrapped in stockpiled materials or trenches, or trampled or collected by construction personnel. Old Creek provides habitat for a variety of special-status species noted above. The project is located approximately 600 feet from the creek, and would not directly affect the ESHA or special-status species within the creek. Inadvertent impacts to special-status species may occur including use of equipment and storage of materials outside the property boundary, and leaks, spills, and debris adversely affecting the beach areas surrounding the parcel. Degradation of habitat would have an adverse effect on special-status species, and other wildlife in the area.

BR Impact 2	
Construction activities conducted during the nesting season (March through September) could directly or indirectly impact nesting western snowy plover and other bird and bat species.	
Mitigation	**BR/mm-7** Upon application for construction permits, the following measure shall be

BR Impact 2	
	included on all applicable plans: The applicant shall avoid ground disturbing activities conducted during the snowy plover nesting season to the extent feasible. If work activities must occur during the nesting season the following measures shall be taken: a. Prior to installation of the project delineation fencing and the commencement of site grading, a qualified biologist shall conduct a series of pre-construction nesting bird surveys for western snowy plover. Surveys shall be conducted every other day for two weeks prior to any project related disturbances. Surveys for snowy plovers shall include walking through all potential nesting and foraging habitat within 300 feet of the site on each survey day. The survey area shall include all available snowy plover nesting habitat within 300 feet of anticipated project activities. The number of snowy plover individuals observed and their activities (e.g. nesting, foraging, resting, etc.) shall be documented. All documented occurrences would be reported to USFWS and documented on the CNDDB. If nesting activity is identified, all project activities within 300 feet of the nest shall be delayed until the nesting activity has ceased. During construction, the environmental monitor shall conduct snowy plover surveys twice a week (preferably two to three days apart). **BR/mm-8** Upon application for construction permits, the following measure shall be included on all applicable plans: If commencement of construction begins between March and September, the environmental monitor shall conduct pre-construction nesting bird surveys. If nesting activity is identified, the following measures shall be implemented: a. If active nest of common passerine or shorebird species' are observed in the work area or within 100 feet of the work area, construction activities shall be modified and or delayed as necessary to avoid direct take or indirect disturbance of the nests, eggs, or young. If active nest sites of raptors or other special-status species are observed within the work area or 300 feet of the work area, the environmental monitor shall establish a suitable buffer around the nest site. Construction activities in the buffer zone shall be prohibited until the young have fledged the nest and achieved independence. Active raptor or special-status species nests should be documented by a qualified biologist and a letter report should be submitted to the County, USFWS, and CDFW, documenting project compliance with the MBTA and applicable project mitigation measures.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The sandy beach area provides foraging habitat for a variety of birds, including western snowy plover (*Charadrius alexandrinus*), California black rail (*Laterallus jamaicensis coturniculus*), California brown pelican (*Pelecanus occidentalis*), and California least tern (*Sterna antillarum browni*). The mature cypress tree (to remain) and adjacent pine (to be removed) along the southern property boundary may provide tree nesting opportunities for birds. Due to the location of the project site and presence of suitable habitat in the area, precautionary measures are recommended to ensure impacts to snowy plover and other bird species are avoided.

BR Impact 3	
The proposed project could result in direct take of coast horned lizard during project grading and construction.	
Mitigation	**BR/mm-9** Upon application for construction permits, the following measure shall be

BR Impact 3	
	included on all applicable plans: Prior to site grading, the environmental monitor shall conduct a survey for coast horned lizard and other reptiles. The surveyor shall utilize hand search methods in areas of disturbance where coast horned-lizards are expected to be found (e.g., under shrubs, other vegetation, or debris). Any lizards located during this survey should be safely removed from the construction area and placed in suitable habitat.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project site provides suitable habitat for coast horned lizard and other common reptiles. Grading activities could result in direct take of coast horned lizard and other reptiles if present. Direct take may include being struck by equipment, entrapped in stockpiled materials or trenches, or trampled or collected by construction personnel. Old Creek provides habitat for a variety of special-status species noted above. The project is located approximately 600 feet from the creek, and would not directly affect the ESHA or special-status species within the creek. Inadvertent impacts to special-status species may occur including use of equipment and storage of materials outside the property boundary, and leaks, spills, and debris adversely affecting the beach areas surrounding the parcel. Degradation of habitat would have an adverse effect on special-status species, and other wildlife in the area.

BR Impact 4	
Construction of the project may impact the root zone or result in inadvertent disturbance of a mature cypress tree.	
Mitigation	Implement **BR/mm-3** and **BR/mm-4**.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	One cypress tree is located adjacent to the project site, which is considered an important native species along the California coastline. This tree would remain. One small pine tree would be removed; however, this species is not considered native or important vegetation in this location. No other native or important vegetation would be directly affected by the project. Mitigation is recommended to ensure protection of the cypress tree.

GEOLOGY AND SOILS

GS Impact 1	
The proposed residence would be exposed to the effects of liquefaction during a ground-shaking event.	
Mitigation	**GS/mm-1** Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Engineering Evaluation (Shoreline Engineering 2012) and Updated Geotechnical Investigation (GSI Soils, Inc.) dated December 27, 2011, specifically the recommendations identified in Section 5.2 – Preparation of the Building Pad, Section 5.3 – Structural Fill, Section 5.4 – Drilled Piers, Section 5.5 – Conventional Deepened Foundation, Section 5.6 – Slab Construction, and Section 5.9 – Surface and Subsurface Drainage.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).

GS Impact 1	
Supportive Evidence	Soil liquefaction is a phenomenon in which a saturated, cohesionless, near-surface soil layer loses strength during cyclic loading (such as typically generated by earthquakes). During the loss of strength, the soil acquires "mobility" sufficient to permit both horizontal and vertical ground movements. Soils that are most susceptible to liquefaction are clean, loose, saturated, uniformly graded, fine-grained sands that are generally located within 50 feet depth beneath the ground surface. Gravels with similar characteristics and non-plastic clays and silts have also been shown to be susceptible to liquefaction. Based on the potential presence of perched water conditions during wet winter months in the upper 5 feet of soils above the dense bedrock materials, the current potential for liquefaction is moderate to high. This potentially significant impact can be successfully addressed and mitigated via implementation of typical geotechnical recommendations for site processing, grading, and/or foundation design. Therefore, the resulting liquefaction potential at the project site would be low, and would generally result in minor to cosmetic damage to the proposed structure, and total settlements would be approximately 0.5 inch (GSI Soils, Inc. 2012). This amount of settlement is considered tolerable for the proposed project, and is indicative of liquefaction in the negligible category. Therefore, potential impacts can be mitigated to a *less than significant* level (Class II).

GS Impact 2	
The proposed residence would be exposed to the effects of ground lurching and differential compaction during a ground-shaking event.	
Mitigation	**GS/mm-2** Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.) dated December 27, 2011, and specifically the following: a. All surface and subsurface deleterious materials shall be removed from the proposed building area and disposed of offsite. This includes, but is not limited to, any buried utility lines, loose fills, debris, building materials, and any other surface and subsurface structures. Voids left from site clearing shall be cleaned and backfilled as recommended for structural fill. Once the site has been cleared, the exposed ground surface shall be stripped to remove surface vegetation and organic soil.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The potential for lurching and differential compaction (densification) of the existing undocumented fill is considered to be high due to the generally loose nature of the soil. This potential impact can be mitigated by removal and/or removal and backfilling as structural fill (GSI Soils, Inc. 2011). Based on compliance with these project-specific recommendations, potential impacts can be mitigated to *less than significant* (Class II).

GS Impact 3
Grading and excavation required for the construction of the project would result in significant, short-term, adverse impacts related to erosion and down-gradient sedimentation.

GS Impact 3	
Mitigation	*Implement **BIO/mm-4**, **BIO/mm-5**, and **BIO/mm-6**.*
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	Implementation of the project will require grading and removal of sand, soil, and vegetation. Grading activities would disturb approximately 3,000 square feet of the 3,445-square-foot parcel, including 400 cubic yards of cut (foundation) and 150 cubic yards of fill (driveway). The average depth of cut would be 5 feet (minimum 1 foot, maximum 12 feet). Approximately 250 cubic yards of soil would be exported offsite. During construction, exposed soils may result in erosion during rain events, or wave runup. Compliance with the County CZLUO and implementation of project-specific erosion-control measures are necessary to retain soils onsite and avoid down-gradient sedimentation into the Pacific Ocean. Based on compliance with existing regulations, and recommended mitigation measures, potential short-term impacts would be mitigated to a *less than significant* level (Class II).

GS Impact 4	
The creation of steep cut slopes during site preparation and grading associated with construction of the proposed residence would result in short-term slope instability.	
Mitigation	GS/mm-3 Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the following: recommendations for slope stability identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.10 – Temporary Excavations and Slopes; and Shoring Detail prepared by Shoreline Engineering (January 2012, updated September 20, 2012). Plans shall demonstrate how construction would be conducted such that no activity would compromise the neighboring structure. Construction of all site preparation and shoring activities shall be monitored by the project Engineer of Record, and daily monitoring reports shall be prepared and submitted to the County Department of Planning and Building on a weekly basis.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	Construction cuts for basement retaining walls may exceed 12 feet in depth on the south and east sides of the proposed residence. The potential for instability of temporary (construction) slopes is a significant concern, and there is a moderate to high potential for temporary slope instability impacting the project site and the adjacent property. To address this issue, the applicant proposes to retain temporary slopes with a shoring system consisting of soldier piles and steel plate lagging. The shoring system would be removed following permanent stabilization of the slope. Based on implementation of this strategy, and compliance with the recommendations presented in the *Updated Geotechnical Investigation* (GSI Soils, Inc. 2011), potential short-term impacts would be *less than significant* (Class II).

GS Impact 5	
Beach sand scour caused by heavy surf may periodically and temporarily create unstable slopes adjacent to the proposed residence.	
Mitigation	**GS/mm-4** Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which include the use of deepened pier foundations

GS Impact 5	
	identified in the Engineering Evaluation (Shoreline Engineering, Inc.), dated January 2012, and Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.2 – Preparation of Building Pad, Section 5.4 – Drilled Piers, and Section 5.5 – Conventional Deepened Foundation.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	Construction of the proposed driveway will result in structural fill placement against the existing 2:1 gradient fill slope of Studio Drive, with the fill being supported by retaining walls. Upon completion of the project, no significant slopes will exist that could pose a slope instability hazard to the property. Significant scour of beach sand due to heavy surf may temporarily create a steep bedrock slope ocean-ward of the existing bedrock outcropping. Provided the proposed residence is constructed on deepened pier foundations as proposed, temporary beach scour should not pose a slope instability hazard to the residence.

GS Impact 6	
The proposed residence would be constructed on soils with a high expansion potential, resulting in a potentially significant long-term impact.	
Mitigation	**GS/mm-5** Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.1 – Clearing and Stripping, Section 5.2 – Preparation of Building Pad, and Section 5.3 – Structural Fill.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	A single expansion index test was conducted by GSI Soils, Inc. (2007) on a sandy clay sample from Boring B-2 at 6 feet. The reported expansion index was 92, which indicates a high expansion potential. The material in B-2 at this depth is likely weathered mudstone bedrock. Based on the geotechnical report, onsite sand soils free of organic and deleterious material are suitable for use as non-structural fill below the select fill cap. Structural fill using onsite inorganic soil or approved imported soil should be placed in layers, conditioned, and compacted, pursuant to engineer's specifications. Therefore, potentially significant impacts related to expansive soil can be mitigated to *less than significant* (Class II).

GS Impact 7	
The proposed stormwater drainage plan may result in erosion down-gradient of the proposed drain outlet.	
Mitigation	**GS/mm-6** Prior to issuance of grading and construction permits, the applicant shall submit a drainage plan for review and approval by the County Department of Public Works. The drainage plan shall be coordinated with the sedimentation and erosion control plan, be consistent with CZLUO §23.050.036 and 040, and specifically include engineered energy dissipators and controls that would limit peak runoff to pre-development levels.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).

GS Impact 7	
Supportive Evidence	The applicant's proposed site drainage improvements would convey both Studio Drive runoff and driveway runoff to a drainage exit structure, which would outlet into a natural drainage swale. The natural drainage channel consists of highly erodible sands, and erosion in the channel has been accelerated by foot traffic from people accessing Morro Strand State Beach from Studio Drive. The swale would incorporate bollard style energy dissipators and a gravel/cobble invert, which are intended to reduce stormwater flow velocity and erosion potential. Rainfall from the residence roof is proposed to be collected by a roof gutter system and held in a cistern for gray water use and landscape irrigation. Construction of the proposed impermeable concrete driveway would result in an increase in surface runoff onsite, which increases the potential for erosion in the natural drainage swale. This impact can be mitigated through appropriate civil engineering drainage design. CZLUO §23.05.050 requires a Drainage Plan for development located on a site adjacent to any coastal bluff, or if the project may change the offsite drainage pattern. Based on the location of the project on the beach-side of Studio Drive, and proposed changes to the existing stormwater system, a Drainage Plan would be required, which would be based on the preliminary drainage plan summarized above. The proposed project would not result in substantial onsite or offsite flooding, because stormwater would continue to flow west towards the Pacific Ocean (similar to existing conditions, which do not result in flooding), and would be filtered and dissipated by the proposed system. Based on review of the preliminary drainage plan, compliance with the CZLUO, and incorporation of mitigation identified below, potential long-term impacts would be mitigated to a *less than significant* level (Class II).

NOISE

N Impact 1	
Construction of the proposed project would potentially expose people to transportation-related noise levels that exceed the County Noise Element thresholds.	
Mitigation	**N/mm-1** Upon application for building permits, the project applicant shall include in the project design the following standard mitigation measures for interior noise mitigation provided in the Noise Element for levels in the 60-65 dBA range: a. Air conditioning or a mechanical ventilation system; Windows and sliding glass doors mounted in low air infiltration rate frames (0.5 cubic feet per minute or less, per American National Standards Institute [ANSI] specifications); and, Solid core exterior doors with perimeter weather stripping and threshold seals.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project proposes a noise sensitive use within the vicinity of Highway 1. Per the County Noise Element, 60 dBA is considered the maximum acceptable exterior noise exposure level for residential uses and 45 dBA is the maximum acceptable exposure level for interior uses. Uses within this range will not require mitigation. The eastern boundary of the project site is located approximately 160 feet from the centerline of Highway 1. The topography between the highway and the site consist of generally flat areas to Studio Drive, and then the property slopes down several feet (approximately 5 to 8 feet) from Studio Drive to the beach. According to the County Noise Element contour maps, the 65 dBA range extends from the centerline of the highway 209 feet west. Therefore the easternmost 50 feet of the project site is located within the 65 dBA range, and the remainder is located within the 60 dBA range. The project has been designed to provide a noise buffer between Highway 1 and the

N Impact 1	
	proposed living space. The project proposes a driveway and parking garage on the eastern portion of the site, which are not considered outdoor uses subject to the 60 dBA limit. The living area is also proposed below the grade of the highway by approximately 8 to 10 feet. Because the topography of the subject lot is below the street elevation, the ground will buffer most of the noise from Highway 1, thereby allowing for a minimal impact from noise to the livable areas of the home. In addition, the project would conform to the latest edition of the Uniform Building Code (UBC); normal construction practices in the Code would provide a noise level reduction of approximately 15 dBA (County of San Luis Obispo 1992), potentially bringing resultant noise levels within the interior 45 dBA threshold. However, because a portion of the project site is located in an area that currently exceeds Noise Element thresholds, and normal construction practices and natural buffers may be insufficient to bring noise levels within acceptable ranges, some mitigation may be necessary. The County Noise Element recommends standardized mitigation measures for reducing interior noise levels in the 60-65 dBA range. These measures are referenced in the FEIR and County Noise Element.

WATER RESOURCES

WAT Impact 1	
The project would include construction activities that would require ground disturbance and use of heavy equipment, which may result in the discharge of sediment and other pollutants, potentially affecting surface water quality.	
Mitigation	**WAT/mm-1** Upon application for construction permits, the applicant shall submit grading and construction plans showing BMPs, and shall implement BMPs during grading and construction activities. Best Management Practices (BMP's) shall include, but not be limited to, the following: a. Erosion control barriers shall be applied, such as silt fences, hay bales, drain inlet protection, and gravel bags; Disturbed areas shall be stabilized with vegetation or hard surface treatments upon completion of construction in any specific area. All inactive disturbed soil areas are required to be stabilized with both sediment and temporary erosion control prior to the onset of the rainy season (October 15 to April 15). **WAT/mm-2** Prior to issuance of grading and construction permits, the applicant shall submit a copy of the Regional Water Quality Control Board (RWQCB)-issued stormwater construction permit. The permit shall be on-site during all major grading and construction activities. Implement **BR/mm-1**, **BR/mm-5**, and **BR/mm-6**.
Findings	After implementation of the mitigation measures, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The Clean Water Act has established a regulatory system for the management of storm water discharges from construction, industrial and municipal sources. The State Water Resources Control Board (SWRCB) has adopted a National Pollutant Discharge Elimination System (NPDES) Storm Water General Permit, which requires the implementation of a Storm Water Prevention Pollution Plan (SWPPP) for discharges regulated under the SWRCB program. Currently, construction sites of 1 acre and greater may need to prepare and implement a SWPPP that focuses on controlling storm water runoff. The RWQCB, the local

WAT Impact 1	
	extension of the SWRCB, currently monitors these SWPPPs. Based on review by the RWQCB, the applicant will be required to obtain a stormwater construction permit due to the project's proximity to surface waters (Pacific Ocean). Proposed grading activities would disturb soil and sand, and potentially result in off-site sedimentation. Standard erosion and sedimentation control measures would be required, including staking or flagging the development footprint; use of fiber rolls and silt fencing to retain soil and sand on-site; covering soil stockpiles; and restoration and revegetation of disturbed soils. Implementation of these measures would ensure avoidance of adverse effects to water quality. The project includes removal of the existing County storm drain, and construction of a new storm water management system, including an inlet with a filter and outlet with energy dissipaters. Stormwater would continue to flow onto the beach area to the northwest. Discharge of sediment, hydrocarbons, and other pollutants from the roadway into stormwater and drainage infrastructure (which eventually discharge into surface waters) would affect water quality. Implementation of BMPs and Low Impact Design (LID) techniques consistent with CZLUO §23.05.050.e(1) (Water Runoff, Best Management Practices – Residential development) would avoid or minimize the project's contribution to water quality issues affecting the Pacific Ocean. Additional mitigation is included under the Biological Resources analysis, including BR/mm-5 (stockpile and staging areas, management of hazardous materials, and implementation of BMPs) and BR/mm-6 (erosion and sedimentation control). In addition, an environmental monitor would be present to verify and document compliance with mitigation measures related to the protection of biological resources, including aquatic habitat and surface waters (BR/mm-1). The project includes a preliminary drainage plan, which has been reviewed and approved by the County Department of Public Works. In the long-term, the project would not result in any significant impacts to water quality, because the proposed stormwater system includes energy dissipaters that would allow stormwater to continue flowing onto the beach in a non-erosive manner.

7.0 FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT AND UNAVOIDABLE

No significant and unavoidable impacts (Class I) were identified for the proposed project.

8.0 CUMULATIVE AND GROWTH INDUCING IMPACTS

CUMULATIVE IMPACTS

State CEQA *Guidelines* §15355 defines cumulative impacts as

> *"two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts". Further, "the cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time."*

The Guidelines require the discussion of cumulative impacts to reflect the severity of the impacts and their likelihood of occurrence. However, the discussion need not be as detailed as the analysis of impacts associated with the project, and should be guided by the rule of reason. Cumulative impacts associated with this project are discussed in the topical analysis sections provided in Chapter 4 of the Final EIR.

Air Quality (Class III)

The cumulative study area for air quality impacts is the South Central Coast Air Basin (SCCAB). The project would contribute criteria pollutants during project construction and long-term operational use, including ozone precursors and particulate matter. No major projects are proposed in the immediate vicinity of the project site; however, a number of large development projects are currently under review by the County, and cities within the county, including mixed-use, residential, commercial, and solar energy projects. These projects may be under construction simultaneously with the project and, in the long term, would be generating similar air emissions due to use of construction equipment, increased traffic trips, and energy use.

Depending on construction schedules and actual implementation of projects in the air basin, generation of fugitive dust and pollutant emissions during construction could result in short-term increases in air pollutants. Analysis conducted specifically for this project concluded that implementation of the proposed project would not significantly contribute to cumulative long-term operational air quality impacts because it would not exceed the daily ROG+NO_x threshold. GHG impacts, including those described above, all contribute cumulatively with those produced worldwide, to affect climate change. Compliance with identified air quality, energy efficiency, and water conservation mitigation measures would reduce the project's contribution to cumulative GHG emissions, and subsequent climate change. Cumulative effects would be *less than significant* (Class III).

Biological Resources (Class III)

No major projects are scheduled to be constructed during a similar timeframe as the project. The closest known project is the Morro Bay to Cayucos Connector, which would run along Studio Drive adjacent to the project site, within the paved area. The timing for construction of that project is currently undetermined. Based on the location and size of the project, and implementation of recommended mitigation measures, the project would not have any significant residual direct or indirect adverse impacts to sensitive biological resources, including special-status species, habitats, and wildlife. The site is not within a designated Environmentally Sensitive Habitat Area (ESHA). The project would not significantly contribute to the loss of

species or sensitive habitat. Therefore, potential cumulative impacts would be *less than significant* (Class III).

Cultural Resources (Class III)

The destruction of cultural resources can have the potential for significant cumulative impacts as they are inherently important to the descendants of native peoples and make the study of pre-historic and historic life unavailable for study by scientists. Given the prevalence of cultural resource sites in San Luis Obispo, and the number of construction activities that involve disturbance of archaeologically sensitive areas that are not regulated, it is likely that significant pre-historic and historic resources are often not identified and are permanently lost. For the proposed project, no prehistoric archaeological resources were identified with the project site, and implementation of the proposed project would not contribute to the cumulative degradation of significant cultural resources in the County. Based on lack of significant resources at the project site, and compliance with the CZLUO, potential cumulative impacts resulting from the proposed project are considered *less than significant* (Class III). No additional mitigation is required.

Geology and Soils (Class III)

Implementation of the pending and approved projects listed in the cumulative development scenario would increase development in the immediate area. No projects requiring grading or construction would occur in the immediate vicinity of the project, and no existing adverse geologic or drainage conditions are present on or adjacent to the project site.

Additional development, including the proposed project, would increase the number of people and structures exposed to a variety of geologic and soils hazards within the County, including liquefaction, ground shaking, and temporary exposure to sea level rise and storm surge. Potential impacts related to geologic, soils, and seismic hazards are all site-specific, and mitigation measures are applied to each project to minimize the potential for significant geologic impacts. All development projects are required to comply with State and local regulations regarding grading and construction; therefore, no cumulative impacts related to these issues have been identified. Implementation of mitigation measures identified above, and compliance with existing regulations would mitigate impacts to *less than significant* (Class III), and no additional measures are necessary.

Hazards and Hazardous Materials (Class III)

Due to the type of project proposed, and lack of hazards or hazardous materials within or near the project site, construction and operation of the project would not contribute to environmental impacts related to hazards. Cumulative impacts would be *less than significant (Class III)*. No additional mitigation is required.

Recreation (Class IV)

As with any new residential development, the project has the potential to result in a cumulative effect on recreational resources, by adding demand on public parks, trails, and recreational areas. However, the project's cumulative impacts are within the general assumptions of allowed use for the subject property. Adequate public facility fee programs have been adopted to address these impacts. Impacts to the area recreational resources and facilities will be mitigated through the payment of appropriate fees prior to issuance of a building permit for the proposed project. The future Morro Bay to Cayucos connector bike path is proposed to run along Studio

Drive directly adjacent to the project site, which will create a *beneficial impact* (Class IV) on recreational resources by providing additional pedestrian and biking trails in the project vicinity and connecting other recreational opportunities in the city of Morro Bay and community of Cayucos.

Transportation and Circulation (Class III)

Population and tourism in the areas surrounding the proposed project are expected to slowly and steadily increase in the future, resulting in a corresponding steady increase in traffic, parking demands, and safety conflicts in the Cayucos area. The proposed project would contribute to cumulative traffic volumes in the area; however, because it is not resulting in an increase in residential density, the increase would be minor, and at a level anticipated in by the Estero Area Circulation Element. Therefore, potential cumulative impacts would be *less than significant* (Class III).

Water Resources (Class III)

Water demand for the proposed use represents a small percentage of total water demand in the Cayucos area, and the boundaries of CSA 10A (approximately 0.6%). As previously discussed, CSA 10A has available water to serve this project, in addition to others within the service area. Therefore, potential cumulative impacts would be *less than significant* (Class III).

GROWTH-INDUCING IMPACTS

CEQA Guidelines §15126.2(d) requires an EIR to discuss the growth inducing impacts of a proposed project, including the ways in which the project would foster economic or population growth, encourage the construction of additional housing, or remove an obstacle to population growth in the surrounding environment, either directly or indirectly. The goal of the growth inducing impacts section of the EIR is to address the effects the proposed project may have on surrounding facilities and activities by assessing the ways in which a project could encourage population or economic growth, increase employment opportunities or employment growth in support of an industry, or stimulate the construction of new housing or service facilities.

Based on the CEQA Guidelines criteria outlined above, the proposed project was evaluated in order to determine if any part of the project demonstrates the potential to result in growth inducing impacts. The project proposes one single-family residence on one of the few undeveloped lots in an existing developed neighborhood. The use is consistent with the general level of development currently existing along Studio Drive and anticipated under the Residential Single Family (RSF) land use designation. Other than temporary employment associated with construction of the residence, the project would not create new jobs or facilitate employment growth. Given its small scale and limited function, the project would not induce population or economic growth in the area. Impacts would be *less than significant*.

9.0 ALTERANTIVES

CEQA, §15126.6(a), requires an EIR to "describe a reasonable range of alternatives to a project, or to the location of a project, which could feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives". Through the scoping process, if an alternative was found to be infeasible, as defined above, then it was dropped from further consideration. In addition, CEQA states that alternatives should "...attain most of the basic objectives of the project..." Please refer to Chapter 5, Alternatives Analysis, of the EIR for a detailed discussion of the alternatives. The following alternatives were selected for more detailed review.

No Project Alternative

The No Project Alternative would include none of the components of the proposed project. If a project is not built at this time, a residential project may be proposed in the future.

Design Alternative A – Reduced Project, Pilings

The project site is located on the beachside of Studio Drive, and would be exposed to coastal hazards including sea level rise, wave-up, and storm surge. Independently, these conditions would not adversely affect the proposed structure; under extreme conditions, ocean water may reach the 22.2-foot elevation, and may overtop the existing rock outcrop and splash against the basement wall.

An alternative to this would be to eliminate the basement and construct the residence on steel-reinforced concrete pilings. This would allow ocean water to flow under the structure entirely before receding back. Under this alternative, the main floor and mezzanine, including the cantilevered portion, would remain.

This alternative consists of an approximately 1,857-square-foot residence including:

1,097 square feet of main floor living space
338-square-foot mezzanine
242-square-foot garage and 200-square-foot carport
180-square-foot covered deck
Solar panels installed on the south-facing slopes of the roof

The residence would consist of one main floor supported on pilings. The maximum width of the structure would be 18 feet, and the maximum length would be 95 feet. A paved driveway would provide access from Studio Drive. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive. It is expected that retaining walls would be necessary adjacent to Studio Drive, and along a portion of the southern and northern sides of the residence, with continuous footings extending into the underlying bedrock materials.

Design Alternative B – Reduced Project, Traditional Design

This design alternative incorporates a more traditional design, as opposed to the modern structure proposed by the applicant. It does not include the extended cantilevered main floor, or a substantial reduction in the extension, and provides sloped roofs. This alternative is

considered a reduced design option, and consists of an approximately 2,572-square-foot residence including:

772 square feet of main floor living space
1,040-square-foot basement
338-square-foot mezzanine
242-square-foot garage and 200-square-foot carport
180-square-foot covered deck
Solar panels installed on the south-facing slopes of the roof

The residence would consist of one main floor and a basement. The footprint of the house would be 1,040 square feet. The maximum width of the structure would be 18 feet, and the maximum length would be 70 feet. A paved driveway would provide access from Studio Drive. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive. The basement would be located below the elevation of Studio Drive.

The exterior walls of the structure would be concrete and would retain soils along the southern, eastern, and northern sides of the residence. Retaining walls will also be constructed adjacent to Studio Drive with continuous footings extending into the underlying bedrock materials.

Design Alternative C – Vegetation and Articulation

As noted above, no significant aesthetic resource impacts were identified; however, a reasonable alternative to the project includes additional features to articulate the design and blend it into the beach landscape. This includes incorporation of native, low-growing shrubs and vegetation along the northern and western aspects, and the use of native (or simulated native) rocks along the driveway retaining wall. This alternative would consist of the same size, footprint, width, and height, as the proposed project.

Planning Commission-Approved Project Alternative

Based on direction from the Planning Commission, the applicant revised the project which reduced the size of the proposed project from what was evaluated in the EIR. The revised project is a reduced project with a traditional architectural style and reduced cantilever. This revised project is approximately 543 square feet smaller than the proposed project and the large cantilevered portion has been significantly reduced by approximately 16 feet shorter in living area.

ENVIRONMENTALLY SUPERIOR ALTERNATIVE

CEQA requires the alternatives section of an EIR to describe a reasonable range of alternatives to the project that avoid or substantially lessen any of the significant effects identified in the EIR analysis while still attaining most of the basic project objectives. The alternative that most effectively reduces impacts while meeting project objectives should be considered the "environmentally superior alternative." In the event that the No Project Alternative is considered the environmentally superior alternative, the EIR should identify an environmentally superior alternative among the other alternatives.

In this EIR, the No Project Alternative results in the fewest environmental impacts, although it does not meet any of the project objectives, including the primary objective to build a single-family residence.

As proposed, and with incorporation of recommended mitigation measures, the proposed project would not result in any significant, unavoidable environmental effects, and would meet project objectives. All proposed alternatives would meet the project objectives, and would not result in any significant, adverse, and unavoidable (Class I) impacts upon implementation of mitigation measures similar to those identified for the proposed project.

The proposed Reduced Project and Design Alternatives (A, B, and C) provide some variation in size and project design in response to public comment, and include alternatives to the proposed basement, cantilevered living space, and exterior design elements. Design Alternative A – Reduced Project, Pilings, would marginally reduce the intensity of identified geology and soils impacts, primarily related to coastal hazards, and would still require substantial engineered design and incorporation of design-specific mitigation measures. Design Alternative B – Reduced Project, Traditional Design does not include the cantilevered portion of the residence, which may be more consistent with Small Scale Neighborhood Standards. Alternatives A, B, and C (Vegetation and Articulation) may reduce the perceived mass of the structure as seen from Studio Drive and the beach area, and may be more consistent with County Plans and Policies related to visual resources.

The Planning Commission approved Project is consistent with the EIR alternatives discussed and is consistent with EIR Alternative B. The Planning Commission approved project is reduced in size and scale from the original project evaluated in the Final EIR (approximately 16 feet shorter). This shorter design includes less coverage of the lot and therefore less of a visual impact from the original project (even though the original design did not contain a significant visual impact). Additionally, the amended project design is traditional in style versus the original modern design. The traditional architectural style is in keeping with the majority of the smaller traditional beach bungalow style residences in this neighborhood. The roofline is now pitched similar to the neighboring residences rather than a flat roof and the proposed colors and materials blend into the environment with darker browns, tans and wood appearing materials. Overall this revised project is consistent with many of the design comments supplied by members of the community and will improve the look of the neighborhood.

Based strictly on an analysis of the relative environmental impacts, the proposed project, with adoption and incorporation of recommended mitigation measures, is considered the Environmentally Superior Alternative. The decision-making body will consider the whole of the record when considering the approved project including, but not limited to, public comment and testimony related to the size and design of the residence. The decision-making body may select the project as proposed, an Alternative, or a specified combination of particular elements identified in the Alternatives, as the approved project. In all scenarios, the Mitigation and Monitoring Program (MMRP) would be applied to the approved project.

10.0 MITIGATION AND MONITORING PROGRAM

PRC §21081.6 requires the lead agency, when making the findings required by PRC §21081(1)(a), to adopt a reporting or monitoring program for the changes to the project that it has adopted, in order to ensure compliance during project implementation. The County is the lead agency responsible for the adoption of the reporting or monitoring program. A Mitigation Monitoring and Reporting Plan (MMRP) has been prepared that requires the County to monitor mitigation measures designed to reduce or eliminate significant impacts, as well as those mitigation measures designed to further reduce environmental impacts that are less than significant.

The MMRP designates responsibility and anticipated timing for the implementation of mitigation measures within the jurisdiction of the County. Implementation of the mitigation measures specified in the Final EIR and the MMRP will be accomplished through administrative controls over project planning and implementation. Monitoring and enforcement of these measures will be accomplished through verification in periodic Mitigation Monitoring Reports and periodic inspection by appropriate County personnel. The County reserves the right to make amendments to and/or substitutions of mitigation measures if, in the exercise of discretion of the County, it is determined that the amended or substituted mitigation measure will mitigate the identified significant environmental impact to at least the same degree of significance as the original mitigation measure it replaces, or would attain an adopted performance standard for mitigation, and where the amendment or substitution would not result in a new significant impact on the environment that cannot be mitigated.

As lead agency for the Loperena MUP/CDP EIR, the County hereby certifies that the MMRP set forth in Chapter 7 of the Final EIR, which has been designed to ensure compliance during construction of the proposed project and includes all of the mitigation measures identified in the Final EIR and adopted and incorporated into the project, is adequate to ensure the implementation of the mitigation measures described herein.

#883

COASTAL APPEALABLE FORM

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING
976 OSOS STREET ☐ ROOM 200 ☐ SAN LUIS OBISPO ☐ CALIFORNIA 93408 ☐ (805) 781-5600

Promoting the Wise Use of Land ☐ Helping to Build Great Communities

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

PROJECT INFORMATION Name: Loperena File Number: DRC 2005-00216

Type of permit being appealed:
☐ Plot Plan ☐ Site Plan ☒ Minor Use Permit ☐ Development Plan/Conditional Use Permit
☐ Variance ☐ Land Division ☐ Lot Line Adjustment ☒ Other: Coastal Development Permit

The decision was made by:
☐ Planning Director (Staff) ☐ Building Official ☐ Planning Department Hearing Officer
☐ Subdivision Review Board ☒ Planning Commission ☐ Other _____

Date the application was acted on: April 10, 2014

The decision is appealed to:
☐ Board of Construction Appeals ☐ Board of Handicapped Access
☐ Planning Commission ☒ Board of Supervisors

BASIS FOR APPEAL

☒ INCOMPATIBLE WITH THE LCP. The development does not conform to the standards set forth in the Certified Local Coastal Program of the county for the following reasons (attach additional sheets if necessary)
Explain: Please see attached.

☒ INCOMPATIBLE WITH PUBLIC ACCESS POLICIES. The development does not conform to the public access policies of the California Coastal Act – Section 30210 et seq of the Public Resource Code (attach additional sheets if necessary).
Explain: Please see attached.

List any conditions that are being appealed and give reasons why you think it should be modified or removed.

Condition Number Several Reason for appeal (attach additional sheets if necessary)
Please see attached.

APPELLANT INFORMATION
Print name: Kevin Elder on behalf of Ethel Pludow and Cynthia Sugimoto
Address: 1010 Peach St., San Luis Obispo, CA 93401 Phone Number (daytime): (805) 541-2800

I/We are the applicant or an aggrieved person pursuant to the Coastal Zone Land Use Ordinance (CZLUO) and are appealing the project based on either one or both of the grounds specified in this form, as set forth in the CZLUO and State Public Resource Code Section 30603 and have completed this form accurately and declare all statements made here are true.

Signature April 24, 2014 Date

OFFICE USE ONLY
Date Received: 4/24/14 By: [illegible]
Amount Paid: $850.00 Receipt No. (if applicable): 01528

WARREN A. SINSHEIMER III
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Client 3203.003

April 24, 2014

San Luis Obispo County Board of Supervisors
Bruce Gibson
Debbie Arnold
Adam Hill
Frank Mecham
Caren Ray
c/o Clerk of the Board
County Government Center, Room D-430
San Luis Obispo, California 93408

Re: Appeal of San Luis Obispo County Planning Commission Decision Certifying Final Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) and Approval of Project

Dear Supervisors Gibson, Arnold, Hill, Mecham and Ray:

On behalf of Ethel M. Pludow and Cynthia R. Sugimoto, we respectfully submit this letter and enclosed materials to appeal the April 10, 2014, decision of the San Luis Obispo County Planning Commission (the "Commission") to approve the Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) ("MUP/CDP") and to certify the related Final Environmental Impact Report ("F-EIR").

As detailed in this letter and based on the reasons set forth in prior comments and correspondence submitted on behalf of Ms. Pludow and Ms. Sugimoto, the Commission erred when it approved the MUP/CDP and certified the F-EIR. Therefore, we respectfully request that the San Luis Obispo County Board of Supervisors (the "Board") deny the permit and reverse the certification of the F-EIR.

Dorcen Liberto-Blanck, AICP, MDR, of Earth Design, Inc., was engaged to assist in analyzing the F-EIR and preparing this appeal. Ms. Liberto-Blanck has over 25 years of experience in a range of land use planning, environmental planning and public policy making. Don Funk, CPESC, QSD/QSP, of Earth Design, Inc., has been assisting Ms. Liberto-Blanck. Mr. Funk specializes in erosion control, creek restoration and public works issues.

John Kasunich P.E. and G.E., and Mark Foxx, C.E.G., of Haro, Kasunich and Associates, Inc., ("HKA") were engaged to analyze the F-EIR and assist with this appeal in respect to the geology, soils, and geotechnical engineering issues. John Kasunich is a Professional Engineer in Civil Engineering and a Geotechnical Engineer with over 30 years of experience in coastal engineering. Mr. Foxx is a Certified Engineering Geologist with more than 30 years of experience in coastal geology. Mr. Kasunich and Mr. Foxx have worked on numerous projects requiring the interpretation of the California Coastal Act, as well as local coastal plans and ordinances. Mr. Kasunich and Mr. Foxx have worked extensively with government agencies, including the California Coastal Commission (the "CCC"), and their work is known to both the Executive Director and Deputy Director of the CCC.

The results of their analysis of the D-EIR are set forth in their report dated August 1, 2013, and attached as Exhibit A (the "HKA Report"). By letter dated March 31, 2014 (the "HKA 2014 Letter"), HKA also analyzed the sea level rise and coastal hazards supplement letter provided by David Skelly of GeoSoils, Inc., dated March 12, 2014 (the "GeoSoils 2014 Letter"), and the revised plans for the project dated March 14, 2014. The HKA 2014 Letter is attached as Exhibit B.

1 Summary of Proceedings.

1.1 Planning Commission Hearing.

The F-EIR was prepared in response to applicant Jack Loperena's ("Applicant") proposal to build a 2,917 square foot single story residence, with a basement and a mezzanine, on a 3,445 square foot lot located at the north end of Studio Drive in Cayucos (the "Original Project"). The Original Project was not approved at the January 23, 2014 Commission hearing, because the Commission asked the Applicant to reduce the size of the project, and continued the hearing to April 10, 2014.

The Applicant presented revised plans at the April 10, 2014 continued hearing that reduced the project to 2,374 square feet (the "Reduced Project"). The Commission certified the F-EIR and approved the Reduced Project at the April 10, 2014 hearing. The Reduced Project is an improvement over the Original Project, but nevertheless fails to meet the coastal bluff requirements related to setbacks, restriction of shoreline protective devices, and cantilever limitations and other inconsistencies with County policies. Therefore, the Reduced Project should not be approved nor should the F-EIR be certified.

1.2 Initial Environmental Review.

The MUP/CDP application was submitted on April 24, 2006 and was accepted on April 16, 2007. The County's initial review of the Original Project resulted in the issuance of a Mitigated Negative Declaration (the "MND") dated July 12, 2007. A Revised Mitigated Negative Declaration and Notice of Determination (the "Revised MND") dated August 9, 2007 was re-issued. A Request for Review was filed by Michael R. Jencks on August 23, 2007

challenging aspects of the Revised MND. The Revised MND was amended in response to the 2007 Request for Review, and an Amended Mitigated Negative Declaration (the "Amended MND") was issued on April 2, 2009. We submitted a request for review of the Amended MND on April 16, 2009. In response, the Applicant voluntarily decided to prepare an Environmental Impact Report for the project. Due to Applicant's delays in responding to the County's requests for information regarding the project, it took over four years after the April 16, 2009 request for review to prepare the Draft Environmental Impact Report ("D-EIR"). The D-EIR was circulated for comment in June, 2013. We submitted comments on the D-EIR in a letter dated August 5, 2013. Following receipt of comments to the D-EIR from the public, the F-EIR was produced in December of 2013. We submitted comments on the F-EIR in a letter dated January 22, 2014. We provided testimony at the January 23, 2014 Commission hearing. We submitted a letter dated April 1, 2014 providing supplemental comments on issues that surfaced during and after the January 23, 2014 Planning Commission hearing. We provided testimony at the April 10, 2014 Commission hearing.

2 Summary of Grounds for Appeal.

We request that our prior requests for review and other correspondence, including without limitation our comments to the D-EIR and the F-EIR and attachments thereto, be made a part of the administrative record. We will provide additional copies of any and all of those documents upon request.

The F-EIR has not adequately addressed or provided mitigation measures for several issues raised in our prior submissions. The following is a summary of the key issues and concerns that form the basis of this appeal.

2.1 Coastal Bluff.

The project is proposed to be constructed on a coastal bluff as defined in California Code of Regulations ("CCR") Title 14 §13577(h)(1) which states that coastal bluffs are "(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion." The HKA Report and HKA 2014 Letter (Exhibits A and B) support the finding that the project is on a coastal bluff. Photographic evidence shows the project is located adjacent to an active beach, and that marine forces have acted upon the rock outcropping near the toe of the bluff. Additionally, the County's F-EIR analysis and the subsequent revised sea level analysis (GeoSoils 2014 Letter) state that the ocean will overtop the rock outcropping. The CCC staff letter dated August 5, 2013 and email dated August 8, 2013, (the "CCC 2013 Correspondence") commenting on the D-EIR finds that it is a coastal bluff. The CCC staff's letter on the F-EIR dated January 22, 2014, (the "CCC 2014 Correspondence") attached as Exhibit C reiterated that the CCC's staff geologist determined that the project site constitutes a coastal bluff. County staff discounted the CCC staff correspondence as not fully vetted because it was signed by a staff planner instead of the staff geologist and therefore lacking in authority, even though it clearly states that the CCC staff geologist determined the site is a coastal bluff.

The proposed project triggers the Estero Area Plan and San Luis Obispo County Local Coastal Program ("LCP") coastal bluff policies including: Areawide Standard I-4, Hazards Policy 1 and 6, Coastal Zone Land Use Ordinance ("CZLUO") Section 23.04.118, and Safety Elements of the General Plan, Sections S-23 and S-63. The Reduced Project is inconsistent with these policies and standards.

The Reduced Project does not meet the coastal bluff setback requirements, the associated restriction on shoreline protective devices, and limitations on cantilevered structures beyond the setback line. The Reduced Project does not provide any setback from the top of the bluff. Its basement wall is about 10 feet landward of the rock outcropping, and only 3 feet from the beach at the northwest corner of the property. The reinforced concrete seaward facing basement wall acts as a seawall, and is therefore inconsistent with LCP Hazard Policy 4 prohibiting shoreline protective devices for new development. The main floor living space and deck are cantilevered 21 feet, including 11 feet over the sandy beach. The project should be significantly revised to ensure that it meets the LCP's coastal bluff-top requirements.

The F-EIR incorrectly determined that the bluff is not a coastal bluff, but instead contends it is a fluvial bluff created by Old Creek and that the coastal bluff policies don't apply. For more detail see Section 3.

2.2 Visual Resources.

The Original Project, which is adjacent to Morro Strand State Beach, would have been a significant, landmark structure affecting the visual resources of the area. Yet the F-EIR glossed over the issue, finding there would be little impact to the existing visual condition along Studio Drive. Although the Reduced Project lessens the impact, it is still a significant, 33 foot high structure, with the main floor cantilevered 21 feet, including 11 feet over the sand. The view from the beach will be greatly affected due to the height of the Reduced Project. The Reduced Project is inconsistent with the LCP Visual and Scenic Resources Policies 1, 2, 5, 6 and 11. For more detail see Section 4.

2.3 Coastal Hazards.

The HKA Report describes how the bluff is subject to wave run-up and marine erosion and finds that coastal hazards are underestimated in the F-EIR. The impact related to beach sand scour and coastal erosion are underestimated and will be significant. The HKA Report identifies inconsistencies in the EIR Consultants' wave run-up calculations supporting their finding that hazards are underestimated. It includes several photographs that clearly show the exposed bedrock coastal bluff on the property and the "active beach" at the base of the bluff. The report raises a concern that the basement wall, which acts as a seawall, will deflect wave run-up towards the neighboring properties and adversely impact them.

The HKA 2014 Letter finds that the results of the GeoSoils 2014 Letter wave run-up analyses continue to underestimate the gross hazards at the site, particularly in the oceanfront portion of the property where bedrock is not present to higher elevations and erodible fill soils exists. It finds that the Reduced Project, although moved 10 feet landward, is still located in a hazardous area and impacted by wave run-up, and identifies a door and window on the basement level, which are located lower than the GeoSoils wave run-up analysis resultant elevations. It finds that the project is not setback a sufficient distance to assure stability and structural integrity, and to withstand bluff erosion and wave action for a period of 75 and/or 100 years without construction of shoreline protection structures. The HKA 2014 Letter describes several flaws in the GeoSoils analysis, including: maximum breaking wave heights and wind velocities underestimated, slope roughness overestimated, and the worst case profile was not utilized. It recommends that critical items that are not depicted on the plans should be added to show: (i) the location of the landward edge of the beach, (ii) the location of the toe of the bluff and the top edge of the bluff, (iii) the location of the required setback from the top edge of the bluff required to withstand erosion and wave action for 75 years (CZLUO), (iv) the location of the required setback from the top edge of the bluff required to withstand erosion and wave action for 100 years (Estero Area Plan and County Engineering Geology Report Guidelines), and (v) the location of the minimum 25 foot setback (Estero Area Plan). For more detail see Section 5.

2.4 Sea Level Rise.

The F-EIR is inconsistent with the General Plan in its assumptions of the sea level rise and therefore its resulting effect on the Reduced Project. The F-EIR analysis uses a projected sea level rise of 2.5 feet in the next 100 years. However, the F-EIR should have used a projected sea level rise of 3.3 to 4.6 feet by 2100, as adopted in the County's EnergyWise Plan, and extrapolated that rate out to at least the year 2114 which would increase the sea level rise to approximately 6.5 or 7 feet.

The County commissioned an additional wave run-up study using a new sea level rise of 5.5 feet. The results of the study were presented orally at the January 23, 2014 Commission hearing, and the study was documented in the GeoSoils 2014 Letter. While this sea level rise is greater than that used in the F-EIR, it is still too low.

The EnergyWise Plan is required by the Conservation and Open Space Element of the General Plan. The EnergyWise Plan will assist the County's participation in the regional effort to implement land use and transportation measures to reduce greenhouse gas emissions by 2035. Since there is a discrepancy between information in the EnergyWise Plan and the F-EIR, even if supplemented by the GeoSoils 2014 Letter, the F-EIR is inconsistent with the General Plan and cannot be approved until the sea level rise figures are rectified.

Note: It seems that that approved F-EIR findings have not been correctly updated to reflect the revised sea level rise analysis and its impact on the Reduced Project. For more detail see Section 6.

2.5 Lateral Access.

Although lateral beach access is discussed in the F-EIR, access is not being dedicated as required by the LCP Shoreline Development Policy 2, Estero Area Plan, and by CZLUO 23.04.420 and other policies. The Reduced Project Plans incorrectly show a 25 foot easement from the western property line to fulfill the lateral access requirement. Since topography limits the dry sandy beach to less than 25 feet at times during the year, the access should extend from the mean high tide to the toe of the bluff. The lateral access should be provided as required and be free of encroachment by the cantilevered portion of the Reduced Project. Also pursuant to CZLUO 23.04.420, lateral access must be dedicated prior to any permits being issued. However, the conditions of approval approved and adopted by the Commission do not require that the Applicant dedicate the lateral access easement prior to obtaining any permits. Condition 41 (per the Staff Report for the April 10, 2014 Commission Hearing) incorrectly requires the dedication for lateral access prior to the final building inspection. The description of the lateral access easement in the Reduced Project plans is inconsistent with the description of the lateral access in Condition 41. For more detail see Section 7.

2.6 Bluff-top and Creek Setback.

The Reduced Project should comply with the setback requirements in the Estero Area Plan, Cayucos section, Sensitive Resource Area. Despite the dispute about whether it is a coastal bluff, there is no dispute that it is a bluff. Pursuant to the Estero Area Plan, the Reduced Project should be setback a minimum of 25 feet per table 7-1 (minimum setbacks for bluff-tops, west of Studio Drive), and farther where necessary to withstand 100 years of erosion. If the County continues to consider the site a fluvial bluff, then the Reduced Project must be setback a minimum of 50 feet in accordance with Table 7-2 (coastal stream setbacks – Old Creek). For more detail see Section 8.

2.7 Coastal Plan Policies for Visual and Scenic Resources Policy 3 Stringline Method.

The Reduced Project is inconsistent with the Coastal Plan Policy 3 Stringline Method for Siting New Development, because the proposed structure clearly extends seaward of the adjacent house. In accordance with the Policy, if there are substantial variations in landform between adjacent lots, then the average setback of the adjoining lots should be used. The County incorrectly determined that the Reduced Project complies with the requirement. The project's setback should be revised to meet Policy 3 requirements. For more detail see Section 9.

2.8 Estero Area Plan - Cayucos Small Scale Neighborhood Standards.

The Reduced Project does not meet the Cayucos Small Scale Neighborhood design standards and other communitywide standards, and is inconsistent with the character and intent of the Cayucos community small scale design neighborhood. Although the Reduced Project is an improvement over the Original Project, it is still inconsistent with the intent of the design

standards and is unlike the existing residences on Studio Drive, especially when viewed from the beach due to its 33 foot height, and because the main floor is cantilevered 21 feet, including 11 feet over the sand.

The County must be consistent in defining the lot and applying various regulations. If the County continues to define it as non-coastal bluff for setback purposes, then the review must be consistent for other issues such as Gross Structural Area (GSA) limitations. Therefore, Estero Area Plan (§7.V.D.3.d(2) and Table 7-3 page 7-71) should apply. Sheet A1.1 of the Reduced Project plans lists the Allowed GSA as 55% of the total lot (3,444 sq. ft.) or 1,894 sq. ft. Unfortunately, this is incorrect and ignores a key part of Table 7-3, which states "55% of usable lot". Since a good portion of the lot is sandy beach, and associated with an easement for lateral access, the usable lot area should be much smaller than indicated. The Allowed GSA should be revised and the plan redesigned accordingly to meet the GSA requirements. For more detail see Section 10.

2.9 Cypress Tree.

The mitigation measures included in the F-EIR (BR/mm-3 and BR/mm-4) and the new Condition 33 approved during the April 10, 2014 Commission hearing are not sufficient to protect the cypress tree located near the project. An Arborist Report was prepared by Chip Tamagni, Certified Arborist, A & T Arborists and Vegetation Management, Inc., dated March 7, 2014, and attached as Exhibit H. In his professional opinion, it is "physically impossible" to save the tree given the current design of the Project, including impacts from the building foundations and utilities. His findings also apply to the new Reduced Project. The new Condition 33 is quite open ended, unrealistic and will likely be unsuccessful in protecting the tree. We again request revision of these mitigations/conditions to provide more specific mitigation measures, such as a minimum construction clearance of at least 25 feet from the trunk of the cypress tree. For more detail see Section 11.

2.10 California Building Code.

The project should be subject to a condition to ensure that prior to issuance of a construction permit that the design be reviewed and approved to confirm it meets current California Building Codes. For more detail see Section 12.

2.11 Project Alternatives.

The F-EIR fails to propose adequate project alternatives as required by the California Environmental Quality Act ("CEQA"). CEQA requires that an EIR provide alternative designs to the proposed project in order to determine whether alternatives would further mitigate any environmental impacts. CEQA states there should be a reasonable range of alternatives based on project objectives. The alternatives proposed in the F-EIR are all similar to the Original Project and do not provide sufficient variation. Based on these objectives, one of the alternatives should have included an eco-friendly small house. For more detail see Section 13.

2.12 Public Outreach.

The County failed to hold a scoping meeting as required by CEQA Section 15206(b)(4)(C) and CEQA Guidelines Section 15082(c)(1). The County determined that the project is not of statewide significance and therefore no scoping meeting is required. That determination is in error. The potential for the project to set a precedent for construction on coastal bluffs and over sandy beaches throughout the state means this decision is of state-wide importance. Therefore, a scoping meeting should have been held.

The County's public outreach on this project and associated EIR has been lackluster at best. County liaison reports about the status of the EIR to the Cayucos Citizens Advisory Council (the "CCAC') were non-existent to minimal and uninformed. The County only formally notified one property owner in the vicinity of the project of the availability of the D-EIR. Notification about the F-EIR was similarly minimal, with additional notification to individuals who commented on the D-EIR.

Public Resources Code Section 21092.1 requires recirculation of an EIR after significant new information is added to an EIR. While the new sea level rise analysis and wave run-up results were presented during the public hearing, it was not formally distributed for public discussion and therefore the County failed to comply with CEQA. We question if this new sea level rise analysis and the new impact to Morro Strand State Beach described in Section 2.13 should trigger recirculation of the EIR. For more detail see Section 14.

2.13 New Project Impact on Morro Strand State Beach.

The Reduced Project plans include a new "design feature" that will add fill and two retaining walls on the adjoining land north of the site on Morro Strand State Beach property. It is believed this new design element is part of a revised drainage plan. This new feature is included in the plans for the Reduced Project, but the fill or retaining walls are not clearly identified. It was not disclosed in the County's staff report describing the revised project, or discussed at the April 10, 2014 Commission hearing. It is inconsistent with Coastal Act Section 30211. We question if this new impact from the revised plans would trigger a re-circulation of the EIR. For more information see Section 15.

In summary, the Reduced Project is inconsistent with several provisions of the certified Local Coastal Plan related to bluff top setbacks, geologic hazards, alteration of natural landforms, protection of views from public vantage points and scenic areas, and public access, and several of the environmental issues have not been adequately addressed. Based on our analysis, there are significant adverse impacts that cannot be mitigated, and therefore, Statements of Overriding Consideration would be needed to approve the Reduced Project. The project site should be defined as a coastal bluff. We request that the Board reverse the Commission's

decision and deny the Reduced Project for the reasons set forth in this appeal. To assist the Board, we have prepared proposed findings supporting denial of the project. The findings are attached as Exhibit D.

3 Determination that the Site is a Coastal Bluff; Related Issues.

3.1 Coastal Bluff Definition.

The Board should deny certification of the F-EIR and deny approval of the Reduced Project, because the F-EIR incorrectly defined the project site as a fluvial bluff instead of a coastal bluff.

HKA determined that the Applicant's consultants, with peer review by the County's EIR consultants Cotton Shires and Associates (the "EIR Consultants"), incorrectly defined the bluff as a fluvial bluff.

The HKA Report found that the property is impacted by marine erosion. The report includes several figures and photographs that clearly show the exposed bedrock coastal bluff on the property, which indicates marine erosion, and the "active beach" at the base of the bluff. The HKA Report describes how the bluff is subject to wave run-up and marine erosion. Several photos showing the coastal bluff and beach portion of the property during a typical high tide in 2007 are shown in Exhibit E.

Coastal Act Section 13577 defines coastal bluffs as "*1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion.*" Therefore, by the definition set forth in Section 13577 the site must be a coastal bluff.

The CCC 2013 Correspondence and CCC 2014 Letter (Exhibit C), report that the CCC staff geologist also determined that the project site constitutes a coastal bluff.

The HKA Report and the CCC 2014 Letter make it clear that the project site should be defined as a coastal bluff.

3.2 Termini of Bluff Diagrams Not Applicable.

The EIR Consultants prepared several diagrams regarding determination of the termini of the bluff to support their claim that the property is not a coastal bluff. However, these diagrams do not pertain to this site.

Based on Coastal Act Section 13577 subparagraph 2, this bluff termini methodology is only applicable to sites that are not subject to marine erosion. Coastal Act section 13577 subparagraph 2 states "*Coastal bluff shall mean:*" … "*(2) those bluff, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2).*" followed by a description of the bluff termini methodology. Since this site's toe of bluff is clearly subject to marine erosion, the diagrams are not applicable.

3.3 Incorrect Determination that Site is a Fluvial Bluff.

The F-EIR incorrectly concludes that the site is not a coastal bluff, and instead that it is a fluvial bluff, as noted in various sections of the F-EIR.

Because the bluff was incorrectly defined in the EIR, the project impacts analyzed in the EIR are inadequate because the project was not evaluated against the applicable LCP coastal bluff policies and standards for new development.

3.4 Overtopping of Rock Outcropping.

The F-EIR presented analysis regarding the impact of wave run-up and seawater overtopping the rock outcropping. The analysis was updated by GeoSoils and reported in the GeoSoils 2014 Letter.

The HKA 2014 Letter finds that the results of the GeoSoils wave run-up and overtopping analyses underestimate the gross hazards at the site, particularly in the oceanfront portion of the property where bedrock is not present to higher elevations and erodible fill soils exists. The HKA Report describes several flaws in the GeoSoils analysis, which are summarized below:

- Maximum breaking wave heights underestimated.
- Worst case profile was not utilized.
- Slope roughness overestimated.
- Wind velocities underestimated.

See the HKA 2014 Letter for a detailed analysis of this issue.

3.5 Story Poles Study.

The HKA Report notes that a story pole study was conducted for the Original Project. The F-EIR states that the locations of the story poles were used to prepare visual photo simulations of the project.

We obtained a photo from the story pole study, as well as other photos of the project taken while the flags were in place. The photo with the story poles is attached to the HKA Report as photograph 5. The visual impression created by these photos paints a clear picture of how the bluff edge is oriented toward the ocean, is affected by marine erosion, and how far the Original Project would have extended over the sandy beach. Further, while the F-EIR includes the methodology of how the story poles were used to create visual photo simulations, it doesn't describe or include the story poles study.

The story poles study is, while geared toward the Original Project, an important tool in determining how the Reduced Project will be situated on the bluff, and how it will impact environmental conditions. Therefore, the entire story poles study should have been included in the F-EIR.

3.6 Coastal Bluff Setback Requirements.

The HKA Report's analysis concludes that the project site should be considered a coastal bluff and appropriate setbacks required. Despite the Reduced Project's reduction in size from the Original Project, and the 10 foot shift landward of the basement wall, the changes do not adequately mitigate the fact that the project is proposed for construction on a coastal bluff, and therefore even the Reduced Project will not comply with applicable setback requirements. Therefore, the Reduced Project cannot be constructed as proposed because it does not comply with coastal bluff setback requirements.

CZLUO Section 23.04.118 states that new development shall be setback from the bluff edge a distance sufficient to withstand bluff erosion and wave action for a period of 75 years. The Estero Area Plan, Section III, 1.4, Bluff Setbacks, states that the bluff setback shall be sufficient to withstand bluff erosion and wave action for a period of 100 years, and in no case shall it be less than 25 feet.

(Note: HKA's analysis and conclusion that the project site is a coastal bluff is supported by CCC staff geologist Mark Johnson, as noted in the CCC 2013 Correspondence and the CCC 2014 Correspondence. County staff's comments in the F-EIR responding to our August 5, 2013 letter to the contrary are inaccurate.)

3.7 Shoreline Protective Devices Prohibited.

The HKA Report finds that the basement wall acts as a seawall, which is prohibited for new coastal bluff development. If allowed, it will deflect wave run-up toward the neighboring property and adversely impact it.

The reinforced concrete seaward facing basement wall acts as a seawall, and seawalls are not allowed. The Estero Area Plan and San Luis Obispo LCP Hazard Policy 1 requires that new development shall be designed so any shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, not be needed for the life of a structure.

Based on the GeoSoils 2014 Letter, it is clear that the basement walls act as a prohibited seawall, as more particularly described in the HKA Report. The F-EIR and the Applicant claim that the basement wall cannot be a seawall because it is structurally necessary to support the cantilevered portion of the house. That logic cannot stand. If it is allowed to stand, every structure along the coast will be designed in a way that will require a concrete reinforced basement wall, to avoid the prohibitions against seawalls. The wall is purposely designed to act as a prohibited seawall, and the Board should therefore deny certification of the F-EIR and deny approval of the Reduced Project.

3.8 Limitation on Cantilevered Structures Beyond Setback.

The Reduced Project does not comply with County ordinances limiting structures from encroaching or cantilevering over setback lines.

The Reduced Project, as designed, has a 21 foot cantilevered main floor living space and deck extending beyond the proposed basement wall, beyond the bluff edge (whether coastal or fluvial), and is beyond the required setback location as described in Section 3.6.

The Reduced Project also fails to meet the limited exception to cantilevered structures extending beyond the setback line provided in CZLUO Section 23.04.118c.(3), Exceptions to bluff setback requirements, which states that the minimum setback requirements of CZLUO Section 23.04.118 don't apply to "*Roof and wall projections including cantilevered and projecting architectural features including chimneys, bay windows, balconies, cornices, eaves and rain gutters may project into the required setback a maximum of 30 inches.*"

Our interpretation of this code section is that it does not apply to building floors, only roof or wall projections such as eaves or bay windows. Therefore, the living space and deck should not extend beyond the basement wall. The Reduced Project is inconsistent with all applicable setback requirements, and does not comply with the exception to encroachment.

3.9 Safety Element of the General Plan.

The Board should deny certification of the F-EIR and deny approval of the Reduced Project for failure to comply with County coastal policies.

County Coastal Policy S-23 requires that development shall not be permitted near the top of eroding coastal bluffs. F-EIR comment 33 to our August 5th letter states that the bluff is not eroding. We believe that is inaccurate, and that over the years wave run-up has contributed to bluff erosion. Specifically, the HKA Report, pages 1, 3, and 4, describe how the bluff is subject to marine erosion.

County Coastal Program S-63 requires coastal bluff erosion studies to determine the rate of erosion and the resulting safe distance from the top of the bluff for development. Before it is certified the F-EIR should address how the policy and program are impacted by the Reduced Project.

The Board should deny certification of the F-EIR and deny approval of the Reduced Project because the site is a coastal bluff, and the Reduced Project will not meet the setback requirements of a coastal bluff.

4 Visual Resources.

4.1 Visual and Scenic Resources, Policy 2.

The Reduced Project is inconsistent with LCP Visual and Scenic Resources Policies 1, 2, 5, 6 and 11.

The F-EIR's discussion of the impact of the Original Project on visual resources is inadequate, a point of view expressed by CCC staff in the CCC 2013 Correspondence. The Reduced Project will be a landmark structure as it is 33 feet high and cantilevers 21 feet, including 11 feet over the sand. The visual impact will be especially strong from the beach and as it is viewed by those travelling south on Highway 1 and Studio Drive.

LCP Policy 1, Protection of Visual and Scenic Resources, requires that "*attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved [and] protected . . where feasible*." Siting the Reduced Project in compliance with coast bluff setback requirements would likely preserve much or all of the visual features of the site and be consistent with LCP Policy 1

None of the photos included in the F-EIR clearly illustrated the loss of view. Attached photo/graphic Exhibit F illustrates the estimated impact of the Original Project on public scenic coastal views. The lot is on the edge of an expansive area of public scenic coastal view and adjacent to Morro Strand State Beach. The Reduced Project will erode the public's view of sandy beach and ocean waves. The Reduced Project will extend 21 feet and hover over 11 feet of the sandy beach and obstruct views along the beach and from Highway 1 to the ocean. This is a significant adverse impact that has not been properly analyzed.

The F-EIR falsely states that the project is consistent with current neighborhood conditions. Most of the residences are set-back on the bluff, and none are cantilevered over the sand. The nearby residence shown in Figure 4.1-15 and 4.1-16 of the F-EIR, which is built to the edge of the bluff, was built in 1964, prior to establishment of the Coastal Act and associated rules protecting bluffs. It is not appropriate to compare the Reduced Project to it, because new residences must meet the current ordinances.

LCP Policies 2 and 6 require that development be sited so as to protect views to and along the ocean and scenic coastal areas to emphasize locations not visible from major public view corridors. The policies also require that homes in small-scale neighborhoods "*be designed and sited to complement and be visually compatible with existing characteristics of the community which may include concerns for the scale of new structures, compatibility with unique or distinguished architectural historical style, or natural features that add to the overall attractiveness of the community.*" (LCP Policy 6). The Reduced Project is inconsistent with Policies 2 and 6, because it will not protect views of the coast, and is out of character for the surrounding neighborhood.

The project will result in significant grading of the coastal bluff face including the removal of part of the historic rock face of the bluff that is proposed to be excavated in order to build the basement and protective subsurface walls, in contravention of Policy 5. Policy 5 states: "*Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. Where feasible, contours of the finished surface are to blend with adjacent natural terrain to achieve a consistent grade and natural appearance.*"

Policy 11 requires that development on bluff faces be limited to public access stairways and shoreline protection structures. Development is to be sited and designed to be compatible with the natural features of the landform. New development on bluff tops shall be designed and sited to minimize visual intrusion on adjacent sandy beaches.

The Reduced Project is inconsistent with Policies 5 and 11 because it will destroy most of the bluff, and is not sited to be compatible with the natural features of the bluff.

Even though the project has been reduced in size, it still improperly cantilevers over the sandy beach will destroy natural land forms, block coastal views, and is therefore inconsistent with LCP Visual and Scenic Resource Policies 1, 2, 5, 6 and 11.

5 Coastal Hazards.

The EIR underestimated the potential for future damage from wave run-up, coastal flooding and wave impact, despite acknowledging the Reduced Project will be hit by ocean waves. Those hazards are substantial in light of accelerating sea level rise in the future. Additionally, the basement wall which is only a few feet from the sandy beach, will act as a seawall, deflecting wave run-up towards the neighboring properties and adversely impact them.

The HKA Report and the HKA 2014 Letter clearly show that even after GeoSoils produced the GeoSoils 2014 Letter that the impact related to beach sand scour and coastal erosion were under estimated and will be significant.

Attached as Exhibit G is a photograph prepared by Shoreline Engineering of the project site showing the rock outcropping and the extent of past wave run-up. The picture also shows a person standing at a point near where a basement wall will be located. The picture clearly puts into context the close proximity between the northerly basement wall and the beach, and shows that the basement will be quite susceptible to the effects of wave run-up.

Testimony and visual presentations by the EIR Consultants at the April 10, 2014 Commission hearing included discussion of how the worst case geologic conditions at the site were determined. This information was not available to the public prior to the hearing, and therefore HKA was unable to analyze it prior to the hearing. The HKA 2014 Letter provided the following analysis regarding flaws in the EIR Consultants' analysis, in particular regarding what location on the site should have been used to determine the worst case scenario.

> "Cross-sections of the site show that much of the coastal rock face and a part of the historic coastal bluff has been covered with imported earth fill material. The analysis by Cotton Shires and Associates and GeoSoils Inc. did not utilize the worst case geologic conditions at the site. Both Cotton Shires Cross Sections 1-1' and 2-2' show beach sand under the proposed home in analyzing the potential for future coastal erosion and bluff recession. This beach sand deposit is likely connected to the exposed sand on the beach about 5 feet from the northwest corner of the home. The worst case geologic conditions at the site occur near the northwest corner of the proposed home, where it is located closest to the beach, and where the earth materials consist of fill and beach sand that that will continue to be exposed to marine erosion (coastal erosion) after the home is constructed. The F-EIR and the supporting documents from Cotton Shires and Associates and GeoSoils Inc. did not present a geologic cross section aligned through the worst case conditions which is a due west alignment through Boring HA-5 as located on F-EIR Figure 4.3-3, the Cotton Shires Engineering Geologic Map. As mapped by Cotton Shires, no bedrock is exposed in the coastal bluff face along this alignment. We disagree with Cotton Shires Geologist Michael Phipps statement to the Planning Commission that his Cross Section 1-1' represents worst case conditions. It is not the worst case condition for future coastal erosion, and is not the worst case condition for calculation of wave runup."

The proposed home is located on a cascading coastal bluff face and within approximately five feet of the sandy beach. At the northwest corner of the basement, the basements walls are above grade, and contain doors and windows. Applicant concedes that ocean wave run-up will impact these walls of the residence in the future.

The coastal hazards facing the Reduced Project are substantial and have been underestimated by the EIR consultants.

6 Sea Level Rise; Inconsistency with General Plan.

The Board should deny certification of the F-EIR and deny approval of the Reduced Project because the F-EIR has incorrectly analyzed the effect of sea level rise on the Reduced Project.

6.1 Summary of HKA 2014 Letter.

The effect of sea-level rise on the Original Project was not properly analyzed in the F-EIR, and the effect of sea-level rise on the Reduced Project was not properly analyzed in the GeoSoils 2014 Letter. The HKA 2014 Letter (Exhibit B) finds that the GeoSoils 2014 Letter underestimates the gross hazards at the site. The HKA 2014 Letter points out that wave action and water levels could in fact be much higher, due to the extremely conservative assumptions made in the GeoSoils 2014 Letter, some of which contradict the assumptions used in the F-EIR.

Note that even the County's staff report (page 4-3) for the April 10th continued hearing states that water will be approximately one foot deep at the basement wall. The staff report concludes, however, that because the water will reach the house at a low velocity, it is not expected to structurally damage the house. One foot of water will always cause damage to a house – but not to a seawall or shoreline protective device. The basement wall will be constructed in such a manner as to create a shoreline protective device, and that is the only way to reach the conclusion that one foot of seawater won't cause damage to a structure.

The fact that the GeoSoils 2014 Letter uses such different assumptions from those used in the F-EIR, and due to the fact that the results of its conservative analysis is that water one foot deep will likely reach the basement wall means that the EIR should be re-circulated.

6.2 F-EIR Must be Re-Circulated.

An EIR must be re-circulated when significant new information is added to the EIR. Re-circulation is required where the public has been deprived of the opportunity to review the new material. Here, the F-EIR went from a finding that water would possibly gently lap against the basement, to a finding that the water could be one foot deep along the basement wall. That is a significant change. Especially in light of the fact that the basement wall has been moved 10 feet landward, meaning the waves have farther to travel to reach the basement walls. Therefore, the F-EIR must be re-circulated.

6.3 F-EIR is Inconsistent with General Plan.

The F-EIR is also inconsistent with the General Plan, and that has not been corrected through the preparation of the GeoSoils 2014 Letter. The F-EIR, Chapter 4, page 4.3-20,

discusses the effect of coastal hazards on the project. This section states that "a site-specific coastal hazards study was prepared by David W. Skelly, Professional Engineer (P.E.) (GeoSoils, Inc. 2011, 2013), and is included in Appendix C of this EIR. The report includes a worst-case analysis of wave runup conditions incorporating a potential sea level rise of 2.5 feet over the next 100 years. The report evaluates four different potential oceanographic hazards at the project site: shoreline erosion, flooding hazard due to water level changes in the ocean, breaking wave elevation, and wave runup."

The San Luis Obispo County EnergyWise Plan (Page 7-4) adopted a projected Sea Level rise of 3.3 to 4.6 feet by 2100. The EnergyWise Plan was adopted by the County as part of the Conservation and Open Space Element of the General Plan. Since there is an inconsistency between the standard adopted in the EnergyWise Plan and the F-EIR, the F-EIR is inconsistent with the General Plan and cannot be approved until the sea level rise figures are rectified in the F-EIR. The F-EIR should have used a projected sea level rise of 3.3 to 4.6 feet by 2100, as adopted in the County's Energy Wise Plan, and extrapolated that rate out to at least the year 2114 which would increase the sea level rise to approximately 6.5 or 7 feet. The GeoSoils 2014 Letter was based on a 5.5 feet sea level rise. Therefore the sea level rise assumptions are too low and inconsistent with the general Plan.

6.4 Inaccurate Findings.

Due to the significant new information provided by the GeoSoils 2014 Letter, the findings contained in the staff report should not have been adopted. In particular, Section 8, Coastal Hazards, beginning on page 4-40 of the staff report were based on the wave run-up analysis contained in the F-EIR. The findings as adopted are inaccurate and do not reflect the County's most recent understanding of the wave run-up analysis. The Reduced Project should not have been approved with inaccurate findings.

7 Lateral Access.

The Board should deny certification of the F-EIR and deny approval of the Reduced Project due to a failure to properly describe the location of the required lateral beach access dedication.

7.1 Required 25-Foot Lateral Beach Access Easement.

The Reduced Project Plans incorrectly show a 25 foot easement from the western property line to fulfill the lateral access requirement. The lateral access should be provided as required and be free of encroachment by the Reduced Project's cantilevered deck. The CZLUO Section 23.04.420d(3) requires that all new development provide a lateral access dedication of at least 25 feet of dry sandy beach, as noted on page 3-15 of the F-EIR. The F-EIR and Original Project plans should have clearly shown where the project will be sited on the property, and how

the lateral access easement will be accommodated by the location of the project. There is no verifiable depiction (such as a survey) showing exactly where the structure will be located on the lot, and how the lateral easement will be accommodated.

The F-EIR should have noted in relation to the lateral access easement that wave run-up is expected to hit the basement. The GeoSoils 2014 Letter and the staff report also make it clear that up to one foot of water will occasionally reach the basement wall. Therefore, there will be times when no dry sandy beach is available. Several photos showing the coastal bluff and beach portion of the property during a typical high tide in 2007 are shown in Exhibit E.

Section 23.04.420d(3) of the CZLUO states, "*Lateral access dedication: All new development shall provide a lateral access dedication of 25 feet of dry sandy beach available at all times during the year. Where topography limits the dry sandy beach to less than 25 feet, lateral access shall extend from the mean high tide to the toe of the bluff. Where the area between the mean high tide line (the "MHTL") and the toe of the bluff is constrained by rocky shoreline or other limitations, the County shall evaluate the safety and other constraints and whether alternative siting of access ways is appropriate. This consideration would help maximize public access consistent with the LCP and the California Coastal Act.*"

Lastly, pursuant to CZLUO 23.04.420, lateral access must be dedicated prior to any permits being issued. However, the conditions of approval approved and adopted by the Commission do not require that the Applicant dedicate the lateral access easement prior to obtaining any permits. Condition 41 (per the Staff Report for the April 10, 2014 Commission Hearing) incorrectly requires the dedication for lateral access prior to the final building inspection.

Certification of the F-EIR and approval of the Reduced Project should be denied because of the lack of lateral access on the dry sandy beach "at all times during the year" as required by Section 23.04.420d(3), and because the conditions of approval failed to require dedication of the easement prior to issuance of any building permits.

7.2 Failure to Address Estero Area Plan Lateral Access Requirements.

The Estero Area Plan, Land Use Element/Local Coastal Plan, San Luis Obispo County Plan, Chapter 8, page 8-11 (now page 8-6), states:

> New development located between the sea and the first public road shall be required to make an offer of dedication of lateral access extending from the toe of the bluff to mean high tide, or where applicable, to the inland boundary of the public beach. (Chapter 7: V., Cayucos Urban Area Standards, Combining Designations, B., LCP) (underline added).

The Applicant must be required to dedicate access from the MHTL to the toe of the bluff, as required in the Estero Area Plan, rather than just 25 feet from the property line. No exceptions to the requirement are provided in the Estero Area Plan, thus the unique nature of the site should not have any bearing on where and what type of easement should be required. In the F-EIR, comment 29 to our August 5th letter states that the lateral access easement will extend "up to the exposed rock," however, that is not shown on any of the plans for the project included in the F-EIR and is inconsistent with Chapter 3 of the F-EIR.

The conditions of approval approved and adopted by the Commission do not require that the Applicant dedicate the lateral access easement prior to obtaining any permits. Condition 41 (per the Staff Report for the April 10, 2014 Commission Hearing) incorrectly requires the dedication for lateral access prior to the final building inspection. The Reduced Project plans lateral access area is inconsistent with the description of the lateral access in Condition 41.

The Board should deny certification of the F-EIR and deny approval of the Reduced Project due to the failure to apply the standard set forth in the Estero Area Plan for determining the type and location of the lateral beach access easement.

8 Bluff-top and Creek Setback.

8.1 Non-Coastal Bluff Top Setbacks.

The F-EIR should analyze the required setbacks for the Reduced Project as if it is cited on a fluvial bluff, if the F-EIR concludes it is not on a coastal bluff. The F-EIR failed to make the required analysis and therefore should not have been certified by the Commission.

The Estero Area Plan, Section V.F.1, states that bluff setbacks shall be in accordance with the CZLUO, "except that the minimum setback shall be 25 feet in any case." Table 7-1 modifies that requirement, under the first column of the table, entitled "Area."

Row 3 of the Area column is entitled "STUDIO DRIVE AREA (See "Bluff-top lots" where applicable)." Table 7-1, column 1, row 1, entitled "BLUFF-TOP LOTS," requires a minimum setback on a bluff of 25 feet. The Reduced Project is on a bluff top. There is a dispute regarding whether the bluff top is a coastal bluff, but there is no dispute that the Reduced Project is located on a bluff top, and therefore the minimum setback of 25 feet from the bluff top should apply.

Projects located on the Old Creek Coastal Stream bluff must be set back a minimum of 50 feet in accordance with Estero Area Plan Cayucos section, Sensitive Resource Area, Table 7-2.

Table 7.2 states "*1. Setbacks – Coastal Streams. Development shall be setback from coastal streams as shown in Table 7-2. Riparian setbacks shall be measured from the upland edge of riparian vegetation or the top of stream bank where no riparian vegetation exists.*" Table 7-2 provides that the Old Creek coastal stream setback must be a minimum of 50 feet.

If the County concludes that the project site is a fluvial bluff, rather than a coastal bluff, the coastal stream setback requirements should be applied to the Reduced Project.

Even if Tables 7-1 and 7-2 are not applicable, Estero Area Plan Section III, I. Shoreline Development, Bluff Setbacks, page 7-10 and 7-11, states that new development to "be located on or adjacent to a beach or coastal bluff are subject to the following standards:

"4. Bluff Setbacks. The bluff setback is to be determined by the engineering geology analysis required in I.1.a above adequate to withstand bluff erosion and wave action for a period of 100 years. In no case shall bluff setbacks be less than 25 feet." (underline added).

The site is on a bluff, and is "on or adjacent to a beach" and therefore the setback must be at least 25 feet in order to comply with the Estero Area Plan.

The F-EIR should not be certified and the Reduced Project should be denied because the County has failed to apply the correct setback requirements to the project.

9 Stringline Method.

The Reduced Project does not comply with the County's Coastal Plan Policies regarding siting of new structures fronting a beach because it extends significantly beyond the adjacent existing residences.

County Coastal Plan Policies, Chapter 10, Visual and Scenic Resources, Policy 3, Stringline Method for Siting New Development states: "*In a developed area where new construction is generally infilling and is otherwise consistent with Local Coastal Plan policies, no part of a proposed new structure, including decks, shall be built farther onto a beachfront than a line drawn between the most seaward portions of the adjoining structures; except where the shoreline has substantial variations in landform between adjacent lots in which case the average setback of the adjoining lots shall be used.*"

Except for a few properties built prior to the enactment of the Coastal Act and creation of the California Coastal Commission, the average setback along Studio Drive is at least 25 feet. The Reduced Project is inconsistent with Coastal Plan Policy 3 Stringline Method for Siting New Development.

10 Estero Area Plan – Cayucos Small Scale Neighborhood Standards.

The Reduced Project should not be approved because it exceeds the gross structural area allowed in Estero Area Plan Section 7.V.D.3.d(2) and Table 7-3 for structures exceeding 15 feet in height (and non-bluff top structures).

Pursuant to Table 7-3, the maximum gross structural area shall not exceed 55% of the usable lot. County staff in its April 10, 2014, memorandum to the Commission states that the sandy beach part of the Applicant's lot is "usable" by the Applicant for yard area and recreational purposes, just as any other typical backyard would be usable by the owner of such land.

However, unlike the typical backyard, the Applicant is required to dedicate the property from the toe of the bluff seaward to the public for lateral beach access, as discussed in section 7.1. Therefore, the dedicated portion of the lot is not usable to the Applicant in any way, other than use in the same manner as any other member of the general public.

The area of the lot dedicated to public access and therefore non-usable to the Applicant is approximately 1,092 square feet. Subtracting 1,092 square feet from the total lot size of 3,445 square feet provides a total usable area of 2,353 square feet. Applying the standard set forth in Table 7-3, the project may not exceed 55% of 2,353 square feet, or 1,295 square feet.

11 Cypress Tree.

Based on a citizen's comments during the Commission hearing regarding the Cypress Tree, we reviewed the mitigation related to the tree in the F-EIR and realized that the mitigation measures included in the F-EIR are not sufficient to protect the cypress tree located near the Loperena property.

The F-EIR identifies a significant mature cypress tree located in the right-of-way very near the subject Reduced Project. While the F-EIR did not provide an evaluation of the tree, the F-EIR states that the tree will be protected.

The tree was recently evaluated by a certified arborist, Charles Tamagni. The Arborist Report prepared by Chip Tamagni, Certified Arborist, A & T Arborists and Vegetation Management, Inc. and dated March 7, 2014, attached as Exhibit H. In his professional opinion, it is "physically impossible" to save the tree given the current design of the Reduced Project, including impacts from the building foundations and utilities. According to the arborist, the tree, which has a trunk diameter of approximately 76 inches, has a shallow root system that extends into the area of the proposed construction site. The F-EIR should be re-written to correctly identify that the cypress tree cannot be saved unless the Reduced Project design is significantly changed.

The arborist's report states: "In conclusion, we are quite certain the current design will negatively affect the Monterey cypress tree to the point of death. At a minimum, we feel the safe distance to remove the roots is located approximately 25 feet from the trunk of a tree this size to minimize long term impacts. We feel the EIR did not correctly identify mitigation measures to protect the tree. Although there is mention of an environmental monitor requirement in the EIR, there are no specific mitigations mentioned to protect the tree other than the misguided mention of tree fencing. The site, if developed according to plan will most likely be a death sentence for the cypress tree."

We request that the County require the Applicant to redesign the project to protect the tree. At a minimum, revise mitigations BR/mm-3 and BR/mm-4 and new Condition 33 approved at the April 10th Commission hearing to clearly indicate the design revisions necessary to protect the tree, such as providing a minimum construction clearance of at least 25 feet from the trunk of the cypress tree, which requires a redesign of the Reduced Project, rerouting of the gas line relocation, and redesign of the drainage system. We also request the clearance area be shown on all revised plans.

The new Condition 33, which was presented by County Staff in its memorandum to the Commission dated April 10, 2014 states:

> "Prior to issuance of grading permits, the applicant shall retain a certified arborist to conduct any site preparation activities requiring cuts or impacts to the root zone of the existing mature cypress tree. The certified arborist shall monitor work within the root zone, including grading and excavation for the retaining wall, and utility work. The applicant shall comply with methods identified by the certified arborist to avoid unnecessary damage to the root zone, including use of hand tools, protection and treatment of exposed roots during construction, and use of tunneling under shallow roots for utility installation in lieu of standard trenching."

The new Condition 33 is quite open ended, unrealistic and will likely be unsuccessful in protecting the tree. We again request revision of these mitigations/conditions to provide more specific mitigation measures, such as (i) a minimum construction clearance of at least 25 feet from the trunk of the cypress tree, (ii) that the footing for the driveway foundation shall be a minimum of 25 feet from the trunk of the tree, (iii) that tree fencing as shown on the plans and approved by the County shall be in place before work start, and (iv) that trenching for all utilities within 25 feet of the trunk shall be hand dug.

12 <u>California Building Code</u>.

The project should also be subject to a condition to ensure that prior to issuance of a construction permit that the design be reviewed and approved to confirm it meets current California Building Codes. In particular and without limitation, the project should comply with the requirements of the 2007 CBC Table 704.8, Increased Setbacks from Property Line. The minimum distance required is now 5' without having to use fire rated wall construction. A 3'

minimum setback is still allowed provided that the wall and eave use fire rated construction and the windows or open areas in the wall line is limited to a maximum of 25% of the wall area.

13 Project Alternatives.

The Board should deny certification of the F-EIR and deny approval of the Reduced Project due to a failure to properly include and analyze a range of project alternatives.

CEQA requires that an EIR provide a range of alternative designs to a proposed project in order to determine whether alternatives would further mitigate any environmental impacts. (14 CCR §15126.6). Both the HKA Report and the CCC correspondence find that the project is proposed to be built on a coastal bluff. The alternatives included in the F-EIR were just slight alterations of the Original Project, and did not offer true alternatives for use in determining an environmentally superior alternative in light of the project's location on a coastal bluff.

Section 2.8.E, Certification of the Loperena MUP/CDP EIR, of the findings adopted by the Commission states that the F-EIR and "other documents in the record, specific environmental, economic, social, legal, and other considerations make infeasible other project alternatives identified in the Final EIR." This is not accurate as a house much smaller than those proposed in the F-EIR would be feasible.

For example, an eco-friendly small-scale house could possibly be placed to allow for setbacks complying with coastal bluff requirements, and meet the 100 years of erosion. The reduced size and scale of such a project would provide a better transition with the open space nature of the adjacent Morro Strand State Beach. Such an option is not infeasible. Yet, no such alternative was offered in the F-EIR.

The F-EIR states that a sufficient range of alternatives were provided. We continue to disagree that sufficient project alternatives were considered in the F-EIR, and renew our objections as set forth in our August 5th letter. A reasonable range of alternatives was not proposed as required by CEQA, because none of the proposed alternatives complies with the coastal bluff setback requirements.

In the F-EIR, the County determined that the environmentally superior alternative is the Original Project. However, even the Reduced Project is not acceptable due to the impacts it will have on the environment. The project will impact the coastal beach, cause potential surface and subsurface drainage issues, impact scenic coastal views and is proposed to be built on a coastal bluff. Based on the alternatives proposed in the F-EIR, the environmentally superior alternative should have been no project.

CEQA states there should be a reasonable range of alternatives based on project objectives. The proposed alternatives proposed in the F-EIR are similar and do not provide sufficient variation. The F-EIR should not have been certified because it did not offer a reasonable range of alternatives.

14 Public Outreach; Scoping Meeting Required.

The Board should deny certification of the F-EIR and deny approval of the Reduced Project because the County failed to conduct a scoping meeting as required under CEQA.

CEQA Guidelines Section 15082(c)(1) states that for "projects of statewide, regional or areawide significance pursuant to Section 15206, the lead agency shall conduct at least one scoping meeting." The precedential nature of the project will lead to state-wide, or at least area-wide significance, as it will create new rights for coastal development to overhang sandy beach, creating an impact on the environment.

CEQA Guidelines Section 15206(b)(4)(C) states that if an EIR is prepared for a project, the project is located in the California Coastal Zone, and the project would have a substantial impact on the environment, then the lead agency must determine that the project is of statewide, regional or areawide significance.

The Reduced Project has the potential to redefine the term "coastal bluff," in order to evade the bluff top setback requirement, allow use of a basement wall as a seawall, and allow a significant cantilever over sandy beach. If allowed to proceed, the project will set a precedent for all future coastal development, allowing construction over sandy beaches, and is thereby a project of statewide, regional and area-wide significance.

Therefore, the Board should deny certification of the F-EIR and deny approval of the Reduced Project because the County failed to conduct a scoping meeting as required under CEQA.

15 New Project Details.

The plans for the Reduced Project show that two retaining walls and fill will be required along the north side of the project, as depicted in Exhibit I. It appears from the plans that the retaining walls will run northerly from the site and encroach upon Morro Strand State Beach. Encroachment onto the State beach is prohibited.

It is therefore inconsistent with Coastal Act Section 30211, which states that "*development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*" We question if this new impact to Morro Strand State Beach should trigger a re-circulation of the EIR.

16 Incorrect Conditions.

16.1 Commission Adopted Incorrect Conditions of Approval.

The Conditions of Approval adopted by the Commission were incomplete and/or inaccurate due to the change in the Reduced Project. In some cases, the conditions do not comply with applicable ordinances. Specific examples are provided in the following subsections.

16.2 Recordation of Prohibition Prior to Permits.

Estero Area Plan, Section III, I.5, Seawall Prohibitions (page 7-11), requires that as a condition of approval for blufftop and shoreline lots, that prior to any construction or grading permits being issued, that "*the property owner record a deed restriction that no shoreline protection structure shall be proposed or constructed to protect the development, and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235 and the San Luis County certified LCP.*"

The Reduced Project site is a shoreline lot (and a coastal blufftop lot in our opinion) and therefore the conditions of approval should have required recordation of the above referenced deed restriction prior to issuance of any grading or building permits.

16.3 Recordation of Dedication Prior to Permits.

The adopted condition of approval 41, Lateral Access, states that a dedication for lateral access shall be recorded prior to final inspection. However, CZLUO Section 23.040.420.e(1) requires that the dedication be recorded prior to issuance of any construction permits. Therefore, this finding was adopted in violation of the CZLUO.

16.4 Recordation of Waiver of Liability Prior to Permits.

Estero Area Plan, Section III, I.6, Liability (page 7-12), requires that as a condition of approval of a project "*on a beach or shoreline which is subject to wave action, the property owner shall be required to execute and record a deed restriction which acknowledges and assumes these risks and waives any future claims of damage or liability against*" the County. No such condition was adopted by the Commission.

The Reduced Project should not be approved until all conditions of approval are in compliance with all applicable County ordinances and planning standards, including those cited above.

In conclusion, for the reasons stated in this appeal and our prior correspondence and communications, we respectfully request the Board reverse the Commission's certification of the F-EIR and decline to approve the Reduced Project or any other modified version of the project that does not comply with applicable ordinances.

We appreciate your considered review and analysis of these comments.

Sincerely,

SINSHEIMER JUHNKE McIVOR & STROH, LLP

KEVIN D. ELDER

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cc: Cynthia R. Sugimoto

Exhibit A
HKA REPORT

Exhibit A

August 1, 2013 Haro, Kasunich and Associates Report

HARO, KASUNICH AND ASSOCIATES, INC.

Project No. SLO9515
1 August 2013

To: Ms. Ryan Hostetter
County of San Luis Obispo
Department of Planning and Building County
Government Center Room 200
San Luis Obispo, CA 93408-2040

From: Mark Foxx, CEG 1493
John E. Kasunich, G.E 455

Subject: June 2013 Draft EIR Comments

Reference: Loperena Minor Use Permit/Coastal Development
Permit DRC 2005-00216
SCH No. 2007061044

Dear Ms. Hostetter:

We have reviewed Section 4.3 of the referenced D-EIR (Geology and Soils), as well as referenced documents in Appendix C of the D-EIR by Cotton Shires and Associates Inc dated May 31, 2011, August 21, 2012, October 31, 2012, and May 17, 2013; documents by GeoSoils Inc. dated March 14, 2011 and April 10, 2013, documents by Cleath-Harris Geologists Inc. dated June 25, 2012, September 19, 2012; and GSI Soils Inc. dated December 27, 2011.

We provide the following comments:

1. **Incorrect Finding that Property is Not a Coastal Bluff**

Cotton Shires and Associates Inc. (the EIR consultant who addressed the presence or lack of a coastal bluff at the site) interprets that a coastal bluff does not exist at the Loperena property. We disagree. The bluff fronting the project site faces the Pacific Ocean, and there is an active beach at the base of this bluff. The bluff is subject to severe wave run-up on occasion and resultant coastal erosion. California Code of Regulations, Title 14, Section 13577(h)(1) defines coastal bluffs as those where the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion. **There can be no doubt that the toe of the bluff on the seaward portion of the Loperena property, is now and was historically (within the last 200 years) subject to marine erosion.** Unfortunately, there is no mention of this definition in the Cotton Shires reports.

Instead they focus on a more obscure determination of bluff edge termination, based on criteria involving geologic history and fail to consider the present geologic and oceanographic conditions at the site. Cotton Shires makes their finding based primarily on conditions shown on an aerial photo taken more than 75 years ago. We believe that present conditions must be considered when evaluating the presence of coastal bluffs or lack thereof. For more than 50 years a coastal bluff has extended hundreds of feet upcoast from the Loperena property. Much of that coastal bluff consists entirely of fill, but that is not solely the case at the Loperena property. The bluff at the Loperena property has bedrock exposed across the full width of the property.

Cotton Shires and Associates Inc. asserts that the seaward slope on the Loperena property consists of a fillslope and therefore it is not part of the coastal bluff. That is not

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supported by the geologic maps, cross sections and boring logs prepared by the applicant's geologist (Cleath-Harris). Exposed bedrock extends across the full width of the Loperena property

In our opinion the present conditions matter, and can and should not be ignored. The property should be considered a coastal bluff and appropriate setbacks should be required.

We support this, in part, from review of the geologic maps and cross sections in the Cleath-Harris Geology reports dated 6-25-2012 and 9-19-2012 as well as the Cotton Shires report dated 5-31-2011; all of which are contained in Appendix C of the Draft EIR. The Cotton Shires Engineering Geologic Map Plate 1 (originally prepared by Shoreline Engineering in 2006) is missing from Appendix C, but is included at a reduced scale as Figure 4.3-3 in the Draft EIR.

Several Figurers and photographs are presented below to support our position that the property includes a coastal bluff and to counter the DEIR finding that it doesn't.

Figure 1 shows Cleath-Harris's Geologic Map of the site that clearly shows exposed bedrock (Franciscan Assemblage Graywacke sandstone) across the entire width of the property along the coastal bluff face, with Beach Deposits seaward of the bedrock.

Figure 2 shows Cleath-Harris's Cross Section D-D'. The applicant's geologist (Cleath) terminated this cross section at elevation 18 and did not extend it down the near vertical bedrock coastal bluff face down to the beach. This cross section shows a thin mantle of fill covering the bedrock on the inland portion of the lot. We have sketched an extended portion of the cross section below elevation 16, to show the coastal bluff face and beach that exists there.

Figure 3 shows Cleath-Harris's Cross Section C-C'. Cross Section C, which is located at the upcoast property boundary, shows that the bluff face is composed of exposed Franciscan Assemblage Bedrock from the sandy beach up to about Elevation 17. The bedrock is mantled by 3 to 4 feet of fill. In fact, as depicted by the applicant's geologist, the bedrock under the fill extends up to elevation 22, and one could argue that the fill is covering what was once the coastal bluff face between elevation 17 and 22. We have labeled the cross section to show the coastal bluff face and beach that exists there.

Photograph 1 is a 2002 Aerial Photo from www.CaliforniaCoastline.org that clearly shows the exposed bedrock face along the coastal bluff, as correctly mapped by the applicant's geologist (Cleath-Harris) and the EIR geologist (Cotton Shires).

Photograph 2 was taken at the site and shows the coastal bluff on the Loperena property, the beach at the base of the bluff, and the Pacific Ocean. We have outlined the portion of the coastal bluff face where bedrock is exposed on Photograph 2.

Photograph 3 is a 2002 Aerial Photo showing the coastal bluff on the Loperena property, the beach at the base of the bluff, the Pacific Ocean wave action on the beach, and a sketch of the Loperena property boundaries. The property boundaries shown are not to scale because of parallax and foreshortening in this oblique photo, but are in approximately the right positions. Most of the Loperena property is only 25 feet wide. The seaward portion of the Loperena property (below the coastal bluff) is a sandy beach.

Photograph 4 is a site photo taken from the downcoast neighbor's property that shows the coastal bluff on the Loperena property, the beach at the base of the bluff, and Pacific Ocean wave action on the beach.

Figure 4 is Cotton Shires Geologic Cross Section which shows the proposed Loperena residence projecting (cantilevered) out over the coastal bluff and what they depict as an "Active Beach". The area between the Active Beach and the landward portion of the residence is the coastal bluff, as defined by the California Coastal Commission.

Figure 5 is a figure from Cotton Shires & Associates report dated May 31, 2011. It is a portion of a 1937 aerial photo that they have interpreted to show an inland bluff line that was formed by Old Creek. This bluff line pre-dates the bluff line that exists since Highway One was constructed in its present alignment circa 1960.

In 1937 (the date of aerial photograph Cotton Shires used in their analysis) the bluff turned inland just north of the bedrock outcrop. Between 1937 and 1972 (when the Coastal Act Initiative was passed by the voters and the Coastal Commission was created) State Highway 1 was constructed (circa 1960). In 1972 and 1976 (when the Coastal Act was passed) the bluff at the landward edge of the beach north of the Loperena property followed the fill slope seaward of Highway 1. The Cotton Shires premise that whether a coastal bluff exists is determined only by where a bluff was during historical geologic conditions (in 1937) and not where the coastal bluff existed at the time the Coastal Commission was created (in 1972) or where a bluff exists today, is inappropriate.

The toe of the bluff on the seaward side of the Loperena property has historically been subject to marine erosion and is subject to ocean wave run-up and coastal erosion today.

Regardless of the conditions at the Loperena property before Highway 1 was built, those conditions do not determine there is not a coastal bluff there today, which has been there for the last 50 years, and in fact has been there ever since the Coastal Act was passed

Figure 6 is a figure from Cotton Shires & Associates report dated May 31, 2011. It interprets which portion of the bluff at the Loperena property is a coastal bluff and which portion is an inland bluff. An inland bluff might be defined as a creek bank or river bank not subject to marine erosion. The Cotton Shires methodology for assessing the transition point from a coastal bluff to an inland bluff differs from the California Coastal Commission (CCC) guidelines for determination of bluff termini. Public Resources Code Section 13577 states "The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations." For some reason, Cotton Shires diagram, ignores the 500 foot requirement and instead uses a minimum length of the bluff line of 300 feet. It is requested that a revised diagram be prepared and included in the Final EIR that follows the CCC guidelines including the 500 ft. requirement.

Based on the conditions depicted on the geologic maps and cross sections and on the photographs in this letter, we believe the bluff on the Loperena property is a coastal bluff. We believe it is inappropriate to solely define the existence of coastal bluffs based on

photographs from 75 years ago or geologic conditions from more than 50 years ago. We believe that current geologic and oceanographic conditions must be considered, in order to accurately define the existence of coastal bluffs. The interpretation by Cotton Shires & Associates relies on conditions depicted in photographs from 75 years ago and geologic and geomorphic conditions from more than 50 years ago. We believe their interpretation is erroneous. California Code of Regulations Title 14, Section 13577(h)(1) defines coastal bluffs as those where the toe of which is now or was historically (generally **within** the last 200 years) subject to marine erosion. That includes those bluffs that have had marine erosion at their toe for 50 years. This regulation does not say that if there has not been marine erosion at the toe of the bluff **continuously** for the last 200 years it is not a coastal bluff. In our opinion the present conditions matter, and can and should not be ignored.

Because the Loperena property is only 25 feet wide, slight variations in geologic mapping have great impact. The Cotton Shires maps (Figures 5 and 6) that they use to delineate their interpretation of the coastal bluff are presented in their report at a scale of 1 inch equals 300 feet, such that the Loperena property is less than a tenth of an inch wide. It is our opinion that precise location of the coastal bluff terminus relative to property boundaries based on stereoscopic aerial photograph interpretation is not possible and that mapping and consideration of site specific conditions is required.

Fortunately, site specific mapping of the bluff was done in 1955. Figure 7 is a 1955 State Of California Acquisition Map for Morro Strand State Beach. This map shows the Loperena property and the bluff configuration at that time. Cotton Shires and Cleath-Harris make no reference to this map (included in this report) in their reports.

Figure 8 is an enlarged portion of State of California Acquisition Map from 1955 showing the toe of bluff that existed then on the Loperena property. The Loperena property was impacted by both the ocean and creek before Highway 1 was built, and now is primarily impacted by the ocean because the creek's alignment was altered. The map depicts that in 1955 (before Highway 1 was constructed in its present day alignment) it might be considered as a "corner lot", which is within a transition area that is part coastal bluff and part inland bluff. If it was partly a coastal bluff then and is impacted by coastal processes such as marine erosion, ocean wave run-up, and wave impact today, it should be considered a coastal bluff.

D-EIR 4.1.4.1 discusses a "story-poles" or flag study used to assess visual impacts of the project, however no photos with the flags are provided in the D-EIR. It is requested that the photographs from this flag study be included in the Final EIR. In the absence of official flag study photographs, we have reviewed Photographs 5 and 6, which are unofficial photographs of the flag study for the Loperena residence. Per D-EIR 4.1.4.1 these flags represent the proposed building corners. It says that "Locations of critical structure elements were identified based on site plan information and architectural elevations provided by the project applicant. These critical project features were surveyed and staked in the field and corresponding horizontal and vertical location data was developed. Poles and reference flags were positioned at each critical point."

Photograph 5 clearly shows the building extending past the coastal bluff over the beach. The exposed bedrock coastal bluff is shown on the photo. Marine erosion is the process which has exposed the bedrock on the bluff face. The project plans by James Maul-Architect, upon which the plans by C. P. Parker –Architect are based, show that the seaward edge of the home is 14.81 feet from the seaward property line and overhangs the bedrock coastal bluff and the beach. These plans are consistent with the position of

the main floor shown in D-EIR Figure ES-4a, which shows the main floor extending approximately 10 feet into the Access Easement on the beach.

Photograph 6 shows another view of the position of the corners of the proposed residence relative to the coastal bluff face and the beach. Note that the proposed house corners extend over the beach.

The Cotton Shires studies argue that the bedrock bluff at the back edge of the beach shown in Photographs 1, 2, 3, 4, 5, and 6 is an inland facing bluff. The Cotton Shires studies ignore the presence of an active beach that is subject to wave run-up, wave impact and marine (coastal) erosion within the building envelope of the proposed structure.

2. **Wave Run-up Calculations: Inconsistencies**

We have reviewed the Geosoils Inc. report dated April 10, 2013 that calculates wave runup to an elevation of 20.1 NAVD88 (Still water elevation of 10.1 Feet NAVD88 plus Wave Runup R of 10.0 Feet). It predicts that at an elevation of +17 NAVD88 one cubic foot per second of ocean water will impact the seaward portion of the proposed home for each foot of the width of the home during oceanographic conditions expected over the life of the development.

There are internal inconsistencies in the wave run-up calculations between 2011 and 2013. In 2011, GeoSoils used a scour elevation of 0.6 feet NAVD88 at the toe of the bedrock, with 9 feet of water depth and a 1% nearshore slope in their analysis which resulted in a still water level of 9.6 feet NAVD88 and generated 12.6 feet of run-up using 7.0 foot high waves. In 2013, when considering greater sea level rise to a still water elevation of 9.6 feet NAVD88, GeoSoils used a scour elevation of 3.1 feet NAVD88 at the toe of the bedrock (2 ½ feet higher than the 2011 analysis), with 7 feet of water depth and a 2% nearshore slope in their analysis which generated 10.0 feet of run-up using 5.5 foot high waves.

This analysis is not plausible. Greater sea level rise will result in higher still water levels, which will result in larger breaking waves. They do not justify using the 2 ½ foot higher scour level in 2013 compared the 2011 analysis, other than the depth of the bedrock below the beach sand estimated and depicted by Cotton Shires on their 2011 Cross Section 1-1' (Figure 9). The depth of bedrock shown on the Cotton Shires Cross Section 1-1' is not substantiated; it is queried due to uncertainty. Greater scour will cause higher wave runup. In any case, the wave runup analysis indicates that ocean wave runup will reach much higher than the basement floor elevation and will reach the basement windows depicted on the Rear Elevation in D-EIR Figure ES-5.

3. **Basement Wall is a Seawall**

The March 14, 2011 Geosoils Inc. report defines that this wave run-up will reach the basement wall, but indicates (because the basement walls will be constructed of reinforced concrete) that the wave run-up will not adversely impact the proposed residence. It is therefore functioning as a seawall. The San Luis Obispo LCP Hazard Policy 1 requires that new development shall be designed so that shoreline protective devices (such as seawalls, cliff retaining walls revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, will not be needed for the life of the structure, yet the proposed residence design incorporates a foundation system including a reinforced concrete wall that will be impacted by wave run-up and is

nearly the full width of the property. Therefore the basement and associated seawall should not be allowed.

If allowed, the reinforced concrete seaward facing basement wall will deflect wave run-up towards the neighboring properties and adversely impact them. This deflected wave run-up will increase erosion on the neighbor's bluff. D-EIR GS Impact 5 indicates that beach sand scour caused by heavy surf may create unstable slopes adjacent to the proposed residence and finds that this impact is less than significant. We believe this impact will be significant because the exacerbated impact from deflected wave runup that results from the construction of the proposed Loperena residence will extend onto the neighboring properties.

4. **Erosion Rate is Underestimated**

We disagree with GeoSoils that coastal erosion at the Loperena property is not a significant hazard over the next 100 years. The reason that bedrock is exposed along the full width of the Loperena property at the landward edge of the beach sand is because of active marine (coastal) erosion processes acting there. Sea level rise will result in increased future erosion rates compared to the historical erosion rates.

5. **Potential Shoring and Construction Impacts Not Evaluated**

The project Plans by James Maul- Architect (Sheets 1 and 2 of 4) show the exterior walls of the proposed residence with 3 foot side yard setbacks from the property lines. No property lines are depicted on the Elevation or Section (Sheets 3 and 4 of 4). The proposed residence foundation width is depicted as 19 feet. The plans in the D-EIR (Figures ES-4a, Es-4b and ES-5 by C. P. Parker (Architect) indicate they are based on the plans by James Maul, but lack setback dimensions on the floor plans and property lines on the Elevations. The Site Plan in the D-EIR (Figure ES-3) also lacks setback dimensions and does not show the main floor that cantilevers over the Public Access Easement on the seaward part of the property. The D-EIR does not address what impact to the Access Easement will occur during construction. We have reviewed the December 27, 2011 Updated Geotechnical Investigation report from GSI and 20 September 2012 letter from Shoreline Engineering including Shoring Details SL-1 and SL-2 (D-EIR Figures ES-7a and ES-7b). Given the 2 foot diameter boreholes necessary for the shoring pilings and the 25 foot lot width, we are concerned whether the shoring can be installed without any impact on the neighboring properties. It appears that there is the potential for the borehole drilling or excavations for the shoring to encroach on the neighboring properties or damage those neighboring properties.

In conclusion:

We disagree with the Cotton Shires interpretation which terminates the coastal bluff at the Loperena property based on the bisector they drew, which was solely based on conditions before Highway 1 was built, and classifies the bluff on the Loperena property as an inland bluff. We believe it is wrong for them not to consider present day conditions. The present day conditions include the presence of an active beach seaward of the property and Pacific Ocean waves directly impact the bluff on the property. Fluvial processes and creek or river bank conditions are not present at the Loperena property today. **As a result the bluff on the property should be considered a coastal bluff and appropriate setbacks should be required.**

Project No. SLO9515
1 August 2013

The proposed reinforced concrete seaward facing basement wall is a seawall and should not be allowed. If allowed, it will deflect wave run-up towards the neighboring properties and adversely impact them. D-EIR GS Impact 5 indicates that beach sand scour caused by heavy surf may create unstable slopes adjacent to the proposed residence and finds that this impact is less than significant. We believe this impact will be significant because the exacerbated impact from deflected wave runup that results from the construction of the proposed Loperena residence will extend onto the neighboring properties.

The wave run-up calculations indicate that ocean wave runup will exceed the basement floor level and reach the basement windows. The calculations have inconsistences and require additional detailed review to determine the appropriate floor levels and structural requirements.

We disagree with GeoSoils that coastal erosion at the Loperena property is not a significant hazard over the next 100 years. The reason that bedrock is exposed along the full width of the Loperena property at the landward edge of the beach sand is because of active marine (coastal) erosion processes acting there. Sea level rise will result in increased future erosion rates compared to the historical erosion rates.

The D-EIR does not address what impact to the Access Easement will occur during construction.

Given the 2 foot diameter boreholes necessary for the shoring pilings and the 25 foot lot width, we are concerned whether the shoring can be installed without any impact on the neighboring properties. It appears that there is the potential for the borehole drilling or excavations for the shoring to encroach on the neighboring properties or damage those neighboring properties.

Please call us to discuss these plans and this project if you have any questions.

Very truly yours,

HARO, KASUNICH AND ASSOCIATES, INC.

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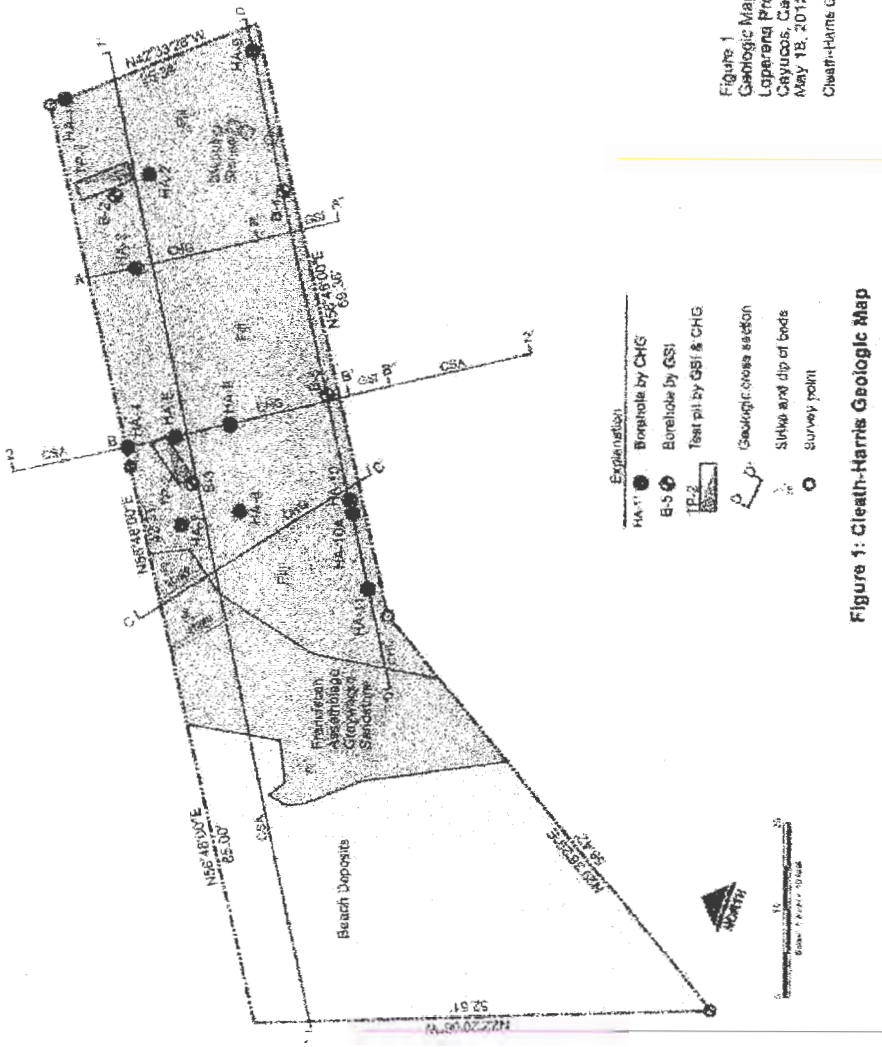
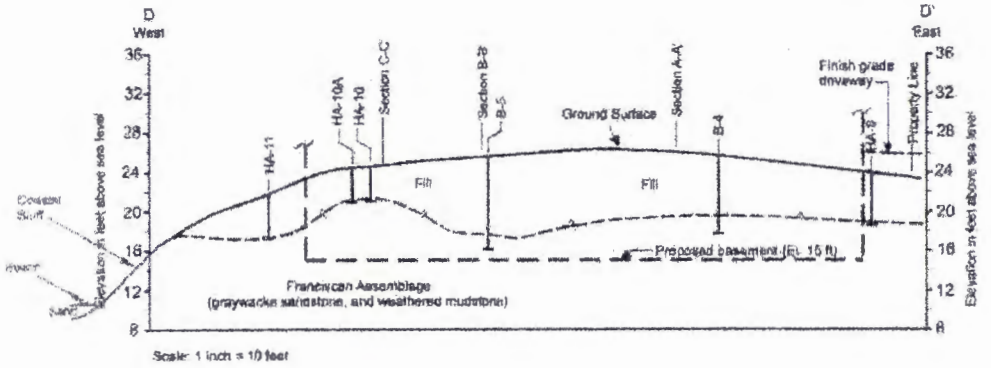


Figure 1: Cleath-Harris Geologic Map



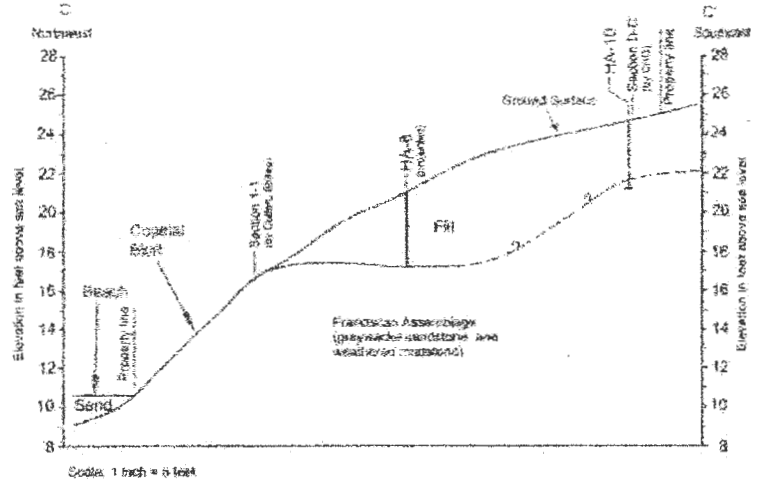
Explanation

HA-11	Hand auger boring location (by CHG)
B-5	Power auger boring location (by GSI)
	Geologic contact, queried and dashed where inferred

Figure 2
Cross Sections D-D'
Loparena Property, Studio Drive
Cayucos, California
May 18, 2012

Cleath-Harris Geologists

Figure 2: Cleath-Harris Geologic Cross Section D-D' Modified to Show Coastal Bluff and Beach



Explanation

HA-10 Hand auger boring location

Geologic contact, queried and dashed where inferred

Figure 3
Revised Cross Section C-C'
Loperena Property, Studio Drive
Cayucos, California
May 18, 2012

Cleath-Harris Geologists

Figure 3: Cleath-Harris Geologic Cross Section C-C' Modified to Show Coastal Bluff and Beach

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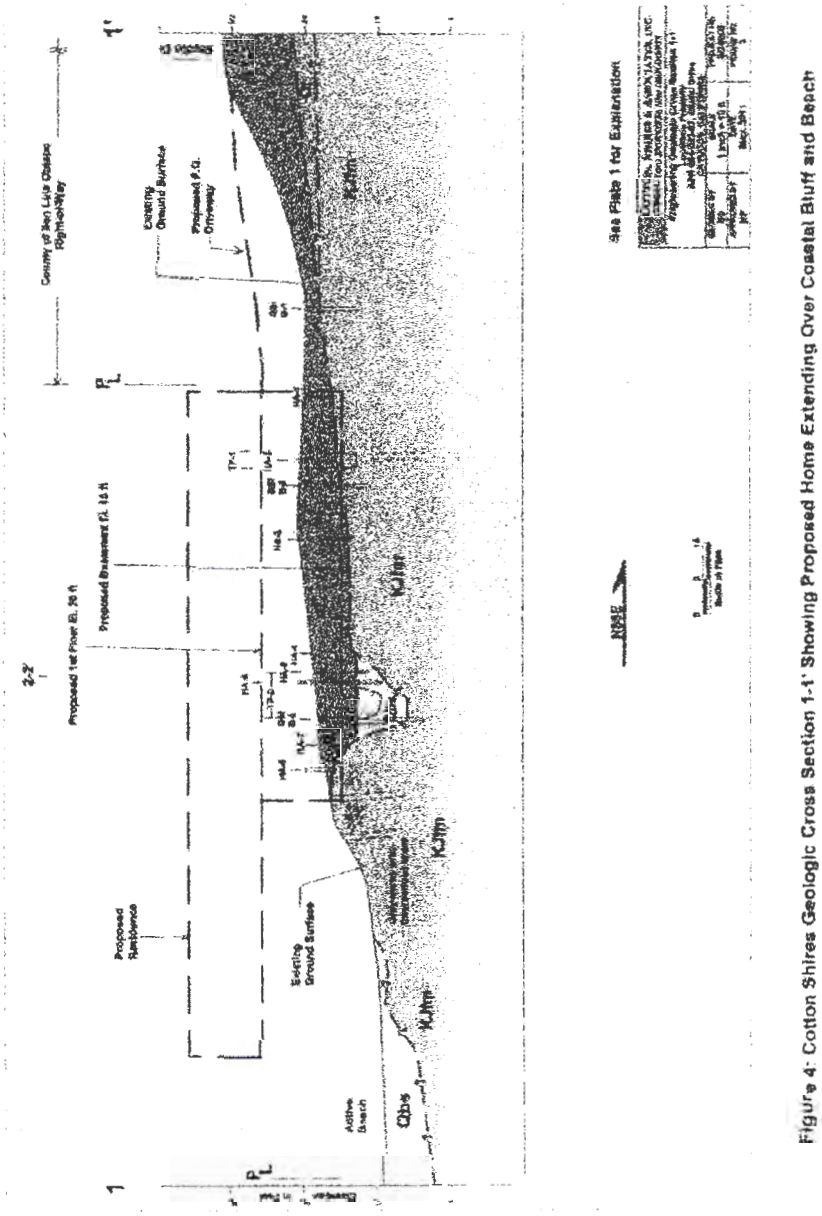

Figure 4: Cotton Shires Geologic Cross Section 1-1' Showing Proposed Home Extending Over Coastal Bluff and Beach

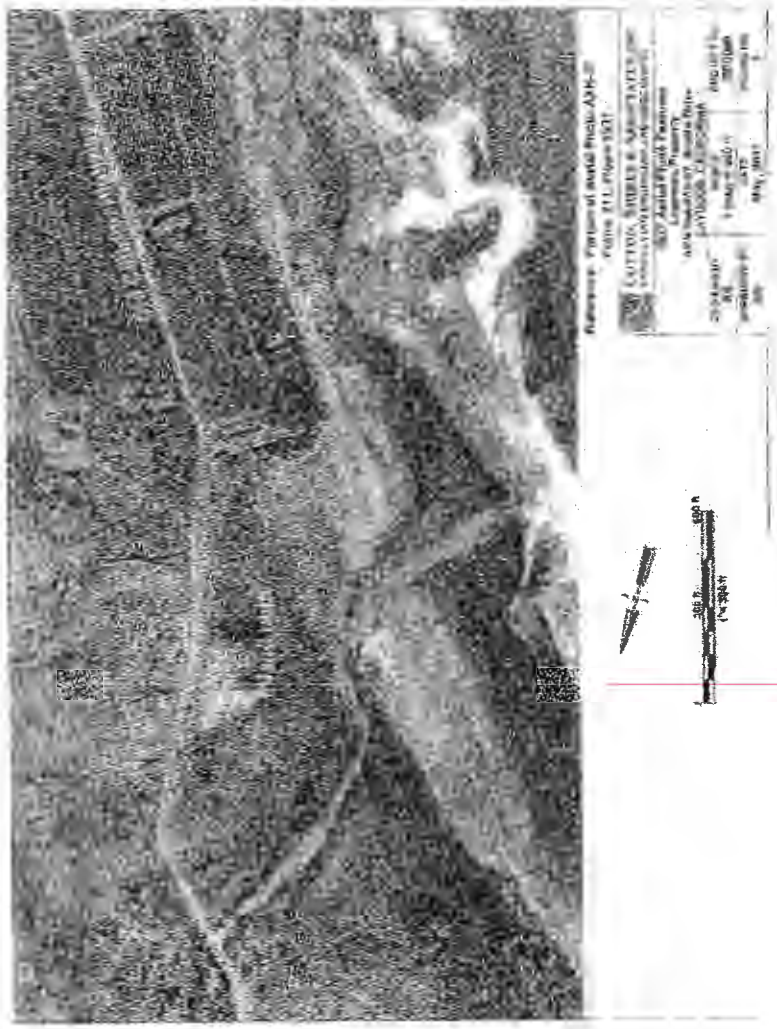

Figure 5: Cotton Shires 1937 Aerial Photo Features. Their Interpretation of Coastal Bluff.

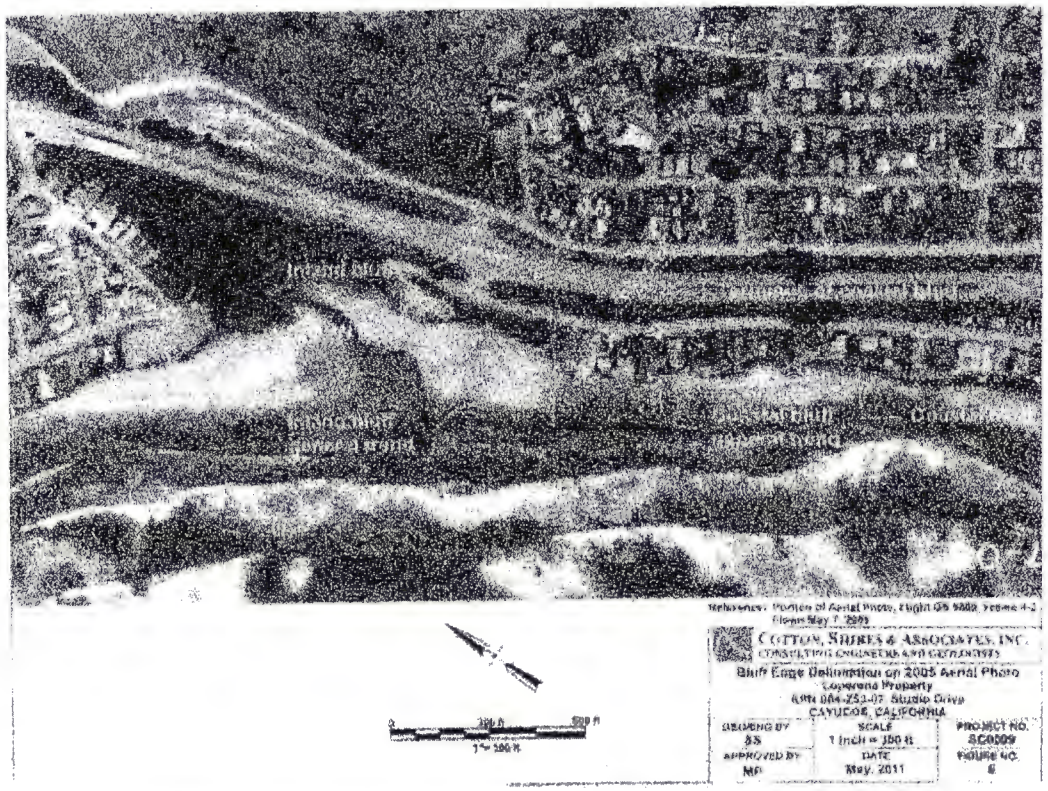

Figure 6: Cotton Shires Bluff Edge Delineation. Their interpretation of Bluff Terrace.

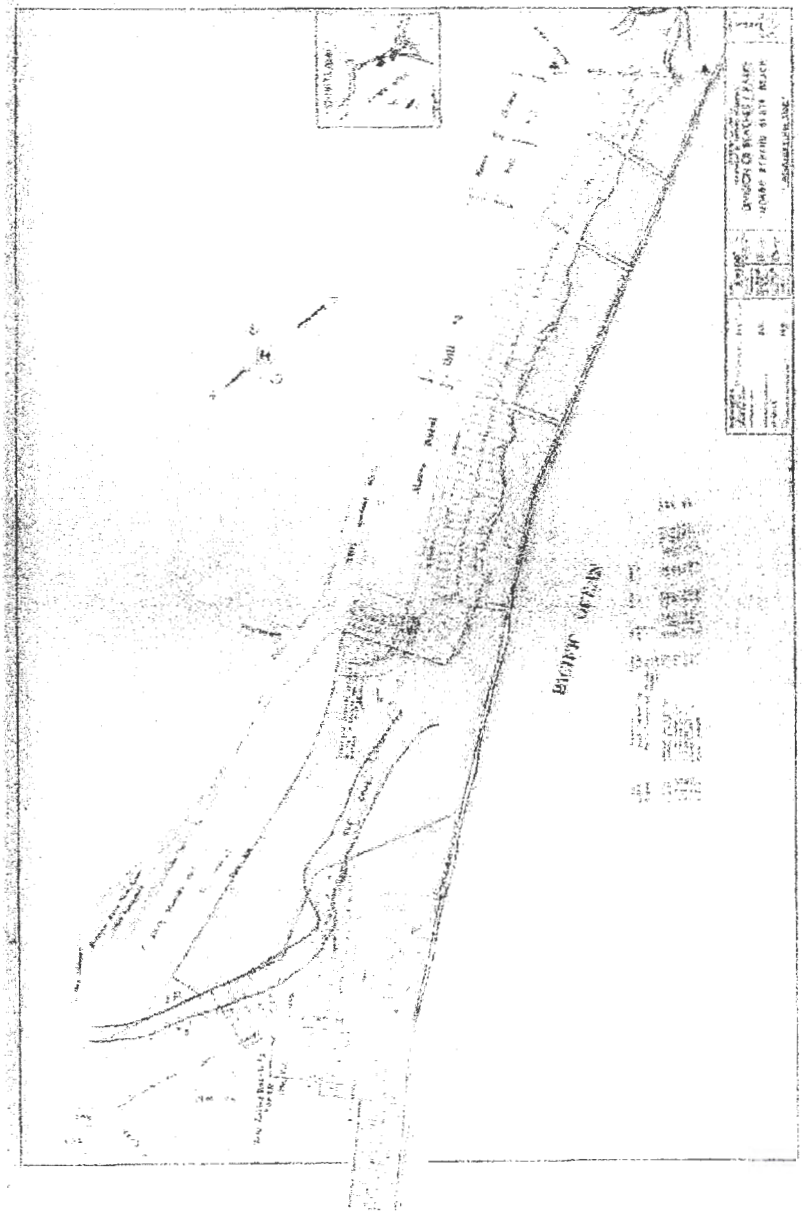

Figure 7: State of California Acquisition Map from 1956 showing the Toe of Bluff that existed on the Loperena property in 1956

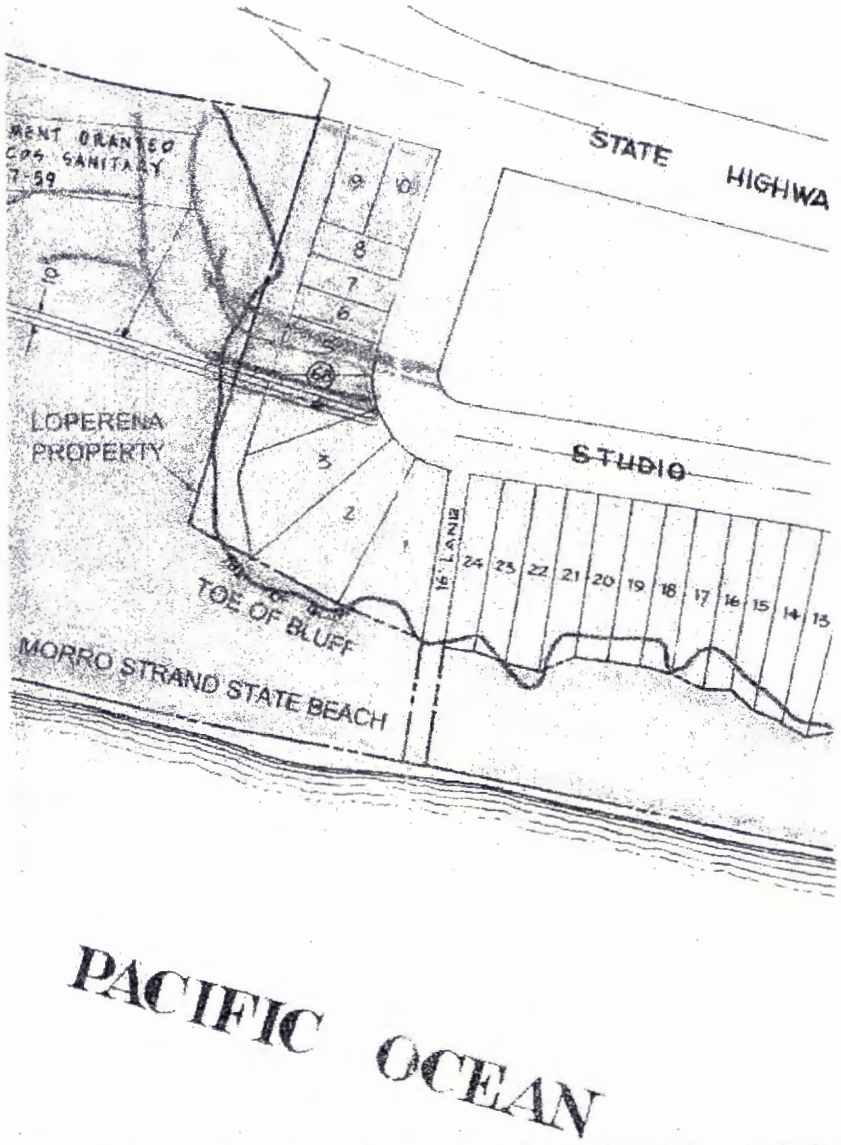

Figure 8: Enlarged Portion of State of California Acquisition Map from 1955 showing the Toe of Bluff that existed on the Loperena property in 1955

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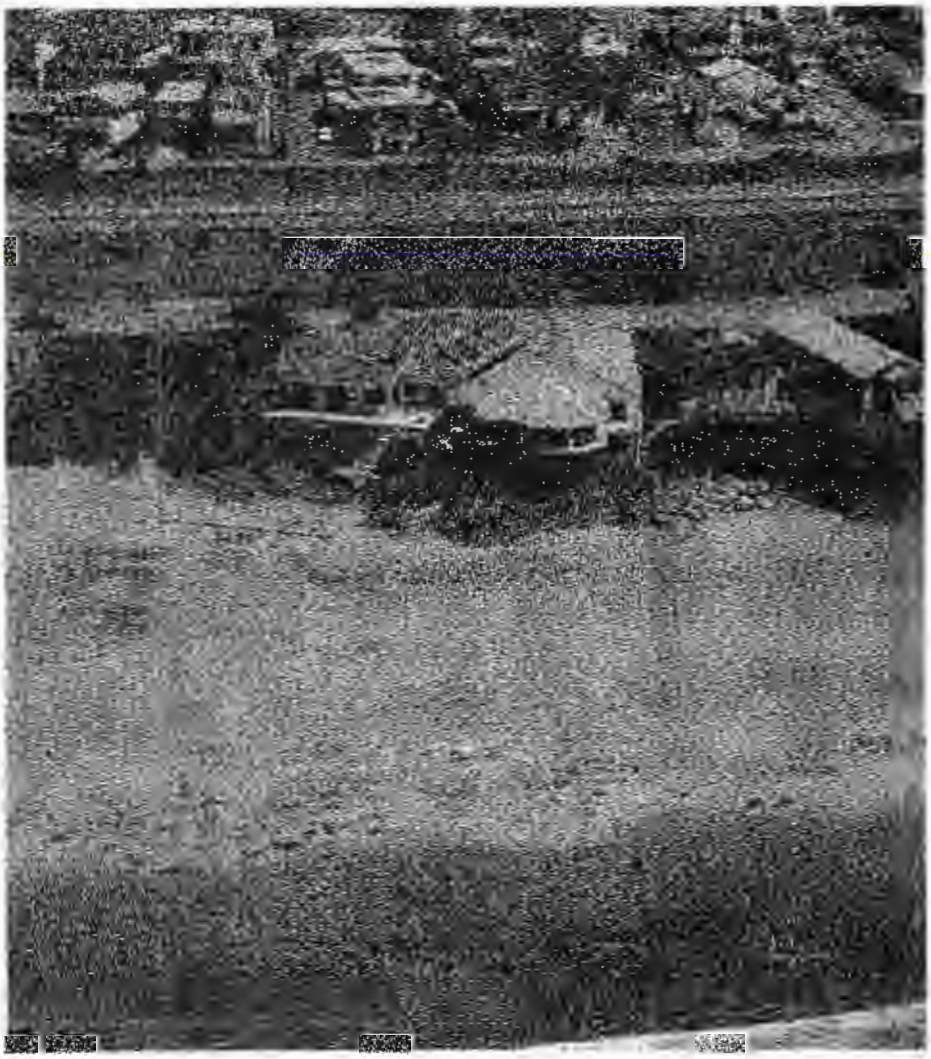
Photograph 1: 2002 Aerial Photograph from www.CaliforniaCoastline.org

Photograph 2: Site photograph showing the Pacific Ocean, beach and portion of the coastal bluff face where bedrock is exposed

17



Photograph 3: 2002 Aerial Photograph showing the coastal bluff on the Loperena property, the beach at the base of the bluff, the Pacific Ocean wave action on the beach, and a sketch of the Loperena property boundaries

Photograph 4: Shows the coastal bluff on the Loperena property, the beach at the base of the bluff, and Pacific Ocean wave action on the beach

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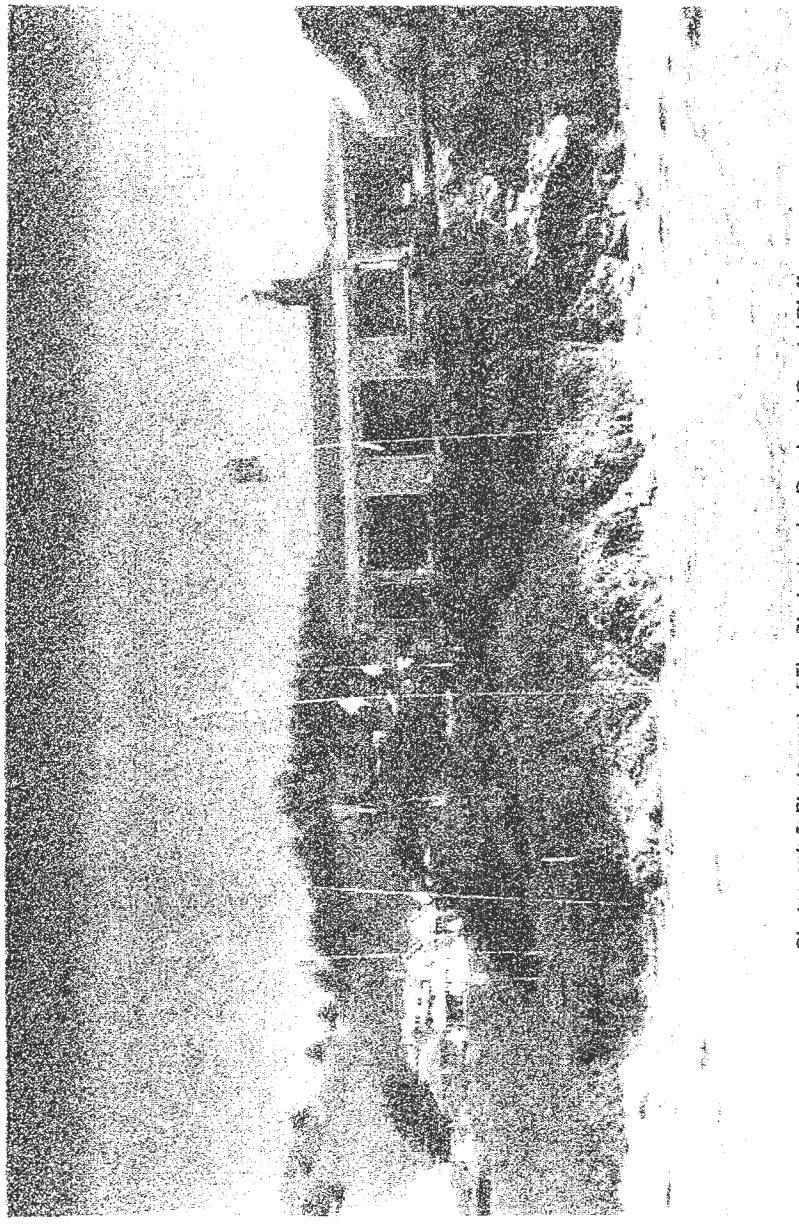

Photograph 5: Photograph of Flag Study showing Beach and Coastal Bluff

Photograph 6: Photograph of Flag Study showing Beach and Coastal Bluff ; Note that proposed house corners extend over the beach.

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Exhibit B
HKA 2014 LETTER

Exhibit B
2014 HKA Letter

HARO, KASUNICH AND ASSOCIATES, INC.
CONSULTING GEOTECHNICAL & COASTAL ENGINEERS

31 March 2014

Ms. Ryan Hostetter
County of San Luis Obispo
Department of Planning and Building
County Government Center Room 200
San Luis Obispo, CA 93408-2040

Subject: Mark Foxx, CEG 1493, John E. Kasunich, GE 455
Comments on March 12, 2014 Sea Level Rise and Coastal Hazard Letter from GeoSoils and the revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014.

Reference: Loperena Minor Use Permit/Coastal Development Permit
DRC 2005-00216
SCH No. 2007081044

Dear Ms. Hostetter:

We have reviewed the March 12, 2014 Sea Level Rise and Coastal Hazard Letter from GeoSoils Inc, and the revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014.

The results of the wave runup and overtopping analyses contained therein underestimate the gross hazards at the site.

Review of the GeoSoils work was made more difficult because their letter provided incomplete supporting data. Their letter does not present the geologic profile they used that relates to their calculations, only the computer model results. We may have additional comments after complete information is received.

A. OUR COMMENTS REGARDING THE MARCH 12, 2014 SEA LEVEL RISE AND COASTAL HAZARD LETTER FROM GEOSOILS INC. FOLLOW:

Maximum Breaking Wave Heights Underestimated in Analysis:

We note that the prior April 10, 2013 GeoSoils report indicates that with 2.5 feet of future sea level rise the water surface used for wave runup and overtopping analysis will be at an elevation +10.1 feet NAVD88; and the maximum scour elevation at the toe of the rock outcropping (coastal bluff) is at 3.1 feet NAVD88. This yields a water depth of 7.0 feet at the toe of the rock outcropping (coastal bluff), which was used in the 2013 GeoSoils analysis, which used a 5.5 foot high wave at the toe. The "new" March 12, 2014 GeoSoils analysis uses future sea level rise amounts of 4.6 and 5.5 feet respectively, which makes the water surface used for wave runup and overtopping analysis be at an elevation +12.1 and 13.0 feet NAVD88. GeoSoils acknowledges this

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by using water depths of 9.0 and 9.9 feet at the toe of the rock outcropping (coastal bluff) for the 2014 analysis. They then use 7.0 and 7.7 foot high waves at the toe in the analysis. Larger waves than those they used in their analysis have the potential to occur at the site. Our analysis suggests that wave heights of 8.9 to 9.6 feet could occur at the toe of the bluff and are appropriate. Use of appropriate wave heights would significantly increase wave runup, overtopping frequency and overtopping volumes at the site. With future sea level rise, deeper water will occur at the toe of the bluff, and larger waves will break there creating higher wave runup; this will result in greater rates of bluff overtopping, more frequent wave impact on the proposed home, and more rapid bluff erosion, which will erode the bluff over time.

Worst Case Profile Not Utilized In Analysis:

GeoSoils has only used a single profile in their analysis, which appears to include the existing condition bluff profile; no wave runup or overtopping analysis with an eroded bluff profile has been conducted. On the northern part of the site, fill soils comprise the bluff all the way down to the present beach sand level, making the likelihood of future erosion and bluff recession in that area very high. Such erosion and recession is expected to reach the proposed home, particularly the northern part. This factor is unaccounted for in the GeoSoils model. Geosoils states that existing fill soils will be removed and compacted fill soils will be placed between the residence and the ocean. Compacted soils remain susceptible to erosion under ocean wave impact.

Slope Roughness Overestimated:

A Rough Slope Coefficient of 0.398 was used in the GeoSoils modeling, for what we think is the portion of the profile above 3.1 NAVD88, which is indicative of an extremely rough surface, which does not exist at the site. Slope Roughness Coefficients of at least 0.8 are appropriate. Use of higher coefficients (which represent smoother surfaces) would significantly increase wave runup, overtopping frequency and overtopping volumes at the site.

Wind Velocities Underestimated:

Onshore Wind Velocities of 3.376 feet per second (about 2.25 MPH) were used in the 2014 GeoSoils analysis. Wind velocities of 16.878 feet per second (about 11.6 MPH) were used in the 2013 GeoSoils analysis, closer to actual wind velocities that frequently occur onshore at the site during stormy conditions with large waves. No explanation of why the reduced wind velocity was made. Use of appropriate wind velocities in the 2014 study would significantly increase wave overtopping frequency and overtopping volumes at the site.

B. OUR COMMENTS REGARDING THE REVISED PLANS FOR THE LOPERENA RESIDENCE BY C. P. PARKER DATED 3/14/2014.FOLLOW:

The northwestern corners of the lower level (basement level) of the proposed home depicted on the revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014 are about 3 feet from the landward edge of the beach. All of the seaward wall of the basement is within 20 feet of the beach. The plans label the landward edge of the beach approximately at the "edge of rocks" and "edge of iceplant" on Sheet A1.1. The revised plans depict that the main floor and deck cantilever 21 feet above grade seaward of the basement floor; 11 feet of this cantilever are above the beach sand.

Although the 2013 and 2014 wave runup analyses by GeoSolls indicates wave runup will reach elevations of 21.1 to 22.9 feet NAVD88, the home remains designed with a door threshold at the northwestern corner of the home at approximately elevation 15 NAVD88 , and a basement window on the seaward side of the home at approximately elevation 20 NAVD88. The revised design for the home keeps it located where it will be impacted by ocean wave runup. The revised plans show that portions of the seaward basement wall of the home are designed to be exposed above finished grade at elevation 16 NAVD88, approximately 3 feet from the landward edge of the beach. The revised design of the home keeps it located in a hazardous area, an area subject to marine erosion, well seaward of the top edge of the coastal bluff.

As previously communicated and documented, California Code of Regulations, Title 14, Section 13577(h)(1) defines coastal bluffs as those where the toe of which is now or was historically (generally **within** the last 200 years) subject to marine erosion. **There can be no doubt that the toe of the bluff on the seaward portion of the Loperena property, is now and was historically (within the last 200 years) subject to marine erosion.**

The revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014 do not depict the location of the landward edge of the beach or the toe of the bluff.

Under the California Coastal Act, the bluff edge is defined as:

... the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge..."

(California Code of Regulations, Title 14, §13577 (h) (2).

The revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014 do not depict the location of the top edge of the bluff.

Analysis of bluff setbacks is required by San Luis Obispo County regulations. Some of the pertinent regulations are included in Appendix A of this letter. These documents vary, but require that new development be designed and set back from the bluff edge a distance sufficient to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years and 100 years. The SLO County Local Coastal Program Policy Document updated in 2007 and SLO County Coastal Zone Land Use Ordinance updated in 2013 both state 75 years. However, the SLO County Estero Area Plan updated in 2009 and the SLO County Engineering Geology Report Guidelines updated in 2013 states 100 years.

Because the toe of the bluff at the landward edge of the beach at the property proposed for development is now subject to marine erosion, then it constitutes a coastal bluff, as defined by California Code of Regulations, Title 14, Section 13577(h)(1). Because it is a coastal bluff, the top edge of the bluff must be identified on the plans and the required bluff setback must be shown. The SAN LUIS OBISPO COUNTY ESTERO AREA PLAN status that: "In no case shall bluff setbacks be less than 25 feet."

Although the revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014 do not depict the location of the top edge of the bluff, it is clear that the residence is not in conformance with bluff setback requirements.

The revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014 depict that the main floor and deck of the proposed home cantilever 21 feet horizontally above grade seaward of the basement floor and wall; 11 feet of this cantilever are above the beach sand.

San Luis Obispo County regulations address cantilever portions of buildings in relation to coastal bluffs. The Coastal Zone Land Use Ordinance maximum allows roof and wall projections to cantilever a maximum of 30 inches per 23.04.118.c(3). This provision applies to new development proposed to be **located adjacent to a beach or coastal bluff.** Our interpretation of this code section is that it does not apply to building floors, only roof or wall projections such as eaves or bay windows.

The San Luis Obispo County Engineering Geology Report Guidelines indicate **all development, including** second story and **cantilevered portions of a structure shall**

be set back a minimum of 25 feet from the top edge of the bluff. There is no indication of any exception to the setback requirements for cantilevers.

CONCLUSIONS:

In conclusion, it remains our opinion that the GeoSoils studies underestimate the hazards and risks at the homesite from coastal wave runup and overtopping, particularly in the oceanfront portion of the property where bedrock is not present to higher elevations and erodible fill soils exist.

The 2013 and 2014 wave runup analyses by GeoSoils indicates ocean wave runup will reach 6 to 8 feet above the finished floor of the lower level of the home, and will impact the doors and window adjacent to the beach. The revised design for the home keeps it located where it will be impacted by ocean wave runup. The revised design of the home keeps it located in a hazardous area, in an area subject to marine erosion, well seaward of the top of the coastal bluff.

As previously communicated and documented, California Code of Regulations, Title 14, Section 13577(h)(1) defines coastal bluffs as those where the toe of which is now or was historically (generally **within the last 200 years**) subject to marine erosion. **There can be no doubt that the toe of the bluff on the seaward portion of the Loperena property, is now and was historically (within the last 200 years) subject to marine erosion.**

The revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014 do not demonstrate that the proposed home and **all development, including second story and cantilevered portions of a structure is set back a minimum of 25 feet from the top edge of the bluff.** We note that the previously submitted 1955 State Of California Acquisition Map for Morro Strand State Beach shows the Loperena property and the configuration and location of the toe of bluff in 1955. It stands to reason that at that time the top edge of the bluff would have been landward of the toe of the bluff. Defining the edge of the bluff can be complicated by the presence of irregularities in the bluff edge, a rounded or stepped bluff edge, a sloping bluff top, or previous grading near the bluff edge. Mark J. Johnsson, California Coastal Commission Staff Geologist, in a publication he authored entitled "Establishing Development Setbacks From Coastal Bluffs"[1] indicates: "Placing artificial fill on or near a bluff edge generally does not alter the position of the natural bluff edge; the natural bluff edge still exists; buried beneath fill, and the natural bluff edge is used for purposes of defining development setbacks." The required setbacks for all development on the Loperena property should be depicted on the plans as measured from the top bluff edge.

We still do not believe that the Applicant has demonstrated that the proposed residence is set back from the bluff edge a distance sufficient to assure stability and structural integrity, and to withstand bluff erosion and wave action for a period of 75 and 100 years without construction of shoreline protection structures. We do not see evidence that indicates that the bluff setback is adequate to allow for future bluff erosion, especially in the areas where the residence is proposed about 3 feet from the landward edge of the beach. We expect that any existing fill soils between the home and the beach, and those re-densified fill soils proposed to be placed between the home and the beach during construction, will be eroded within the next 50 years.

[iv] *Proceedings, California and the World Ocean, 2002, Orville Magoon, Editor"* http://www.coastal.ca.gov/W-11.5-2mm3.pdf

We recommend that:

1) The back edge of the sandy beach, the toe of the bluff, and the top edge of the bluff be depicted on the project plans.

2) Any proposed home on the property be setback a sufficient distance from the top edge of the coastal bluff (as defined by California Code of Regulations §13577(h)(1) which defines the bluff at the site as a coastal bluff because the toe of bluff is subject to marine erosion).

3) The required bluff setback should be delineated on the plans. Since County regulations stipulate 75 year, 100 year and 25 foot minimum setbacks, all three of these setbacks should be depicted. The foundation of the home, and any cantilevered section of the home should not extend into the setback. No utilities or other development should be allowed within (seaward of) the setback.

4) Wave runup analysis using realistic potential maximum breaking wave heights, slope roughness characteristics and onshore wind velocities should be completed, using a worst case profile that accounts for potential erosion and resultant bluff erosion (particularly in the bluff areas composed of artificial fill) during the design life of the proposed home.

5) Any proposed home on the property should be situated landward of areas of potential wave runup. Doors and windows should not be allowed below the runup elevation.

Please call us to discuss this project if you have any questions.

Very truly yours,

HARO, KASUNICH AND ASSOCIATES, INC.

John E. Kasunich
G.E. 455

Mark Foxx
C. E. G. 1493

APPENDIX A

Pertinent Blufftop Setback Regulations

1. COUNTY OF SAN LUIS OBISPOLOCAL COASTAL PROGRAM POLICY DOCUMENT
A PORTION OF THE SAN LUIS OBISPO COUNTY LAND USE ELEMENT OF THE GENERAL PLAN
Adopted March 1, 1988; Revised April 2007

Chapter 11 Hazards, Policy 6: Bluff Setbacks
New development or expansion of existing uses on blufftops shall be designed and set back adequately to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of **75 years** without construction of shoreline protection structures which would require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist based upon an on-site evaluation that indicates that the bluff setback is adequate to allow for bluff erosion over the **75 year period**. Specific standards for the content of geologic reports are contained in the Coastal Zone Land Use Ordinance. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.118 OF THE CZLUO.]

2. COUNTY OF SAN LUIS OBISPO COASTAL ZONE LAND USE ORDINANCE
Revised November 2013

23.04.118 - Blufftop Setbacks:
New development or expansion of existing uses proposed to be located adjacent to a beach or coastal bluff shall be located in accordance with the setbacks provided by this section.

New development or expansion of existing uses on blufftops shall be designed and set back from the bluff edge a distance sufficient to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of **75 years** without construction of shoreline protection structures that would, in the opinion of the Planning Director, require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist based upon an onsite evaluation that indicates that the bluff setback is adequate to allow for bluff erosion over the 75 year period according to County established standards.

3. SAN LUIS OBISPO COUNTY ESTERO AREA PLAN
THE LAND USE ELEMENT AND LOCAL COASTAL PLAN (LCP) of the SLO GENERAL PLAN
Adopted March 1, 1988
Cayucos and Rural Portions Updated January 7, 2009
Shoreline development standards in the Estero Area Plan include the following (Areawide Standard I-4):

Bluff Setbacks. The bluff setback is to be determined by the engineering geology analysis required in I.1.a. above adequate to withstand bluff erosion and wave action for a period of **100 years. In no case shall bluff setbacks be less than 25 feet.**

Geologic bluff setback. As determined by a site stability evaluation prepared by a certified engineering geologist based upon an on-site evaluation, development shall be set back from the top edge of the bluff sufficiently to withstand bluff erosion and wave action for a period of **100 years** without the need for construction of shoreline protective structures that require substantial alterations to the natural landforms along bluffs and cliffs. **In any case, the minimum setback shall be, 25 feet.**

4. SAN LUIS OBISPO COUNTY ENGINEERING GEOLOGY REPORT GUIDELINES
January 2005, Updated October 2013

The geologic report must include a predicted long-term average erosion rate and a setback that will ensure the development will not require shoreline protection during its economic life, based on either a or b below:

a. Develop a long-term annual average erosion rate, multiply this by the economic life of the structure and either multiply that by a buffer factor or add a buffer factor as a set distance. For example, if the rate of erosion is determined to be 3 inches per year, the economic life of the structure is 100 years, and the buffer factor is 1.2, then the minimum setback is 30 feet (3 in. x 100 yrs. = 300 in., 300 in. = 25 feet, 25 feet x 1.2 = 30 feet). ....

b. **Provide 100-year setback lines** and give the methodology for determining the setback. Define the bluff edge as the upper termination of a bluff, cliff, or sea cliff. In cases where the top edge of the cliff is rounded away from the face of the cliff, the bluff line or edge is that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a step-like feature at the top of the cliff face, the landward edge of the uppermost riser is taken to be the cliff edge.

APPENDIX B

Pertinent Cantilever Regulations

COUNTY OF SAN LUIS OBISPO COASTAL ZONE LAND USE ORDINANCE SITE DESIGN STANDARDS (REVISED APRIL 2011) TITLE 23 OF THE SAN LUIS OBISPO COUNTY CODE

23.04.118 - Blufftop Setbacks:

"New development or expansion of existing uses proposed to be located adjacent to a beach or coastal bluff shall be located in accordance with the setbacks provided by this section."

"New development or expansion of existing uses on blufftops shall be designed and set back from the bluff edge a distance sufficient to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of **75 years** without construction of shoreline protection structures that would, in the opinion of the Planning Director, require substantial alterations to the natural landforms along bluffs and cliffs."

"**c. Exceptions to bluff setback requirements:** The minimum setback requirements of this section do not apply to the following:"

"(3) Roof and wall projections including cantilevered and projecting architectural features including chimneys, bay windows, balconies, cornices, eaves and rain gutters may project into the required setback a maximum of 30 inches."

SAN LUIS OBISPO COUNTY ENGINEERING GEOLOGY REPORT GUIDELINES

21. Bluff erosion

"Based on the above criteria, **all development, including second story and cantilevered portions of a structure shall be set back a minimum of 25 feet** or the long-term annual average erosion rate multiplied by the economic life of the structure and by a buffer factor of 1.2 **from the top edge of the bluff**, whichever is greater."

Exhibit C
CALIFORNIA COASTAL COMMISSION LETTER DATED JANUARY 22, 2014

STATE OF CALIFORNIA – THE RESOURCES AGENCY EDMUND G. BROWN JR., Governor

CALIFORNIA COASTAL COMMISSION

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

January 22, 2014

Ryan Hostetter, Project Manager
County Planning and Building Dept.
976 Osos St., Rm. 300
San Luis Obispo, CA 93408-2040

Subject: ***Loperena SFD, Cayucos, California.***

Dear Ms. Hostetter:

Thank you for the opportunity to comment on the Final EIR and the upcoming SLO County Planning Commission public hearing on January 23, 2014 regarding the proposed project. The proposed project consists of construction of a single-family residence on a bluff-top lot at the north end of Studio Drive in the unincorporated community of Cayucos, in San Luis Obispo County. As previously expressed in our DEIR letter dated August 5, 2013, Coastal Commission staff continues to have substantial concerns about this project and its impacts on coastal resources.

We have the following comments:

1. **Visual Resources.** The proposed project is located in a highly visually sensitive area adjacent to State Parks property (Morro Strand State Beach) at the north end of Studio Drive. Morro Strand State Beach is an extremely popular public beach in the area and includes a scenic overlook/parking lot that is located just to the north of the project site. The project site is also highly visible from Highway 1, which is a designated state scenic highway and National Scenic Byway. The LCP includes a suite of visual and scenic resource protection policies and standards for development within unincorporated San Luis Obispo County. Per the LCP, new development must be sited to: protect scenic views and vistas; minimize visibility from public view corridors; minimize grading and earthmoving, and; minimize visual intrusion on adjacent sandy beaches (including LCP Visual and Scenic Resources Policies 1, 2, 5, and 11 and corresponding LCP Coastal Zone Land Use Ordinance (CZLUO) Sections. The proposed project is inconsistent with all of these above policies.

   In addition, the project is located within the Cayucos Community Small Scale Design Neighborhood (Studio Drive Neighborhood), which includes standards that require new development to be designed and sited to complement and be visually compatible with the existing characteristics of the community. Also, LCP Visual and Scenic Resources Policy 6 requires that the scale and architecture of new structures add to the overall attractiveness of the community and be compatible with natural features. Furthermore, other LCP policies, such as those found within the Estero Area Plan, provide for enhanced protections for new developments along the shoreline. The project is inconsistent with all of the above requirements because the modern-style and cantilevered residential development would be

highly prominent in a highly scenic public view (including from Highway 1) in a way that will degrade the character of this significant scenic viewshed, and the proposed project is not visually compatible with the surrounding community.

2. **Bluff Setbacks.** The FEIR continues to assert that the project site is not located on a coastal bluff but rather a "river" or inland facing bluff. Thus, the FEIR concludes that the LCP's coastal bluff policies, including required bluff setback distances for development, do not apply. However, the Commission's staff geologist has determined that the project site constitutes a coastal bluff for the following two reasons:

   The first is that California Code of Regulations (CCR) Section 13577(h)(1) defines coastal bluffs as "those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion." Because the project site is located directly adjacent to a relatively narrow and active beach, and including because there are photographs that document marine forces upon the bluff in this location, the project site meets the above definition of "coastal bluff."

   Second, and bracketing the first threshold above (which hasn't been met), the line that was used in the EIR's analysis regarding the bluff was only 300 feet long, as opposed to the minimum 500-foot-long line that should have been used to determine the point at which the coastal and canyon bluffs converge, as required by CCR Section 13577(h). Thus, the findings in the FEIR are based on an assessment of the bluff that does not comply with the requirements of CCR Section 13577(h).

   Because the bluff was incorrectly defined in the EIR, the project impacts analyzed in the EIR are inadequate because the project was not evaluated against the applicable LCP coastal bluff policies and standards for new development.

   It is Commission's staff's strong opinion that the proposed project triggers the LCP's coastal bluff policies (including Areawide Standard I-4, Hazards Policy 6, and CZLUO Section 23.04.118), and that the proposed project is inconsistent with these LCP policies and standards.. Given this fact, the project should be significantly revised to ensure that it meets the LCP's coastal bluff-top setback requirements.

3. **Sea Level Rise and Coastal Hazards.** The proposed project is located within an LCP-mapped Geologic Study Area and fronts Morro Strand State Beach. This site is on a steep slope and in an area known for overall geologic instability (including due to wave run-up, unconsolidated soils, erosion, tsunamis, etc.). The LCP requires that new development ensure structural stability while not creating or contributing to erosion or geological instability (including LCP Hazards Policies 1 and 2, and CZLUO Section 23.07.086). The project includes substantial areas of cut and fill and substantial retaining walls, including basement walls reinforced with steel (which likely constitutes shoreline protection). It is not clear that the proposed project can ensure safety from, and not contribute to, geologic hazards. It is

clear, however, that the proposed project raises LCP hazard avoidance and hazard minimization issues as well.

In short, as proposed, the project is inconsistent with the LCP's Visual and Scenic Resources protection policies, the LCP's Hazards policies, and other related LCP requirements. For all of the above reasons the proposed project should not be approved.

If you have any questions regarding these comments or wish to discuss the project further, please contact me at 427-4863.

Sincerely,

Daniel Robinson
Coastal Planner
Central Coast District Office

Exhibit D
FINDINGS SUPPORTING DENIAL OF THE PROJECT

Findings of Fact Supporting the Denial of the Reduced Project

As Designed (March 14, 2014)

FINDINGS OF FACT PROVIDED BY APPELLANTS
SUPPORTING DENIAL OF THE REDUCED PROJECT DESIGN
Loperena Minor Use Permit, Coastal Development Permit (DRC 2005-00216) and Environmental Impact Report
For Proposed Residence on Coastal Bluff Face and Beach

INCONSISTENCIES WITH PLANS AND ORDINANCES OF THE COUNTY OF SAN LUIS OBISPO, THE CALIFORNIA COASTAL ACT AND THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

I. The Reduced Project Violates and is Inconsistent With San Luis Obispo County LCP, California Coastal Commission and California Coastal Act Requirements Because the Residence is Proposed On a Coastal Bluff Face and Over a Coastal Sandy Beach and the Proposed Residence as Designed Fails to Meet the Coastal Bluff-top Setback Standards.

A. The determination that the project site does not contain a coastal bluff is incorrect. As defined by the California Coastal Act, the proposed residence is determined to be located on a coastal bluff. The bluff on which the proposed project is situated, while it may have been influenced in the distant past by stormwater stream flows of Old Creek, historically and today it is irrefutably influenced by marine erosion since it faces toward the Pacific Ocean, is impacted by ocean wave action on a regular basis, and is located at the back of an active coastal beach. These facts are indisputable, and supported by photographic evidence as well as the Applicants' and County's consultant's analysis "overtopping of rock outcropping" results. Any statement to the contrary is in error of the facts applicable to this property. Under the California Coastal Act, California Code of Regulations (CCR), Title 14, Section 13577(h)(1) & (2) coastal bluffs are defined as:

"(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; *and*

(2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2)." Note: Bold and underline added for emphasis.

During storms and high surf, the Pacific Ocean batters the bluff face at the project site on a regular basis. Clearly, the bluff face and beach at the base of the bluff are subject to marine erosion, and therefore the site is a "coastal bluff" under the definition of the California Coastal Act.

(In this regard, it should be noted that ONLY sites that are NOT impacted by coastal ocean influences such as wave or surf induced erosion, can be determined to NOT be coastal bluff properties through use of the bluff termini analysis methodology.)

B. In this case, the Reduced Project is located directly on a sloping coastal bluff face with a basement level that will be located less than five (5) feet off of the beach at its NW corner and the main floor of the structure will extend

approximately 11 feet over the coastal sandy beach, and as such, is inconsistent with the County Estero Area Plan and State Coastal Act. The project will result in significant grading of the coastal bluff face including the removal of part of the historic rock face of the bluff that is proposed to be excavated in order to build the basement and protective subsurface walls, in contravention of County Coastal Plan Policies, Chapter 10, Visual and Scenic Resources, Policy 5. Policy 5 states: "Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. Where feasible, contours of the finished surface are to blend with adjacent natural terrain to achieve a consistent grade and natural appearance." Policy 11 requires that development on bluff faces be limited to public access stairways and shoreline protection structures. Development is to be sited and designed to be compatible with the natural features of the landform. New development on bluff tops shall be designed and sited to minimize visual intrusion on adjacent sandy beaches.

The extensive grading necessary to develop the Reduced Project, and the modern design of the structure are inconsistent with Policies 5 and 11.

C. Under the California Coastal Act, the bluff edge is defined as: "... *the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge...*" (CCR, Title 14, §13577 (h) (2)).

The proposed project is inconsistent with the Estero Area Plan for Shoreline Development as designed and fails to meet bluff-top setback standards, which stipulate that the project be setback a distance from the bluff top "*adequate to withstand bluff erosion and wave action for a period of 100 years. In no case shall bluff setbacks be less than 25 feet from the top edge of the bluff.*" (Estero Area Plan, Section III, I. Shoreline Development, Bluff Setbacks, pages 7-10 and 7-11). Although the bluff top edge is not identified on the Reduced Project plans, it is clear that the project, as currently designed, is not located landward of the coastal blufftop, but encroaches onto the bluff face and over the sandy beach. The site is subject to potentially severe coastal wave impact.

D. To grant approval of the project as designed would constitute a grant of special privilege inconsistent with the standards that apply to other new residences and additions to existing residences along the west side of Studio Drive under the current coastal setback provisions. To approve the project as designed will create a dangerous precedent that will adversely impact all other coastal bluff development in Cayucos, SLO County, and California.

II. The Reduced Project Is Not Consistent With the San Luis Obispo County General Plan.

A. The Reduced Project encroaches onto the coastal bluff face and over the public

sandy beach.

B. The F-EIR analysis uses a projected sea level rise of 2.5 feet over the next 100 years. However, the F-EIR should have used a projected sea level rise of 3.3 to 4.6 feet by 2100, as adopted in the County's Energy Wise Plan, and extrapolated that rate out to at least the year 2114, which would increase the sea level to approximately 6.5 or 7 feet.

The County commissioned an additional wave run-up study using a new sea level rise of 5.5 feet. The results of the study were presented orally at the January 23, 2014 Commission hearing, and the study was documented in the March 12, 2014 GeoSoils letter. The Reduced Project claims to be designed sufficiently to meet 5.5 feet of sea level rise. While this sea level rise is greater than that used in the F-EIR, it is still too low.

The Energy Wise Plan was adopted by the Conservation and Open Space Element of the General Plan. Since there is a discrepancy between information in the Energy Wise Plan and the EIR, even if correctly updated to reflect the revised sea level rise analysis, it is inconsistent with the General Plan and cannot be approved until the sea level rise figures are rectified.

III. The Project Is Not Consistent With General Setback and Coastal Hazards Setback Criteria, and Coastal Bluff Cantilever Limitation Requirements

A. The EIR underestimates the potential for future damage from wave run-up, coastal flooding and wave impact, despite acknowledging the proposed home will be hit by ocean waves. Those hazards are substantial in light of accelerating sea level rise in the future. Additionally, the basement wall which is only a few feet from the sandy beach, will act as a seawall, deflecting wave run-up towards the neighboring properties and adversely impact them.

Cross-sections of the site show that much of the coastal rock face and a part of the historic coastal bluff has been covered with imported earth fill material. The analysis by Cotton Shires and Associates and GeoSoils Inc. did not utilize the worst case geologic conditions at the site. Both Cotton Shires Cross Sections 1-1' and 2-2' in F-EIR Section 4.3 show beach sand under the proposed home in analyzing the potential for future coastal erosion and bluff recession. This beach sand deposit is likely connected to the exposed sand on the beach about 5 feet from the northwest corner of the home. The worst case geologic conditions at the site occur near the northwest corner of the proposed home, where it is located closest to the beach, and where the earth materials consist of fill and beach sand that that will continue to be exposed to marine erosion (coastal erosion) after the home is constructed. The F-EIR and the supporting documents from Cotton Shires and Associates and GeoSoils Inc. did not present a geologic cross section aligned through the worst case conditions which is a due west alignment through Boring HA-5 as located on F-EIR Figure 4.3-3, the Cotton Shires Engineering Geologic Map. As mapped by Cotton Shires, no bedrock is exposed in the coastal bluff face along this alignment. We disagree with Cotton Shires Geologist Michael Phipps statement at the April 10, 2014 Commission hearing that his Cross Section 1-1' represents worst case conditions. It is not the worst case condition for future coastal erosion, and is not the worst case condition for

calculation of wave run-up.

The Project is not setback a sufficient distance to assure stability and structural integrity, and to withstand bluff erosion and wave action for a period of 75 and/or 100 years without construction of shoreline protection structures, which is prohibited by County regulations.

B. The Reduced Project, as designed, extends significantly beyond the adjacent existing residence, and is therefore inconsistent with Coastal Plan Policy 3 Stringline Method for Siting New Development. Policy 3 states "*In a developed area where new construction is generally infilling and is otherwise consistent with Local Coastal Plan policies, no part of a proposed new structure, including decks, shall be built farther onto a beachfront than a line drawn between the most seaward portions of the adjoining structures; except where the shoreline has substantial variations in landform between adjacent lots in which case the average setback of the adjoining lots shall be used.*" Except for a few properties built prior to the enactment of California Coastal Commission ordinances, the average setback along Studio Drive is at least 25 ft.

C. The Reduced Project, as designed, has a 21 foot cantilevered main floor living space and deck extending beyond the proposed basement wall and even further beyond the required setback location. It fails to meet limitations on cantilevered structures and it is therefore inconsistent with the Coastal Zone Land Use Ordinance 23.04.118c.(3), which states "*Roof and wall projections including cantilevered and projecting architectural features including chimneys, bay windows, balconies, cornices, eaves and rain gutters may project into the required setback a maximum of 30 inches.*"

IV. Seawalls Are Prohibited and the Project Basement Constitutes the Equivalent of a Shoreline Protective Device or Seawall.

A. The proposed reinforced concrete basement wall, located on the cascading coastal bluff face and within approximately five (5) feet of the sandy beach. At the northwest corner of the basement, the basement walls are above grade, and contains doors and windows. The applicant concedes that ocean wave run-up will impact these walls of the residence in the future. The north and west basement walls constitute the equivalent of a shoreline protective device or seawall, and as such, is prohibited by the Estero Area Plan for Shoreline Development. (Section III, I.5, Seawall Prohibition, page 7-11).

V. The Project Will Impact Coastal Views and Is Out of Scale with the Neighborhood Due to Excessive Square-Footage in Relation to Lot Size; It is Not Consistent with LCP Visual and Scenic Resources Policies 1, 2, 5, 6, 11 and Estero Area Plan – Cayucos Small Scale Neighborhood Standards.

A. The scale of the Reduced Project is inconsistent with the character of the immediate neighborhood because the proposed single-family residence comprises a floor area of 2,174 sq. ft. including the garage, 1,935 sq. ft. of which is gross living area, which is many times the area of the buildable bluff-top.

If the County determines the site is not a coastal bluff, then the Reduced Project has a Gross Structural Area (GSA) of 1,894 sq. ft., which is higher than the allowed GSA for non-bluff top lots, per Small Scale Neighborhood Standards (§7.V.D.3.d(2) and Table 7-3 page 7-71). GSA is calculated as 55% of the "usable" lot. The majority of the site is coastal bluff-face and beach. The beach portion should not be included in the usable area, because it is included in the lateral access easement and therefore not available for the applicant's private use. The Reduced Project is therefore inconsistent with the Small Scale Neighborhood Standards.

B. The proposed residence extends seaward (21 feet, 11 feet of which are over sand) blocking coastal views down the Morro Strand State (Public) beach, and the 33 foot high structure detracts from the natural beach view. Public views of the ocean from Highway 1 and from the adjacent Studio Drive are significantly impacted due to the size and scale of the proposed Reduced Project, and the fact that it is proposed on the coastal bluff face and over the sandy beach, extending well beyond the adjacent development along the west side of Studio Drive.

VI. The Project Is Inconsistent With Coastal Access Provisions

A. The Reduced Project, as redesigned, encroaches over the sandy beach and the applicant appears to propose adding fill and two retaining walls on the adjoining land north of the site on the Morro Strand State Beach. It is believed this new design element is part of a revised drainage plan associated with the new Reduced Plan. It is therefore inconsistent with Coastal Act Section 30211, which states that "*development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*"

B. The Reduced Project, because it cantilevers over the sandy beach at the base of the bluff, is inconsistent with coastal access provisions of the Estero Area Plan and CZLUO 23.04.420, which require lateral access. Lateral Access Easement is not dedicated as required. The Easement should be revised to extend from the toe of the bluff to its western property line, should be free of encroachment by the Reduced Project's cantilevered deck, and should be dedicated prior to obtaining any permits.

VII. The Reduced Project Environmental Impact Report is Not in Compliance With CEQA

A. Because there were insufficient scoping meetings and minimal outreach for the EIR, the EIR is not in compliance with CEQA.

B. This new "design feature" related to fill and retaining walls on Morro Strand State Beach, described in Section VI of this appeal, was not disclosed in the County's staff report describing the revised project or discussed at the April 10, 2014 Commission hearing. We question if it would trigger a re-circulation of the EIR.

C. The statements in the Environmental Impact Report (EIR) that the project is not

located on a coastal bluff are patently incorrect. (see definition of coastal bluff above). The project is in fact located on the Coastal bluff face and bluff-top and therefore is required to meet those standards applicable to Coastal Bluff setbacks and coastal beaches.

D. The geologic safety of the project has not been adequately confirmed and, in fact, the location and design of the project may create hazards for both the occupants of the proposed residence as well as increase the hazards to the coastal bluff south of the project and the hazards to the residents of the homes located south of the proposed project.

E. The Reduced Project's basement is located at an elevation such that the residents of the proposed structure may be harmed. Said basement also constitutes a "seawall" and is therefore inconsistent with the County Estero Bay Plan. LCP Hazard Policy 1 requires that new development shall be designed so that shoreline protective devices (such as seawalls, cliff retaining walls, etc.) that would substantially alter landforms or natural shoreline processes, will not be needed for the life of the structure.

F. The Reduced Project, as designed, has serious significant environmental impacts and is not incompliance with CEQA.

G. The Reduced Project, as designed, will cause significant adverse environmental impacts, including but not limited to:

1. Hazards to the occupants of the residence due to wave run-up, tsunami, and coastal storms;
2. Potential hazards and coastal erosion of the bluff-top and bluff face adjacent to the proposed project;
3. Potential erosion of the beach at the base of the site;
4. Adverse visual impacts due to the encroachment onto the coastal bluff face, over the beach, and the large scale of the project in relation to the small lot's size and 33 ft. tall structure by approximately 67 ft. in length, impacting coastal views from the street and highway as well as impacting views from the beach looking back toward the coastal bluff and down the length of the coastal bluffs;
5. The proposed scale of the project (proposed on a coastal bluff face and over the sandy beach) is inconsistent with the neighborhood;
6. The project will impact access on the sandy beach at the base of the coastal bluff due to the encroachment of the cantilevered structure over the required lateral access;
7. The Reduced Project, as designed, is inconsistent with County and State Plans, including but not limited to the Estero Area Plan (local coastal plan) and the State Coastal Act.

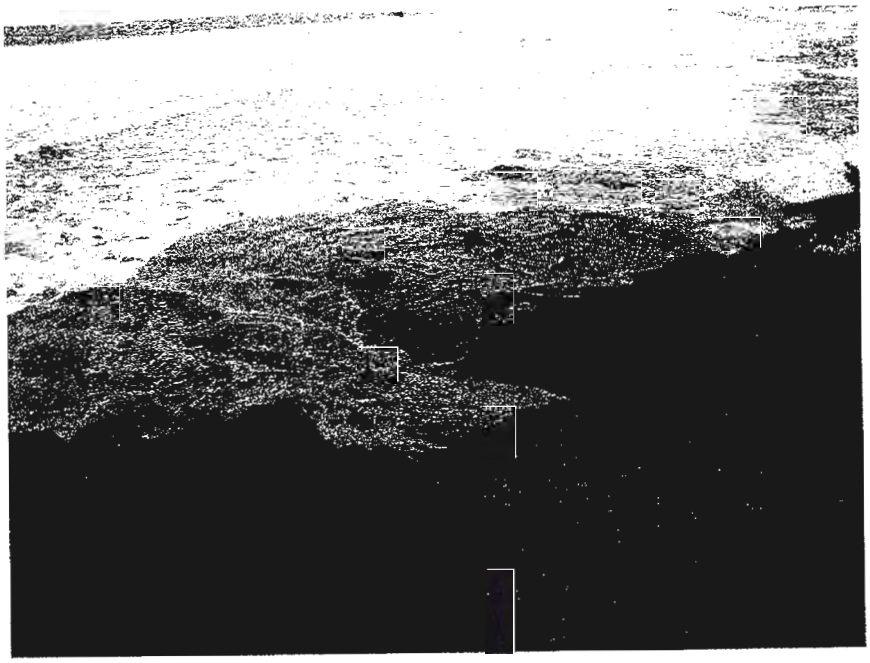
H. The project, as designed, will cause irreparable harm to a mature approximately 70-yr old native cypress tree located within the County right-of-way near the front of the subject property. The F-EIR failed to properly identify the serious impacts that the subject project will have on this cypress tree, and failed to provide realistic mitigations to protect the tree. Loss of said tree will be a significant impact. Certified Arborist, Chip Tamagni, states that "The mitigation measures

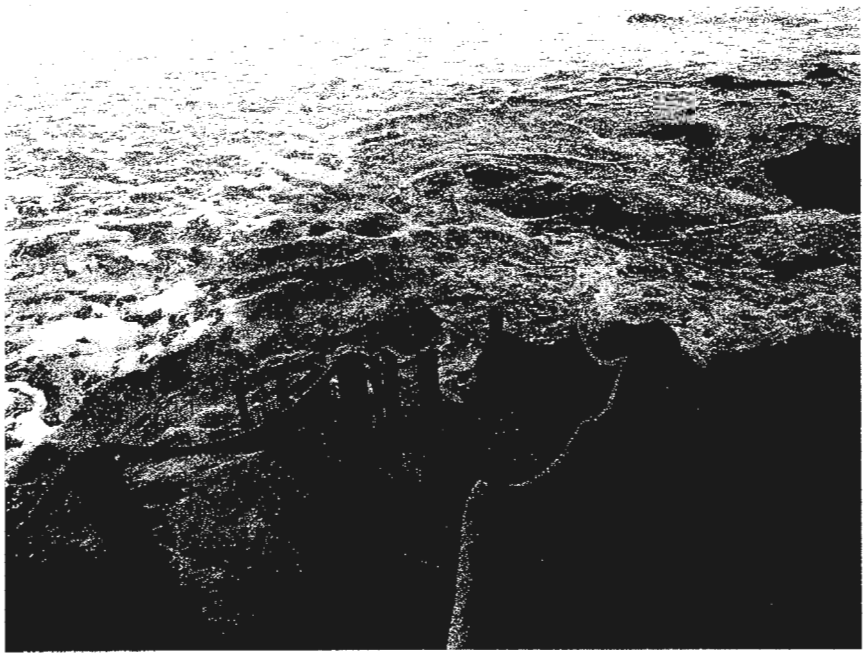
included in the F-EIR (BR/mm-3 and BR/mm-4) and the new condition 33 approved during the April 10, 2014 Commission hearing are not sufficient to protect the cypress tree located near the Project. His findings also apply to the new Reduced Project. The new condition 33 is unrealistic and will likely be unsuccessful in protecting the tree." The project needs to be redesigned to provide a minimum construction clearance of at least 25 foot distance from the trunk of the cypress tree.

I. Because there was an insufficient range of project alternatives included in the EIR, the EIR is not in compliance with CEQA. The alternatives were too similar and did not provide sufficient variation. An additional alternative of an eco-friendly small house alternative should have been developed.

Exhibit E
PHOTOGRAPHS OF PROPERTY AND OCEAN AT TYPICAL HIGH TIDE

Exhibit E
Photographs of Property and Ocean at Typical High Tide





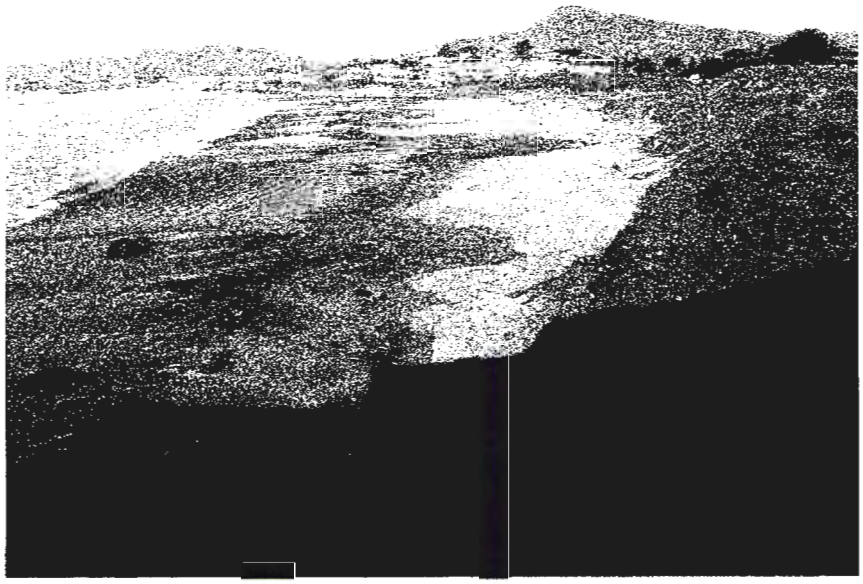


Exhibit F
PHOTO GRAPHIC SHOWING EFFECT OF ORIGINAL PROJECT ON VIEW OF OCEAN

Photo Graphic Showing Effect of Project on View of Ocean

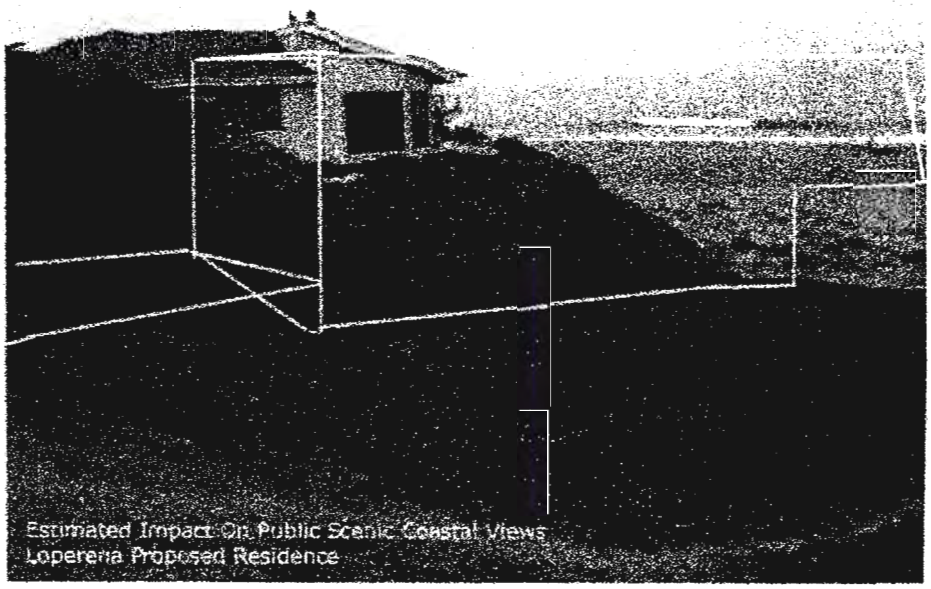
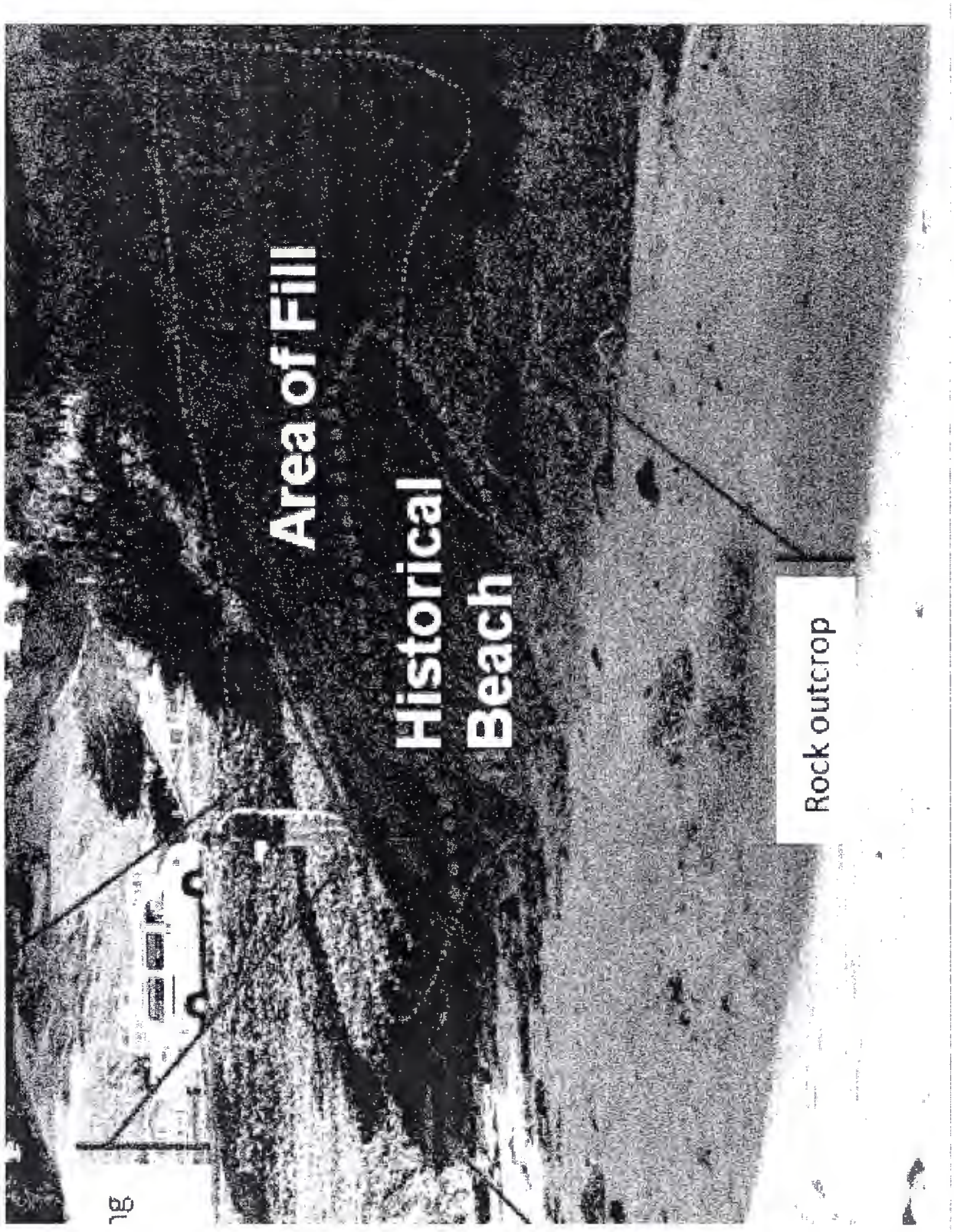


Exhibit G
SHORELINE ENGINEERING PHOTOGRAPH OF SITE


Area of Fill
Historical
Beach
Rock outcrop

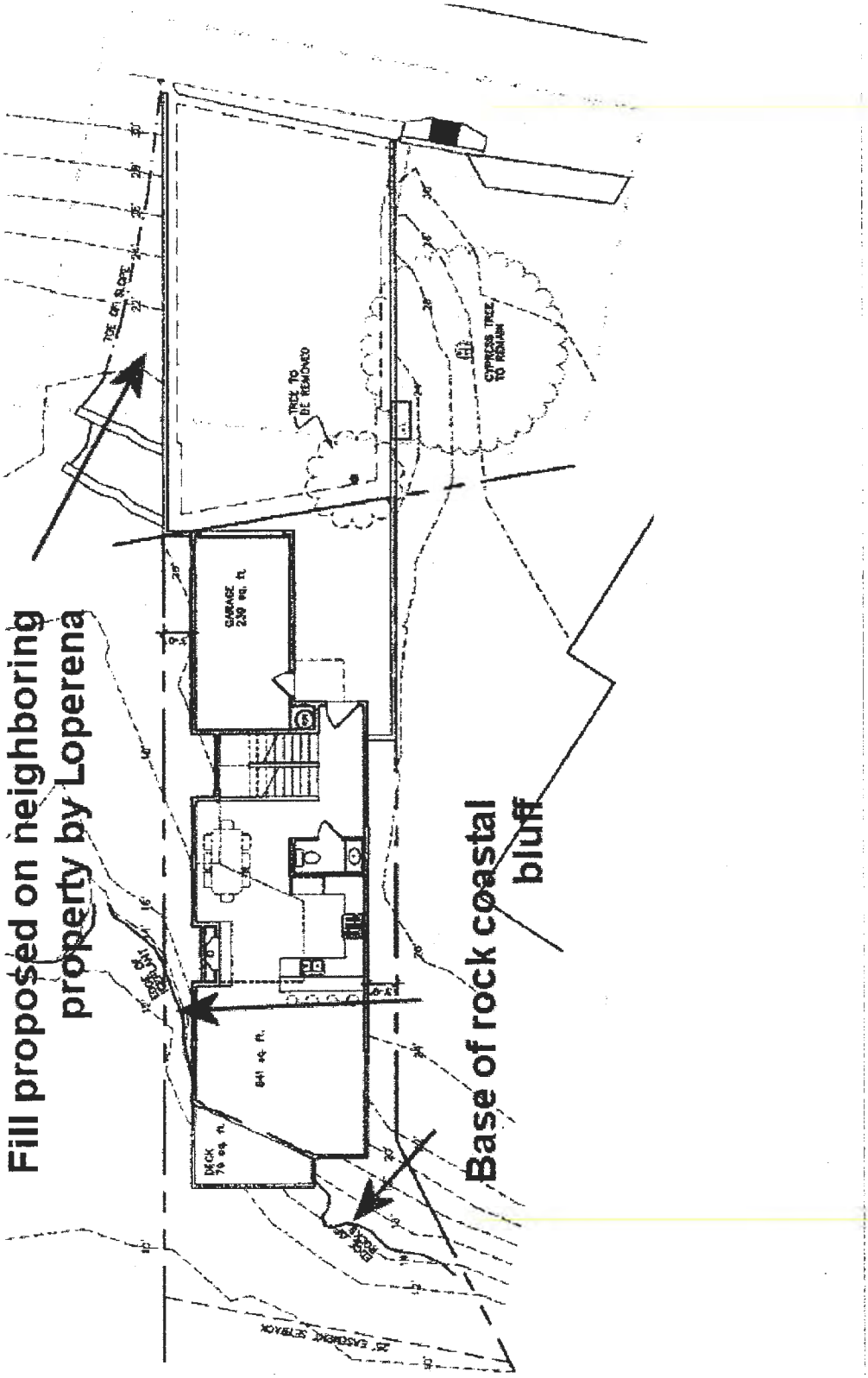

Fill proposed on neighboring property by Loperena
Base of rock coastal bluff
TOE OF SLOPE
TREE TO BE REMOVED
CYPRESS TREE TO REMAIN
GARAGE 230 sq. ft.
DECK 76 sq. ft.
25' EASEMENT SETBACK

Exhibit H
ARBORIST REPORT

A&T ARBORISTS
CERTIFIED ARBORISTS
Contractor Lic.#906700

3/7/14
To: Donald Funk

From: Chip Tamagni, A & T Arborists and Vegetation Management Inc.

Re: Planned Lot Development for APN# 064-253-007, Loperena Residence

This report is in regard to the planned construction of a new home located on a coastal bluff at the north end of Studio Drive in Cayucos, CA. A & T Arborists was hired primarily to study the potential construction impacts to a Monterey Cypress tree (*Cupressus macrocarpa*) located within the county right of way. There appears to be some confusion regarding the "coastal bluff" or "stream bank" designation for this lot. First, the Monterey cypress is a species found on coastal bluffs in California. They are by no means a riparian species that primarily exist next to streams. With the out flow of Old Creek 600 feet to the north and the ocean and beach in the immediate vicinity, the proper definition of this property is a coastal bluff. Any deviation from referring to this property as a coastal bluff appears to be biased in that setback obligations can be avoided.

Monterey Cypress trees are indigenous to the Monterey Peninsula area, however they thrive in the Central Coast region. They are generally a shallow rooted species and are subject to wind throw especially as a result of root loss and ground disturbance. Although this tree is relatively short (approximately 25 feet tall), the trunk section is quite extensive. The multi-trunk diameter is approximately 76 inches. Within the last few years, we removed a diseased Monterey Cypress tree several blocks south of this location that we estimated at 75-80 years old. This tree is similar in size, therefore, it may be somewhat close to the same age. The following photograph illustrates the massive trunk and shallow roots of the cypress tree.

When we review construction impacts, we look at impacts within the "critical root zone". This zone comprises a circular area equal to a radius of 76 feet (one inch of diameter equals one foot of critical root zone radius) for this particular tree. Through producing literally hundreds of tree plans, we have concluded that most trees can withstand root loss of up to about 25% and still survive especially with mitigation that may consist of fertilization, fungicide, insecticide, trimming for less wind sail, etc. We come across very few trees that survive impacts greater than 50% in the long term. These surviving trees are usually vigorous "sprouting" species such as a mulberry or an elm. This particular tree appears to be subject to a potential 60% impact as per the "extent of grading" from the Loperena site plan. Per the EIR, BR/mm-3, fencing is to surround the cypress tree. That is physically impossible due to the fact the grading will cover 60% of the drip line. I measured the distance from the edge of the trunk to the existing culvert and the result was seven feet. At about eight feet from the trunk is a planned retaining wall that will support the fill driveway. This wall will require a substantial footing to

retain the fill soil for the driveway. The excavation for this footing will completely destroy all the roots from seven feet north of the tree. The grading outside of the wall will also damage the roots north of the trunk. In addition, the tree will have to be side trimmed extensively (1/3 of the canopy) at a minimum to work in that area.

In addition to the cypress tree, there is also a long-leaf pine tree (*Pinus palustris*) within the county right of way that will definitely have to be removed for the driveway construction.

In conclusion, we are quite certain the current design will negatively affect the Monterey cypress tree to the point of death. At a minimum, we feel the safe distance to remove the roots is located approximately 25 feet from the trunk of a tree this size to minimize long term impacts. We feel the EIR did not correctly identify mitigation measures to protect the tree. Although there is mention of an environmental monitor requirement in the EIR, there are no specific mitigations mentioned to protect the tree other than the misguided mention of tree fencing. The site, if developed according to plan will most likely be a death sentence for the cypress tree.

Chip Tamagni
Certified Arborist #WE 6436-A
ISA Certified Hazard Risk Assessor #1209
BS Cal Poly Forestry and Natural Resources Management
California State Pest Control Advisor #75850
California State Applicator #104758

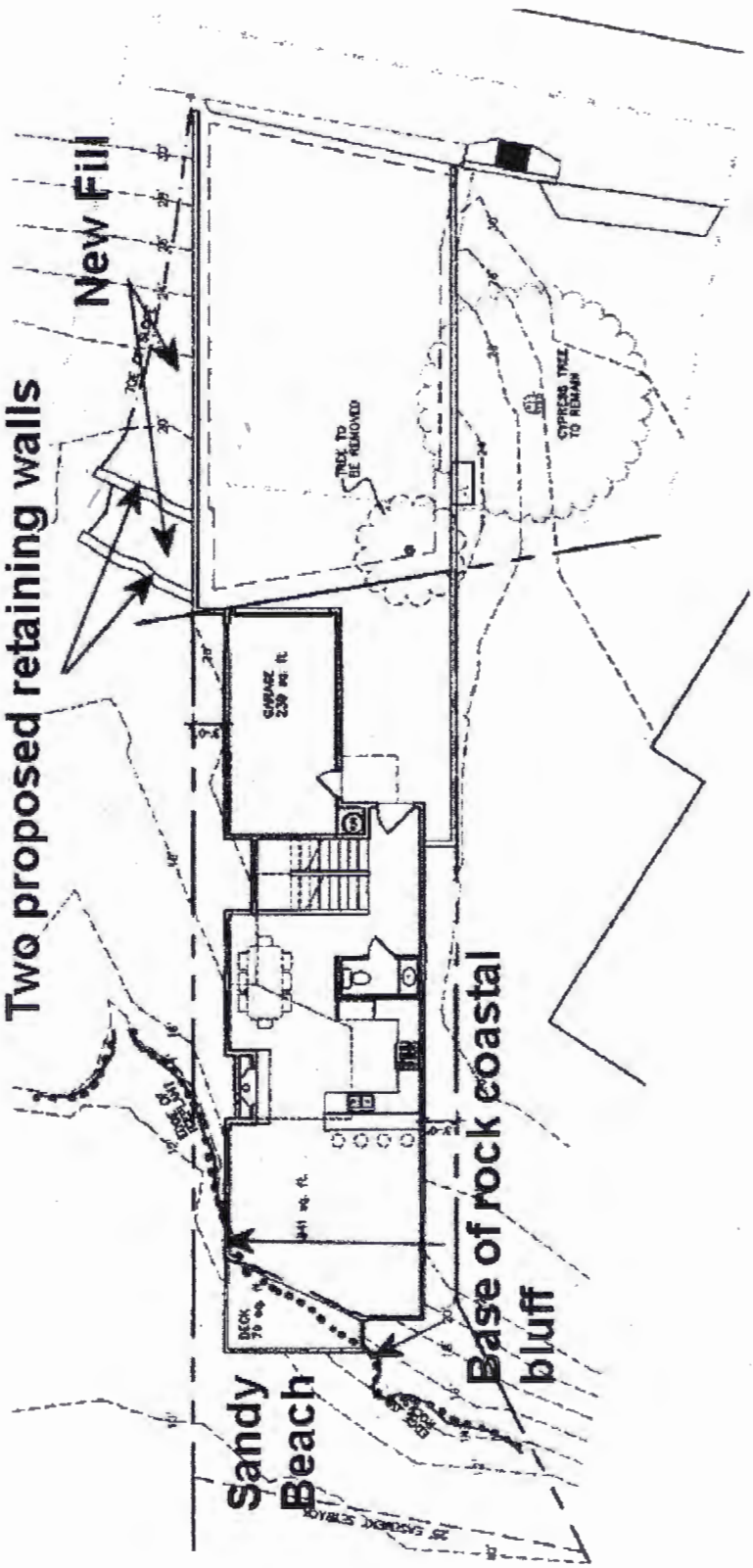

New Fill
Two proposed retaining walls
Base of rock coastal bluff
Sandy Beach
TREE TO BE REMOVED
CYPRESS TREE TO REMAIN
GARAGE 239 sq. ft.
DECK

Exhibit I
PLANS SHOWING NEW IMPACT ON MORRO STRAND STATE BEACH

San Luis Obispo County Department of Planning and Building
County Government Center San Luis Obispo, California 93408 Telephone: (805) 781-5600

Receipt #: 28201300000000001528

Date: 04/25/2014

Line Items:

Case No	Last Name	Tran Code	Description	Revenue Account No	Amount Paid
		APPEAL	Appeal to Board of Supervisors Fee - PDA -4350106	1420000-1000000000-142S23	850.00
				Line Item Total:	**$850.00**

Payments:

Method	Payer	Bank No	Account No	Confirm No	How Received	Amount Paid
Check	SINSHEIMER JUNHKE MCIVOR & STROH		55857		In Person	850.00
					Payment Total:	**$850.00**
					Balance	

cReceipt.rpt

SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

April 25, 2014

Kevin Elder
1010 Peach Street
San Luis Obispo, CA 93401

Jack Loperena
2764 W. Athens Ave.
Fresno, CA 93711

SUBJECT: **APPEAL OF JACK LOPERENA . – COUNTY FILE NUMBER: DRC2005-00216 HEARING DATE: APRIL 10, 2014 / PLANNING COMMISSION HEARINGS**

We have received your request on the above referenced matter. In accordance with County Real Property Division Ordinance Section 21.04.020, Land Use Ordinance Section 22.70.050, and the County Coastal Zone Land Use Ordinance 23.01.043, the matter will be scheduled for public hearing before the Board of Supervisors. A copy of the appeal is attached.

The public hearing will be held in the Board of Supervisors' Chambers, County Government Center, San Luis Obispo. As soon as we get a firm hearing date and the public notice goes out you will receive a copy of the notice.

Please feel free to telephone me at 781-5718 if you have any questions.

Sincerely,

Nicole Retana

Nicole Retana, Secretary
County Planning Department

CC: Ryan Hostetter, Project Manager
Steve McMasters, Supervisor
Whitney McDonald, County Counsel

976 OSOS STREET, ROOM 300 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805)781-5600
EMAIL: planning@co.slo.ca.us • FAX: (805) 781-1242 • WEBSITE: http://www.slocplanning.org

MEMORANDUM

DATE: April 25, 2014

TO: WHITNEY MCDONALD, COUNTY COUNSEL

FROM: NICOLE RETANA, PLANNING and BUILDING DEPARTMENT

RE: **APPEAL OF JACK LOPERENA**
COUNTY FILE NUMBER: DRC2005-00216
PLANNING COMMISSION – APRIL 10, 2014

Please find attached copies of associated correspondence which have been forwarded to the Project Manager and Supervisor.

SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

DATE: April 10, 2014

TO: Planning Commission

FROM: Ryan Hostetter, Senior Planner

SUBJECT: Loperena Coastal Development Permit DRC2005-00216

A letter dated April 1, 2014 was submitted to the Commission by Mr. Kevin Elder from Sinsheimer, Juhnke, McIvor and Stroh LLP. Following is a staff response to the comments submitted in the letter:

1. California Coastal Commission Letter

Planning Staff specifically responded to the Coastal Commission letter and direct responses are outlined in the Final EIR pages 9-14 through 9-16.

a. Visual Resources

Regarding Visual Resource Policies, County staff has addressed these concerns, including specific Visual and Scenic Resources policies in the Final EIR (refer to Table 3-1 Consistency with Plans and Policies). In addition, the applicant has provided a revised project design that significantly reduces the length and mass of the structure and responds to comments from the Planning Commission hearing regarding the overall design and exterior appearance.

b. Bluff Setbacks

Staff has received and considered all correspondence from the Coastal Commission. We have not received a formal response or indication of an in depth evaluation of all the geologic information from the Coastal Commission's geologist. The comments regarding determination of the coastal bluff and bluff setback are addressed in both the Final EIR and the Planning Commission Staff Report. Based on review of substantial evidence documented in the Final EIR and appendices (Cotton Shires and Associates 2011, 2012), it is County staff's recommendation that the site is not interpreted to be a coastal bluff, and the subsequent coastal bluff setbacks are not applicable. Even so, the intent of County LCP Hazards Policy 6 is applicable, and states that:

"New development or expansion of existing uses on blufftops shall be designed and set back adequately to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years without construction of shoreline protection structures which would require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist

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based upon an on-site evaluation that indicates that the bluff setback is adequate to allow for bluff erosion over the 75 year period. Specific standards for the content of geologic reports are contained in the Coastal Zone Land Use Ordinance."

Based on the analysis documented in the Final EIR, coastal hazards analysis provided in the EIR and public record (GeoSoils, Inc. 2013, 2014), the presence of erosion-resistant bedrock, and compliance with mitigation measure GS/mm-4, which requires the use of deepened pier foundations identified in the Engineering Evaluation (Shoreline Engineering 2012) and Updated Geotechnical Investigation (GSI Soils, Inc. 2011), the project would maintain stability and structural integrity, and would withstand erosion and wave action consistent with this policy. There is no evidence that shoreline protection structures would be required for the structure, provided it is constructed pursuant to mitigation identified in the Final EIR and following the recommendations identified in referenced geotechnical reports.

c. Sea Level Rise and Coastal Hazards

The noted policies are specifically addressed in the Final EIR (Table 3-1. Consistency with Plans and Policies). As noted above, the structure itself would be designed consistent with geotechnical recommendations, which would "minimize risks to human life and property", and "ensure structural stability while not creating or contributing to erosion or geologic instability" (Hazards Policies 1 and 2). Aerial photos show that the bedrock outcrop west of the structure would withstand direct wave action and exposure, and would not require protection over the next 100 years. Beach scour would occur naturally at the toe of the bedrock, and would not adversely affect the structure. While the residence and associated components (i.e., foundation, structure walls, and retaining walls perpendicular to the beach) would be constructed to maintain integrity in a coastal environment, these features are not considered shoreline protection by County staff because no features would extend beyond the structure and driveway in order to prevent erosion of land and any other hazard typically addressed by sea walls (e.g., bluff instability resulting in the residence falling into the beach area). The Final EIR and technical reports currently in the public record (GeoSoils, Inc. 2013, 2014) address and assess exposure to coastal hazards, and support staff's recommendation that the noted exposure (including future hazards over the next 100 years) would not have a significant adverse effect on structural integrity.

2. Coastal Bluff

County staff's recommended bluff interpretation is supported by substantial evidence documented in the Final EIR, staff report, hearing presentation, and response to questions and comments during the hearing. The project site's exposure to marine erosion is documented and disclosed in all documents, and it is County staff's recommendation that this fact by itself does not support a conclusion that the project would be located on a coastal bluff. As noted above, County staff has considered and addressed potential hazards that may affect the project site due to its location. The revised project lower floor footprint is located approximately 10 to 25 feet (although it varies due to the angle of the edge) from the western edge of the "bluff" and approximately 3 to 5 feet from the edge of the iceplant on the northern side. The analysis

conducted by County geologists determined this is appropriate for 100 years of coastal processes.

The inapplicability of a 500-foot bluff termini analysis is addressed in the Final EIR, and all presentation materials are part of the public record. The bluff edge delineation is presented in the EIR Appendix (refer to Cotton Shires and Associates 2011, Figure 6).

3. Setback from Creek

The geologic description of the project site and surrounding area is described in the EIR and technical appendix (Cotton Shires and Associates 2011). As noted in these documents, the site is located on a bedrock remnant of a fluvial bluff that is now mostly buried under artificial fill material that was put in place during construction of Studio Drive and Highway 1. This portion of the bedrock outcrop was formed by fluvial erosion from the ancestral flow of Old Creek at a time when the creek was located south of its current location. The coastal bluff terminates southeast of the project site. The current alignment and floodplain of Old Creek (and associated Environmentally Sensitive Habitat Area [ESHA] designation) are located approximately 600 feet to the northeast, and features between the site and the creek include Studio Drive (and associated fill prism) and a parking area. The project site is located well outside of the buffer zone for the creek, and would not have an adverse effect on sensitive habitat, surface waters, or vegetation present within Old Creek.

4. Sea Level Rise

a. County Energy Wise Plan

The predicted estimate for sea level rise is based on best available recent information provided in California Coastal Commission Guideline document (which only identifies sea level rise up to the year 2100) and the County's most recent Local Hazard Mitigation Plan (draft December 2013 to County Board of Supervisors). The County Energy Wise Plan (November 2011) states an estimated sea level rise from 3.3 to 4.6 feet by 2100 which is not as conservative as the most recent data used in the project analysis of 5.5 feet.

b. Coastal Hazards Analysis

Please refer to the attached memorandum (GeoSoils, Inc. 2014) for responses to specific technical questions regarding the modeling and conclusions.

c. New Information

Copies of the updated analysis were provided to the public as a part of the record in the staff report presented to the Planning Commission. Pursuant to CEQA *Guidelines* Section 15088.5 (Recirculation of an EIR Prior to Certification): "*A lead agency is required to recirculate an EIR when significant new information is added to the EIR .the term "information" can include changes in the project or environmental setting as well as additional data or other information New information added to an EIR is not "significant" unless the EIR is change in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse*

environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation include, for example, a disclosure showing that:

(1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.

(2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

(3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the projects' proponents decline to adopt it.

(4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded."

County staff carefully reviewed new information provided in the Final EIR and during the hearing process to determine if the information is significant, and if the new information triggers recirculation based on the parameters noted above. The additional analysis and documentation provide further substantial evidence supporting the conclusions documented in the EIR and recommended CEQA Findings and do not result in a new significant impact or increase the severity of identified impacts. The applicant has agreed to the recommended mitigation measures and has complied with the Planning Commission's request for a reduced project alternative, similar to alternatives provided in the Final EIR. Therefore, it is County staff' recommendation that the new information does not require recirculation of the EIR because the new information merely clarifies and amplifies the substantial evidence already presented in an adequate Final EIR.

5. New Alternative Layout

Please refer to responses above regarding County staff's recommendation regarding the bluff interpretation, which is pertinent to comments regarding determination of setbacks. Consideration of potential coastal hazards under current conditions and over the next 100 years is addressed in the Final EIR and subsequent documentation including review of the applicant's revised project. Based on this review, substantial evidence in the record, and incorporation and compliance with recommended mitigation measures, the structure would withstand noted coastal hazards, including sea level rise, wave run-up, bluff erosion, and wave action.

Regarding applicability of the gross structural area (GSA) planning area standards, the maximum GSA including garages is 3,500 square feet. The "bluff top" standard contained within the "Community Small Scale Design Neighborhoods" section of the Estero Area Plan is intended to apply to development on the ocean-side of the local road (i.e. Studio Drive and Pacific Avenue). As noted in the EIR and staff report, the project site is located in a unique

location to the north of the coastal bluff terminus. The row of residences immediately to the southeast, along Studio Drive, are located on a coastal bluff. Application of the GSA standard (3,500 square feet) would be consistent with the existing neighborhood character and the intent of the standard. The revised project, however also complies with the GSA requirements for residences which are considered "non bluff top lots" which outlines a maximum GSA of 55% of the usable lot. This has in the past been considered the size of the lot that can be used for the project and any outdoor areas (yard, parking etc.). Because the sandy beach is usable by the applicant for yard area and recreational purposes (as would any typical back yard) it was considered within the calculation. The project complies with this requirement at a max GSA of 1,894 square feet (includes garage, basement, main living area of the residence and is not required to include mezzanine).

6. Good Neighbor Issue

Regarding the Stringline Method, the proposed development would not extend beyond the average trend of adjacent structures to the south. The row of houses follows a line generally parallel to the shoreline, with the houses facing the southwest, up to the last existing house (adjacent to the project site), which is set closer to Studio Drive. The landform then clearly transitions to the northeast, which is a variation in the shoreline. The applicant has submitted a revised and reduced project design, which eliminates previous structural components extending to the southwest.

7. Cypress Tree

As noted in the EIR, implementation of the project would require the removal of the pine tree, and would result in impacts to the noted cypress tree, including impacts to the root zone (refer to BR Impact 4). The gas line that would require removal is located under the proposed residence, and removal would not affect the cypress tree. The majority of root zone impacts would occur as a result of the constructed retaining wall and drainage improvements. Mitigation is identified to avoid unnecessary disturbance of the tree, and impacts to the root zone, including placement of protection fencing to avoid inadvertent disturbance. County staff has considered the noted concerns, and recommends the following additional condition to provide further protection of the tree during construction:

"Prior to issuance of grading permits, the applicant shall retain a certified arborist to conduct any site preparation activities requiring cuts or impacts to the root zone of the existing mature cypress tree. The certified arborist shall monitor work within the root zone, including grading and excavation for the retaining wall, and utility work. The applicant shall comply with methods identified by the certified arborist to avoid unnecessary damage to the root zone, including use of hand tools, protection and treatment of exposed roots during construction, and use of tunneling under shallow roots for utility installation in lieu of standard trenching."

Responses to Haro, Kasunich and Associates, Inc. Letter (March 31, 2014)

A. Comments Regarding March 12, 2014 Sea Level Rise and Coastal Hazard Letter

Please refer to attached Memorandum (GeoSoils, Inc. 2014).

Worst Case Profile Not Utilized In Analysis:

The profile chosen for the analysis is the cross-section most vulnerable to wave run-up attack. The northern property line is at an angle (not parallel) to incoming waves, and therefore would not be subject to worst-case wave run-up conditions. In addition, mitigation (GS/mm-4 listed above) would require deepened pier foundations consistent with the geotechnical report (GSI Soils, Inc. 2011) and subsequent peer review (Cotton Shires and Associates 2011) prepared for the project. This measure is applicable to both the previously proposed project and the applicant's redesigned project, and remains necessary to avoid significant erosion hazards over the next 100 years.

Attachments:

Letter from GSI Soils Inc., David W. Skelly MS, April 4, 2014

GeoSoils, Inc.

Geotechnical • Geologic • Coastal • Environmental

5741 Palmer Way • Carlsbad, California 92010 • (760) 438-3155 • FAX (760) 931-0915 • www.geosoilsinc.com

April 4, 2014

WO 6206-SC

Ms. Shawna Scott
SWCA Environmental Consultants
1422 Monterey Street, Suite C200
San Luis Obispo, CA 93401

SUBJECT: Response to Haro, Kasunich, and Associates, Inc., Comments on GeoSoils Inc. March 12, 2014 Report dated 31 March 2014.

REFERENCE: "Sea Level Rise and Coastal Hazard Discussion, Northwest and Immediately Adjacent to 2612 Studio Drive (APN 064-253-07), Cayucos, San Luis Obispo County, California" dated March 12, 2014 by GeoSoils Inc..

Dear Ms. Scott:

At your request, GeoSoils Inc. (GSI) has prepared the following response to comments by Haro, Kasunich, and Associates, Inc.(HKA) in their 31 March 2014 letter. For ease of review the HKA comment will be provided in italics followed by our response.

Maximum Breaking Wave Heights Underestimated in Analysis:

"We note that the prior April 10, 2013 GeoSoils report indicates that with 2.5 feet of future sea level rise the water surface used for wave runup and overtopping analysis will be at an elevation +10.1 feet NAVD88; and the maximum scour elevation at the toe of the rock outcropping (coastal bluff) is at 3.1 feet NAVD88. This yields a water depth of 7.0 feet at the toe of the rock outcropping (coastal bluff), which was used in the 2013 GeoSoils analysis, which used a 5.5 foot high wave at the toe. The "new" March 12, 2014 GeoSoils analysis uses future sea level rise amounts of 4.6 and 5.5 feet respectively, which makes the water surface used for wave runup and overtopping analysis be at an elevation +12.1 and 13.0 feet NAVD88. GeoSoils acknowledges this by using water depths of 9.0 and 9.9 feet at the toe of the rock outcropping (coastal bluff) for the 2014 analysis. They then use 7.0 and 7.7 foot high waves at the toe in the analysis. Larger waves than those they used in their analysis have the potential to occur at the site. Our analysis suggests that wave heights of 8.9 to 9.8 feet could occur at the toe of the bluff and are appropriate. Use of appropriate wave heights would significantly increase wave runup, overtopping frequency and: overtopping volumes at the site. With future sea level rise, deeper water will occur at the toe of the bluff, and larger waves will break there creating higher wave runup; this will result in greater rates of bluff overtopping more frequent wave impact on the proposed home, and more rapid. bluff erosion, which will erode the bluff over time."

Response:

We respectfully disagree. The waves that break right at the toe of the rock outcropping will provide the maximum wave runup. The breaker height is depth limited by the depth of the water to the toe of the rock outcropping. The design water elevation was determined using the California Coastal Commission (CCC) Draft Sea-Level Rise (SLR) Policy Guidance document. The CCC method uses the highest recorded water level in the area corrected for future SLR. The bedrock material at the toe of the rock outcropping is very erosion resistant and is not subject to significant down wearing over time. The design water depths dictate the breaker heights. Figure 1 below, taken from the FEMA Coastal Construction Manual (Figure 8-11), shows the relationship between water depth and breaker height (the blue line on the graph). For 9 feet and 9.9 feet of still water depth the breaker height is 7 feet and 7.7 feet respectively.

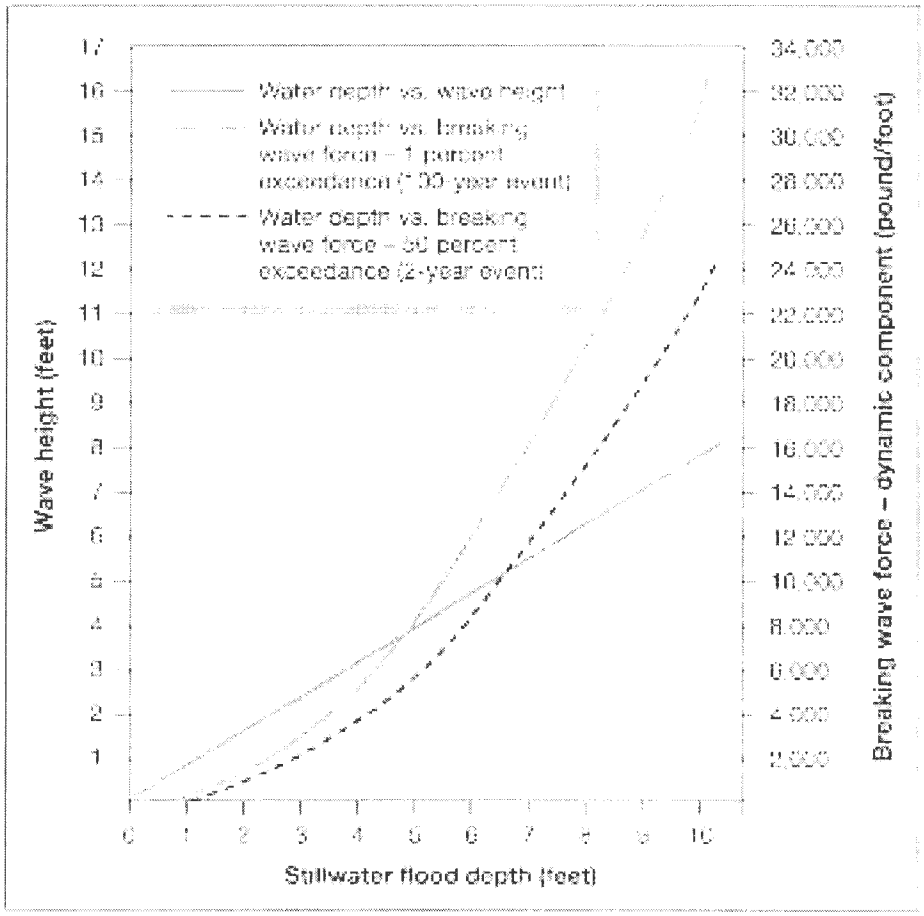


Figure 1. Relationship between water depth and breaker height from FEMA.

Waves in excess of these heights can occur offshore of the site and away from the toe of the rock outcropping, but they will always break in a water depth that is about 1.28 times the wave height. Once a wave has broken, the wave bore height is typically less than ½ of the breaking wave height. HKA's analysis was not provided so it is unclear how their analysis suggests 8.9 feet and 9.8 feet high waves at the toe. It is physically impossible for waves of that height to be at the toe of the rock outcropping. It is important to repeat that our analysis is for the most onerous conditions in the future under the highest SLR estimate and the coincidence of the highest tides and larger waves. These conditions represent less than the 1% recurrence oceanographic conditions at the site. Our analysis shows that the proposed development will not be significantly impacted under these conditions.

Worst Case Profile Not Utilized in Analysis

GeoSoils has only used a single profile in their analysis which appears to include the existing condition bluff profile; no wave runup or overtopping analysis with an eroded bluff profile has been, conducted. On the northern part of the site, fill soils comprise the bluff all the way down to the present beach sand level, making the likelihood-of-future erosion and bluff recession in that area very high. Such erosion and recession is expected to reach the proposed home, particularly the northern part: This factor is unaccounted for in the GeoSoils model. GeoSoils states that existing fill soils will be removed and compacted fill soils will be placed between the residence and the ocean. Compacted soils remain susceptible to erosion under ocean wave impact.

We respectfully disagree. Even the California Coastal Commission (CCC) Draft Sea-Level Rise (SLR) Policy Guidance document admits that there is no science that supports that SLR will increase the shoreline bed rock erosion rate. Bed rock erosion due to marine forces is more controlled by the coincidence of very high tides and very large waves. There is no science available that shows that SLR will increase the frequency of large storm waves. The bedrock material at the site is very erosion resistant. Let us assume that sea level rises 5.5 feet, most of this rise will occur from the year 2050 to the year 2110. That is to say for the for the next ~40 years there will not be an increase in the erosion rate of the bed rock outcropping. After the year 2050, under high rate of future sea level rise, it is reasonable to predict the beach sand will narrow and that wave action will act more frequently on the outcropping. In order to predict the response of the bed rock material to the continuous wave action a comparison of Photograph 1 and 2 is pertinent. Photograph 1, taken in 1972, is of a section of shoreline about 2800 feet to the southeast of the site. The rocky outcropping is closer to the shoreline than it is at the project site and is therefore subject to wave action at higher stages of the tide. Photograph 2 is the same rock outcropping taken in 2010. There is no visible erosion of this rocky material, even though it is subject to more frequent wave attack, over the 38 years between the photos. There is no potential significant bed rock erosion hazard at the site over the next 75 to 100 years even in consequence of the maximum predicted SLR.

Photograph 1. Nearby rock outcropping subject to more frequent waves in 1972.

Photograph 2. Nearby rock outcropping subject to more frequent waves in 2010.

Slope Roughness Overestimated

"A Rough Slope Coefficient of 0.398 was used in the GeoSoils modeling, for what we think is the portion of the profile above 3.1 feet NAVD88, which is indicative of an extremely rough surface, which does not exist at the site. Slope Roughness Coefficients of at least 0.8 are appropriate. Use of higher coefficients (which represent smoother surfaces) would significantly increase wave run up, overtopping frequency and overtopping volumes at the site."

Response:

We respectfully disagree with the reviewer. In order to illustrate that the comment "*Use of higher coefficients (which represent smoother surfaces) would significantly increase wave run up, overtopping frequency and overtopping volumes at the site"* is technically incorrect, GSI has repeated the analysis for with the HKA determined "appropriate" roughness coefficient of 0.8. The results of our March 12, 2014 analysis for the 5.5 feet of SLR are shown in TABLE I below and the results using the HKA recommended roughness coefficient of 0.8 analysis is in TABLE II below.

TABLE I

AUTOMATED COASTAL ENGINEERING SYSTEM ... Version 1.02 3/ 9/2014 9:16
Project: WAVE RUNUP LOPERENA SITE CAYUCOS 5.5 FEET SLR

WAVE RUNUP AND OVERTOPPING ON IMPERMEABLE STRUCTURES

Item		Unit	Value	
Wave Height at Toe	Hi:	ft	7.700	Rough Slope
Wave Period	T:	sec	18.000	Runup and
COTAN of Nearshore Slope			50.000	Overtopping
Water Depth at Toe	ds:	ft	9.900	
COTAN of Structure Slope			2.500	
Structure Height Above Toe	hs:	ft	14.200	
Rough Slope Coefficient	a:		0.956	
Rough Slope Coefficient	b:		0.398	
Deepwater Wave Height	H0:	ft	4.747	
Relative Height	(ds/H0):		2.085	
Wave Steepness	(H0/gT^2):		0.455E-03	
Wave Runup	R:	ft	12.952	
Onshore Wind Velocity	U:	ft/sec	3.376	
Overtopping Coefficient	Alpha:		0.500E-01	
Overtopping Coefficient	Qstar0:		0.700E-01	
Overtopping Rate	Q:	ft^3/s-ft	3.473	

TABLE II

AUTOMATED COASTAL ENGINEERING SYSTEM ... Version 1.02 4/ 4/2014 11:17
Project: WAVE RUNUP RESPONSE TO HKA COMMENTS

WAVE RUNUP AND OVERTOPPING ON IMPERMEABLE STRUCTURES

Item		Unit	Value	
Wave Height at Toe	Hi:	ft	7.700	Rough Slope
Wave Period	T:	sec	18.000	Runup and
COTAN of Nearshore Slope			50.000	Overtopping
Water Depth at Toe	ds:	ft	9.900	
COTAN of Structure Slope			2.500	
Structure Height Above Toe	hs:	ft	14.200	
Rough Slope Coefficient	a:		0.956	
Rough Slope Coefficient	b:		0.800	
Deepwater Wave Height	H0:	ft	4.747	
Relative Height	(ds/H0):		2.085	
Wave Steepness	(H0/gT^2):		0.455E-03	
Wave Runup	R:	ft	7.586	
Onshore Wind Velocity	U:	ft/sec	3.376	
Overtopping Coefficient	Alpha:		0.500E-01	
Overtopping Coefficient	Qstar0:		0.700E-01	
Overtopping Rate	Q:	ft^3/s-ft	0.954	

A careful comparison of these two outputs shows that the only input parameters that changed were the rough slope coefficient from 0.398 to 0.8 (per HKA). The overtopping rate with the rough slope coefficient that HKA recommended actually significantly lowered the overtopping rate from 3.47 ft^3/s-ft to 0.954 ft^3/s-ft. Similar significant reduction of the overtopping rate would occur for the 4.6 feet of SLR case using the HKA recommended roughness coefficient of 0.8. This is opposite of the HKA opinion and their suggestion that the analysis would show higher and more frequent overtopping volumes. HKA has provided no independent analysis that would support their opinions.

Wind Velocities Underestimated:

Onshore Wind Velocities of 3.376 feet per second (about 2.25 MPH) were used in the 2014 GeoSoils analysis. Wind velocities of 16.878 feet per second is about 11.6 MPH) were used in the 2013 GeoSoils analysis, closer to actual wind velocities that frequently occur onshore at the site during stormy conditions with large waves. No explanation of why the reduced wind velocity was made. Use of appropriate wind velocities in the 2014 study would significantly increase wave overtopping frequency and overtopping volumes at the site.

Response:

We respectfully disagree with the reviewer. The wave runup and overtopping analysis is not measurably influenced by wind speed. This is primarily due to the wind speed profile near the ground (where the overtopping water is flowing). Figure 2 below shows a typical wind speed profile. The wind speed at ground level is very close to 0.0 ft/sec and then the wind speed increases with height above the ground. In as much as the overtopping

water depth is 1 foot or less, the wind does not increase the rate of overtopping. Wind speed is included in the ACES input menu because the ACES analysis suite includes wind wave generation and other coastal processes that are influenced by wind speed. It should also be noted that the methods for determining wave overtopping in the USACE Coastal Engineering Manual does NOT include contributions for on-shore winds. Finally, TABLE III below includes a wind speed of 25 ft/sec (greater than the HKA suggested wind speed of 16.9 ft/sec) and the HKA roughness coefficient for the 5.5 feet of SLR case. The significant increase in the wind speed between TABLE II and TABLE III resulted in an increase of the overtopping rate of only 0.04 ft^3/s-ft overtopping rate. This is an insignificant change and not a significant increase in wave overtopping, as stated in the HKA review comment.

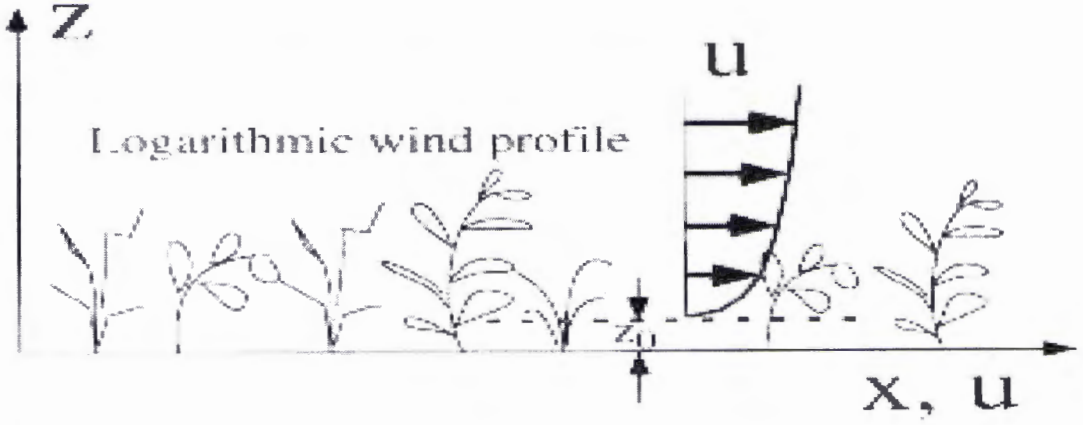


Figure 2. Wind speed profile near the ground.

TABLE III

AUTOMATED COASTAL ENGINEERING SYSTEM ... Version 1.02 4/ 4/2014 11:18
Project: WAVE RUNUP RESPONSE TO HKA COMMENTS

WAVE RUNUP AND OVERTOPPING ON IMPERMEABLE STRUCTURES

Item		Unit	Value	
Wave Height at Toe	Hi:	ft	7.700	Rough Slope
Wave Period	T:	sec	18.000	Runup and
COTAN of Nearshore Slope			50.000	Overtopping
Water Depth at Toe	ds:	ft	9.900	
COTAN of Structure Slope			2.500	
Structure Height Above Toe	hs:	ft	14.200	
Rough Slope Coefficient	a:		0.956	
Rough Slope Coefficient	b:		0.800	
Deepwater Wave Height	H0:	ft	4.747	
Relative Height	(ds/H0):		2.085	
Wave Steepness	(H0/gT^2):		0.455E-03	
Wave Runup	R:	ft	7.586	
Onshore Wind Velocity	U:	ft/sec	25.317	
Overtopping Coefficient	Alpha:		0.500E-01	
Overtopping Coefficient	Qstar0:		0.700E-01	
Overtopping Rate	Q:	ft^3/s ft	0.993	

Runup Elevations

Although the 2013 and 2014 wave runup analysis by GeoSoils indicates wave runup will reach elevations of 21.1 and 22.9 feet NAVD88, the home remains designed with a door threshold at the northwestern corner of the home at approximately 15 NAVD88, and a basement window on the seawall side of the home at approximately elevation 20 NAVD88.

Response:

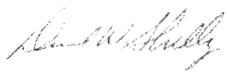
We respectfully disagree with the reviewer. HKA is misrepresenting or misunderstanding the results of the ACES analysis. The slope that the wave runs up terminates at the top of the rock outcropping at about elevation +17 feet NAVD88. When the runup reaches that height, 17 feet NAVD88, it becomes an overtopping wave bore with a finite height. As shown in our March 14, 2104 analysis, for 5.5 feet of future SLR, the height of the bore is 1.06 feet. Therefore, the total wave runup height is 18.06 feet NAVD88 at the seaward top of the outcropping. The height diminishes at a rate of about 1 foot for every 25 feet it travels across the site.

The ACES analysis output provides a runup height for an infinite slope. The purpose of providing the runup height on an infinite slope is to help the engineer determine how high the slope would need to be under extreme SLR design conditions to have NO overtopping. The existing slope from the toe of the rock outcropping to the top of the rock outcropping is finite in height. Therefore, HKAs statement that our analysis indicates wave runup above elevation 21 feet NAVD88 is incorrect because they are considering the slope of the rock outcropping to be infinite.

LIMITATIONS

Coastal engineering is characterized by uncertainty. Professional judgements presented herein are based partly on our evaluation of the technical information gathered, partly on our understanding of the proposed construction, and partly on our general experience. Our engineering work and judgements have been prepared in accordance with current accepted standards of engineering practice. This warranty is in lieu of all other warranties express or implied.

Respectfully submitted,



GeoSoils, Inc.
David W. Skelly MS
RCE#47857

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4-1

SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

April 10, 2014

Planning Commission

Ryan Hostetter, Senior Planner, Project Manager

Revised Plans for the Loperena Coastal Development Permit DRC2005-00216

History
The Planning Commission heard the Loperena Coastal Development Permit on the January 23, 2014 agenda. The Loperena project includes a request to construct a single family residence on a vacant parcel adjacent to the beach at the north end of Studio Drive, near the intersection of Highway 1 and Studio Drive. During the January hearing, the Commission took public testimony, discussed the project, and continued the item. The Commission requested that the applicant prepare a revised project design at the April 10, 2014 hearing.

The requested changes included a design which brought the cantilevered or westward portion of the house back and modified the basement (potentially with pilings) while shrinking the length of the residence, and including a two story design. The Commission discussed potentially lowering the main level to accommodate a two story residence, the potential coastal hazards on the lower basement, and the visual impacts of the design from the public viewshed. Based on this discussion the applicant revised the design of the project for your review and consideration.

Revised Project
The revised project includes a shorter cantilever by approximately 16 feet of interior living area (at the longest point). The house went from an approximately 90 foot long home (at the longest point with the deck) to an approximately 70 foot long home with the deck included. The original design included an approximatley 2,717 square foot residence with a 200 square foot car port. The revised design shown in the table below for comparison is approximately 2,174 square feet with a 200 square foot partially covered outdoor parking space.

	Original Design Sq Ft	Revised Design Sq Ft
Basement	1,040	814
Main level	1,097	841
Mezzanine	338	280
Garage	242	239
Car Port	200	200 (partially covered)
TOTAL	2,917	2,374

The revised design includes a more traditional architectural style. The applicant is proposing hip style roofs as well as hardy wood appearing vertical siding with white trim and a dull grey metal roof. The side yard setback on the north contains a flat patio within the side yard and the water cistern and

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EMAIL: planning @co.slo.ca.us • FAX: (805) 781-1242• WEBSITE: http://www.sloplanning.org

walls for the cistern have been removed. There is an additional outdoor roof deck within recessed portions of the main floor roofline as well.

Attached to this memo includes full size plans and color renderings of the revised design. One of these graphics shows a color visual representation of the home with a pink outline representing the outline of the original project. This visual shows the new design fitting within the box of the original home, however is much shorter. The height of the proposed home remains the same as the original project at 15 feet as measured from the the center of Studio Drive.

Small Scale Neighborhood
Gross Structural Area: The revised project proposes a single story design with a basement and mezzanine. The basement is considered living area within the lower level of the home and the applicant has included this square footage within the "gross structural area" calculations. The mezzanine is not included within the gross structural area calculations (and is also not required to be included). The definition of gross structural area is "All interior areas, expressed in square feet of floor area, within the volume of the structure including living areas, storage, garages and carports. Gross Structural Area is measured to the exterior limit of the building walls. Gross Structural Area does not include open exterior decks or interior mezzanines (as defined by the UBC) added within the height limitation to gain additional square footage." The mezzanine complies with the building code definition as it is 1/3 the floor area of the main level below which is the definition of a mezzanine (and is not required to be counted as gross structural area). The mezzanine is 280 square feet which is 1/3 of the main level of the home which is 841 square feet.

The Commission discussed the standards for the Small Scale Neighborhood lots that are not considered "bluff top" lots (Table 7-3 Maximum Gross Structural Area). This table was not considered in the original design as Planning Staff was using the standards similar to other lots within this neighborhood on this west side of Studio Drive which can go up to 3,500 square feet. However, the applicant's revised design would comply with this "non-bluff top lot" table for gross structural area. The standard for non bluff top lots is based on lot size, and for this particular lot of 3,444 square feet, the maximum square footage would be 55% of the lot not to exceed 2,500 square feet or 1,894 square feet total (not including the mezzanine). The project complies with the gross structural area requirements of the Estero Area Plan.

Setbacks: The setback requirements for the revised project remain the same as the original project (3 feet from the side property lines, 10 feet from the rear property line, and 0 in the front, and special bluff setbacks as outlined in the geologic evaluation). Additionally the small scale neighborhood standards requires additional setbacks for two story development, however because the building code considers this a single story home, the applicant is not required to use these standards. The applicant's redesign however uses some of the additional setbacks which include the upper level of the home (or in this case the mezzanine) being setback an additional 2.5 feet on the sides from the lower level wall on portions of the building. These additional setbacks are often referred to as the "wedding cake" design setbacks because the upper level is set in further from the first floor. The applicant has chosen to include these additional setbacks on the mezzanine in order to increase the compatability with other new multi story development within the small scale neighborhood of Cayucos. The project complies with the setback requirements of the Estero Area Plan.

4-3

Other Small Scale Neighborhood Standards: The revised project complies with the parking, height, deck railing and driveway standards as outlined in the original staff report, and this proposed revised project does not change the conclusions of the original staff report as those items are not changing from the original design. The project complies with the small scale neighborhood design standards of the Estero Area Plan.

Geology
The project geologist (Mike Phipps, Cotton Shires Associates) has reviewed and analyzed the revised drawings (attached Cotton Shires memo). The project from a geologic perspective is essentially the same, however the lower level has moved back from the edge of the original basement by approximately 10 feet. This provides an additional area of buffer between the edge of the rock outcrop and edge of the creek bluff to the basement wall on the west side.

Wave run-up/Coastal Hazards
Based on discussion during the Planning Commission hearing, the wave run up analysis includesd the worst case scenario for the potential of sea level to rise 5.5 feet in order to be consistent with the draft Coastal Commission Sea Level Rise policy document, as well as the draft County of San Luis Obispo Local Hazard Mitigation Plan (which has not yet been approved by Federal Emergency Management Agency and remains in draft form). Attached is an additional analysis conducted by Dave Skelly MS of Geo Soils INC who conducted this review based on these revised Sea Level Rise calculations. Mr. Skelly's conclusions remain consistent with his original conclusions that under extreme conditions there would be wave run-up, but that based on the unique characteristics of the site and beach (i.e. waves breaking off shore, velocity of water at the site) that there would not be structural damage . There could potentially be water (approx 1 foot) at the basement level, but at a low velocity and it is not expected to structurally damage the residence.

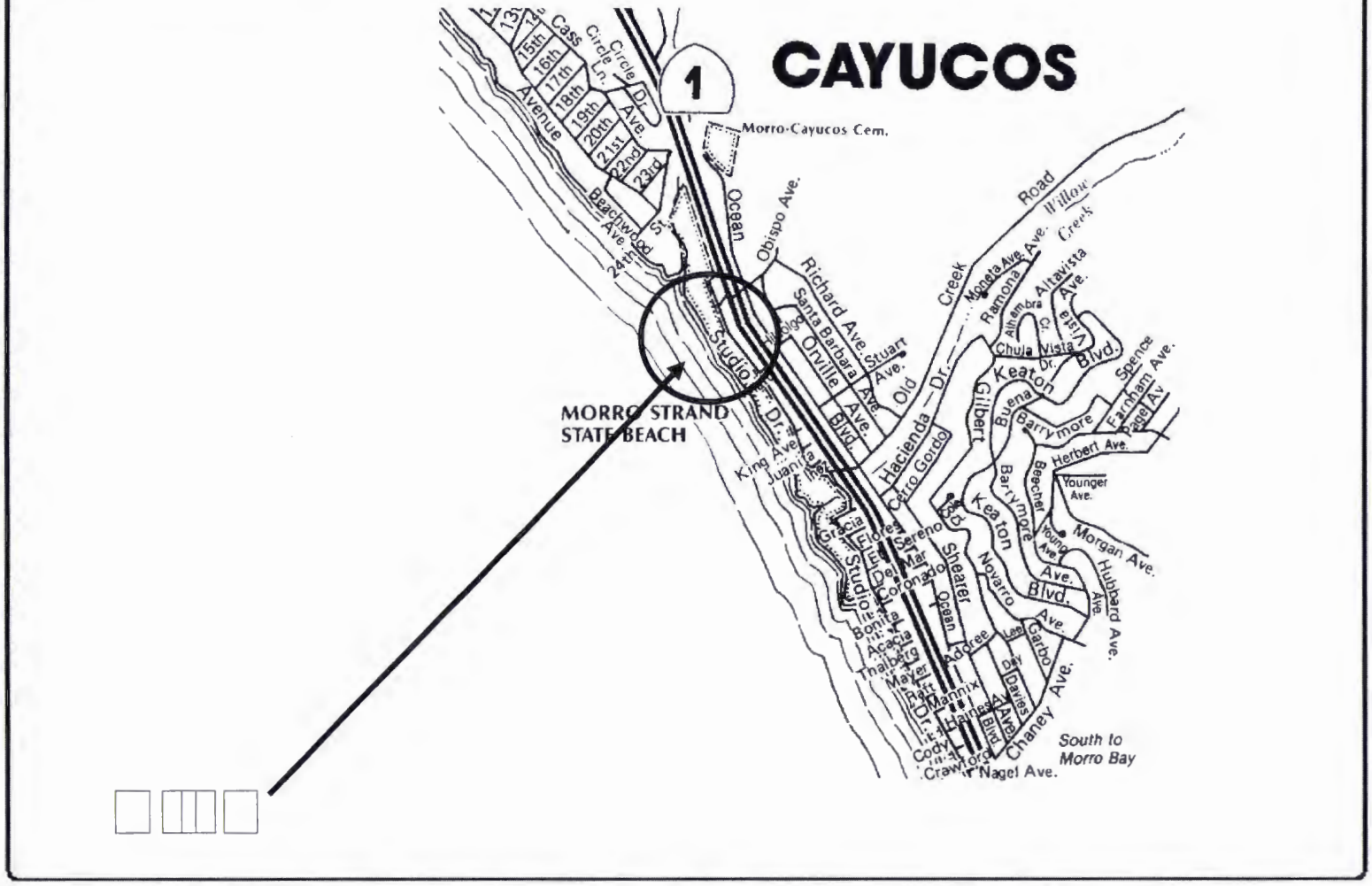
Staff Recommendation
Staff recommends that the Planning Commission review the revised project, findings and conditions and that the Commission:
1. Certify Final Environmental Impact Report, including Appendices;
2. Adopt Revised CEQA Findings in Exhibit C, including the revised project findings listed in Exhibit A and attched herein;
3. Approve the revised Minor Use Permit/Coastal Development Permit DRC2005-00216 based on the revised findings in Exhibit A and C and the *revised* conditions listed in Exhibit B.

Staff Report prepared by Ryan Hostetter and reviewed by Steve McMasters and Ellen Carroll.

Attachments
1. Revised Plans in 8.5 x 11 in. format (full size handed out to Planning Commissioners)
2. Revised Findings in "Revised Exhibit A"
3. Revised Conditions of Approval in "Revised Exhibit B"
4. Revised CEQA Findings in "Revised Exhibit C"
5. Additional analysis performed by GSI(March 12, 2014)
6. Memo from Cotton Shires Geologist (March 19, 2014)

4-4

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT

Vicinity Map

Exhibit 3
A-3-SLO-15-0001
313 of 551

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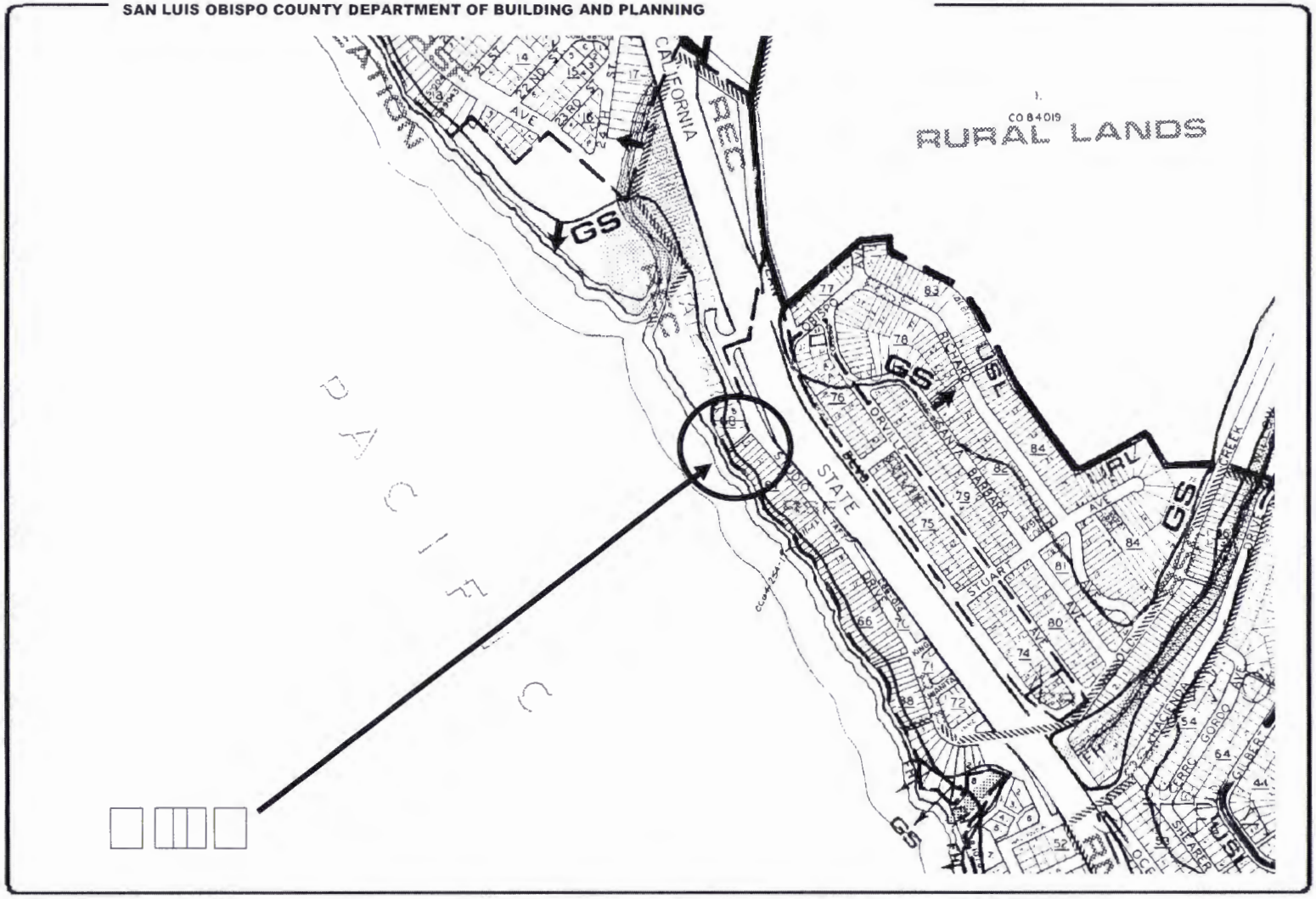
SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT

Land Use Category Map

4-6

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING

PROJECT

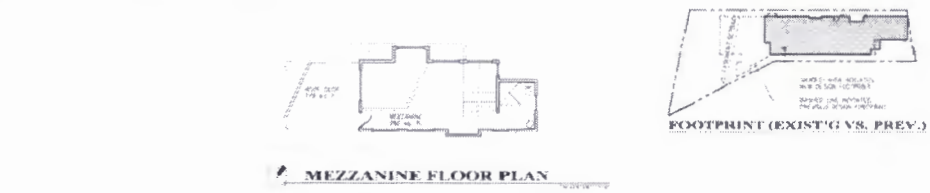
Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT

Aerial Photograph

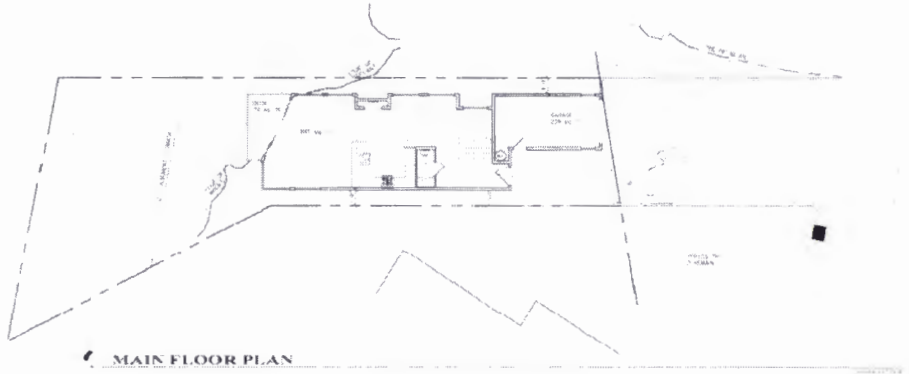
4-7

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING

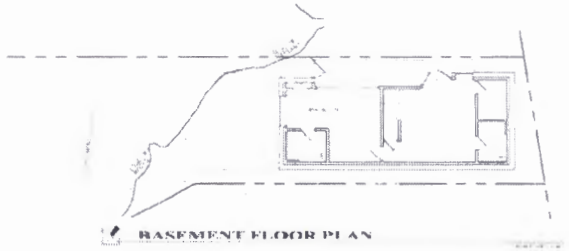


MEZZANINE FLOOR PLAN

FOOTPRINT (EXIST'G VS. PREV.)



MAIN FLOOR PLAN



BASEMENT FLOOR PLAN

PROJECT INFO.

C. P. PARKER
ARCHITECT

JACK LOPERENA
RESIDENCE

DESIGN
DEVELOPMENT

FLOOR PLANS

A1.1

PROJECT

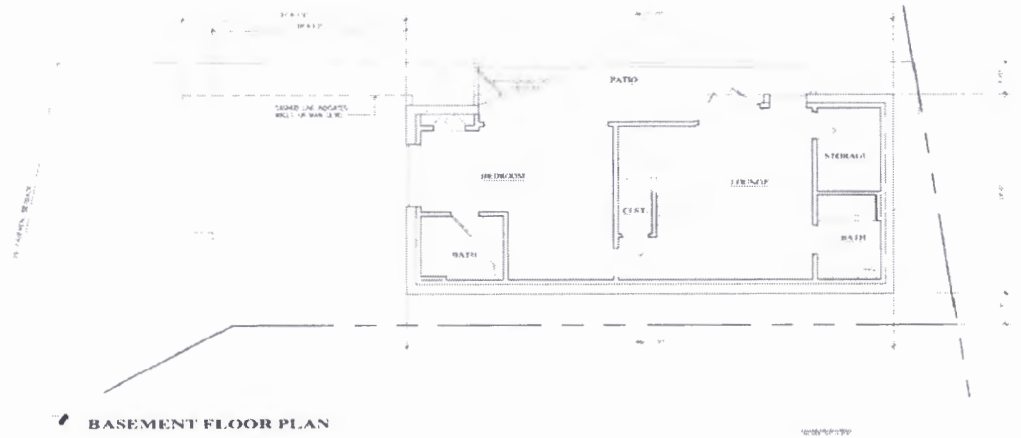
Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT

Site Plan & Floor Plan

4-8

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



BASEMENT FLOOR PLAN

C. P. PARKER
ARCHITECT

JACK LOPERENA
RESIDENCE

DESIGN
DEVELOPMENT

BASEMENT
FLOOR PLAN

A2.1

PROJECT

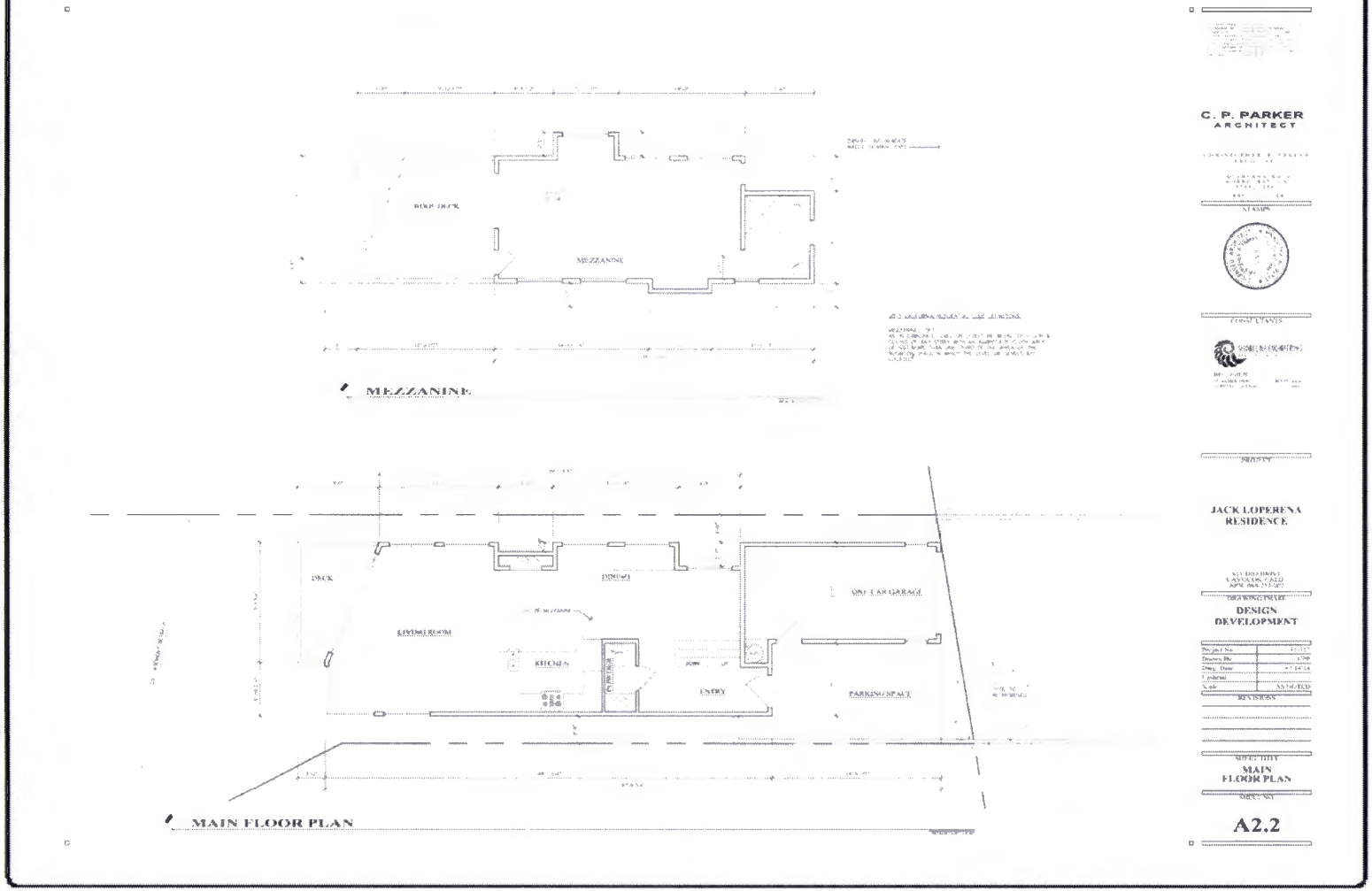
Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT

Basement Floor Plan

4-9

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

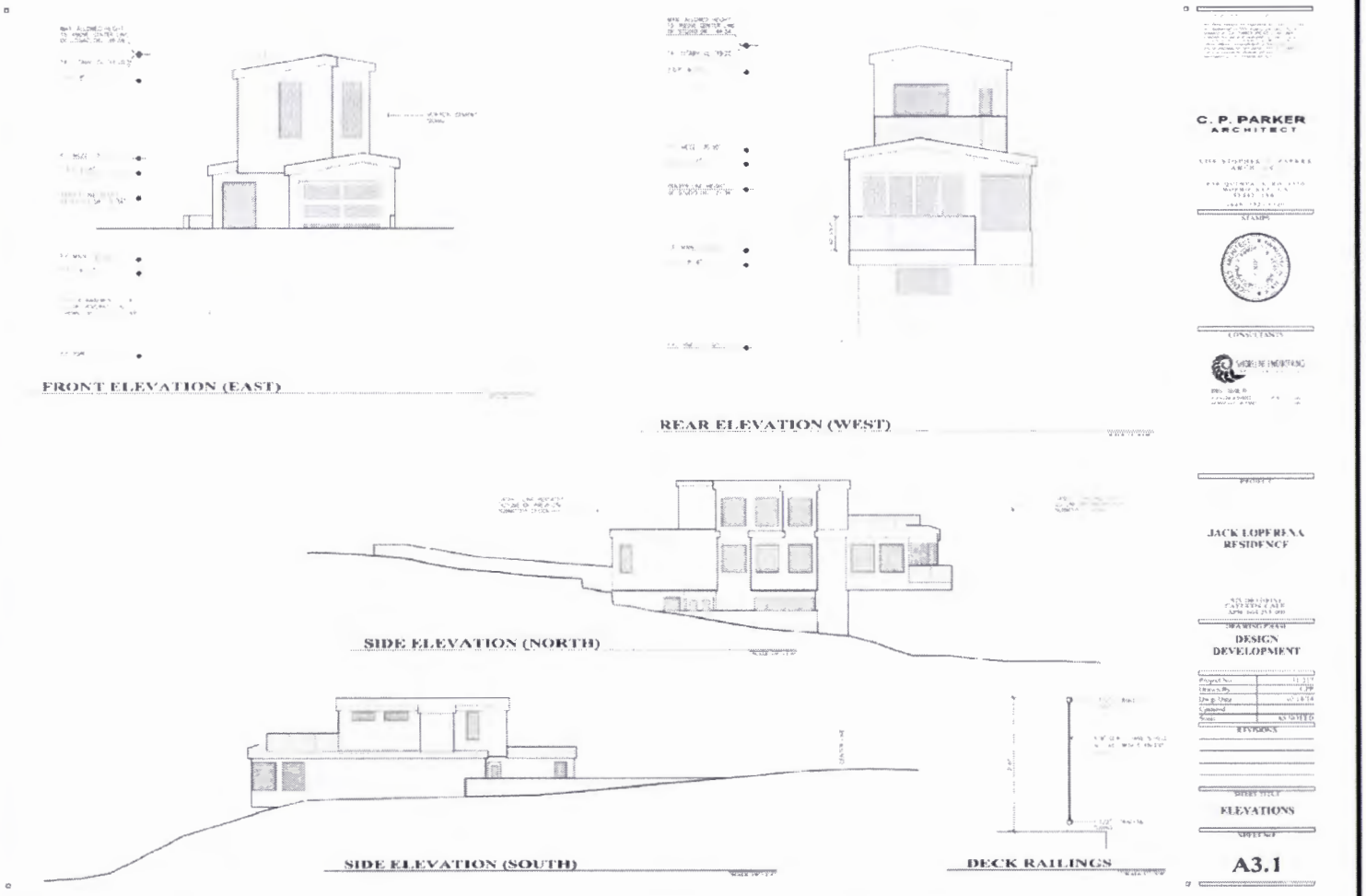
Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT

Main level and Mezzanine

4-10

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT

Elevations

4-11

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING

C.P. PARKER
ARCHITECT

EXISTING SITE

PROPOSED PROJECT

COMPARISON TO PREVIOUSLY PROPOSED

PROJECT
Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT
Elevations – East and South

4-12

REVISED APRIL 10, 2014
Planning Commission
Minor Use Permit DRC2005-00216/Loperena
Page 1

Minor Use Permit

A. The proposed project or use is consistent with the San Luis Obispo County General Plan, because a single-family residence is an allowable use, and as conditioned, is consistent with all of the General Plan policies as outlined in the staff report.

B. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.

C. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use, because the construction of a single-family residence does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety, and welfare concerns.

D. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development, because the proposed single-family residence is similar in nature to, and will not conflict with, the surrounding lands and residential uses.

E. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project, because the project is located on Studio Drive, a local road constructed to a level able to handle the minor amount of additional traffic associated with the project.

Coastal Access

F. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is conditioned to require coastal lateral access, and because adequate vertical access to the coast already exists adjacent to the site to the North.

Small Scale Design Neighborhood

G. The proposed project meets the Community Small-scale Design Neighborhood standards and guidelines, and is therefore consistent with the character and intent of the Cayucos Community Small-Scale Design Neighborhood.

H. Public views of the ocean from Highway One and the respective neighborhood are not being further limited because the proposed single family residence is directly adjacent to existing residential development.

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REVISED APRIL 10, 2014
Planning Commission
Minor Use Permit DRC2005-00216/Loperena
Page 2

1. This approval authorizes a request by Jack Loperena for a Minor Use Permit/Coastal Development Permit to allow for the construction of a single family residence which will include:

   a. square feet of living space;
   b. -square foot basement;
   c. -square foot mezzanine;
   d. -square foot garage and 200-square foot carport; and,
   e. -square foot covered deck.
   f. The residence would consist of one main floortwo stories with a mezzanine and a basement.
   g. The footprint of the house would be square feet.
   h. The maximum width of the structure would be 19 feet, and the maximum length would be feet.
   i. An approximately 200-square foot paved driveway would provide access from Studio Drive.
   j. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive.

Site Development

2. submit a revised site plan to the Department of Planning and Building for review and approval. The revised plan shall indicate the following and development shall be consistent with this revised and approved plan:

   Driveway width not to exceed 18 feet.
   Existing rip-rap, rock, or other shoreline protective devises shall be removed from all plans. Shoreline protection devises are not a part of this project description.
   -foot east setback with no structures or overhangs within this setback area.

   At the time of application for construction permits, plans submitted shall show all development consistent with the approved site plan, floor plan, architectural elevations, and landscape plan and shall be in conformance with condition no. above.

Biological Resources

(BR/mm-3) At the time of application for construction permits all grading plans shall clearly show the location of project delineation fencing, including protection fencing surrounding the Monterey cypress tree on the southern property boundary.

54. (BR/mm-5) At the time of application for grading permits, all applicable plans shall clearly show stockpile and staging areas. Stockpiles and staging areas shall not be placed in areas that have potential to experience significant runoff during the rainy season. All project-related spills of hazardous materials within or adjacent to project sites shall be cleaned up immediately. Spill prevention and cleanup materials shall be on-site at all times during construction. The staging areas shall conform to standard BMPs applicable to attaining zero discharge of storm water runoff. At a minimum, all equipment and vehicles shall be checked and maintained on a daily basis to ensure proper operation and to avoid potential leaks or spills. Maintenance, cleaning, and refueling of equipment and vehicles shall not be permitted onsite, within adjacent beach areas, or on Studio Drive.

65. (BR/mm-7) Upon application for construction permits, the following measure shall be included on all applicable plans: The applicant shall avoid ground disturbing activities conducted during the snowy plover nesting season to the extent feasible. If work activities must occur during the nesting season the following measures shall be taken:

a. Prior to installation of the project delineation fencing and the commencement of site grading, a qualified biologist shall conduct a series of pre-construction nesting bird surveys for western snowy plover. Surveys shall be conducted every other day for two weeks prior to any project related disturbances.
b. Surveys for snowy plovers shall include walking through all potential nesting and foraging habitat within 300 feet of the site on each survey day. The survey area shall include all available snowy plover nesting habitat within 300 feet of anticipated project activities.
c. The number of snowy plover individuals observed and their activities (e.g. nesting, foraging, resting, etc.) shall be documented. All documented occurrences would be reported to USFWS and documented on the CNDDB.
d. If nesting activity is identified, all project activities within 300 feet of the nest shall be delayed until the nesting activity has ceased.
e. During construction, the environmental monitor shall conduct snowy plover surveys twice a week (preferably two to three days apart).

76. (BR/mm-8) Upon application for construction permits, the following measure shall be included on all applicable plans: If commencement of construction begins between March and September, the environmental monitor shall conduct pre-construction nesting bird surveys. If nesting activity is identified, the following measures shall be implemented:

a. If active nest of common passerine or shorebird species' are observed in the work area or within 100 feet of the work area, construction activities shall be modified and or delayed as necessary to avoid direct take or indirect disturbance of the nests, eggs, or young.
b. If active nest sites of raptors or other special-status species are observed within the work area or 300 feet of the work area, the environmental monitor shall establish a suitable buffer around the nest site. Construction activities in the buffer zone shall be prohibited until the young have fledged the nest and achieved independence.
c. Active raptor or special-status species nests should be documented by a qualified biologist and a letter report should be submitted to the County, USFWS, and CDFW, documenting project compliance with the MBTA and applicable project mitigation measures.

97. (BR/mm-9) Upon application for construction permits, the following measure shall be included on all applicable plans: Prior to site grading, the environmental monitor shall conduct a survey for coast horned lizard and other reptiles. The surveyor shall utilize hand search methods in areas of disturbance where coast horned-lizards are expected to be found (e.g., under shrubs, other vegetation, or debris). Any lizards located during this survey should be safely removed from the construction area and placed in suitable habitat.

Noise

98. (N/mm-1) Upon application for building permits, the project applicant shall include in the project design the following standard mitigation measures for interior noise mitigation provided in the Noise Element for levels in the 60-65 dBA range:
    a. Air conditioning or a mechanical ventilation system;
    b. Windows and sliding glass doors mounted in low air infiltration rate frames (0.5 cubic feet per minute or less, per American National Standards Institute [ANSI] specifications); and,
    c. Solid core exterior doors with perimeter weather stripping and threshold seals.

Water

99. (WAT/mm-1) Upon application for construction permits, the applicant shall submit grading and construction plans showing BMPs, and shall implement BMPs during grading and construction activities. BMPs shall include, but not be limited to, the following:
    a. Erosion control barriers shall be applied, such as silt fences, hay bales, drain inlet protection, and gravel bags;
    b. Disturbed areas shall be stabilized with vegetation or hard surface treatments upon completion of construction in any specific area.
    c. All inactive disturbed soil areas are required to be stabilized with both sediment and temporary erosion control prior to the onset of the rainy season (October 15 to April 15).

Coastal Hazards

100. All buildings or structures shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood elevation level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards.

101. All new construction and other development shall be located on the landward side of the reach of mean high tide.

102. Man-made alteration of sand dunes that would increase potential flood damage is prohibited.

103. The Director of Planning and Building and/or the Public Works Director shall obtain and maintain the following records.
    a. Certification by a registered engineer or architect that a proposed structure complies with Subsection D.3.a.

b. The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all buildings and structures, and whether such structures contain a basement.

Water

. (WAT/mm-2) Prior to issuance of grading and construction permits, the applicant shall submit a copy of the RWQCB-issued stormwater construction permit. The permit shall be on-site during all major grading and construction activities.

Fees

Prior to issuance of a construction permit, the applicant shall pay all applicable school and public facilities fees.

Public Works

Prior to issuance of a construction permit, the applicant shall apply for and obtain an encroachment permit for any improvements within the right of way from the County Department of Public Works.

The applicant shall submit a drainage plan for review and approval by County Public Works Department. The applicant shall show the finished floor at a minimum of one foot above the 100 year storm surge level for review and approval by County Public Works and the Department of Planning and Building.

Services

Prior to issuance of a construction permit, the applicant shall submit to the Development Review staff evidence from the that all of their requirements, including payment of fees, have been met.

Prior to issuance of a construction permit, the applicant shall provide a letter from the stating that they are willing and able to service the property.

Prior to issuance of a construction permit, the applicant shall receive any necessary approvals from the Regional Water Quality Control Board.

Fire Safety

. Prior to issuance of a construction permit, the applicant shall provide the county Department of Planning and Building with a fire safety plan approved by the Cayucos Fire Protection District.

Lighting

Prior to issuance of a construction permit, the applicant shall prepare a lighting plan for review and approval. The plan shall comply with the requirements of 23.04.320 (outdoor lights) of the Coastal Zone Land Use Ordinance.

Biological Resources

. (BR/mm-1) Prior to issuance of construction permits, the applicant shall submit documentation verifying designation of a qualified environmental monitor for all measures requiring environmental mitigation to ensure compliance with Conditions of Approval and EIR mitigation measures. The monitor shall be responsible for: (1) ensuring that procedures for verifying compliance with environmental mitigations are

followed; (2) lines of communication and reporting methods; (3) daily and weekly compliance reporting; (4) construction crew training regarding environmentally sensitive areas; (5) authority to stop work; and (6) action to be taken in the event of non-compliance. Monitoring shall be at a frequency and duration determined by the affected natural resource agencies (e.g., USACE, CDFW, RWQCB, California Coastal Commission, USFWS, and the County).

2724. (BR/mm-6) Prior to issuance of construction permits, the applicant shall submit a detailed sediment and erosion control plan for approval, which shall address both temporary and permanent measures to control erosion and reduce sedimentation. Erosion and soil protection shall be provided on all cut and fill slopes. Revegetation shall be facilitated by mulching, hydro-seeding or other methods, and shall be initiated as soon as possible after completion of grading, and prior to the onset of the rainy season (October 15). Permanent revegetation and landscaping shall emphasize native shrubs, and trees, to improve the probability of slope and soil stabilization without adverse impacts to slope stability due to irrigation infiltration and long-term root development. All plans shall show that sedimentation and erosion control measures are installed prior to any other ground disturbing work.

Aesthetics

(AES/mm-1) Prior to issuance of the building permit, the applicant shall submit interior and exterior lighting plans to the Department of Planning and Building for review and approval consistent with the following:

a. The point source of all exterior lighting shall be shielded from off-site views, including beach areas.
b. All required security lights shall utilize motion detector activation.
c. Light trespass from exterior lights shall be minimized by directing light downward and utilizing cut-off fixtures or shields.

Air Quality

2726. (AQ/mm-2) Prior to issuance of construction permits, the applicant shall include the following measures on applicable grading and building plans:

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a. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors;
b. Diesel idling within 1,000 feet of sensitive receptors is not permitted;
c. Use of alternative fueled equipment is recommended whenever possible; and,
d. Signs that specify the no idling requirements must be posted and enforced at the construction site.

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e. Section 2485 of Title 13, the California Code of Regulations limits diesel-fueled commercial motor vehicles that operate in the State of California with gross vehicular weight ratings of greater than 10,000 pounds and licensed for operation on highways. It applies to California and non-California based vehicles. In general, the regulation specifies that drivers of said vehicles:
    1. Shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location, except as noted in Subsection (d) of the regulation; and,
    2. Shall not operate a diesel-fueled auxiliary power system (APS) to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5.0 minutes at any

location when within 100 feet of a restricted area, except as noted in Subsection (d) of the regulation.

f. Signs must be posted in the designated queuing areas and job sites to remind drivers of the 5-minute idling limit. The specific requirements and exceptions in the regulation can be reviewed at the following web site: www.arb.ca.gov/msprog/truck-idling/2485.pdf.

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g. Off-road diesel equipment shall comply with the 5 minute idling restriction identified in Section 2449(d)(3) of the California Air Resources Board's In-Use off-Road Diesel regulation: www.arb.ca.gov/regact/2007/ordiesl07/frooal.pdf.

h. Signs shall be posted in the designated queuing areas and job sites to remind off-road equipment operators of the 5 minute idling limit.

Geology and Soils

2827. (GS/mm-1) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Engineering Evaluation (Shoreline Engineering 2012) and Updated Geotechnical Investigation (GSI Soils, Inc.) dated December 27, 2011, specifically the recommendations identified in Section 5.2 – Preparation of the Building Pad, Section 5.3 – Structural Fill, Section 5.4 – Drilled Piers, Section 5.5 – Conventional Deepened Foundation, Section 5.6 – Slab Construction, and Section 5.9 – Surface and Subsurface Drainage.

2828. (GS/mm-2) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.) dated December 27, 2011, and specifically the following:

a. All surface and subsurface deleterious materials shall be removed from the proposed building area and disposed of offsite. This includes, but is not limited to, any buried utility lines, loose fills, debris, building materials, and any other surface and subsurface structures.

b. Voids left from site clearing shall be cleaned and backfilled as recommended for structural fill.

c. Once the site has been cleared, the exposed ground surface shall be stripped to remove surface vegetation and organic soil.

3029. (GS/mm-3) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the following: recommendations for slope stability identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.10 – Temporary Excavations and Slopes; and Shoring Detail prepared by Shoreline Engineering (January 2012, updated September 20, 2012). Plans shall demonstrate how construction would be conducted such that no activity would compromise the neighboring structure. Construction of all site preparation and shoring activities shall be monitored by the project Engineer of Record, and daily monitoring reports shall be prepared and submitted to the County Department of Planning and Building on a weekly basis.

3130. (GS/mm-4) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which include the use of deepened pier foundations identified in the Engineering Evaluation (Shoreline Engineering, Inc.), dated January 2012, and Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011,

specifically the recommendations identified in Section 5.2 – Preparation of Building Pad, Section 5.4 – Drilled Piers, and Section 5.5 – Conventional Deepened Foundation.

3231. (GS/mm-5) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.1 – Clearing and Stripping, Section 5.2 – Preparation of Building Pad, and Section 5.3 – Structural Fill.

3332. (GS/mm-6) Prior to issuance of grading and construction permits, the applicant shall submit a drainage plan for review and approval by the County Department of Public Works. The drainage plan shall be coordinated with the sedimentation and erosion control plan, be consistent with CZLUO §23.050.036 and 040, and specifically include engineered energy dissipators and controls that would limit peak runoff to pre-development levels.

[illegible]

Biological Resources

3433. (BR/mm-2) Prior to the initiation of construction, the environmental monitor shall conduct environmental awareness training for all construction personnel. The environmental awareness training shall include discussions of sensitive habitats and animal species in the immediate area. Topics of discussion shall include: general provisions and protections afforded by the Endangered Species Act; measures implemented to protect special-status species; review of the project boundaries and special conditions; the monitor's role in project activities; lines of communications; and procedures to be implemented in the event a special-status species is observed in the work area.

3534. (BR/mm-4) Prior to the initiation of construction, the applicant's contractors and the environmental monitor shall coordinate the placement of project delineation fencing throughout the work areas. The environmental monitor shall field fit the placement of the project delineation fencing to minimize impacts to sensitive resources. The project delineation fencing shall remain in place and functional throughout the duration of the project. During construction, no project related work activities shall occur outside of the delineated work area.

Air Quality

3635. (AQ/mm-1) Prior to initiation of construction, the project applicant shall implement the following dust control measures:

a. Reduce the amount of the disturbed area where possible;
b. Use water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 miles per hour. Reclaimed (non-potable) water should be used whenever possible;
c. All dirt stockpile areas should be sprayed daily as needed; and,
d. All roadways, driveways, sidewalks, etc., to be paved should be completed as soon as possible, and building pads should be lain as soon as possible after grading unless seeding or soil binders are used.

Building Height

3736. The maximum height of the project is 15 feet as measured from the centerline of the fronting Street at a point midway between the two side property lines, projected to the street centerline. Prior to approval of the roof nailing inspection, the applicant shall

provide the building inspector with documentation that gives the height reference, the allowable height, and the actual height of the structure. A licensed surveyor or civil engineer shall prepare this certification.

Archaeology

. In the event archaeological resources are unearthed or discovered during any construction activities, the following standards apply:

a. Construction activities shall cease and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law.

b. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.

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Landscaping

. Prior to final building inspection, landscaping in accordance with the approved landscaping plan shall be installed or bonded for to ensure the implementation of landscaping. If bonded for, landscaping shall be installed within 60 days after final building inspection. All landscaping shall be maintained in a viable condition in perpetuity.

Fire Safety

. Prior to final inspection, the applicant shall obtain final inspection and approval from Cayucos Fire Protection District for all required fire/life safety measures.

Miscellaneous

. Prior to occupancy of any structure associated with this approval, the applicant shall contact the County Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

Lateral Access

. Prior to final inspection, the applicant shall execute and record an offer of dedication for lateral access which shall include 25 feet of dry sandy beach available at all times during the year (pursuant to the requirements of Section 23.04.420 of the Coastal Zone Land Use Ordinance).

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. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Coastal Zone Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.

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. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Coastal Zone Land Use Ordinance.

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The Environmental Impact Report (EIR) was prepared, pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code [PRC] §21000 et seq.), to evaluate the environmental impacts resulting from approval of the Loperena Minor Use Permit / Coastal Development Permit (MUP/CDP) (project). The County of San Luis Obispo (County) is the CEQA Lead Agency for the project.

The EIR addresses the potential environmental effects associated with the project. A number of federal, state, and local governmental agencies require an environmental analysis of the proposed project consistent with the requirements of CEQA in order to act on the project. These agencies include the California Coastal Commission.

The findings and recommendations set forth below (Findings) are adopted by the County Planning Commission as the County's findings under CEQA and the CEQA Guidelines (California Code of Regulations [CCR] Title 14, §15000 et seq.) relating to the project. The Findings provide the written analysis and conclusions of this commission regarding the project's environmental impacts, mitigation measures, and alternatives to the project.

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Pursuant to CEQA and the CEQA Guidelines, the County determined that an EIR would be required for the project. On August 7, 2009, the County issued a Notice of Preparation (NOP) for the EIR which was circulated to responsible agencies and interested groups and individuals for review and comment. A copy of the NOP is included in Appendix A of the Loperena MUP/CDP EIR.

The Draft EIR was available for public review and comment from June 14, 2013, through August 5, 2013, and was filed with the State Office of Planning & Research under State Clearinghouse No. 2007081044.

The County prepared written responses to the comments received during the comment period and included these responses in the Final EIR, which was published by the County on December 12, 2013. The Final EIR with responses was made available to all commenters.

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The applicant, Mr. Jack Loperena (landowner) and architect, Mr. James Maul, request a Minor Use Permit / Coastal Development Permit (MUP/CDP) to allow for the construction of a single-family residence. A description of the project location, project history, and project elements are discussed in the sections below.

2.1 [illegible]

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The project site is located in the unincorporated community of Cayucos, within San Luis Obispo County, California. The project site is located adjacent to State of California Department of Parks and Recreation (State Parks) property on the northern end of Studio Drive, approximately 250 feet south of the intersection of Studio Drive and Highway 1. The project site consists of a single 3,445-square-foot parcel (Assessor Parcel Number 064-253-007).

2.1.2 r r d

The applicant submitted an application for a MUP/CDP in May of 2006. At the time, the environmental document prepared and issued by the County was a Mitigated Negative Declaration (MND) (August 9, 2007). A Planning Department Hearing was scheduled for August 17, 2007, to consider the proposed project and MND. At the hearing, staff requested a continuance until September 21, 2007 because the MND had been re-issued and re-noticed, and required a 30-day public review period. On August 23, 2007, County staff received a Request for Review of the MND, and requested that the project be continued off calendar to address issues raised in the Request for Review. Based on the comments included in the Request for Review, County staff consulted with County experts in geology, cultural resources, emergency services, air quality, and public works and drainage. Information and data obtained from County experts were incorporated into an amended MND, which was re-circulated for public review (April 2, 2009). A Planning Department Hearing was scheduled for May 15, 2009. A Request for Review of the amended MND was received by County staff on April 16, 2009, and County staff requested that the project be continued off calendar a second time.

Based on the issues raised in the April 2009 Request for Review, the County Environmental Coordinator determined that a fair argument was raised regarding the significance of potential environmental impacts. Upon consideration of these issues, the applicant proposed that an EIR be prepared for the proposed project.

2.2 [illegible]

The objectives of the project are to:

- Develop a single-family residence on Studio Drive, within an existing, developed, single-family residential neighborhood;
- Allow development consistent with the County General Plan and Local Coastal Program
- Provide coastal access

In addition, the applicant provided the following project objectives:

- Reduce visual impacts by design;
- Avoid development on the sandy beach and minimize site grading and disruption of the natural contours; and,
- Incorporate green building considerations into the design, and maximize exposure for solar panels.

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The project evaluated in the EIR includes a proposeal to grade for and construct a 3,097-square-foot residence, including approximately:

- 1,097 square feet of main floor living space
- 1,040-square-foot basement
- 338-square-foot mezzanine
- 242-square-foot garage and 200 square foot carport; and,
- 180-square-foot covered deck.

The residence would consist of one main floor and a basement. The footprint of the house would be 1,040 square feet. The maximum width of the structure would be 18 feet, and the maximum length would be 95 feet. A paved driveway would provide access from Studio Drive. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive. The basement would be located below the elevation of Studio Drive. The applicant proposes a cantilevered design, which would be elevated above the sandy beach. This portion would include approximately 325 square feet of living space and a covered deck.

The residence would be constructed on a structural mat slab supported on deepened/deadman footings and/or drilled piers. The footing on the east side of the residence would extend the full width of the structure (18 feet), and be 6 to 8 feet deep and 18 feet long. The purpose of the deadman footings will be to resist the cantilever loading of the west side of the residence, which would extend 28 feet over the sand. The mat slab would be located at basement level (15 feet above mean sea level). Cuts varying from approximately 5 feet on the north side of the pad to 12 feet on the south side are anticipated. Temporary excavation support would be provided by steel soldier beams installed in drilled holes filled with lean concrete. The soldier beams would be lagged with steel plates to provide support during construction. The soldier beams and lagging would be removed once the excavated area is backfilled. The exterior walls of the structure would be concrete and would retain soils along the southern, eastern, and northern sides of the residence. Retaining walls will also be constructed adjacent to Studio Drive with continuous footings extending into the underlying bedrock materials.

A photovoltaic system would provide electricity for the residence, including 1,400 square feet of solar panels to be located on the south-facing slopes of the roof. Light tubes would be installed to allow outside light to filter through to the basement.

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Grading activities would disturb approximately 3,000 square feet of the 3,445-square-foot parcel, including 400 cubic yards of cut (foundation) and 150 cubic yards of fill (driveway). The average depth of cut would be 5 feet (minimum 1 foot, maximum 12 feet). Approximately 250 cubic yards of soil would be exported offsite.

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Proposed drainage plans include removal of an existing overside drain and construction of a new storm drain system including an overside drain with a fossil filter, stormwater inlet, and stormwater outlet with energy dissipators. Stormwater would flow from the outlet in a northwesterly direction offsite.

A concrete deck would be constructed over the new pipe system to allow entry to the property. Rainfall from the roof would be collected by a gutter system and facilitated to an underground holding tank below the driveway grade. Captured runoff would be used as gray water for toilet flushing and landscape watering. Runoff would be piped and directed westward to exit onto the beach.

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An existing high pressure gas main would be re-routed so that no structures are located over the top of the pipeline. The proposed residence would be served by the County Service Area 10A for water supply and Cayucos Sanitary District for wastewater collection, treatment, and disposal. Cayucos Fire would provide fire protection.

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Based on direction from the Planning Commission, the applicant revised the project which reduced the size of the proposed project from what was evaluated in the EIR. The revised project includes a home that is approximately 16 feet shorter in living area from the proposed project and has an approximate total length of 70 feet which includes an attached deck on the west side. The original 2,917 square foot home had a length of approximately 90 feet. The revised project is approximately 2,374 square feet which includes all interior area and the single car garage (approximately 543 square feet smaller then the original proposed project). The height of the revised project is not changing from the original proposed project. The revised project includes:

- 841 square feet of main floor living space
- 814 square foot basement
- 280 square foot mezzanine
- 239 square foot garage and 200 square foot car port

All other aspects to the revised project such as the foundation and proposed site preparation are similar to the original proposed project, but are slightly smaller in size or area. The foundation will no longer need a 6' deep foundation to support the long cantilevered portion of the original design, but will include a 2' deep mat foundation. The site preparation will remain as outlined in the geotechnical recommendations in the EIR. This revised project is consistent with the project that was evaluated in the EIR and will not contain any additional impacts that were not already evaluated.

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A. The County Planning Commission finds that changes or alterations have been incorporated into the project to eliminate or substantially lessen all significant impacts where feasible. These changes or alterations include mitigation measures and project modifications outlined herein and set forth in more detail in the Loperena Minor Use Permit/Coastal Development Permit EIR.

B. The County Planning Commission finds that the project, as approved, includes an appropriate Mitigation Monitoring Program. This mitigation monitoring program ensures that measures that avoid or lessen the significant project impacts, as required by CEQA and the State CEQA Guidelines, will be implemented as described.

C. Per CEQA Guidelines §15126.4(a)(1)(B), the proposed project includes performance-based conditions relating to environmental impacts and include requirements to prepare more detailed plans that will further define the mitigation based on the more detailed plans to be submitted as a part of the construction phase. Conditions and mitigation measures contain performance-based standards and therefore avoid the potential for these conditions or measures to be considered deferred mitigation under CEQA.

26

The County, as the CEQA lead agency, is responsible for administering the preparation of the EIR and certifying the Final EIR. The Commission will use the Final EIR as an informational document to assist in the decision-making process, ultimately resulting in the approval, denial, or assignment of conditions to the project.

The CEQA Guidelines authorizes lead agencies (public agencies that have principal responsibility for carrying out or approving a project and for implementing CEQA) to approve a project with significant effects if there is no feasible way to lessen or avoid the significant effects and the project's benefits outweigh these effects. Responsible agencies (public agencies other than the lead agency that have responsibility for carrying out or approving a project and for complying with CEQA) have a more limited authority to require changes in the project to lessen or avoid only the effects, either direct or indirect, of that part of the project which the agency will be called on to carry out or approve (PRC §21104(c), §21153(c); CEQA Guidelines §15041(b), §15042).

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For purposes of CEQA and these Findings, the Record of Proceedings for the proposed project consists of the following documents and other evidence, at a minimum:

- The NOP and all other public notices issued by the County in conjunction with the proposed project;
- The Final EIR for the proposed project which consists of the Draft EIR, the technical appendices, and the Response to Comments;
- The Draft EIR;

- All written comments submitted by agencies or members of the public during the public review comment period on the Draft EIR;
- All responses to written comments submitted by agencies or members of the public during the public review and comment period on the Draft EIR;
- All written and verbal public testimony presented during noticed public hearings for the proposed project at which such testimony was taken;
- The Mitigation Monitoring and Reporting Program;
- The documents, reports, and technical memoranda included or referenced in the technical appendices of the Final EIR;
- All documents, studies, EIRs, or other materials incorporated by reference in the Draft and Final EIR;
- The Ordinances and Resolutions adopted by the County in connection with the proposed project, and all documents incorporated by reference therein;
- Matters of common knowledge to the County, including but not limited to federal, state, and local laws, regulations, and policy documents;
- Written correspondence submitted to the County in connection with the project;
- All documents, County Staff Reports, County studies, and all written or oral testimony provided to the County in connection with the project;
- The County's Local Coastal Plan, General Plan, and related ordinances;
- All testimony and deliberations received or held in connection with the project; and,
- Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e) (excluding privileged materials).

2.8 M

The County Planning Commission makes the following findings with respect to the Loperena MUP/CDP Final EIR:

A. The Planning Commission has reviewed and considered the documents and other information listed in Section 3.3 above.

B. The Final EIR has been completed in compliance with CEQA.

C. The Planning Commission has considered the information contained in the Final EIR, the public comments and responses currently and previously submitted, and the public comments and information presented at the public hearings.

D. All information was considered by the Planning Commission before taking an action on the project.

E. The Planning Commission hereby finds and determines that:

1. All significant effects that can be feasibly avoided have been eliminated or substantially lessened as determined through the findings and supporting evidence set forth in Sections 7.0, 8.0, and 9.0.

2. Based on the Final EIR and other documents in the record, specific environmental, economic, social, legal, and other considerations make infeasible other project alternatives identified in the Final EIR.

3. Should approval of the Loperena MUP and CDP have the potential to result in adverse environmental impacts that are not anticipated or addressed by the Final EIR, subsequent environmental review shall be required in accordance with CEQA Guidelines §15162(a).

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4.0 [illegible]

The Final EIR has identified and discussed significant effects that will occur as a result of the proposed project. With the implementation of the mitigation measures identified in the Final EIR, these effects can be mitigated to a level of insignificance. Therefore, no statement of Overriding Consideration is required.

M Impacts of the proposed project and alternatives have been classified using the categories Class I, II, III, and IV as described below:

- _____ Class I impacts are significant and unavoidable. To approve a project resulting in Class I impacts, the CEQA Guidelines require decision makers to make findings and a statement of overriding considerations that discusses as applicable the economic, legal, social, technical and other benefits of the proposed project against the unavoidable environmental risks. The proposed project has not resulted in any Class I impacts.

- _____ Class II impacts are significant but can be mitigated to a level of insignificance by measures identified in the Final EIR and the project description. When approving a project with Class II impacts, the decision-makers must make findings that;

    1. Changes or alternatives to the project have been incorporated that reduce the impacts to a less than significant level, or

    2. That such changes or alternatives are within the responsibility and jurisdiction of another governmental agency and not the Lead Agency making the finding, and that such other governmental agency can and should adopt the required project changes or alternatives.

- _____ Class III impacts are adverse but not significant. Mitigation measures may still be required for these impacts as long as there is rough proportionality between the environmental impacts caused by the project and the mitigation measures imposed on the project.

- _____ Class IV impacts would have a beneficial environmental impact.

5.0 FINDINGS FOR MINOR USE PERMIT AND COASTAL DEVELOPMENT PERMIT

The findings below are for Class III impacts. Class III impacts are impacts that are adverse, but not significant. Pursuant to Section 15091(a)(1) of the State CEQA Guidelines, the Planning Commission finds that each of the following effects have been avoided or will have a less than significant impact, as identified in the Final EIR. The less than significant effects (Impacts) are stated fully in the Final EIR. The following are brief explanations of the rationale for this finding for each impact:

r r r

1 r r r r d - r r The project is located in a non-agricultural area with no agricultural activities occurring at or adjacent to the project site. The project site is classified as Urban and Built-Up Land by the DOC, Division of Land Resource Protection's Farmland Monitoring and Mapping Program (DOC 2008). No important farmland would be converted to non-agricultural use; therefore, there would be no impact.

2 r r r r r r r r r No agricultural uses occur in the immediate vicinity of the project site. Based on the location of the project, it would not impair agricultural use of other properties in the region or result in conversion to non-agricultural uses. Therefore, there would be no impact.

3 r r r The project site is within the residential land use category, and is not under Williamson Act contract. No parcels in the project vicinity are within the agricultural land use category or are subject to a Williamson Act contracts. No significant impacts to agricultural resources would to occur.

1 r From surrounding viewing locations, the overall height of the project would appear visually consistent with the heights of existing houses lining Studio Drive, and particularly the existing houses closest to the site. It is anticipated that as seen from most viewpoints, the height of the project would not be unexpected at this residential location.

The project proposes a building with a distinctly modern-style architecture and form. This style of architecture is seen regularly in the Studio Drive neighborhood and throughout the community. Although residential buildings often associated with the coastal community aesthetic tend to be beach bungalow style, modern style architecture is also part of the eclectic vernacular. These mid-century style buildings often employ simple forms, and flat rooflines with clerestory windows, similar to the proposed project.

Because of the existing residential setting, and the proposed structure's general consistency with the scale and architecture of the Studio Drive neighborhood, the project would be aesthetically compatible with the area, and potential impacts to public views is considered to be *less than significant* (CEQA Class III).

2 r d Because of its location on the bluff, the project would be visible from many public viewpoints and from many viewing directions. The project's proximity to the beach and Studio Drive allows for up-close viewing opportunities by the public. The greatest number of potential viewers would be traveling on Highway 1, from where the project would occupy a portion of the mid-ground view, with the Pacific Ocean in the background. From Highway 1, the project would be more noticeable from the southbound lanes, since views from the northbound lanes would be mostly blocked by adjacent development. As seen from all areas on Highway 1, the lowest portion of the building and associated retaining walls would have limited visibility. The upper part of the residence would block a portion of the existing ocean view, from both the northbound and southbound lanes of Highway 1. From the southbound lanes, blue-water ocean views and the horizon line would be blocked a minor amount. As seen from the northbound lanes, blue-water views would also be briefly blocked, however views of the horizon and of the distant coastline hills would not be affected.

Although the project would block a portion of the ocean, the effect on the viewing experience would be minor. As seen from the highway it is estimated that the project would only block an insignificant percentage of the existing available ocean view. No views of unique, historic, or singularly memorable coastal resources would be affected. The existing residential development along Studio Drive currently limits views of the ocean and beach from Highway 1. It is anticipated that to most viewers, the project's small incremental effect on the scenic vista would just appear as an extension of the existing neighborhood condition. The high quality of the scenic vista would not be affected, and the extent of view loss would be minor or even un-noticed in the context of the remaining scenic viewshed.

As seen from southbound Studio Drive, the visual effect of the project would be similar to that from Highway 1; only a small portion of the total available ocean view would be affected, and the majority of the project would be seen within the visual silhouette of the adjacent development. From northbound Studio Drive south of the project, views of the ocean are blocked by existing homes. From the northbound direction, coastal views begin to open up as the viewer approaches the project site and begins to see around the northernmost residence. With construction of the project, existing coastal view blockage in the northbound direction and directly in front of the project would be extended a distance of approximately 150 feet along the street frontage. Outside of this 150-foot section, northbound views along Studio Drive would not be affected. Because existing coastal views along the approximately one mile length of Studio Drive are currently blocked, and there is approximately 300 feet of protected ocean views to the north of the site and extending to the Old Creek parking area, the additional 150 feet of affected view would be minor. The visual affect as seen from a vehicle would be approximately one second. Because of the short length, viewing durations from pedestrian and bicyclist viewpoints would also be very brief. Similar to the views from Highway 1, the project's small incremental effect on the scenic vista would likely appear as an extension of the existing neighborhood condition. The high quality of the existing scenic vista would be unaffected, and the extent of view loss would be minor or even un-noticed in the context of the remaining scenic viewshed.

Viewpoints from the beach toward the project would be generally oriented inland and away from the ocean. From these viewing areas, scenic coastal resources such as

the hills east of the highway are somewhat compromised by existing residential areas as well as the highway. The uppermost portions of the hills however are undeveloped and can be seen from much of the beach area. Because of the existing homes along the Studio Drive bluff, public viewers closer to the base of the bluff can see less of the hills across the highway to the east. From most beach viewpoints northwest of the project, the proposed residence would not extend beyond the visual silhouette of the adjacent development behind it. As seen from certain viewpoints directly west and southwest of the project, the upper portion of the new building would block a portion of the hillside to the northeast. From some closer viewpoints, the residence would block brief views of the ridgeline as well. Although a portion of the hillside views would be blocked by the project, the overall effect on the scenic vista would be minor. Views to the hills would not be blocked as seen from the majority of the beach area. No unique rock outcroppings or other memorable features are present within affected hillside areas. In addition, other hillside views would remain in the viewshed. The project and its subsequent effect on hillside views would appear to most viewers as an extension of the existing visual condition. Scenic ocean views from the neighborhood east of the highway would not be affected because the proposed residence would be consistent with the heights of the existing adjacent homes along Studio Drive.

Because the project would affect only a minor percentage of the available ocean and hillside views as seen from Highway 1 or from public roadways in the surrounding neighborhood or public beach, and because what would be affected would appear as an incremental extension of the existing visual condition along Studio Drive, the project's effect on scenic views is considered to be *less than significant* (CEQA Class III).

Specific Scenic Resources as Seen from the State Scenic Highway. As discussed in the previous section, the greatest number of potential viewers would be traveling on Highway 1, an Officially Designated State Scenic Highway and a National Scenic Byway. The upper part of the residence would block a portion of the existing ocean view, from both the northbound and southbound lanes of Highway 1. From the southbound lanes, blue-water ocean views and the horizon line would be blocked a minor amount. As seen from the northbound lanes, blue-water views would also be briefly blocked, however views of the horizon and of the distant coastline hills would remain.

Although the project would block a portion of the ocean, the effect on the viewing experience would be minor. As seen from the highway it is estimated that the project would only block an insignificant percentage of the existing available ocean view. No views of unique, historic, or singularly memorable coastal resources would be affected. The existing residential development along Studio Drive currently limits views of the ocean and beach from Highway 1. It is anticipated that to most viewers, the project's small incremental effect on the scenic vista would just appear as an extension of the existing neighborhood condition. The high quality of the scenic vista would not be affected, and the extent of view loss would be minor or even un-noticed in the context of the remaining scenic viewshed.

As a result, the project would have no adverse effect on scenic resources as seen from Officially Designated State Scenic Highway 1. Because the project would affect only a minor percentage of the available ocean and hillside views as seen from

Highway 1 and because what would be affected would appear as an incremental extension of the existing visual condition along Studio Drive, the project's effect on scenic vistas is considered to be *less than significant* (CEQA Class III).

3 r r r The project site occupies one of the more visible residential locations in the community. The proximity to Highway 1 and Morro Strand State Beach greatly increases the potential number of viewers of the project. The volume of traffic on Highway 1 in the vicinity of the project averages approximately 11,000 vehicles per day (Caltrans 2008). Because of this large number of viewers and highly visible location, the appearance of the project would have an influence on the visual character of the neighborhood. Any development of the site would include an inherent alteration of visual character. The change in character brought about by this project would be most noticeable it terms of its height, form, and architecture.

The project site itself is mostly covered with non-native vegetation such as iceplant and ornamental plantings. The visual context of the site is one of a residential beach neighborhood. Although the site's topography provides some visual interest to the setting, it is not memorable or unique. The exposed rock area along western portion of the site is a relatively insignificant portion of a larger, continuous rock face extending south along the bluffs. As noted above, the height of the project would not be unexpected at this residential location and the proposed architecture is aesthetically compatible with the character of the existing residences in the Studio Drive neighborhood.

Because of the existing residential setting, and the proposed structure's general consistency with the scale and architecture of the Studio Drive neighborhood, the effect of the project on visual character and quality of the site is considered to be *less than significant* (CEQA Class III).

4 r r As mentioned previously, the visual context of the site is one of a residential beach neighborhood. The project site is mostly covered with non-native vegetation such as iceplant and ornamental plantings. Although the site's topography provides some visual interest to the setting, it is not memorable or unique. The exposed rock area along western portion of the site is a relatively insignificant portion of a larger, continuous rock face extending north-south along the bluffs. Furthermore, the project would not block or adversely affect views of any unique off-site geological or physical features. As a result, the effect of the project on unique geological or physical features is considered to be *less than significant* (CEQA Class III).

r

1 r d rd r d r d As proposed, the project would result in the disturbance of approximately 3,000 square feet, including driveways, walkways, the residential structure coverage, and landscaping. This would result in the creation of construction dust, as well as short-term vehicle emissions. Long-term operational impacts would include an increase in vehicle emissions on surrounding roads. Based on the CEQA Air Quality Handbook, the project would result in less than 10 pounds per day of pollutants, which is below the threshold warranting mitigation. Therefore, potential impacts would be *less than significant* (Class III).

4-35

2 r r d d d r The project consists of a residence, which will not require the storage or use of any materials or equipment that would generate objectionable odors. Therefore, potential impacts would be *less than significant* (Class III).

3 r The project is consistent with the general level of development anticipated and projected in the CAP, including promotion of residential infill in proximity to essential services and alternative transportation services. Therefore, potential impacts would be *less than significant* (Class III).

4 r The proposed project would result in an increased use of vehicles and electricity, each of which generate small amounts of CO_2, N_2O, and HFCs. The APCD provided comments on the project that indicated through URBEMIS modeling that the project would result in approximately 84 pounds per day of CO_2 in the summer and 102 pounds per day in the winter (APCD Comment Letter dated December 23, 2008).

Based on *Table 1-1: Operational Screening Criteria for Project Air Quality Analysis* (SLOAPCD 2012), construction and operation of one single-family residence would not exceed 1,150 MT of CO_2e/year threshold. In addition, the project includes elements that will reduce GHG emissions, including compliance with current Title 24 Energy requirements (electricity reduction for cooling/heating), use of solar panels to reduce demand from GHG-emitting power plants, location within a garbage service area that is recycling over 50% of its wastes (electricity reduction), and requirement to recycle at least 50% of its construction wastes.

Because the project proposes only one single-family residence in an existing residential neighborhood, and is consistent with land use components necessary to meet the goals of AB32 and set forth in the Clean Air Plan, this increase in GHGs is not considered significant. Therefore, no significant adverse GHG impacts would occur as a result of the proposed project, and no mitigation measures are necessary (Class III).

5 r The proposed project is consistent with the APCD's CEQA Handbook and County's EnergyWise Plan because it consists of a residential development within an urban area, in proximity to recreational resources and opportunities for alternative transportation, such as walking and bicycling. As noted above, the project includes energy-efficiency measures, including incorporation of solar energy. Potential impacts would be *less than significant* (Class III).

r r

1 r - r r The project site is located within a culturally sensitive region; however, the field studies and background research conducted by the applicant's consultant and EIR archaeologist did not identify the presence of any significant cultural resources within the project site. As with any ground disturbing activities, the potential for encountering previously undocumented cultural resources exists. In the event of inadvertent discovery, compliance with Section 23.05.140 of the CZLUO will be required. Potential impacts to pre-historic resources would be *less than significant* (Class III).

2 r r . No historic resources are located within the project site or within 0.5-mile. No impacts to historic resources are anticipated, therefore, no mitigation measures are required. No significant impact to historic resources would occur.

3 r The proposed project would be located within formations that are not known to contain significant paleontological resources. Impacts to paleontological resources would be *less than significant* (Class III). No mitigation is required.

rd d rd M r

1 r r rd The project does not propose the use or storage of hazardous materials; therefore, the risk of explosion or release of hazardous substances is not likely. The project would not result in the routine transport, use, or disposal of hazardous materials and does not create the potential for the release of hazardous materials through upset and/or accident conditions. Therefore, no hazards associated with the handling of hazardous materials would result. The project site is not located within 0.25 mile of an existing or proposed school, and is not included on the Cortese List or any other list of hazardous materials sites and would not create associated risks to the public or environment. No impacts due to hazards or hazardous materials would occur.

2 r r r r Although it places residential uses within an area covered by the Dam and Levee Failure Evacuation Plan, Cities Nuclear Power Plant Emergency Response Plan, and Tsunami Response Plan, the proposed use is suitable for the location and within the general level of development projected in the response plans. The proposed project would not inhibit emergency alert, evacuation or response actions and would not conflict with any regional evacuation plan, because it is located with an existing residential lot, on a paved roadway (Studio Drive). No impacts to emergency response or evacuation plans will occur.

3 r r r The project site is not located within any airport review area and would not expose people to safety risks associated with airport flight patterns, therefore no impacts will occur.

4 r The project is not located within a high fire hazard zone and does not present a significant fire safety risk, therefore no impacts will occur.

5 r rd The County Office of Emergency Services prepares for catastrophic (though highly unlikely) worst case scenario events that would include a 50 foot tsunami wave run-up. However, based on review by the County Geologist and the project consultant geologist, a 9.5 foot wave run-up is considered more appropriate for a 100-year tsunami event. The project has been designed and conditioned to avoid impacts from a 100-year tsunami event and potential impacts related to wave run-up and tsunami hazards for the proposed development will be taken into account through the foundation design and finished floor elevations of the proposed residence.

An in depth analysis of tsunami and/or wave run-up hazards associated with the proposed project is included in Section 4.3, Geology and Soils. Refer to that section

for additional information. No other significant adverse impacts would occur as a result of the proposed project, and no mitigation measures are necessary (Class III).

d

1 r r r d r d Seismic ground shaking associated with a large earthquake on one of several nearby and regional faults (the Oceanic, Hosgri, Los Osos, and San Luis Range faults) is considered to be a high potential hazard for the project area. Peak ground accelerations up to 0.35g could potentially affect structures at the site in the future. The project site was positioned on the USGS Seismic Hazard Maps for a 2% probability of exceedance in 50 years to determine the maximum considered earthquake spectral response accelerations. The Code-required design acceleration coefficients for short periods (SDS) and at one-second (SD1) would be 0.980g and 0.491g, respectively; therefore, a site class C is recommended for structure design (GSI Soils, Inc. 2011).

Mitigation of seismic hazards due to strong ground motion is addressed through proper structural design in accordance with the applicable building codes (presently the 2009 International Building Code [IBC] and 2010 California Building Code [CBC] documents related to Earthquake Loads) at the time of building permit application. Seismically-induced ground failure mechanisms include: landsliding, liquefaction, lurching, differential compaction, lateral spreading, and dry sand settlement.

Landslides. The central coast region of California has not yet been mapped by the California Geological Survey under the Seismic Hazards Mapping Act program. No landslides have been mapped or found on the property. A large earthflow landslide terminates approximately 400 feet northeast of the site across Highway 1. The landslide and the project site are separated by over 400 feet of very low gradient topography that is overall flatter than 15:1 (horizontal:vertical). Significant portions of that horizontal distance are nearly level (e.g., the width of Highway 1). Consequently the potential for risk of landslides adversely impacting the site is considered to be low. Potential impacts related to landslides are *less than significant* (Class III), and no mitigation measures are necessary.

Earthquakes. As noted in Section 4.3.1.1 Existing Conditions, Regional Setting, Geologic Setting, fault systems are present in the region; however, no known active faults trend through the property. No topographic anomalies in the area are suggestive of faulting, and the potential for surface faulting and ground rupture at the site to be low. Therefore, potential impacts would be *less than significant* (Class III), and no mitigation measures beyond compliance with the CBC are necessary.

Earthquake-Induced Landsliding. The only significant slope that would exist at the site upon completion of the project is the fill slope descending from Studio Drive to the property; however, the plans indicate this slope will be filled over and supported by retaining walls; hence the potential for seismically-induced landsliding is low. Therefore, potential impacts would be *less than significant* (Class III), and no mitigation measures are necessary.

Lateral Spreading. Conditions that typically induce lateral spreading include liquefaction of a subsurface layer or layers of soil, and site topography that contains

an open topographic face which exposes the soil profile overlying the liquefiable layer(s). Both conditions potentially exist at the site but require further review by the project applicant's consultants. Based on the proposed foundation design, site grading, and confined condition of the sands near the center of the building pad, the potential for lateral spreading displacements would be negligible (GSI Soils, Inc. 2011). Therefore, based on the design of the project, potential impacts would be *less than significant* (Class III), and no mitigation beyond compliance with the CBC is necessary.

Dry Sand Settlement. Due to the limited depth of sand (approximately 6 feet) within the building pad area, dry settlements of these sands during seismic ground shaking is expected to be less than 0.5 inch. With the proposed grading, these settlements are anticipated to be less than 0.25 inch (GSI Soils, Inc. 2011). Therefore, potential impacts would be *less than significant* (Class III), and no mitigation beyond compliance with the CBC is necessary.

d d Land subsidence occurs when large amounts of groundwater have been excessively withdrawn from an aquifer. Water supply in Cayucos is provided by the Whale Rock Reservoir and Nacimiento Water Project. There is no identified Level of Severity for water supply in the Cayucos area (County of San Luis Obispo 2012), and the project site is not located within a designated groundwater basin. There is no evidence of land subsidence on or in the vicinity of the project site, and implementation of the project would not create a demand for water supply that would result in land subsidence. Therefore, no significant impact would occur.

2 **- r r** The project site is not located within an Alquist-Priolo Earthquake Fault Zone as defined by maps prepared by the California Geological Survey. Therefore, no significant impact would occur.

3 **r r d**

Soil Erosion – **r** In the long term, the project would not create any changes that would result in significant soil erosion. The proposed drainage plan includes stormwater diffusers to slow down runoff during rain events and minimize the potential for storm-related beach erosion. Therefore, potential long-term impacts would be *less than significant* (Class III), and no mitigation beyond compliance with existing regulations is necessary. Long-term erosion related to sea level rise and wave runup is discussed below under Coastal Hazards.

4 **r r** As noted above, the project includes a drainage plan that would replace the existing County drain pipe with a new stormwater system. This system would change the direction of surface runoff from the street onto the beach, but would not be significantly different than the current situation. The project would create additional area of impervious surface, and includes a rain barrel and stormwater management system, consistent with the County's regulations and policies for Low Impact Development (LID). Based on the location, size, and design of the project, it would not significantly change the rates of soil absorption or amount and direction of surface runoff. Therefore, potential impacts would be *less than significant* (Class III), and no mitigation beyond compliance with existing regulations is necessary.

5 **100 r d** The project site is not located within a 100-year flood hazard zone, and the area proposed for development is located above and outside the AE/VE hazard zone which has a 100-year flood elevation of 10 feet (NGVD29), which is approximately equivalent to elevation 12.92 feet NAVD88. The proposed basement finish floor elevation of 15 feet NAVD88 is approximately 2.08 feet higher than the AE/VE flood elevation. Therefore, no significant impact would occur.

6 . Applicable geology and soils-related goals and policies identified in the County's Safety Element include the following:

Geologic and Seismic Hazards, Goal S-5: Minimize the potential for loss of life and property resulting from geologic and seismic hazards.

Based on compliance with the CBC, County Code, and incorporation of recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, and Engineering Evaluation (Shoreline Engineering), dated January 2012, the project would be consistent with this goal.

Geologic and Seismic Hazards, Policy S-21: Slope Instability. The County acknowledges that areas of known landslide activity are generally not suitable for residential development. The County will avoid development in areas of known slope instability or high landslide risk when possible, and continue to encourage that developments on sloping ground use design and construction techniques appropriate for those areas.

The project site is not located within an area of high landslide risk; however, short-term slope instability may occur during construction. Based on incorporation of recommendations identified in the Updated Geotechnical Investigation and Engineering Evaluation, which include use of a temporary shoring system to stabilize cut slopes during excavation and construction, the project would be consistent with this policy.

Geology and Seismic Hazards, Policy S-23: Coastal Bluffs. Development shall not be permitted near the top of eroding coastal bluffs.

The project site is unique in that the underlying geology consists of a fluvial bluff, which has been buried under artificial fill. The Technical Analysis (Cotton Shires and Associates 2011), which is included in Appendix C (Geology and Soils Background Information) and incorporated by reference in this EIR section, included an assessment of potential coastal erosion hazards, and did not identify any significant adverse effects or safety hazards related to coastal erosion. Therefore, the project is consistent with the intent of this policy.

Geology and Seismic Hazards, Program S-63: Require coastal bluff erosion studies to determine the rate or erosion and the resulting safe distance from the top of the bluff for development, in accordance with the LCP.

Preparation of the EIR included a comprehensive analysis of potential erosion hazards, both short- and long-term. Based on the analysis, the project would not result in a safety issue related to erosion, thus meeting the intention of this Program.

Geologic and Seismic Hazards, Implementation Measures, Standard S-56: For developments in areas of known slope instability, landslides, or slopes steeper than 20

percent, the stability of slopes shall be addressed by registered professionals practicing in their respective fields of expertise.

The applicant submitted technical reports and plans completed by registered engineers, and independently peer reviewed during the EIR analysis, consistent with this implementation measure.

Geologic and Seismic Hazards, Implementation Measures, Standard S-59: Development proposals will be required to mitigate the impacts that their projects contribute to landslides and slope instability hazards on neighboring property, and appurtenant structures, utilities, and roads; such as emergency ingress and egress to the property, and loss of water, power or other lifeline facilities.

Based on incorporation of recommendations identified in the Updated Geotechnical Investigation and Engineering Evaluation, which include use of a temporary shoring system to stabilize cut slopes during excavation and construction, the project would be consistent with this implementation measure and would not destabilize areas adjacent to Studio Drive and the neighboring developed property to the south.

Geologic and Seismic Hazards, Implementation Measures, Standard S-60: Enforce current building code requirements and applicable ordinances and sections of the General Plan that pertain to development on sloping ground.

The County requires compliance with the CBC, Estero Area LUE and LCP, and CZLUO, consistent with this implementation measure. Based on the technical reports peer reviewed and incorporated by reference into this EIR analysis, the project would be consistent with the Safety Element, and no significant impacts would occur.

7 **M r r** The project site is not located in an area designated for mineral extraction, and no valuable minerals are known to occur onsite. Therefore, no significant impacts would occur.

8 **rd** The potential coastal hazards associated with the proposed residential development include shoreline erosion, wave runup, and coastal flooding.

Erosion Hazard

The shoreline in front of the subject property has been relatively stable over the long term (USGS 2006). On the basis of the USGS study, aerial photograph review spanning 39 years, the elevation of the proposed development, and the presence of hard rock material between the shoreline and the proposed residence:

- there has been very little erosion or retreat of the shoreline over the last four decades;
- a 2.5-foot rise in sea level will likely not result in a significant impact on the erosion rate or the proposed residence; and,
- there is no potential significant marine erosion hazard at the site over the next 100 years.

Therefore, the potential for significant erosion due to sea level rise would not be significant in this location.

Oceanographic Flooding Hazard

The primary hazard due to flooding from ocean waters is storm surge. The highest recorded water elevation on record in the vicinity of Cayucos (Port San Luis) is 7.57 feet NAVD88 and includes all oceanographic effects on sea level except for long-term sea level rise predictions (NOAA 2011). Incorporating a potential sea level rise of 2.5 feet in the next 100 years, the future design maximum sea level would be 10.1 feet NAVD88, which is considered to be in excess of a 100-year recurrence interval water level. The proposed residence would be located at and above an elevation of 15.0 feet NAVD88; therefore, the site would not be adversely affected by flooding from the ocean over the next 100 years.

Breaking Wave Elevation

The project incorporates a cantilevered design. The proposed first floor would be located at elevation +26 feet NAVD88, and will extend a significant distance ocean-ward beyond the basement floor; therefore, the Coastal Hazards and Wave Runup report (GeoSoils, Inc. 2011, 2012) evaluated the potential maximum breaking wave crest elevation. The breaking wave elevation analysis calculated that the maximum wave crest elevation at the project site is approximately +14.5 feet NAVD88, which is well below the proposed cantilevered first floor elevation of +26 feet NAVD88. Therefore, the cantilevered portion of the structure would not be adversely affected by breaking wave forces.

Wave Runup Hazard

A wave runup analysis was performed under extreme (worst-case) design oceanographic conditions including storm surge, sea level rise of 2.5 feet over the next 100 years, and scour of the beach in front of the rock outcropping down to elevation 3.1 feet NAVD88, utilizing a design wave height of 5.5 feet. In this worst-case scenario, the maximum wave runup would be at elevation +22.7 feet NAVD88, and may reach the basement of the proposed residence at +15.0 feet NAVD88 over the next 100 years (GeoSoils, Inc. 2011). However, the runup is characterized as a pulse of water reaching the basement wall rather than a continuous or sustained flow over time. Based on calculations, the depth of the water overtopping the rock outcrop and reaching the residence would be approximately 0.14 foot deep. The runup analysis indicates that the velocity of the wave runup bore will not be sufficient to cause damage to the structure, assuming the basement wall is constructed of steel-reinforced concrete; however, the structure will be subject to spray and splash from wave runup striking the rock outcropping. The rock outcropping at its average elevation of 17 feet NAVD88 would be overtopped by the design wave (5.5 feet) at a rate of about 0.27 cubic feet/second-feet. Based on this low height of water (0.14 foot) and relatively low velocity, the proposed project would not be adversely affected. In addition, based the initial low velocity, and reduction in wave height and velocity following potential contact with the proposed basement wall, any wave refraction would not adversely affect the adjacent property.

In addition to wave runup, the analysis considered exposure to tsunami. Based upon review of historical data and tsunami forecast modeling by the University of Southern California Tsunami Research Center, a 6.5-foot-high tsunami wave occurring at the project site would be a 500-year recurrence interval event. The wave runup analysis

used a design wave height of 5.5 feet, which also represents a suitable site-specific tsunami runup at the site.

As proposed, the basement would be located at elevation 15 feet NAVD88, and basement concrete would be reinforced with steel; therefore, wave runup will not adversely impact the proposed residence over the next 100 years. An extreme tsunami may reach as high as the basement, but, for the reasons stated above, a tsunami will not adversely impact the residence. Based on the analysis presented above, and incorporated by reference from the coastal hazards and wave runup analysis report (GeoSoils, Inc. 2011, 2012), no significant impacts related to coastal hazards, including sea level rise, shoreline erosion, wave runup, and coastal flooding would occur, and the proposed residence would neither create nor contribute to erosion, geologic instability, or destruction of the site or adjacent area.

1 **r r** The project proposes construction of one single-family residence in an existing neighborhood. The project would result in the addition of some vehicle trips on local roads (approximately 9.6 per day), but the traffic noise associated with a single residence is not considered significant. Therefore, the project would not generate significant increases in the ambient noise levels for adjoining areas.

The project would also generate construction-related noise and vibration associated with construction and development of the structure. However, the project does not propose any significant sources of man-made vibration (i.e., sonic booms, blasting, pile driving, pavement breaking, and demolition). Per the County's Land Use Ordinance, §23.06.042d, construction noise between the hours of 7:00 a.m. and 9:00 p.m. on Mondays through Fridays, and 8:00 a.m. and 5:00 p.m. on Saturdays and Sundays, is exempt from control or mitigation. This type of noise is considered a short-term impact and *less than significant* (Class III). Therefore, the project is not expected to expose people to severe noise or vibration, or to result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity.

2 **r r r** The proposed project is not located within any airport land use plan or two miles of a public or private airstrip, and would not expose people to excessive noise levels, therefore no impacts are expected to occur.

H. **r d**

1 **r d r r d r** . The proposed project would potentially result in additional demand on public services, including emergency protection, schools, roads, solid waste disposal, parks, water supply and wastewater treatment systems. However, development is limited to one single-family residence and it is not likely that any public service or utility would be significantly impacted by the slight increase in service demand. The project applicant would pay all applicable school and public facility fees which would reduce these impacts to a less then significant level.

The proposed project is not located within a high fire severity zone, and response times are generally two to three minutes. Although the Cayucos Fire Protection District and County Sheriff's Office are considered understaffed for the populations

they serve, the addition of a single residence within an existing neighborhood would not have a significant effect upon fire or police protection, and no new or altered emergency services would be required. Area schools, roads and parks are operating at acceptable levels of service, and the project will be served by private solid waste disposal, water, and wastewater systems, all of which have sufficient capacity to accommodate the proposed residential use. Therefore, no significant impact on these services would result from the project.

All stormwater would be handled onsite, either collected and used as gray water for toilet flushing and landscaping or directed westward onto the beach. Therefore, no new stormwater drainage facilities or expansion of existing facilities would be required. County landfills have sufficient permitted capacity to accommodate the small increase in solid waste resulting from the proposed project. Applicable water service providers and wastewater treatment facilities are capable of supporting the proposed development and no new entitlements, new facilities or expansion of existing facilities would be required. The project would comply with all statutes and regulations related to solid waste. The project would not adversely affect a community water service provider or community wastewater service provider, therefore no impacts are expected to occur.

2 r The project would connect to the existing sewer system managed by the Cayucos Sanitary District, and would not require an onsite system subject to the Central Coast Basin Plan. The Cayucos Sanitary District is currently operating at acceptable levels and can accommodate the proposed project (one residence).

No significant adverse impacts would occur as a result of the proposed project, and no mitigation measures are necessary

r

1 r r r The project proposes the development of one single-family residence in an existing developed residential area, and would not create a significant increase in the use or demand of recreational areas or facilities. The project applicant will pay all applicable public facility fees to address increased demand on area recreational facilities. Therefore, potential impacts would be *less than significant* (Class III).

2 r . Beach access is provided directly adjacent to the project site, and lateral access would be provided on the sandy portion of the lot. Access to trails, parks or other recreational opportunities would not be impacted by the proposed development. The future Morro Bay to Cayucos connector bike path would be located along Studio Drive, and development of the project would not affect this project, because it is limited to the existing residential parcel boundaries. The project does not include any components for the development of recreational facilities that may have an adverse physical effect on the environment. No significant adverse impacts would occur as a result of the proposed project, and no mitigation measures are necessary.

r r r d r

1 r r r The project proposes one single-family residence within an existing residential area with all roads operating at acceptable

levels. While the project would add trips to the local circulation system (approximately 9.6 per day), all roads in the area are operating at acceptable levels and are capable of accommodating the small increase in trips. A referral was sent to the County Department of Public Works requesting their review of the project. They had no comments related to traffic concerns associated with the proposed project other than that an encroachment permit would be required for the new driveway. Therefore, no significant increase to local or areawide circulation systems is anticipated, and potential impacts would be *less than significant* (Class III).

2 **d** The project includes a private driveway, which would connect to Studio Drive. Based on review by the County Department of Public Works, a standard Encroachment Permit will be required. The project does not include any features that would result in unsafe traffic conditions; therefore, potential impacts would be *less than significant* (Class III).

3 **r** The project consists of a single-family residence on an existing lot. The site is accessible to emergency services by Studio Drive, which connects to Highway 1, and occupants have clear access out of the area. Potential impacts related to emergency access would be *less than significant* (Class III).

4 **r** Sufficient parking for the proposed residential development is proposed at the project site, including a private driveway, carport, and garage. Therefore, potential impacts related to parking capacity would *be less than significant* (Class III).

5 **r r r** The project is a single-family residence; therefore this threshold does not apply and no impact would occur.

6 **r r r d r r** . Transportation and circulation policies relevant to the proposed project exist in local and state documents. These documents generally encourage the development of alternative transportation as a means to reduce traffic congestion and increase safety, among other things. The policy documents reviewed as part of this EIR section include the County's Estero Area Plan and Bikeways Plan. The proposed project is *consistent* with these plans because it consists of a single-family residence located within an existing residential neighborhood, with access to pedestrian and bicycle paths.

7 **r r r** The project is not located within two miles of a public or private airport or airstrip, and is not located at an elevation that would affect air traffic patterns. Modern solar panel technology incorporates anti-glare coatings that absorb, rather than reflect, sunlight. Therefore, the project would not affect air traffic, and potential impacts would be *less than significant* (Class III).

r r

1 **r d r**. The project site is not located in an area where development would affect the quality of groundwater resources; therefore, no impact would occur.

2 **r M r r r d r** The project would not create a demand of water exceeding the capacity of the water service provider, and would not require a significant level of additional groundwater pumping

by the provider to serve the project. Therefore, the project would not change the quantity or movement of groundwater.

As noted above, the project includes improvements to the existing stormwater drain onsite. The project has been reviewed by the County Department of Public Works, and the proposed plan has been approved at a preliminary level by County staff. Stormwater currently flows into a County drain, and onto the beach via the stormwater system or surface flow. The proposed system would direct water through the project site and onto the beach. Energy dissipaters are included to slow down storm water flow and minimize the potential for erosion at the outlet. Based on the proposed plan, and compliance with existing regulations identified in the County CZLUO, potential impacts would be *less than significant* (Class III).

3 **d r r r d r** Long-term use of a single-family residence is expected to require approximately 0.270 afy, or 4,375.8 gallons/month (City of Santa Barbara 1989; County of San Luis Obispo 2011). As noted above, the project would be served by CSA 10A, which has adequate water supply to serve the project. A preliminary will-serve letter was issued for the project in 2006. Therefore, potential impacts would be *less than significant* (Class III).

6.0 [illegible] M[illegible]

Pursuant to §15091(a)(1) of the CEQA Guidelines, the Planning Commission finds that, for each of the following significant effects as identified in the Final EIR, changes or alterations (mitigation measures) have been required in, or incorporated into, the project which avoid or substantially lessen each of the significant environmental effects as identified in the Final EIR. The significant effects (impacts) and mitigation measures are stated fully in the Final EIR. The following are brief explanations of the rationale for this finding for each impact:

6.1

1	
Visibility of night lighting would affect views resulting in a direct long-term impact.	
Mitigation	-1 Prior to issuance of the building permit, the applicant shall submit interior and exterior lighting plans to the Department of Planning and Building for review and approval consistent with the following: a. The point source of all exterior lighting shall be shielded from off-site views, including beach areas. b. All required security lights shall utilize motion detector activation. c. Light trespass from exterior lights shall be minimized by directing light downward and utilizing cut-off fixtures or shields. d. Lumination from exterior lights shall be the lowest level allowed by public safety standards.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The EIR analysis assumes that exterior lighting would be included as part of the project. Because of the project's configuration and its proximity to public roadways and the beach, night lighting would be seen from the surrounding area. Unshielded light sources or bright-lights reflected on exterior walls would result in potential impacts. Fog is a common atmospheric condition of the area and increases the "glow-effect" as potentially seen from great distances. Although existing night lighting can be seen in the adjacent neighborhood, the project would increase the visibility of night lighting in the area.

6.2

1	
Construction of the proposed project would generate fugitive dust, which could become a nuisance to local residents and businesses in proximity to the construction site.	
Mitigation	AQ/mm-1 Prior to initiation of construction, the project applicant shall implement the following dust control measures: a. Reduce the amount of the disturbed area where possible; b. Use water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 miles per hour. Reclaimed (non-potable) water should be used whenever possible; c. All dirt stockpile areas should be sprayed daily as needed; and

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	d. All roadways, driveways, sidewalks, etc., to be paved should be completed as soon as possible, and building pads should be lain as soon as possible after grading unless seeding or soil binders are used.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project is located in proximity to sensitive surrounding land uses, and homeowners in the vicinity of the proposed project have expressed concern related to the impacts construction activities would have on surrounding properties. Construction activities can generate fugitive dust, which could be a nuisance to residents and businesses in proximity to the project site. Dust complaints could result in a violation of the APCD's 402 Nuisance Rule. In addition, operation of construction equipment, including equipment idling, generates diesel particulate matter, which can have an adverse effect on sensitive receptors.

	2
Use of construction equipment would generate diesel particulate matter, potentially resulting in an adverse effect to sensitive receptors within 1,000 feet of the project site.	
Mitigation	**-2** Prior to issuance of construction permits, the applicant shall include the following measures on applicable grading and building plans: **d r r r r d - d** a. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors; b. Diesel idling within 1,000 feet of sensitive receptors is not permitted; c. Use of alternative fueled equipment is recommended whenever possible; and, d. Signs that specify the no idling requirements must be posted and enforced at the construction site. **d r r -r d** a. Section 2485 of Title 13, the California Code of Regulations limits diesel-fueled commercial motor vehicles that operate in the State of California with gross vehicular weight ratings of greater than 10,000 pounds and licensed for operation on highways. It applies to California and non-California based vehicles. In general, the regulation specifies that drivers of said vehicles: 1. Shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location, except as noted in Subsection (d) of the regulation; and, 2. Shall not operate a diesel-fueled auxiliary power system (APS) to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5.0 minutes at any location when within 100 feet of a restricted area, except as noted in Subsection (d) of the regulation. Signs must be posted in the designated queuing areas and job sites to remind drivers of the 5 minute idling limit. The specific requirements and exceptions in the regulation can be reviewed at the following web site: www.arb.ca.gov/msprog/truck-idling/2485.pdf. **d r - d** a. Off-road diesel equipment shall comply with the 5 minute idling restriction identified in Section 2449(d)(3) of the California Air Resources Board's In-Use off-Road Diesel regulation: www.arb.ca.gov/regact/2007/ordiesl07/frooal.pdf. b. Signs shall be posted in the designated queuing areas and job sites to remind off-road equipment operators of the 5 minute idling limit.

	2
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project is located in proximity to sensitive surrounding land uses, and homeowners in the vicinity of the proposed project have expressed concern related to the impacts construction activities would have on surrounding properties. Construction activities can generate exhaust from equipment, which could be a nuisance to residents and businesses in proximity to the project site. In addition, operation of construction equipment, including equipment idling, generates diesel particulate matter, which can have an adverse effect on sensitive receptors

6.3

	1
Construction of the project may have an adverse impact on special-status species and their habitats, including off-site use of equipment, storage of materials, and inadvertent transport of debris or discharge of oils, fuels, and other pollutants into the beach area.	
Mitigation	**-1** Prior to issuance of construction permits, the applicant shall submit documentation verifying designation of a qualified environmental monitor for all measures requiring environmental mitigation to ensure compliance with Conditions of Approval and EIR mitigation measures. The monitor shall be responsible for: (1) ensuring that procedures for verifying compliance with environmental mitigations are followed; (2) lines of communication and reporting methods; (3) daily and weekly compliance reporting; (4) construction crew training regarding environmentally sensitive areas; (5) authority to stop work; and (6) action to be taken in the event of non-compliance. Monitoring shall be at a frequency and duration determined by the affected natural resource agencies (e.g., USACE, CDFW, RWQCB, California Coastal Commission, USFWS, and the County). **-2** Prior to the initiation of construction, the environmental monitor shall conduct environmental awareness training for all construction personnel. The environmental awareness training shall include discussions of sensitive habitats and animal species in the immediate area. Topics of discussion shall include: general provisions and protections afforded by the Endangered Species Act; measures implemented to protect special-status species; review of the project boundaries and special conditions; the monitor's role in project activities; lines of communications; and procedures to be implemented in the event a special-status species is observed in the work area. **-3** At the time of application for construction permits all grading plans shall clearly show the location of project delineation fencing, including protection fencing surrounding the Monterey cypress tree on the southern property boundary. **-4** Prior to the initiation of construction, the applicant's contractors and the environmental monitor shall coordinate the placement of project delineation fencing throughout the work areas. The environmental monitor shall field fit the placement of the project delineation fencing to minimize impacts to sensitive resources. The project delineation fencing shall remain in place and functional throughout the duration of the project. During construction, no project related work activities shall occur outside of the delineated work area. **-5** At the time of application for grading permits, all applicable plans shall clearly show stockpile and staging areas. Stockpiles and staging areas shall not be placed in areas that have potential to experience significant runoff during the rainy season. All project-related spills of hazardous materials within or adjacent to project sites shall be cleaned up

	1
	immediately. Spill prevention and cleanup materials shall be on-site at all times during construction. The staging areas shall conform to standard BMPs applicable to attaining zero discharge of storm water runoff. At a minimum, all equipment and vehicles shall be checked and maintained on a daily basis to ensure proper operation and to avoid potential leaks or spills. Maintenance, cleaning, and refueling of equipment and vehicles shall not be permitted onsite, within adjacent beach areas, or on Studio Drive. **-6** Prior to issuance of construction permits, the applicant shall submit a detailed sediment and erosion control plan for approval, which shall address both temporary and permanent measures to control erosion and reduce sedimentation. Erosion and soil protection shall be provided on all cut and fill slopes. Revegetation shall be facilitated by mulching, hydro-seeding or other methods, and shall be initiated as soon as possible after completion of grading, and prior to the onset of the rainy season (October 15). Permanent revegetation and landscaping shall emphasize native shrubs, and trees, to improve the probability of slope and soil stabilization without adverse impacts to slope stability due to irrigation infiltration and long-term root development. All plans shall show that sedimentation and erosion control measures are installed prior to any other ground disturbing work.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project site is located on beachfront property, immediately west of Studio Drive. The site is covered with common iceplant on the upper slope, and sea rocket (invasive weed) on the beach sands. The site does not include any features suitable for aquatic species. The sandy beach area provides foraging habitat for a variety of birds, including western snowy plover (*Charadrius alexandrinus*), California black rail (*Laterallus jamaicensis coturniculus*), California brown pelican (*Pelecanus occidentalis*), and California least tern (*Sterna antillarum browni*). The mature cypress tree (to remain) and adjacent pine (to be removed) along the southern property boundary may provide tree nesting opportunities for birds. Due to the location of the project site and presence of suitable habitat in the area, precautionary measures are recommended to ensure impacts to snowy plover and other bird species are avoided. The project site provides suitable habitat for coast horned lizard and other common reptiles. Grading activities could result in direct take of coast horned lizard and other reptiles if present. Direct take may include being struck by equipment, entrapped in stockpiled materials or trenches, or trampled or collected by construction personnel. Old Creek provides habitat for a variety of special-status species noted above. The project is located approximately 600 feet from the creek, and would not directly affect the ESHA or special-status species within the creek. Inadvertent impacts to special-status species may occur including use of equipment and storage of materials outside the property boundary, and leaks, spills, and debris adversely affecting the beach areas surrounding the parcel. Degradation of habitat would have an adverse effect on special-status species, and other wildlife in the area.

	2
Construction activities conducted during the nesting season (March through September) could directly or indirectly impact nesting western snowy plover and other bird and bat species.	
Mitigation	**-7** Upon application for construction permits, the following measure shall be included on all applicable plans: The applicant shall avoid ground disturbing activities conducted during the snowy plover nesting season to the extent feasible. If work activities must occur during the nesting season the following measures shall be taken:

2	
	a. Prior to installation of the project delineation fencing and the commencement of site grading, a qualified biologist shall conduct a series of pre-construction nesting bird surveys for western snowy plover. Surveys shall be conducted every other day for two weeks prior to any project related disturbances. b. Surveys for snowy plovers shall include walking through all potential nesting and foraging habitat within 300 feet of the site on each survey day. The survey area shall include all available snowy plover nesting habitat within 300 feet of anticipated project activities. c. The number of snowy plover individuals observed and their activities (e.g. nesting, foraging, resting, etc.) shall be documented. All documented occurrences would be reported to USFWS and documented on the CNDDB. d. If nesting activity is identified, all project activities within 300 feet of the nest shall be delayed until the nesting activity has ceased. e. During construction, the environmental monitor shall conduct snowy plover surveys twice a week (preferably two to three days apart). **-8** Upon application for construction permits, the following measure shall be included on all applicable plans: If commencement of construction begins between March and September, the environmental monitor shall conduct pre-construction nesting bird surveys. If nesting activity is identified, the following measures shall be implemented: a. If active nest of common passerine or shorebird species' are observed in the work area or within 100 feet of the work area, construction activities shall be modified and or delayed as necessary to avoid direct take or indirect disturbance of the nests, eggs, or young. b. If active nest sites of raptors or other special-status species are observed within the work area or 300 feet of the work area, the environmental monitor shall establish a suitable buffer around the nest site. Construction activities in the buffer zone shall be prohibited until the young have fledged the nest and achieved independence. c. Active raptor or special-status species nests should be documented by a qualified biologist and a letter report should be submitted to the County, USFWS, and CDFW, documenting project compliance with the MBTA and applicable project mitigation measures.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The sandy beach area provides foraging habitat for a variety of birds, including western snowy plover (*Charadrius alexandrinus*), California black rail (*Laterallus jamaicensis coturniculus*), California brown pelican (*Pelecanus occidentalis*), and California least tern (*Sterna antillarum browni*). The mature cypress tree (to remain) and adjacent pine (to be removed) along the southern property boundary may provide tree nesting opportunities for birds. Due to the location of the project site and presence of suitable habitat in the area, precautionary measures are recommended to ensure impacts to snowy plover and other bird species are avoided.

3	
The proposed project could result in direct take of coast horned lizard during project grading and construction.	
Mitigation	**-9** Upon application for construction permits, the following measure shall be included on all applicable plans: Prior to site grading, the environmental monitor shall conduct a survey for coast horned lizard and other reptiles. The surveyor shall utilize hand search methods in areas of disturbance where coast horned-lizards are expected to be found (e.g., under shrubs, other vegetation, or debris). Any lizards located during this survey should

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	be safely removed from the construction area and placed in suitable habitat.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project site provides suitable habitat for coast horned lizard and other common reptiles. Grading activities could result in direct take of coast horned lizard and other reptiles if present. Direct take may include being struck by equipment, entrapped in stockpiled materials or trenches, or trampled or collected by construction personnel. Old Creek provides habitat for a variety of special-status species noted above. The project is located approximately 600 feet from the creek, and would not directly affect the ESHA or special-status species within the creek. Inadvertent impacts to special-status species may occur including use of equipment and storage of materials outside the property boundary, and leaks, spills, and debris adversely affecting the beach areas surrounding the parcel. Degradation of habitat would have an adverse effect on special-status species, and other wildlife in the area.

	4
Construction of the project may impact the root zone or result in inadvertent disturbance of a mature cypress tree.	
Mitigation	Implement -3 and -4.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	One cypress tree is located adjacent to the project site, which is considered an important native species along the California coastline. This tree would remain. One small pine tree would be removed; however, this species is not considered native or important vegetation in this location. No other native or important vegetation would be directly affected by the project. Mitigation is recommended to ensure protection of the cypress tree.

6 4

	1
The proposed residence would be exposed to the effects of liquefaction during a ground-shaking event.	
Mitigation	-1 Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Engineering Evaluation (Shoreline Engineering 2012) and Updated Geotechnical Investigation (GSI Soils, Inc.) dated December 27, 2011, specifically the recommendations identified in Section 5.2 – Preparation of the Building Pad, Section 5.3 – Structural Fill, Section 5.4 – Drilled Piers, Section 5.5 – Conventional Deepened Foundation, Section 5.6 – Slab Construction, and Section 5.9 – Surface and Subsurface Drainage.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive	Soil liquefaction is a phenomenon in which a saturated, cohesionless, near-surface soil layer loses strength during cyclic loading (such as typically generated by earthquakes). During the

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Evidence	loss of strength, the soil acquires "mobility" sufficient to permit both horizontal and vertical ground movements. Soils that are most susceptible to liquefaction are clean, loose, saturated, uniformly graded, fine-grained sands that are generally located within 50 feet depth beneath the ground surface. Gravels with similar characteristics and non-plastic clays and silts have also been shown to be susceptible to liquefaction. Based on the potential presence of perched water conditions during wet winter months in the upper 5 feet of soils above the dense bedrock materials, the current potential for liquefaction is moderate to high. This potentially significant impact can be successfully addressed and mitigated via implementation of typical geotechnical recommendations for site processing, grading, and/or foundation design. Therefore, the resulting liquefaction potential at the project site would be low, and would generally result in minor to cosmetic damage to the proposed structure, and total settlements would be approximately 0.5 inch (GSI Soils, Inc. 2012). This amount of settlement is considered tolerable for the proposed project, and is indicative of liquefaction in the negligible category. Therefore, potential impacts can be mitigated to a *less than significant* level (Class II).

2	
The proposed residence would be exposed to the effects of ground lurching and differential compaction during a ground-shaking event.	
Mitigation	**-2** Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.) dated December 27, 2011, and specifically the following: a. All surface and subsurface deleterious materials shall be removed from the proposed building area and disposed of offsite. This includes, but is not limited to, any buried utility lines, loose fills, debris, building materials, and any other surface and subsurface structures. b. Voids left from site clearing shall be cleaned and backfilled as recommended for structural fill. c. Once the site has been cleared, the exposed ground surface shall be stripped to remove surface vegetation and organic soil.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The potential for lurching and differential compaction (densification) of the existing undocumented fill is considered to be high due to the generally loose nature of the soil. This potential impact can be mitigated by removal and/or removal and backfilling as structural fill (GSI Soils, Inc. 2011). Based on compliance with these project-specific recommendations, potential impacts can be mitigated to *less than significant* (Class II).

3	
Grading and excavation required for the construction of the project would result in significant, short-term, adverse impacts related to erosion and down-gradient sedimentation.	
Mitigation	*Implement* ***BIO/mm-4***, ***BIO/mm-5***, *and* ***BIO/mm-6***.

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3	
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	Implementation of the project will require grading and removal of sand, soil, and vegetation. Grading activities would disturb approximately 3,000 square feet of the 3,445-square-foot parcel, including 400 cubic yards of cut (foundation) and 150 cubic yards of fill (driveway). The average depth of cut would be 5 feet (minimum 1 foot, maximum 12 feet). Approximately 250 cubic yards of soil would be exported offsite. During construction, exposed soils may result in erosion during rain events, or wave runup. Compliance with the County CZLUO and implementation of project-specific erosion-control measures are necessary to retain soils onsite and avoid down-gradient sedimentation into the Pacific Ocean. Based on compliance with existing regulations, and recommended mitigation measures, potential short-term impacts would be mitigated to a *less than significant* level (Class II).

4	
The creation of steep cut slopes during site preparation and grading associated with construction of the proposed residence would result in short-term slope instability.	
Mitigation	GS/mm-3 Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the following: recommendations for slope stability identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.10 – Temporary Excavations and Slopes; and Shoring Detail prepared by Shoreline Engineering (January 2012, updated September 20, 2012). Plans shall demonstrate how construction would be conducted such that no activity would compromise the neighboring structure. Construction of all site preparation and shoring activities shall be monitored by the project Engineer of Record, and daily monitoring reports shall be prepared and submitted to the County Department of Planning and Building on a weekly basis.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	Construction cuts for basement retaining walls may exceed 12 feet in depth on the south and east sides of the proposed residence. The potential for instability of temporary (construction) slopes is a significant concern, and there is a moderate to high potential for temporary slope instability impacting the project site and the adjacent property. To address this issue, the applicant proposes to retain temporary slopes with a shoring system consisting of soldier piles and steel plate lagging. The shoring system would be removed following permanent stabilization of the slope. Based on implementation of this strategy, and compliance with the recommendations presented in the *Updated Geotechnical Investigation* (GSI Soils, Inc. 2011), potential short-term impacts would be *less than significant* (Class II).

5	
Beach sand scour caused by heavy surf may periodically and temporarily create unstable slopes adjacent to the proposed residence.	
Mitigation	-4 Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which include the use of deepened pier foundations identified in the Engineering Evaluation (Shoreline Engineering, Inc.), dated January 2012, and Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.2 – Preparation of Building Pad,

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	Section 5.4 – Drilled Piers, and Section 5.5 – Conventional Deepened Foundation.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	Construction of the proposed driveway will result in structural fill placement against the existing 2:1 gradient fill slope of Studio Drive, with the fill being supported by retaining walls. Upon completion of the project, no significant slopes will exist that could pose a slope instability hazard to the property. Significant scour of beach sand due to heavy surf may temporarily create a steep bedrock slope ocean-ward of the existing bedrock outcropping. Provided the proposed residence is constructed on deepened pier foundations as proposed, temporary beach scour should not pose a slope instability hazard to the residence.

	6
The proposed residence would be constructed on soils with a high expansion potential, resulting in a potentially significant long-term impact.	
Mitigation	**-5** Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.1 – Clearing and Stripping, Section 5.2 – Preparation of Building Pad, and Section 5.3 – Structural Fill.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	A single expansion index test was conducted by GSI Soils, Inc. (2007) on a sandy clay sample from Boring B-2 at 6 feet. The reported expansion index was 92, which indicates a high expansion potential. The material in B-2 at this depth is likely weathered mudstone bedrock. Based on the geotechnical report, onsite sand soils free of organic and deleterious material are suitable for use as non-structural fill below the select fill cap. Structural fill using onsite inorganic soil or approved imported soil should be placed in layers, conditioned, and compacted, pursuant to engineer's specifications. Therefore, potentially significant impacts related to expansive soil can be mitigated to *less than significant* (Class II).

	7
The proposed stormwater drainage plan may result in erosion down-gradient of the proposed drain outlet.	
Mitigation	**-6** Prior to issuance of grading and construction permits, the applicant shall submit a drainage plan for review and approval by the County Department of Public Works. The drainage plan shall be coordinated with the sedimentation and erosion control plan, be consistent with CZLUO §23.050.036 and 040, and specifically include engineered energy dissipators and controls that would limit peak runoff to pre-development levels.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The applicant's proposed site drainage improvements would convey both Studio Drive runoff and driveway runoff to a drainage exit structure, which would outlet into a natural drainage swale. The natural drainage channel consists of highly erodible sands, and erosion in the channel has been accelerated by foot traffic from people accessing Morro Strand State

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	Beach from Studio Drive. The swale would incorporate bollard style energy dissipators and a gravel/cobble invert, which are intended to reduce stormwater flow velocity and erosion potential. Rainfall from the residence roof is proposed to be collected by a roof gutter system and held in a cistern for gray water use and landscape irrigation. Construction of the proposed impermeable concrete driveway would result in an increase in surface runoff onsite, which increases the potential for erosion in the natural drainage swale. This impact can be mitigated through appropriate civil engineering drainage design. CZLUO §23.05.050 requires a Drainage Plan for development located on a site adjacent to any coastal bluff, or if the project may change the offsite drainage pattern. Based on the location of the project on the beach-side of Studio Drive, and proposed changes to the existing stormwater system, a Drainage Plan would be required, which would be based on the preliminary drainage plan summarized above. The proposed project would not result in substantial onsite or offsite flooding, because stormwater would continue to flow west towards the Pacific Ocean (similar to existing conditions, which do not result in flooding), and would be filtered and dissipated by the proposed system. Based on review of the preliminary drainage plan, compliance with the CZLUO, and incorporation of mitigation identified below, potential long-term impacts would be mitigated to a *less than significant* level (Class II).

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Construction of the proposed project would potentially expose people to transportation-related noise levels that exceed the County Noise Element thresholds.	
Mitigation	-1 Upon application for building permits, the project applicant shall include in the project design the following standard mitigation measures for interior noise mitigation provided in the Noise Element for levels in the 60-65 dBA range: a. Air conditioning or a mechanical ventilation system; b. Windows and sliding glass doors mounted in low air infiltration rate frames (0.5 cubic feet per minute or less, per American National Standards Institute [ANSI] specifications); and, c. Solid core exterior doors with perimeter weather stripping and threshold seals.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project proposes a noise sensitive use within the vicinity of Highway 1. Per the County Noise Element, 60 dBA is considered the maximum acceptable exterior noise exposure level for residential uses and 45 dBA is the maximum acceptable exposure level for interior uses. Uses within this range will not require mitigation. The eastern boundary of the project site is located approximately 160 feet from the centerline of Highway 1. The topography between the highway and the site consist of generally flat areas to Studio Drive, and then the property slopes down several feet (approximately 5 to 8 feet) from Studio Drive to the beach. According to the County Noise Element contour maps, the 65 dBA range extends from the centerline of the highway 209 feet west. Therefore the easternmost 50 feet of the project site is located within the 65 dBA range, and the remainder is located within the 60 dBA range. The project has been designed to provide a noise buffer between Highway 1 and the proposed living space. The project proposes a driveway and parking garage on the eastern portion of the site, which are not considered outdoor uses subject to the 60 dBA limit. The living area is also proposed below the grade of the highway by approximately 8 to 10 feet. Because the topography of the subject lot is below the street elevation, the ground will buffer most of the noise from Highway 1, thereby allowing for a minimal impact from noise to the

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	livable areas of the home. In addition, the project would conform to the latest edition of the Uniform Building Code (UBC); normal construction practices in the Code would provide a noise level reduction of approximately 15 dBA (County of San Luis Obispo 1992), potentially bringing resultant noise levels within the interior 45 dBA threshold. However, because a portion of the project site is located in an area that currently exceeds Noise Element thresholds, and normal construction practices and natural buffers may be insufficient to bring noise levels within acceptable ranges, some mitigation may be necessary. The County Noise Element recommends standardized mitigation measures for reducing interior noise levels in the 60-65 dBA range. These measures are referenced in the FEIR and County Noise Element.

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The project would include construction activities that would require ground disturbance and use of heavy equipment, which may result in the discharge of sediment and other pollutants, potentially affecting surface water quality.	
Mitigation	**-1** Upon application for construction permits, the applicant shall submit grading and construction plans showing BMPs, and shall implement BMPs during grading and construction activities. Best Management Practices (BMP's) shall include, but not be limited to, the following: a. Erosion control barriers shall be applied, such as silt fences, hay bales, drain inlet protection, and gravel bags; b. Disturbed areas shall be stabilized with vegetation or hard surface treatments upon completion of construction in any specific area. c. All inactive disturbed soil areas are required to be stabilized with both sediment and temporary erosion control prior to the onset of the rainy season (October 15 to April 15). **-2** Prior to issuance of grading and construction permits, the applicant shall submit a copy of the Regional Water Quality Control Board (RWQCB)-issued stormwater construction permit. The permit shall be on-site during all major grading and construction activities. Implement **-1**, **-5**, and **-6**.
Findings	After implementation of the mitigation measures, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The Clean Water Act has established a regulatory system for the management of storm water discharges from construction, industrial and municipal sources. The State Water Resources Control Board (SWRCB) has adopted a National Pollutant Discharge Elimination System (NPDES) Storm Water General Permit, which requires the implementation of a Storm Water Prevention Pollution Plan (SWPPP) for discharges regulated under the SWRCB program. Currently, construction sites of 1 acre and greater may need to prepare and implement a SWPPP that focuses on controlling storm water runoff. The RWQCB, the local extension of the SWRCB, currently monitors these SWPPPs. Based on review by the RWQCB, the applicant will be required to obtain a stormwater construction permit due to the project's proximity to surface waters (Pacific Ocean). Proposed grading activities would disturb soil and sand, and potentially result in off-site

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	sedimentation. Standard erosion and sedimentation control measures would be required, including staking or flagging the development footprint; use of fiber rolls and silt fencing to retain soil and sand on-site; covering soil stockpiles; and restoration and revegetation of disturbed soils. Implementation of these measures would ensure avoidance of adverse effects to water quality. The project includes removal of the existing County storm drain, and construction of a new storm water management system, including an inlet with a filter and outlet with energy dissipaters. Stormwater would continue to flow onto the beach area to the northwest. Discharge of sediment, hydrocarbons, and other pollutants from the roadway into stormwater and drainage infrastructure (which eventually discharge into surface waters) would affect water quality. Implementation of BMPs and Low Impact Design (LID) techniques consistent with CZLUO §23.05.050.e(1) (Water Runoff, Best Management Practices – Residential development) would avoid or minimize the project's contribution to water quality issues affecting the Pacific Ocean. Additional mitigation is included under the Biological Resources analysis, including BR/mm-5 (stockpile and staging areas, management of hazardous materials, and implementation of BMPs) and BR/mm-6 (erosion and sedimentation control). In addition, an environmental monitor would be present to verify and document compliance with mitigation measures related to the protection of biological resources, including aquatic habitat and surface waters (BR/mm-1). The project includes a preliminary drainage plan, which has been reviewed and approved by the County Department of Public Works. In the long-term, the project would not result in any significant impacts to water quality, because the proposed stormwater system includes energy dissipaters that would allow stormwater to continue flowing onto the beach in a non-erosive manner.

4-58

7.0 [illegible]

No significant and unavoidable impacts (Class I) were identified for the proposed project.

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8.1 M M

State CEQA *Guidelines* §15355 defines cumulative impacts as

> *"two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts". Further, "the cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time."*

The Guidelines require the discussion of cumulative impacts to reflect the severity of the impacts and their likelihood of occurrence. However, the discussion need not be as detailed as the analysis of impacts associated with the project, and should be guided by the rule of reason. Cumulative impacts associated with this project are discussed in the topical analysis sections provided in Chapter 4 of the Final EIR.

8.1.1 r

The cumulative study area for air quality impacts is the South Central Coast Air Basin (SCCAB). The project would contribute criteria pollutants during project construction and long-term operational use, including ozone precursors and particulate matter. No major projects are proposed in the immediate vicinity of the project site; however, a number of large development projects are currently under review by the County, and cities within the county, including mixed-use, residential, commercial, and solar energy projects. These projects may be under construction simultaneously with the project and, in the long term, would be generating similar air emissions due to use of construction equipment, increased traffic trips, and energy use.

Depending on construction schedules and actual implementation of projects in the air basin, generation of fugitive dust and pollutant emissions during construction could result in short-term increases in air pollutants. Analysis conducted specifically for this project concluded that implementation of the proposed project would not significantly contribute to cumulative long-term operational air quality impacts because it would not exceed the daily ROG+NO_x threshold. GHG impacts, including those described above, all contribute cumulatively with those produced worldwide, to affect climate change. Compliance with identified air quality, energy efficiency, and water conservation mitigation measures would reduce the project's contribution to cumulative GHG emissions, and subsequent climate change. Cumulative effects would be *less than significant* (Class III).

8.1.2 r

No major projects are scheduled to be constructed during a similar timeframe as the project. The closest known project is the Morro Bay to Cayucos Connector, which would run along Studio Drive adjacent to the project site, within the paved area. The timing for construction of that project is currently undetermined. Based on the location and size of the project, and implementation of recommended mitigation measures, the project would not have any significant residual direct or indirect adverse impacts to sensitive biological resources, including special-status species, habitats, and wildlife. The site is not within a designated Environmentally Sensitive Habitat Area (ESHA). The project would not significantly contribute to the loss of

species or sensitive habitat. Therefore, potential cumulative impacts would be *less than significant* (Class III).

8 1 3 r r

The destruction of cultural resources can have the potential for significant cumulative impacts as they are inherently important to the descendants of native peoples and make the study of pre-historic and historic life unavailable for study by scientists. Given the prevalence of cultural resource sites in San Luis Obispo, and the number of construction activities that involve disturbance of archaeologically sensitive areas that are not regulated, it is likely that significant pre-historic and historic resources are often not identified and are permanently lost. For the proposed project, no prehistoric archaeological resources were identified with the project site, and implementation of the proposed project would not contribute to the cumulative degradation of significant cultural resources in the County. Based on lack of significant resources at the project site, and compliance with the CZLUO, potential cumulative impacts resulting from the proposed project are considered *less than significant* (Class III). No additional mitigation is required.

8 1 4 d

Implementation of the pending and approved projects listed in the cumulative development scenario would increase development in the immediate area. No projects requiring grading or construction would occur in the immediate vicinity of the project, and no existing adverse geologic or drainage conditions are present on or adjacent to the project site.

Additional development, including the proposed project, would increase the number of people and structures exposed to a variety of geologic and soils hazards within the County, including liquefaction, ground shaking, and temporary exposure to sea level rise and storm surge. Potential impacts related to geologic, soils, and seismic hazards are all site-specific, and mitigation measures are applied to each project to minimize the potential for significant geologic impacts. All development projects are required to comply with State and local regulations regarding grading and construction; therefore, no cumulative impacts related to these issues have been identified. Implementation of mitigation measures identified above, and compliance with existing regulations would mitigate impacts to *less than significant* (Class III), and no additional measures are necessary.

8 1 5 rd d rd M r

Due to the type of project proposed, and lack of hazards or hazardous materials within or near the project site, construction and operation of the project would not contribute to environmental impacts related to hazards. Cumulative impacts would be *less than significant (Class III)*. No additional mitigation is required.

8 1 6 r

As with any new residential development, the project has the potential to result in a cumulative effect on recreational resources, by adding demand on public parks, trails, and recreational areas. However, the project's cumulative impacts are within the general assumptions of allowed use for the subject property. Adequate public facility fee programs have been adopted to address these impacts. Impacts to the area recreational resources and facilities will be mitigated through the payment of appropriate fees prior to issuance of a building permit for the proposed project. The future Morro Bay to Cayucos connector bike path is proposed to run along Studio Drive directly adjacent to the project site, which will create a *beneficial impact* (Class IV) on

recreational resources by providing additional pedestrian and biking trails in the project vicinity and connecting other recreational opportunities in the city of Morro Bay and community of Cayucos.

8 1 7 r r d r

Population and tourism in the areas surrounding the proposed project are expected to slowly and steadily increase in the future, resulting in a corresponding steady increase in traffic, parking demands, and safety conflicts in the Cayucos area. The proposed project would contribute to cumulative traffic volumes in the area; however, because it is not resulting in an increase in residential density, the increase would be minor, and at a level anticipated in by the Estero Area Circulation Element. Therefore, potential cumulative impacts would be *less than significant* (Class III).

8 1 8 r r

Water demand for the proposed use represents a small percentage of total water demand in the Cayucos area, and the boundaries of CSA 10A (approximately 0.6%). As previously discussed, CSA 10A has available water to serve this project, in addition to others within the service area. Therefore, potential cumulative impacts would be *less than significant* (Class III).

8 2 M

CEQA Guidelines §15126.2(d) requires an EIR to discuss the growth inducing impacts of a proposed project, including the ways in which the project would foster economic or population growth, encourage the construction of additional housing, or remove an obstacle to population growth in the surrounding environment, either directly or indirectly. The goal of the growth inducing impacts section of the EIR is to address the effects the proposed project may have on surrounding facilities and activities by assessing the ways in which a project could encourage population or economic growth, increase employment opportunities or employment growth in support of an industry, or stimulate the construction of new housing or service facilities.

Based on the CEQA Guidelines criteria outlined above, the proposed project was evaluated in order to determine if any part of the project demonstrates the potential to result in growth inducing impacts. The project proposes one single-family residence on one of the few undeveloped lots in an existing developed neighborhood. The use is consistent with the general level of development currently existing along Studio Drive and anticipated under the Residential Single Family (RSF) land use designation. Other than temporary employment associated with construction of the residence, the project would not create new jobs or facilitate employment growth. Given its small scale and limited function, the project would not induce population or economic growth in the area. Impacts would be *less than significant.*

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CEQA, §15126.6(a), requires an EIR to "describe a reasonable range of alternatives to a project, or to the location of a project, which could feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives". Through the scoping process, if an alternative was found to be infeasible, as defined above, then it was dropped from further consideration. In addition, CEQA states that alternatives should " attain most of the basic objectives of the project..." Please refer to Chapter 5, Alternatives Analysis, of the EIR for a detailed discussion of the alternatives. The following alternatives were selected for more detailed review.

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The No Project Alternative would include none of the components of the proposed project. If a project is not built at this time, a residential project may be proposed in the future.

9 1 2 r d d r

The project site is located on the beachside of Studio Drive, and would be exposed to coastal hazards including sea level rise, wave-up, and storm surge. Independently, these conditions would not adversely affect the proposed structure; under extreme conditions, ocean water may reach the 22.2-foot elevation, and may overtop the existing rock outcrop and splash against the basement wall.

An alternative to this would be to eliminate the basement and construct the residence on steel-reinforced concrete pilings. This would allow ocean water to flow under the structure entirely before receding back. Under this alternative, the main floor and mezzanine, including the cantilevered portion, would remain.

This alternative consists of an approximately 1,857-square-foot residence including:

- 1,097 square feet of main floor living space
- 338-square-foot mezzanine
- 242-square-foot garage and 200-square-foot carport
- 180-square-foot covered deck
- Solar panels installed on the south-facing slopes of the roof

The residence would consist of one main floor supported on pilings. The maximum width of the structure would be 18 feet, and the maximum length would be 95 feet. A paved driveway would provide access from Studio Drive. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive. It is expected that retaining walls would be necessary adjacent to Studio Drive, and along a portion of the southern and northern sides of the residence, with continuous footings extending into the underlying bedrock materials.

9 1 3 r d d r r d

This design alternative incorporates a more traditional design, as opposed to the modern structure proposed by the applicant. It does not include the extended cantilevered main floor, or a substantial reduction in the extension, and provides sloped roofs. This alternative is

considered a reduced design option, and consists of an approximately 2,572-square-foot residence including:

- 772 square feet of main floor living space
- 1,040-square-foot basement
- 338-square-foot mezzanine
- 242-square-foot garage and 200-square-foot carport
- 180-square-foot covered deck
- Solar panels installed on the south-facing slopes of the roof

The residence would consist of one main floor and a basement. The footprint of the house would be 1,040 square feet. The maximum width of the structure would be 18 feet, and the maximum length would be 70 feet. A paved driveway would provide access from Studio Drive. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive. The basement would be located below the elevation of Studio Drive.

The exterior walls of the structure would be concrete and would retain soils along the southern, eastern, and northern sides of the residence. Retaining walls will also be constructed adjacent to Studio Drive with continuous footings extending into the underlying bedrock materials.

9 1 4 r d r

As noted above, no significant aesthetic resource impacts were identified; however, a reasonable alternative to the project includes additional features to articulate the design and blend it into the beach landscape. This includes incorporation of native, low-growing shrubs and vegetation along the northern and western aspects, and the use of native (or simulated native) rocks along the driveway retaining wall. This alternative would consist of the same size, footprint, width, and height, as the proposed project.

9 2 M

CEQA requires the alternatives section of an EIR to describe a reasonable range of alternatives to the project that avoid or substantially lessen any of the significant effects identified in the EIR analysis while still attaining most of the basic project objectives. The alternative that most effectively reduces impacts while meeting project objectives should be considered the "environmentally superior alternative." In the event that the No Project Alternative is considered the environmentally superior alternative, the EIR should identify an environmentally superior alternative among the other alternatives.

In this EIR, the No Project Alternative results in the fewest environmental impacts, although it does not meet any of the project objectives, including the primary objective to build a single-family residence.

As proposed, and with incorporation of recommended mitigation measures, the proposed project would not result in any significant, unavoidable environmental effects, and would meet project objectives. All proposed alternatives would meet the project objectives, and would not result in any significant, adverse, and unavoidable (Class I) impacts upon implementation of mitigation measures similar to those identified for the proposed project.

The proposed Reduced Project and Design Alternatives (A, B, and C) provide some variation in size and project design in response to public comment, and include alternatives to the proposed

basement, cantilevered living space, and exterior design elements. Design Alternative A – Reduced Project, Pilings, would marginally reduce the intensity of identified geology and soils impacts, primarily related to coastal hazards, and would still require substantial engineered design and incorporation of design-specific mitigation measures. Design Alternative B – Reduced Project, Traditional Design does not include the cantilevered portion of the residence, which may be more consistent with Small Scale Neighborhood Standards. Alternatives A, B, and C (Vegetation and Articulation) may reduce the perceived mass of the structure as seen from Studio Drive and the beach area, and may be more consistent with County Plans and Policies related to visual resources.

Based strictly on an analysis of the relative environmental impacts, the proposed project, with adoption and incorporation of recommended mitigation measures, is considered the Environmentally Superior Alternative. The decision-making body will consider the whole of the record when considering the approved project including, but not limited to, public comment and testimony related to the size and design of the residence. The decision-making body may select the project as proposed, an Alternative, or a specified combination of particular elements identified in the Alternatives, as the approved project. In all scenarios, the Mitigation and Monitoring Program (MMRP) would be applied to the approved project.

Based on direction from the Planning Commission, the applicant revised the project which reduced the size of the proposed project from what was evaluated in the EIR. The revised project is a reduced project with a traditional architectural style and reduced cantilever. This revised project is approximately 543 square feet smaller than the proposed project and the large cantilevered portion has been significantly reduced by approximately 16 feet shorter in living area. This revised project is consistent with the EIR alternatives discussed and is consistent with EIR Alternative B.

10.0 MITIGATION MONITORING AND REPORTING PLAN

PRC §21081.6 requires the lead agency, when making the findings required by PRC §21081(1)(a), to adopt a reporting or monitoring program for the changes to the project that it has adopted, in order to ensure compliance during project implementation. The County is the lead agency responsible for the adoption of the reporting or monitoring program. A Mitigation Monitoring and Reporting Plan (MMRP) has been prepared that requires the County to monitor mitigation measures designed to reduce or eliminate significant impacts, as well as those mitigation measures designed to further reduce environmental impacts that are less than significant.

The MMRP designates responsibility and anticipated timing for the implementation of mitigation measures within the jurisdiction of the County. Implementation of the mitigation measures specified in the Final EIR and the MMRP will be accomplished through administrative controls over project planning and implementation. Monitoring and enforcement of these measures will be accomplished through verification in periodic Mitigation Monitoring Reports and periodic inspection by appropriate County personnel. The County reserves the right to make amendments to and/or substitutions of mitigation measures if, in the exercise of discretion of the County, it is determined that the amended or substituted mitigation measure will mitigate the identified significant environmental impact to at least the same degree of significance as the original mitigation measure it replaces, or would attain an adopted performance standard for mitigation, and where the amendment or substitution would not result in a new significant impact on the environment that cannot be mitigated.

As lead agency for the Loperena MUP/CDP EIR, the County hereby certifies that the MMRP set forth in Chapter 7 of the Final EIR, which has been designed to ensure compliance during construction of the proposed project and includes all of the mitigation measures identified in the Final EIR and adopted and incorporated into the project, is adequate to ensure the implementation of the mitigation measures described herein.

GeoSoils, Inc.

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March 12, 2014 WO 6206-SC

Ms. Shawna Scott
SWCA Environmental Consultants
1422 Monterey Street, Suite C200
San Luis Obispo, CA 93401

SUBJECT: Sea Level Rise and Coastal Hazard Discussion, Northwest and Immediately Adjacent to 2612 Studio Drive (APN 064-253=07), Cayucos, San Luis Obispo County, California

REFERENCES: GeoSoils Inc, 2011. "Discussion of Coastal Hazards and Wave Runup, Northwest and Immediately Adjacent to 2612 Studio Drive (APN 064-253=07), Cayucos, San Luis Obispo County, California," dated March 14

GeoSoils Inc, 2013. "Supplemental Discussion of Coastal Hazards and Wave Runup, APN 064-253-07, Cayucos, San Luis Obispo County, California." dated April 10

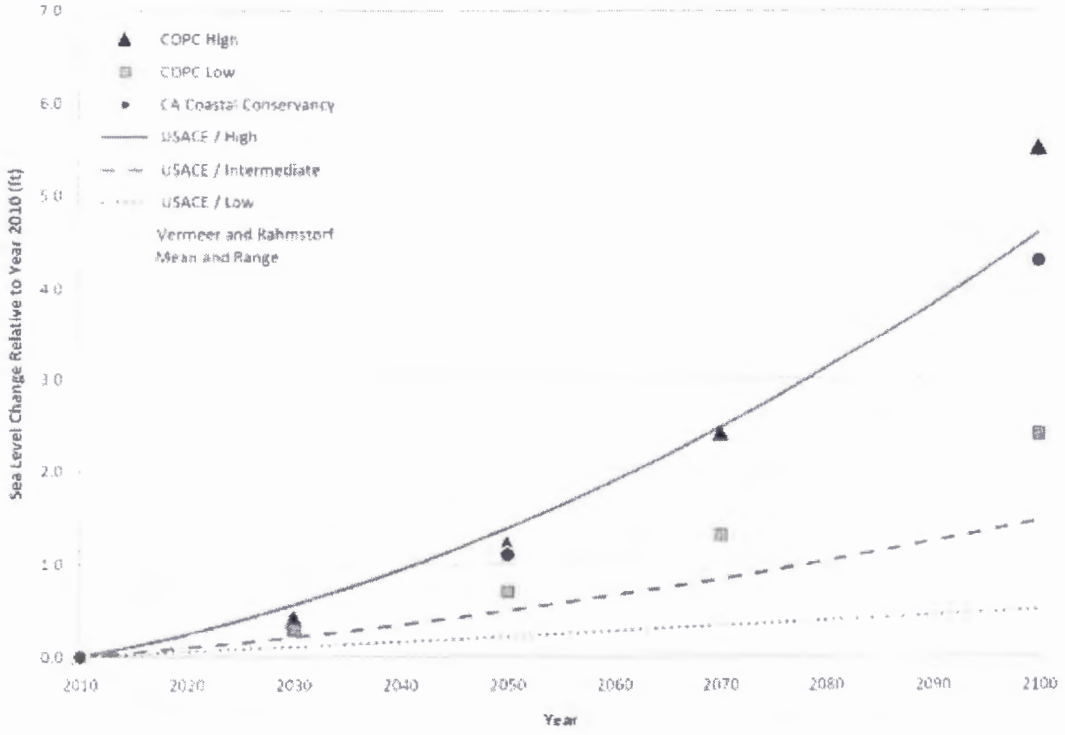
Dear Ms. Scott:

At your request, GeoSoils Inc. (GSI) has prepared the following update of our above referenced wave runup and coastal hazard reports for the subject Cayucos site. The purpose of this update is to provide additional site specific wave runup analysis and discussion of future hazards in consideration of the California Coastal Commission (CCC) Draft Sea-Level Rise (SLR) Policy Guidance document and the newly revised proposed development. The CCC Draft SLR Policy Guidance document was released in October 2013 is currently undergoing revisions and has not been finalized, approved, or officially implemented. The CCC currently proposes to adopt the National Research Council 2012 SLR estimates of 16.56 inches to 65.76 inches over the time period from 2000 to 2100. In addition to the new CCC SLR draft document, the proposed development has been revised to address project concerns.

Sea Level Rise

Any incorporation of sea level rise (SLR) in the design of a coastal project needs to appropriately consider several factors that include the expected life of the structure, the range of future SLR estimates and their accuracy, and the elevation of the proposed development. Figure 1 is provided to illustrate the various prediction and prediction ranges for SLR from the 2010 to 2100. The 2009 U.S. Army Corps guideline provides a high, an intermediate, and a low SLR estimate. The CCC has adopted the National

Research Council 2012 SLR estimates of 16.56 inches to 65.76 inches over the time period from 2000 to 2100. Figure 1 compares many of the current SLR estimates including the US Army Corps of Engineers, the CA Coastal Conservancy and CA Ocean Protection Council, and the predictions of leading climate scientists (Vermeer and Rahmstorf). The CCC Draft Sea-Level Rise Policy Guidance high SLR estimate for the year 2100 is the same as the COPC High estimate and the CCC low estimate is the about same as the USACE low estimate. It is clear that while there is some agreement over the next 30 years, beyond 30 years from now there is little agreement on SLR projections as evidenced by the large range of SLR in the year 2100.



Recently the NOAA Laboratory for Satellite Altimetry global chart, with its California Current subarea sea level topographic characterization (patches) for 1993-2011, indicates that sea level during these 18 years has generally dropped about 4 cm along California's shoreline between the Oregon border and north of Pt. Arguello. In addition, volcanic eruptions in the early part of the 21st century have cooled the planet, according to a study led by Lawrence Livermore National Laboratory. This cooling partly offset the warming produced by greenhouse gases. The SLR models depicted in Figure 1 did not predict this generally lowering of sea level from 1993 - 2011 and do not account for the impact of volcanic eruptions. There are many factors that influence sea level that make the modeling very difficult resulting in uncertainty. There is a wide range in SLR predications over the next 90 years which is why using the lowest or the highest SLR predication needs

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to be put in perspective. It should be pointed out the CCC SLR document just provides a range and does not actually specify a set SLR number to use for the year 2100.

Future Wave Runup

The wave runup modeling presented below uses the unlikely coincidence of a fully eroded beach (down to the bedrock), a very high tide, an El Nino condition, very high waves, and the maximum predicated sea level rise. Our previous wave runup reports used a SLR of 2 feet (GSI, 2011) and 2.5 feet (GSI, 2013). Both of these reports concluded that wave runup will not significantly impact the proposed development. Figure 1 shows that under the 2.5 foot SLR estimate and the most onerous modeling development will be not subject to significant wave runup until the year 2070. The SLR estimates previously used are within the SLR range in the CCC policy document and were calculated using the methods outlined in the CCC document. During a recent public hearing on this project concerns were raised that much higher SLR estimates should be used. It is GSI's opinion that our previous analysis meets the current standard of practice, is consistent with the CCC draft SLR policy document, and given the uncertainty of SLR projection, it reasonably determines the coastal hazard risks to the proposed development. However, for the sake of discussion GSI performed two additional wave runup analysis with SLR at 4.6 feet and 5.5 feet above the highest recorded water elevation. The analysis results are provided in the Tables below.

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AUTOMATED COASTAL ENGINEERING SYSTEM ... Version 1.02     3/ 9/2014     9:13
Project:      WAVE RUNUP LOPERENA SITE CAYUCOS 4.6 FEET SLR
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WAVE RUNUP AND OVERTOPPING ON IMPERMEABLE STRUCTURES

Item		Unit	Value	
Wave Height at Toe	Hi:	ft	7.000	Rough Slope
Wave Period	T:	sec	18.000	Runup and
COTAN of Nearshore Slope			50.000	Overtopping
Water Depth at Toe	ds:	ft	9.000	
COTAN of Structure Slope			2.300	
Structure Height Above Toe	hs:	ft	14.100	
Rough Slope Coefficient	a:		0.956	
Rough Slope Coefficient	b:		0.398	
Deepwater Wave Height	H0:	ft	4.218	
Relative Height	(ds/H0):		2.134	
Wave Steepness	(H0/gT^2):		0.405E-03	
Wave Runup	R:	ft	12.225	
Onshore Wind Velocity	U:	ft/sec	3.376	
Overtopping Coefficient	Alpha:		0.500E-01	
Overtopping Coefficient	QstarO:		0.700E-01	
Overtopping Rate	Q:	ft^3/s-ft	1.891	

AUTOMATED COASTAL ENGINEERING SYSTEM ... Version 1.02 3/ 9/2014 9:16
Project: WAVE RUNUP LOPERENA SITE CAYUCOS 5.5 FEET SLR

WAVE RUNUP AND OVERTOPPING ON IMPERMEABLE STRUCTURES

Item		Unit	Value	
Wave Height at Toe	Hi:	ft	7.700	Rough Slope
Wave Period	T:	sec	18.000	Runup and
COTAN of Nearshore Slope			50.000	Overtopping
Water Depth at Toe	ds:	ft	9.900	
COTAN of Structure Slope			2.500	
Structure Height Above Toe	hs:	ft	14.200	
Rough Slope Coefficient	a:		0.956	
Rough Slope Coefficient	b:		0.398	
Deepwater Wave Height	H0:	ft	4.747	
Relative Height	(ds/H0):		2.085	
Wave Steepness	(H0/gT^2):		0.455E-03	
Wave Runup	R:	ft	12.952	
Onshore Wind Velocity	U:	ft/sec	3.376	
Overtopping Coefficient	Alpha:		0.500E-01	
Overtopping Coefficient	Qstar0:		0.700E-01	
Overtopping Rate	Q:	ft^3/s-ft	3.473	

For each overtopping rate the height of water and the velocity of this water can be calculated using the following empirical formulas provided by the USACOE (Protection Alternatives for Levees and Floodwalls in Southeast Louisiana, May 2006, equations 3.1 and 3.6) based upon the calculated overtopping rate Q for each SLR case. It should be noted that these formula are slightly different than the formulas used in GSI 2013 analysis. The equations below include some reduction in the bore height and velocity via friction due to the 10 foot setback from the top of the rock to the revised basement location.

$$q = 0.5443\sqrt{g}\,h_1^{3.2}$$

$$v_c = \sqrt{\frac{2}{3}gh_1}$$

Therefore, for SLR of 4.6 feet with an overtopping rate of 1.89 ft^3/s-ft the water height h_1= 0.72 feet and the velocity, v_c = 3.9 ft/sec. For SLR of 5.5 feet with an overtopping rate of 3.4 ft^3/s-ft h_1 = 1.06 feet and the velocity, v_c =4.76 ft/sec. Under both SLR cases the height and velocity of water reaching the proposed improvement are not significant. This is a pulse of water coming over the rock outcropping and not a sustained flow or water elevation.

4-70

Discussion

As stated above, incorporating sea level rise estimates into the design of a structure along a shoreline needs to consider several factors. While the governing LCP and County General Plan requires consideration of a project over a 100 year time period, coastal structures typically have a much shorter design life. Many shoreline residential structures are replaced about every 50 years. In fifty years, under the most onerous SLR estimates, sea level will be about 2 feet higher than it is today. As noted above, the wave runup modeling presented herein uses the unlikely coincidence of a fully eroded beach (down to the bedrock), a very high tide, an El Nino condition, very high waves, and the maximum predicated sea level rise. The window of vulnerability, under these rare conditions, for the proposed development will only be about 1 hour, when the tide is the highest. Even under these conditions the impact of wave runup is not sufficient to damage the structure.

Consider development along the east coast of the United States where hurricanes can inundate coastal communities. The impact of hurricanes is mostly mitigated through the design of the structures. That is structures are designed to withstand the impact of wind, water, and wave/tidal surges. The proposed project is well above any sustained water elevation and designed to withstand any surge/wave runup forces. It is important to point out that the governing design forces for this structure are seismic forces on the mass of the structure. These forces are typically two orders of magnitude greater than wave or water forces. That is to say that because the structure is designed in accordance with the California Building Code it can withstand any potential wave or water forces in the future.

Finally, the recent (March 1, 2014) coincidence of very high tides and very high waves at the site provides a revealing look at what will happen to the site under extreme oceanographic conditions. While damage did occur to nearby areas, the wave runup did not result in erosion or vegetation loss at the project site.

In closing, the conclusions of our previous reports remain valid and pertinent. Any structure that is on the shoreline under extreme conditions will be subject at a minimum to spray and splash from wave runup. The proposed development is clearly safe from coastal hazards for the next several decades under even the most onerous SLR projects. If SLR is 4 feet or higher, the basement portion of the development will be subject to wave runup under a very high tide in coincidence with very high waves (for about 1 hour). However, the height of the water will be about 1 foot with insufficient velocity to do any damage (using the worst case of SLR 5.5 feet). Finally, the revised development has the lower basement floor set back an additional 10 feet, and fill material between the existing bedrock outcropping (to remain) would be replaced with new fill and compacted and stabilized with vegetation, which further decreases the effective height and velocity of future extreme wave runup.

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New shore protection will likely not be required to protect the proposed development over the next 75 to 100 years. The proposed development will neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or adjacent area.

LIMITATIONS

Coastal engineering is characterized by uncertainty. Professional judgements presented herein are based partly on our evaluation of the technical information gathered, partly on our understanding of the proposed construction, and partly on our general experience. Our engineering work and judgements have been prepared in accordance with current accepted standards of engineering practice. This warranty is in lieu of all other warranties express or implied.

Respectfully submitted,

GeoSoils, Inc.
David W. Skelly MS
RCE#47857

March 19, 2014
SC0099F

Ms. Shawna Scott
SWCA ENVIRONMENTAL CONSULTANTS
1422 Monterey Street, Suite C200
San Luis Obispo, California 93401

SUBJECT: **Review of Modified Project Plans and Supporting Documents**
RE: Loperena Minor Use Permit/Coastal Development Permit
Studio Drive, Cayucos, San Luis Obispo County, CA

Dear Ms. Scott:

In accordance with your request, Cotton, Shires and Associates, Inc. (CSA) has reviewed modified project plans and supporting documents recently submitted for the referenced project. It is our understanding the applicant prepared these materials in response to public comment and Planning Commission comments received at the Planning Commission hearing that we attended on January 23, 2014. Specifically, we have reviewed the following additional materials:

- C.P. Parker Architects, March 14, 2014, Design Development Phase Drawings for Jack Loperena Residence, Studio Drive, Cayucos, California, APN 064-253-007, Sheets A1.1 (Floor Plans), A2.1 (Basement Floor Plan), A2.2 (Main Floor Plan) and A3.1 (Elevations); and

- Shoreline Engineering, March 12, 2014, Letter Re: Studio Drive Beach House, Modification to Building Foundation & Site Impact Reduction.

Review of the modified architectural plans indicates that the proposed residence has been significantly reduced in size. The oceanward side of the basement floor has been shifted approximately 12 feet landward (i.e., toward Studio Drive, away from the beach) relative to the previous design, and the first floor cantilever over the basement floor has also been significantly reduced and shifted landward. The proposed basement floor and main floor are designed at elevations 15' and 25' (NAVD88), respectively, similar to the previous project.

The documentation provided by Shoreline Engineering, Inc. indicates that the modifications to the building design will result in reduced site impacts, including reduced excavations for foundations and reduced amount of concrete foundation mass needed to resist overturning forces imposed by the cantilevered building design.

Based upon our review of the project modifications and supporting documentation, as well as the updated sea level rise and coastal hazard discussion provided by Coastal Engineer David Skelly of GeoSoils, Inc. (2014), it is our opinion that the findings and conclusions of our technical hazards review (May, 2011) remain applicable to the proposed project. Furthermore, the geotechnical engineering recommendations contained within the addendum reports prepared by the applicant's geotechnical consultant (GSI Soils Inc., December, 2011, October, 2012) and peer reviewed by our office (August, 2012; October 2012) also appear to remain applicable to the modified project.

LIMITATIONS

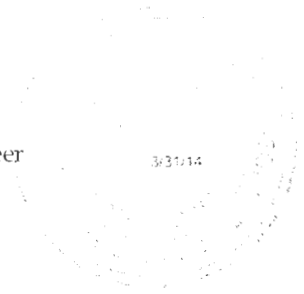
This letter has been prepared to provide technical advice to SWCA Environmental Consultants pursuant to its preparation of the Environmental Impact Report for the referenced project. Our services consist of professional opinions and recommendations made in accordance with generally accepted engineering geology and geotechnical engineering principles and practices. No warranty, expressed or implied, or merchantability of fitness, is made or intended in connection with our work, by the proposal for consulting or other services, or by the furnishing of oral or written reports or findings.

Respectfully submitted,

COTTON, SHIRES AND ASSOCIATES, INC.

Michael B. Phipps
Principal Engineering Geologist
CEG 1832

Patrick O. Shires
Senior Principal Geotechnical Engineer
GE 770



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Attachment: References

REFERENCES

Cotton, Shires and Associates, Inc., May 31, 2011; Technical Report-Geotechnical and Coastal Hazards Review, Loperena Minor Use Permit/Coastal Development Permit, APN 064-253-07, Studio Drive, Cayucos, San Luis Obispo County, California.

____, August 21, 2012; Supplemental Geotechnical Peer Review for Environmental Impact Report Preparation, Loperena Minor Use Permit/Coastal Development Permit, Studio Drive, Cayucos, San Luis Obispo County, CA.

____, October 31, 2012; Supplemental Geotechnical Peer Review (No. 2) for Environmental Impact Report Preparation, Loperena Minor Use Permit/Coastal Development Permit, Studio Drive, Cayucos, San Luis Obispo County, CA.

GeoSoils, Inc., March 12, 2014; Sea Level Rise and Coastal Hazard Discussion, Northwest and Immediately Adjacent to 2612 Studio Drive (APN 064-253-07), Cayucos, San Luis Obispo County, California.

GSI Soils Inc., December 27, 2011; Updated Geotechnical Investigation, Proposed Residence, Lot 41, Studio Drive, Cayucos, California.

____, October 1, 2012; Response to Supplemental Geotechnical Peer Review, Loperena Residence, Lot 41, Studio Drive, Cayucos, California.

THURSDAY, APRIL 10, 2014

The following action minutes are listed as they were acted upon by the Planning Commission and as listed on the agenda for the Regular Meeting of April 10, 2014 together with the maps and staff reports attached thereto and incorporated therein by reference.

HEARINGS ARE ADVERTISED FOR 9:00 A.M. HEARINGS GENERALLY PROCEED IN THE ORDER LISTED, UNLESS CHANGED BY THE PLANNING COMMISSION AT THE MEETING.

DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT

ROLL CALL

PRESENT: Commissioner(s) Eric Meyer, Don Campbell, Ken Topping, and Tim Murphy.
ABSENT: Commissioner(s) Jim Irving.

4. Continued hearing to consider a request by JACK LOPERENA for a Minor Use Permit/Coastal Development Permit to allow for the construction of a 3,097 square foot single family residence which includes 1) 1,097 square feet of living space; 2) 1,040 square foot basement; 3) 338 square foot mezzanine; 4) 242 square foot garage and 200 square foot carport; and, 5) 180 square foot covered deck. The proposed project is within the Residential Single Family land use category and is located on the west side of Studio Drive, adjacent to the State Parks property on the northern end of Studio Drive, approximately 250 feet south of the intersection of Studio Drive and Highway 1. The site is in the Estero planning area. Also to be considered at the hearing will be approval of the Environmental Document prepared for the item. The Environmental Coordinator, after completion of the initial study, finds that there is evidence that the project may have a significant effect on the environment, and therefore a Final Environmental Impact Report (FEIR) was prepared (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) for this project. The FEIR addresses potential impacts on: aesthetic resources, air quality, biological resources, geology and soils, noise, and water. Mitigation measures are proposed to address these impacts and are included as conditions of approval. There were no significant and unavoidable impacts associated with this project. Anyone interested in commenting or receiving a copy of the proposed Environmental Determination should submit a written statement for the hearing. Comments will be accepted up until completion of the public hearing(s). CONTINUED FROM 1/23/14.
   County File No: DRC2005-00216 Assessor Parcel Number: 064-253-007
   Supervisorial District: 2 Date Accepted: April 16, 2007
   Ryan Hostetter, Project Manager Recommend approval

Tim Murphy: asks Commissioners for any ex-parte contacts.

Ken Topping: discloses his ex-parte contacts.

Ryan Hostetter, Project Manager: presents staff report via a Power Point presentation which includes the modified project design requested by the Commission on January 23, 2014.

Cathy Novak, agent: presents project proposal amendments and re-design and notes specific modifications.

Bruce Elster, agent: states he is available for questions.

Tim Murphy: opens Public Comment.

Francie Faronet, Larry Loperena, Doreen Liberto-Blanck, and Kevin Elder: speak.

Ryan Hostetter, Project Manager: introduces consultant tema, Shanna Scott and Mike Phipps.

Shanna Scott: discusses criteria and reasoning for lack of triggers that would require a re circulation of an EIR.

Ryan Hostetter, Project Manager: addresses Public Comment regarding communication with the California Coastal Commission (CCC) in terms of the gross structural area calculations applied.

Tim Murphy: points out a correction to Page 4-13 f.

Ken Topping: requests locations of new basement footings with Ms. Hostetter responding.

Bruce Elster: directs Commissioners to the rock outcrop on the over head viewer to address Mr. Topping's basement footings location question.

Ken Topping: respectfully disagrees with the County's geo technical experts and provides reasoning, detailing increased seal level rise. States he would like a project that reflects the most up to date science so that hazard issues can be addressed. Asks why the basement was retained in the modified design with Ms. Hostetter responding.

Commissioners: discuss a worst case scenario for water run up.

Whitney McDonald, County Counsel: explains to the Commissioners their options when considering conditioning the project because the County canno require the applicant to apply for a variance.

Ken Topping: cannot support findings which he considers obsolete.

Eric Meyer: is in approval of the re-designed project.

Tim Murphy: feels the amended design is acceptable and agrees with the geologists reports and provides reasoning for his support of the project. Feels this proposal will probably be appealed.

Ken Topping: expresses his appreciation for the applicant having had the project re-designed. Would like to ensure the changing science is made aware of.

Thereafter, on motion of Eric Meyer, seconded by Don Campbell, and on the following vote:

AYES: Commissioner(s) Eric Meyer, Don Campbell, Tim Murphy.

NOES: Commissioner(s) , Ken Topping.
ABSENT: Commissioner(s) Jim Irving.

The Commission certifies the final Environmental Impact Report, including Appendices and adopts the revised CEQA Findings in Exhibit C the project findings listed in Exhibit A, and the revised Conditions in Exhibit B, and adding a new Condition 33 to read "33. Prior to issuance of grading permits, the applicant shall retain a certified arborist to conduct any site preparation activities requiring cuts or impacts to the root zone of the existing mature cypress tree. The certified arborist shall monitor work within the root zone, including grading and excavation for the retaining wall, and utility work. The applicant shall comply with methods identified by the certified arborist to avoid unnecessary damage to the root zone, including use of hand tools, protection and treatment of exposed roots during construction, and use of tunneling under shallow roots for utility installation in lieu of standard trenching."; adopted.

Thereafter, on motion of Ken Topping, seconded by Don Campbell, and on the following vote:

AYES: Commissioner(s) Ken Topping, Don Campbell, Eric Meyer, Tim Murphy.
NOES: None.
ABSENT: Commissioner(s) Jim Irving.

Promoting the wise use of land
Helping build great communities

3-1
COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT

PLANNING COMMISSION

MEETING DATE	CONTACT/PHONE	APPLICANT	FILE NO.
January 23, 2014	Ryan Hostetter, Senior Planner	Jack Loperena	DRC2005-00216
EFFECTIVE DATE	rhostetter@co.slo.ca.us		
February 6, 2014	(805) 788-2351		
APPROX FINAL EFFECTIVE DATE			
February 27, 2014			

SUBJECT

Hearing to consider a request by Jack Loperena for a Minor Use Permit/Coastal Development Permit to allow for the construction of a 3,097 square foot single family residence which includes 1) 1,097 square feet of living space; 2) 1,040 square foot basement; 3) 338 square foot mezzanine; 4) 242 square foot garage and 200 square foot carport; and, 5) 180 square foot covered deck. The proposed project is within the Residential Single Family land use category and is located on the west side of Studio Drive, adjacent to the State Parks property on the northern end of Studio Drive, approximately 250 feet south of the intersection of Studio Drive and Highway 1. The site is in the Estero planning area.

RECOMMENDED ACTION

1. Certify Final Environmental Impact Report, including Appendices
2. Adopt CEQA Findings in Exhibit C, including project findings listed in Exhibit A
3. Approve Minor Use Permit/Coastal Development Permit DRC2005-00216 based on the findings in Exhibit A and C and conditions listed in Exhibit B

ENVIRONMENTAL DETERMINATION

The Environmental Coordinator, after completion of the initial study, finds that there is evidence that the project may have a significant effect on the environment, and therefore a Final Environmental Impact Report (FEIR) was prepared (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) for this project. The FEIR addresses potential impacts on: aesthetic resources, air quality, biological resources, geology and soils, noise, and water. Mitigation measures are proposed to address these impacts and are included as conditions of approval. There were no significant and unavoidable impacts associated with this project. Anyone interested in commenting or receiving a copy of the proposed Environmental Determination should submit a written statement for the hearing. Comments will be accepted up until completion of the public hearing(s).

LAND USE CATEGORY	COMBINING DESIGNATION	ASSESSOR PARCEL NUMBER	SUPERVISOR DISTRICT(S)
Residential Single Family	Local Coastal Program, Small Scale Neighborhood, Geologic Study Area, Coastal Appealable Zone, Coastal Access Area	064-253-007	2

PLANNING AREA STANDARDS:

Setbacks, Community Small Scale Design Neighborhood permit requirements and findings, standards, and guidelines

LAND USE ORDINANCE STANDARDS:

Section 23.01.043: Appeals to the Coastal Commission (Coastal Appealable Zone), Section 23.07.104: Archaeologically Sensitive Area, Section 23.07.120: Local Coastal Program 23.04.420 Coastal Access, & General Hazard Avoidance 23.07.065

EXISTING USES:

Site is currently vacant

SURROUNDING LAND USE CATEGORIES AND USES:

North: Recreation/Morro Strand State Beach *East: Highway 1 and Studio Drive*
South: Residential Single Family/single-family residences *West: Beach and Pacific Ocean*

OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to (and copies of the Draft EIR were sent to) Cayucos Citizens Advisory Council, Public Works, Cayucos Fire Protection District, Cayucos Sanitary District, Paso Robles Beach Water Association, California Coastal Commission, CA Department of Fish and Wildlife, CA State Lands Commission, Air Pollution Control District, County Counsel, CA Department of Conservation, Regional Water Quality Control Board, Native American Heritage Commission, CA Department of Parks and Recreation, Federal Emergency Management Agency, and the US Army Corps of Engineers	
TOPOGRAPHY: Nearly level to sloping adjacent to the roadway	VEGETATION: Grasses, Ice-Plant
PROPOSED SERVICES: Water supply: Paso Robles Beach Water Association Sewage Disposal: Cayucos Sanitary District Fire Protection: Cayucos Fire Protection District	ACCEPTANCE DATE: April 16, 2007

PROJECT HISTORY

The applicant, Mr. Jack Loperena, submitted an application for a MUP/CDP in May of 2006. At the time, the environmental document prepared and issued by the County was a Mitigated Negative Declaration (MND) (August 9, 2007). A Planning Department Hearing was scheduled for August 17, 2007, to consider the proposed project and MND. At the hearing, staff requested a continuance until September 21, 2007 because the MND had been re-issued and re-noticed, and required a 30-day public review period. On August 23, 2007, County staff received a Request for Review (similar to an appeal) of the MND, and requested that the project be continued off calendar to address issues raised in the Request for Review. Based on the comments included in the Request for Review, County staff consulted with County experts in geology, cultural resources, emergency services, air quality, and public works and drainage. Information and data obtained from County experts were incorporated into an amended MND, which was re-circulated for public review (April 2, 2009). A Planning Department Hearing was scheduled for May 15, 2009. A Request for Review of the amended MND was received by County staff on April 16, 2009, and County staff requested that the project be continued off calendar a second time.

Based on the issues raised in the April 2009 Request for Review, the County Environmental Coordinator determined that a fair argument was raised regarding the significance of potential environmental impacts. Upon consideration of these issues, the applicant proposed that an EIR be prepared for the proposed project. A notice of preparation for the EIR was distributed on August 7, 2009 to agencies for submittal of comments before preparation of the draft was undertaken. Agencies had until September 14, 2009 to submit prior to the draft. The draft was then released on June 14, 2013 and the public as well as other agencies had until August 5, 2013 to comment on the draft. The County received many comments which are now listed and published in the Final EIR along with staff responses to these comments. The Final EIR, which includes the draft along with public comments and responses, was released in December 2013.

PROJECT DESCRIPTION

The applicant proposes to grade for and construct a 3,097-square foot residence, including approximately: 1) 1,097 square feet of living space; 2) 1,040-square foot basement; 3) 338-square foot mezzanine; 4) 242-square foot garage and 200-square foot carport; and, 5) 180-square foot covered deck. The residence would consist of one main floor and a basement. The footprint of the house would be 1,040 square feet. The maximum width of the structure would be 19 feet, and the maximum length would be 95 feet. An approximately 200-square foot paved

driveway would provide access from Studio Drive. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive. The basement would be located below the elevation of Studio Drive. The applicant proposes a cantilevered design, which would be elevated above the sandy beach. This portion would include approximately 325 square feet of living space and a 180-square foot covered deck.

The overall design of the residence would be modern style. Proposed exterior colors would include tans, browns, dark purple, and grays. Proposed materials would consist of glass panels, concrete, and cedar siding in sections. The applicant proposes a 6.5-foot-tall wall that incorporates a design or pattern, such as concrete with a patterned in-lay design, stucco with a patterned design or a stone veneer. The retaining wall would be constructed along the northern property boundary, ranging from an elevation of 28.5 feet to 22.5 feet, and a height of 6.5 feet above natural grade (for reference, the basement finished floor elevation would be 15 feet and the main level finished floor would be at the 26-foot elevation). At the northern corner of the parcel, the stepped wall would approximately match the grade of Studio Drive.

Approximately 238 square feet of landscaping is proposed, including hardscape and private walkways along the northern side of the residence. Potted plants would be located along the walkways and front entry. Existing iceplant, grasses, a small pine tree, and stepping stones would be removed during grading activities. The southern side yard and an existing mature cypress tree, rock, and flat sandy beach in the southwestern portion of the parcel would remain. No landscaping is proposed along the beachside of the property.

MAJOR ISSUES

The project is located on the last vacant residential parcel within this portion of the Studio Drive neighborhood just south of the downtown area of Cayucos. This parcel is unique due to its location on a low bluff and sandy beach, and its narrow configuration which angles at the western end to curve in front of (seaward) the adjacent developed property to the south. This project has generated controversy due to the potential impacts to views of the ocean from neighboring residences, the proposed project's modern design that is visible from the state beach and Studio Drive, and issues related to public access to the sandy beach. Integral to these issues is how the site is characterized in relation to a "coastal bluff" and the subsequent applicability of the appropriate setback standards.

Coastal Bluff Issues: This property has undergone extensive analysis regarding the bluff issue on the property (main reason for the completion of the EIR). As explained in the EIR, it is the County geologist's determination, that the site does not contain a "coastal bluff". A rock outcropping exists on the property along with fill brought in from creation of the roadway, which is covered in iceplant and slopes from the paved roadway down to the sand. This slope is the location of the majority of the footprint of the proposed house.

In summary, the EIR discussion includes review of aerial photographs dating back to 1937 which show the site containing rock outcrops that are perpendicular to the trend of the shoreline at the historic mouth of Old Creek. The EIR states that, "This outcropping extended inland approximately 300 feet (beneath the present alignment of Highway 1), before turning to an approximate N15ºW trend (refer to Figure 4.3-6 of the EIR on page 4.3-18). This feature extending 300 feet inland represents the northerly edge of a wavecut platform that is present throughout Cayucos, including both sides of the Old Creek drainage. The platform would continue north, were it not for the presence of Old Creek meeting the ocean at this location. As such, it is reasonable to conclude this portion of the outcropping was formed by fluvial erosion processes (and possibly mass-wasting processes) from the ancestral flow of Old Creek at a time when the creek was entrenched along the southerly side of the creek valley." It is determined by the County Geologists that this area is a fluvial bluff and not a coastal bluff. The

Geologists discuss that due to the geologic past, the coastal erosion processes are more prevalent today at the site "as it is clear that wave action does reach the outcropping in storm surf conditions. This 'transition' section of the rock outcropping extends south of the project site approximately 100 feet to a point on the property at 2614 Studio Drive. Beyond this point, the landform generally trends about S47°E and appears wholly influenced by coastal erosion processes and represents true 'coastal' bluff in the geomorphic sense." The project site therefore is located eastward of the coastal bluff, on a fluvial bluff, which contains up to 10.5 feet of fill that was brought in for the roadway.

The EIR analysis also discusses the option of calling this rock outcrop area a "coastal bluff." If the decision makers were to call this a coastal bluff, then the area for the home would be setback a minimum of 25 feet from the westward edge of the outcrop/slope if one were to employ the minimum coastal bluff setback requirements. If that were the case, then the property would have approximately 35 feet by 22 feet, or approximately 770 square feet of area to construct the house and garage (with 3' side setbacks, 25' "bluff" setback and a zero front setback). Additional square footage for the driveway/flatwork and entrance walkways are located within the County right of way which extends approximately 100 feet (County owned property).

Because, however County Geologists did not recognize this as a coastal bluff the proposed project footprint extends to the edge of the slope and there is no coastal bluff setback requirement as the entire property is westward of the actual bluff. The design also includes a cantilevered portion as to minimize disturbance to the sand while allowing for additional square footage for the home.

Coastal Hazards: While the analysis did not determine that this was located on a "coastal bluff," the property is subject to impacts from coastal processes. The EIR outlines coastal hazards, wave run-up and drainage issues at the property. "The elevation within the project parcel ranges from about +10 feet on the beach area to +30 feet at Studio Drive. The majority of the parcel is at or above +20 feet in elevation. The site is fronted by a bedrock outcropping (graywacke sandstone) from about elevation +17 feet NAVD88 to the beach at about elevation +10 feet NAVD88, which serves as a form of natural shore protection." The coastal wave run up study " includes a worst-case analysis of wave runup conditions incorporating a potential sea level rise of 2.5 feet over the next 100 years. The report evaluates four different potential oceanographic hazards at the project site: shoreline erosion, flooding hazard due to water level changes in the ocean, breaking wave elevation, and wave runup." The studies indicated that the future design maximum sea level is 10.1 feet NAVD88 which would be considered in excess of a 100 year recurrence interval water level. Additionally the wave runup may reach an elevation of +15 feet NAV88 over the next 100 years under infrequent extreme design oceanographic conditions (including tsunami).

The intent of the coastal bluff setbacks are to eliminate hazardous situations with development that could be subject to coastal processes. However, due to the elevation and location of the proposed project as outlined in the Coastal Hazards Analysis, the proposed development located on the existing rock outcrop complies with the 100 year events as outlined in the study.

Modern Design & Basement Issues: Because the site is constrained, the architect used a cantilevered design with a basement level in order to add square footage to the living area of the house beyond the garage. The basement level can be seen from the north elevation but can't be seen from up on the road in front of the proposed home. This basement for the proposed project is similar to other projects within Cayucos where projects have included square footage without adding to the visual massing of the residence as seen from the street. This design strategy for allowing additional square footage has been controversial within

Cayucos because there are additional requirements for two story residences (i.e. additional setbacks for upper floors) and the basement has not been considered a visible floor therefore those special setbacks have not been applied (mainly because the additional setbacks are for visible upper floors to reduce visual massing). Other projects include the Smirl project (DRC2007-00083), Bond project (DRC2007-00031), Oelker project (DRC2009-00102) and the Lewis project (DRC2009-00027) all of which have been approved with basements. Staff is recommending approval of the proposed project with the basement consistent with the previous projects.
Additionally, the proposed design style of the project is modern. While beach bungalow and other traditional coastal designs predominate, modern architecture is represented in the Studio Drive area and elsewhere in Caycuos. The County does not have an ordinance that limits modern design styles, but the ordinance requirements for this area include; limitations on size, massing and articulation (discussed further below under ordinance requirements).

Views: The site is within a scenic area with views of the ocean from Highway 1 as well as Studio Drive and the beach. The project design however incorporated design elements such as a low profile, muted colors and complies with the small scale neighborhood design requirements which limit the size of the proposed residence. The location of the project site being at the end of an existing neighborhood forces the project to be visible from the northern side of the proposed home. The property is narrow and there is no way to construct a house at this location that will not be visible on the side facing the state beach and Studio Drive. The project does not introduce a new use within this viewshed as there are existing residences within this view and is considered infill development. This project is consistent with the development patterns throughout Cayucos and would not be an unexpected visual feature within a residential neighborhood. The project will however impact views from private residences, specifically the adjacent neighbor to the south. It is the County's practice however that private views are not protected, and that any impacts to public views be mitigated to the maximum amount feasible based on the project location. The EIR alternatives analysis includes suggestions for project revisions which may ameliorate some of the neighbors' concerns by reducing the size of the cantilevered portion of the project and including a more traditional design style.

Coastal Access: The project includes a condition of approval for coastal access along the beach across the westward portion of the property for lateral access. Currently there is a coastal access point adjacent to the property owned by State Parks, and a large beach area which is very accessible at this location. The proposed project includes a deck which would extend over the beach area subject to the lateral access, however staff has conditioned the project to remove all structures within a 25 foot setback area from the property line. There is adequate (weather depending) beach area with the 25 feet of sand on this property as well as at least two hundred feet to the west for the public to access the ocean within this location.

Potential Project Alternatives: The EIR includes alternatives which discuss different design options that may ameliorate some of the community's concerns for visual impacts. These alternatives include:

- Alternative "A" as shown in the EIR includes removal of the basement while keeping the upper floor as is. In this alternative the basement area would become open foundation area and the home would be limited to 1,857 square feet (including garage). This option would keep the similar design style as the proposed project.

- Alternative "B" as listed in the EIR includes a reduced project with a more traditional design. This option would reduce the length of the cantilevered portion

to match the basement wall and could include only the deck portion to be cantilevered (approximately 180 square feet) which would reduce the size of the home as viewed from the north and beach areas. This option would also include a more traditional design with cement board siding, shake or other traditional nautical or craftsman design style. This design could include an approximately 2,572 square foot residence with garage.

- Alternative "C" would include conditions that would keep the same size and layout, however would require additional screening along the northern side of the proposed residence which would soften the views. This screening could include landscaping materials such as natural rock to blend into the landscape and low lying shrubs and/or vines.

The commission has the option of approving one of the alternatives, or a combination of these as they are within the evaluation conducted for the Environmental Impact Report. While staff's recommendation includes the proposed project, a follow up alternative recommendation would include approval of alternative B as this would recognize much of the community's visual concerns, while allowing the residence to remain in this location with a more traditional design style.

PROJECT ANALYSIS

Estero Area Plan Standards:

Standard	REQUIRED/ALLOWABLE	PROPOSED	STATUS
FRONT SETACKS	0	0	O.K.
LOWER STORY WALL HEIGHT	N/A.	N/A	O.K-proposed home is single story (basement does not count as story).
SIDE SETBACKS	3'	3'	O.K.
BLUFF SETBACK	25' MIN UNLESS GEOLOGIC REPORT INDICATED LARGER SETBACK NECESSARY TO WITHSTAND 100 YEARS OF BLUFF EROSION	25' setback for the home from the rear property line	See Discussion on Bluff Setback
HEIGHT	15' from the centerline elevation of Studio Drive	15'	O.K
GSA	3,500	3,097	O.K – includes covered deck of 180 sq ft. and basement
PARKING	1 10X20' MIN. ENCLOSED SPACE, 1 SPACE WITHIN FRONT SETBACK	1 enclosed 242 square foot space & 1 space in carport	O.K
DRIEVEWAY WIDTH	18' MAX.	18"	O.K
DECK RAIL HEIGHT	36"	36"	O.K.

COASTAL ZONE LAND USE ORDINANCE STANDARDS:

Section 23.01.043: Appeals to the Coastal Commission (Coastal Appealable Zone)
The project is appealable to the Coastal Commission because the site is between the first public road and the ocean.

Section 23.07.104: Archaeologically Sensitive Area
While the subject property is not within a mapped Archaeologically Sensitive area, due to proximity of other known archaeological sites staff determined that a site survey was appropriate. *Archaeological surveys were conducted as a part of the EIR process. The surveys did not find evidence of significant cultural resources on the subject property. The Conditions of Approval require that in the event that archaeological resources are discovered during construction, construction activities shall cease, and the Planning and Building Department (and in the event of human remains, the County coroner) shall be notified so that resources can be recorded and their disposition handled in accordance with state and federal law. Therefore, as conditioned, the project complies with this standard.*

Section 23.07.120 - Local Coastal Program
The project site is located within the California Coastal Zone as established by the California Coastal Act of 1976, and is subject to the provisions of the Local Coastal Program.

Section 23.07.080 – Geologic Study Area
Any project within the Geologic Study area designation or within a high liquefaction area is subject to the preparation of a geological report per the County's Land Use Ordinance (CZLUO section 23.07.084(c)) to evaluate the area's geological stability relating to the proposed use. *Several geologic investigations were conducted and analyzed through the Environmental Impact Report for the project. The reports were reviewed and approved by the County Geologist as well as County contracted consulting geology firm, Cotton Shires. Mitigation measures are proposed to reduce impacts to a less than significant level, and are included within the conditions of approval.*

Section 23.04.420 Coastal Access
All new development shall provide a lateral access dedication of 25 feet of dry sandy beach available at all times during the year. Where topography limits the dry sandy beach to less than 25 feet, lateral access shall extend from the mean high tide to the toe of the bluff. Where the area between the mean high tide line (MHTL) and the toe of the bluff is constrained by rocky shoreline or other limitations, the County shall evaluate the safety and other constraints and whether alterative siting of accessways is appropriate. This consideration would help maximize public access consistent with the Local Coastal Program and the California Coastal Act. *This proposed project complies with this requirement as conditioned. The condition requires 25 feet of dry sandy beach to be available at all times during the year.*

Section 23.07.065 General Hazard Avoidance & Coastal High Hazard Areas
While the project site is not within a mapped Flood Hazard Zone, the Coastal Zone Land Use Ordinance contains standards for projects that would be located within areas subject to coastal or flooding hazards. These standards include construction practices and additional engineering when designing and constructing structures which may be impacted by coastal processes.

1. All buildings or structures shall be elevated on adequately anchored pilings or columns and
2. Securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood elevation level. The pile or column foundation and structure

attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards.

3. All new construction and other development shall be located on the landward side of the reach of mean high tide.
4. All buildings or structures shall have the space below the lowest floor free of obstructions or constructed with breakaway walls. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.
5. Fill shall not be used for structural support of buildings.
6. Man-made alteration of sand dunes that would increase potential flood damage is prohibited.
7. The Director of Planning and Building and/or the Public Works Director shall obtain and maintain the following records.
   (i) Certification by a registered engineer or architect that a proposed structure complies with Subsection D.3.a
   (ii) The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all buildings and structures, and whether such structures contain a basement.

The proposed project has included a coastal hazards analysis (outlined in the EIR) which evaluated potential hazards due to wave run up, flooding and erosion. It was found that the elevation of the proposed basement is located outside of the area that could be impacted due to a 100 year event. The project, however is conditioned to comply with the above construction practices to ensure that the proposed residence is not impacted by coastal hazards.

COASTAL PLAN POLICIES:

Shoreline Access: Policy No 2
Recreation and Visitor Serving: ☒ N/A
Energy and Industrial Development: ☒ N/A
Commercial Fishing, Recreational Boating and Port Facilities: ☒ N/A
Environmentally Sensitive Habitats: Policy No(s): 1
Agriculture: ☒ N/A
Public Works: Policy No(s): 1 & 7
Coastal Watersheds: Policy No(s): 7, 9, 10
Visual and Scenic Resources: Policy No(s): 2, 3, 6, 10, &11
Hazards: Policy No(s): 1, 2, & 6
Archeology: Policy No(s): 1 & 6
Air Quality: Policy No(s): 1

Does the project meet applicable Coastal Plan Policies: Yes, as conditioned

COASTAL PLAN POLICY DISCUSSION:

Shoreline Access

Policy 2: :Vertical accessways will be required at the time of new development when adequate vertical access is not available within a reasonable distance (one-quarter mile within urban areas and one mile in rural areas) and where prescriptive rights may exist. This project is within one-quarter mile to vertical access which is adjacent to this project just to the north. *Lateral access is included as a condition of approval for this project. The condition requires a minimum of 25 feet of dry sandy beach to be available at all times.*

Environmentally Sensitive Habitats
Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats. The proposed project is not located within an environmentally sensitive habitat area, and is located approximately 700 feet south of the mouth of a stream. *Due to the distance of the project site from the mouth of the stream the project will not have any impacts on any mapped or unmapped environmentally sensitive habitat area.*

Public Works
Policy 1: Availability of Service Capacity applies to the project. *The project has submitted a letter from County Service Area 10A and Cayucos Sanitary District showing that they are able and willing to serve the subject property for water and sewer service.*

Policy 7: Permit requirements. A permit is required for projects within the coastal zone. *The applicant is requesting approval of a Minor Use Permit / Coastal Development Permit, consistent with the requirements of this policy.*

Coastal Watersheds
Policy 7: Siting of New Development. Grading for the purpose of creating a site for a structure or other development shall be limited to slopes of less than 20 percent. Grading that will occur on slopes of greater than 20 percent requires a Minor Use Permit or Development Plan approval and shall consider site characteristics such as proximity of nearby streams, erosion potential, and slope stability, amount of grading necessary, and measures proposed to reduce potential erosion and sedimentation. *The proposed project is located on slopes less than 20% except for portions within the right-of-way which contain a short steep slope due to fill from Studio Drive which is approximately 10 feet above the subject property (all contained within the right-of-way). This area will contain drainage improvements and driveway infrastructure for site access to Studio Drive which is being applied for through this Minor Use Permit. Encroachment permits are also required prior to any work within the right-of-way. The project is conditioned to comply with Public Works requirements including review and approval of drainage plans, and sedimentation and erosion control plans.*

Policy 9: Techniques for Minimizing Sedimentation. Appropriate control measures shall be utilized to minimize erosion and sedimentation. *The project has been conditioned to comply with this requirement.*

Policy 10: Drainage Provisions. Site design shall ensure that drainage does not increase erosion. *The project has been conditioned to comply with this requirement.*

Visual and Scenic Resources
Policy 2: Site Selection for New Development. Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors. In particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion. *The project site is located adjacent to the beach approximately 140 feet directly west of Highway 1 and approximately 250 feet south of the intersection of Highway 1 and Studio Drive. The site is visible from Highway 1 when traveling south and somewhat visible when traveling north. The property is a legal lot that is approximately 25 feet in width adjacent to existing bluff top development within the Studio Drive residential neighborhood. The subject property is lower than the adjacent developed properties. The property is small in size and would not allow for alternative designs that are totally outside of the public viewshed. It is adjacent to an existing developed neighborhood and therefore not introducing a new use within an unobstructed coastal viewshed. Also because the lot is*

approximately 10 feet lower then Studio Drive the bulk of the home will not be as visible from Highway 1 as neighboring development along Studio Drive located on the bluff top.

Policy 3: Stringline Method for Siting New Development. In a developed area where new construction is generally infilling and is otherwise consistent with Local Coastal Plan policies, no part of a proposed new structure, including decks, shall be built farther onto a beachfront than a line drawn between the most seaward portions of the adjoining structures; except where the shoreline has substantial variations in landform between adjacent lots in which case the average setback of the adjoining lots shall be used. At all times, this setback must be adequate to ensure geologic stability in accordance with the policies of the Hazards chapter. *The proposed project is conditioned to be setback 25 feet from the western property line which will allow for the public access requirement, and will allow for this development to be level with neighboring residences to the south. This specific site has substantial variations in landform from the adjacent properties to the south. Specifically the bluff edge wraps around the adjacent property to the south and cuts up toward Studio Drive outside the boundaries of the project site. This project site does not contain the bluff and sits lower than the adjacent properties to the south. When evaluating the aerial photograph of properties to the south, this project site is set closer to Studio Drive and does not extend as far toward the west as the three to four properties to the south (see attached aerial photograph in graphics). This project complies with this requirement as proposed.*

Policy 6: Special Communities and Small-Scale Neighborhoods. Within the urbanized areas defined as small-scale neighborhoods or special communities, new development shall be designed and sited to complement and be visually compatible with existing characteristics of the community which may include concerns for the scale of new structures, compatibility with unique or distinguished architectural historical style, or natural features that add to the overall attractiveness of the community. *The proposed project complies with the specific Small Scale Neighborhood Standards outlined in the Estero Area Plan for Cayucos. Demonstration of compliance is listed in the table above.*

Policy 10: Development on Beaches and Sand Dunes. Prohibit new development on open sandy beaches, except facilities required for public health and safety (e.g., beach erosion control structures). Limit development on dunes to only those uses which are identified as resource dependent in the LCP. Require permitted development to minimize visibility and alterations to the natural landform and minimize removal of dune stabilizing vegetation. *The project is located on a small legal lot of record which was created prior to the Coastal Act. . The proposed footprint of the residence is located on top of a fluvial bluff rock outcrop which also includes fill from the construction of Studio Drive and Highway 1. The project is not proposed on the sand, but incorporates a cantilevered design in order to eliminate any construction of the residence on the beach sand portions of the property.*

Policy 11: Development on Coastal Bluffs. New development on bluff faces shall be limited to public access stairways and shoreline protection structures. Permitted development shall be sited and designed to be compatible with the natural features of the landform as much as feasible. New development on bluff tops shall be designed and sited to minimize visual intrusion on adjacent sandy beaches. *There is no development proposed on the coastal bluff face as none exists on the project site.*

Hazards

Policy 1: New Development. All new development proposed within areas subject to natural hazards from geologic or flood conditions (including beach erosion) shall be located and designed to minimize risks to human life and property. Along the shoreline new development (with the exception of coastal-dependent uses or public recreation facilities) shall be designed

COMMUNITY ADVISORY GROUP COMMENTS:

The Cayucos Advisory Council has expressed concerns with the basement, and the project may not comply with the Small Scale Neighborhood requirements of the Estero Plan for gross structural area, and wall height for two story construction. Staff, however feels that this is a single story development therefore requirements such as maximum wall height do not apply (applies to two story construction). Views of the residence from Studio Drive show a single story home, however you are able to see the lower basement from the northern elevation as no development exists on this side. The lower floor (basement) is below the Studio Drive elevation and similar to other bluff-top developments where basements were approved (i.e. Molnar at 2270 Pacific St.). Staff is considering this single story development. The small scale neighborhood standards specific to two story development do not apply in this particular case. Another concern was the gross structural area (GSA). Lots in this area are allowed a max GSA of 3,500 square feet; this project complies with the max GSA requirements at 3,097 square feet (including basement and covered deck area).

Also expressed were concerns regarding wave run-up, storm surge, and geologic conditions on the site. The project has been reviewed by project engineers and geologists and evaluated through the environmental review process. The project is conditioned to be constructed one foot above the storm surge elevation to comply with the geologist's and building code requirements.

Additional concerns regarding massiveness of the northern elevation, flat roofs and the photovoltaic panels were also expressed. Concerns regarding design and visual impacts are discussed within the staff report under major issues as well as within the Environmental Impact Report for aesthetic resources.

AGENCY REVIEW*:

Public Works: Recommend approval. An encroachment permit is needed for new driveway.
Cayucos Sanitary District: Will serve letter submitted and attached.
CSA 10A (water service): Will serve letter submitted and attached.
Cayucos Fire Protection District: "Don't foresee fire problems"
RWQCB: "No water quality issues. Storm water construction permit needed"
California Coastal Commission: Comments from the Coastal Commission were submitted with the Final Environmental Impact Report along with staff responses.

* Additional and updated agency comments along with staff responses are included within the Final Environmental Impact Report.

LEGAL LOT STATUS:
Certificate of Compliance approved on May 28, 2002 (C2002-0113).

ATTACHMENTS:
Exhibit A – Minor Use Permit/Coastal Development Permit Findings
Exhibit B – Conditions of Approval
Exhibit C – CEQA Findings
Project Graphics
Project Referrals (additional agency comments included in the EIR)
Environmental Impact Report – Submitted under separate cover to Commissioners

Staff report prepared by Ryan Hostetter and reviewed by Steve McMasters, and Nancy Orton.

so that shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, will not be needed for the life of the structure. Construction of permanent structures on the beach shall be prohibited except for facilities necessary for public health and safety such as lifeguard towers. *The proposed project does not include shoreline protective devices and complies with this requirement. An existing fluvial bluff acts to reduce coastal impacts from wave run up on the property. The footprint of the proposed residence is located entirely on top of this fluvial bluff. The residence will not act as a shoreline protective devise as the elevation of the foundation is above the elevation of the maximum wave run up as determined by the coastal hazards analysis which was conducted as a part of the EIR. The study stated that the maximum wave run up event over the next 100 years could produce a wave run up at elevation 15 feet. The elevation of the ground on the fluvial bluff is at 17 feet and the project is proposed to be located on top of and above this elevation.*

Policy 2: Erosion and Geologic Stability. New development shall ensure structural stability while not creating or contributing to erosion or geological instability. *Several geologic investigations were conducted and analyzed through the Environmental Impact Report for the project. The reports were reviewed and approved by the County Geologist as well as County contracted consulting geology firm, Cotton Shires. Mitigation measures are proposed to reduce impacts to a less than significant level, and are included within the conditions of approval.*

Policy 6: Bluff Setbacks. New development or expansion of existing uses on blufftops shall be designed and set back adequately to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 100 years (per Estero Area Plan) without construction of shoreline protection structures which would require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist based upon an on-site evaluation that indicates that the bluff setback is adequate to allow for bluff erosion over the 100 year period. Specific standards for the content of geologic reports are contained in the Coastal Zone Land Use Ordinance. *Several geologic investigations were conducted and analyzed through the Environmental Impact Report for the project. The reports were reviewed and approved by the County Geologist as well as County contracted consulting geology firm, Cotton Shires. Mitigation measures are proposed to reduce impacts to a less than significant level, and are included within the conditions of approval. The reports determined that there is no coastal bluff on site. Mitigation measures are proposed to ensure that the lower level of the residence is at least 1 foot above the 100 year storm surge level (and is conditioned to do so).*

Archaeology

Policy 1: Protection of Archaeological Resources. An archaeological survey was conducted by Central Coast Archaeology which found that this project had no impacts to archaeological resources as none were found in the vicinity of this project.

Policy 6: Archaeological Resources Discovered during Construction or through Other Activities
Where substantial archaeological resources are discovered during construction of new development, or through non-permit related activities (such as repair and maintenance of public works projects) all activities shall cease until a qualified archaeologist knowledgeable in the Chumash culture can determine the significance of the resource and submit alternative mitigation measures. *The project is conditioned to comply with this requirement.*

FINDINGS - EXHIBIT A

Minor Use Permit

A. The proposed project or use is consistent with the San Luis Obispo County General Plan, because a single-family residence is an allowable use, and as conditioned, is consistent with all of the General Plan policies as outlined in the staff report.

B. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.

C. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use, because the construction of a single-family residence does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety, and welfare concerns.

D. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development, because the proposed single-family residence is similar in nature to, and will not conflict with, the surrounding lands and residential uses.

E. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project, because the project is located on Studio Drive, a local road constructed to a level able to handle the minor amount of additional traffic associated with the project.

Coastal Access

F. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is conditioned to require coastal lateral access, and because adequate vertical access to the coast already exists adjacent to the site to the North.

Small Scale Design Neighborhood

G. The proposed project meets the Community Small-scale Design Neighborhood standards and guidelines, and is therefore consistent with the character and intent of the Cayucos Community Small-Scale Design Neighborhood.

H. Public views of the ocean from Highway One and the respective neighborhood are not being further limited because the proposed single family residence is directly adjacent to existing residential development.

EXHIBIT B - CONDITIONS OF APPROVAL

Approved Development

1. This approval authorizes a request by Jack Loperena for a Minor Use Permit/Coastal Development Permit to allow for the construction of a single family residence which will include:

    a. 1,097 square feet of living space;
    b. 1,040-square foot basement;
    c. 338-square foot mezzanine;
    d. 242-square foot garage and 200-square foot carport; and,
    e. 180-square foot covered deck.
    f. The residence would consist of one main floor and a basement.
    g. The footprint of the house would be 1,040 square feet.
    h. The maximum width of the structure would be 19 feet, and the maximum length would be 95 feet.
    i. An approximately 200-square foot paved driveway would provide access from Studio Drive.
    j. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive.
    k. The basement would be located below the elevation of Studio Drive.
    l. The applicant proposes a cantilevered design, which would be elevated above the sandy beach. This portion would include approximately 325 square feet of living space and a 180-square foot covered deck.

Conditions required to be completed at the time of application for construction permits

Site Development

2. **At the time of application for construction permits,** submit a revised site plan to the Department of Planning and Building for review and approval. The revised plan shall indicate the following, and development shall be consistent with this revised and approved plan:

    a. Driveway width not to exceed 18 feet.
    b. Boulder rip-rap, rock, or other shoreline protective devises shall be removed from all plans. Shoreline protection devices are not a part of this project description.
    c. Deck railing not to exceed 36 inches.
    d. 25 foot rear setback with no structures or overhangs within this setback area.

3. At the time of application for construction permits, plans submitted shall show all development consistent with the approved site plan, floor plan, architectural elevations, and landscape plan and shall be in conformance with condition no. 2 above.

Biological Resources

4. (BR/mm-3) At the time of application for construction permits all grading plans shall clearly show the location of project delineation fencing, including protection fencing surrounding the Monterey cypress tree on the southern property boundary.

5. (BR/mm-5) At the time of application for grading permits, all applicable plans shall clearly show stockpile and staging areas. Stockpiles and staging areas shall not be placed in

areas that have potential to experience significant runoff during the rainy season. All project-related spills of hazardous materials within or adjacent to project sites shall be cleaned up immediately. Spill prevention and cleanup materials shall be on-site at all times during construction. The staging areas shall conform to standard BMPs applicable to attaining zero discharge of storm water runoff. At a minimum, all equipment and vehicles shall be checked and maintained on a daily basis to ensure proper operation and to avoid potential leaks or spills. Maintenance, cleaning, and refueling of equipment and vehicles shall not be permitted onsite, within adjacent beach areas, or on Studio Drive.

6. (BR/mm-7) Upon application for construction permits, the following measure shall be included on all applicable plans: The applicant shall avoid ground disturbing activities conducted during the snowy plover nesting season to the extent feasible. If work activities must occur during the nesting season the following measures shall be taken:
   a. Prior to installation of the project delineation fencing and the commencement of site grading, a qualified biologist shall conduct a series of pre-construction nesting bird surveys for western snowy plover. Surveys shall be conducted every other day for two weeks prior to any project related disturbances.
   b. Surveys for snowy plovers shall include walking through all potential nesting and foraging habitat within 300 feet of the site on each survey day. The survey area shall include all available snowy plover nesting habitat within 300 feet of anticipated project activities.
   c. The number of snowy plover individuals observed and their activities (e.g. nesting, foraging, resting, etc.) shall be documented. All documented occurrences would be reported to USFWS and documented on the CNDDB.
   d. If nesting activity is identified, all project activities within 300 feet of the nest shall be delayed until the nesting activity has ceased.
   e. During construction, the environmental monitor shall conduct snowy plover surveys twice a week (preferably two to three days apart).

7. (BR/mm-8) Upon application for construction permits, the following measure shall be included on all applicable plans: If commencement of construction begins between March and September, the environmental monitor shall conduct pre-construction nesting bird surveys. If nesting activity is identified, the following measures shall be implemented:
   a) If active nest of common passerine or shorebird species' are observed in the work area or within 100 feet of the work area, construction activities shall be modified and or delayed as necessary to avoid direct take or indirect disturbance of the nests, eggs, or young.
   b) If active nest sites of raptors or other special-status species are observed within the work area or 300 feet of the work area, the environmental monitor shall establish a suitable buffer around the nest site. Construction activities in the buffer zone shall be prohibited until the young have fledged the nest and achieved independence.
   c) Active raptor or special-status species nests should be documented by a qualified biologist and a letter report should be submitted to the County, USFWS, and CDFW, documenting project compliance with the MBTA and applicable project mitigation measures.

8. (BR/mm-9) Upon application for construction permits, the following measure shall be included on all applicable plans: Prior to site grading, the environmental monitor shall conduct a survey for coast horned lizard and other reptiles. The surveyor shall utilize hand search methods in areas of disturbance where coast horned-lizards are expected to be found (e.g., under shrubs, other vegetation, or debris). Any lizards located during

this survey should be safely removed from the construction area and placed in suitable habitat.

Noise

9. (N/mm-1) Upon application for building permits, the project applicant shall include in the project design the following standard mitigation measures for interior noise mitigation provided in the Noise Element for levels in the 60-65 dBA range:
    a. Air conditioning or a mechanical ventilation system;
    b. Windows and sliding glass doors mounted in low air infiltration rate frames (0.5 cubic feet per minute or less, per American National Standards Institute [ANSI] specifications); and,
    c. Solid core exterior doors with perimeter weather stripping and threshold seals.

Water

10. (WAT/mm-1) Upon application for construction permits, the applicant shall submit grading and construction plans showing BMPs, and shall implement BMPs during grading and construction activities. BMPs shall include, but not be limited to, the following:
    a. Erosion control barriers shall be applied, such as silt fences, hay bales, drain inlet protection, and gravel bags;
    b. Disturbed areas shall be stabilized with vegetation or hard surface treatments upon completion of construction in any specific area.
    c. All inactive disturbed soil areas are required to be stabilized with both sediment and temporary erosion control prior to the onset of the rainy season (October 15 to April 15).

Coastal Hazards

11. All buildings or structures shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood elevation level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards.
12. All new construction and other development shall be located on the landward side of the reach of mean high tide.
13. Man-made alteration of sand dunes that would increase potential flood damage is prohibited.
14. The Director of Planning and Building and/or the Public Works Director shall obtain and maintain the following records.
    a. Certification by a registered engineer or architect that a proposed structure complies with Subsection D.3.a.
    b. The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all buildings and structures, and whether such structures contain a basement.

Conditions to be completed prior to issuance of a construction permit

Water

15. (WAT/mm-2) Prior to issuance of grading and construction permits, the applicant shall submit a copy of the RWQCB-issued stormwater construction permit. The permit shall be on-site during all major grading and construction activities.

Fees

16. Prior to issuance of a construction permit, the applicant shall pay all applicable school and public facilities fees.

Public Works

17. Prior to issuance of a construction permit, the applicant shall apply for and obtain an encroachment permit for any improvements within the right of way from the County Department of Public Works.

18. The applicant shall submit a drainage plan for review and approval by County Public Works Department. The applicant shall show the finished floor at a minimum of one foot above the 100 year storm surge level for review and approval by County Public Works and the Department of Planning and Building.

Services

19. Prior to issuance of a construction permit, the applicant shall submit to the Development Review staff evidence from the **Cayucos Sanitary District** that all of their requirements, including payment of fees, have been met.

20. Prior to issuance of a construction permit, the applicant shall provide a letter from the **CSA 10A** stating that they are willing and able to service the property.

21. Prior to issuance of a construction permit, the applicant shall receive any necessary approvals from the Regional Water Quality Control Board.

Fire Safety

22. Prior to issuance of a construction permit, the applicant shall provide the county Department of Planning and Building with a fire safety plan approved by the Cayucos Fire Protection District.

Lighting

23. Prior to issuance of a construction permit, the applicant shall prepare a lighting plan for review and approval. The plan shall comply with the requirements of 23.04.320 (outdoor lights) of the Coastal Zone Land Use Ordinance.

Biological Resources

24. (BR/mm-1) Prior to issuance of construction permits, the applicant shall submit documentation verifying designation of a qualified environmental monitor for all measures requiring environmental mitigation to ensure compliance with Conditions of Approval and EIR mitigation measures. The monitor shall be responsible for: (1) ensuring that procedures for verifying compliance with environmental mitigations are followed; (2) lines of communication and reporting methods; (3) daily and weekly compliance reporting; (4) construction crew training regarding environmentally sensitive areas; (5) authority to stop work; and (6) action to be taken in the event of non-compliance. Monitoring shall be at a frequency and duration determined by the affected

natural resource agencies (e.g., USACE, CDFW, RWQCB, California Coastal Commission, USFWS, and the County).

25. (BR/mm-6) Prior to issuance of construction permits, the applicant shall submit a detailed sediment and erosion control plan for approval, which shall address both temporary and permanent measures to control erosion and reduce sedimentation. Erosion and soil protection shall be provided on all cut and fill slopes. Revegetation shall be facilitated by mulching, hydro-seeding or other methods, and shall be initiated as soon as possible after completion of grading, and prior to the onset of the rainy season (October 15). Permanent revegetation and landscaping shall emphasize native shrubs, and trees, to improve the probability of slope and soil stabilization without adverse impacts to slope stability due to irrigation infiltration and long-term root development. All plans shall show that sedimentation and erosion control measures are installed prior to any other ground disturbing work.

Aesthetics

26. (AES/mm-1) Prior to issuance of the building permit, the applicant shall submit interior and exterior lighting plans to the Department of Planning and Building for review and approval consistent with the following:
    a. The point source of all exterior lighting shall be shielded from off-site views, including beach areas.
    b. All required security lights shall utilize motion detector activation.
    c. Light trespass from exterior lights shall be minimized by directing light downward and utilizing cut-off fixtures or shields.

Air Quality

27. (AQ/mm-2) Prior to issuance of construction permits, the applicant shall include the following measures on applicable grading and building plans:

Idling Restrictions Near Sensitive Receptors for Both On and off-Road Equipment

a. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors;
b. Diesel idling within 1,000 feet of sensitive receptors is not permitted;
c. Use of alternative fueled equipment is recommended whenever possible; and,
d. Signs that specify the no idling requirements must be posted and enforced at the construction site.

Idling Restrictions for On-road Vehicles

e. Section 2485 of Title 13, the California Code of Regulations limits diesel-fueled commercial motor vehicles that operate in the State of California with gross vehicular weight ratings of greater than 10,000 pounds and licensed for operation on highways. It applies to California and non-California based vehicles. In general, the regulation specifies that drivers of said vehicles:
    1. Shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location, except as noted in Subsection (d) of the regulation; and,
    2. Shall not operate a diesel-fueled auxiliary power system (APS) to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5.0 minutes at any location when within 100 feet of a restricted area, except as noted in Subsection (d) of the regulation.
f. Signs must be posted in the designated queuing areas and job sites to remind drivers of the 5-minute idling limit. The specific requirements and exceptions in the regulation can be reviewed at the following web site: www.arb.ca.gov/msprog/truck-idling/2485.pdf.

Idling Restrictions for off-Road Equipment

g. Off-road diesel equipment shall comply with the 5 minute idling restriction identified in Section 2449(d)(3) of the California Air Resources Board's In-Use off-Road Diesel regulation: www.arb.ca.gov/regact/2007/ordiesl07/frooal.pdf.
h. Signs shall be posted in the designated queuing areas and job sites to remind off-road equipment operators of the 5 minute idling limit.

Geology and Soils

28. (GS/mm-1) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Engineering Evaluation (Shoreline Engineering 2012) and Updated Geotechnical Investigation (GSI Soils, Inc.) dated December 27, 2011, specifically the recommendations identified in Section 5.2 – Preparation of the Building Pad, Section 5.3 – Structural Fill, Section 5.4 – Drilled Piers, Section 5.5 – Conventional Deepened Foundation, Section 5.6 – Slab Construction, and Section 5.9 – Surface and Subsurface Drainage.

29. (GS/mm-2) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.) dated December 27, 2011, and specifically the following:
    a. All surface and subsurface deleterious materials shall be removed from the proposed building area and disposed of offsite. This includes, but is not limited to, any buried utility lines, loose fills, debris, building materials, and any other surface and subsurface structures.
    b. Voids left from site clearing shall be cleaned and backfilled as recommended for structural fill.
    c. Once the site has been cleared, the exposed ground surface shall be stripped to remove surface vegetation and organic soil.

30. (GS/mm-3) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the following: recommendations for slope stability identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.10 – Temporary Excavations and Slopes; and Shoring Detail prepared by Shoreline Engineering (January 2012, updated September 20, 2012). Plans shall demonstrate how construction would be conducted such that no activity would compromise the neighboring structure. Construction of all site preparation and shoring activities shall be monitored by the project Engineer of Record, and daily monitoring reports shall be prepared and submitted to the County Department of Planning and Building on a weekly basis.

31. (GS/mm-4) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which include the use of deepened pier foundations identified in the Engineering Evaluation (Shoreline Engineering, Inc.), dated January 2012, and Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.2 – Preparation of Building Pad, Section 5.4 – Drilled Piers, and Section 5.5 – Conventional Deepened Foundation.

32. (GS/mm-5) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.1 – Clearing and Stripping, Section 5.2 – Preparation of Building Pad, and Section 5.3 – Structural Fill.

33. (GS/mm-6) Prior to issuance of grading and construction permits, the applicant shall submit a drainage plan for review and approval by the County Department of Public Works. The drainage plan shall be coordinated with the sedimentation and erosion control plan, be consistent with CZLUO §23.050.036 and 040, and specifically include engineered energy dissipators and controls that would limit peak runoff to pre-development levels.

Conditions to be completed during project construction

Biological Resources

34. (BR/mm-2) Prior to the initiation of construction, the environmental monitor shall conduct environmental awareness training for all construction personnel. The environmental awareness training shall include discussions of sensitive habitats and animal species in the immediate area. Topics of discussion shall include: general provisions and protections afforded by the Endangered Species Act; measures implemented to protect special-status species; review of the project boundaries and special conditions; the monitor's role in project activities; lines of communications; and procedures to be implemented in the event a special-status species is observed in the work area.

35. (BR/mm-4) Prior to the initiation of construction, the applicant's contractors and the environmental monitor shall coordinate the placement of project delineation fencing throughout the work areas. The environmental monitor shall field fit the placement of the project delineation fencing to minimize impacts to sensitive resources. The project delineation fencing shall remain in place and functional throughout the duration of the project. During construction, no project related work activities shall occur outside of the delineated work area.

Air Quality

36. (AQ/mm-1) Prior to initiation of construction, the project applicant shall implement the following dust control measures:
    a. Reduce the amount of the disturbed area where possible;
    b. Use water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 miles per hour. Reclaimed (non-potable) water should be used whenever possible;
    c. All dirt stockpile areas should be sprayed daily as needed; and,
    d. All roadways, driveways, sidewalks, etc., to be paved should be completed as soon as possible, and building pads should be lain as soon as possible after grading unless seeding or soil binders are used.

Building Height

37. The maximum height of the project is 15 feet as measured from the centerline of the fronting Street at a point midway between the two side property lines, projected to the street centerline. Prior to approval of the roof nailing inspection, the applicant shall provide the building inspector with documentation that gives the height reference, the allowable height, and the actual height of the structure. A licensed surveyor or civil engineer shall prepare this certification.

Archaeology

38. In the event archaeological resources are unearthed or discovered during any construction activities, the following standards apply:

a. Construction activities shall cease and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law.

b. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.

Conditions to be completed prior to final building inspection

Landscaping

39. Prior to final building inspection, landscaping in accordance with the approved landscaping plan shall be installed or bonded for to ensure the implementation of landscaping. If bonded for, landscaping shall be installed within 60 days after final building inspection. All landscaping shall be maintained in a viable condition in perpetuity.

Fire Safety

40. Prior to final inspection, the applicant shall obtain final inspection and approval from Cayucos Fire Protection District for all required fire/life safety measures.

Miscellaneous

41. Prior to occupancy of any structure associated with this approval, the applicant shall contact the County Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

Lateral Access

42. Prior to final inspection, the applicant shall execute and record an offer of dedication for lateral access which shall include 25 feet of dry sandy beach available at all times during the year (pursuant to the requirements of Section 23.04.420 of the Coastal Zone Land Use Ordinance).

On-going conditions of approval (valid for the life of the project)

43. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Coastal Zone Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.

44. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Coastal Zone Land Use Ordinance.

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STAFF REPORT "EXHIBIT C"

CEQA REQUIRED FINDINGS FOR THE LOPERENA MINOR USE PERMIT/ COASTAL DEVELOPMENT PERMIT ENVIRONMENTAL IMPACT REPORT

3-23

1.0 ENVIRONMENTAL DETERMINATION

The Environmental Impact Report (EIR) was prepared, pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code [PRC] §21000 et seq.), to evaluate the environmental impacts resulting from approval of the Loperena Minor Use Permit / Coastal Development Permit (MUP/CDP) (project). The County of San Luis Obispo (County) is the CEQA Lead Agency for the project.

The EIR addresses the potential environmental effects associated with the project. A number of federal, state, and local governmental agencies require an environmental analysis of the proposed project consistent with the requirements of CEQA in order to act on the project. These agencies include the California Coastal Commission.

The findings and recommendations set forth below (Findings) are adopted by the County Planning Commission as the County's findings under CEQA and the CEQA Guidelines (California Code of Regulations [CCR] Title 14, §15000 et seq.) relating to the project. The Findings provide the written analysis and conclusions of this commission regarding the project's environmental impacts, mitigation measures, and alternatives to the project.

1.1 PROCEDURAL BACKGROUND

Pursuant to CEQA and the CEQA Guidelines, the County determined that an EIR would be required for the project. On August 7, 2009, the County issued a Notice of Preparation (NOP) for the EIR which was circulated to responsible agencies and interested groups and individuals for review and comment. A copy of the NOP is included in Appendix A of the Loperena MUP/CDP EIR.

The Draft EIR was available for public review and comment from June 14, 2013, through August 5, 2013, and was filed with the State Office of Planning & Research under State Clearinghouse No. 2007081044.

The County prepared written responses to the comments received during the comment period and included these responses in the Final EIR, which was published by the County on December 12, 2013. The Final EIR with responses was made available to all commenters.

2.0 PROJECT DESCRIPTION

The applicant, Mr. Jack Loperena (landowner) and architect, Mr. James Maul, request a Minor Use Permit / Coastal Development Permit (MUP/CDP) to allow for the construction of a single-family residence. A description of the project location, project history, and project elements are discussed in the sections below.

2.1 GENERAL BACKGROUND

2.1.1 Project Location

The project site is located in the unincorporated community of Cayucos, within San Luis Obispo County, California. The project site is located adjacent to State of California Department of Parks and Recreation (State Parks) property on the northern end of Studio Drive, approximately 250 feet south of the intersection of Studio Drive and Highway 1. The project site consists of a single 3,445-square-foot parcel (Assessor Parcel Number 064-253-007).

2.1.2 Project Background

The applicant submitted an application for a MUP/CDP in May of 2006. At the time, the environmental document prepared and issued by the County was a Mitigated Negative Declaration (MND) (August 9, 2007). A Planning Department Hearing was scheduled for August 17, 2007, to consider the proposed project and MND. At the hearing, staff requested a continuance until September 21, 2007 because the MND had been re-issued and re-noticed, and required a 30-day public review period. On August 23, 2007, County staff received a Request for Review of the MND, and requested that the project be continued off calendar to address issues raised in the Request for Review. Based on the comments included in the Request for Review, County staff consulted with County experts in geology, cultural resources, emergency services, air quality, and public works and drainage. Information and data obtained from County experts were incorporated into an amended MND, which was re-circulated for public review (April 2, 2009). A Planning Department Hearing was scheduled for May 15, 2009. A Request for Review of the amended MND was received by County staff on April 16, 2009, and County staff requested that the project be continued off calendar a second time.

Based on the issues raised in the April 2009 Request for Review, the County Environmental Coordinator determined that a fair argument was raised regarding the significance of potential environmental impacts. Upon consideration of these issues, the applicant proposed that an EIR be prepared for the proposed project.

2.2 PROJECT OBJECTIVES

The objectives of the project are to:

- Develop a single-family residence on Studio Drive, within an existing, developed, single-family residential neighborhood;
- Allow development consistent with the County General Plan and Local Coastal Program
- Provide coastal access

In addition, the applicant provided the following project objectives:

- Reduce visual impacts by design;
- Avoid development on the sandy beach and minimize site grading and disruption of the natural contours; and,
- Incorporate green building considerations into the design, and maximize exposure for solar panels.

2.3 PROPOSED PROJECT

The project evaluated in the EIR includes a proposeal to grade for and construct a 3,097-square-foot residence, including approximately:

- 1,097 square feet of main floor living space
- 1,040-square-foot basement
- 338-square-foot mezzanine
- 242-square-foot garage and 200 square foot carport; and,
- 180-square-foot covered deck.

The residence would consist of one main floor and a basement. The footprint of the house would be 1,040 square feet. The maximum width of the structure would be 18 feet, and the maximum length would be 95 feet. A paved driveway would provide access from Studio Drive. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive. The basement would be located below the elevation of Studio Drive. The applicant proposes a cantilevered design, which would be elevated above the sandy beach. This portion would include approximately 325 square feet of living space and a covered deck.

The residence would be constructed on a structural mat slab supported on deepened/deadman footings and/or drilled piers. The footing on the east side of the residence would extend the full width of the structure (18 feet), and be 6 to 8 feet deep and 18 feet long. The purpose of the deadman footings will be to resist the cantilever loading of the west side of the residence, which would extend 28 feet over the sand. The mat slab would be located at basement level (15 feet above mean sea level). Cuts varying from approximately 5 feet on the north side of the pad to 12 feet on the south side are anticipated. Temporary excavation support would be provided by steel soldier beams installed in drilled holes filled with lean concrete. The soldier beams would be lagged with steel plates to provide support during construction. The soldier beams and lagging would be removed once the excavated area is backfilled. The exterior walls of the structure would be concrete and would retain soils along the southern, eastern, and northern sides of the residence. Retaining walls will also be constructed adjacent to Studio Drive with continuous footings extending into the underlying bedrock materials.

A photovoltaic system would provide electricity for the residence, including 1,400 square feet of solar panels to be located on the south-facing slopes of the roof. Light tubes would be installed to allow outside light to filter through to the basement.

2.3.1 Grading Estimates

Grading activities would disturb approximately 3,000 square feet of the 3,445-square-foot parcel, including 400 cubic yards of cut (foundation) and 150 cubic yards of fill (driveway). The average depth of cut would be 5 feet (minimum 1 foot, maximum 12 feet). Approximately 250 cubic yards of soil would be exported offsite.

2.3.2 Drainage Plan

Proposed drainage plans include removal of an existing overside drain and construction of a new storm drain system including an overside drain with a fossil filter, stormwater inlet, and stormwater outlet with energy dissipators. Stormwater would flow from the outlet in a northwesterly direction offsite.

A concrete deck would be constructed over the new pipe system to allow entry to the property. Rainfall from the roof would be collected by a gutter system and facilitated to an underground holding tank below the driveway grade. Captured runoff would be used as gray water for toilet flushing and landscape watering. Runoff would be piped and directed westward to exit onto the beach.

2.3.3 Services and Utilities

An existing high pressure gas main would be re-routed so that no structures are located over the top of the pipeline. The proposed residence would be served by the County Service Area 10A for water supply and Cayucos Sanitary District for wastewater collection, treatment, and disposal. Cayucos Fire would provide fire protection.

3.0 GENERAL FINDINGS

3.1 CEQA GENERAL FINDINGS

A. The County Planning Commission finds that changes or alterations have been incorporated into the project to eliminate or substantially lessen all significant impacts where feasible. These changes or alterations include mitigation measures and project modifications outlined herein and set forth in more detail in the Loperena Minor Use Permit/Coastal Development Permit EIR.

B. The County Planning Commission finds that the project, as approved, includes an appropriate Mitigation Monitoring Program. This mitigation monitoring program ensures that measures that avoid or lessen the significant project impacts, as required by CEQA and the State CEQA Guidelines, will be implemented as described.

C. Per CEQA Guidelines §15126.4(a)(1)(B), the proposed project includes performance-based conditions relating to environmental impacts and include requirements to prepare more detailed plans that will further define the mitigation based on the more detailed plans to be submitted as a part of the construction phase. Conditions and mitigation measures contain performance-based standards and therefore avoid the potential for these conditions or measures to be considered deferred mitigation under CEQA.

3.2 LEAD AGENCY AND RESPONSIBLE AGENCY USE OF THE FINAL EIR AND FINDINGS

The County, as the CEQA lead agency, is responsible for administering the preparation of the EIR and certifying the Final EIR. The Commission will use the Final EIR as an informational document to assist in the decision-making process, ultimately resulting in the approval, denial, or assignment of conditions to the project.

The CEQA Guidelines authorizes lead agencies (public agencies that have principal responsibility for carrying out or approving a project and for implementing CEQA) to approve a project with significant effects if there is no feasible way to lessen or avoid the significant effects and the project's benefits outweigh these effects. Responsible agencies (public agencies other than the lead agency that have responsibility for carrying out or approving a project and for complying with CEQA) have a more limited authority to require changes in the project to lessen or avoid only the effects, either direct or indirect, of that part of the project which the agency will be called on to carry out or approve (PRC §21104(c), §21153(c); CEQA Guidelines §15041(b), §15042).

3.3 THE RECORD

For purposes of CEQA and these Findings, the Record of Proceedings for the proposed project consists of the following documents and other evidence, at a minimum:

- The NOP and all other public notices issued by the County in conjunction with the proposed project;
- The Final EIR for the proposed project which consists of the Draft EIR, the technical appendices, and the Response to Comments;
- The Draft EIR;

- All written comments submitted by agencies or members of the public during the public review comment period on the Draft EIR;
- All responses to written comments submitted by agencies or members of the public during the public review and comment period on the Draft EIR;
- All written and verbal public testimony presented during noticed public hearings for the proposed project at which such testimony was taken;
- The Mitigation Monitoring and Reporting Program;
- The documents, reports, and technical memoranda included or referenced in the technical appendices of the Final EIR;
- All documents, studies, EIRs, or other materials incorporated by reference in the Draft and Final EIR;
- The Ordinances and Resolutions adopted by the County in connection with the proposed project, and all documents incorporated by reference therein;
- Matters of common knowledge to the County, including but not limited to federal, state, and local laws, regulations, and policy documents;
- Written correspondence submitted to the County in connection with the project;
- All documents, County Staff Reports, County studies, and all written or oral testimony provided to the County in connection with the project;
- The County's Local Coastal Plan, General Plan, and related ordinances;
- All testimony and deliberations received or held in connection with the project; and,
- Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e) (excluding privileged materials).

3.4 CERTIFICATION OF THE LOPERENA MUP/CDP EIR

The County Planning Commission makes the following findings with respect to the Loperena MUP/CDP Final EIR:

A. The Planning Commission has reviewed and considered the documents and other information listed in Section 3.3 above.

B. The Final EIR has been completed in compliance with CEQA.

C. The Planning Commission has considered the information contained in the Final EIR, the public comments and responses currently and previously submitted, and the public comments and information presented at the public hearings.

D. All information was considered by the Planning Commission before taking an action on the project.

E. The Planning Commission hereby finds and determines that:

1. All significant effects that can be feasibly avoided have been eliminated or substantially lessened as determined through the findings and supporting evidence set forth in Sections 7.0, 8.0, and 9.0.

2. Based on the Final EIR and other documents in the record, specific environmental, economic, social, legal, and other considerations make infeasible other project alternatives identified in the Final EIR.

3. Should approval of the Loperena MUP and CDP have the potential to result in adverse environmental impacts that are not anticipated or addressed by the Final EIR, subsequent environmental review shall be required in accordance with CEQA Guidelines §15162(a).

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5.0 STATEMENT OF OVERRIDING CONSIDERATIONS

The Final EIR has identified and discussed significant effects that will occur as a result of the proposed project. With the implementation of the mitigation measures identified in the Final EIR, these effects can be mitigated to a level of insignificance. Therefore, no statement of Overriding Consideration is required.

IMPACT ANALYSIS: Impacts of the proposed project and alternatives have been classified using the categories Class I, II, III, and IV as described below:

- **Class I:** Class I impacts are significant and unavoidable. To approve a project resulting in Class I impacts, the CEQA Guidelines require decision makers to make findings and a statement of overriding considerations that discusses as applicable the economic, legal, social, technical and other benefits of the proposed project against the unavoidable environmental risks. The proposed project has not resulted in any Class I impacts.

- **Class II:** Class II impacts are significant but can be mitigated to a level of insignificance by measures identified in the Final EIR and the project description. When approving a project with Class II impacts, the decision-makers must make findings that;

    1. Changes or alternatives to the project have been incorporated that reduce the impacts to a less than significant level, or

    2. That such changes or alternatives are within the responsibility and jurisdiction of another governmental agency and not the Lead Agency making the finding, and that such other governmental agency can and should adopt the required project changes or alternatives.

- **Class III:** Class III impacts are adverse but not significant. Mitigation measures may still be required for these impacts as long as there is rough proportionality between the environmental impacts caused by the project and the mitigation measures imposed on the project.

- **Class IV:** Class IV impacts would have a beneficial environmental impact.

6.0 FINDINGS FOR IMPACTS IDENTIFIED AS LESS THAN SIGNIFICANT

The findings below are for Class III impacts. Class III impacts are impacts that are adverse, but not significant. Pursuant to Section 15091(a)(1) of the State CEQA Guidelines, the Planning Commission finds that each of the following effects have been avoided or will have a less than significant impact, as identified in the Final EIR. The less than significant effects (Impacts) are stated fully in the Final EIR. The following are brief explanations of the rationale for this finding for each impact:

A. Agricultural Resources (Insignificant Impact/Not Applicable)

1. **Convert Prime Agricultural Land to Non-Agricultural Use.** The project is located in a non-agricultural area with no agricultural activities occurring at or adjacent to the project site. The project site is classified as Urban and Built-Up Land by the DOC, Division of Land Resource Protection's Farmland Monitoring and Mapping Program (DOC 2008). No important farmland would be converted to non-agricultural use; therefore, there would be no impact.

2. **Impair Agricultural Use of Other Property or Result in Conversion to Other Uses.** No agricultural uses occur in the immediate vicinity of the project site. Based on the location of the project, it would not impair agricultural use of other properties in the region or result in conversion to non-agricultural uses. Therefore, there would be no impact.

3. **Conflict with Existing Zoning or Williamson Act Program.** The project site is within the residential land use category, and is not under Williamson Act contract. No parcels in the project vicinity are within the agricultural land use category or are subject to a Williamson Act contracts. No significant impacts to agricultural resources would to occur.

B. Aesthetics (Class III)

1. **Create an Aesthetically Incompatible Site Open to Public View.** From surrounding viewing locations, the overall height of the project would appear visually consistent with the heights of existing houses lining Studio Drive, and particularly the existing houses closest to the site. It is anticipated that as seen from most viewpoints, the height of the project would not be unexpected at this residential location.

   The project proposes a building with a distinctly modern-style architecture and form. This style of architecture is seen regularly in the Studio Drive neighborhood and throughout the community. Although residential buildings often associated with the coastal community aesthetic tend to be beach bungalow style, modern style architecture is also part of the eclectic vernacular. These mid-century style buildings often employ simple forms, and flat rooflines with clerestory windows, similar to the proposed project.

   Because of the existing residential setting, and the proposed structure's general consistency with the scale and architecture of the Studio Drive neighborhood, the project would be aesthetically compatible with the area, and potential impacts to public views is considered to be *less than significant* (CEQA Class III).

2. **Introduce a Use within a Scenic View Open to Public View.** Because of its location on the bluff, the project would be visible from many public viewpoints and from many viewing directions. The project's proximity to the beach and Studio Drive allows for up-close viewing opportunities by the public. The greatest number of potential viewers would be traveling on Highway 1, from where the project would occupy a portion of the mid-ground view, with the Pacific Ocean in the background. From Highway 1, the project would be more noticeable from the southbound lanes, since views from the northbound lanes would be mostly blocked by adjacent development. As seen from all areas on Highway 1, the lowest portion of the building and associated retaining walls would have limited visibility. The upper part of the residence would block a portion of the existing ocean view, from both the northbound and southbound lanes of Highway 1. From the southbound lanes, blue-water ocean views and the horizon line would be blocked a minor amount. As seen from the northbound lanes, blue-water views would also be briefly blocked, however views of the horizon and of the distant coastline hills would not be affected.

   Although the project would block a portion of the ocean, the effect on the viewing experience would be minor. As seen from the highway it is estimated that the project would only block an insignificant percentage of the existing available ocean view. No views of unique, historic, or singularly memorable coastal resources would be affected. The existing residential development along Studio Drive currently limits views of the ocean and beach from Highway 1. It is anticipated that to most viewers, the project's small incremental effect on the scenic vista would just appear as an extension of the existing neighborhood condition. The high quality of the scenic vista would not be affected, and the extent of view loss would be minor or even un-noticed in the context of the remaining scenic viewshed.

   As seen from southbound Studio Drive, the visual effect of the project would be similar to that from Highway 1; only a small portion of the total available ocean view would be affected, and the majority of the project would be seen within the visual silhouette of the adjacent development. From northbound Studio Drive south of the project, views of the ocean are blocked by existing homes. From the northbound direction, coastal views begin to open up as the viewer approaches the project site and begins to see around the northernmost residence. With construction of the project, existing coastal view blockage in the northbound direction and directly in front of the project would be extended a distance of approximately 150 feet along the street frontage. Outside of this 150-foot section, northbound views along Studio Drive would not be affected. Because existing coastal views along the approximately one mile length of Studio Drive are currently blocked, and there is approximately 300 feet of protected ocean views to the north of the site and extending to the Old Creek parking area, the additional 150 feet of affected view would be minor. The visual affect as seen from a vehicle would be approximately one second. Because of the short length, viewing durations from pedestrian and bicyclist viewpoints would also be very brief. Similar to the views from Highway 1, the project's small incremental effect on the scenic vista would likely appear as an extension of the existing neighborhood condition. The high quality of the existing scenic vista would be unaffected, and the extent of view loss would be minor or even un-noticed in the context of the remaining scenic viewshed.

   Viewpoints from the beach toward the project would be generally oriented inland and away from the ocean. From these viewing areas, scenic coastal resources such as

the hills east of the highway are somewhat compromised by existing residential areas as well as the highway. The uppermost portions of the hills however are undeveloped and can be seen from much of the beach area. Because of the existing homes along the Studio Drive bluff, public viewers closer to the base of the bluff can see less of the hills across the highway to the east. From most beach viewpoints northwest of the project, the proposed residence would not extend beyond the visual silhouette of the adjacent development behind it. As seen from certain viewpoints directly west and southwest of the project, the upper portion of the new building would block a portion of the hillside to the northeast. From some closer viewpoints, the residence would block brief views of the ridgeline as well. Although a portion of the hillside views would be blocked by the project, the overall effect on the scenic vista would be minor. Views to the hills would not be blocked as seen from the majority of the beach area. No unique rock outcroppings or other memorable features are present within affected hillside areas. In addition, other hillside views would remain in the viewshed. The project and its subsequent effect on hillside views would appear to most viewers as an extension of the existing visual condition. Scenic ocean views from the neighborhood east of the highway would not be affected because the proposed residence would be consistent with the heights of the existing adjacent homes along Studio Drive.

Because the project would affect only a minor percentage of the available ocean and hillside views as seen from Highway 1 or from public roadways in the surrounding neighborhood or public beach, and because what would be affected would appear as an incremental extension of the existing visual condition along Studio Drive, the project's effect on scenic views is considered to be *less than significant* (CEQA Class III).

Specific Scenic Resources as Seen from the State Scenic Highway. As discussed in the previous section, the greatest number of potential viewers would be traveling on Highway 1, an Officially Designated State Scenic Highway and a National Scenic Byway. The upper part of the residence would block a portion of the existing ocean view, from both the northbound and southbound lanes of Highway 1. From the southbound lanes, blue-water ocean views and the horizon line would be blocked a minor amount. As seen from the northbound lanes, blue-water views would also be briefly blocked, however views of the horizon and of the distant coastline hills would remain.

Although the project would block a portion of the ocean, the effect on the viewing experience would be minor. As seen from the highway it is estimated that the project would only block an insignificant percentage of the existing available ocean view. No views of unique, historic, or singularly memorable coastal resources would be affected. The existing residential development along Studio Drive currently limits views of the ocean and beach from Highway 1. It is anticipated that to most viewers, the project's small incremental effect on the scenic vista would just appear as an extension of the existing neighborhood condition. The high quality of the scenic vista would not be affected, and the extent of view loss would be minor or even un-noticed in the context of the remaining scenic viewshed.

As a result, the project would have no adverse effect on scenic resources as seen from Officially Designated State Scenic Highway 1. Because the project would affect only a minor percentage of the available ocean and hillside views as seen from

Highway 1 and because what would be affected would appear as an incremental extension of the existing visual condition along Studio Drive, the project's effect on scenic vistas is considered to be *less than significant* (CEQA Class III).

3. **Change the Visual Character of an Area.** The project site occupies one of the more visible residential locations in the community. The proximity to Highway 1 and Morro Strand State Beach greatly increases the potential number of viewers of the project. The volume of traffic on Highway 1 in the vicinity of the project averages approximately 11,000 vehicles per day (Caltrans 2008). Because of this large number of viewers and highly visible location, the appearance of the project would have an influence on the visual character of the neighborhood. Any development of the site would include an inherent alteration of visual character. The change in character brought about by this project would be most noticeable it terms of its height, form, and architecture.

   The project site itself is mostly covered with non-native vegetation such as iceplant and ornamental plantings. The visual context of the site is one of a residential beach neighborhood. Although the site's topography provides some visual interest to the setting, it is not memorable or unique. The exposed rock area along western portion of the site is a relatively insignificant portion of a larger, continuous rock face extending south along the bluffs. As noted above, the height of the project would not be unexpected at this residential location and the proposed architecture is aesthetically compatible with the character of the existing residences in the Studio Drive neighborhood.

   Because of the existing residential setting, and the proposed structure's general consistency with the scale and architecture of the Studio Drive neighborhood, the effect of the project on visual character and quality of the site is considered to be *less than significant* (CEQA Class III).

4. **Impact Unique Geological or Physical Features.** As mentioned previously, the visual context of the site is one of a residential beach neighborhood. The project site is mostly covered with non-native vegetation such as iceplant and ornamental plantings. Although the site's topography provides some visual interest to the setting, it is not memorable or unique. The exposed rock area along western portion of the site is a relatively insignificant portion of a larger, continuous rock face extending north-south along the bluffs. Furthermore, the project would not block or adversely affect views of any unique off-site geological or physical features. As a result, the effect of the project on unique geological or physical features is considered to be *less than significant* (CEQA Class III).

C. **Air Quality (Class III)**

1. **Violate Air Quality Standard or Exceed Emission Threshold.** As proposed, the project would result in the disturbance of approximately 3,000 square feet, including driveways, walkways, the residential structure coverage, and landscaping. This would result in the creation of construction dust, as well as short-term vehicle emissions. Long-term operational impacts would include an increase in vehicle emissions on surrounding roads. Based on the CEQA Air Quality Handbook, the project would result in less than 10 pounds per day of pollutants, which is below the threshold warranting mitigation. Therefore, potential impacts would be *less than significant* (Class III).

2. **Create or Subject Individuals to Objectionable Odors.** The project consists of a residence, which will not require the storage or use of any materials or equipment that would generate objectionable odors. Therefore, potential impacts would be *less than significant* (Class III).

3. **Clean Air Plan Consistency.** The project is consistent with the general level of development anticipated and projected in the CAP, including promotion of residential infill in proximity to essential services and alternative transportation services. Therefore, potential impacts would be *less than significant* (Class III).

4. **Generate GHG Emissions.** The proposed project would result in an increased use of vehicles and electricity, each of which generate small amounts of CO_2, N_2O, and HFCs. The APCD provided comments on the project that indicated through URBEMIS modeling that the project would result in approximately 84 pounds per day of CO_2 in the summer and 102 pounds per day in the winter (APCD Comment Letter dated December 23, 2008).

   Based on *Table 1-1: Operational Screening Criteria for Project Air Quality Analysis* (SLOAPCD 2012), construction and operation of one single-family residence would not exceed 1,150 MT of CO_2e/year threshold. In addition, the project includes elements that will reduce GHG emissions, including compliance with current Title 24 Energy requirements (electricity reduction for cooling/heating), use of solar panels to reduce demand from GHG-emitting power plants, location within a garbage service area that is recycling over 50% of its wastes (electricity reduction), and requirement to recycle at least 50% of its construction wastes.

   Because the project proposes only one single-family residence in an existing residential neighborhood, and is consistent with land use components necessary to meet the goals of AB32 and set forth in the Clean Air Plan, this increase in GHGs is not considered significant. Therefore, no significant adverse GHG impacts would occur as a result of the proposed project, and no mitigation measures are necessary (Class III).

5. **Conflict with Applicable Plan, Policy, or Regulation.** The proposed project is consistent with the APCD's CEQA Handbook and County's EnergyWise Plan because it consists of a residential development within an urban area, in proximity to recreational resources and opportunities for alternative transportation, such as walking and bicycling. As noted above, the project includes energy-efficiency measures, including incorporation of solar energy. Potential impacts would be *less than significant* (Class III).

D. Cultural Resources (Class III)

1. **Pre-historic Resources.** The project site is located within a culturally sensitive region; however, the field studies and background research conducted by the applicant's consultant and EIR archaeologist did not identify the presence of any significant cultural resources within the project site. As with any ground disturbing activities, the potential for encountering previously undocumented cultural resources exists. In the event of inadvertent discovery, compliance with Section 23.05.140 of the CZLUO will be required. Potential impacts to pre-historic resources would be *less than significant* (Class III).

2. **Historic Resources**. No historic resources are located within the project site or within 0.5-mile. No impacts to historic resources are anticipated, therefore, no mitigation measures are required. No significant impact to historic resources would occur.

3. **Paleontological Resources.** The proposed project would be located within formations that are not known to contain significant paleontological resources. Impacts to paleontological resources would be *less than significant* (Class III). No mitigation is required.

E. Hazards and Hazardous Materials (Insignificant Impact/Not Applicable)

1. **Risk of Explosion, Release, or Exposure to Hazardous Substances.** The project does not propose the use or storage of hazardous materials; therefore, the risk of explosion or release of hazardous substances is not likely. The project would not result in the routine transport, use, or disposal of hazardous materials and does not create the potential for the release of hazardous materials through upset and/or accident conditions. Therefore, no hazards associated with the handling of hazardous materials would result. The project site is not located within 0.25 mile of an existing or proposed school, and is not included on the Cortese List or any other list of hazardous materials sites and would not create associated risks to the public or environment. No impacts due to hazards or hazardous materials would occur.

2. **Interfere with Emergency Response or Evacuation Plan.** Although it places residential uses within an area covered by the Dam and Levee Failure Evacuation Plan, Cities Nuclear Power Plant Emergency Response Plan, and Tsunami Response Plan, the proposed use is suitable for the location and within the general level of development projected in the response plans. The proposed project would not inhibit emergency alert, evacuation or response actions and would not conflict with any regional evacuation plan, because it is located with an existing residential lot, on a paved roadway (Studio Drive). No impacts to emergency response or evacuation plans will occur.

3. **Airport Flight Patterns.** The project site is not located within any airport review area and would not expose people to safety risks associated with airport flight patterns, therefore no impacts will occur.

4. **High Fire Risk.** The project is not located within a high fire hazard zone and does not present a significant fire safety risk, therefore no impacts will occur.

5. **Other Hazards.** The County Office of Emergency Services prepares for catastrophic (though highly unlikely) worst case scenario events that would include a 50 foot tsunami wave run-up. However, based on review by the County Geologist and the project consultant geologist, a 9.5 foot wave run-up is considered more appropriate for a 100-year tsunami event. The project has been designed and conditioned to avoid impacts from a 100-year tsunami event and potential impacts related to wave run-up and tsunami hazards for the proposed development will be taken into account through the foundation design and finished floor elevations of the proposed residence.

An in depth analysis of tsunami and/or wave run-up hazards associated with the proposed project is included in Section 4.3, Geology and Soils. Refer to that section

for additional information. No other significant adverse impacts would occur as a result of the proposed project, and no mitigation measures are necessary (Class III).

F. Geology and Soils (Class III)

1. **Exposure to or Production of Unstable Earth Conditions.** Seismic ground shaking associated with a large earthquake on one of several nearby and regional faults (the Oceanic, Hosgri, Los Osos, and San Luis Range faults) is considered to be a high potential hazard for the project area. Peak ground accelerations up to 0.35g could potentially affect structures at the site in the future. The project site was positioned on the USGS Seismic Hazard Maps for a 2% probability of exceedance in 50 years to determine the maximum considered earthquake spectral response accelerations. The Code-required design acceleration coefficients for short periods (SDS) and at one-second (SD1) would be 0.980g and 0.491g, respectively; therefore, a site class C is recommended for structure design (GSI Soils, Inc. 2011).

   Mitigation of seismic hazards due to strong ground motion is addressed through proper structural design in accordance with the applicable building codes (presently the 2009 International Building Code [IBC] and 2010 California Building Code [CBC] documents related to Earthquake Loads) at the time of building permit application. Seismically-induced ground failure mechanisms include: landsliding, liquefaction, lurching, differential compaction, lateral spreading, and dry sand settlement.

   Landslides. The central coast region of California has not yet been mapped by the California Geological Survey under the Seismic Hazards Mapping Act program. No landslides have been mapped or found on the property. A large earthflow landslide terminates approximately 400 feet northeast of the site across Highway 1. The landslide and the project site are separated by over 400 feet of very low gradient topography that is overall flatter than 15:1 (horizontal:vertical). Significant portions of that horizontal distance are nearly level (e.g., the width of Highway 1). Consequently the potential for risk of landslides adversely impacting the site is considered to be low. Potential impacts related to landslides are *less than significant* (Class III), and no mitigation measures are necessary.

   Earthquakes. As noted in Section 4.3.1.1 Existing Conditions, Regional Setting, Geologic Setting, fault systems are present in the region; however, no known active faults trend through the property. No topographic anomalies in the area are suggestive of faulting, and the potential for surface faulting and ground rupture at the site to be low. Therefore, potential impacts would be *less than significant* (Class III), and no mitigation measures beyond compliance with the CBC are necessary.

   Earthquake-Induced Landsliding. The only significant slope that would exist at the site upon completion of the project is the fill slope descending from Studio Drive to the property; however, the plans indicate this slope will be filled over and supported by retaining walls; hence the potential for seismically-induced landsliding is low. Therefore, potential impacts would be *less than significant* (Class III), and no mitigation measures are necessary.

   Lateral Spreading. Conditions that typically induce lateral spreading include liquefaction of a subsurface layer or layers of soil, and site topography that contains

an open topographic face which exposes the soil profile overlying the liquefiable layer(s). Both conditions potentially exist at the site but require further review by the project applicant's consultants. Based on the proposed foundation design, site grading, and confined condition of the sands near the center of the building pad, the potential for lateral spreading displacements would be negligible (GSI Soils, Inc. 2011). Therefore, based on the design of the project, potential impacts would be *less than significant* (Class III), and no mitigation beyond compliance with the CBC is necessary.

Dry Sand Settlement. Due to the limited depth of sand (approximately 6 feet) within the building pad area, dry settlements of these sands during seismic ground shaking is expected to be less than 0.5 inch. With the proposed grading, these settlements are anticipated to be less than 0.25 inch (GSI Soils, Inc. 2011). Therefore, potential impacts would be *less than significant* (Class III), and no mitigation beyond compliance with the CBC is necessary.

Land Subsidence. Land subsidence occurs when large amounts of groundwater have been excessively withdrawn from an aquifer. Water supply in Cayucos is provided by the Whale Rock Reservoir and Nacimiento Water Project. There is no identified Level of Severity for water supply in the Cayucos area (County of San Luis Obispo 2012), and the project site is not located within a designated groundwater basin. There is no evidence of land subsidence on or in the vicinity of the project site, and implementation of the project would not create a demand for water supply that would result in land subsidence. Therefore, no significant impact would occur.

2. **"Alquist-Priolo" Earthquake Fault Zone.** The project site is not located within an Alquist-Priolo Earthquake Fault Zone as defined by maps prepared by the California Geological Survey. Therefore, no significant impact would occur.

3. **Soil Erosion, Topographic Changes, Loss of Topsoil, and Instability**

   ***Soil Erosion* – Long Term.** In the long term, the project would not create any changes that would result in significant soil erosion. The proposed drainage plan includes stormwater diffusers to slow down runoff during rain events and minimize the potential for storm-related beach erosion. Therefore, potential long-term impacts would be *less than significant* (Class III), and no mitigation beyond compliance with existing regulations is necessary. Long-term erosion related to sea level rise and wave runup is discussed below under Coastal Hazards.

4. **Change Rates of Soil Absorption or Runoff.** As noted above, the project includes a drainage plan that would replace the existing County drain pipe with a new stormwater system. This system would change the direction of surface runoff from the street onto the beach, but would not be significantly different than the current situation. The project would create additional area of impervious surface, and includes a rain barrel and stormwater management system, consistent with the County's regulations and policies for Low Impact Development (LID). Based on the location, size, and design of the project, it would not significantly change the rates of soil absorption or amount and direction of surface runoff. Therefore, potential impacts would be *less than significant* (Class III), and no mitigation beyond compliance with existing regulations is necessary.

5. **100 year Flood Zone.** The project site is not located within a 100-year flood hazard zone, and the area proposed for development is located above and outside the AE/VE hazard zone which has a 100-year flood elevation of 10 feet (NGVD29), which is approximately equivalent to elevation 12.92 feet NAVD88. The proposed basement finish floor elevation of 15 feet NAVD88 is approximately 2.08 feet higher than the AE/VE flood elevation. Therefore, no significant impact would occur.

6. **County's Safety Element Consistency**. Applicable geology and soils-related goals and policies identified in the County's Safety Element include the following:

Geologic and Seismic Hazards, Goal S-5: Minimize the potential for loss of life and property resulting from geologic and seismic hazards.

Based on compliance with the CBC, County Code, and incorporation of recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, and Engineering Evaluation (Shoreline Engineering), dated January 2012, the project would be consistent with this goal.

Geologic and Seismic Hazards, Policy S-21: Slope Instability. The County acknowledges that areas of known landslide activity are generally not suitable for residential development. The County will avoid development in areas of known slope instability or high landslide risk when possible, and continue to encourage that developments on sloping ground use design and construction techniques appropriate for those areas.

The project site is not located within an area of high landslide risk; however, short-term slope instability may occur during construction. Based on incorporation of recommendations identified in the Updated Geotechnical Investigation and Engineering Evaluation, which include use of a temporary shoring system to stabilize cut slopes during excavation and construction, the project would be consistent with this policy.

Geology and Seismic Hazards, Policy S-23: Coastal Bluffs. Development shall not be permitted near the top of eroding coastal bluffs.

The project site is unique in that the underlying geology consists of a fluvial bluff, which has been buried under artificial fill. The Technical Analysis (Cotton Shires and Associates 2011), which is included in Appendix C (Geology and Soils Background Information) and incorporated by reference in this EIR section, included an assessment of potential coastal erosion hazards, and did not identify any significant adverse effects or safety hazards related to coastal erosion. Therefore, the project is consistent with the intent of this policy.

Geology and Seismic Hazards, Program S-63: Require coastal bluff erosion studies to determine the rate or erosion and the resulting safe distance from the top of the bluff for development, in accordance with the LCP.

Preparation of the EIR included a comprehensive analysis of potential erosion hazards, both short- and long-term. Based on the analysis, the project would not result in a safety issue related to erosion, thus meeting the intention of this Program.

Geologic and Seismic Hazards, Implementation Measures, Standard S-56: For developments in areas of known slope instability, landslides, or slopes steeper than 20

percent, the stability of slopes shall be addressed by registered professionals practicing in their respective fields of expertise.

The applicant submitted technical reports and plans completed by registered engineers, and independently peer reviewed during the EIR analysis, consistent with this implementation measure.

Geologic and Seismic Hazards, Implementation Measures, Standard S-59: Development proposals will be required to mitigate the impacts that their projects contribute to landslides and slope instability hazards on neighboring property, and appurtenant structures, utilities, and roads; such as emergency ingress and egress to the property, and loss of water, power or other lifeline facilities.

Based on incorporation of recommendations identified in the Updated Geotechnical Investigation and Engineering Evaluation, which include use of a temporary shoring system to stabilize cut slopes during excavation and construction, the project would be consistent with this implementation measure and would not destabilize areas adjacent to Studio Drive and the neighboring developed property to the south.

Geologic and Seismic Hazards, Implementation Measures, Standard S-60: Enforce current building code requirements and applicable ordinances and sections of the General Plan that pertain to development on sloping ground.

The County requires compliance with the CBC, Estero Area LUE and LCP, and CZLUO, consistent with this implementation measure. Based on the technical reports peer reviewed and incorporated by reference into this EIR analysis, the project would be consistent with the Safety Element, and no significant impacts would occur.

7. **Valuable Mineral Resource:** The project site is not located in an area designated for mineral extraction, and no valuable minerals are known to occur onsite. Therefore, no significant impacts would occur.

8. **Coastal Hazards.** The potential coastal hazards associated with the proposed residential development include shoreline erosion, wave runup, and coastal flooding.

Erosion Hazard

The shoreline in front of the subject property has been relatively stable over the long term (USGS 2006). On the basis of the USGS study, aerial photograph review spanning 39 years, the elevation of the proposed development, and the presence of hard rock material between the shoreline and the proposed residence:

- there has been very little erosion or retreat of the shoreline over the last four decades;
- a 2.5-foot rise in sea level will likely not result in a significant impact on the erosion rate or the proposed residence; and,
- there is no potential significant marine erosion hazard at the site over the next 100 years.

Therefore, the potential for significant erosion due to sea level rise would not be significant in this location.

Oceanographic Flooding Hazard

The primary hazard due to flooding from ocean waters is storm surge. The highest recorded water elevation on record in the vicinity of Cayucos (Port San Luis) is 7.57 feet NAVD88 and includes all oceanographic effects on sea level except for long-term sea level rise predictions (NOAA 2011). Incorporating a potential sea level rise of 2.5 feet in the next 100 years, the future design maximum sea level would be 10.1 feet NAVD88, which is considered to be in excess of a 100-year recurrence interval water level. The proposed residence would be located at and above an elevation of 15.0 feet NAVD88; therefore, the site would not be adversely affected by flooding from the ocean over the next 100 years.

Breaking Wave Elevation

The project incorporates a cantilevered design. The proposed first floor would be located at elevation +26 feet NAVD88, and will extend a significant distance ocean-ward beyond the basement floor; therefore, the Coastal Hazards and Wave Runup report (GeoSoils, Inc. 2011, 2012) evaluated the potential maximum breaking wave crest elevation. The breaking wave elevation analysis calculated that the maximum wave crest elevation at the project site is approximately +14.5 feet NAVD88, which is well below the proposed cantilevered first floor elevation of +26 feet NAVD88. Therefore, the cantilevered portion of the structure would not be adversely affected by breaking wave forces.

Wave Runup Hazard

A wave runup analysis was performed under extreme (worst-case) design oceanographic conditions including storm surge, sea level rise of 2.5 feet over the next 100 years, and scour of the beach in front of the rock outcropping down to elevation 3.1 feet NAVD88, utilizing a design wave height of 5.5 feet. In this worst-case scenario, the maximum wave runup would be at elevation +22.7 feet NAVD88, and may reach the basement of the proposed residence at +15.0 feet NAVD88 over the next 100 years (GeoSoils, Inc. 2011). However, the runup is characterized as a pulse of water reaching the basement wall rather than a continuous or sustained flow over time. Based on calculations, the depth of the water overtopping the rock outcrop and reaching the residence would be approximately 0.14 foot deep. The runup analysis indicates that the velocity of the wave runup bore will not be sufficient to cause damage to the structure, assuming the basement wall is constructed of steel-reinforced concrete; however, the structure will be subject to spray and splash from wave runup striking the rock outcropping. The rock outcropping at its average elevation of 17 feet NAVD88 would be overtopped by the design wave (5.5 feet) at a rate of about 0.27 cubic feet/second-feet. Based on this low height of water (0.14 foot) and relatively low velocity, the proposed project would not be adversely affected. In addition, based the initial low velocity, and reduction in wave height and velocity following potential contact with the proposed basement wall, any wave refraction would not adversely affect the adjacent property.

In addition to wave runup, the analysis considered exposure to tsunami. Based upon review of historical data and tsunami forecast modeling by the University of Southern California Tsunami Research Center, a 6.5-foot-high tsunami wave occurring at the project site would be a 500-year recurrence interval event. The wave runup analysis

used a design wave height of 5.5 feet, which also represents a suitable site-specific tsunami runup at the site.

As proposed, the basement would be located at elevation 15 feet NAVD88, and basement concrete would be reinforced with steel; therefore, wave runup will not adversely impact the proposed residence over the next 100 years. An extreme tsunami may reach as high as the basement, but, for the reasons stated above, a tsunami will not adversely impact the residence. Based on the analysis presented above, and incorporated by reference from the coastal hazards and wave runup analysis report (GeoSoils, Inc. 2011, 2012), no significant impacts related to coastal hazards, including sea level rise, shoreline erosion, wave runup, and coastal flooding would occur, and the proposed residence would neither create nor contribute to erosion, geologic instability, or destruction of the site or adjacent area.

G. Noise (Class III)

1. **Generate Increases in the Ambient Noise Level.** The project proposes construction of one single-family residence in an existing neighborhood. The project would result in the addition of some vehicle trips on local roads (approximately 9.6 per day), but the traffic noise associated with a single residence is not considered significant. Therefore, the project would not generate significant increases in the ambient noise levels for adjoining areas.

   The project would also generate construction-related noise and vibration associated with construction and development of the structure. However, the project does not propose any significant sources of man-made vibration (i.e., sonic booms, blasting, pile driving, pavement breaking, and demolition). Per the County's Land Use Ordinance, §23.06.042d, construction noise between the hours of 7:00 a.m. and 9:00 p.m. on Mondays through Fridays, and 8:00 a.m. and 5:00 p.m. on Saturdays and Sundays, is exempt from control or mitigation. This type of noise is considered a short-term impact and *less than significant* (Class III). Therefore, the project is not expected to expose people to severe noise or vibration, or to result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity.

2. **Severe Noise or Vibration.** The proposed project is not located within any airport land use plan or two miles of a public or private airstrip, and would not expose people to excessive noise levels, therefore no impacts are expected to occur.

H. Public Services and Utilities

1. **Effect or Result in the Need for New/Altered Public Services**. The proposed project would potentially result in additional demand on public services, including emergency protection, schools, roads, solid waste disposal, parks, water supply and wastewater treatment systems. However, development is limited to one single-family residence and it is not likely that any public service or utility would be significantly impacted by the slight increase in service demand. The project applicant would pay all applicable school and public facility fees which would reduce these impacts to a less then significant level.

   The proposed project is not located within a high fire severity zone, and response times are generally two to three minutes. Although the Cayucos Fire Protection District and County Sheriff's Office are considered understaffed for the populations

they serve, the addition of a single residence within an existing neighborhood would not have a significant effect upon fire or police protection, and no new or altered emergency services would be required. Area schools, roads and parks are operating at acceptable levels of service, and the project will be served by private solid waste disposal, water, and wastewater systems, all of which have sufficient capacity to accommodate the proposed residential use. Therefore, no significant impact on these services would result from the project.

All stormwater would be handled onsite, either collected and used as gray water for toilet flushing and landscaping or directed westward onto the beach. Therefore, no new stormwater drainage facilities or expansion of existing facilities would be required. County landfills have sufficient permitted capacity to accommodate the small increase in solid waste resulting from the proposed project. Applicable water service providers and wastewater treatment facilities are capable of supporting the proposed development and no new entitlements, new facilities or expansion of existing facilities would be required. The project would comply with all statutes and regulations related to solid waste. The project would not adversely affect a community water service provider or community wastewater service provider, therefore no impacts are expected to occur.

2. **Wastewater.** The project would connect to the existing sewer system managed by the Cayucos Sanitary District, and would not require an onsite system subject to the Central Coast Basin Plan. The Cayucos Sanitary District is currently operating at acceptable levels and can accommodate the proposed project (one residence).

   No significant adverse impacts would occur as a result of the proposed project, and no mitigation measures are necessary.

I. **Recreation (Class III)**

1. **Increase Use of Recreational Resources.** The project proposes the development of one single-family residence in an existing developed residential area, and would not create a significant increase in the use or demand of recreational areas or facilities. The project applicant will pay all applicable public facility fees to address increased demand on area recreational facilities. Therefore, potential impacts would be *less than significant* (Class III).

2. **Affect Access to Recreation**. Beach access is provided directly adjacent to the project site, and lateral access would be provided on the sandy portion of the lot. Access to trails, parks or other recreational opportunities would not be impacted by the proposed development. The future Morro Bay to Cayucos connector bike path would be located along Studio Drive, and development of the project would not affect this project, because it is limited to the existing residential parcel boundaries. The project does not include any components for the development of recreational facilities that may have an adverse physical effect on the environment. No significant adverse impacts would occur as a result of the proposed project, and no mitigation measures are necessary.

J. **Transportation, Circulation, and Traffic (Class III)**

1. **Increase Vehicle Trips / Level of Service.** The project proposes one single-family residence within an existing residential area with all roads operating at acceptable

levels. While the project would add trips to the local circulation system (approximately 9.6 per day), all roads in the area are operating at acceptable levels and are capable of accommodating the small increase in trips. A referral was sent to the County Department of Public Works requesting their review of the project. They had no comments related to traffic concerns associated with the proposed project other than that an encroachment permit would be required for the new driveway. Therefore, no significant increase to local or areawide circulation systems is anticipated, and potential impacts would be *less than significant* (Class III).

2. **Unsafe Conditions.** The project includes a private driveway, which would connect to Studio Drive. Based on review by the County Department of Public Works, a standard Encroachment Permit will be required. The project does not include any features that would result in unsafe traffic conditions; therefore, potential impacts would be *less than significant* (Class III).

3. **Emergency Access.** The project consists of a single-family residence on an existing lot. The site is accessible to emergency services by Studio Drive, which connects to Highway 1, and occupants have clear access out of the area. Potential impacts related to emergency access would be *less than significant* (Class III).

4. **Parking Capacity.** Sufficient parking for the proposed residential development is proposed at the project site, including a private driveway, carport, and garage. Therefore, potential impacts related to parking capacity would *be less than significant* (Class III).

5. **Internal Traffic Circulation.** The project is a single-family residence; therefore this threshold does not apply and no impact would occur.

6. **Alternative Transportation Policies Plans, and Programs**. Transportation and circulation policies relevant to the proposed project exist in local and state documents. These documents generally encourage the development of alternative transportation as a means to reduce traffic congestion and increase safety, among other things. The policy documents reviewed as part of this EIR section include the County's Estero Area Plan and Bikeways Plan. The proposed project is *consistent* with these plans because it consists of a single-family residence located within an existing residential neighborhood, with access to pedestrian and bicycle paths.

7. **Air Traffic Patterns.** The project is not located within two miles of a public or private airport or airstrip, and is not located at an elevation that would affect air traffic patterns. Modern solar panel technology incorporates anti-glare coatings that absorb, rather than reflect, sunlight. Therefore, the project would not affect air traffic, and potential impacts would be *less than significant* (Class III).

K. **Water Resources (Class III)**

1. **Change the Quality of Groundwater**. The project site is not located in an area where development would affect the quality of groundwater resources; therefore, no impact would occur.

2. **Change the Quantity or Movement of Surface or Groundwater.** The project would not create a demand of water exceeding the capacity of the water service provider, and would not require a significant level of additional groundwater pumping

by the provider to serve the project. Therefore, the project would not change the quantity or movement of groundwater.

As noted above, the project includes improvements to the existing stormwater drain onsite. The project has been reviewed by the County Department of Public Works, and the proposed plan has been approved at a preliminary level by County staff. Stormwater currently flows into a County drain, and onto the beach via the stormwater system or surface flow. The proposed system would direct water through the project site and onto the beach. Energy dissipaters are included to slow down storm water flow and minimize the potential for erosion at the outlet. Based on the proposed plan, and compliance with existing regulations identified in the County CZLUO, potential impacts would be *less than significant* (Class III).

3. **Adversely Affect Community Water Service Provider.** Long-term use of a single-family residence is expected to require approximately 0.270 afy, or 4,375.8 gallons/month (City of Santa Barbara 1989; County of San Luis Obispo 2011). As noted above, the project would be served by CSA 10A, which has adequate water supply to serve the project. A preliminary will-serve letter was issued for the project in 2006. Therefore, potential impacts would be *less than significant* (Class III).

7.0 FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT BUT MITIGABLE (CLASS II)

Pursuant to §15091(a)(1) of the CEQA Guidelines, the Planning Commission finds that, for each of the following significant effects as identified in the Final EIR, changes or alterations (mitigation measures) have been required in, or incorporated into, the project which avoid or substantially lessen each of the significant environmental effects as identified in the Final EIR. The significant effects (impacts) and mitigation measures are stated fully in the Final EIR. The following are brief explanations of the rationale for this finding for each impact:

7.1 AESTHETIC RESOURCES

AES Impact 1	
Visibility of night lighting would affect views resulting in a direct long-term impact.	
Mitigation	**AES/mm-1** Prior to issuance of the building permit, the applicant shall submit interior and exterior lighting plans to the Department of Planning and Building for review and approval consistent with the following: a. The point source of all exterior lighting shall be shielded from off-site views, including beach areas. b. All required security lights shall utilize motion detector activation. c. Light trespass from exterior lights shall be minimized by directing light downward and utilizing cut-off fixtures or shields. d. Lumination from exterior lights shall be the lowest level allowed by public safety standards.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The EIR analysis assumes that exterior lighting would be included as part of the project. Because of the project's configuration and its proximity to public roadways and the beach, night lighting would be seen from the surrounding area. Unshielded light sources or bright-lights reflected on exterior walls would result in potential impacts. Fog is a common atmospheric condition of the area and increases the "glow-effect" as potentially seen from great distances. Although existing night lighting can be seen in the adjacent neighborhood, the project would increase the visibility of night lighting in the area.

7.2 AIR QUALITY

AQ Impact 1	
Construction of the proposed project would generate fugitive dust, which could become a nuisance to local residents and businesses in proximity to the construction site.	
Mitigation	AQ/mm-1 Prior to initiation of construction, the project applicant shall implement the following dust control measures: a. Reduce the amount of the disturbed area where possible; b. Use water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 miles per hour. Reclaimed (non-potable) water should be used whenever possible; c. All dirt stockpile areas should be sprayed daily as needed; and

AQ Impact 1	
	d. All roadways, driveways, sidewalks, etc., to be paved should be completed as soon as possible, and building pads should be lain as soon as possible after grading unless seeding or soil binders are used.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project is located in proximity to sensitive surrounding land uses, and homeowners in the vicinity of the proposed project have expressed concern related to the impacts construction activities would have on surrounding properties. Construction activities can generate fugitive dust, which could be a nuisance to residents and businesses in proximity to the project site. Dust complaints could result in a violation of the APCD's 402 Nuisance Rule. In addition, operation of construction equipment, including equipment idling, generates diesel particulate matter, which can have an adverse effect on sensitive receptors.

AQ Impact 2	
Use of construction equipment would generate diesel particulate matter, potentially resulting in an adverse effect to sensitive receptors within 1,000 feet of the project site.	
Mitigation	**AQ/mm-2** Prior to issuance of construction permits, the applicant shall include the following measures on applicable grading and building plans: **Idling Restrictions near Sensitive Receptors for Both On and off-Road Equipment** a. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors; b. Diesel idling within 1,000 feet of sensitive receptors is not permitted; c. Use of alternative fueled equipment is recommended whenever possible; and, d. Signs that specify the no idling requirements must be posted and enforced at the construction site. **Idling Restrictions for On-road Vehicles** a. Section 2485 of Title 13, the California Code of Regulations limits diesel-fueled commercial motor vehicles that operate in the State of California with gross vehicular weight ratings of greater than 10,000 pounds and licensed for operation on highways. It applies to California and non-California based vehicles. In general, the regulation specifies that drivers of said vehicles: 1. Shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location, except as noted in Subsection (d) of the regulation; and, 2. Shall not operate a diesel-fueled auxiliary power system (APS) to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5.0 minutes at any location when within 100 feet of a restricted area, except as noted in Subsection (d) of the regulation. Signs must be posted in the designated queuing areas and job sites to remind drivers of the 5 minute idling limit. The specific requirements and exceptions in the regulation can be reviewed at the following web site: www.arb.ca.gov/msprog/truck-idling/2485.pdf. **Idling Restrictions for off-Road Equipment** a. Off-road diesel equipment shall comply with the 5 minute idling restriction identified in Section 2449(d)(3) of the California Air Resources Board's In-Use off-Road Diesel regulation: www.arb.ca.gov/regact/2007/ordiesl07/frooal.pdf. b. Signs shall be posted in the designated queuing areas and job sites to remind off-road equipment operators of the 5 minute idling limit.

AQ Impact 2	
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project is located in proximity to sensitive surrounding land uses, and homeowners in the vicinity of the proposed project have expressed concern related to the impacts construction activities would have on surrounding properties. Construction activities can generate exhaust from equipment, which could be a nuisance to residents and businesses in proximity to the project site. In addition, operation of construction equipment, including equipment idling, generates diesel particulate matter, which can have an adverse effect on sensitive receptors

7.3 BIOLOGICAL RESOURCES

BR Impact 1	
Construction of the project may have an adverse impact on special-status species and their habitats, including off-site use of equipment, storage of materials, and inadvertent transport of debris or discharge of oils, fuels, and other pollutants into the beach area.	
Mitigation	**BR/mm-1** Prior to issuance of construction permits, the applicant shall submit documentation verifying designation of a qualified environmental monitor for all measures requiring environmental mitigation to ensure compliance with Conditions of Approval and EIR mitigation measures. The monitor shall be responsible for: (1) ensuring that procedures for verifying compliance with environmental mitigations are followed; (2) lines of communication and reporting methods; (3) daily and weekly compliance reporting; (4) construction crew training regarding environmentally sensitive areas; (5) authority to stop work; and (6) action to be taken in the event of non-compliance. Monitoring shall be at a frequency and duration determined by the affected natural resource agencies (e.g., USACE, CDFW, RWQCB, California Coastal Commission, USFWS, and the County). **BR/mm-2** Prior to the initiation of construction, the environmental monitor shall conduct environmental awareness training for all construction personnel. The environmental awareness training shall include discussions of sensitive habitats and animal species in the immediate area. Topics of discussion shall include: general provisions and protections afforded by the Endangered Species Act; measures implemented to protect special-status species; review of the project boundaries and special conditions; the monitor's role in project activities; lines of communications; and procedures to be implemented in the event a special-status species is observed in the work area. **BR/mm-3** At the time of application for construction permits all grading plans shall clearly show the location of project delineation fencing, including protection fencing surrounding the Monterey cypress tree on the southern property boundary. **BR/mm-4** Prior to the initiation of construction, the applicant's contractors and the environmental monitor shall coordinate the placement of project delineation fencing throughout the work areas. The environmental monitor shall field fit the placement of the project delineation fencing to minimize impacts to sensitive resources. The project delineation fencing shall remain in place and functional throughout the duration of the project. During construction, no project related work activities shall occur outside of the delineated work area. **BR/mm-5** At the time of application for grading permits, all applicable plans shall clearly show stockpile and staging areas. Stockpiles and staging areas shall not be placed in areas that have potential to experience significant runoff during the rainy season. All project-related spills of hazardous materials within or adjacent to project sites shall be cleaned up

BR Impact 1	
	immediately. Spill prevention and cleanup materials shall be on-site at all times during construction. The staging areas shall conform to standard BMPs applicable to attaining zero discharge of storm water runoff. At a minimum, all equipment and vehicles shall be checked and maintained on a daily basis to ensure proper operation and to avoid potential leaks or spills. Maintenance, cleaning, and refueling of equipment and vehicles shall not be permitted onsite, within adjacent beach areas, or on Studio Drive. **BR/mm-6** Prior to issuance of construction permits, the applicant shall submit a detailed sediment and erosion control plan for approval, which shall address both temporary and permanent measures to control erosion and reduce sedimentation. Erosion and soil protection shall be provided on all cut and fill slopes. Revegetation shall be facilitated by mulching, hydro-seeding or other methods, and shall be initiated as soon as possible after completion of grading, and prior to the onset of the rainy season (October 15). Permanent revegetation and landscaping shall emphasize native shrubs, and trees, to improve the probability of slope and soil stabilization without adverse impacts to slope stability due to irrigation infiltration and long-term root development. All plans shall show that sedimentation and erosion control measures are installed prior to any other ground disturbing work.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project site is located on beachfront property, immediately west of Studio Drive. The site is covered with common iceplant on the upper slope, and sea rocket (invasive weed) on the beach sands. The site does not include any features suitable for aquatic species. The sandy beach area provides foraging habitat for a variety of birds, including western snowy plover (*Charadrius alexandrinus*), California black rail (*Laterallus jamaicensis coturniculus*), California brown pelican (*Pelecanus occidentalis*), and California least tern (*Sterna antillarum browni*). The mature cypress tree (to remain) and adjacent pine (to be removed) along the southern property boundary may provide tree nesting opportunities for birds. Due to the location of the project site and presence of suitable habitat in the area, precautionary measures are recommended to ensure impacts to snowy plover and other bird species are avoided. The project site provides suitable habitat for coast horned lizard and other common reptiles. Grading activities could result in direct take of coast horned lizard and other reptiles if present. Direct take may include being struck by equipment, entrapped in stockpiled materials or trenches, or trampled or collected by construction personnel. Old Creek provides habitat for a variety of special-status species noted above. The project is located approximately 600 feet from the creek, and would not directly affect the ESHA or special-status species within the creek. Inadvertent impacts to special-status species may occur including use of equipment and storage of materials outside the property boundary, and leaks, spills, and debris adversely affecting the beach areas surrounding the parcel. Degradation of habitat would have an adverse effect on special-status species, and other wildlife in the area.

BR Impact 2	
Construction activities conducted during the nesting season (March through September) could directly or indirectly impact nesting western snowy plover and other bird and bat species.	
Mitigation	**BR/mm-7** Upon application for construction permits, the following measure shall be included on all applicable plans: The applicant shall avoid ground disturbing activities conducted during the snowy plover nesting season to the extent feasible. If work activities must occur during the nesting season the following measures shall be taken:

BR Impact 2	
	a. Prior to installation of the project delineation fencing and the commencement of site grading, a qualified biologist shall conduct a series of pre-construction nesting bird surveys for western snowy plover. Surveys shall be conducted every other day for two weeks prior to any project related disturbances. b. Surveys for snowy plovers shall include walking through all potential nesting and foraging habitat within 300 feet of the site on each survey day. The survey area shall include all available snowy plover nesting habitat within 300 feet of anticipated project activities. c. The number of snowy plover individuals observed and their activities (e.g. nesting, foraging, resting, etc.) shall be documented. All documented occurrences would be reported to USFWS and documented on the CNDDB. d. If nesting activity is identified, all project activities within 300 feet of the nest shall be delayed until the nesting activity has ceased. e. During construction, the environmental monitor shall conduct snowy plover surveys twice a week (preferably two to three days apart). **BR/mm-8** Upon application for construction permits, the following measure shall be included on all applicable plans: If commencement of construction begins between March and September, the environmental monitor shall conduct pre-construction nesting bird surveys. If nesting activity is identified, the following measures shall be implemented: a. If active nest of common passerine or shorebird species' are observed in the work area or within 100 feet of the work area, construction activities shall be modified and or delayed as necessary to avoid direct take or indirect disturbance of the nests, eggs, or young. b. If active nest sites of raptors or other special-status species are observed within the work area or 300 feet of the work area, the environmental monitor shall establish a suitable buffer around the nest site. Construction activities in the buffer zone shall be prohibited until the young have fledged the nest and achieved independence. c. Active raptor or special-status species nests should be documented by a qualified biologist and a letter report should be submitted to the County, USFWS, and CDFW, documenting project compliance with the MBTA and applicable project mitigation measures.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The sandy beach area provides foraging habitat for a variety of birds, including western snowy plover (*Charadrius alexandrinus*), California black rail (*Laterallus jamaicensis coturniculus*), California brown pelican (*Pelecanus occidentalis*), and California least tern (*Sterna antillarum browni*). The mature cypress tree (to remain) and adjacent pine (to be removed) along the southern property boundary may provide tree nesting opportunities for birds. Due to the location of the project site and presence of suitable habitat in the area, precautionary measures are recommended to ensure impacts to snowy plover and other bird species are avoided.

BR Impact 3	
The proposed project could result in direct take of coast horned lizard during project grading and construction.	
Mitigation	**BR/mm-9** Upon application for construction permits, the following measure shall be included on all applicable plans: Prior to site grading, the environmental monitor shall conduct a survey for coast horned lizard and other reptiles. The surveyor shall utilize hand search methods in areas of disturbance where coast horned-lizards are expected to be found (e.g., under shrubs, other vegetation, or debris). Any lizards located during this survey should

BR Impact 3	
	be safely removed from the construction area and placed in suitable habitat.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project site provides suitable habitat for coast horned lizard and other common reptiles. Grading activities could result in direct take of coast horned lizard and other reptiles if present. Direct take may include being struck by equipment, entrapped in stockpiled materials or trenches, or trampled or collected by construction personnel. Old Creek provides habitat for a variety of special-status species noted above. The project is located approximately 600 feet from the creek, and would not directly affect the ESHA or special-status species within the creek. Inadvertent impacts to special-status species may occur including use of equipment and storage of materials outside the property boundary, and leaks, spills, and debris adversely affecting the beach areas surrounding the parcel. Degradation of habitat would have an adverse effect on special-status species, and other wildlife in the area.

BR Impact 4	
Construction of the project may impact the root zone or result in inadvertent disturbance of a mature cypress tree.	
Mitigation	Implement **BR/mm-3** and **BR/mm-4**.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	One cypress tree is located adjacent to the project site, which is considered an important native species along the California coastline. This tree would remain. One small pine tree would be removed; however, this species is not considered native or important vegetation in this location. No other native or important vegetation would be directly affected by the project. Mitigation is recommended to ensure protection of the cypress tree.

7.4 GEOLOGY AND SOILS

GS Impact 1	
The proposed residence would be exposed to the effects of liquefaction during a ground-shaking event.	
Mitigation	**GS/mm-1** Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Engineering Evaluation (Shoreline Engineering 2012) and Updated Geotechnical Investigation (GSI Soils, Inc.) dated December 27, 2011, specifically the recommendations identified in Section 5.2 – Preparation of the Building Pad, Section 5.3 – Structural Fill, Section 5.4 – Drilled Piers, Section 5.5 – Conventional Deepened Foundation, Section 5.6 – Slab Construction, and Section 5.9 – Surface and Subsurface Drainage.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive	Soil liquefaction is a phenomenon in which a saturated, cohesionless, near-surface soil layer loses strength during cyclic loading (such as typically generated by earthquakes). During the

GS Impact 1	
Evidence	loss of strength, the soil acquires "mobility" sufficient to permit both horizontal and vertical ground movements. Soils that are most susceptible to liquefaction are clean, loose, saturated, uniformly graded, fine-grained sands that are generally located within 50 feet depth beneath the ground surface. Gravels with similar characteristics and non-plastic clays and silts have also been shown to be susceptible to liquefaction. Based on the potential presence of perched water conditions during wet winter months in the upper 5 feet of soils above the dense bedrock materials, the current potential for liquefaction is moderate to high. This potentially significant impact can be successfully addressed and mitigated via implementation of typical geotechnical recommendations for site processing, grading, and/or foundation design. Therefore, the resulting liquefaction potential at the project site would be low, and would generally result in minor to cosmetic damage to the proposed structure, and total settlements would be approximately 0.5 inch (GSI Soils, Inc. 2012). This amount of settlement is considered tolerable for the proposed project, and is indicative of liquefaction in the negligible category. Therefore, potential impacts can be mitigated to a *less than significant* level (Class II).

GS Impact 2	
The proposed residence would be exposed to the effects of ground lurching and differential compaction during a ground-shaking event.	
Mitigation	**GS/mm-2** Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.) dated December 27, 2011, and specifically the following: a. All surface and subsurface deleterious materials shall be removed from the proposed building area and disposed of offsite. This includes, but is not limited to, any buried utility lines, loose fills, debris, building materials, and any other surface and subsurface structures. b. Voids left from site clearing shall be cleaned and backfilled as recommended for structural fill. c. Once the site has been cleared, the exposed ground surface shall be stripped to remove surface vegetation and organic soil.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The potential for lurching and differential compaction (densification) of the existing undocumented fill is considered to be high due to the generally loose nature of the soil. This potential impact can be mitigated by removal and/or removal and backfilling as structural fill (GSI Soils, Inc. 2011). Based on compliance with these project-specific recommendations, potential impacts can be mitigated to *less than significant* (Class II).

GS Impact 3	
Grading and excavation required for the construction of the project would result in significant, short-term, adverse impacts related to erosion and down-gradient sedimentation.	
Mitigation	*Implement **BIO/mm-4**, **BIO/mm-5**, and **BIO/mm-6**.*

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GS Impact 3	
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	Implementation of the project will require grading and removal of sand, soil, and vegetation. Grading activities would disturb approximately 3,000 square feet of the 3,445-square-foot parcel, including 400 cubic yards of cut (foundation) and 150 cubic yards of fill (driveway). The average depth of cut would be 5 feet (minimum 1 foot, maximum 12 feet). Approximately 250 cubic yards of soil would be exported offsite. During construction, exposed soils may result in erosion during rain events, or wave runup. Compliance with the County CZLUO and implementation of project-specific erosion-control measures are necessary to retain soils onsite and avoid down-gradient sedimentation into the Pacific Ocean. Based on compliance with existing regulations, and recommended mitigation measures, potential short-term impacts would be mitigated to a *less than significant* level (Class II).

GS Impact 4	
The creation of steep cut slopes during site preparation and grading associated with construction of the proposed residence would result in short-term slope instability.	
Mitigation	GS/mm-3 Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the following: recommendations for slope stability identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.10 – Temporary Excavations and Slopes; and Shoring Detail prepared by Shoreline Engineering (January 2012, updated September 20, 2012). Plans shall demonstrate how construction would be conducted such that no activity would compromise the neighboring structure. Construction of all site preparation and shoring activities shall be monitored by the project Engineer of Record, and daily monitoring reports shall be prepared and submitted to the County Department of Planning and Building on a weekly basis.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	Construction cuts for basement retaining walls may exceed 12 feet in depth on the south and east sides of the proposed residence. The potential for instability of temporary (construction) slopes is a significant concern, and there is a moderate to high potential for temporary slope instability impacting the project site and the adjacent property. To address this issue, the applicant proposes to retain temporary slopes with a shoring system consisting of soldier piles and steel plate lagging. The shoring system would be removed following permanent stabilization of the slope. Based on implementation of this strategy, and compliance with the recommendations presented in the *Updated Geotechnical Investigation* (GSI Soils, Inc. 2011), potential short-term impacts would be *less than significant* (Class II).

GS Impact 5	
Beach sand scour caused by heavy surf may periodically and temporarily create unstable slopes adjacent to the proposed residence.	
Mitigation	**GS/mm-4** Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which include the use of deepened pier foundations identified in the Engineering Evaluation (Shoreline Engineering, Inc.), dated January 2012, and Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.2 – Preparation of Building Pad,

GS Impact 5	
	Section 5.4 – Drilled Piers, and Section 5.5 – Conventional Deepened Foundation.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	Construction of the proposed driveway will result in structural fill placement against the existing 2:1 gradient fill slope of Studio Drive, with the fill being supported by retaining walls. Upon completion of the project, no significant slopes will exist that could pose a slope instability hazard to the property. Significant scour of beach sand due to heavy surf may temporarily create a steep bedrock slope ocean-ward of the existing bedrock outcropping. Provided the proposed residence is constructed on deepened pier foundations as proposed, temporary beach scour should not pose a slope instability hazard to the residence.

GS Impact 6	
The proposed residence would be constructed on soils with a high expansion potential, resulting in a potentially significant long-term impact.	
Mitigation	**GS/mm-5** Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.1 – Clearing and Stripping, Section 5.2 – Preparation of Building Pad, and Section 5.3 – Structural Fill.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	A single expansion index test was conducted by GSI Soils, Inc. (2007) on a sandy clay sample from Boring B-2 at 6 feet. The reported expansion index was 92, which indicates a high expansion potential. The material in B-2 at this depth is likely weathered mudstone bedrock. Based on the geotechnical report, onsite sand soils free of organic and deleterious material are suitable for use as non-structural fill below the select fill cap. Structural fill using onsite inorganic soil or approved imported soil should be placed in layers, conditioned, and compacted, pursuant to engineer's specifications. Therefore, potentially significant impacts related to expansive soil can be mitigated to *less than significant* (Class II).

GS Impact 7	
The proposed stormwater drainage plan may result in erosion down-gradient of the proposed drain outlet.	
Mitigation	**GS/mm-6** Prior to issuance of grading and construction permits, the applicant shall submit a drainage plan for review and approval by the County Department of Public Works. The drainage plan shall be coordinated with the sedimentation and erosion control plan, be consistent with CZLUO §23.050.036 and 040, and specifically include engineered energy dissipators and controls that would limit peak runoff to pre-development levels.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The applicant's proposed site drainage improvements would convey both Studio Drive runoff and driveway runoff to a drainage exit structure, which would outlet into a natural drainage swale. The natural drainage channel consists of highly erodible sands, and erosion in the channel has been accelerated by foot traffic from people accessing Morro Strand State

GS Impact 7	
	Beach from Studio Drive. The swale would incorporate bollard style energy dissipators and a gravel/cobble invert, which are intended to reduce stormwater flow velocity and erosion potential. Rainfall from the residence roof is proposed to be collected by a roof gutter system and held in a cistern for gray water use and landscape irrigation. Construction of the proposed impermeable concrete driveway would result in an increase in surface runoff onsite, which increases the potential for erosion in the natural drainage swale. This impact can be mitigated through appropriate civil engineering drainage design. CZLUO §23.05.050 requires a Drainage Plan for development located on a site adjacent to any coastal bluff, or if the project may change the offsite drainage pattern. Based on the location of the project on the beach-side of Studio Drive, and proposed changes to the existing stormwater system, a Drainage Plan would be required, which would be based on the preliminary drainage plan summarized above. The proposed project would not result in substantial onsite or offsite flooding, because stormwater would continue to flow west towards the Pacific Ocean (similar to existing conditions, which do not result in flooding), and would be filtered and dissipated by the proposed system. Based on review of the preliminary drainage plan, compliance with the CZLUO, and incorporation of mitigation identified below, potential long-term impacts would be mitigated to a *less than significant* level (Class II).

7.5 NOISE

N Impact 1	
Construction of the proposed project would potentially expose people to transportation-related noise levels that exceed the County Noise Element thresholds.	
Mitigation	**N/mm-1** Upon application for building permits, the project applicant shall include in the project design the following standard mitigation measures for interior noise mitigation provided in the Noise Element for levels in the 60-65 dBA range: a. Air conditioning or a mechanical ventilation system; b. Windows and sliding glass doors mounted in low air infiltration rate frames (0.5 cubic feet per minute or less, per American National Standards Institute [ANSI] specifications); and, c. Solid core exterior doors with perimeter weather stripping and threshold seals.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project proposes a noise sensitive use within the vicinity of Highway 1. Per the County Noise Element, 60 dBA is considered the maximum acceptable exterior noise exposure level for residential uses and 45 dBA is the maximum acceptable exposure level for interior uses. Uses within this range will not require mitigation. The eastern boundary of the project site is located approximately 160 feet from the centerline of Highway 1. The topography between the highway and the site consist of generally flat areas to Studio Drive, and then the property slopes down several feet (approximately 5 to 8 feet) from Studio Drive to the beach. According to the County Noise Element contour maps, the 65 dBA range extends from the centerline of the highway 209 feet west. Therefore the easternmost 50 feet of the project site is located within the 65 dBA range, and the remainder is located within the 60 dBA range. The project has been designed to provide a noise buffer between Highway 1 and the proposed living space. The project proposes a driveway and parking garage on the eastern portion of the site, which are not considered outdoor uses subject to the 60 dBA limit. The living area is also proposed below the grade of the highway by approximately 8 to 10 feet. Because the topography of the subject lot is below the street elevation, the ground will buffer most of the noise from Highway 1, thereby allowing for a minimal impact from noise to the

N Impact 1	
	livable areas of the home. In addition, the project would conform to the latest edition of the Uniform Building Code (UBC); normal construction practices in the Code would provide a noise level reduction of approximately 15 dBA (County of San Luis Obispo 1992), potentially bringing resultant noise levels within the interior 45 dBA threshold. However, because a portion of the project site is located in an area that currently exceeds Noise Element thresholds, and normal construction practices and natural buffers may be insufficient to bring noise levels within acceptable ranges, some mitigation may be necessary. The County Noise Element recommends standardized mitigation measures for reducing interior noise levels in the 60-65 dBA range. These measures are referenced in the FEIR and County Noise Element.

7.6 WATER RESOURCES

WAT Impact 1	
The project would include construction activities that would require ground disturbance and use of heavy equipment, which may result in the discharge of sediment and other pollutants, potentially affecting surface water quality.	
Mitigation	**WAT/mm-1** Upon application for construction permits, the applicant shall submit grading and construction plans showing BMPs, and shall implement BMPs during grading and construction activities. Best Management Practices (BMP's) shall include, but not be limited to, the following: a. Erosion control barriers shall be applied, such as silt fences, hay bales, drain inlet protection, and gravel bags; b. Disturbed areas shall be stabilized with vegetation or hard surface treatments upon completion of construction in any specific area. c. All inactive disturbed soil areas are required to be stabilized with both sediment and temporary erosion control prior to the onset of the rainy season (October 15 to April 15). **WAT/mm-2** Prior to issuance of grading and construction permits, the applicant shall submit a copy of the Regional Water Quality Control Board (RWQCB)-issued stormwater construction permit. The permit shall be on-site during all major grading and construction activities. Implement **BR/mm-1**, **BR/mm-5**, and **BR/mm-6**.
Findings	After implementation of the mitigation measures, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The Clean Water Act has established a regulatory system for the management of storm water discharges from construction, industrial and municipal sources. The State Water Resources Control Board (SWRCB) has adopted a National Pollutant Discharge Elimination System (NPDES) Storm Water General Permit, which requires the implementation of a Storm Water Prevention Pollution Plan (SWPPP) for discharges regulated under the SWRCB program. Currently, construction sites of 1 acre and greater may need to prepare and implement a SWPPP that focuses on controlling storm water runoff. The RWQCB, the local extension of the SWRCB, currently monitors these SWPPPs. Based on review by the RWQCB, the applicant will be required to obtain a stormwater construction permit due to the project's proximity to surface waters (Pacific Ocean). Proposed grading activities would disturb soil and sand, and potentially result in off-site

WAT Impact 1	
	sedimentation. Standard erosion and sedimentation control measures would be required, including staking or flagging the development footprint; use of fiber rolls and silt fencing to retain soil and sand on-site; covering soil stockpiles; and restoration and revegetation of disturbed soils. Implementation of these measures would ensure avoidance of adverse effects to water quality. The project includes removal of the existing County storm drain, and construction of a new storm water management system, including an inlet with a filter and outlet with energy dissipaters. Stormwater would continue to flow onto the beach area to the northwest. Discharge of sediment, hydrocarbons, and other pollutants from the roadway into stormwater and drainage infrastructure (which eventually discharge into surface waters) would affect water quality. Implementation of BMPs and Low Impact Design (LID) techniques consistent with CZLUO §23.05.050.e(1) (Water Runoff, Best Management Practices – Residential development) would avoid or minimize the project's contribution to water quality issues affecting the Pacific Ocean. Additional mitigation is included under the Biological Resources analysis, including BR/mm-5 (stockpile and staging areas, management of hazardous materials, and implementation of BMPs) and BR/mm-6 (erosion and sedimentation control). In addition, an environmental monitor would be present to verify and document compliance with mitigation measures related to the protection of biological resources, including aquatic habitat and surface waters (BR/mm-1). The project includes a preliminary drainage plan, which has been reviewed and approved by the County Department of Public Works. In the long-term, the project would not result in any significant impacts to water quality, because the proposed stormwater system includes energy dissipaters that would allow stormwater to continue flowing onto the beach in a non-erosive manner.

8.0 FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT AND UNAVOIDABLE

No significant and unavoidable impacts (Class I) were identified for the proposed project.

9.0 CUMULATIVE AND GROWTH INDUCING IMPACTS

9.1 CUMULATIVE IMPACTS

State CEQA *Guidelines* §15355 defines cumulative impacts as

> *"two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts". Further, "the cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time."*

The Guidelines require the discussion of cumulative impacts to reflect the severity of the impacts and their likelihood of occurrence. However, the discussion need not be as detailed as the analysis of impacts associated with the project, and should be guided by the rule of reason. Cumulative impacts associated with this project are discussed in the topical analysis sections provided in Chapter 4 of the Final EIR.

9.1.1 Air Quality (Class III)

The cumulative study area for air quality impacts is the South Central Coast Air Basin (SCCAB). The project would contribute criteria pollutants during project construction and long-term operational use, including ozone precursors and particulate matter. No major projects are proposed in the immediate vicinity of the project site; however, a number of large development projects are currently under review by the County, and cities within the county, including mixed-use, residential, commercial, and solar energy projects. These projects may be under construction simultaneously with the project and, in the long term, would be generating similar air emissions due to use of construction equipment, increased traffic trips, and energy use.

Depending on construction schedules and actual implementation of projects in the air basin, generation of fugitive dust and pollutant emissions during construction could result in short-term increases in air pollutants. Analysis conducted specifically for this project concluded that implementation of the proposed project would not significantly contribute to cumulative long-term operational air quality impacts because it would not exceed the daily ROG+NO_x threshold. GHG impacts, including those described above, all contribute cumulatively with those produced worldwide, to affect climate change. Compliance with identified air quality, energy efficiency, and water conservation mitigation measures would reduce the project's contribution to cumulative GHG emissions, and subsequent climate change. Cumulative effects would be *less than significant* (Class III).

9.1.2 Biological Resources (Class III)

No major projects are scheduled to be constructed during a similar timeframe as the project. The closest known project is the Morro Bay to Cayucos Connector, which would run along Studio Drive adjacent to the project site, within the paved area. The timing for construction of that project is currently undetermined. Based on the location and size of the project, and implementation of recommended mitigation measures, the project would not have any significant residual direct or indirect adverse impacts to sensitive biological resources, including special-status species, habitats, and wildlife. The site is not within a designated Environmentally Sensitive Habitat Area (ESHA). The project would not significantly contribute to the loss of

species or sensitive habitat. Therefore, potential cumulative impacts would be *less than significant* (Class III).

9.1.3 Cultural Resources (Class III)

The destruction of cultural resources can have the potential for significant cumulative impacts as they are inherently important to the descendants of native peoples and make the study of pre-historic and historic life unavailable for study by scientists. Given the prevalence of cultural resource sites in San Luis Obispo, and the number of construction activities that involve disturbance of archaeologically sensitive areas that are not regulated, it is likely that significant pre-historic and historic resources are often not identified and are permanently lost. For the proposed project, no prehistoric archaeological resources were identified with the project site, and implementation of the proposed project would not contribute to the cumulative degradation of significant cultural resources in the County. Based on lack of significant resources at the project site, and compliance with the CZLUO, potential cumulative impacts resulting from the proposed project are considered *less than significant* (Class III). No additional mitigation is required.

9.1.4 Geology and Soils (Class III)

Implementation of the pending and approved projects listed in the cumulative development scenario would increase development in the immediate area. No projects requiring grading or construction would occur in the immediate vicinity of the project, and no existing adverse geologic or drainage conditions are present on or adjacent to the project site.

Additional development, including the proposed project, would increase the number of people and structures exposed to a variety of geologic and soils hazards within the County, including liquefaction, ground shaking, and temporary exposure to sea level rise and storm surge. Potential impacts related to geologic, soils, and seismic hazards are all site-specific, and mitigation measures are applied to each project to minimize the potential for significant geologic impacts. All development projects are required to comply with State and local regulations regarding grading and construction; therefore, no cumulative impacts related to these issues have been identified. Implementation of mitigation measures identified above, and compliance with existing regulations would mitigate impacts to *less than significant* (Class III), and no additional measures are necessary.

9.1.5 Hazards and Hazardous Materials (Class III)

Due to the type of project proposed, and lack of hazards or hazardous materials within or near the project site, construction and operation of the project would not contribute to environmental impacts related to hazards. Cumulative impacts would be *less than significant (Class III)*. No additional mitigation is required.

9.1.6 Recreation (Class IV)

As with any new residential development, the project has the potential to result in a cumulative effect on recreational resources, by adding demand on public parks, trails, and recreational areas. However, the project's cumulative impacts are within the general assumptions of allowed use for the subject property. Adequate public facility fee programs have been adopted to address these impacts. Impacts to the area recreational resources and facilities will be mitigated through the payment of appropriate fees prior to issuance of a building permit for the proposed project. The future Morro Bay to Cayucos connector bike path is proposed to run along Studio Drive directly adjacent to the project site, which will create a *beneficial impact* (Class IV) on

recreational resources by providing additional pedestrian and biking trails in the project vicinity and connecting other recreational opportunities in the city of Morro Bay and community of Cayucos.

9.1.7 Transportation and Circulation (Class III)

Population and tourism in the areas surrounding the proposed project are expected to slowly and steadily increase in the future, resulting in a corresponding steady increase in traffic, parking demands, and safety conflicts in the Cayucos area. The proposed project would contribute to cumulative traffic volumes in the area; however, because it is not resulting in an increase in residential density, the increase would be minor, and at a level anticipated in by the Estero Area Circulation Element. Therefore, potential cumulative impacts would be *less than significant* (Class III).

9.1.8 Water Resources (Class III)

Water demand for the proposed use represents a small percentage of total water demand in the Cayucos area, and the boundaries of CSA 10A (approximately 0.6%). As previously discussed, CSA 10A has available water to serve this project, in addition to others within the service area. Therefore, potential cumulative impacts would be *less than significant* (Class III).

9.2 GROWTH-INDUCING IMPACTS

CEQA Guidelines §15126.2(d) requires an EIR to discuss the growth inducing impacts of a proposed project, including the ways in which the project would foster economic or population growth, encourage the construction of additional housing, or remove an obstacle to population growth in the surrounding environment, either directly or indirectly. The goal of the growth inducing impacts section of the EIR is to address the effects the proposed project may have on surrounding facilities and activities by assessing the ways in which a project could encourage population or economic growth, increase employment opportunities or employment growth in support of an industry, or stimulate the construction of new housing or service facilities.

Based on the CEQA Guidelines criteria outlined above, the proposed project was evaluated in order to determine if any part of the project demonstrates the potential to result in growth inducing impacts. The project proposes one single-family residence on one of the few undeveloped lots in an existing developed neighborhood. The use is consistent with the general level of development currently existing along Studio Drive and anticipated under the Residential Single Family (RSF) land use designation. Other than temporary employment associated with construction of the residence, the project would not create new jobs or facilitate employment growth. Given its small scale and limited function, the project would not induce population or economic growth in the area. Impacts would be *less than significant.*

10.0 ALTERNATIVES

CEQA, §15126.6(a), requires an EIR to "describe a reasonable range of alternatives to a project, or to the location of a project, which could feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives". Through the scoping process, if an alternative was found to be infeasible, as defined above, then it was dropped from further consideration. In addition, CEQA states that alternatives should "...attain most of the basic objectives of the project..." Please refer to Chapter 5, Alternatives Analysis, of the EIR for a detailed discussion of the alternatives. The following alternatives were selected for more detailed review.

10.1.1 No Project Alternative

The No Project Alternative would include none of the components of the proposed project. If a project is not built at this time, a residential project may be proposed in the future.

10.1.2 Design Alternative A – Reduced Project, Pilings

The project site is located on the beachside of Studio Drive, and would be exposed to coastal hazards including sea level rise, wave-up, and storm surge. Independently, these conditions would not adversely affect the proposed structure; under extreme conditions, ocean water may reach the 22.2-foot elevation, and may overtop the existing rock outcrop and splash against the basement wall.

An alternative to this would be to eliminate the basement and construct the residence on steel-reinforced concrete pilings. This would allow ocean water to flow under the structure entirely before receding back. Under this alternative, the main floor and mezzanine, including the cantilevered portion, would remain.

This alternative consists of an approximately 1,857-square-foot residence including:

- 1,097 square feet of main floor living space
- 338-square-foot mezzanine
- 242-square-foot garage and 200-square-foot carport
- 180-square-foot covered deck
- Solar panels installed on the south-facing slopes of the roof

The residence would consist of one main floor supported on pilings. The maximum width of the structure would be 18 feet, and the maximum length would be 95 feet. A paved driveway would provide access from Studio Drive. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive. It is expected that retaining walls would be necessary adjacent to Studio Drive, and along a portion of the southern and northern sides of the residence, with continuous footings extending into the underlying bedrock materials.

10.1.3 Design Alternative B – Reduced Project, Traditional Design

This design alternative incorporates a more traditional design, as opposed to the modern structure proposed by the applicant. It does not include the extended cantilevered main floor, or a substantial reduction in the extension, and provides sloped roofs. This alternative is

considered a reduced design option, and consists of an approximately 2,572-square-foot residence including:

- 772 square feet of main floor living space
- 1,040-square-foot basement
- 338-square-foot mezzanine
- 242-square-foot garage and 200-square-foot carport
- 180-square-foot covered deck
- Solar panels installed on the south-facing slopes of the roof

The residence would consist of one main floor and a basement. The footprint of the house would be 1,040 square feet. The maximum width of the structure would be 18 feet, and the maximum length would be 70 feet. A paved driveway would provide access from Studio Drive. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive. The basement would be located below the elevation of Studio Drive.

The exterior walls of the structure would be concrete and would retain soils along the southern, eastern, and northern sides of the residence. Retaining walls will also be constructed adjacent to Studio Drive with continuous footings extending into the underlying bedrock materials.

10.1.4 Design Alternative C – Vegetation and Articulation

As noted above, no significant aesthetic resource impacts were identified; however, a reasonable alternative to the project includes additional features to articulate the design and blend it into the beach landscape. This includes incorporation of native, low-growing shrubs and vegetation along the northern and western aspects, and the use of native (or simulated native) rocks along the driveway retaining wall. This alternative would consist of the same size, footprint, width, and height, as the proposed project.

10.2 Environmentally Superior Alternative

CEQA requires the alternatives section of an EIR to describe a reasonable range of alternatives to the project that avoid or substantially lessen any of the significant effects identified in the EIR analysis while still attaining most of the basic project objectives. The alternative that most effectively reduces impacts while meeting project objectives should be considered the "environmentally superior alternative." In the event that the No Project Alternative is considered the environmentally superior alternative, the EIR should identify an environmentally superior alternative among the other alternatives.

In this EIR, the No Project Alternative results in the fewest environmental impacts, although it does not meet any of the project objectives, including the primary objective to build a single-family residence.

As proposed, and with incorporation of recommended mitigation measures, the proposed project would not result in any significant, unavoidable environmental effects, and would meet project objectives. All proposed alternatives would meet the project objectives, and would not result in any significant, adverse, and unavoidable (Class I) impacts upon implementation of mitigation measures similar to those identified for the proposed project.

The proposed Reduced Project and Design Alternatives (A, B, and C) provide some variation in size and project design in response to public comment, and include alternatives to the proposed

basement, cantilevered living space, and exterior design elements. Design Alternative A – Reduced Project, Pilings, would marginally reduce the intensity of identified geology and soils impacts, primarily related to coastal hazards, and would still require substantial engineered design and incorporation of design-specific mitigation measures. Design Alternative B – Reduced Project, Traditional Design does not include the cantilevered portion of the residence, which may be more consistent with Small Scale Neighborhood Standards. Alternatives A, B, and C (Vegetation and Articulation) may reduce the perceived mass of the structure as seen from Studio Drive and the beach area, and may be more consistent with County Plans and Policies related to visual resources.

Based strictly on an analysis of the relative environmental impacts, the proposed project, with adoption and incorporation of recommended mitigation measures, is considered the Environmentally Superior Alternative. The decision-making body will consider the whole of the record when considering the approved project including, but not limited to, public comment and testimony related to the size and design of the residence. The decision-making body may select the project as proposed, an Alternative, or a specified combination of particular elements identified in the Alternatives, as the approved project. In all scenarios, the Mitigation and Monitoring Program (MMRP) would be applied to the approved project.

11.0 MITIGATION MONITORING PROGRAM

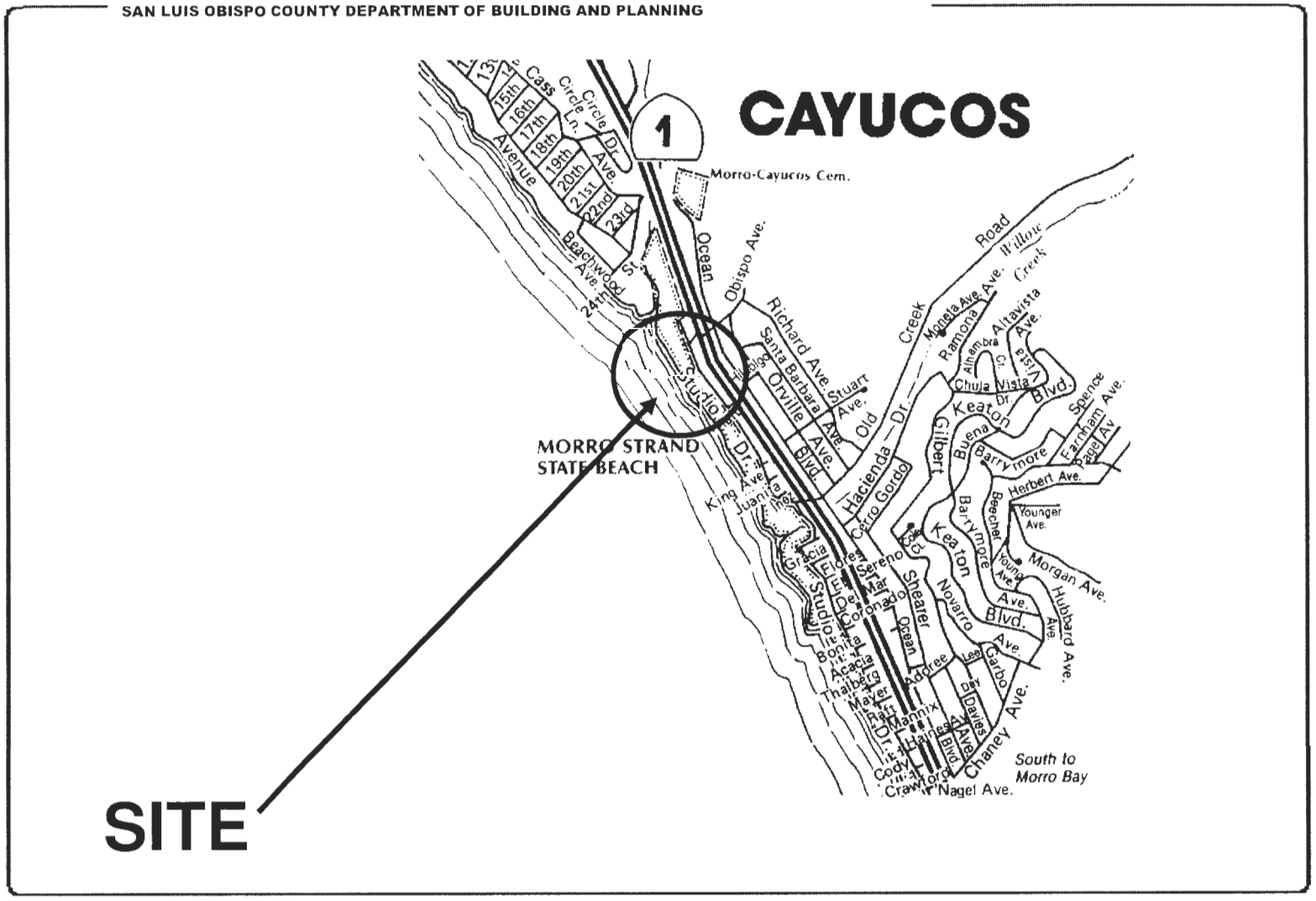
PRC §21081.6 requires the lead agency, when making the findings required by PRC §21081(1)(a), to adopt a reporting or monitoring program for the changes to the project that it has adopted, in order to ensure compliance during project implementation. The County is the lead agency responsible for the adoption of the reporting or monitoring program. A Mitigation Monitoring and Reporting Plan (MMRP) has been prepared that requires the County to monitor mitigation measures designed to reduce or eliminate significant impacts, as well as those mitigation measures designed to further reduce environmental impacts that are less than significant.

The MMRP designates responsibility and anticipated timing for the implementation of mitigation measures within the jurisdiction of the County. Implementation of the mitigation measures specified in the Final EIR and the MMRP will be accomplished through administrative controls over project planning and implementation. Monitoring and enforcement of these measures will be accomplished through verification in periodic Mitigation Monitoring Reports and periodic inspection by appropriate County personnel. The County reserves the right to make amendments to and/or substitutions of mitigation measures if, in the exercise of discretion of the County, it is determined that the amended or substituted mitigation measure will mitigate the identified significant environmental impact to at least the same degree of significance as the original mitigation measure it replaces, or would attain an adopted performance standard for mitigation, and where the amendment or substitution would not result in a new significant impact on the environment that cannot be mitigated.

As lead agency for the Loperena MUP/CDP EIR, the County hereby certifies that the MMRP set forth in Chapter 7 of the Final EIR, which has been designed to ensure compliance during construction of the proposed project and includes all of the mitigation measures identified in the Final EIR and adopted and incorporated into the project, is adequate to ensure the implementation of the mitigation measures described herein.

3-66

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

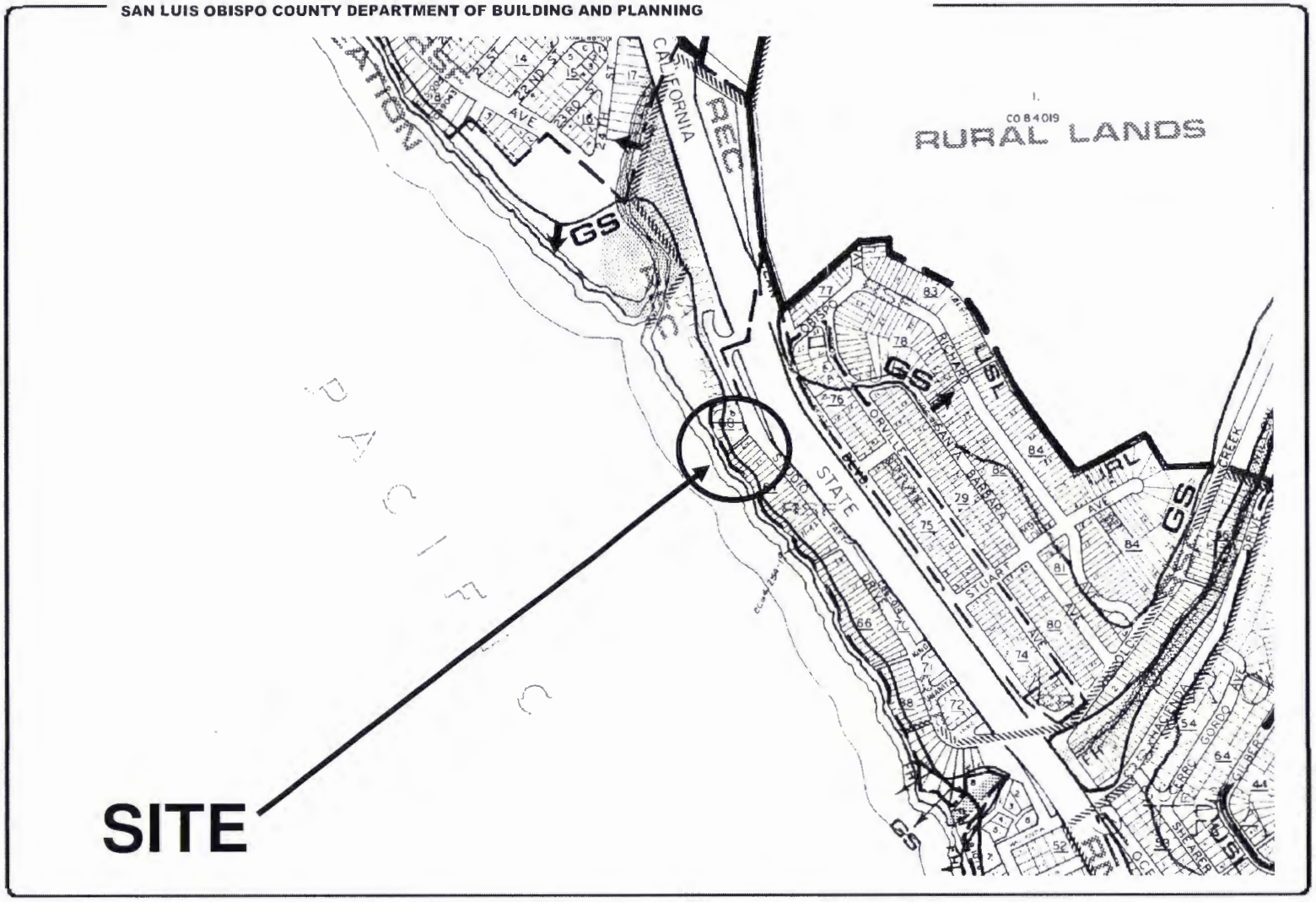
EXHIBIT

Vicinity Map

Exhibit 3
A-3-SLO-15-0001
452 of 551

3-67

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT

Land Use Category Map

Exhibit 3
A-3-SLO-15-0001
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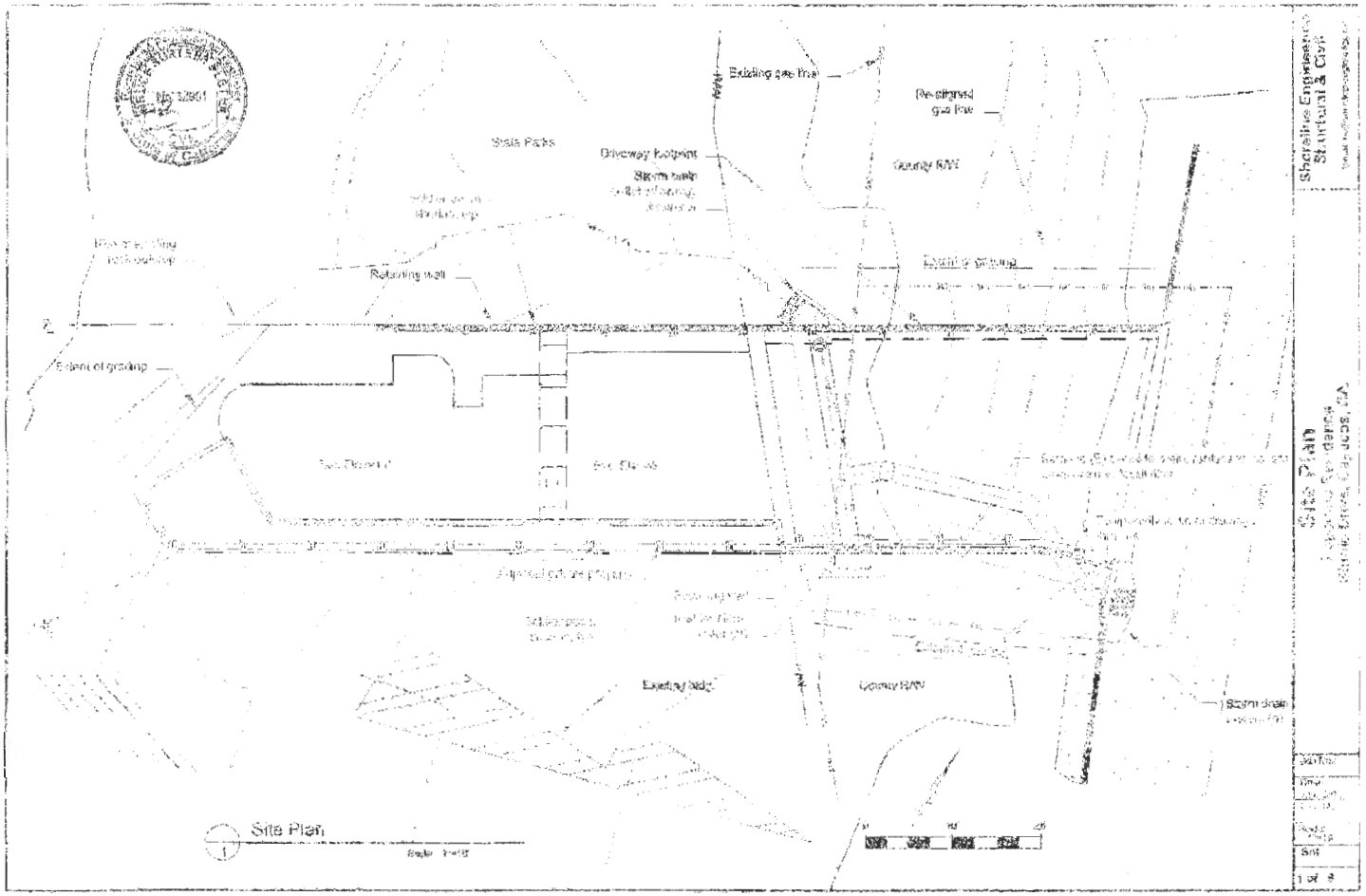
3-68

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

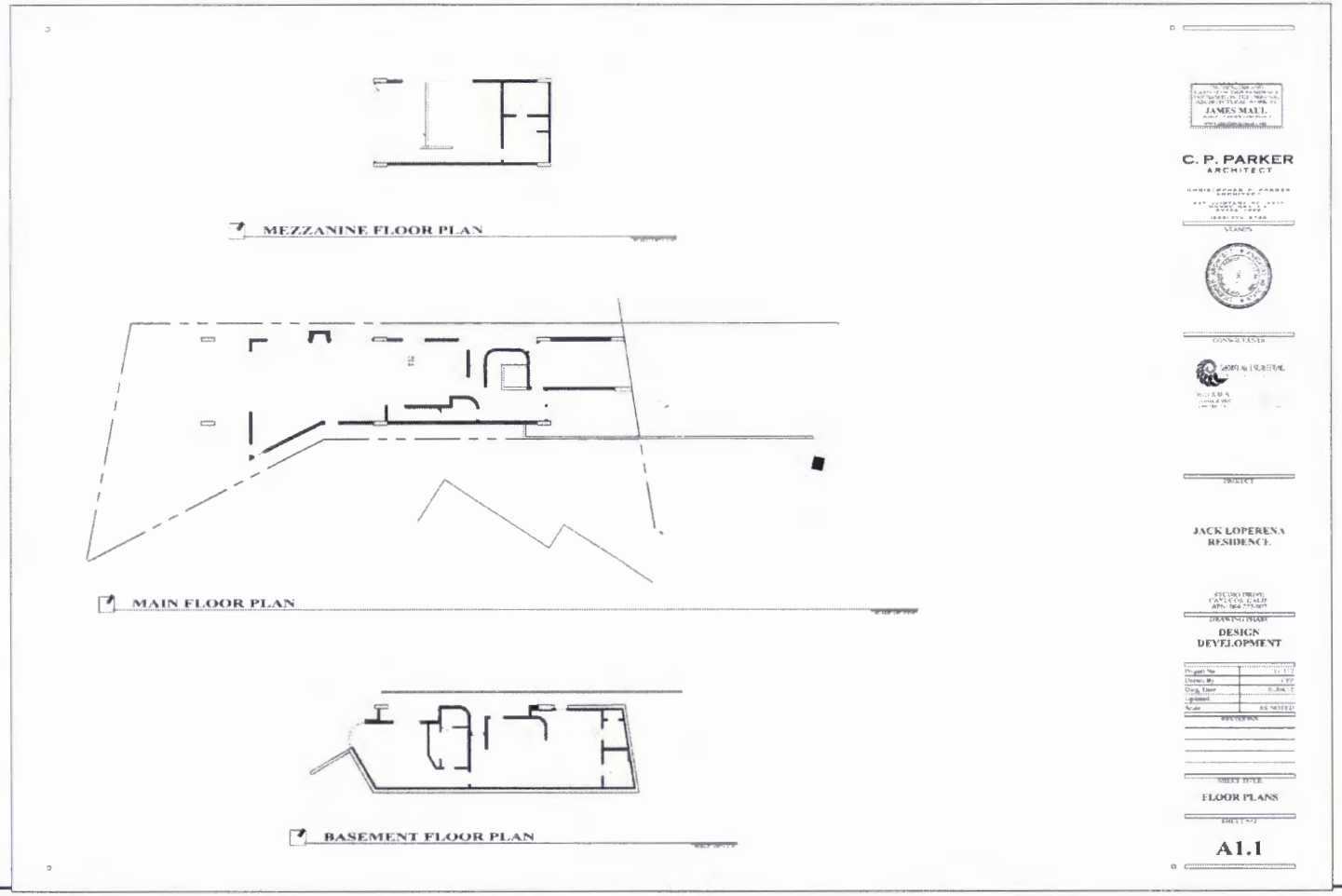
Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT

Site Plan

3-69

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

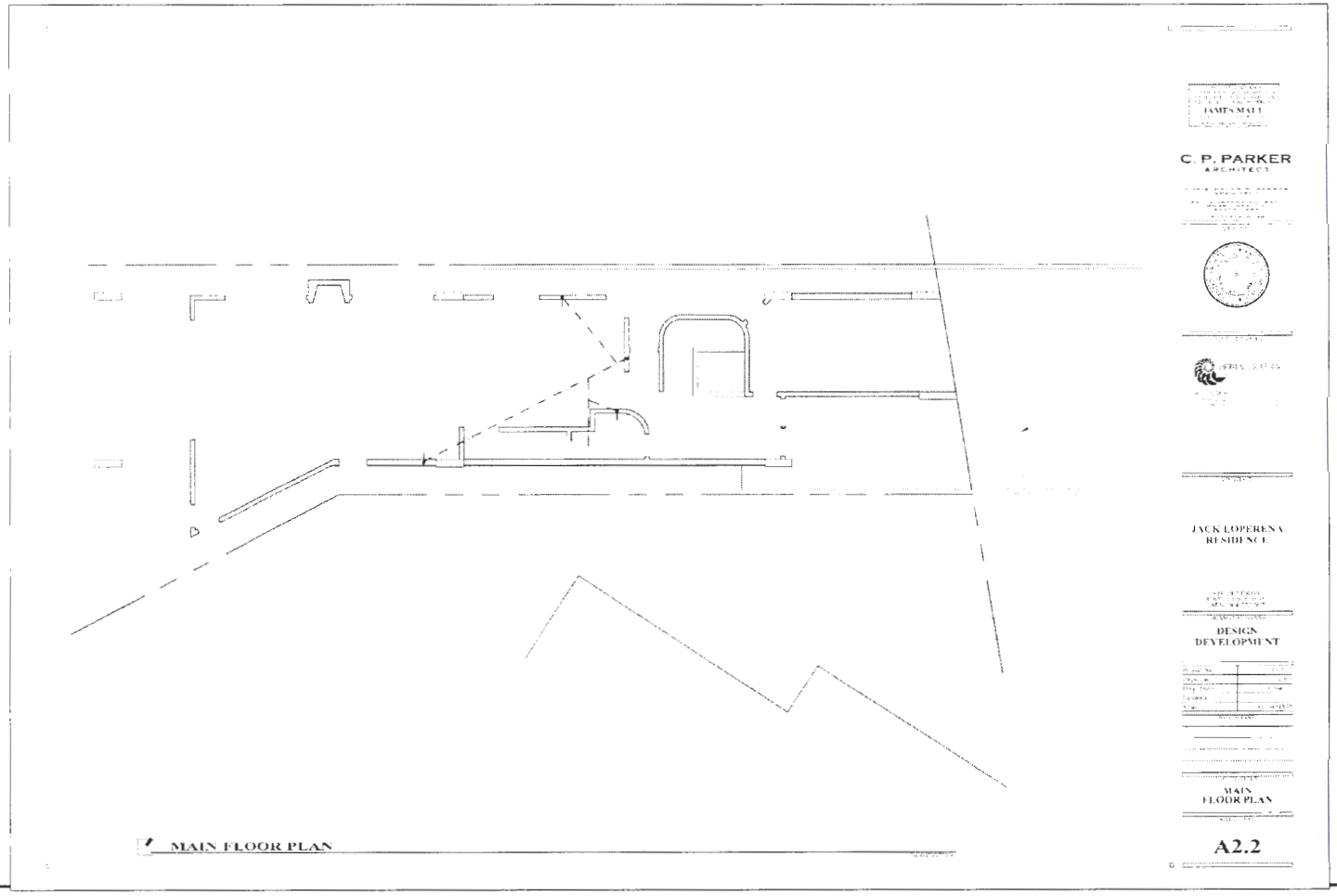
Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT

Floor Plans

3-70

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT

Floor Plan – Main Floor

Exhibit 3
A-3-SLO-15-0001
456 of 551

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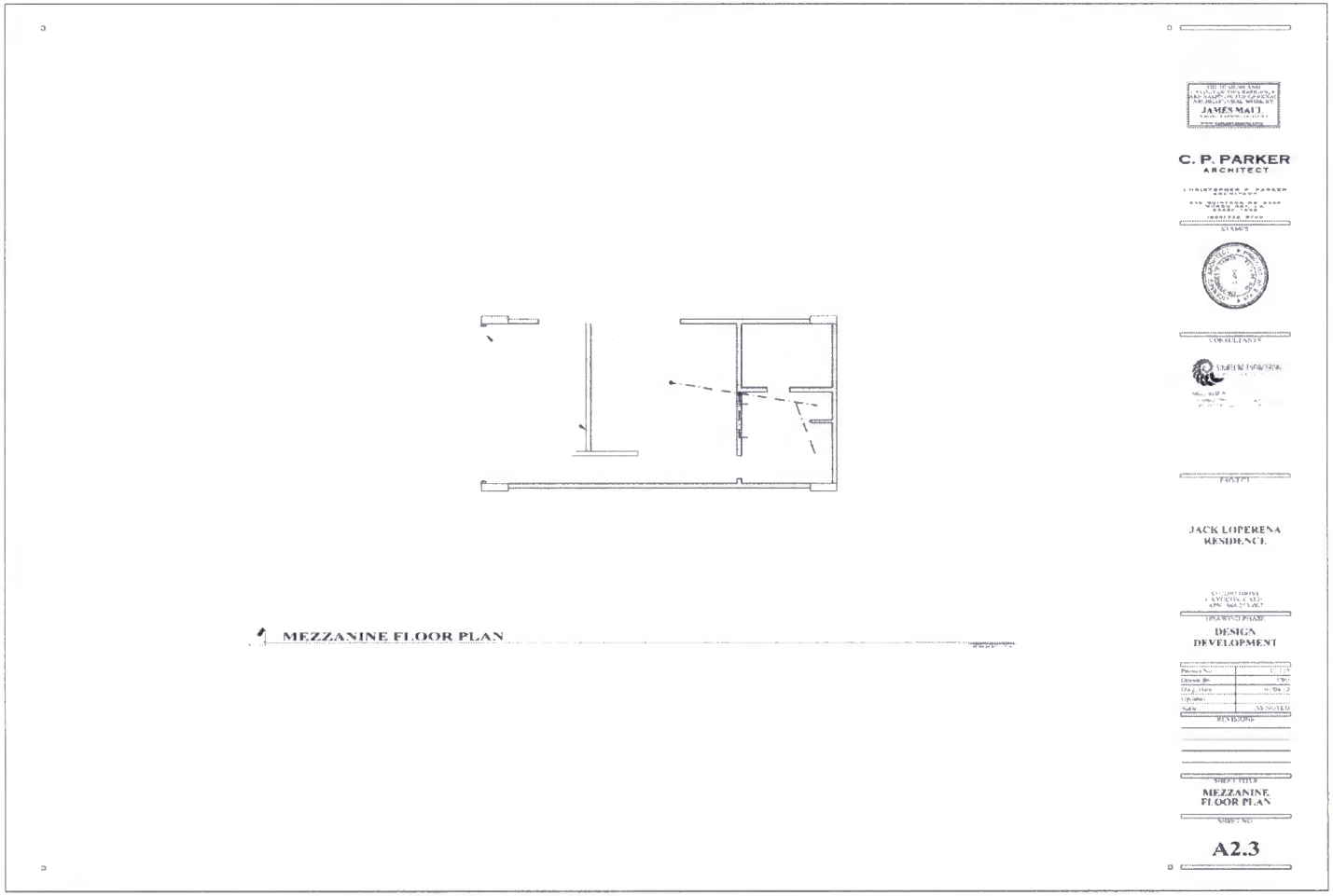
SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT

Mezzanine Floor Plan

Exhibit 3
A-3-SLO-15-0001
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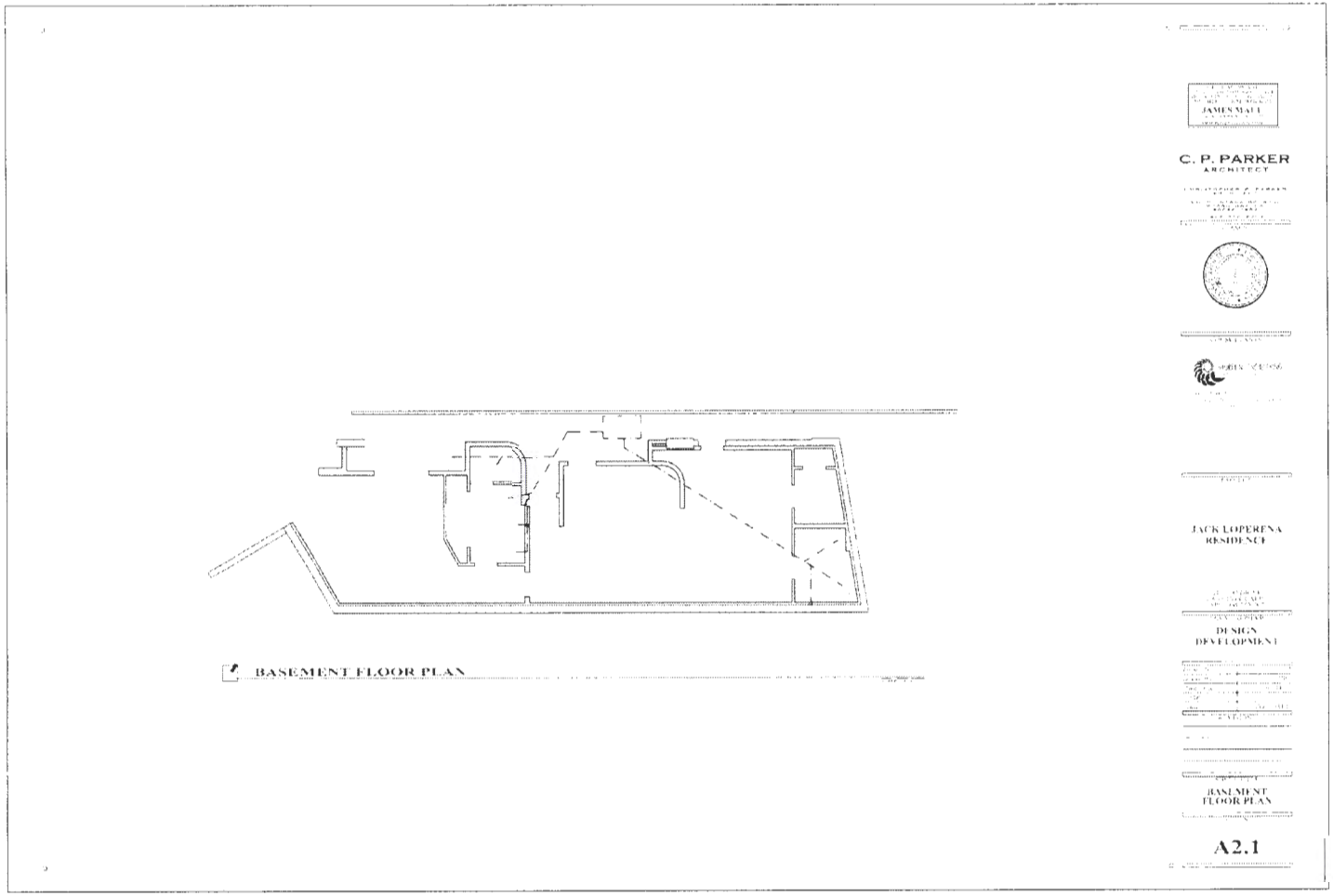
SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT

Basement Floor Plan

Exhibit 3
A-3-SLO-15-0001
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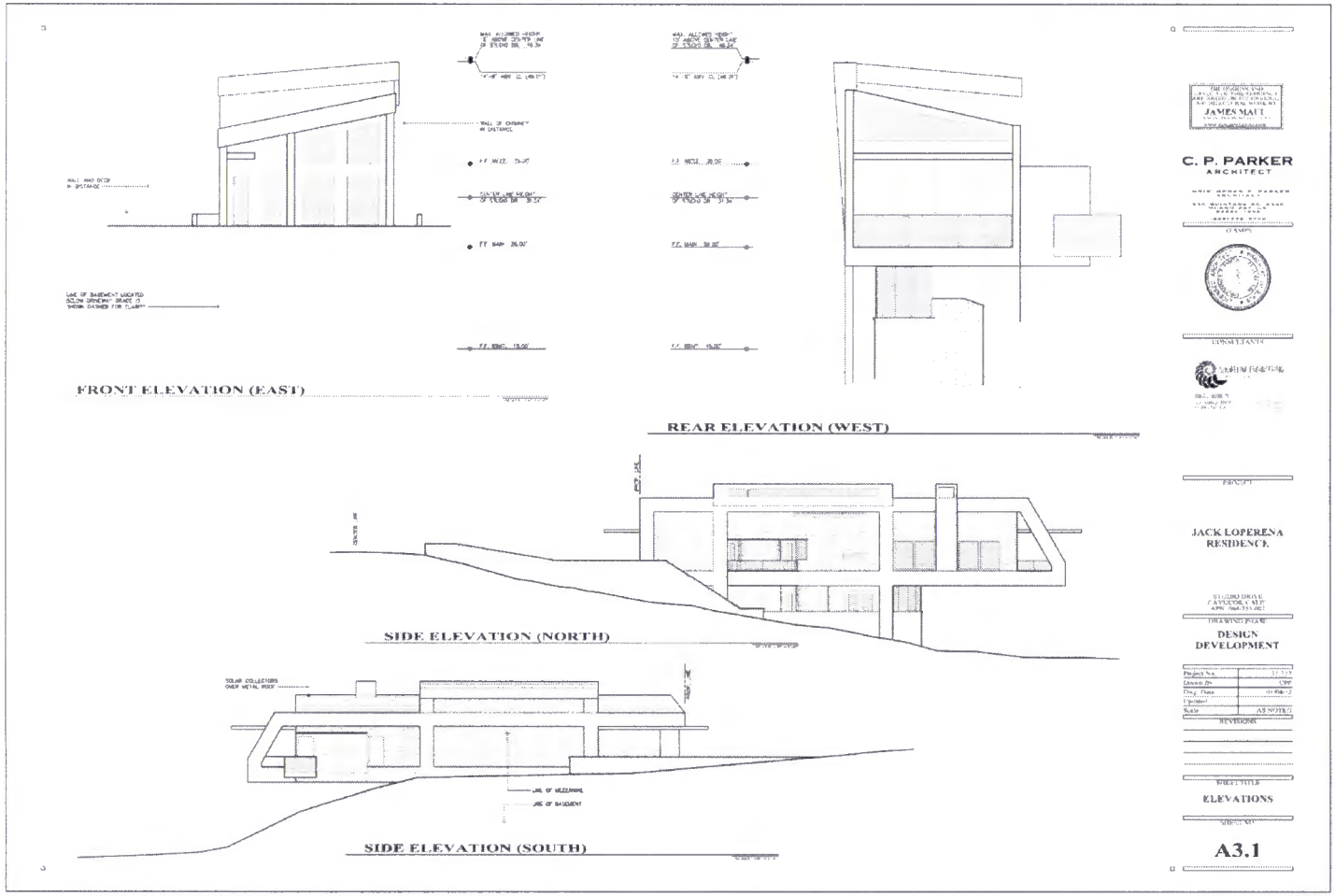
3-73

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



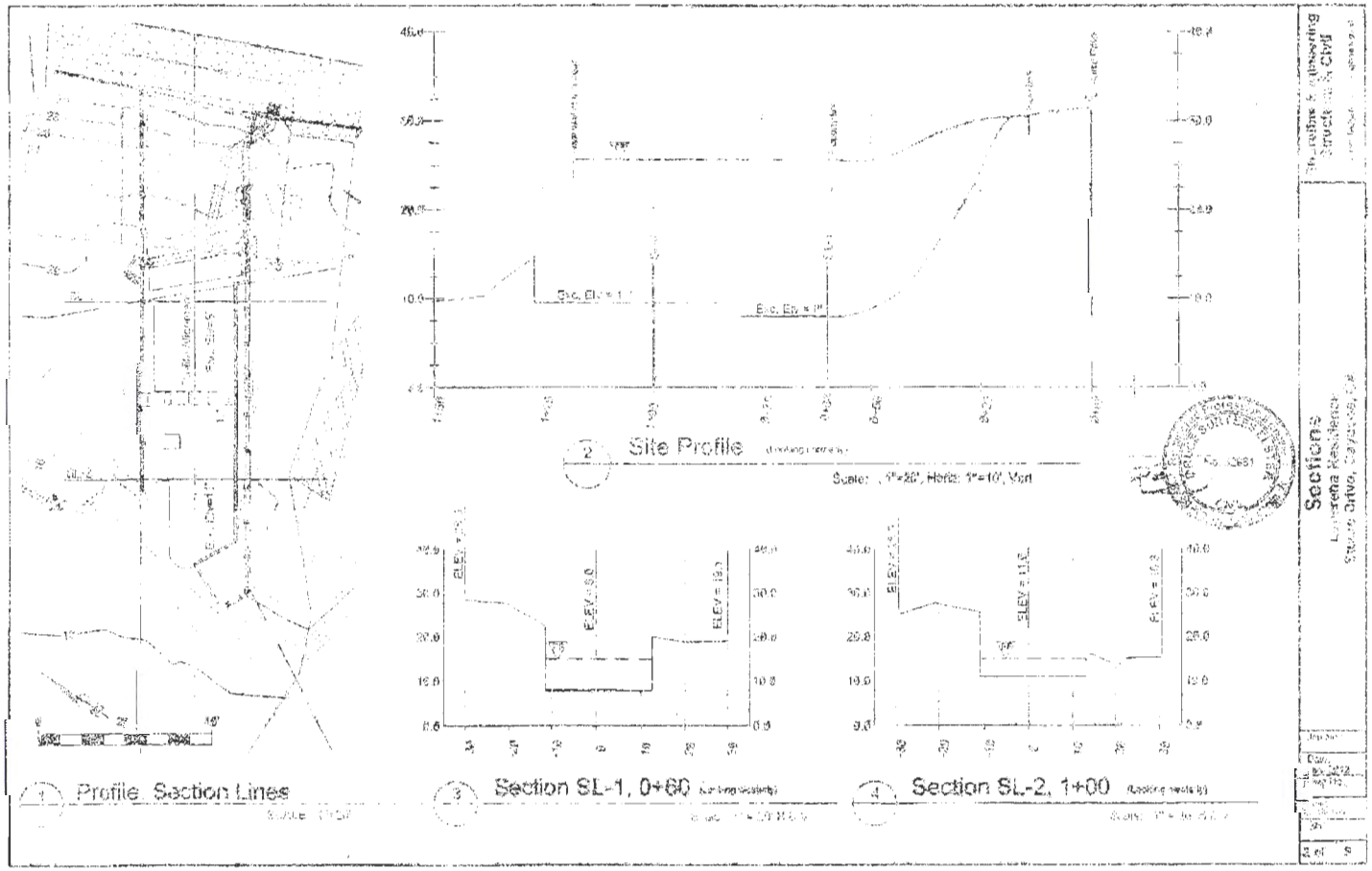
PROJECT

Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT

Elevations

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



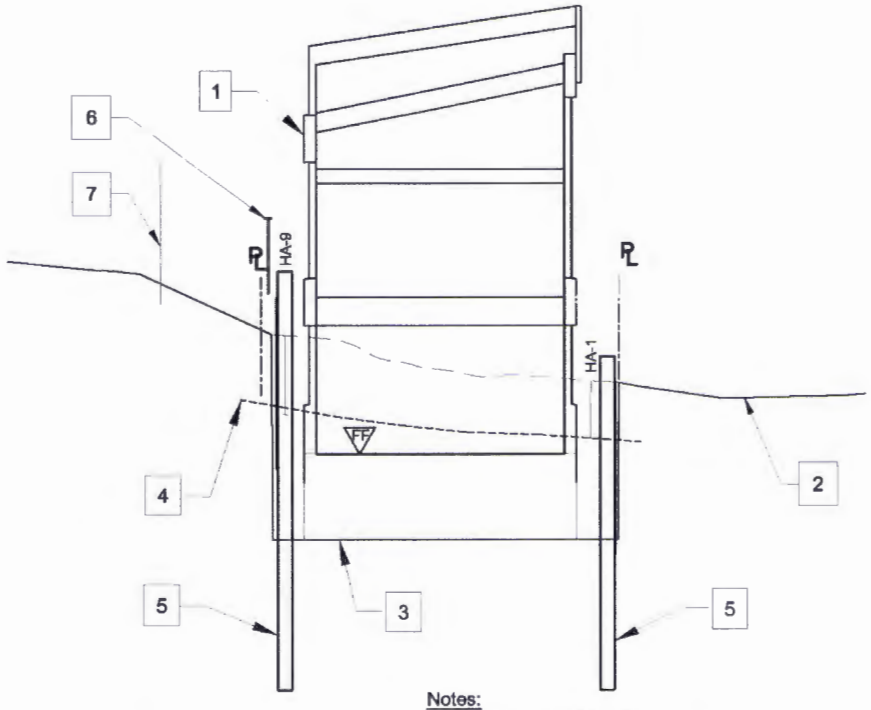
PROJECT

Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT

Sections

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



Explanation:
HA-xx: Boring by CHG

Notes:
1. Proposed residence, typ.
2. EG @ SL-1.
3. Concrete deadman, 6' deep.
4. Graywacke sandstone level per Cleath & Harris 1/12/2007 & 9/19/2012.
5. Soldier beam shoring system w/ W12x53 @ 8' and steel traffic plate lagging. Layout per plan.
6. Safety fencing.
7. Edge of neighbooring residence (e).

4 Shoring Detail @ SL-1 (Looking westerly)

Scale: 1"=10'

Shoreline Engineering
Structural & Civil
505 Harbor Street
Morro Bay, CA 93442
(805) 772-6466 v
(805) 772-6467 f
be@shoreline-engineering.net

Shoring Detail

Loperena Residence
Studio Drive, Cayucos, CA

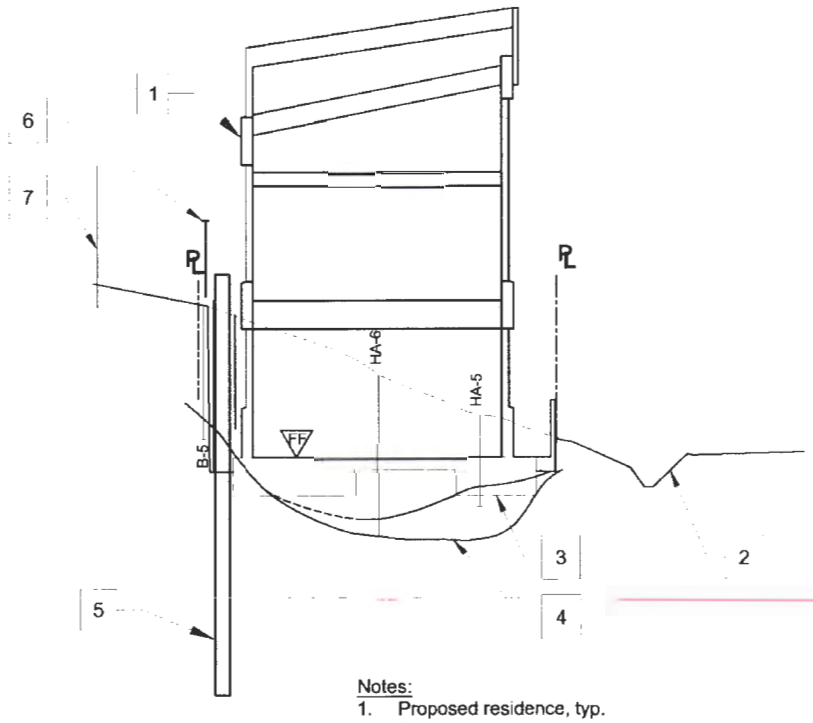
Job No.:	Dwg No.:	Scale:
293-02	—	1"=10'
Sht 4 of 5		
Date: Jan 2012		

EXHIBIT
Shoring Detail

PROJECT
Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING

EXHIBIT
Shoring Detail



Explanation:
B-xx: Boring by GSI
HA-xx: Boring by CHG
Borings are between 4 ft & 5 ft off axis easterly of SL-2 in the longitudinal direction, and are considered representational of condition below SL-2.

Notes:
1. Proposed residence, typ.
2. EG @ SL-2.
3. Approx. level of construction pad.
4. Graywacke sandstone level per Cleath & Harris 9/19/2012.
5. Soldier beam shoring system w/ W12x53 @ 8' and steel traffic plate lagging. Layout per plan.
6. Safety fencing.
7. Edge of neighbouring residence (e).

5 Shoring Detail @ SL-2 (Looking westerly)
Scale: 1"=10'

Shoreline Engineering
Structural & Civil
505 Harbor Street
Morro Bay, CA 93442
(805) 772-6466 v
(805) 772-6467 f
be@shoreline-engineering.net

Shoring Detail

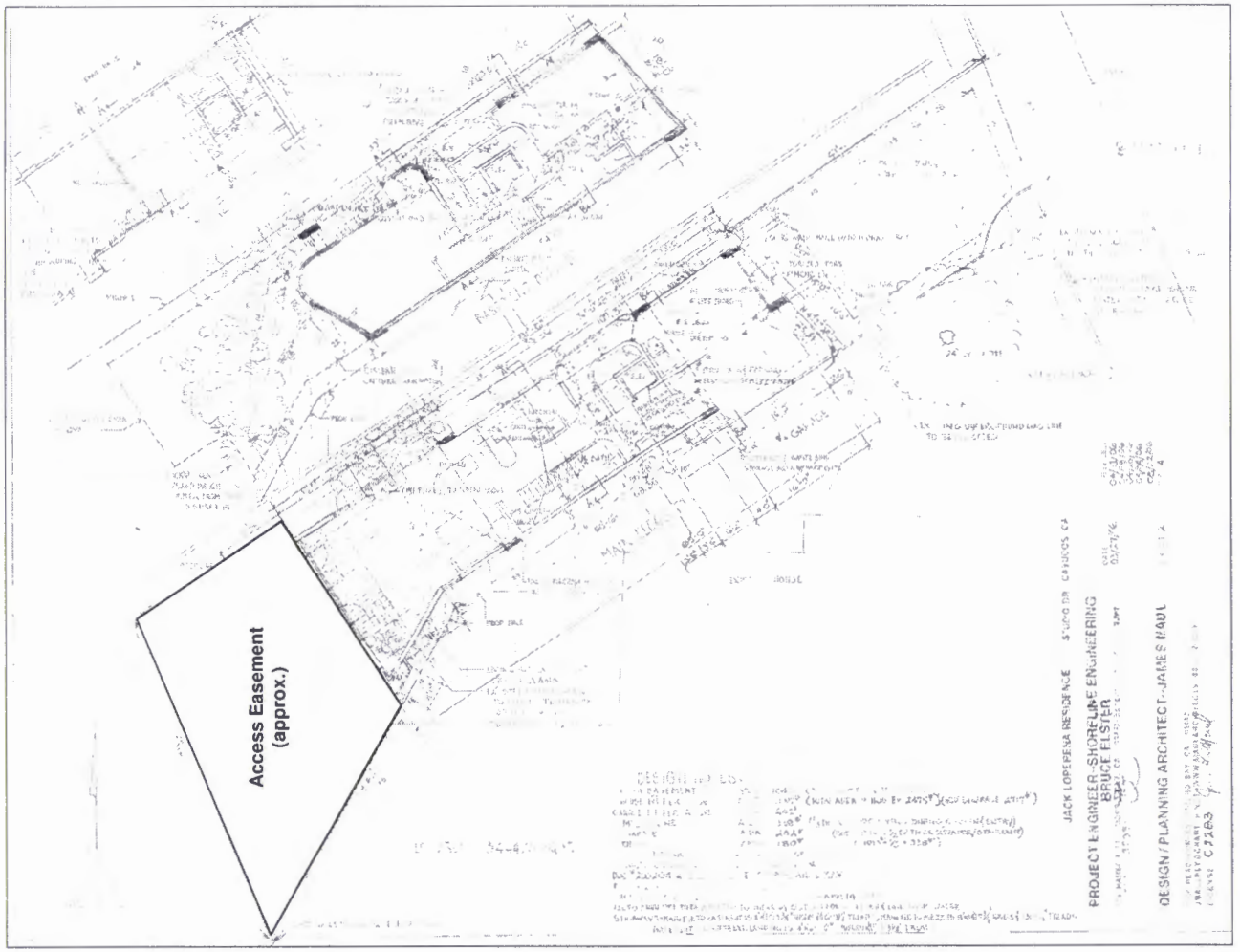
Loperena Residence
Studio Drive, Cayucos, CA

Job No	Dwg No	Scale
293-02	—	1"=10'
Sht 5 of 5		
Date Jan 2012		

PROJECT
Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

3-77

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT

Access Easement Area

3-78

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING

PROJECT

Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT

Elevations – East and South

3-79

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING

PROJECT

Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT

Elevations – East and South

3-80

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING

PROJECT

Minor Use Permit / Coastal Development Permit
Loperena DRC2005-0216

EXHIBIT

Aerial Photograph

Exhibit 3
A-3-SLO-15-0001
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SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

September 21, 2005

312-17072

JACK LOPERENA
2764 W. ATHENS AVE.
FRESNO, CA 93711

SUBJECT: Allocation Selection Under Growth Management Ordinance

Dear Applicant:

On September 20, 2005 the San Luis Obispo County Board of Supervisors approved a resolution to issue water service will-serves for 40 equivalent dwelling units in County Service Area 10A, allowing selection of your allocation request, #312-17072 for Assessor Parcel Number 0I04-253-007. **Your allocation has been selected effective today, September 21, 2005. You will have 270 calendar days from the date of selection to apply for a building permit. You must apply for a building permit by June 19, 2006.** Please be advised that no further extensions may be granted under the Growth Management Ordinance. In accordance with water service policies, water service will-serves remain valid only as long as compliance with building permit requirements is maintained.

In accordance with the Land Use Ordinance (Title 23 of the County Code) development of your parcel may require a Minor Use Permit (MUP) or a Variance if your property slopes exceed 20%. A MUP or variance is good for two (2) years from the date of approval. Please contact one of our coastal team planners at (805) 781-5600 to discuss the specifics regarding a variance or a MUP for your property.

When a variance or MUP is required you need to apply for the variance or MUP by the 270 day deadline at a minimum. Also, by the 270 day deadline you need to "apply" for the building permit by submitting a copy of your variance or MUP application package along with conceptual drawings of the residential development. We fully understand that the final variance or MUP approval may include conditions that affect the location of the structure on the property, etc. which would then need to be reflected in the actual detailed construction drawings that would be part of a complete building permit application package. Once your variance or MUP is approved you can prepare the detailed construction drawings to be submitted to the Building department as part of the building permit you started by the 270 day deadline.

If you have any questions regarding allocations please contact me at (805) 781-4660 or email me at jmanson@co.slo.ca.us. Please contact Courtney Howard at (805) 781-1016 for questions about water resources for County Service Area 10A.

Sincerely,

Jo Manson

Jo Manson, Planner II
Information Services Division

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600
EMAIL: planning@co.slo.ca.us • FAX: (805) 781-1242 • WEBSITE: http://www.slocoplanbldg.com

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SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

RECEIVED MAY 10 2006

VICTOR HOLANDA, AICP
DIRECTOR

THIS IS A NEW PROJECT REFERRAL

DATE: 5/5/06

TO: Cayucos Sanitary

FROM: ☐ - South County Team ☐ - North County Team ☑ - Coastal Team

PROJECT DESCRIPTION: File Number: DRC2005-00216 Applicant: LOPERENA
MUP -> 2,200 sq. ft. SFR on Studio Drive in Cayucos.
APN: 064-253-007.

Return this letter with your comments attached no later than: 5/20/06

PART 1 - IS THE ATTACHED INFORMATION ADEQUATE TO COMPLETE YOUR REVIEW?

☑ YES (Please go on to PART II.)
☐ NO (Call me ASAP to discuss what else you need. We have only 30 days in which we must accept the project as complete or request additional information.)

PART II - ARE THERE SIGNIFICANT CONCERNS, PROBLEMS OR IMPACTS IN YOUR AREA OF REVIEW?

☐ YES (Please describe impacts, along with recommended mitigation measures to reduce the impacts to less-than-significant levels, and attach to this letter)
☑ NO (Please go on to PART III)

PART III - INDICATE YOUR RECOMMENDATION FOR FINAL ACTION.

Please attach any conditions of approval you recommend to be incorporated into the project's approval, or state reasons for recommending denial.

IF YOU HAVE "NO COMMENT," PLEASE SO INDICATE, OR CALL.
PLEASE SEE WILL SERVE LETTER IN THE FOLLOWING PAGE. THANK YOU.

5/11/2006	SUSAN ESTES	995 3290
Date	Name	Phone

CAYUCOS SANITARY DISTRICT

200 Ash Avenue
P.O. Box 333, Cayucos, California 93430-0333
805-995-3290 Fax 805-995-3673

Conditional Will-Serve Letter

To: San Luis Obispo County Planning Department
From: Cayucos Sanitary District
Date: 5/2/2006 Project Number: **TO COME**

Applicant Name: **JACK LOPERENA**
Address: **2764 W ATHENS AVE**
City, State. Zip **FRESNO, CA. 93711-0339**

Project Address: **STUDIO DR**
Assessors Parcel Number: **064-253-007** LOT: **PTN 41** BLK:**66** TRACT: **MS5**
Project Description: **SFR**
Date of Issue: **5/2/2006** Expiration Date: **5/1/2007** Extention

We have reviewed the proposed project development and are aware of its potential effect upon the facilities and property (including easements) controlled by the District.

We have reviewed the plans and have determined there are conditions placed on the development as follows:

* WILL-SERVE PERTAINS TO PLANS FINAL DATE STAMPED 4.28.06, RECEIVED BY THE DISTRICT MAY 1/2006 AND TO NO OTHERS. DISTRICT IS REQUIRED TO PROVIDE A NEW SERVICE CONNECTION AS ONE DOES NOT EXIST AT TIME OF APPLICATION. SERVICE WILL BE PROVIDED TO PROPERTY LINE. BACKFLOW AND CLEANOUT ARE REQUIRED TO HAVE ENCLOSURES.

* Installation of sewer backflow prevention device per District standards

* Cleanout at property line

* Other: _____

_____

_____

* All District conditions shall be reflected on the plans.

* A Final Will-Serve Letter shall be issued when all conditions (above) have been met; final will-serve fees have been paid; and physical connection (at owners expense) has been made and inspected by the District. The County shall not allow final occupancy until they have received a Final Will-Serve Letter issued by the District.

We will serve this proposed development with our community sewer system facilities and solid waste disposal services so long as the applicant complies with our conditions (above) and connection requirements, including payment of all applicable sewer will-serve fees in effect at the time of connection. A 48 hour notice requesting sewer inspection by the District is required.

Approved By: _____ Date: 5/2/06
Supervisor, Operations and Maintenance

CAYUCOS SANITARY DISTRICT

200 Ash Avenue
PO Box 333, Cayucos, California 93430-0333
805-995-3290

APPLICATION FOR SEWER WILL-SERVE LETTER
(Revised 03/01/2006)

Please fill out and provide all information requested. Failure to complete timely and thoroughly may delay review and processing of your project development will-serve request. There will be no processing of a Will-Serve letter applications for accounts with owing balances in the arrears.

OWNER JACK & JOANNE M. LODERENA
(Name as it appears on instrument holding title to real property)

PROJECT SITE APN# 064 253 007 (3980 #1)
PHONE 559/436-8219
FAX 559/447-9713
ADDRESS 2764 W. ATHENS
CITY FRESNO
STATE CA ZIP 93711

PROJECT #
PROJECT TYPE SINGLE FAMILY RESIDENCE
APN 064 253 007
LOT# POR. 41 BLOCK# TRACT 2 ACRES MORE OR LESS
AGENT JAMES MAUL AND/OR BRUCE ELSTER
AGENT PHONE 772-8995 772-6466

Is this a first time application for District will-serve on your project development? {√} yes { } no

Is this an application for extension of a previously issued District Will-Serve Letter which is due to expire?
{ } yes {√} no

The Conditional Will-Serve is valid for one year from the date of issuance. The District may allow a one-time only, one year extension of the Conditional Will-Serve Letter, subject to review of the renewal application and payment of an extension request fee.

I. **FEES—FIRST TIME APPLICATION ONLY:**

A. Is the development project a single family residence without off-site improvements and absent a sewer easement on or adjacent to the building site? {√} yes { } no **If yes, then**
{√} Cost for issuance of a Conditional Will-Serve Letter shall be $50.00 and is due and payable at the time of submittal of the application.

B. Is the development project a commercial, multi-family residential, or a single family residence with either off-site improvements and/or a sewer easement on (or adjacent to) the building site? { } yes {√} no **If yes, then** { } Cost for issuance of a Conditional Will-Serve Letter shall require a $200.00 deposit and will be offset against the actual cost of administrative processing, plan check, review and inspection, but in no case shall the final be less than $50.00 per unit. This deposit is due and payable at the time of application. Note: If it is determined that the costs of completing the plan check and review of the proposed development may exceed $200.00, the additional plan check and review costs shall be paid by the owner, prior to issuance of the Conditional Will-Serve Letter.

TURNED INTO SANITARY DISTRICT 05/02/06 WITH CHK. FOR $50.00
THEY SAID FINE & THAT THEY WOULD GIVE WILL SERVE LETTER DIRECTLY TO COUNTY NEED SET OF PLANS

CAYUCOS SANITARY DISTRICT

200 Ash Avenue
P.O. Box 333, Cayucos, California 93430-0333
805-995-3290 Fax 805-995-3673

Conditional Will-Serve Letter

To: San Luis Obispo County Planning Department

From: Cayucos Sanitary District

Date: 5/2/2006 Project Number: **TO COME**

Applicant Name: **JACK LOPERENA**
Address: **2764 W ATHENS AVE**
City, State. Zip **FRESNO, CA. 93711-0339**

Project Address: **STUDIO DR**
Assessors Parcel Number: **064-253-007** LOT: **PTN 41** BLK:**66** TRACT: **MS5**
Project Description: **SFR**
Date of Issue: **5/2/2006** Expiration Date: **5/1/2007** Extention

We have reviewed the proposed project development and are aware of its potential effect upon the facilities and property (including easements) controlled by the District.

We have reviewed the plans and have determined there are conditions placed on the development as follows:

* WILL-SERVE PERTAINS TO PLANS FINAL DATE STAMPED 4.28.06, RECEIVED BY THE DISTRICT MAY 1/2006 AND TO NO OTHERS. DISTRICT IS REQUIRED TO PROVIDE A NEW SERVICE CONNECTION AS ONE DOES NOT EXIST AT TIME OF APPLICATION. SERVICE WILL BE PROVIDED TO PROPERTY LINE. BACKFLOW AND CLEANOUT ARE REQUIRED TO HAVE ENCLOSURES.

* Installation of sewer backflow prevention device per District standards

* Cleanout at property line

* Other: _____

_____

_____

* All District conditions shall be reflected on the plans.

* A Final Will-Serve Letter shall be issued when all conditions (above) have been met; final will-serve fees have been paid; and physical connection (at owners expense) has been made and inspected by the District. The County shall not allow final occupancy until they have received a Final Will-Serve Letter issued by the District.

We will serve this proposed development with our community sewer system facilities and solid waste disposal services so long as the applicant complies with our conditions (above) and connection requirements, including payment of all applicable sewer will-serve fees in effect at the time of connection. A 48 hour notice requesting sewer inspection by the District is required.

Approved By: _____ Date: 5/2/06

Supervisor, Operations and Maintenance

12

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

STATE OF CALIFORNIA
CENTRAL COAST WATER BOARD
Received
MAY 9 2006

895 Aerovista Place, Ste. 101
San Luis Obispo, CA 93401
~~Coastal Team~~

THIS IS A NEW PROJECT REFERRAL

DATE: 5/5/06

TO: RWQCB

FROM: ☐ - South County Team ☐ - North County Team

PROJECT DESCRIPTION: File Number: DRC2005-00216 Applicant: LOPERENA
MUP => 2,200 sq ft. SFR on Studio Drive in Cayucos.
APN: 064-253-007.

Return this letter with your comments attached no later than: 5/20/06

PART 1 - IS THE ATTACHED INFORMATION ADEQUATE TO COMPLETE YOUR REVIEW?

☐ YES (Please go on to PART II.)
☐ NO (Call me ASAP to discuss what else you need. We have only 30 days in which we must accept the project as complete or request additional information.)

PART II - ARE THERE SIGNIFICANT CONCERNS, PROBLEMS OR IMPACTS IN YOUR AREA OF REVIEW?

☐ YES (Please describe impacts, along with recommended mitigation measures to reduce the impacts to less-than-significant levels, and attach to this letter)
☐ NO (Please go on to PART III)

PART III - INDICATE YOUR RECOMMENDATION FOR FINAL ACTION.

Please attach any conditions of approval you recommend to be incorporated into the project's approval, or state reasons for recommending denial.

IF YOU HAVE "NO COMMENT," PLEASE SO INDICATE, OR CALL.

No water quality issues. Storm water construction permit needed.

5-10-06	Allison Millhollen	549-3882
Date	Name	Phone

May.11. 2006 3:47PM 995 0953 **3-87** No.5948 P. 3/3

12

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

THIS IS A NEW PROJECT REFERRAL

DATE: 5/5/06

TO: Cayucos Fire

FROM: ☐ - South County Team ☐ - North County Team ☑ - Coastal Team

PROJECT DESCRIPTION: File Number: DRC2005-00216 Applicant: LAPERENA
SFR => 2,200 sq. ft. SFR on Studio Drive in Cayucos.
APN: 064-253-007.

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IF YOU HAVE "NO COMMENT," PLEASE SO INDICATE, OR CALL.

Don't forsee fire problems.

Date	Name	Phone
5-11-06	Bill Parker	995-3372

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600
EMAIL: planning@co.slo.ca.us • FAX: (805) 781-1242 • WEBSITE: http://www.sloplanning.org

3-88

12

SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

THIS IS A NEW PROJECT REFERRAL

DATE: 5/5/06

TO: Bldg.

FROM: ☐ - South County Team ☐ - North County Team ☑ - Coastal Team

PROJECT DESCRIPTION: File Number: DRC2005-00216 Applicant: LOPERENA
MUP → 2,200 sq. ft. SFR on Studio Drive in Cayucos.
APN: 064-253-007.

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IF YOU HAVE "NO COMMENT," PLEASE SO INDICATE, OR CALL.

5.9.06	S. Hicks	5709
Date	Name	Phone

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600
EMAIL: planning@co.slo.ca.us • FAX: (805) 781-1242 • WEBSITE: http://www.sloplanning.org

TO. PLANNING 2-89 ~~Dog Bird~~ 12

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

THIS IS A NEW PROJECT REFERRAL

DATE: 5/5/06

TO: ~~CSA #10~~ → Cayucos #20 ~~DOS~~

FROM: ☐ - South County Team ☐ - North County Team ☑ - Coastal Team

PROJECT DESCRIPTION: File Number: DRC2005-00216 Applicant: LOPERENA
MUP → 2,200 sq. ft. SFR on Studio Drive in Cayucos.
APN: 064-253-007.

Return this letter with your comments attached no later than: 5/20/06

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☒ NO (Please go on to PART III)

PART III - INDICATE YOUR RECOMMENDATION FOR FINAL ACTION.

Please attach any conditions of approval you recommend to be incorporated into the project's approval, or state reasons for recommending denial.

IF YOU HAVE "NO COMMENT," PLEASE SO INDICATE, OR CALL.
applicant has water will-serve from CSA 10A

5/9/06 Date | [signature] Name | 781-5116 Phone

Cayucos

Land Use Committee

Memo

To: Ryan Hostetter
From: Mary Ann Carnegie
CC:
Date: April 4, 2007
Re: Project ID DRC2005 00216

Jack Loperena
address: 000 Studio Drive
APN 064-253-007

this referral was originally received by the Land Use Committee Meeting in May 2006, where several concerns/comments & questions regarding the bluff lot, and proposed project were discussed. During the course of time, along with several additional meetings with neighbors, the project's architect and the Land Use Committee many questions and concerns had been answered, yet many still remain inconclusive.

A major concern centered on what is a basement, how or do they even fit into structures, especially within SSN where GSA and wall setbacks are so important in order to meet Local Estero Area Planning Standards

Additionally, this lot, located on the highly visible side of Ocean and Studio on the west side [ocean side] has apparently not been considered a bluff lot—yet is subject to the same conditions of the immediate neighboring bluff side homes. That is, ocean tides, ebb and flow of water, sand movement, storm water surges, drainage, below ground foundation—water table, water intrusion, possible pumping of water out etc.—yet this particular lot, directly next to bluff sites, is not considered a bluff site for bluff site standards—bluff setback, etc

A major comment was that basements are not defined in the Local Estero Area Plan—BUT specific standards applied to new land uses are, "and must be satisfied for a new land use to be approved, and for a newly-constructed project to be used." [Local Estero Area Plan—Chapter 8-1] Basements may be silent, but specific standards speak very loudly.

AND then per Title 23 on Compliance with Standards Required:

> 23.01.034 d. "Conflicts with other requirements. If conflicts occur between a Land Use Element planning area standard and other provisions of this title, the Land Use Element planning area standard shall prevail."

Also, according to the Land Use Element [LUE] and Land Use Ordinance [LUO] per County Planning "Coastal Zone Land Use Local Area Plan standards **ALWAYS** override the standards and land use permit levels in the LUO." The standards for the local Estero Area Plan—standards for Cayucos are :

4. Standards A. Front Setbacks/& B. Side setbacks—

> "the ground level floor shall have setbacks as provided in Cayucos Communitywide Standard 2 and **AT NO POINT shall a lower story wall exceed 12 ft. in height including its above ground foundation.** The 2nd floor of proposed two-story construction shall have an additional front setback of at least three feet from the front lower wall, except open rail, uncovered decks are excluded from this additional setback and may extend to the lower front wall."

It was strongly expressed that the proposed project does not meet this standard for the SSN and thus does not fit in with the intent of the SSN as well. Basement or not, it was felt to be a living space, a first floor, and extends above ground foundation. Consequently, Standard B.- Side Setbacks would also be implemented. These two standards would thus allow the proposed structure to follow the local area plan standards and would comply more with the intent of the SSN being met.

3-91

•**Additionaly per Special Use Standards**: special use standards in Chapter 8 of the LUO always override other LUO standards, but **NOT local area plan standards** [LUE]. Again, this would be the Local Estero Area Plan, and again, **AT NO POINT** shall a lower story wall exceed 12 feet in height including its above ground foundation.
The committee and entire council are currently working with county planning, and public works on trying to provide a better understanding of the concerns with basements. However, based on title 23.01.034d, this should be a non issue since local area standards should prevail of no walls greater than 12 ft..

It is also understood that this could be based on interpretation, but if one recalls the interpretation for the sloping lot line adjustment was questioned and appealed to the BOS in Jan. 2000. The BOS voted and agreed that the Local Estero Area Plan should be followed and no sloping lot line adjust for hillside lots would be granted—the community wide standard of 10ft. for front setbacks would be followed from there on out. This concern for a so-called basement would seem to be somewhat a same circumstance of interpretation to follow the Local Estero Area Plan.

It was generally thought that allowing this proposed structure, with its basement, does not follow the standards of the SSN intent as outlined in standards in the Local Estero Area Plan.

Though the Local Estero Area Plan is silent on basements, it does speak very loudly on walls over 12 ft. — irrespective of what that wall is called, as long as it is exposed and visible.

Additional concerns/comments expressed for this project were as follows.

- A major concern was expressed when borings that were taken on the lot apparently reached plastic bottles and other refuge at 4'6" and at 7'. It was mentioned that this could have been a fill site. Either way, the concern for a good foundation was questioned and should be met with the strictest safety/engineering requirements. Geotechnical findings of what is actually there for building on, as well as where the bluff terminates would be most helpful to define the lot as bluff site or not
- the total GSA for a 3440 sq. ft. lot is 50% of the total lot size; per the drawings-half of its living area is as a basement—this brought out lots of concerns -- is it a basement when it appears they are not digging down and the designated area is designed with doors, windows, bedroom, bath, etc.—this area adds 1097 sq. ft. which grossly exceeds total GSA allowed by approx 675 sq. ft.; by not being a basement and appearing as a complete second floor then there are no setbacks for the floor above—many comments expressed were that it does not follow SSN standards—this is validated by the comments that walls are not to align for more than 12ft in height and per statements noted above of having Local Area Plan standards prevail
- overall, the entire structure being on a highly visible corner does NOT appear to fit in with the standards, nor the intent of the small scale neighborhood. For instance, the side wall aligns more than 12 ft. in height, flat roofs have usually been discouraged in the past, the northern walls appear very massive, and the south wall appears that it could be highly reflective with photo-voltaics—how will this be minimized for the immediate neighbor and beach side visitors? No other homes will be built on the northern side to diminish its massiveness, it is a big turnoff for Hiwy 1 freeway traffic to access the beach and has a large public parking lot adjacent to this side that will be in plain, constant viewing sight.
- A streetscape [which is required per the MUP process] was eventually provided. This is especially important in "seeing" what and how the project would fit. From the front view off of Studio it appears to fit, but the massiveness of the exposed side walls with no articulation to soften this massiveness does not seem to meet the intent—again going back to following standards for SSN within the Local Estero Area Plan.
- plans indicate that utility easements are being re-located? This was explained that the moving of them would make them better than what they currently are, but committee members like to make sure all current agencies involved in the process are notified and proper approvals are met

- originally the cantilevering of the deck out into the set back and beach area was very much questioned as to its validity since it was thought to be a bluff lot with the 25 ft. setback; however upon clarification this apparently is not the case and the cantilevered deck would be allowed—yet again on the northern side the non-articulated wall seems to add to the massive feel. A different design could mitigate and enhance the SSN intent
- the validity of an apparent concrete wall to be installed on the ocean front side for erosion, control , etc., was questioned of being acceptable per Coastal commission guidelines for walls on ocean front properties.
- several members of the committee, that actually live on the bluff side, on either Studio or Pacific streets, questioned how this home would actually fair under high tide, full moon, and storm surge? They questioned the concern for actually flooding, water intrusion—has this even been looked into? It was suggested that a tide plot plan be defined and that the mean high tide land be indicated in relation to the home's proposed location . This too was eventually received and seemed to provide solutions to the concerns brought up.

As you can conclude—there are several unanswered questions to many comments brought up regarding the project, but the main item would center on following the Local Estero Area Plan for small scale neighborhood projects. It would appear that the project would require some modifications to the design of the project in order to meet those standards and the intent of the sensitive small scale neighborhood. As presented, the committee felt the project does not follow the standards of the local Estero Area Plan.

3-93

Land Use Committee

Memo

QUESTIONS/pre-refferal

To: Ryan Hostetter
From: Mary Ann Carnegie
CC:
Date: 5/23/06
Re: Project ID DRC2005-00216 Jack Loperena
address: 000 Studio Drive
APN 064-253-007

this referral was received just prior to the Land Use Committee Meeting of 5/22/06

Upon reviewing the referral, as sent, the committee could NOT clearly read the small 8.5 x 11 set of plans. Since the project would be located in the sensitive small scale neighborhood, is in the coastal appeal zone, and would appear to be in a very highly visible. public access area, better plans, with more complete information would be needed in order to make any good, well-informed decisions. Therefore, a readable set of plans are being requested.

Overall questions raised from just looking over the project were as follows:

- is this even a legal/legal size lot? Especially taking into account as a corner lot, on the bluff with setback requirements? Being on the bluff side where is the 25 ft. set back?
- when identifying the site the referral indicates two different locations—the committee concluded that it is on the corner at the end of Studio, next to the state beach & parking; verification of this would be appreciated as it was a bit confusing—if located here is it a part of the state beach area?
- plans indicate utility easements are being re-located? Why?; and has then been reviewed or even approved by the proper agencies?
- no streetscape was sent with the plans to indicate how it fits into the community and surrounding neighborhood, which is required per the MUP process
- the cantilevering of the deck way back out into the set back and beach area was very much questioned as to its validity
- it appears that a concrete wall will be installed on the ocean front?? 75 year bluff erosion, etc. walls are not allowed per the Coastal commission it was thought
- total GSA for a 3440 sq. ft. lot—50% allowed; supposedly claims almost half of its living area as a basement—question if it really is a basement when it appears they are not digging down and it is designed with doors, windows, bedroom, bath, etc.—this adds 1097 sq. ft. which places it way over total GSA allowed by approx 675 sq. ft.; not being a basement and appearing as a complete second floor then there are no setbacks for the floor above—does not follow SSN standards
- overall, the entire structure being on the corner, highly visible appears to NOT fit in with the standards and the intent of the small scale neighborhood. Wall aligns more than 12 ft. in height, flat roofs are discouraged, walls appear massive, and the south wall appears that it could be highly reflective with photo-voltaics—how will this be for the immediate neighbor?
- several members of the committee, that actually live on the bluff side, on either Studio or Pacific streets, question how this home would actually fair under high tide, full moon, and storm surge? They questioned the concern for actually flooding, water intrusion—has this even been looked into?

As you can deduct—there are several unanswered questions that still need to be clarified, and because of receiving this without being able to contact the client and or their representative, we would like to have the opportunity to have more time to review this project with a better set of plans that may provide answers to some of the questions; and we would like to have answers, direction given, or justifications to the concerns raised

Submitted by: Cayucos Land Use Committee;
Concerns are as noted above; it was NOT supported of the Land Use Committee members.

County of San Luis Obispo General Services Agency
COUNTY PARKS
Janette D. Pell, Director

Curtis Black, Deputy Director

TO: Ryan Hostetter, Department of Planning and Building

FROM: Shaun Cooper, San Luis Obispo County Parks

DATE: September 9, 2009

RE: NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE LOPERENA MINOR USE PERMIT/ COASTAL DEVELOPMENT PERMIT DRC2005-00216; ED06-317

This memo is regarding your NOP dated August 7, 2009.

Name of Contact Person:	Shaun Cooper, 1087 Santa Rosa Street, San Luis Obispo, CA 93408 781-4388 secooper@co.slo.ca.us
Permit(s) or Approval(s) Authority:	Parks, Recreation, & Trails within the County of San Luis Obispo.
Environmental Information:	The San Luis Obispo County *Parks and Recreation Element* identifies park, recreation, trail, and open space opportunities within the County.
Permit Stipulations/Conditions:	Improvements shall be consistent with the San Luis Obispo County *Parks and Recreation Element*, and County coastal regulations and standards.
Alternatives:	None proposed at this time.
Reasonably Foreseeable Projects, Programs or Plans:	San Luis Obispo County *Parks and Recreation Element* and San Luis Obispo County Parks *Coastal Access Guide*.
Relevant Information:	San Luis Obispo County *Parks and Recreation Element* and San Luis Obispo County Parks *Coastal Access Guide*.

Further Comments:

Parks has concerns with the cantilever design of the structure encroaching over the lateral access.

State parks should be notified of this project.

Please provide plans showing the toe of bluff and top of bluff.

When reviewing coastal access, the Parks Division considers the following County regulations and standards.

A. Lateral Coastal Access
   1) Access is required in new development and subdivisions between the first public road and the shore by the County Coastal Zone Land Use Ordinance (CZLUO) (see County Code, Section 23.04.420.4(c)).
   2) Site design standards
      a) The minimum lateral access dedication is twenty-five feet of dry sandy beach available at all times during the year or where topography limits the dry sandy beach to less than twenty-five feet, mean high tide to the toe of bluff (see County Code, Section 23.04.420.4 (c)).
      b) Where the area between the mean high tide line (MHTL) and the toe of bluff is constrained by rocky shoreline or other limitations, evaluate the safety and other constraints and whether alternative siting of accessways is appropriate (see County Code, Section 23.04.420.4(c)).
      c) In Cayucos, development located between the sea and the first public road is required to make an offer of dedication of lateral access extending from the toe of bluff to mean high tide or, where applicable, to the inland boundary of the public beach (see Estero Area Plan, Land Use Element/Local Coastal Plan, San Luis Obispo County General Plan, Chapter 8, p 8-11).

Post office Box 296 Morro Bay, CA 93443
Phone/Fax: (805) 772-9499
Cell: (805) 441-7581
Email: NovakConsulting@charter.net

Cathy Novak
Consulting

Fax

To:	Ryan Hostetter	***From:***	Cathy Novak
Fax:	781-1242	***Pages:***	2
Phone:		***Date:***	April 21, 2009
Re:	Water will serve letter	***CC:***	

Urgent X ***For Review*** ***Please Comment*** ***Please Reply*** ***Please Recycle***

Ryan,

Attached please find the water will serve letter.

Thanks,

Cathy Novak

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PUBLIC WORKS
Noel King, Director
County Government Center, Room 207 • San Luis Obispo CA 93408 • (805) 781-5252
Fax (805) 781-1229 email address: pwd@co.slo.ca.us

DISTRICT County Service Area No. 10A IS WILLING AND ABLE TO PROVIDE WATER SERVICE TO ASSESSORS PARCEL NUMBER 064-253-007, Lot 41 (portion), AT Studio Drive LOCATED IN THE COMMUNITY OF Cayucos, SUBJECT TO ALL FEES AND CONDITIONS OF THE RULES AND REGULATIONS OF THE DISTRICT, AND SUBJECT TO AN APPROVED FIRE SAFETY PLAN AND COMPLIANCE WITH UNIFORM FIRE CODE REQUIREMENTS OF THE LOCAL FIRE PROTECTION AGENCY. FEES AND CHARGES IN EFFECT AT TIME OF CONNECTION TO BE PAID IN FULL PRIOR TO INSTALLATION OF WATER METER.

SIGNATURE

HYDRAULIC OPERATIONS ADMINISTRATOR
TITLE

May 4, 2006
DATE

Planning No. B
WPL#
Jack Loperena

3-98

12

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

RECEIVED
MAY _ 8 2006
COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PUBLIC WORKS

THIS IS A NEW PROJECT REFERRAL

DATE: 5/5/06

From TO: PW

To FROM: ☐ - South County Team ☐ - North County Team ☑ - Coastal Team

PROJECT DESCRIPTION: File Number: DRC2005-00216 Applicant: LOPERENA
MUP → 2,200 sq. ft. SFR on Studio Drive in Cayucos.
APN: 064-253-007.

Return this letter with your comments attached no later than: 5/20/06

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☐ YES (Please go on to PART II.)
☑ NO (Call me ASAP to discuss what else you need. We have only 30 days in which we must accept the project as complete or request additional information.)

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Please attach any conditions of approval you recommend to be incorporated into the project's approval, or state reasons for recommending denial.

IF YOU HAVE "NO COMMENT," PLEASE SO INDICATE, OR CALL.
see attached plt - encroach for drive & other improvements
-drainage plan

5-23-6 Date | Name | 5271 Phone

3-99

DRC2005-00216

More detail is required for the drainage scheme at the street. Apparently these plans will call for the removal of an existing overside drain and the construction of a replacement on State Parks property. More detail (flowline grades at a minimum) at the existing and new locations would be required prior to the County considered approving the removal of the existing drain and its replacement. The plan needs to clearly delineate the lot's property line at the road right of way. Permission from State Parks would be required prior to constructing a new overside drain on their property.

Attachment 7 - January 23, 2014 Planning Commission Minutes

THURSDAY, JANUARY 23, 2014

The following action minutes are listed as they were acted upon by the Planning Commission and as listed on the agenda for the Regular Meeting of January 23, 2014 together with the maps and staff reports attached thereto and incorporated therein by reference.

HEARINGS ARE ADVERTISED FOR 9:00 A.M. HEARINGS GENERALLY PROCEED IN THE ORDER LISTED, UNLESS CHANGED BY THE PLANNING COMMISSION AT THE MEETING. (09:07 AM)

ROLL CALL (09:07 AM)

PRESENT: Commissioner(s) Ken Topping, Don Campbell, Eric Meyer, and Tim Murphy.

ABSENT: Commissioner(s) Jim Irving.

FLAG SALUTE (09:07 AM)

PUBLIC COMMENT PERIOD (09:07 AM)

Craig Losee: speaks.

PLANNING STAFF UPDATES (09:09 AM)

Ellen Carroll, staff: updates Commissioners on their near term schedule.

CONSENT AGENDA: (09:11 AM)

HEARINGS: (09:11 AM)

1. Hearing to consider a request by RON RINELL & THE PEROZZI FAMILY TRUST for a Conditional Use Permit to allow for the construction and operation of a green waste composting facility. The facility would consist of two composting sites, approximately 4 acres in size each that would be contained with an earthen berm and would include holding ponds to contain drainage and runoff. The operation would consist of collecting and processing organic materials (i.e., tree waste, leaves, manure and similar feedstock) into a soil amendment material. The allowable daily maximum feedstock received would be 300 tons per day (equivalent of 500 cubic yards per day) and the allowable maximum volume of materials onsite for all operational phases (receiving, processing, windrows, curing, screening and storage) would be 41,441 cubic yards per day. The facility would operate Monday through Saturday between the hours of 9:00 AM and 3:00 PM, and would not be open to the public. The maximum allowable truck trips would be 150 per day. The project will result in the disturbance of approximately 8 acres, on three parcels totaling 630 acres, including 6,000 cubic yards of fill. The proposed project is within the Agriculture land use category and is located at 4400 Orcutt Road, adjacent to the City of San Luis Obispo. The site is located within the San Luis Obispo planning area. Also to be considered at the hearing will be approval of the Environmental Document prepared for the item. The

Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq. and CA Code of Regulations Section 15000 et seq.) has been issued on December 19, 2013 for this project. Mitigation measures are proposed to address: Aesthetics, Agricultural Resources, Air Quality, Biological Resources, Geology and Soils, Hazards/Hazardous Materials, Noise, Public Services and Water/Hydrology are included as conditions of approval. Anyone interested in commenting or receiving a copy of the proposed Environmental Determination should submit a written statement. Comments will be accepted up until completion of the public hearing(s). County File Number: DRC2005-00211 APN(s): 044-011-003, -004 & -029
Supervisorial District No.: 3 Date Accepted: October 9, 2009
Xzandrea Fowler, Project Manager Recommend continue to 2/27/14
POST HEARING DETERMINATION: CONTINUED TO 2/27/14
(09 11 AM)

Xzandrea Fowler, Project Manager: presents reasoning for continuation request.

Tim Murphy: opens Public Comment. Has a speaker slip for Mary Johnson who is no longer present to speak.

Thereafter, on motion of Don Campbell, seconded by Eric Meyer, and on the following vote:

AYES: Commissioner(s) Don Campbell, Eric Meyer, Ken Topping, Tim Murphy.
NOES: None.
ABSENT: Commissioner(s) Jim Irving.

The Commission continues this item to February 27, 2014.

2. Continued hearing to consider a request by CYPRESS RIDGE L.P. for a Vesting Tentative Tract Map (TR 2993) and Conditional Use Permit to allow a cluster subdivision of two existing 20.78 and 40.02 acre parcels resulting in twenty-one parcels of one acre each for the purpose of sale and/or development and two open space parcels of 21.2 and 14.6 acres. The applicant has applied for a Transfer of Development Credit (TDC) to transfer nine (9) residential credits to the property. The project will result in the disturbance of approximately 40 acres of a 61-acre site as a result of the access drive, access trails, and future residences on the proposed parcels. The proposed project is within the Residential Rural (RR) land use category and is located at 852 Zenon Way, approximately 2,400 feet northeast of Callender Road, directly east of the community of Palo Mesa. The site is in the South County Inland planning area. Also to be considered at the hearing will be approval of the Environmental Document prepared for the item. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on November 7, 2013 for this project. Mitigation measures are proposed to address Aesthetics,

Agricultural Resources, Air Quality, Biological Resources, Cultural Resources, Noise, Public Services/Utilities, Recreation, and Water/Hydrology, and are included as conditions of approval. CONTINUED FROM 12/12/13. County File No: SUB2008-00028 APN(s): 075-351-022, -028 Supervisorial District: 4 Date Accepted: May 1, 2009 Brian Pedrotti, Project Manager Recommend continue to 2/6/14
POST HEARING DETERMINATION: CONTINUED TO 2/27/14
(09:12 AM)

Brian Pedrotti, Project Manager: presents reasoning for continuance request to February 27, 2014.

Thereafter, on motion of Eric Meyer, seconded by Don Campbell, and on the following vote:

AYES: Commissioner(s) Eric Meyer, Don Campbell, Ken Topping, Tim Murphy.
NOES: None.
ABSENT: Commissioner(s) Jim Irving.

The Commission continues this item to February 27, 2014.

3. Hearing to consider a request by JACK LOPERENA for a Minor Use Permit/Coastal Development Permit to allow for the construction of a 3,097 square foot single family residence which includes 1) 1,097 square feet of living space; 2) 1,040 square foot basement; 3) 338 square foot mezzanine; 4) 242 square foot garage and 200 square foot carport; and, 5) 180 square foot covered deck. The proposed project is within the Residential Single Family land use category and is located on the west side of Studio Drive, adjacent to the State Parks property on the northern end of Studio Drive, approximately 250 feet south of the intersection of Studio Drive and Highway 1. The site is in the Estero planning area. Also to be considered at the hearing will be approval of the Environmental Document prepared for the item. The Environmental Coordinator, after completion of the initial study, finds that there is evidence that the project may have a significant effect on the environment, and therefore a Final Environmental Impact Report (FEIR) was prepared (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) for this project. The FEIR addresses potential impacts on: aesthetic resources, air quality, biological resources, geology and soils, noise, and water. Mitigation measures are proposed to address these impacts and are included as conditions of approval. There were no significant and unavoidable impacts associated with this project. Anyone interested in commenting or receiving a copy of the proposed Environmental Determination should submit a written statement for the hearing. Comments will be accepted up until completion of the public hearing(s).
County File No: DRC2005-00216 Assessor Parcel Number: 064-253-007
Supervisorial District: 2 Date Accepted: April 16, 2007
Ryan Hostetter, Project Manager Recommend approval
POST HEARING DETERMINATION: CONTINUED TO APRIL 10, 2014
(09:13 AM)

Ryan Hostetter, Project Manager: introduces project team, Mike Phipps, Geologist, Shawna Scott, & Steve McMasters. Shows a Power Point presentation regarding the history of this project and outlines presentation.

Michael Phipps, Geologist: presents and discusses environmental analysis, peer reviews, site reviews, and preparation of reports.

Ryan Hostetter, Project Manager: requests condition 1. h. be deleted and provides reasoning.

Commissioners; question staff before Public Comment begins.

Tim Murphy asks for ex-parte contacts: Don Campbell and Ken Topping disclose ex-parte contacts.

Cathy Novak, agent: presents applicant's proposal.

Bruce Elster, Project Engineer: presents a picture of the plans to address rock out-cropping.

Tim Murphy: opens Public Comment.

Eric Huth, Janet Arnold, Tracy Hermann, Carol Baptiste, Cynthia Sugimoto, Doreen Liberto-Blanck, Mark Foxx, John Kasunich, Kevin Elder, and Don Funk: speak.

Cathy Novak, agent: addresses Public Comment issues.

Bruce Elster, Project Engineer: addresses Public Comment.

Don Campbell: asks for clarification regarding cason bearings with Mr. Elder responding.

Steve McMasters, staff: addresses Public Comment.

Shanna Scott, SWCA: addresses Public Comment in terms of public outreach and a scoping meeting.

Ryan Hostetter, Project Manager: addresses Public Comment in terms of standards used by the Planning Department.

Commissioners: begin deliberations.

Ken Topping: for the record, provided a report regarding sea level rise by the State of California. Comments on this report and asks how the impact of a heightened wave against the sea wall would be effected. Notes the Local Hazard Mitigation Plan for a standard sea level projection of 4.6 feet.

Commissioners: deliberate whether or not this lot is on a coastal bluff.

Ken Topping: feels there is reason to consider an alternative design in terms of hazards from sea water rise, and/or catastrophic events. Prefers design alternative A with esthetic treatment on the western side.

Eric Meyer: likes pushing back the main floor so that it doesn't protrude over the beach.

Bruce Elster, Project Engineer: comments on being amenable to returning with a revised plan. Has concerns for the length of time the project has taken in terms of extending the

length of time to return with a revised plan. Does not want to have another requirement for a new EIR. States the applicant will not ask for any variances.

Thereafter, on motion of Ken Topping, seconded by Eric Meyer, and on the following vote:

AYES: Commissioner(s) Ken Topping, Eric Meyer, Don Campbell, Tim Murphy.
NOES: None.
ABSENT: Commissioner(s) Jim Irving.

The Commission continues this item to April 10, 2014.

Thereafter, on motion of Don Campbell, seconded by Ken Topping, and on the following vote:

AYES: Commissioner(s) Don Campbell, Ken Topping, Eric Meyer, Tim Murphy.
NOES: None.
ABSENT: Commissioner(s) Jim Irving.

The commission accepts all correspondence submitted into the record.

Thereafter, on motion of Ken Topping, seconded by Don Campbell, and on the following vote:

AYES: Commissioner(s) Ken Topping, Don Campbell, Eric Meyer, Tim Murphy.
NOES: None.
ABSENT: Commissioner(s) Jim Irving.

The Commission adjourns to the next regularly scheduled Planning Commission meeting on February 6, 2014.

ADJOURNMENT: 3:42 PM

Respectfully submitted,
Ramona Hedges, Secretary
SLO County Planning Commission
MINUTES APPROVED AT THE 4/10/14 PC

All other correspondence in the record for the Loperena Project

A copy of the record including original project information, previous draft environmental documents, letters, and request for reviews are on file with the Clerk of the Board of Supervisors.

Fwd: Letter from Jack and Joanne for Supervisors for June 3 rd meeting.

loperjack to rhostetter 05/20/2014 01:38 PM

loperjack@aol.com
rhostetter@co.slo.ca.us

Hi Ms. Hostetter, Would you please forward this Letter to the Supervisors for the June 3rd metting.
Thank you, Jack Loperena

-----Original Message-----
From: loperjack <loperjack@aol.com>
To: LLoperena <LLoperena@aol.com>
Sent: Mon, May 19, 2014 2:21 pm
Subject: Fwd: Letter from Jack and Joanne for Supervisors for June 3 rd meeting.

-----Original Message-----
From: loperjack <loperjack@aol.com>
To: loperjack <loperjack@aol.com>
Sent: Mon, May 19, 2014 12:58 pm
Subject: Letter from Jack and Joanne for Supervisors for June 3 rd meeting.

Dear Ms. Hostetter,

Jack and Joanne are the applicants of this project on Studio Drive in Cayucos. The Loperena's are by no means outsiders or newcomers to Morro Bay and Cayucos. Jack's father bought two lots on Kern Street in Morro Bay in the 1920's and his father-in-law, Jack Surfluh was the first Mayor of Morro Bay in 1964.

Jack and several members of his family attended or graduated from Cal Poly or Cuesta College. Jack's niece, Donna Loperena, was the first Student Body President of Morro Bay High School in 1961. Donna and her husband Dick Shaw still reside in Morro Bay and continue to pay taxes to S.L.O. County. Jack and Joanne own a home in Morro Bay and Jack's 5 brothers and sisters all owned homes in Morro Bay or Cayucos. Now, seven of his nieces and nephews are the owners and are still paying taxes to S.L.O. County. Also paying taxes to S.L.O. County are the buyers of the prime lots from the 13 lot Ironwood Ct., Morro Bay Sub-division that Jack built on property he has owned for nearly 40 years.

In 1974 Jack bought this Studio Drive lot from Joe Warnegarius, the S.L.O. County Assessor. He bought this lot before Dr. Pludow purchased his lot next door. Both lots were for sale at the time Jack bought his lot. However, Jack bought the smaller lot because of the view and knowing that no one could ever block his wonderful view.

After Dr. Pludow built, Jack approached him about trading the common boundaries that separates the lots so that Jack's lot would be wider to build on and Dr. Pludow would have both access to the beach (which he never had) and also a better view when Jack finally built on his lot. Dr. Pludow refused to discuss the trade-off.

In 1980 Jack obtained a building permit for his lot. Jack's brother who was a building contractor in Morro Bay and Cayucos had submitted a house plan which was approved by S.L.O. County and a permit was issued. Jack, due to financial problems and a bad economy let the permit expire.

Jack and Joanne have spent nearly $300,000.00 in 9 years on this project. We agreed to pay $106,000.00 for an EIR which was supposed to solve all of our problems. However, one of the Planning Commissioners disagreed with the EIR even though it was prepared by experts chosen entirely by the Planning Staff. The extra work that was caused cost Jack and Joanne $19,630.00 plus much more

expense. This extra work was requested by the planning Commission to insure that the Public Revue Process was clear, objective, and open. I think the Commissioners should obey all of the Rules and Regulations in the Building Code and not penalize Applicants who do abide by the Rules.

Jack and Joanne, the Planning Department, and Shoreline Engineering have all abided by the Rules and Regulations in the building Code, and I think the commissioners should do the same. We have not asked for any variances or special treatment on this Project.

Sincerely, Jack and Joanne Loperena

FINDINGS - EXHIBIT A

Minor Use Permit

A. The proposed project or use is consistent with the San Luis Obispo County General Plan, because a single-family residence is an allowable use, and as conditioned, is consistent with all of the General Plan policies as outlined in the staff report.

B. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.

C. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use, because the construction of a single-family residence does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety, and welfare concerns.

D. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development, because the proposed single-family residence is similar in nature to, and will not conflict with, the surrounding lands and residential uses.

E. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project, because the project is located on Studio Drive, a local road constructed to a level able to handle the minor amount of additional traffic associated with the project.

Coastal Access

F. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is conditioned to require dedication of coastal lateral access from the western property line to the toe of the rock outcrop, and because adequate vertical access to the coast already exists adjacent to the site to the North.

Small Scale Design Neighborhood

G. The proposed project meets the Community Small-scale Design Neighborhood standards and guidelines, and is therefore consistent with the character and intent of the Cayucos Community Small-Scale Design Neighborhood.

H. Public views of the ocean from Highway One and the respective neighborhood are not being further limited because the proposed single family residence is directly adjacent to existing residential development.

Coastal Bluff and Setback

I. The project site does not contain a coastal bluff based on the data presented in Cotton Shires Associates 2011 report (also outlined in the Final Environmental Impact Report). The data is based on the strict application of the definition of bluff edges and coastal

bluff termini contained in the California Code of Regulations, along with guidelines prepared by, and received from, California Coastal Commission geologist Mark Johnson in a personal communication from April, 2011. Those guidelines state the following important items:

- A bluff line or edge shall be defined as the upper termination of a bluff, cliff, or seacliff.
- A bluff edge line is the locus of points defining bluff edge in profile
- Fill adjacent to a bluff edge does not change a bluff edge
- Fill on a bluff face does not alter the position of the bluff edge
- Grading resulting in fill generally does not alter a bluff edge

Because the site consists of fill from the construction of the Highway 1 alignment in this area, it is the County's determination that the coastal bluff is located outside the property boundaries of this site. Based on this, it appears inappropriate to consider that manmade features such as artificial fill prisms graded for roadway developments comprise "bluffs". An analysis to determine the terminus of a natural feature, such as a coastal bluff, should not be based upon manmade topographic features. Because of this, the standard coastal bluff setback requirements do not apply to this specific case.

Hazards

J. Based on the presence of erosion-resistant bedrock, and compliance with mitigation measure GS/mm-4, which requires the use of deepened pier foundations identified in the Engineering Evaluation (Shoreline Engineering 2012) and Updated Geotechnical Investigation (GSI Soils, Inc. 2011), the project would maintain stability and structural integrity, and would withstand erosion and wave action. There is no evidence that shoreline protection structures would be required for the structure and are prohibited in this case. The project is proposed to withstand coastal processes for a minimum of 100 years provided it is constructed pursuant to mitigation identified in the Final EIR and following the recommendations identified in referenced geotechnical reports. The evidence presented in the Final EIR and associated and subsequent technical reports support the conclusion that that exposure to rising sea level over the life of the structure and associated coastal hazards would not result in substantial adverse effects to the structure, including compromised structural integrity, or to adjacent properties.

Sea Level Rise

K. The EnergyWise Plan (November 2011) provides information, including an estimate for sea level rise in the Adaptation Chapter. The Plan does not include a policy or standard requiring use of a specific sea level rise estimate. The Plan states an estimated sea level rise from 3.3 to 4.6 feet by 2100. The proposed project includes updated sea level rise calculations which include the most recent California Coastal Commission Draft Guidelines used in the project analysis (5.5 feet). Those calculations support the conclusion that that exposure to rising sea level over the life of the structure and associated coastal hazards would not result in substantial adverse effects to the structure, including compromised structural integrity, or to adjacent properties.

REVISED EXHIBIT B - CONDITIONS OF APPROVAL

Approved Development

1. This approval authorizes a request by Jack Loperena for a Minor Use Permit/Coastal Development Permit to allow for the construction of a single family residence which will include:

    a. 1,935square feet of living space;
    b. 814-square foot basement;
    c. 280-square foot mezzanine;
    d. 239-square foot garage and 200-square foot carport; and,
    e. 79-square foot deck.
    f. The residence would consist of one story with a mezzanine and a basement.
    g. The footprint of the house would be 863 square feet.
    h. The maximum width of the structure would be 19 feet, and the maximum length would be 70 feet.
    i. An approximately 200-square foot paved driveway would provide access from Studio Drive.
    j. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive.

Conditions required to be completed at the time of application for construction permits

Site Development

2. At the time of application for construction permits, plans submitted shall show all development consistent with the approved site plan, floor plan, architectural elevations, and landscape plan and shall be in conformance with condition no. 1 above.

Biological Resources

3. (BR/mm-3) At the time of application for construction permits all grading plans shall clearly show the location of project delineation fencing, including protection fencing surrounding the Monterey cypress tree on the southern property boundary.

4. (BR/mm-5) At the time of application for grading permits, all applicable plans shall clearly show stockpile and staging areas. Stockpiles and staging areas shall not be placed in areas that have potential to experience significant runoff during the rainy season. All project-related spills of hazardous materials within or adjacent to project sites shall be cleaned up immediately. Spill prevention and cleanup materials shall be on-site at all times during construction. The staging areas shall conform to standard BMPs applicable to attaining zero discharge of storm water runoff. At a minimum, all equipment and vehicles shall be checked and maintained on a daily basis to ensure proper operation and to avoid potential leaks or spills. Maintenance, cleaning, and refueling of equipment and vehicles shall not be permitted onsite, within adjacent beach areas, or on Studio Drive.

5. (BR/mm-7) Upon application for construction permits, the following measure shall be included on all applicable plans: The applicant shall avoid ground disturbing activities conducted during the snowy plover nesting season to the extent feasible. If work activities must occur during the nesting season the following measures shall be taken:

a. Prior to installation of the project delineation fencing and the commencement of site grading, a qualified biologist shall conduct a series of pre-construction nesting bird surveys for western snowy plover. Surveys shall be conducted every other day for two weeks prior to any project related disturbances.
b. Surveys for snowy plovers shall include walking through all potential nesting and foraging habitat within 300 feet of the site on each survey day. The survey area shall include all available snowy plover nesting habitat within 300 feet of anticipated project activities.
c. The number of snowy plover individuals observed and their activities (e.g. nesting, foraging, resting, etc.) shall be documented. All documented occurrences would be reported to USFWS and documented on the CNDDB.
d. If nesting activity is identified, all project activities within 300 feet of the nest shall be delayed until the nesting activity has ceased.
e. During construction, the environmental monitor shall conduct snowy plover surveys twice a week (preferably two to three days apart).

6. (BR/mm-8) Upon application for construction permits, the following measure shall be included on all applicable plans: If commencement of construction begins between March and September, the environmental monitor shall conduct pre-construction nesting bird surveys. If nesting activity is identified, the following measures shall be implemented:
   a. If active nest of common passerine or shorebird species' are observed in the work area or within 100 feet of the work area, construction activities shall be modified and or delayed as necessary to avoid direct take or indirect disturbance of the nests, eggs, or young.
   b. If active nest sites of raptors or other special-status species are observed within the work area or 300 feet of the work area, the environmental monitor shall establish a suitable buffer around the nest site. Construction activities in the buffer zone shall be prohibited until the young have fledged the nest and achieved independence.
   c. Active raptor or special-status species nests should be documented by a qualified biologist and a letter report should be submitted to the County, USFWS, and CDFW, documenting project compliance with the MBTA and applicable project mitigation measures.

7. (BR/mm-9) Upon application for construction permits, the following measure shall be included on all applicable plans: Prior to site grading, the environmental monitor shall conduct a survey for coast horned lizard and other reptiles. The surveyor shall utilize hand search methods in areas of disturbance where coast horned-lizards are expected to be found (e.g., under shrubs, other vegetation, or debris). Any lizards located during this survey should be safely removed from the construction area and placed in suitable habitat.

Noise

8. (N/mm-1) Upon application for building permits, the project applicant shall include in the project design the following standard mitigation measures for interior noise mitigation provided in the Noise Element for levels in the 60-65 dBA range:
   a. Air conditioning or a mechanical ventilation system;
   b. Windows and sliding glass doors mounted in low air infiltration rate frames (0.5 cubic feet per minute or less, per American National Standards Institute [ANSI] specifications); and,

c. Solid core exterior doors with perimeter weather stripping and threshold seals.

Water

9. (WAT/mm-1) Upon application for construction permits, the applicant shall submit grading and construction plans showing BMPs, and shall implement BMPs during grading and construction activities. BMPs shall include, but not be limited to, the following:
   a. Erosion control barriers shall be applied, such as silt fences, hay bales, drain inlet protection, and gravel bags;
   b. Disturbed areas shall be stabilized with vegetation or hard surface treatments upon completion of construction in any specific area.
   c. All inactive disturbed soil areas are required to be stabilized with both sediment and temporary erosion control prior to the onset of the rainy season (October 15 to April 15).

Coastal Hazards

10. All buildings or structures shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood elevation level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards.
11. All new construction and other development shall be located on the landward side of the reach of mean high tide.
12. Man-made alteration of sand dunes that would increase potential flood damage is prohibited.
13. The Director of Planning and Building and/or the Public Works Director shall obtain and maintain the following records.
   a. Certification by a registered engineer or architect that a proposed structure complies with Subsection D.3.a.
   b. The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all buildings and structures, and whether such structures contain a basement.

Conditions to be completed prior to issuance of a construction permit

Water

14. (WAT/mm-2) Prior to issuance of grading and construction permits, the applicant shall submit a copy of the RWQCB-issued stormwater construction permit. The permit shall be on-site during all major grading and construction activities.

Fees

15. Prior to issuance of a construction permit, the applicant shall pay all applicable school and public facilities fees.

Public Works

16. Prior to issuance of a construction permit, the applicant shall apply for and obtain an encroachment permit for any improvements within the right of way from the County Department of Public Works.

17. The applicant shall submit a drainage plan for review and approval by County Public Works Department. The applicant shall show the finished floor at a minimum of one foot above the 100 year storm surge level for review and approval by County Public Works and the Department of Planning and Building.

Services

18. Prior to issuance of a construction permit, the applicant shall submit to the Development Review staff evidence from the **Cayucos Sanitary District** that all of their requirements, including payment of fees, have been met.

19. Prior to issuance of a construction permit, the applicant shall provide a letter from the **CSA 10A** stating that they are willing and able to service the property.

20. Prior to issuance of a construction permit, the applicant shall receive any necessary approvals from the Regional Water Quality Control Board.

Fire Safety

21. Prior to issuance of a construction permit, the applicant shall provide the county Department of Planning and Building with a fire safety plan approved by the Cayucos Fire Protection District.

Lighting

22. Prior to issuance of a construction permit, the applicant shall prepare a lighting plan for review and approval. The plan shall comply with the requirements of 23.04.320 (outdoor lights) of the Coastal Zone Land Use Ordinance.

Biological Resources

23. (BR/mm-1) Prior to issuance of construction permits, the applicant shall submit documentation verifying designation of a qualified environmental monitor for all measures requiring environmental mitigation to ensure compliance with Conditions of Approval and EIR mitigation measures. The monitor shall be responsible for: (1) ensuring that procedures for verifying compliance with environmental mitigations are followed; (2) lines of communication and reporting methods; (3) daily and weekly compliance reporting; (4) construction crew training regarding environmentally sensitive areas; (5) authority to stop work; and (6) action to be taken in the event of non-compliance. Monitoring shall be at a frequency and duration determined by the affected natural resource agencies (e.g., USACE, CDFW, RWQCB, California Coastal Commission, USFWS, and the County).

24. (BR/mm-6) Prior to issuance of construction permits, the applicant shall submit a detailed sediment and erosion control plan for approval, which shall address both temporary and permanent measures to control erosion and reduce sedimentation. Erosion and soil protection shall be provided on all cut and fill slopes. Revegetation shall be facilitated by mulching, hydro-seeding or other methods, and shall be initiated as soon as possible after completion of grading, and prior to the onset of the rainy season (October 15). Permanent revegetation and landscaping shall emphasize native shrubs, and trees, to improve the probability of slope and soil stabilization without adverse impacts to slope stability due to irrigation infiltration and long-term root development. All plans shall show that sedimentation and erosion control measures are installed prior to any other ground disturbing work.

Aesthetics

25. (AES/mm-1) Prior to issuance of the building permit, the applicant shall submit interior and exterior lighting plans to the Department of Planning and Building for review and approval consistent with the following:
    a. The point source of all exterior lighting shall be shielded from off-site views, including beach areas.
    b. All required security lights shall utilize motion detector activation.
    c. Light trespass from exterior lights shall be minimized by directing light downward and utilizing cut-off fixtures or shields.

Air Quality

26. (AQ/mm-2) Prior to issuance of construction permits, the applicant shall include the following measures on applicable grading and building plans:

Idling Restrictions Near Sensitive Receptors for Both On and off-Road Equipment

a. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors;
b. Diesel idling within 1,000 feet of sensitive receptors is not permitted;
c. Use of alternative fueled equipment is recommended whenever possible; and,
d. Signs that specify the no idling requirements must be posted and enforced at the construction site.

Idling Restrictions for On-road Vehicles

e. Section 2485 of Title 13, the California Code of Regulations limits diesel-fueled commercial motor vehicles that operate in the State of California with gross vehicular weight ratings of greater than 10,000 pounds and licensed for operation on highways. It applies to California and non-California based vehicles. In general, the regulation specifies that drivers of said vehicles:
    1. Shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location, except as noted in Subsection (d) of the regulation; and,
    2. Shall not operate a diesel-fueled auxiliary power system (APS) to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5.0 minutes at any location when within 100 feet of a restricted area, except as noted in Subsection (d) of the regulation.
f. Signs must be posted in the designated queuing areas and job sites to remind drivers of the 5-minute idling limit. The specific requirements and exceptions in the regulation can be reviewed at the following web site: www.arb.ca.gov/msprog/truck-idling/2485.pdf.

Idling Restrictions for off-Road Equipment

g. Off-road diesel equipment shall comply with the 5 minute idling restriction identified in Section 2449(d)(3) of the California Air Resources Board's In-Use off-Road Diesel regulation: www.arb.ca.gov/regact/2007/ordiesl07/frooal.pdf.
h. Signs shall be posted in the designated queuing areas and job sites to remind off-road equipment operators of the 5 minute idling limit.

Geology and Soils

27. (GS/mm-1) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Engineering Evaluation (Shoreline Engineering 2012) and Updated Geotechnical Investigation (GSI Soils, Inc.) dated December 27, 2011, specifically the recommendations identified in Section 5.2 – Preparation of the Building Pad, Section 5.3 – Structural Fill, Section 5.4 – Drilled Piers, Section 5.5 – Conventional Deepened

Foundation, Section 5.6 – Slab Construction, and Section 5.9 – Surface and Subsurface Drainage.

28. (GS/mm-2) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.) dated December 27, 2011, and specifically the following:
    a. All surface and subsurface deleterious materials shall be removed from the proposed building area and disposed of offsite. This includes, but is not limited to, any buried utility lines, loose fills, debris, building materials, and any other surface and subsurface structures.
    b. Voids left from site clearing shall be cleaned and backfilled as recommended for structural fill.
    c. Once the site has been cleared, the exposed ground surface shall be stripped to remove surface vegetation and organic soil.

29. (GS/mm-3) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the following: recommendations for slope stability identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.10 – Temporary Excavations and Slopes; and Shoring Detail prepared by Shoreline Engineering (January 2012, updated September 20, 2012). Plans shall demonstrate how construction would be conducted such that no activity would compromise the neighboring structure. Construction of all site preparation and shoring activities shall be monitored by the project Engineer of Record, and daily monitoring reports shall be prepared and submitted to the County Department of Planning and Building on a weekly basis.

30. (GS/mm-4) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which include the use of deepened pier foundations identified in the Engineering Evaluation (Shoreline Engineering, Inc.), dated January 2012, and Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.2 – Preparation of Building Pad, Section 5.4 – Drilled Piers, and Section 5.5 – Conventional Deepened Foundation.

31. (GS/mm-5) Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.1 – Clearing and Stripping, Section 5.2 – Preparation of Building Pad, and Section 5.3 – Structural Fill.

32. (GS/mm-6) Prior to issuance of grading and construction permits, the applicant shall submit a drainage plan for review and approval by the County Department of Public Works. The drainage plan shall be coordinated with the sedimentation and erosion control plan, be consistent with CZLUO §23.050.036 and 040, and specifically include engineered energy dissipators and controls that would limit peak runoff to pre-development levels.

33. Prior to issuance of grading permits, the applicant shall retain a certified arborist to conduct any site preparation activities requiring cuts or impacts to the root zone of the existing mature cypress tree. The certified arborist shall monitor work within the root zone, including grading and excavation for the retaining wall, and utility work. The certified arborist shall verify that tree protection fencing shown on the plans and

approved by the County is installed prior to ground disturbance within 25 feet of the trunk of the tree. The applicant shall comply with methods identified by the certified arborist to avoid unnecessary damage to the root zone, including use of hand tools within 25 feet of the trunk of the tree, protection and treatment of exposed roots during construction, and use of tunneling under shallow roots for utility installation in lieu of standard trenching.

Lateral Access

34. Prior to ~~final inspection~~issuance of construction permits, the applicant shall execute and record an offer of dedication for lateral access which shall include ~~25 feet of dry sandy~~ the area from the ~~western~~ property line adjacent to the ~~public~~ beach to the toe of the rock outcrop ~~beach~~ ~~to be~~ available at all times during the year (pursuant to the requirements of~~-~~ the Estero Area Plan and Section 23.04.420 of the Coastal Zone Land Use Ordinance).

Deed Restriction/Shoreline Protection Device Prohibition

35. Prior to issuance of any grading or construction permits, the property owner shall record a deed restriction against the property that ensures that no shoreline protection structure shall be proposed or constructed to protect the development, and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235 and the San Luis Obispo [County] certified Local Coastal Program.

36. Prior to issuance of any grading or construction permits, the property owner shall execute and record a deed restriction which acknowledges and assumes the risks of wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff and waives any future claims of damage or liability against the permitting agency and agrees to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.

Conditions to be completed during project construction

Biological Resources

37. (BR/mm-2) Prior to the initiation of construction, the environmental monitor shall conduct environmental awareness training for all construction personnel. The environmental awareness training shall include discussions of sensitive habitats and animal species in the immediate area. Topics of discussion shall include: general provisions and protections afforded by the Endangered Species Act; measures implemented to protect special-status species; review of the project boundaries and special conditions; the monitor's role in project activities; lines of communications; and procedures to be implemented in the event a special-status species is observed in the work area.

38. (BR/mm-4) Prior to the initiation of construction, the applicant's contractors and the environmental monitor shall coordinate the placement of project delineation fencing throughout the work areas. The environmental monitor shall field fit the placement of the project delineation fencing to minimize impacts to sensitive resources. The project delineation fencing shall remain in place and functional throughout the duration of the project. During construction, no project related work activities shall occur outside of the delineated work area.

Air Quality

39. (AQ/mm-1) Prior to initiation of construction, the project applicant shall implement the following dust control measures:

a. Reduce the amount of the disturbed area where possible;
b. Use water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 miles per hour. Reclaimed (non-potable) water should be used whenever possible;
c. All dirt stockpile areas should be sprayed daily as needed; and,
d. All roadways, driveways, sidewalks, etc., to be paved should be completed as soon as possible, and building pads should be lain as soon as possible after grading unless seeding or soil binders are used.

Building Height

40. The maximum height of the project is 15 feet as measured from the centerline of the fronting Street at a point midway between the two side property lines, projected to the street centerline. Prior to approval of the roof nailing inspection, the applicant shall provide the building inspector with documentation that gives the height reference, the allowable height, and the actual height of the structure. A licensed surveyor or civil engineer shall prepare this certification.

Archaeology

41. In the event archaeological resources are unearthed or discovered during any construction activities, the following standards apply:

a. Construction activities shall cease and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law.
b. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.

Conditions to be completed prior to final building inspection

Landscaping

42. Prior to final building inspection, landscaping in accordance with the approved landscaping plan shall be installed or bonded for to ensure the implementation of landscaping. If bonded for, landscaping shall be installed within 60 days after final building inspection. All landscaping shall be maintained in a viable condition in perpetuity.

Fire Safety

43 Prior to final inspection, the applicant shall obtain final inspection and approval from Cayucos Fire Protection District for all required fire/life safety measures.

Miscellaneous

44. Prior to occupancy of any structure associated with this approval, the applicant shall contact the County Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

On-going conditions of approval (valid for the life of the project)

45. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Coastal Zone Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.

46. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Coastal Zone Land Use Ordinance.

47. The applicant shall, as a condition of approval of this minor use permit/coastal development permit defend, at his or her sole expense, any action brought against the County of San Luis Obispo, its present or former officers, agents or employees, by a third party challenging either its decision to approve this minor use permit/coastal development or the manner in which the County is interpreting or enforcing the conditions of this minor use permit/coastal development permit, or any other action by a third party relating to approval or implementation of this minor use permit/coastal development permit. The applicant shall reimburse the County for any court costs and attorney's fees which the County incurs as a result of such action, but the County's participation in any such litigation shall not relieve the applicant of his obligation under this condition.

STAFF REPORT "EXHIBIT C"

CEQA REQUIRED FINDINGS FOR THE LOPERENA MINOR USE PERMIT/ COASTAL DEVELOPMENT PERMIT ENVIRONMENTAL IMPACT REPORT

1.0 ENVIRONMENTAL DETERMINATION

The Environmental Impact Report (EIR) was prepared, pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code [PRC] §21000 et seq.), to evaluate the environmental impacts resulting from approval of the Loperena Minor Use Permit / Coastal Development Permit (MUP/CDP) (project). The County of San Luis Obispo (County) is the CEQA Lead Agency for the project.

The EIR addresses the potential environmental effects associated with the project. A number of federal, state, and local governmental agencies require an environmental analysis of the proposed project consistent with the requirements of CEQA in order to act on the project. These agencies include the California Coastal Commission.

The findings and recommendations set forth below (Findings) are adopted by the County ~~Planning Commission~~Board of Supervisors as the County's findings under CEQA and the CEQA Guidelines (California Code of Regulations [CCR] Title 14, §15000 et seq.) relating to the project. The Findings provide the written analysis and conclusions of this commission regarding the project's environmental impacts, mitigation measures, and alternatives to the project.

1.1 PROCEDURAL BACKGROUND

Pursuant to CEQA and the CEQA Guidelines, the County determined that an EIR would be required for the project. On August 7, 2009, the County issued a Notice of Preparation (NOP) for the EIR which was circulated to responsible agencies and interested groups and individuals for review and comment. A copy of the NOP is included in Appendix A of the Loperena MUP/CDP EIR.

The Draft EIR was available for public review and comment from June 14, 2013, through August 5, 2013, and was filed with the State Office of Planning & Research under State Clearinghouse No. 2007081044.

The County prepared written responses to the comments received during the comment period and included these responses in the Final EIR, which was published by the County on December 12, 2013. The Final EIR with responses was made available to all commenters.

~~PROJECT DESCRIPTION~~

~~The applicant, Mr. Jack Loperena (landowner) and architect, Mr. James Maul, request a Minor Use Permit / Coastal Development Permit (MUP/CDP) to allow for the construction of a single-family residence. A description of the project location, project history, and project elements are discussed in the sections below.~~

2.0 PROJECT DESCRIPTION

The applicant, Mr. Jack Loperena (landowner) and architect, Mr. James Maul, request a Minor Use Permit / Coastal Development Permit (MUP/CDP) to allow for the construction of a single-family residence. A description of the project location, project history, and project elements are discussed in the sections below.

2.1 GENERAL BACKGROUND

2.1.1 Project Location

The project site is located in the unincorporated community of Cayucos, within San Luis Obispo County, California. The project site is located adjacent to State of California Department of Parks and Recreation (State Parks) property on the northern end of Studio Drive, approximately 250 feet south of the intersection of Studio Drive and Highway 1. The project site consists of a single 3,445-square-foot parcel (Assessor Parcel Number 064-253-007).

2.1.2 Project Background

The applicant submitted an application for a MUP/CDP in May of 2006. At the time, the environmental document prepared and issued by the County was a Mitigated Negative Declaration (MND) (August 9, 2007). A Planning Department Hearing was scheduled for August 17, 2007, to consider the proposed project and MND. At the hearing, staff requested a continuance until September 21, 2007 because the MND had been re-issued and re-noticed, and required a 30-day public review period. On August 23, 2007, County staff received a Request for Review of the MND, and requested that the project be continued off calendar to address issues raised in the Request for Review. Based on the comments included in the Request for Review, County staff consulted with County experts in geology, cultural resources, emergency services, air quality, and public works and drainage. Information and data obtained from County experts were incorporated into an amended MND, which was re-circulated for public review (April 2, 2009). A Planning Department Hearing was scheduled for May 15, 2009. A Request for Review of the amended MND was received by County staff on April 16, 2009, and County staff requested that the project be continued off calendar a second time.

Based on the issues raised in the April 2009 Request for Review, the County Environmental Coordinator determined that a fair argument was raised regarding the significance of potential environmental impacts. Upon consideration of these issues, the applicant proposed that an EIR be prepared for the proposed project.

The project application along with the Final EIR were scheduled and noticed for the Planning Commission on January 23, 2014. The Planning Commission discussed the project and opened public comment however the Commission elected to continue the project to their April 10, 2014 meeting in order for the applicant to bring back a reduced/revised project. The

reduced project was then reviewed and approved at the April, 10 2014 Planning Commission hearing. The Planning Commission decision was subsequently appealed to the County Board of Supervisors and scheduled on the June 3, 2014 hearing.

2.2 PROJECT OBJECTIVES

The objectives of the project are to:

- Develop a single-family residence on Studio Drive, within an existing, developed, single-family residential neighborhood;
- Allow development consistent with the County General Plan and Local Coastal Program
- Provide coastal access

In addition, the applicant provided the following project objectives:

- Reduce visual impacts by design;
- Avoid development on the sandy beach and minimize site grading and disruption of the natural contours; and,
- Incorporate green building considerations into the design, and maximize exposure for solar panels.

2.3 PROPOSED PROJECT EVALUATED FOR THE EIR

The project evaluated in the EIR includes a proposal to grade for and construct a 3,097-square-foot residence, including approximately:

- 1,097 square feet of main floor living space
- 1,040-square-foot basement
- 338-square-foot mezzanine
- 242-square-foot garage and 200 square foot carport; and,
- 180-square-foot covered deck.

The residence would consist of one main floor and a basement. The footprint of the house would be 1,040 square feet. The maximum width of the structure would be 18 feet, and the maximum length would be 95 feet. A paved driveway would provide access from Studio Drive. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive. The basement would be located below the elevation of Studio Drive. The applicant proposes a cantilevered design, which would be elevated above the sandy beach. This portion would include approximately 325 square feet of living space and a covered deck.

The residence would be constructed on a structural mat slab supported on deepened/deadman footings and/or drilled piers. The footing on the east side of the residence would extend the full width of the structure (18 feet), and be 6 to 8 feet deep and 18 feet long. The purpose of the deadman footings will be to resist the cantilever loading of the west side of the residence, which would extend 28 feet over the sand. The mat slab would be located at basement level (15 feet above mean sea level). Cuts varying from approximately 5 feet on the north side of the pad to 12 feet on the south side are anticipated. Temporary excavation support would be provided by steel soldier beams installed in drilled holes filled with lean concrete. The soldier beams would

be lagged with steel plates to provide support during construction. The soldier beams and lagging would be removed once the excavated area is backfilled. The exterior walls of the structure would be concrete and would retain soils along the southern, eastern, and northern sides of the residence. Retaining walls will also be constructed adjacent to Studio Drive with continuous footings extending into the underlying bedrock materials.

A photovoltaic system would provide electricity for the residence, including 1,400 square feet of solar panels to be located on the south-facing slopes of the roof. Light tubes would be installed to allow outside light to filter through to the basement.

2.3.1 Grading Estimates

Grading activities would disturb approximately 3,000 square feet of the 3,445-square-foot parcel, including 400 cubic yards of cut (foundation) and 150 cubic yards of fill (driveway). The average depth of cut would be 5 feet (minimum 1 foot, maximum 12 feet). Approximately 250 cubic yards of soil would be exported offsite.

2.3.2 Drainage Plan

Proposed drainage plans include removal of an existing overside drain and construction of a new storm drain system including an overside drain with a fossil filter, stormwater inlet, and stormwater outlet with energy dissipators. Stormwater would flow from the outlet in a northwesterly direction offsite.

A concrete deck would be constructed over the new pipe system to allow entry to the property. Rainfall from the roof would be collected by a gutter system and facilitated to an underground holding tank below the driveway grade. Captured runoff would be used as gray water for toilet flushing and landscape watering. Runoff would be piped and directed westward to exit onto the beach.

2.3.3 Services and Utilities

An existing high pressure gas main would be re-routed so that no structures are located over the top of the pipeline. The proposed residence would be served by the County Service Area 10A for water supply and Cayucos Sanitary District for wastewater collection, treatment, and disposal. Cayucos Fire would provide fire protection.

2.4 REVISED PROJECT

Based on direction from the Planning Commission, the applicant revised the project which reduced the size of the proposed project from what was evaluated in the EIR. The revised project includes a home that is approximately 16 feet shorter in living area from the proposed project and has an approximate total length of 70 feet which includes an attached deck on the west side. The original 2,917 square foot home had a length of approximately 90 feet. The revised project is approximately 2,374 square feet which includes all interior area and the single car garage (approximately 543 square feet smaller then the original proposed project). The height of the revised project is not changing from the original proposed project. The revised project includes:

- 841 square feet of main floor living space
- 814 square foot basement
- 280 square foot mezzanine

- 239 square foot garage and 200 square foot car port

All other aspects to the revised project such as the foundation and proposed site preparation are similar to the original proposed project, but are slightly smaller in size or area, and are set back farther from the beach at a higher elevation then the original design due to the shorter footprint (the basement went from an elevation of 15 feet to 16 feet at the lowest corner). The foundation will no longer need a 6' deep foundation to support the long cantilevered portion of the original design, but will include a 2' deep mat foundation. The site preparation will remain as outlined in the geotechnical recommendations in the EIR. This revised project is consistent with the project that was evaluated in the EIR and will not contain any additional impacts that were not already evaluated. This revised project will comply with the County Green Building Ordinance and while solar panels are not shown with this design on the plans, the proejct is not precluded from allowing solar panels within the new pitched roofline.

~~GENERAL FINDINGS~~

3.0 GENERAL FINDINGS

3.1 CEQA GENERAL FINDINGS

A. The County ~~Planning Commission~~Board of Supervisors finds that changes or alterations have been incorporated into the project to eliminate or substantially lessen all significant impacts where feasible. These changes or alterations include mitigation measures and project modifications outlined herein and set forth in more detail in the Loperena Minor Use Permit/Coastal Development Permit EIR.

B. The County ~~Planning Commission~~Board of Supervisors finds that the project, as approved, includes an appropriate Mitigation Monitoring Program. This mitigation monitoring program ensures that measures that avoid or lessen the significant project impacts, as required by CEQA and the State CEQA Guidelines, will be implemented as described.

C. Per CEQA Guidelines §15126.4(a)(1)(B), the proposed project includes performance-based conditions relating to environmental impacts and include requirements to prepare more detailed plans that will further define the mitigation based on the more detailed plans to be submitted as a part of the construction phase. Conditions and mitigation measures contain performance-based standards and therefore avoid the potential for these conditions or measures to be considered deferred mitigation under CEQA.

3.2 LEAD AGENCY AND RESPONSIBLE AGENCY USE OF THE FINAL EIR AND FINDINGS

The County, as the CEQA lead agency, is responsible for administering the preparation of the EIR and certifying the Final EIR. The ~~Commission~~Board of Supervisors will use the Final EIR as an informational document to assist in the decision-making process, ultimately resulting in the approval, denial, or assignment of conditions to the project.

The CEQA Guidelines authorizes lead agencies (public agencies that have principal responsibility for carrying out or approving a project and for implementing CEQA) to approve a project with significant effects if there is no feasible way to lessen or avoid the significant effects and the project's benefits outweigh these effects. Responsible agencies (public agencies other than the lead agency that have responsibility for carrying out or approving a project and for complying with CEQA) have a more limited authority to require changes in the project to lessen or avoid only the effects, either direct or indirect, of that part of the project which the agency will be called on to carry out or approve (PRC §21104(c), §21153(c); CEQA Guidelines §15041(b), §15042).

3.3 THE RECORD

For purposes of CEQA and these Findings, the Record of Proceedings for the proposed project consists of the following documents and other evidence, at a minimum:

- The NOP and all other public notices issued by the County in conjunction with the proposed project;

- The Final EIR for the proposed project which consists of the Draft EIR, the technical appendices, and the Response to Comments;
- The Draft EIR;
- All written comments submitted by agencies or members of the public during the public review comment period on the Draft EIR;
- All responses to written comments submitted by agencies or members of the public during the public review and comment period on the Draft EIR;
- All written and verbal public testimony presented during noticed public hearings for the proposed project at which such testimony was taken;
- The Mitigation Monitoring and Reporting Program;
- The documents, reports, and technical memoranda included or referenced in the technical appendices of the Final EIR;
- All documents, studies, EIRs, or other materials incorporated by reference in the Draft and Final EIR;
- The Ordinances and Resolutions adopted by the County in connection with the proposed project, and all documents incorporated by reference therein;
- Matters of common knowledge to the County, including but not limited to federal, state, and local laws, regulations, and policy documents;
- Written correspondence submitted to the County in connection with the project;
- All documents, County Staff Reports, County studies, and all written or oral testimony provided to or by the County in connection with the project;
- The County's Local Coastal Plan, General Plan, and related ordinances;
- All testimony and deliberations received or held in connection with the project; and,
- Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e) (excluding privileged materials).

3.4 CERTIFICATION OF THE LOPERENA MUP/CDP EIR

The County ~~Planning Commission~~Board of Supervisors makes the following findings with respect to the Loperena MUP/CDP Final EIR:

A. The ~~Planning Commission~~County Board of Supervisors has reviewed and considered the documents and other information listed in Section [illegible] above.

B. The Final EIR has been completed in compliance with CEQA.

C. The ~~Planning Commission~~County Board of Supervisors has considered the information contained in the Final EIR, the public comments and responses currently and previously submitted, and the public comments and information presented at the public hearings.

D. All information was considered by the ~~Planning Commission~~Board of Supervisors before taking an action on the project.

E. The ~~Planning Commission~~Board of Supervisors hereby finds and determines that:

1. All significant effects that can be feasibly avoided have been eliminated or substantially lessened as determined through the findings and supporting evidence set forth in Sections 7.0, 8.0, and 9.0.

2. Based on the Final EIR and other documents in the record, specific environmental, economic, social, legal, and other considerations make infeasible other project alternatives identified in the Final EIR.

3. Should approval of the Loperena MUP and CDP have the potential to result in adverse environmental impacts that are not anticipated or addressed by the Final EIR, subsequent environmental review shall be required in accordance with CEQA Guidelines §15162(a).

4.0 STATEMENT OF OVERRIDING CONSIDERATIONS

The Final EIR has identified and discussed significant effects that will occur as a result of the proposed project. With the implementation of the mitigation measures identified in the Final EIR, these effects can be mitigated to a level of insignificance. Therefore, no statement of Overriding Consideration is required.

IMPACT ANALYSIS: Impacts of the proposed project and alternatives have been classified using the categories Class I, II, III, and IV as described below:

- **Class I**: Class I impacts are significant and unavoidable. To approve a project resulting in Class I impacts, the CEQA Guidelines require decision makers to make findings and a statement of overriding considerations that discusses as applicable the economic, legal, social, technical and other benefits of the proposed project against the unavoidable environmental risks. The proposed project has not resulted in any Class I impacts.

- **Class II**: Class II impacts are significant but can be mitigated to a level of insignificance by measures identified in the Final EIR and the project description. When approving a project with Class II impacts, the decision-makers must make findings that;

    1. Changes or alternatives to the project have been incorporated that reduce the impacts to a less than significant level, or

    2. That such changes or alternatives are within the responsibility and jurisdiction of another governmental agency and not the Lead Agency making the finding, and that such other governmental agency can and should adopt the required project changes or alternatives.

- **Class III**: Class III impacts are adverse but not significant. Mitigation measures may still be required for these impacts as long as there is rough proportionality between the environmental impacts caused by the project and the mitigation measures imposed on the project.

- **Class IV**: Class IV impacts would have a beneficial environmental impact.

5.0 FINDINGS FOR IMPACTS IDENTIFIED AS LESS THAN SIGNIFICANT

The findings below are for Class III impacts. Class III impacts are impacts that are adverse, but not significant. Pursuant to Section 15091(a)(1) of the State CEQA Guidelines, the ~~Planning Commission~~Board of Supervisors finds that each of the following effects have been avoided or will have a less than significant impact, as identified in the Final EIR. The less than significant effects (Impacts) are stated fully in the Final EIR. The following are brief explanations of the rationale for this finding for each impact:

A. Agricultural Resources (Insignificant Impact/Not Applicable)

1. **Convert Prime Agricultural Land to Non-Agricultural Use.** The project is located in a non-agricultural area with no agricultural activities occurring at or adjacent to the project site. The project site is classified as Urban and Built-Up Land by the DOC, Division of Land Resource Protection's Farmland Monitoring and Mapping Program (DOC 2008). No important farmland would be converted to non-agricultural use; therefore, there would be no impact.

2. **Impair Agricultural Use of Other Property or Result in Conversion to Other Uses.** No agricultural uses occur in the immediate vicinity of the project site. Based on the location of the project, it would not impair agricultural use of other properties in the region or result in conversion to non-agricultural uses. Therefore, there would be no impact.

3. **Conflict with Existing Zoning or Williamson Act Program.** The project site is within the residential land use category, and is not under Williamson Act contract. No parcels in the project vicinity are within the agricultural land use category or are subject to a Williamson Act contracts. No significant impacts to agricultural resources would to occur.

B. Aesthetics (Class III)

1. **Create an Aesthetically Incompatible Site Open to Public View.** From surrounding viewing locations, the overall height of the project would appear visually consistent with the heights of existing houses lining Studio Drive, and particularly the existing houses closest to the site. It is anticipated that as seen from most viewpoints, the height of the project would not be unexpected at this residential location.

   The project evaluated in the EIR ~~proposes~~ includes a building with a distinctly modern-style, architecture, and form. This style of architecture is seen regularly in the Studio Drive neighborhood and throughout the community. Although residential buildings often associated with the coastal community aesthetic tend to be beach bungalow style, modern style architecture is also part of the eclectic vernacular. These mid-century style buildings often employ simple forms, and flat rooflines with clerestory windows, similar to the proposed project evaluated in the EIR. This neighborhood consists of a variety of post modern, modern, and beach bungalow design styles constructed over time. The Planning Commission revised project includes additional traditional beach bungalow features such as wood or wood appearing siding, pitched roofline, and articulated walls as required by the Small Scale Neighborhood standards of the Estero Area Plan. This revised design which is

before the Board of Supervisors for approval is consistent with the character of this neighborhood and is compatible with the neighboring development.

Because of the existing residential setting, and the proposed structure's general consistency with the scale and architecture of the Studio Drive neighborhood, the project would be aesthetically compatible with the area, and potential impacts to public views is considered to be *less than significant* (CEQA Class III).

2. **Introduce a Use within a Scenic View Open to Public View.** Because of its location on the bluff, the project would be visible from many public viewpoints and from many viewing directions. The project's proximity to the beach and Studio Drive allows for up-close viewing opportunities by the public. The greatest number of potential viewers would be traveling on Highway 1, from where the project would occupy a portion of the mid-ground view, with the Pacific Ocean in the background. From Highway 1, the project would be more noticeable from the southbound lanes, since views from the northbound lanes would be mostly blocked by adjacent development. As seen from all areas on Highway 1, the lowest portion of the building and associated retaining walls would have limited visibility. The upper part of the residence would block a portion of the existing ocean view, from both the northbound and southbound lanes of Highway 1. From the southbound lanes, blue-water ocean views and the horizon line would be blocked a minor amount. As seen from the northbound lanes, blue-water views would also be briefly blocked, however views of the horizon and of the distant coastline hills would not be affected.

   Although the project would block a portion of the ocean, the effect on the viewing experience would be minor. As seen from the highway it is estimated that the project would only block an insignificant percentage of the existing available ocean view. No views of unique, historic, or singularly memorable coastal resources would be affected. The existing residential development along Studio Drive currently limits views of the ocean and beach from Highway 1. It is anticipated that to most viewers, the project's small incremental effect on the scenic vista would just appear as an extension of the existing neighborhood condition. The high quality of the scenic vista would not be affected, and the extent of view loss would be minor or even un-noticed in the context of the remaining scenic viewshed.

   As seen from southbound Studio Drive, the visual effect of the project would be similar to that from Highway 1; only a small portion of the total available ocean view would be affected, and the majority of the project would be seen within the visual silhouette of the adjacent development. From northbound Studio Drive south of the project, views of the ocean are blocked by existing homes. From the northbound direction, coastal views begin to open up as the viewer approaches the project site and begins to see around the northernmost residence. With construction of the project, existing coastal view blockage in the northbound direction and directly in front of the project would be extended a distance of approximately 150 feet along the street frontage. Outside of this 150-foot section, northbound views along Studio Drive would not be affected. Because existing coastal views along the approximately one mile length of Studio Drive are currently blocked, and there is approximately 300 feet of protected ocean views to the north of the site and extending to the Old Creek parking area, the additional 150 feet of affected view would be minor. The visual affect as seen from a vehicle would be approximately one second. Because of the short length, viewing durations from pedestrian and bicyclist viewpoints would also

be very brief. Similar to the views from Highway 1, the project's small incremental effect on the scenic vista would likely appear as an extension of the existing neighborhood condition. The high quality of the existing scenic vista would be unaffected, and the extent of view loss would be minor or even un-noticed in the context of the remaining scenic viewshed.

Viewpoints from the beach toward the project would be generally oriented inland and away from the ocean. From these viewing areas, scenic coastal resources such as the hills east of the highway are somewhat compromised by existing residential areas as well as the highway. The uppermost portions of the hills however are undeveloped and can be seen from much of the beach area. Because of the existing homes along the Studio Drive bluff, public viewers closer to the base of the bluff can see less of the hills across the highway to the east. From most beach viewpoints northwest of the project, the proposed residence would not extend beyond the visual silhouette of the adjacent development behind it. As seen from certain viewpoints directly west and southwest of the project, the upper portion of the new building would block a portion of the hillside to the northeast. From some closer viewpoints, the residence would block brief views of the ridgeline as well. Although a portion of the hillside views would be blocked by the project, the overall effect on the scenic vista would be minor. Views to the hills would not be blocked as seen from the majority of the beach area. No unique rock outcroppings or other memorable features are present within affected hillside areas. In addition, other hillside views would remain in the viewshed. The project and its subsequent effect on hillside views would appear to most viewers as an extension of the existing visual condition. Scenic ocean views from the neighborhood east of the highway would not be affected because the proposed residence would be consistent with the heights of the existing adjacent homes along Studio Drive.

Because the project would affect only a minor percentage of the available ocean and hillside views as seen from Highway 1 or from public roadways in the surrounding neighborhood or public beach, and because what would be affected would appear as an incremental extension of the existing visual condition along Studio Drive, the project's effect on scenic views is considered to be *less than significant* (CEQA Class III).

Specific Scenic Resources as Seen from the State Scenic Highway. As discussed in the previous section, the greatest number of potential viewers would be traveling on Highway 1, an Officially Designated State Scenic Highway and a National Scenic Byway. The upper part of the residence would block a portion of the existing ocean view, from both the northbound and southbound lanes of Highway 1. From the southbound lanes, blue-water ocean views and the horizon line would be blocked a minor amount. As seen from the northbound lanes, blue-water views would also be briefly blocked, however views of the horizon and of the distant coastline hills would remain.

Although the project would block a portion of the ocean, the effect on the viewing experience would be minor. As seen from the highway it is estimated that the project would only block an insignificant percentage of the existing available ocean view. No views of unique, historic, or singularly memorable coastal resources would be affected. The existing residential development along Studio Drive currently limits views of the ocean and beach from Highway 1. It is anticipated that to most viewers,

the project's small incremental effect on the scenic vista would just appear as an extension of the existing neighborhood condition. The high quality of the scenic vista would not be affected, and the extent of view loss would be minor or even un-noticed in the context of the remaining scenic viewshed.

As a result, the project would have no adverse effect on scenic resources as seen from Officially Designated State Scenic Highway 1. Because the project would affect only a minor percentage of the available ocean and hillside views as seen from Highway 1 and because what would be affected would appear as an incremental extension of the existing visual condition along Studio Drive, the project's effect on scenic vistas is considered to be *less than significant* (CEQA Class III).

3. **Change the Visual Character of an Area.** The project site occupies one of the more visible residential locations in the community. The proximity to Highway 1 and Morro Strand State Beach greatly increases the potential number of viewers of the project. The volume of traffic on Highway 1 in the vicinity of the project averages approximately 11,000 vehicles per day (Caltrans 2008). Because of this large number of viewers and highly visible location, the appearance of the project would have an influence on the visual character of the neighborhood. Any development of the site would include an inherent alteration of visual character. The change in character brought about by this project would be most noticeable it terms of its height, form, and architecture.

   The project site itself is mostly covered with non-native vegetation such as iceplant and ornamental plantings. The visual context of the site is one of a residential beach neighborhood. Although the site's topography provides some visual interest to the setting, it is not memorable or unique. The exposed rock area along western portion of the site is a relatively insignificant portion of a larger, continuous rock face extending south along the bluffs. As noted above, the height of the project would not be unexpected at this residential location and the proposed architecture is aesthetically compatible with the character of the existing residences in the Studio Drive neighborhood.

   Because of the existing residential setting, and the proposed structure's general consistency with the scale and architecture of the Studio Drive neighborhood, the effect of the project on visual character and quality of the site is considered to be *less than significant* (CEQA Class III).

4. **Impact Unique Geological or Physical Features.** As mentioned previously, the visual context of the site is one of a residential beach neighborhood. The project site is mostly covered with non-native vegetation such as iceplant and ornamental plantings. Although the site's topography provides some visual interest to the setting, it is not memorable or unique. The exposed rock area along western portion of the site is a relatively insignificant portion of a larger, continuous rock face extending north-south along the bluffs. Furthermore, the project would not block or adversely affect views of any unique off-site geological or physical features. As a result, the effect of the project on unique geological or physical features is considered to be *less than significant* (CEQA Class III).

C. Air Quality (Class III)

1. **Violate Air Quality Standard or Exceed Emission Threshold.** As proposed, the project would result in the disturbance of approximately 3,000 square feet, including driveways, walkways, the residential structure coverage, and landscaping. This would result in the creation of construction dust, as well as short-term vehicle emissions. Long-term operational impacts would include an increase in vehicle emissions on surrounding roads. Based on the CEQA Air Quality Handbook, the project would result in less than 10 pounds per day of pollutants, which is below the threshold warranting mitigation. Therefore, potential impacts would be *less than significant* (Class III).

2. **Create or Subject Individuals to Objectionable Odors.** The project consists of a residence, which will not require the storage or use of any materials or equipment that would generate objectionable odors. Therefore, potential impacts would be *less than significant* (Class III).

3. **Clean Air Plan Consistency.** The project is consistent with the general level of development anticipated and projected in the CAP, including promotion of residential infill in proximity to essential services and alternative transportation services. Therefore, potential impacts would be *less than significant* (Class III).

4. **Generate GHG Emissions.** The proposed project would result in an increased use of vehicles and electricity, each of which generate small amounts of CO_2, N_2O, and HFCs. The APCD provided comments on the project that indicated through URBEMIS modeling that the project would result in approximately 84 pounds per day of CO_2 in the summer and 102 pounds per day in the winter (APCD Comment Letter dated December 23, 2008).

   Based on *Table 1-1: Operational Screening Criteria for Project Air Quality Analysis* (SLOAPCD 2012), construction and operation of one single-family residence would not exceed 1,150 MT of CO_2e/year threshold. In addition, the project includes elements that will reduce GHG emissions, including compliance with current Title 24 Energy requirements and Green Building Orrdinance (electricity reduction for cooling/heating), ~~use of solar panels to reduce demand from GHG-emitting power plants~~, location within a garbage service area that is recycling over 50% of its wastes (electricity reduction), and requirement to recycle at least 50% of its construction wastes.

   Because the project proposes only one single-family residence in an existing residential neighborhood, and is consistent with land use components necessary to meet the goals of AB32 and set forth in the Clean Air Plan, this increase in GHGs is not considered significant. Therefore, no significant adverse GHG impacts would occur as a result of the proposed project, and no mitigation measures are necessary (Class III).

5. **Conflict with Applicable Plan, Policy, or Regulation.** The proposed project is consistent with the APCD's CEQA Handbook and County's EnergyWise Plan because it consists of a residential development within an urban area, in proximity to recreational resources and opportunities for alternative transportation, such as walking and bicycling. As noted above, the project includes energy-efficiency measures, including ~~incorporation of solar energy~~compliance with the County's

Green Building Ordinance and Title 24 energy requirements. Potential impacts would be *less than significant* (Class III).

D. Cultural Resources (Class III)

1. **Pre-historic Resources.** The project site is located within a culturally sensitive region; however, the field studies and background research conducted by the applicant's consultant and EIR archaeologist did not identify the presence of any significant cultural resources within the project site. As with any ground disturbing activities, the potential for encountering previously undocumented cultural resources exists. In the event of inadvertent discovery, compliance with Section 23.05.140 of the CZLUO will be required. Potential impacts to pre-historic resources would be *less than significant* (Class III).

2. **Historic Resources**. No historic resources are located within the project site or within 0.5-mile. No impacts to historic resources are anticipated, therefore, no mitigation measures are required. No significant impact to historic resources would occur.

3. **Paleontological Resources.** The proposed project would be located within formations that are not known to contain significant paleontological resources. Impacts to paleontological resources would be *less than significant* (Class III). No mitigation is required.

E. Hazards and Hazardous Materials (Insignificant Impact/Not Applicable)

1. Risk of Explosion, Release, or Exposure to Hazardous Substances. The project does not propose the use or storage of hazardous materials; therefore, the risk of explosion or release of hazardous substances is not likely. The project would not result in the routine transport, use, or disposal of hazardous materials and does not create the potential for the release of hazardous materials through upset and/or accident conditions. Therefore, no hazards associated with the handling of hazardous materials would result. The project site is not located within 0.25 mile of an existing or proposed school, and is not included on the Cortese List or any other list of hazardous materials sites and would not create associated risks to the public or environment. No impacts due to hazards or hazardous materials would occur.

2. Interfere with Emergency Response or Evacuation Plan. Although it places residential uses within an area covered by the Dam and Levee Failure Evacuation Plan, Cities Nuclear Power Plant Emergency Response Plan, and Tsunami Response Plan, the proposed use is suitable for the location and within the general level of development projected in the response plans. The proposed project would not inhibit emergency alert, evacuation or response actions and would not conflict with any regional evacuation plan, because it is located with an existing residential lot, on a paved roadway (Studio Drive). No impacts to emergency response or evacuation plans will occur.

3. Airport Flight Patterns. The project site is not located within any airport review area and would not expose people to safety risks associated with airport flight patterns, therefore no impacts will occur.

4. High Fire Risk. The project is not located within a high fire hazard zone and does not present a significant fire safety risk, therefore no impacts will occur.

5. Other Hazards. The County Office of Emergency Services prepares for catastrophic (though highly unlikely) worst case scenario events that would include a 50 foot tsunami wave run-up. However, based on review by the County Geologist and the project consultant geologist, a 9.5 foot wave run-up is considered more appropriate for a 100-year tsunami event. The project has been designed and conditioned to avoid impacts from a 100-year tsunami event and potential impacts related to wave run-up and tsunami hazards for the proposed development will be taken into account through the foundation design and finished floor elevations of the proposed residence.

An in depth analysis of tsunami and/or wave run-up hazards associated with the proposed project is included in Section 4.3, Geology and Soils. Refer to that section for additional information. No other significant adverse impacts would occur as a result of the proposed project, and no mitigation measures are necessary (Class III).

F. Geology and Soils (Class III)

1. **Exposure to or Production of Unstable Earth Conditions.** Seismic ground shaking associated with a large earthquake on one of several nearby and regional faults (the Oceanic, Hosgri, Los Osos, and San Luis Range faults) is considered to be a high potential hazard for the project area. Peak ground accelerations up to 0.35g could potentially affect structures at the site in the future. The project site was positioned on the USGS Seismic Hazard Maps for a 2% probability of exceedance in 50 years to determine the maximum considered earthquake spectral response accelerations. The Code-required design acceleration coefficients for short periods (SDS) and at one-second (SD1) would be 0.980g and 0.491g, respectively; therefore, a site class C is recommended for structure design (GSI Soils, Inc. 2011).

   Mitigation of seismic hazards due to strong ground motion is addressed through proper structural design in accordance with the applicable building codes (presently the 2009 International Building Code [IBC] and 2010 California Building Code [CBC] documents related to Earthquake Loads) at the time of building permit application. Seismically-induced ground failure mechanisms include: landsliding, liquefaction, lurching, differential compaction, lateral spreading, and dry sand settlement.

   Landslides. The central coast region of California has not yet been mapped by the California Geological Survey under the Seismic Hazards Mapping Act program. No landslides have been mapped or found on the property. A large earthflow landslide terminates approximately 400 feet northeast of the site across Highway 1. The landslide and the project site are separated by over 400 feet of very low gradient topography that is overall flatter than 15:1 (horizontal:vertical). Significant portions of that horizontal distance are nearly level (e.g., the width of Highway 1). Consequently the potential for risk of landslides adversely impacting the site is considered to be low. Potential impacts related to landslides are *less than significant* (Class III), and no mitigation measures are necessary.

Earthquakes. As noted in Section 4.3.1.1 Existing Conditions, Regional Setting, Geologic Setting, fault systems are present in the region; however, no known active faults trend through the property. No topographic anomalies in the area are suggestive of faulting, and the potential for surface faulting and ground rupture at the site to be low. Therefore, potential impacts would be *less than significant* (Class III), and no mitigation measures beyond compliance with the CBC are necessary.

Earthquake-Induced Landsliding. The only significant slope that would exist at the site upon completion of the project is the fill slope descending from Studio Drive to the property; however, the plans indicate this slope will be filled over and supported by retaining walls; hence the potential for seismically-induced landsliding is low. Therefore, potential impacts would be *less than significant* (Class III), and no mitigation measures are necessary.

Lateral Spreading. Conditions that typically induce lateral spreading include liquefaction of a subsurface layer or layers of soil, and site topography that contains an open topographic face which exposes the soil profile overlying the liquefiable layer(s). Both conditions potentially exist at the site but require further review by the project applicant's consultants. Based on the proposed foundation design, site grading, and confined condition of the sands near the center of the building pad, the potential for lateral spreading displacements would be negligible (GSI Soils, Inc. 2011). Therefore, based on the design of the project, potential impacts would be *less than significant* (Class III), and no mitigation beyond compliance with the CBC is necessary.

Dry Sand Settlement. Due to the limited depth of sand (approximately 6 feet) within the building pad area, dry settlements of these sands during seismic ground shaking is expected to be less than 0.5 inch. With the proposed grading, these settlements are anticipated to be less than 0.25 inch (GSI Soils, Inc. 2011). Therefore, potential impacts would be *less than significant* (Class III), and no mitigation beyond compliance with the CBC is necessary.

Land Subsidence. Land subsidence occurs when large amounts of groundwater have been excessively withdrawn from an aquifer. Water supply in Cayucos is provided by the Whale Rock Reservoir and Nacimiento Water Project. There is no identified Level of Severity for water supply in the Cayucos area (County of San Luis Obispo 2012), and the project site is not located within a designated groundwater basin. There is no evidence of land subsidence on or in the vicinity of the project site, and implementation of the project would not create a demand for water supply that would result in land subsidence. Therefore, no significant impact would occur.

2. **"Alquist-Priolo" Earthquake Fault Zone.** The project site is not located within an Alquist-Priolo Earthquake Fault Zone as defined by maps prepared by the California Geological Survey. Therefore, no significant impact would occur.

3. **Soil Erosion, Topographic Changes, Loss of Topsoil, and Instability**

Soil Erosion **– Long Term.** In the long term, the project would not create any changes that would result in significant soil erosion. The proposed drainage plan includes stormwater diffusers to slow down runoff during rain events and minimize the potential for storm-related beach erosion. Therefore, potential long-term impacts

would be *less than significant* (Class III), and no mitigation beyond compliance with existing regulations is necessary. Long-term erosion related to sea level rise and wave runup is discussed below under Coastal Hazards.

4. **Change Rates of Soil Absorption or Runoff.** As noted above, the project includes a drainage plan that would replace the existing County drain pipe with a new stormwater system. This system would change the direction of surface runoff from the street onto the beach, but would not be significantly different than the current situation. The project would create additional area of impervious surface, ~~and includes a rain barrel~~ and a stormwater management system, consistent with the County's regulations and policies for Low Impact Development (LID). Based on the location, size, and design of the project, it would not significantly change the rates of soil absorption or amount and direction of surface runoff. Therefore, potential impacts would be *less than significant* (Class III), and no mitigation beyond compliance with existing regulations is necessary.

5. **100 year Flood Zone.** The project site is not located within a 100-year flood hazard zone, and the area proposed for development is located above and outside the AE/VE hazard zone which has a 100-year flood elevation of 10 feet (NGVD29), which is approximately equivalent to elevation 12.92 feet NAVD88. The proposed basement finish floor elevation of the Planning Commission revised project is~~15~~ 16 feet NAVD88 and is approximately ~~23~~.08 feet higher than the AE/VE flood elevation. Therefore, no significant impact would occur.

6. **County's Safety Element Consistency**. Applicable geology and soils-related goals and policies identified in the County's Safety Element include the following:

Geologic and Seismic Hazards, Goal S-5: Minimize the potential for loss of life and property resulting from geologic and seismic hazards.

Based on compliance with the CBC, County Code, and incorporation of recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, and Engineering Evaluation (Shoreline Engineering), dated January 2012, the project would be consistent with this goal.

Geologic and Seismic Hazards, Policy S-21: Slope Instability. The County acknowledges that areas of known landslide activity are generally not suitable for residential development. The County will avoid development in areas of known slope instability or high landslide risk when possible, and continue to encourage that developments on sloping ground use design and construction techniques appropriate for those areas.

The project site is not located within an area of high landslide risk; however, short-term slope instability may occur during construction. Based on incorporation of recommendations identified in the Updated Geotechnical Investigation and Engineering Evaluation, which include use of a temporary shoring system to stabilize cut slopes during excavation and construction, the project would be consistent with this policy.

Geology and Seismic Hazards, Policy S-23: Coastal Bluffs. Development shall not be permitted near the top of eroding coastal bluffs.

The project site is unique in that the underlying geology consists of a fluvial bluff, which has been buried under artificial fill. The Technical Analysis (Cotton Shires and Associates 2011), which is included in Appendix C (Geology and Soils Background Information) and incorporated by reference in this EIR section, included an assessment of potential coastal erosion hazards, and did not identify any significant adverse effects or safety hazards related to coastal erosion. Therefore, the project is consistent with the intent of this policy.

Geology and Seismic Hazards, Program S-63: Require coastal bluff erosion studies to determine the rate or erosion and the resulting safe distance from the top of the bluff for development, in accordance with the LCP.

Preparation of the EIR included a comprehensive analysis of potential erosion hazards, both short- and long-term. Based on the analysis, the project would not result in a safety issue related to erosion, thus meeting the intention of this Program.

Geologic and Seismic Hazards, Implementation Measures, Standard S-56: For developments in areas of known slope instability, landslides, or slopes steeper than 20 percent, the stability of slopes shall be addressed by registered professionals practicing in their respective fields of expertise.

The applicant submitted technical reports and plans completed by registered engineers, and independently peer reviewed during the EIR analysis, consistent with this implementation measure.

Geologic and Seismic Hazards, Implementation Measures, Standard S-59: Development proposals will be required to mitigate the impacts that their projects contribute to landslides and slope instability hazards on neighboring property, and appurtenant structures, utilities, and roads; such as emergency ingress and egress to the property, and loss of water, power or other lifeline facilities.

Based on incorporation of recommendations identified in the Updated Geotechnical Investigation and Engineering Evaluation, which include use of a temporary shoring system to stabilize cut slopes during excavation and construction, the project would be consistent with this implementation measure and would not destabilize areas adjacent to Studio Drive and the neighboring developed property to the south.

Geologic and Seismic Hazards, Implementation Measures, Standard S-60: Enforce current building code requirements and applicable ordinances and sections of the General Plan that pertain to development on sloping ground.

The County requires compliance with the CBC, Estero Area LUE and LCP, and CZLUO, consistent with this implementation measure. Based on the technical reports peer reviewed and incorporated by reference into this EIR analysis, the project would be consistent with the Safety Element, and no significant impacts would occur.

7. **Valuable Mineral Resource:** The project site is not located in an area designated for mineral extraction, and no valuable minerals are known to occur onsite. Therefore, no significant impacts would occur.

8. **Coastal Hazards.** The potential coastal hazards associated with the proposed residential development include shoreline erosion, wave runup, and coastal flooding.

Draft and Final EIR Analysis: The following erosion hazard, oceanographic flooding hazard, breaking wave elevation, and wave run-up hazard analyses are based on data provided in the Draft and Final EIR.

Erosion Hazard

The shoreline in front of the subject property has been relatively stable over the long term (USGS 2006). On the basis of the USGS study, aerial photograph review spanning 39 years, the elevation of the proposed development, and the presence of hard rock material between the shoreline and the proposed residence:

- there has been very little erosion or retreat of the shoreline over the last four decades;
- a 2.5-foot rise in sea level will likely not result in a significant impact on the erosion rate or the proposed residence; and,
- there is no potential significant marine erosion hazard at the site over the next 100 years.

Therefore, the potential for significant erosion due to sea level rise would not be significant in this location.

Oceanographic Flooding Hazard

The primary hazard due to flooding from ocean waters is storm surge. The highest recorded water elevation on record in the vicinity of Cayucos (Port San Luis) is 7.57 feet NAVD88 and includes all oceanographic effects on sea level except for long-term sea level rise predictions (NOAA 2011). Incorporating a potential sea level rise of 2.5 feet in the next 100 years, the future design maximum sea level would be 10.1 feet NAVD88, which is considered to be in excess of a 100-year recurrence interval water level. The proposed residence would be located at and above an elevation of 16.0 feet NAVD88; therefore, the site would not be adversely affected by flooding from the ocean over the next 100 years.

Breaking Wave Elevation

The project incorporates a cantilevered design. The proposed first floor would be located at elevation +26 feet NAVD88, and will extend ~~a significant distance~~ ocean-ward beyond the basement floor; therefore, the Coastal Hazards and Wave Runup report (GeoSoils, Inc. 2011, 2012) evaluated the potential maximum breaking wave crest elevation. The breaking wave elevation analysis calculated that the maximum wave crest elevation at the project site is approximately +14.5 feet NAVD88, which is well below the proposed cantilevered first floor elevation of +26 feet NAVD88. Therefore, the cantilevered portion of the structure would not be adversely affected by breaking wave forces.

Wave Runup Hazard

A wave runup analysis was performed under extreme (worst-case) design oceanographic conditions including storm surge, sea level rise of 2.5 feet over the next 100 years, and scour of the beach in front of the rock outcropping down to elevation 3.1 feet NAVD88, utilizing a design wave height of 5.5 feet. In this worst-case scenario, the maximum wave runup would be at elevation +22.7 feet NAVD88, and may reach the basement of the proposed residence at +15.0 feet NAVD88 over the next 100 years (GeoSoils, Inc. 2011). However, the runup is characterized as a pulse of water reaching the basement wall rather than a continuous or sustained flow over time. Based on calculations, the depth of the water overtopping the rock outcrop and reaching the residence would be approximately 0.14 foot deep. The runup analysis indicates that the velocity of the wave runup bore will not be sufficient to cause damage to the structure, assuming the basement wall is constructed of steel-reinforced concrete; however, the structure will be subject to spray and splash from wave runup striking the rock outcropping. The rock outcropping at its average elevation of 17 feet NAVD88 would be overtopped by the design wave (5.5 feet) at a rate of about 0.27 cubic feet/second-feet. Based on this low height of water (0.14 foot) and relatively low velocity, the proposed project would not be adversely affected. In addition, based the initial low velocity, and reduction in wave height and velocity following potential contact with the proposed basement wall, any wave refraction would not adversely affect the adjacent property.

In addition to wave runup, the analysis considered exposure to tsunami. Based upon review of historical data and tsunami forecast modeling by the University of Southern California Tsunami Research Center, a 6.5-foot-high tsunami wave occurring at the project site would be a 500-year recurrence interval event. The wave runup analysis used a design wave height of 5.5 feet, which also represents a suitable site-specific tsunami runup at the site.

As proposed, the basement would be located at elevation 15 feet NAVD88, and basement concrete would be reinforced with steel; therefore, wave runup will not adversely impact the proposed residence over the next 100 years. An extreme tsunami may reach as high as the basement, but, for the reasons stated above, a tsunami will not adversely impact the residence. Based on the analysis presented above, and incorporated by reference from the coastal hazards and wave runup analysis report (GeoSoils, Inc. 2011, 2012), no significant impacts related to coastal hazards, including sea level rise, shoreline erosion, wave runup, and coastal flooding would occur, and the proposed residence would neither create nor contribute to erosion, geologic instability, or destruction of the site or adjacent area.

Supplemental Analysis: The following information with regards to coastal hazards is provided as supplemental information supplied during the public hearing, however does not alter the conclusions identified in the Final EIR.

In response to public comments and questions from the San Luis Obispo County Planning Commission, the County's consultant (SWCA and GeoSoils, Inc.) conducted a supplemental analysis, which was included in the Planning Commission Staff Report (April 10, 2014) and public record. The results of the analysis provide clarification, and

support the impact determination identified in the Final EIR. The results of the supplemental analysis are summarized below.

A supplemental *Sea Level Rise and Coastal Hazards Discussion* (GeoSoils, Inc., March 12, 2014) and response to public comment (GeoSoils, Inc., April 4, 2014) were prepared, including a wave runup analysis, which considered extreme (worst-case) design oceanographic conditions including sea level rise (up to 5.5 feet based on California Coastal Commission Draft Sea-Level Rise Guidance), very high tide, storm surge, and scour of the beach down to bedrock. Based on this supplemental analysis, the wave height at the toe of the rock outcrop would be 7.7 feet.

The still water elevation (including 5.5 feet of sea level rise and 7.6-foot very high tide) would be 13.1 feet NAVD88. Wave runup as result of storm surge would be 12.9 feet. Under these extreme conditions, the maximum wave runup would be 26 feet NAVD88 if the bedrock outcropping was not present. In this worst-case scenario, the height of the water overtopping the bedrock outcropping would be 1.06 feet, and the velocity would be 4.76 feet per second. The overtopping rate would be 3.4 cubic feet/second-foot, and would be a pulse of water, not a sustained flow or water elevation. The water would overtop the bedrock outcropping and reach the basement wall at a height of approximately one foot. This condition would occur over a period of one hour during the high tide under the extreme storm surge plus sea water rise estimates.

The velocity of the wave runup bore would not be sufficient to cause damage to the structure, assuming the basement wall is constructed of steel-reinforced concrete, and the foundation set in the underlying bedrock (as proposed by the applicant). Additional features proposed by the applicant include storm/marine windows and doors. In addition, based on the velocity and reduction in wave height following contact with the basement wall, wave refraction would not adversely affect the adjacent property.

Based on review of historical data and tsunami forecast modeling by the University of California Tsunami Research Center, a 6.5-foot high tsunami wave occurring at the project site would be a 500-year recurrence interval event. The County of San Luis Obispo Local Hazard Mitigation Plan (Draft December 2013) identifies tsunami run-up ranging from 9.5 feet to 24.2 feet (100-year and 500-year events, respectively). This run-up estimate includes "astronomical high tides". If a tsunami occurred during a meteorological high tide (storm surge), the runup values would increase to 24 feet to 39 feet above mean sea level (100-year and 500-year events). The plan notes that the probability of this occurring is low.

The analysis considered a design wave height of 7.7 feet, which represents a suitable site-specific tsunami runup at the site. As proposed, the basement would be located at elevation 15 feet NAVD88, and basement concrete would be reinforced with steel and founded in underlying bedrock; therefore, wave runup would not adversely impact the structural integrity of the residence over the next 100 years. An extreme tsunami would reach the residence; however, for the reasons noted above, it would not adversely affect the structure.

Based on the analysis presented above and incorporated by reference from the coastal hazards and wave runup analysis (GeoSoils, Inc.; 2011, 2012, 2014), no significant impacts related to coastal hazards, including sea level rise, shoreline erosion, wave runup, and coastal flooding would occur, and the proposed residence would neither

create nor contribute to erosion, geologic instability, or destruction of the site or adjacent area.

G. Noise (Class III)

1. **Generate Increases in the Ambient Noise Level.** The project proposes construction of one single-family residence in an existing neighborhood. The project would result in the addition of some vehicle trips on local roads (approximately 9.6 per day), but the traffic noise associated with a single residence is not considered significant. Therefore, the project would not generate significant increases in the ambient noise levels for adjoining areas.

   The project would also generate construction-related noise and vibration associated with construction and development of the structure. However, the project does not propose any significant sources of man-made vibration (i.e., sonic booms, blasting, pile driving, pavement breaking, and demolition). Per the County's Land Use Ordinance, §23.06.042d, construction noise between the hours of 7:00 a.m. and 9:00 p.m. on Mondays through Fridays, and 8:00 a.m. and 5:00 p.m. on Saturdays and Sundays, is exempt from control or mitigation. This type of noise is considered a short-term impact and *less than significant* (Class III). Therefore, the project is not expected to expose people to severe noise or vibration, or to result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity.

2. **Severe Noise or Vibration.** The proposed project is not located within any airport land use plan or two miles of a public or private airstrip, and would not expose people to excessive noise levels, therefore no impacts are expected to occur.

H. Public Services and Utilities

1. **Effect or Result in the Need for New/Altered Public Services**. The proposed project would potentially result in additional demand on public services, including emergency protection, schools, roads, solid waste disposal, parks, water supply and wastewater treatment systems. However, development is limited to one single-family residence and it is not likely that any public service or utility would be significantly impacted by the slight increase in service demand. The project applicant would pay all applicable school and public facility fees which would reduce these impacts to a less then significant level.

   The proposed project is not located within a high fire severity zone, and response times are generally two to three minutes. Although the Cayucos Fire Protection District and County Sheriff's Office are considered understaffed for the populations they serve, the addition of a single residence within an existing neighborhood would not have a significant effect upon fire or police protection, and no new or altered emergency services would be required. Area schools, roads and parks are operating at acceptable levels of service, and the project will be served by private solid waste disposal, water, and wastewater systems, all of which have sufficient capacity to accommodate the proposed residential use. Therefore, no significant impact on these services would result from the project.

All stormwater would be handled onsite, either collected and used as gray water for toilet flushing and landscaping or directed westward onto the beach. Therefore, no new stormwater drainage facilities or expansion of existing facilities would be required. County landfills have sufficient permitted capacity to accommodate the small increase in solid waste resulting from the proposed project. Applicable water service providers and wastewater treatment facilities are capable of supporting the proposed development and no new entitlements, new facilities or expansion of existing facilities would be required. The project would comply with all statutes and regulations related to solid waste. The project would not adversely affect a community water service provider or community wastewater service provider, therefore no impacts are expected to occur.

2. **Wastewater.** The project would connect to the existing sewer system managed by the Cayucos Sanitary District, and would not require an onsite system subject to the Central Coast Basin Plan. The Cayucos Sanitary District is currently operating at acceptable levels and can accommodate the proposed project (one residence).

   No significant adverse impacts would occur as a result of the proposed project, and no mitigation measures are necessary.

I. Recreation (Class III)

1. **Increase Use of Recreational Resources.** The project proposes the development of one single-family residence in an existing developed residential area, and would not create a significant increase in the use or demand of recreational areas or facilities. The project applicant will pay all applicable public facility fees to address increased demand on area recreational facilities. Therefore, potential impacts would be *less than significant* (Class III).

2. **Affect Access to Recreation**. Beach access is provided directly adjacent to the project site, and lateral access would be provided from the toe of the rock outcropping to the westward property line or the sandy portion of the lot. Access to trails, parks or other recreational opportunities would not be impacted by the proposed development. The future Morro Bay to Cayucos connector bike path would be located along Studio Drive, and development of the project would not affect this project, because it is limited to the existing residential parcel boundaries. The project does not include any components for the development of recreational facilities that may have an adverse physical effect on the environment. No significant adverse impacts would occur as a result of the proposed project, and no mitigation measures are necessary.

J. Transportation, Circulation, and Traffic (Class III)

1. **Increase Vehicle Trips / Level of Service.** The project proposes one single-family residence within an existing residential area with all roads operating at acceptable levels. While the project would add trips to the local circulation system (approximately 9.6 per day), all roads in the area are operating at acceptable levels and are capable of accommodating the small increase in trips. A referral was sent to the County Department of Public Works requesting their review of the project. They had no comments related to traffic concerns associated with the proposed project other than that an encroachment permit would be required for the new driveway.

Therefore, no significant increase to local or areawide circulation systems is anticipated, and potential impacts would be *less than significant* (Class III).

2. **Unsafe Conditions.** The project includes a private driveway, which would connect to Studio Drive. Based on review by the County Department of Public Works, a standard Encroachment Permit will be required. The project does not include any features that would result in unsafe traffic conditions; therefore, potential impacts would be *less than significant* (Class III).

3. **Emergency Access.** The project consists of a single-family residence on an existing lot. The site is accessible to emergency services by Studio Drive, which connects to Highway 1, and occupants have clear access out of the area. Potential impacts related to emergency access would be *less than significant* (Class III).

4. **Parking Capacity.** Sufficient parking for the proposed residential development is proposed at the project site, including a private driveway, carport, and garage. Therefore, potential impacts related to parking capacity would *be less than significant* (Class III).

5. **Internal Traffic Circulation.** The project is a single-family residence; therefore this threshold does not apply and no impact would occur.

6. **Alternative Transportation Policies Plans, and Programs**. Transportation and circulation policies relevant to the proposed project exist in local and state documents. These documents generally encourage the development of alternative transportation as a means to reduce traffic congestion and increase safety, among other things. The policy documents reviewed as part of this EIR section include the County's Estero Area Plan and Bikeways Plan. The proposed project is *consistent* with these plans because it consists of a single-family residence located within an existing residential neighborhood, with access to pedestrian and bicycle paths.

7. **Air Traffic Patterns.** The project is not located within two miles of a public or private airport or airstrip, and is not located at an elevation that would affect air traffic patterns. Modern solar panel technology incorporates anti-glare coatings that absorb, rather than reflect, sunlight. Therefore, the project would not affect air traffic, and potential impacts would be *less than significant* (Class III).

K. Water Resources (Class III)

1. **Change the Quality of Groundwater**. The project site is not located in an area where development would affect the quality of groundwater resources; therefore, no impact would occur.

2. **Change the Quantity or Movement of Surface or Groundwater.** The project would not create a demand of water exceeding the capacity of the water service provider, and would not require a significant level of additional groundwater pumping by the provider to serve the project. Therefore, the project would not change the quantity or movement of groundwater.

   As noted above, the project includes improvements to the existing stormwater drain onsite. The project has been reviewed by the County Department of Public Works, and the proposed plan has been approved at a preliminary level by County staff.

Stormwater currently flows into a County drain, and onto the beach via the stormwater system or surface flow. The proposed system would direct water through the project site and onto the beach. Energy dissipaters are included to slow down storm water flow and minimize the potential for erosion at the outlet. Based on the proposed plan, and compliance with existing regulations identified in the County CZLUO, potential impacts would be *less than significant* (Class III).

3. **Adversely Affect Community Water Service Provider.** Long-term use of a single-family residence is expected to require approximately 0.270 afy, or 4,375.8 gallons/month (City of Santa Barbara 1989; County of San Luis Obispo 2011). As noted above, the project would be served by CSA 10A, which has adequate water supply to serve the project. A preliminary will-serve letter was issued for the project in 2006. Therefore, potential impacts would be *less than significant* (Class III).

6.0 FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT BUT MITIGABLE (CLASS II)

Pursuant to §15091(a)(1) of the CEQA Guidelines, the ~~Planning Commission~~Board of Supervisors finds that, for each of the following significant effects as identified in the Final EIR, changes or alterations (mitigation measures) have been required in, or incorporated into, the project which avoid or substantially lessen each of the significant environmental effects as identified in the Final EIR. The significant effects (impacts) and mitigation measures are stated fully in the Final EIR. The following are brief explanations of the rationale for this finding for each impact:

6.6 AESTHETIC RESOURCES

AES Impact 1	
Visibility of night lighting would affect views resulting in a direct long-term impact.	
Mitigation	**AES/mm-1** Prior to issuance of the building permit, the applicant shall submit interior and exterior lighting plans to the Department of Planning and Building for review and approval consistent with the following: a. The point source of all exterior lighting shall be shielded from off-site views, including beach areas. b. All required security lights shall utilize motion detector activation. c. Light trespass from exterior lights shall be minimized by directing light downward and utilizing cut-off fixtures or shields. d. Lumination from exterior lights shall be the lowest level allowed by public safety standards.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The EIR analysis assumes that exterior lighting would be included as part of the project. Because of the project's configuration and its proximity to public roadways and the beach, night lighting would be seen from the surrounding area. Unshielded light sources or bright-lights reflected on exterior walls would result in potential impacts. Fog is a common atmospheric condition of the area and increases the "glow-effect" as potentially seen from great distances. Although existing night lighting can be seen in the adjacent neighborhood, the project would increase the visibility of night lighting in the area.

6.7 AIR QUALITY

AQ Impact 1	
Construction of the proposed project would generate fugitive dust, which could become a nuisance to local residents and businesses in proximity to the construction site.	
Mitigation	AQ/mm-1 Prior to initiation of construction, the project applicant shall implement the following dust control measures: a. Reduce the amount of the disturbed area where possible; b. Use water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 miles per hour. Reclaimed (non-potable) water should be used whenever possible;

AQ Impact 1	
	c. All dirt stockpile areas should be sprayed daily as needed; and d. All roadways, driveways, sidewalks, etc., to be paved should be completed as soon as possible, and building pads should be lain as soon as possible after grading unless seeding or soil binders are used.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project is located in proximity to sensitive surrounding land uses, and homeowners in the vicinity of the proposed project have expressed concern related to the impacts construction activities would have on surrounding properties. Construction activities can generate fugitive dust, which could be a nuisance to residents and businesses in proximity to the project site. Dust complaints could result in a violation of the APCD's 402 Nuisance Rule. In addition, operation of construction equipment, including equipment idling, generates diesel particulate matter, which can have an adverse effect on sensitive receptors.

AQ Impact 2	
Use of construction equipment would generate diesel particulate matter, potentially resulting in an adverse effect to sensitive receptors within 1,000 feet of the project site.	
Mitigation	**AQ/mm-2** Prior to issuance of construction permits, the applicant shall include the following measures on applicable grading and building plans: **Idling Restrictions near Sensitive Receptors for Both On and off-Road Equipment** a. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors; b. Diesel idling within 1,000 feet of sensitive receptors is not permitted; c. Use of alternative fueled equipment is recommended whenever possible; and, d. Signs that specify the no idling requirements must be posted and enforced at the construction site. **Idling Restrictions for On-road Vehicles** a. Section 2485 of Title 13, the California Code of Regulations limits diesel-fueled commercial motor vehicles that operate in the State of California with gross vehicular weight ratings of greater than 10,000 pounds and licensed for operation on highways. It applies to California and non-California based vehicles. In general, the regulation specifies that drivers of said vehicles: 1. Shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location, except as noted in Subsection (d) of the regulation; and, 2. Shall not operate a diesel-fueled auxiliary power system (APS) to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5.0 minutes at any location when within 100 feet of a restricted area, except as noted in Subsection (d) of the regulation. Signs must be posted in the designated queuing areas and job sites to remind drivers of the 5 minute idling limit. The specific requirements and exceptions in the regulation can be reviewed at the following web site: www.arb.ca.gov/msprog/truck-idling/2485.pdf. **Idling Restrictions for off-Road Equipment** a. Off-road diesel equipment shall comply with the 5 minute idling restriction identified in Section 2449(d)(3) of the California Air Resources Board's In-Use off-Road Diesel regulation: www.arb.ca.gov/regact/2007/ordiesl07/frooal.pdf. b. Signs shall be posted in the designated queuing areas and job sites to remind off-

AQ Impact 2	
	road equipment operators of the 5 minute idling limit.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project is located in proximity to sensitive surrounding land uses, and homeowners in the vicinity of the proposed project have expressed concern related to the impacts construction activities would have on surrounding properties. Construction activities can generate exhaust from equipment, which could be a nuisance to residents and businesses in proximity to the project site. In addition, operation of construction equipment, including equipment idling, generates diesel particulate matter, which can have an adverse effect on sensitive receptors

6.8 BIOLOGICAL RESOURCES

BR Impact 1	
Construction of the project may have an adverse impact on special-status species and their habitats, including off-site use of equipment, storage of materials, and inadvertent transport of debris or discharge of oils, fuels, and other pollutants into the beach area.	
Mitigation	**BR/mm-1** Prior to issuance of construction permits, the applicant shall submit documentation verifying designation of a qualified environmental monitor for all measures requiring environmental mitigation to ensure compliance with Conditions of Approval and EIR mitigation measures. The monitor shall be responsible for: (1) ensuring that procedures for verifying compliance with environmental mitigations are followed; (2) lines of communication and reporting methods; (3) daily and weekly compliance reporting; (4) construction crew training regarding environmentally sensitive areas; (5) authority to stop work; and (6) action to be taken in the event of non-compliance. Monitoring shall be at a frequency and duration determined by the affected natural resource agencies (e.g., USACE, CDFW, RWQCB, California Coastal Commission, USFWS, and the County). **BR/mm-2** Prior to the initiation of construction, the environmental monitor shall conduct environmental awareness training for all construction personnel. The environmental awareness training shall include discussions of sensitive habitats and animal species in the immediate area. Topics of discussion shall include: general provisions and protections afforded by the Endangered Species Act; measures implemented to protect special-status species; review of the project boundaries and special conditions; the monitor's role in project activities; lines of communications; and procedures to be implemented in the event a special-status species is observed in the work area. **BR/mm-3** At the time of application for construction permits all grading plans shall clearly show the location of project delineation fencing, including protection fencing surrounding the Monterey cypress tree on the southern property boundary. **BR/mm-4** Prior to the initiation of construction, the applicant's contractors and the environmental monitor shall coordinate the placement of project delineation fencing throughout the work areas. The environmental monitor shall field fit the placement of the project delineation fencing to minimize impacts to sensitive resources. The project delineation fencing shall remain in place and functional throughout the duration of the project. During construction, no project related work activities shall occur outside of the delineated work area. **BR/mm-5** At the time of application for grading permits, all applicable plans shall clearly show stockpile and staging areas. Stockpiles and staging areas shall not be placed in

BR Impact 1	
	areas that have potential to experience significant runoff during the rainy season. All project-related spills of hazardous materials within or adjacent to project sites shall be cleaned up immediately. Spill prevention and cleanup materials shall be on-site at all times during construction. The staging areas shall conform to standard BMPs applicable to attaining zero discharge of storm water runoff. At a minimum, all equipment and vehicles shall be checked and maintained on a daily basis to ensure proper operation and to avoid potential leaks or spills. Maintenance, cleaning, and refueling of equipment and vehicles shall not be permitted onsite, within adjacent beach areas, or on Studio Drive. **BR/mm-6** Prior to issuance of construction permits, the applicant shall submit a detailed sediment and erosion control plan for approval, which shall address both temporary and permanent measures to control erosion and reduce sedimentation. Erosion and soil protection shall be provided on all cut and fill slopes. Revegetation shall be facilitated by mulching, hydro-seeding or other methods, and shall be initiated as soon as possible after completion of grading, and prior to the onset of the rainy season (October 15). Permanent revegetation and landscaping shall emphasize native shrubs, and trees, to improve the probability of slope and soil stabilization without adverse impacts to slope stability due to irrigation infiltration and long-term root development. All plans shall show that sedimentation and erosion control measures are installed prior to any other ground disturbing work.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project site is located on beachfront property, immediately west of Studio Drive. The site is covered with common iceplant on the upper slope, and sea rocket (invasive weed) on the beach sands. The site does not include any features suitable for aquatic species. The sandy beach area provides foraging habitat for a variety of birds, including western snowy plover (*Charadrius alexandrinus*), California black rail (*Laterallus jamaicensis coturniculus*), California brown pelican (*Pelecanus occidentalis*), and California least tern (*Sterna antillarum browni*). The mature cypress tree (to remain) and adjacent pine (to be removed) along the southern property boundary may provide tree nesting opportunities for birds. Due to the location of the project site and presence of suitable habitat in the area, precautionary measures are recommended to ensure impacts to snowy plover and other bird species are avoided. The project site provides suitable habitat for coast horned lizard and other common reptiles. Grading activities could result in direct take of coast horned lizard and other reptiles if present. Direct take may include being struck by equipment, entrapped in stockpiled materials or trenches, or trampled or collected by construction personnel. Old Creek provides habitat for a variety of special-status species noted above. The project is located approximately 600 feet from the creek, and would not directly affect the ESHA or special-status species within the creek. Inadvertent impacts to special-status species may occur including use of equipment and storage of materials outside the property boundary, and leaks, spills, and debris adversely affecting the beach areas surrounding the parcel. Degradation of habitat would have an adverse effect on special-status species, and other wildlife in the area.

BR Impact 2	
Construction activities conducted during the nesting season (March through September) could directly or indirectly impact nesting western snowy plover and other bird and bat species.	
Mitigation	**BR/mm-7** Upon application for construction permits, the following measure shall be included on all applicable plans: The applicant shall avoid ground disturbing activities

BR Impact 2	
	conducted during the snowy plover nesting season to the extent feasible. If work activities must occur during the nesting season the following measures shall be taken: a. Prior to installation of the project delineation fencing and the commencement of site grading, a qualified biologist shall conduct a series of pre-construction nesting bird surveys for western snowy plover. Surveys shall be conducted every other day for two weeks prior to any project related disturbances. b. Surveys for snowy plovers shall include walking through all potential nesting and foraging habitat within 300 feet of the site on each survey day. The survey area shall include all available snowy plover nesting habitat within 300 feet of anticipated project activities. c. The number of snowy plover individuals observed and their activities (e.g. nesting, foraging, resting, etc.) shall be documented. All documented occurrences would be reported to USFWS and documented on the CNDDB. d. If nesting activity is identified, all project activities within 300 feet of the nest shall be delayed until the nesting activity has ceased. e. During construction, the environmental monitor shall conduct snowy plover surveys twice a week (preferably two to three days apart). **BR/mm-8** Upon application for construction permits, the following measure shall be included on all applicable plans: If commencement of construction begins between March and September, the environmental monitor shall conduct pre-construction nesting bird surveys. If nesting activity is identified, the following measures shall be implemented: a. If active nest of common passerine or shorebird species' are observed in the work area or within 100 feet of the work area, construction activities shall be modified and or delayed as necessary to avoid direct take or indirect disturbance of the nests, eggs, or young. b. If active nest sites of raptors or other special-status species are observed within the work area or 300 feet of the work area, the environmental monitor shall establish a suitable buffer around the nest site. Construction activities in the buffer zone shall be prohibited until the young have fledged the nest and achieved independence. c. Active raptor or special-status species nests should be documented by a qualified biologist and a letter report should be submitted to the County, USFWS, and CDFW, documenting project compliance with the MBTA and applicable project mitigation measures.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The sandy beach area provides foraging habitat for a variety of birds, including western snowy plover (*Charadrius alexandrinus*), California black rail (*Laterallus jamaicensis coturniculus*), California brown pelican (*Pelecanus occidentalis*), and California least tern (*Sterna antillarum browni*). The mature cypress tree (to remain) and adjacent pine (to be removed) along the southern property boundary may provide tree nesting opportunities for birds. Due to the location of the project site and presence of suitable habitat in the area, precautionary measures are recommended to ensure impacts to snowy plover and other bird species are avoided.

BR Impact 3	
The proposed project could result in direct take of coast horned lizard during project grading and construction.	
Mitigation	**BR/mm-9** Upon application for construction permits, the following measure shall be included on all applicable plans: Prior to site grading, the environmental monitor shall conduct a survey for coast horned lizard and other reptiles. The surveyor shall utilize hand

BR Impact 3	
	search methods in areas of disturbance where coast horned-lizards are expected to be found (e.g., under shrubs, other vegetation, or debris). Any lizards located during this survey should be safely removed from the construction area and placed in suitable habitat.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project site provides suitable habitat for coast horned lizard and other common reptiles. Grading activities could result in direct take of coast horned lizard and other reptiles if present. Direct take may include being struck by equipment, entrapped in stockpiled materials or trenches, or trampled or collected by construction personnel. Old Creek provides habitat for a variety of special-status species noted above. The project is located approximately 600 feet from the creek, and would not directly affect the ESHA or special-status species within the creek. Inadvertent impacts to special-status species may occur including use of equipment and storage of materials outside the property boundary, and leaks, spills, and debris adversely affecting the beach areas surrounding the parcel. Degradation of habitat would have an adverse effect on special-status species, and other wildlife in the area.

BR Impact 4	
Construction of the project may impact the root zone or result in inadvertent disturbance of a mature cypress tree.	
Mitigation	Implement **BR/mm-3** and **BR/mm-4**.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	One cypress tree is located adjacent to the project site, which is considered an important native species along the California coastline. This tree would remain. One small pine tree would be removed; however, this species is not considered native or important vegetation in this location. No other native or important vegetation would be directly affected by the project. Mitigation is recommended to ensure protection of the cypress tree.

6.9

6.106.9 GEOLOGY AND SOILS

GS Impact 1	
The proposed residence would be exposed to the effects of liquefaction during a ground-shaking event.	
Mitigation	**GS/mm-1** Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Engineering Evaluation (Shoreline Engineering 2012) and Updated Geotechnical Investigation (GSI Soils, Inc.) dated December 27, 2011, specifically the recommendations identified in Section 5.2 – Preparation of the Building Pad, Section 5.3 – Structural Fill, Section 5.4 – Drilled Piers, Section 5.5 – Conventional Deepened Foundation, Section 5.6 – Slab Construction, and Section 5.9 – Surface and Subsurface Drainage.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).

GS Impact 1	
Supportive Evidence	Soil liquefaction is a phenomenon in which a saturated, cohesionless, near-surface soil layer loses strength during cyclic loading (such as typically generated by earthquakes). During the loss of strength, the soil acquires "mobility" sufficient to permit both horizontal and vertical ground movements. Soils that are most susceptible to liquefaction are clean, loose, saturated, uniformly graded, fine-grained sands that are generally located within 50 feet depth beneath the ground surface. Gravels with similar characteristics and non-plastic clays and silts have also been shown to be susceptible to liquefaction. Based on the potential presence of perched water conditions during wet winter months in the upper 5 feet of soils above the dense bedrock materials, the current potential for liquefaction is moderate to high. This potentially significant impact can be successfully addressed and mitigated via implementation of typical geotechnical recommendations for site processing, grading, and/or foundation design. Therefore, the resulting liquefaction potential at the project site would be low, and would generally result in minor to cosmetic damage to the proposed structure, and total settlements would be approximately 0.5 inch (GSI Soils, Inc. 2012). This amount of settlement is considered tolerable for the proposed project, and is indicative of liquefaction in the negligible category. Therefore, potential impacts can be mitigated to a *less than significant* level (Class II).

GS Impact 2	
The proposed residence would be exposed to the effects of ground lurching and differential compaction during a ground-shaking event.	
Mitigation	**GS/mm-2** Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.) dated December 27, 2011, and specifically the following: a. All surface and subsurface deleterious materials shall be removed from the proposed building area and disposed of offsite. This includes, but is not limited to, any buried utility lines, loose fills, debris, building materials, and any other surface and subsurface structures. b. Voids left from site clearing shall be cleaned and backfilled as recommended for structural fill. c. Once the site has been cleared, the exposed ground surface shall be stripped to remove surface vegetation and organic soil.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The potential for lurching and differential compaction (densification) of the existing undocumented fill is considered to be high due to the generally loose nature of the soil. This potential impact can be mitigated by removal and/or removal and backfilling as structural fill (GSI Soils, Inc. 2011). Based on compliance with these project-specific recommendations, potential impacts can be mitigated to *less than significant* (Class II).

GS Impact 3
Grading and excavation required for the construction of the project would result in significant, short-term, adverse impacts related to erosion and down-gradient sedimentation.

GS Impact 3	
Mitigation	*Implement* ***BIO/mm-4****,* ***BIO/mm-5****, and* ***BIO/mm-6****.*
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	Implementation of the project will require grading and removal of sand, soil, and vegetation. Grading activities would disturb approximately 3,000 square feet of the 3,445-square-foot parcel, including 400 cubic yards of cut (foundation) and 150 cubic yards of fill (driveway). The average depth of cut would be 5 feet (minimum 1 foot, maximum 12 feet). Approximately 250 cubic yards of soil would be exported offsite. During construction, exposed soils may result in erosion during rain events, or wave runup. Compliance with the County CZLUO and implementation of project-specific erosion-control measures are necessary to retain soils onsite and avoid down-gradient sedimentation into the Pacific Ocean. Based on compliance with existing regulations, and recommended mitigation measures, potential short-term impacts would be mitigated to a *less than significant* level (Class II).

GS Impact 4	
The creation of steep cut slopes during site preparation and grading associated with construction of the proposed residence would result in short-term slope instability.	
Mitigation	GS/mm-3 Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the following: recommendations for slope stability identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.10 – Temporary Excavations and Slopes; and Shoring Detail prepared by Shoreline Engineering (January 2012, updated September 20, 2012). Plans shall demonstrate how construction would be conducted such that no activity would compromise the neighboring structure. Construction of all site preparation and shoring activities shall be monitored by the project Engineer of Record, and daily monitoring reports shall be prepared and submitted to the County Department of Planning and Building on a weekly basis.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	Construction cuts for basement retaining walls may exceed 12 feet in depth on the south and east sides of the proposed residence. The potential for instability of temporary (construction) slopes is a significant concern, and there is a moderate to high potential for temporary slope instability impacting the project site and the adjacent property. To address this issue, the applicant proposes to retain temporary slopes with a shoring system consisting of soldier piles and steel plate lagging. The shoring system would be removed following permanent stabilization of the slope. Based on implementation of this strategy, and compliance with the recommendations presented in the *Updated Geotechnical Investigation* (GSI Soils, Inc. 2011), potential short-term impacts would be *less than significant* (Class II).

GS Impact 5	
Beach sand scour caused by heavy surf may periodically and temporarily create unstable slopes adjacent to the proposed residence.	
Mitigation	**GS/mm-4** Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which include the use of deepened pier foundations

GS Impact 5	
	identified in the Engineering Evaluation (Shoreline Engineering, Inc.), dated January 2012, and Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.2 – Preparation of Building Pad, Section 5.4 – Drilled Piers, and Section 5.5 – Conventional Deepened Foundation.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	Construction of the proposed driveway will result in structural fill placement against the existing 2:1 gradient fill slope of Studio Drive, with the fill being supported by retaining walls. Upon completion of the project, no significant slopes will exist that could pose a slope instability hazard to the property. Significant scour of beach sand due to heavy surf may temporarily create a steep bedrock slope ocean-ward of the existing bedrock outcropping. Provided the proposed residence is constructed on deepened pier foundations as proposed, temporary beach scour should not pose a slope instability hazard to the residence.

GS Impact 6	
The proposed residence would be constructed on soils with a high expansion potential, resulting in a potentially significant long-term impact.	
Mitigation	**GS/mm-5** Prior to issuance of a construction permit, the applicant shall submit grading and construction plans, which incorporate the recommendations identified in the Updated Geotechnical Investigation (GSI Soils, Inc.), dated December 27, 2011, specifically the recommendations identified in Section 5.1 – Clearing and Stripping, Section 5.2 – Preparation of Building Pad, and Section 5.3 – Structural Fill.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	A single expansion index test was conducted by GSI Soils, Inc. (2007) on a sandy clay sample from Boring B-2 at 6 feet. The reported expansion index was 92, which indicates a high expansion potential. The material in B-2 at this depth is likely weathered mudstone bedrock. Based on the geotechnical report, onsite sand soils free of organic and deleterious material are suitable for use as non-structural fill below the select fill cap. Structural fill using onsite inorganic soil or approved imported soil should be placed in layers, conditioned, and compacted, pursuant to engineer's specifications. Therefore, potentially significant impacts related to expansive soil can be mitigated to *less than significant* (Class II).

GS Impact 7	
The proposed stormwater drainage plan may result in erosion down-gradient of the proposed drain outlet.	
Mitigation	**GS/mm-6** Prior to issuance of grading and construction permits, the applicant shall submit a drainage plan for review and approval by the County Department of Public Works. The drainage plan shall be coordinated with the sedimentation and erosion control plan, be consistent with CZLUO §23.050.036 and 040, and specifically include engineered energy dissipators and controls that would limit peak runoff to pre-development levels.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).

GS Impact 7	
Supportive Evidence	The applicant's proposed site drainage improvements would convey both Studio Drive runoff and driveway runoff to a drainage exit structure, which would outlet into a natural drainage swale. The natural drainage channel consists of highly erodible sands, and erosion in the channel has been accelerated by foot traffic from people accessing Morro Strand State Beach from Studio Drive. The swale would incorporate bollard style energy dissipators and a gravel/cobble invert, which are intended to reduce stormwater flow velocity and erosion potential. Rainfall from the residence roof is proposed to be collected by a roof gutter system and held in a cistern for gray water use and landscape irrigation. Construction of the proposed impermeable concrete driveway would result in an increase in surface runoff onsite, which increases the potential for erosion in the natural drainage swale. This impact can be mitigated through appropriate civil engineering drainage design. CZLUO §23.05.050 requires a Drainage Plan for development located on a site adjacent to any coastal bluff, or if the project may change the offsite drainage pattern. Based on the location of the project on the beach-side of Studio Drive, and proposed changes to the existing stormwater system, a Drainage Plan would be required, which would be based on the preliminary drainage plan summarized above. The proposed project would not result in substantial onsite or offsite flooding, because stormwater would continue to flow west towards the Pacific Ocean (similar to existing conditions, which do not result in flooding), and would be filtered and dissipated by the proposed system. Based on review of the preliminary drainage plan, compliance with the CZLUO, and incorporation of mitigation identified below, potential long-term impacts would be mitigated to a *less than significant* level (Class II).

6.116.10 NOISE

N Impact 1	
Construction of the proposed project would potentially expose people to transportation-related noise levels that exceed the County Noise Element thresholds.	
Mitigation	**N/mm-1** Upon application for building permits, the project applicant shall include in the project design the following standard mitigation measures for interior noise mitigation provided in the Noise Element for levels in the 60-65 dBA range: a. Air conditioning or a mechanical ventilation system; b. Windows and sliding glass doors mounted in low air infiltration rate frames (0.5 cubic feet per minute or less, per American National Standards Institute [ANSI] specifications); and, c. Solid core exterior doors with perimeter weather stripping and threshold seals.
Findings	After implementation of the mitigation measure, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The project proposes a noise sensitive use within the vicinity of Highway 1. Per the County Noise Element, 60 dBA is considered the maximum acceptable exterior noise exposure level for residential uses and 45 dBA is the maximum acceptable exposure level for interior uses. Uses within this range will not require mitigation. The eastern boundary of the project site is located approximately 160 feet from the centerline of Highway 1. The topography between the highway and the site consist of generally flat areas to Studio Drive, and then the property slopes down several feet (approximately 5 to 8 feet) from Studio Drive to the beach. According to the County Noise Element contour maps, the 65 dBA range extends from the centerline of the highway 209 feet west. Therefore the easternmost 50 feet of the project site is located within the 65 dBA range, and the remainder is located within the 60 dBA range. The project has been designed to provide a noise buffer between Highway 1 and the

N Impact 1	
	proposed living space. The project proposes a driveway and parking garage on the eastern portion of the site, which are not considered outdoor uses subject to the 60 dBA limit. The living area is also proposed below the grade of the highway by approximately 8 to 10 feet. Because the topography of the subject lot is below the street elevation, the ground will buffer most of the noise from Highway 1, thereby allowing for a minimal impact from noise to the livable areas of the home. In addition, the project would conform to the latest edition of the Uniform Building Code (UBC); normal construction practices in the Code would provide a noise level reduction of approximately 15 dBA (County of San Luis Obispo 1992), potentially bringing resultant noise levels within the interior 45 dBA threshold. However, because a portion of the project site is located in an area that currently exceeds Noise Element thresholds, and normal construction practices and natural buffers may be insufficient to bring noise levels within acceptable ranges, some mitigation may be necessary. The County Noise Element recommends standardized mitigation measures for reducing interior noise levels in the 60-65 dBA range. These measures are referenced in the FEIR and County Noise Element.

6.12.6.11 WATER RESOURCES

WAT Impact 1	
The project would include construction activities that would require ground disturbance and use of heavy equipment, which may result in the discharge of sediment and other pollutants, potentially affecting surface water quality.	
Mitigation	**WAT/mm-1** Upon application for construction permits, the applicant shall submit grading and construction plans showing BMPs, and shall implement BMPs during grading and construction activities. Best Management Practices (BMP's) shall include, but not be limited to, the following: a. Erosion control barriers shall be applied, such as silt fences, hay bales, drain inlet protection, and gravel bags; b. Disturbed areas shall be stabilized with vegetation or hard surface treatments upon completion of construction in any specific area. c. All inactive disturbed soil areas are required to be stabilized with both sediment and temporary erosion control prior to the onset of the rainy season (October 15 to April 15). **WAT/mm-2** Prior to issuance of grading and construction permits, the applicant shall submit a copy of the Regional Water Quality Control Board (RWQCB)-issued stormwater construction permit. The permit shall be on-site during all major grading and construction activities. Implement **BR/mm-1**, **BR/mm-5**, and **BR/mm-6**.
Findings	After implementation of the mitigation measures, the proposed project impacts would be *not significant with mitigation* (Class II).
Supportive Evidence	The Clean Water Act has established a regulatory system for the management of storm water discharges from construction, industrial and municipal sources. The State Water Resources Control Board (SWRCB) has adopted a National Pollutant Discharge Elimination System (NPDES) Storm Water General Permit, which requires the implementation of a Storm Water Prevention Pollution Plan (SWPPP) for discharges regulated under the SWRCB program. Currently, construction sites of 1 acre and greater may need to prepare and implement a SWPPP that focuses on controlling storm water runoff. The RWQCB, the local

WAT Impact 1	
	extension of the SWRCB, currently monitors these SWPPPs. Based on review by the RWQCB, the applicant will be required to obtain a stormwater construction permit due to the project's proximity to surface waters (Pacific Ocean). Proposed grading activities would disturb soil and sand, and potentially result in off-site sedimentation. Standard erosion and sedimentation control measures would be required, including staking or flagging the development footprint; use of fiber rolls and silt fencing to retain soil and sand on-site; covering soil stockpiles; and restoration and revegetation of disturbed soils. Implementation of these measures would ensure avoidance of adverse effects to water quality. The project includes removal of the existing County storm drain, and construction of a new storm water management system, including an inlet with a filter and outlet with energy dissipaters. Stormwater would continue to flow onto the beach area to the northwest. Discharge of sediment, hydrocarbons, and other pollutants from the roadway into stormwater and drainage infrastructure (which eventually discharge into surface waters) would affect water quality. Implementation of BMPs and Low Impact Design (LID) techniques consistent with CZLUO §23.05.050.e(1) (Water Runoff, Best Management Practices – Residential development) would avoid or minimize the project's contribution to water quality issues affecting the Pacific Ocean. Additional mitigation is included under the Biological Resources analysis, including BR/mm-5 (stockpile and staging areas, management of hazardous materials, and implementation of BMPs) and BR/mm-6 (erosion and sedimentation control). In addition, an environmental monitor would be present to verify and document compliance with mitigation measures related to the protection of biological resources, including aquatic habitat and surface waters (BR/mm-1). The project includes a preliminary drainage plan, which has been reviewed and approved by the County Department of Public Works. In the long-term, the project would not result in any significant impacts to water quality, because the proposed stormwater system includes energy dissipaters that would allow stormwater to continue flowing onto the beach in a non-erosive manner.

7.0 FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT AND UNAVOIDABLE

No significant and unavoidable impacts (Class I) were identified for the proposed project.

8.0 CUMULATIVE AND GROWTH INDUCING IMPACTS

8.1 CUMULATIVE IMPACTS

State CEQA *Guidelines* §15355 defines cumulative impacts as

> *"two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts". Further, "the cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time."*

The Guidelines require the discussion of cumulative impacts to reflect the severity of the impacts and their likelihood of occurrence. However, the discussion need not be as detailed as the analysis of impacts associated with the project, and should be guided by the rule of reason. Cumulative impacts associated with this project are discussed in the topical analysis sections provided in Chapter 4 of the Final EIR.

8.1.1 Air Quality (Class III)

The cumulative study area for air quality impacts is the South Central Coast Air Basin (SCCAB). The project would contribute criteria pollutants during project construction and long-term operational use, including ozone precursors and particulate matter. No major projects are proposed in the immediate vicinity of the project site; however, a number of large development projects are currently under review by the County, and cities within the county, including mixed-use, residential, commercial, and solar energy projects. These projects may be under construction simultaneously with the project and, in the long term, would be generating similar air emissions due to use of construction equipment, increased traffic trips, and energy use.

Depending on construction schedules and actual implementation of projects in the air basin, generation of fugitive dust and pollutant emissions during construction could result in short-term increases in air pollutants. Analysis conducted specifically for this project concluded that implementation of the proposed project would not significantly contribute to cumulative long-term operational air quality impacts because it would not exceed the daily ROG+NO_x threshold. GHG impacts, including those described above, all contribute cumulatively with those produced worldwide, to affect climate change. Compliance with identified air quality, energy efficiency, and water conservation mitigation measures would reduce the project's contribution to cumulative GHG emissions, and subsequent climate change. Cumulative effects would be *less than significant* (Class III).

8.1.2 Biological Resources (Class III)

No major projects are scheduled to be constructed during a similar timeframe as the project. The closest known project is the Morro Bay to Cayucos Connector, which would run along Studio Drive adjacent to the project site, within the paved area. The timing for construction of that project is currently undetermined. Based on the location and size of the project, and implementation of recommended mitigation measures, the project would not have any significant residual direct or indirect adverse impacts to sensitive biological resources, including special-status species, habitats, and wildlife. The site is not within a designated Environmentally Sensitive Habitat Area (ESHA). The project would not significantly contribute to the loss of

species or sensitive habitat. Therefore, potential cumulative impacts would be *less than significant* (Class III).

Cultural Resources (Class III)

The destruction of cultural resources can have the potential for significant cumulative impacts as they are inherently important to the descendants of native peoples and make the study of pre-historic and historic life unavailable for study by scientists. Given the prevalence of cultural resource sites in San Luis Obispo, and the number of construction activities that involve disturbance of archaeologically sensitive areas that are not regulated, it is likely that significant pre-historic and historic resources are often not identified and are permanently lost. For the proposed project, no prehistoric archaeological resources were identified with the project site, and implementation of the proposed project would not contribute to the cumulative degradation of significant cultural resources in the County. Based on lack of significant resources at the project site, and compliance with the CZLUO, potential cumulative impacts resulting from the proposed project are considered *less than significant* (Class III). No additional mitigation is required.

Geology and Soils (Class III)

Implementation of the pending and approved projects listed in the cumulative development scenario would increase development in the immediate area. No projects requiring grading or construction would occur in the immediate vicinity of the project, and no existing adverse geologic or drainage conditions are present on or adjacent to the project site.

Additional development, including the proposed project, would increase the number of people and structures exposed to a variety of geologic and soils hazards within the County, including liquefaction, ground shaking, and temporary exposure to sea level rise and storm surge. Potential impacts related to geologic, soils, and seismic hazards are all site-specific, and mitigation measures are applied to each project to minimize the potential for significant geologic impacts. All development projects are required to comply with State and local regulations regarding grading and construction; therefore, no cumulative impacts related to these issues have been identified. Implementation of mitigation measures identified above, and compliance with existing regulations would mitigate impacts to *less than significant* (Class III), and no additional measures are necessary.

Hazards and Hazardous Materials (Class III)

Due to the type of project proposed, and lack of hazards or hazardous materials within or near the project site, construction and operation of the project would not contribute to environmental impacts related to hazards. Cumulative impacts would be *less than significant (Class III)*. No additional mitigation is required.

Recreation (Class IV)

As with any new residential development, the project has the potential to result in a cumulative effect on recreational resources, by adding demand on public parks, trails, and recreational areas. However, the project's cumulative impacts are within the general assumptions of allowed use for the subject property. Adequate public facility fee programs have been adopted to address these impacts. Impacts to the area recreational resources and facilities will be mitigated through the payment of appropriate fees prior to issuance of a building permit for the proposed project. The future Morro Bay to Cayucos connector bike path is proposed to run along Studio Drive directly adjacent to the project site, which will create a *beneficial impact* (Class IV) on

recreational resources by providing additional pedestrian and biking trails in the project vicinity and connecting other recreational opportunities in the city of Morro Bay and community of Cayucos.

Transportation and Circulation (Class III)

Population and tourism in the areas surrounding the proposed project are expected to slowly and steadily increase in the future, resulting in a corresponding steady increase in traffic, parking demands, and safety conflicts in the Cayucos area. The proposed project would contribute to cumulative traffic volumes in the area; however, because it is not resulting in an increase in residential density, the increase would be minor, and at a level anticipated in by the Estero Area Circulation Element. Therefore, potential cumulative impacts would be *less than significant* (Class III).

Water Resources (Class III)

Water demand for the proposed use represents a small percentage of total water demand in the Cayucos area, and the boundaries of CSA 10A (approximately 0.6%). As previously discussed, CSA 10A has available water to serve this project, in addition to others within the service area. Therefore, potential cumulative impacts would be *less than significant* (Class III).

GROWTH-INDUCING IMPACTS

CEQA Guidelines §15126.2(d) requires an EIR to discuss the growth inducing impacts of a proposed project, including the ways in which the project would foster economic or population growth, encourage the construction of additional housing, or remove an obstacle to population growth in the surrounding environment, either directly or indirectly. The goal of the growth inducing impacts section of the EIR is to address the effects the proposed project may have on surrounding facilities and activities by assessing the ways in which a project could encourage population or economic growth, increase employment opportunities or employment growth in support of an industry, or stimulate the construction of new housing or service facilities.

Based on the CEQA Guidelines criteria outlined above, the proposed project was evaluated in order to determine if any part of the project demonstrates the potential to result in growth inducing impacts. The project proposes one single-family residence on one of the few undeveloped lots in an existing developed neighborhood. The use is consistent with the general level of development currently existing along Studio Drive and anticipated under the Residential Single Family (RSF) land use designation. Other than temporary employment associated with construction of the residence, the project would not create new jobs or facilitate employment growth. Given its small scale and limited function, the project would not induce population or economic growth in the area. Impacts would be *less than significant*.

9.0 ALTERANTIVES

CEQA, §15126.6(a), requires an EIR to "describe a reasonable range of alternatives to a project, or to the location of a project, which could feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives". Through the scoping process, if an alternative was found to be infeasible, as defined above, then it was dropped from further consideration. In addition, CEQA states that alternatives should "I attain most of the basic objectives of the project..." Please refer to Chapter 5, Alternatives Analysis, of the EIR for a detailed discussion of the alternatives. The following alternatives were selected for more detailed review.

6.14.29.1.1 No Project Alternative

The No Project Alternative would include none of the components of the proposed project. If a project is not built at this time, a residential project may be proposed in the future.

6.14.29.1.2 Design Alternative A – Reduced Project, Pilings

The project site is located on the beachside of Studio Drive, and would be exposed to coastal hazards including sea level rise, wave-up, and storm surge. Independently, these conditions would not adversely affect the proposed structure; under extreme conditions, ocean water may reach the 22.2-foot elevation, and may overtop the existing rock outcrop and splash against the basement wall.

An alternative to this would be to eliminate the basement and construct the residence on steel-reinforced concrete pilings. This would allow ocean water to flow under the structure entirely before receding back. Under this alternative, the main floor and mezzanine, including the cantilevered portion, would remain.

This alternative consists of an approximately 1,857-square-foot residence including:

- 1,097 square feet of main floor living space
- 338-square-foot mezzanine
- 242-square-foot garage and 200-square-foot carport
- 180-square-foot covered deck
- Solar panels installed on the south-facing slopes of the roof

The residence would consist of one main floor supported on pilings. The maximum width of the structure would be 18 feet, and the maximum length would be 95 feet. A paved driveway would provide access from Studio Drive. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive. It is expected that retaining walls would be necessary adjacent to Studio Drive, and along a portion of the southern and northern sides of the residence, with continuous footings extending into the underlying bedrock materials.

6.14.29.1.3 Design Alternative B – Reduced Project, Traditional Design

This design alternative incorporates a more traditional design, as opposed to the modern structure proposed by the applicant. It does not include the extended cantilevered main floor, or a substantial reduction in the extension, and provides sloped roofs. This alternative is

considered a reduced design option, and consists of an approximately 2,572-square-foot residence including:

- 772 square feet of main floor living space
- 1,040-square-foot basement
- 338-square-foot mezzanine
- 242-square-foot garage and 200-square-foot carport
- 180-square-foot covered deck
- Solar panels installed on the south-facing slopes of the roof

The residence would consist of one main floor and a basement. The footprint of the house would be 1,040 square feet. The maximum width of the structure would be 18 feet, and the maximum length would be 70 feet. A paved driveway would provide access from Studio Drive. The maximum height of the residence would be 15 feet above the centerline elevation of Studio Drive. The basement would be located below the elevation of Studio Drive.

The exterior walls of the structure would be concrete and would retain soils along the southern, eastern, and northern sides of the residence. Retaining walls will also be constructed adjacent to Studio Drive with continuous footings extending into the underlying bedrock materials.

6.14.49.1.4 Design Alternative C – Vegetation and Articulation

As noted above, no significant aesthetic resource impacts were identified; however, a reasonable alternative to the project includes additional features to articulate the design and blend it into the beach landscape. This includes incorporation of native, low-growing shrubs and vegetation along the northern and western aspects, and the use of native (or simulated native) rocks along the driveway retaining wall. This alternative would consist of the same size, footprint, width, and height, as the proposed project.

9.1.5 Planning Commission-Approved Project Alternative

Based on direction from the Planning Commission, the applicant revised the project which reduced the size of the proposed project from what was evaluated in the EIR. The revised project is a reduced project with a traditional architectural style and reduced cantilever. This revised project is approximately 543 square feet smaller than the proposed project and the large cantilevered portion has been significantly reduced by approximately 16 feet shorter in living area.

6.159.2 ENVIRONMENTALLY SUPERIOR ALTERNATIVE

CEQA requires the alternatives section of an EIR to describe a reasonable range of alternatives to the project that avoid or substantially lessen any of the significant effects identified in the EIR analysis while still attaining most of the basic project objectives. The alternative that most effectively reduces impacts while meeting project objectives should be considered the "environmentally superior alternative." In the event that the No Project Alternative is considered the environmentally superior alternative, the EIR should identify an environmentally superior alternative among the other alternatives.

In this EIR, the No Project Alternative results in the fewest environmental impacts, although it does not meet any of the project objectives, including the primary objective to build a single-family residence.

As proposed, and with incorporation of recommended mitigation measures, the proposed project would not result in any significant, unavoidable environmental effects, and would meet project objectives. All proposed alternatives would meet the project objectives, and would not result in any significant, adverse, and unavoidable (Class I) impacts upon implementation of mitigation measures similar to those identified for the proposed project.

The proposed Reduced Project and Design Alternatives (A, B, and C) provide some variation in size and project design in response to public comment, and include alternatives to the proposed basement, cantilevered living space, and exterior design elements. Design Alternative A – Reduced Project, Pilings, would marginally reduce the intensity of identified geology and soils impacts, primarily related to coastal hazards, and would still require substantial engineered design and incorporation of design-specific mitigation measures. Design Alternative B – Reduced Project, Traditional Design does not include the cantilevered portion of the residence, which may be more consistent with Small Scale Neighborhood Standards. Alternatives A, B, and C (Vegetation and Articulation) may reduce the perceived mass of the structure as seen from Studio Drive and the beach area, and may be more consistent with County Plans and Policies related to visual resources.

The Planning Commission -approved Project is consistent with the EIR alternatives discussed and is consistent with EIR Alternative B. The Planning Commission approved project is reduced in size and scale from the original project evaluated in the Final EIR (approximately 16 feet shorter). This shorter design includes less coverage of the lot and therefore less of a visual impact from the original project (even though the original design did not contain a significant visual impact). Additionally, the amended project design is traditional in style versus the original modern design. The traditional architectural style is in keeping with the majority of the smaller traditional beach bungalow style residences in this neighborhood. The roofline is now pitched similar to the neighboring residences rather than a flat roof and the proposed colors and materials blend into the environment with darker browns, tans and wood appearing materials. Overall this revised project is consistent with many of the design comments supplied by members of the community and will improve the look of the neighborhood.

Based strictly on an analysis of the relative environmental impacts, the proposed project, with adoption and incorporation of recommended mitigation measures, is considered the Environmentally Superior Alternative. The decision-making body will consider the whole of the record when considering the approved project including, but not limited to, public comment and testimony related to the size and design of the residence. The decision-making body may select the project as proposed, an Alternative, or a specified combination of particular elements identified in the Alternatives, as the approved project. In all scenarios, the Mitigation and Monitoring Program (MMRP) would be applied to the approved project.

Based on direction from the Planning Commission, the applicant revised the project which reduced the size of the proposed project from what was evaluated in the EIR. The revised project is a reduced project with a traditional architectural style and reduced cantilever. This revised project is approximately 643 square feet smaller than the proposed project and the large cantilevered portion has been significantly reduced by approximately 16 feet shorter in living area. This revised project is consistent with the EIR alternatives discussed and is consistent with EIR alternative B.

10.0 MITIGATION AND MONITORING PROGRAM

PRC §21081.6 requires the lead agency, when making the findings required by PRC §21081(1)(a), to adopt a reporting or monitoring program for the changes to the project that it has adopted, in order to ensure compliance during project implementation. The County is the lead agency responsible for the adoption of the reporting or monitoring program. A Mitigation Monitoring and Reporting Plan (MMRP) has been prepared that requires the County to monitor mitigation measures designed to reduce or eliminate significant impacts, as well as those mitigation measures designed to further reduce environmental impacts that are less than significant.

The MMRP designates responsibility and anticipated timing for the implementation of mitigation measures within the jurisdiction of the County. Implementation of the mitigation measures specified in the Final EIR and the MMRP will be accomplished through administrative controls over project planning and implementation. Monitoring and enforcement of these measures will be accomplished through verification in periodic Mitigation Monitoring Reports and periodic inspection by appropriate County personnel. The County reserves the right to make amendments to and/or substitutions of mitigation measures if, in the exercise of discretion of the County, it is determined that the amended or substituted mitigation measure will mitigate the identified significant environmental impact to at least the same degree of significance as the original mitigation measure it replaces, or would attain an adopted performance standard for mitigation, and where the amendment or substitution would not result in a new significant impact on the environment that cannot be mitigated.

As lead agency for the Loperena MUP/CDP EIR, the County hereby certifies that the MMRP set forth in Chapter 7 of the Final EIR, which has been designed to ensure compliance during construction of the proposed project and includes all of the mitigation measures identified in the Final EIR and adopted and incorporated into the project, is adequate to ensure the implementation of the mitigation measures described herein.

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: CA Coastal Commission; Commissioners Shallenberger and Howell

Mailing Address: 45 Fremont Street, Suite 200

City: San Francisco Zip Code: 94105 Phone: (415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of San Luis Obispo

2. Brief description of development being appealed:

Construction of a new single-family residence

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

West side of Studio Drive, just south of the intersection of Highway 1 and Studio Drive adjacent to the beach in the community of Cayucos (San Luis Obispo County) APN 064-253-007

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

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-15-0001

DATE FILED: 1/8/2015

DISTRICT: Central Coast

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

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

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

6. Date of local government's decision: 12/9/2014

7. Local government's file number (if any): DRC2005-00216

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:

Jack Loperena
2764 W. Athens Avenue
Fresno, CA 93711

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) San Luis Obispo Coastkeeper, attn: Gordon Hensley, 1030 Monterey St., Ste 202, San Luis Obispo, CA 93401

(2) Ethel Pludow and Cynthia Sugimoto, c/o Kevin Elder, Sinsheimer, Juhnke, McIvor & Stroh, P.O. Box 31, San Luis Obispo, CA 93406

(3) Andrew Christie, Director, Sierra Club, Santa Lucia Chapter, 974 Santa Rosa St., San Luis Obispo, CA 93401

(4) Ryan Hostetter, San Luis Obispo County Planning Department, 976 Osos St., Room 300, San Luis Obispo, CA 93408

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.

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.)

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: Mary K. Shallenberg
Appellant or Agent

Date: 1/21/2015

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

Signed: _____

Date: _____

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: January 21, 2015

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date: _____

Reasons for Appeal: San Luis Obispo County Coastal Development Permit Application DRC2005-00216 (Loperena SFD)

On December 9, 2014 San Luis Obispo County approved a coastal development permit (CDP) for a single-family residence located seaward, and at the far northern edge, of Studio Drive, approximately 250 feet south of the intersection of Studio Drive and Highway 1 in Cayucos, along Morro Strand State Beach. The County-approved project raises San Luis Obispo County Local Coastal Program (LCP) conformance issues and questions as follows:

The County-approved project is located in an area along the shoreline that is subject to coastal hazards, including in terms of overall geologic instability (including due to wave run-up, unconsolidated soils, erosion, tsunamis, etc.). The LCP requires such development to be sited and designed to withstand bluff erosion and wave action for at least a period of 100 years (with a minimum required bluff setback of at least 25 feet); requires that new development ensure structural stability while not creating or contributing to erosion or geological instability; and prohibits shoreline protective devices as part of new development projects (including LCP Estero Area Plan (EAP) Areawide Standard I-4, Hazards Policies 1, 2, and 6, and LCP Coastal Zone Land Use Ordinance (CZLUO) Sections 23.04.118 and 23.07.086). The County appears to have approved a project that is located seaward of the coastal bluff edge with a concrete caisson and wall foundation system that appears to act as a shoreline protective device, all of which would be inconsistent with the LCP.

The County-approved project is also located in a significant public view area adjacent to Morro Strand State Beach and Highway 1, which is designated as a State Scenic Highway and a National Scenic Byway at this location. Per the LCP, new development at this location must be sited and designed to: protect public views; minimize visibility in public view corridors; minimize grading and earthmoving; minimize visual intrusion on adjacent sandy beaches; and prevent impacts that would significantly degrade the state beach area (including LCP Visual and Scenic Resources Policies 1, 2, 5, and 11, LCP Environmentally Sensitive Habitat Area Policy 29, and CZLUO Section 23.04.210). The project would block portions of the public view from Highway 1 toward the beach and ocean in one of the few areas along this stretch of coast where there is an unobstructed (by houses) view corridor, and otherwise introduce a substantial structure and massing that would adversely impact significant public views, which would appear to be inconsistent with LCP public view protection requirements.

In addition, the approved project is located within the LCP's Cayucos Community Small Scale Design Neighborhood (Studio Drive Neighborhood), where the LCP requires new development to be sited and designed to complement and be visually compatible with the existing characteristics of the community, and for the scale and architecture of new structures to add to the overall attractiveness of the community and be compatible with natural features (including LCP Visual and Scenic Resources Policy 6 and Estero Area Plan Section V: Cayucos Urban Area Standards, Residential Single-family Standard D). The County required a redesign of the residence, but the parameters of the redesign are not clear, and it is unclear whether the project can meet these LCP requirements in this case.

Finally, the approved project may be located on or adjacent to habitat for sensitive species that require protection under the LCP. The County's record indicates that the site includes an area that provides foraging habitat for a variety of birds, including western snowy plover, California black rail, California brown pelican and California least tern, and the County's conditions include a series of requirements related to sensitive species protection. The County's analysis, however, does not evaluate whether the presence of these species (or others that may be present associated with on-site trees that would be removed or impacted) means that the site includes or is adjacent to an ESHA per the LCP, which would

require further protection (including ESHA Policies 1, 2, 3, 29, and 30 and CZLUO Section 23.07.170). As such, the County-approved project may also raise LCP ESHA protection issues.

In short, it does not appear that the County-approved project is consistent with the LCP's coastal hazard, public view, and ESHA protection policies and related requirements, and the County-approved project warrants further Commission review and deliberations regarding these issues.

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: San Luis Obispo Coastkeeper

Mailing Address: 1013 Monterey Street

City: San Luis Obispo, CA Zip Code: 93401 Phone: 805-781-9932

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of San Luis Obispo, Board of Supervisors

2. Brief description of development being appealed:

Laporena Minor Use Permit, Coatal Development Permit (DRC 2005-00216), Environmental Impact Report and CEQA Findings.

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

The project is single family residence located in the Studio Drive neighborhood just south of the intersection of Highway 1 and Studio Drive adjacent to the beach on the west side of Studio Drive (SLO Co. APN 064-253-007).

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: _____

DATE FILED: _____

DISTRICT: _____

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

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

☐ Planning Director/Zoning Administrator

☒ City Council/Board of Supervisors

☐ Planning Commission

☐ Other

6. Date of local government's decision: 9 December 2014

7. Local government's file number (if any): SLO Co. File Number DRC2005-00216

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:

Jack Laporena

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) Kevin Elder on behalf of Ethel Pludow and Cynthia Sugimoto
Sinsheimer, Juhnke, McIvor, & Stroh
1010 Peach Street, P.O. Box 31
San Luis Obispo, CA 93406

(2) Andrew Christie, Director
Sierra Club, Santa Lucia Chapter
974 Santa Rosa Street
San Luis Obispo, CA 93401

(3) Brad Snook President
Surfrider Foundation, San Luis Obispo Chapter
P.O. Box 13222
San Luis Obispo, CA 93406

(4) Sandra Marshall, Chair
Environmental Center of San Luis Obispo
75 Higuera Street, Suite 100
San Luis Obispo, CA 93401A

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.

As approved, the project is inconsistent with the following San Luis Obispo County Certified LCP requirements:

1. Bluff Setbacks (Areawide Standard I-4; Hazards Policy 6; and CZLUO Section 23.04.118).

During the County approval process Coastal Commission Staff raised the issue of these conflicts on several occassions (See Coastal Staff letters of January 22, 2014; June 2, 2014; and email dated December 8, 2014). However, the project approved by the County Board of Supervisors on December 8, 2014 remains in conflict with these LCP policies.

2. Sea Level Rise and Coastal Hazards (LCP Hazards Policies 1&2; and CZLUO Section 23.07.086)

The approved project is in an LCP mapped Geologic Study Area known to experience wave run-up and erosion. LCP Policies 1&2 and CZLUO Section 23.07.086 require new development to demonstrate that structures will not contribute to erosion or geologic instability. Contrary to these requirements, the approved project includes substantial areas of cut and fill and retaining walls - including "reinforced basement walls" which should more properly be defined as shoreline protection.

SECTION V. Certification

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

Gordon R Hensley
Signature of Appellant(s) or Authorized Agent

Date: 23 December 2014

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

Section VI. Agent Authorization

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

_____
Signature of Appellant(s)

Date: _____

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Kevin Elder on behalf of Ethel M. Pludow and Cynthia R. Sugimoto

Mailing Address: 1010 Peach Street

City: San Luis Obispo, CA Zip Code: 93401 Phone: 805-541-2800

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of San Luis Obsipo

2. Brief description of development being appealed:

The Board Approved Project is an undefined residence "setback a minimum of 25 feet from edge of the rocks and ice plant" on a never before developed 3,445 square foot lot, that contains a coastal bluff face, and is otherwise largely sandy beach. Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216)

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

The project site is located in the unincorporated community of Cayucos, in San Luis Obispo County, California. The site is on the northern end of Studio Drive, approximately 250 feet south of the intersection of Studio Drive and Highway 1, and is adjacent to Morro Strand State Beach. A.P.N. 064-253-007.

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: _____

DATE FILED: _____

DISTRICT: _____

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

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

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

6. Date of local government's decision: December 9, 2014

7. Local government's file number (if any): DRC2005-00216

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:

Jack Loperena
c/o Cathy Novak
Post Office Box 296
Morro Bay, CA 93443

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) See Attachment 1

(2)

(3)

(4)

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

See attached letter dated January 15, 2015, from Kevin Elder on behalf of Ethel M. Pludow and Cynthia R. Sugimoto.

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: 1-15-15

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

Section VI. Agent Authorization

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

Cynthia R. Sugimoto
Cynthia R. Sugimoto, by Power of Attorney for Ethel Pludow
Signature of Appellant(s)

Date: 1/15/15

Attachment 1 – 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. Doreen Liberto-Blanck, AICP, MDR
   Earth Design, Inc.
   P.O. Box 99
   Cambria, CA 93428

2. John Kasunich, P.E. and G.E.
   Haro, Kasunich and Associates, Inc.
   116 East Lake Avenue
   Watsonville, California 95076

3. Mark Foxx, C.E.G.
   Haro, Kasunich and Associates, Inc.
   116 East Lake Avenue
   Watsonville, California 95076

4. Daniel Robinson, Coastal Planner
   California Coastal Commission, Central Coast District Office
   725 Front Street, Suite 300
   Santa Cruz, CA 95060

5. Mark Johnsson, Staff Geologist
   California Coastal Commission, Central Coast District Office
   725 Front Street, Suite 300
   Santa Cruz, CA 95060

6. Don Funk, CPESC, QSD/QSP
   Santa Lucia Group, LLC
   115 Glencrest Lane
   Paso Robles, CA 93446

7. Chip Tamagni
   A&T Arborists
   P.O. Box 1311
   Templeton, CA 93465

8. Andrew Christie, Director
   Santa Lucia Chapter of the Sierra Club
   P.O. Box 15755
   San Luis Obispo, CA 93406

9. Gordon Hensley
   San Luis Obispo Coastkeeper
   1013 Monterey Street, Suite 202
   San Luis Obispo, CA 93401

10. Jennifer Jozwiak, Co-Chair
    San Luis Obispo Surfrider Foundation
    P.O. Box 13222
    San Luis Obispo, CA 93406

11. Adria Arko, Program Coordinator
EcoSLO
P.O. Box 1014
San Luis Obispo, CA 93406

12. John Carsel, President
Cayucos Citizens Advisory Council
P.O. Box 781
Cayucos, CA 93430

13. Tracy and Richard Hermann
1153 Las Tunas Street
Morro Bay, CA 93442

14. Eric Huth
560 N Crestview Circle
Porterville, CA 93257
(Property Owner: 2614 Studio Drive, Cayucos)

15. Janet and Gary Arnold
2698 Studio Drive
Cayucos, CA 93430

16. Julie I. Pludow
2327 Hickory St
San Diego, CA 92103
(Property Owner: Studio Dr. Cayucos)

17. Raymond B. Pludow, D.V.M.
35335 Hwy 41
Coarsegold, CA 93614
(Property Owner: Studio Dr. Cayucos)

18. Sandy Jensen
16339 Tenaya Rd.
Apple Valley, CA 92307
(Property Owner: Studio Dr. Cayucos)

19. State of California Office of Planning and Research State Clearinghouse and Planning Unit
1400 10th Street
Sacramento, CA 95812

20. Federal Emergency Management Agency
FEMA Region IX
1111 Broadway, Suite 1200
Oakland, CA 94607-4052
Attn: Blackburn, CFM, Branch Chief, Floodplain Management and Insurance Branch

21. Jacob Johnson
1500 Nipomo Street
San Luis Obispo, CA 93401

22. Hailey Leurck
2600 Main Street
Morro Bay, CA 93442

23. Greg and Susan Wilson
1165 Las Tunas Street
Morro Bay, CA 93442

24. Zen Raynor
1478 5th Street
Los Osos, CA 93402

25. Alice Hermann
1153 Las Tunas Street
Morro Bay, CA 93442

26. Tania Rivera
1386 6th Street
Los Osos, CA 93402

27. Shannon Rising
507 Foothill Blvd.
San Luis Obispo, CA 93405

28. Karen Adams
5502 Ironwood Street
Rancho Palos Verdes, CA 90275-1739

29. Bill Beltz
2327 Hickory Street
San Diego, CA 92103

30. Victoria Diaz
5114 Marlborough Drive
San Diego, CA 92108

31. Scott Garman
1032 S. Weymouth Ave.
San Pedro, CA 90732-3742

32. John E. (Jack) Joy
2400 Summit View Drive
Bedford, TX 76021

33. Jenny Larios
23841 Dunas Road
Santa Ana, CA 92705
(Executive Director of Mobility 21)

34. Dr. Shelly Long and Steve Huth
5719 W. Elowin Drive
Visalia, CA 93291
(Property Owner: 2614 Studio Dr. Cayucos)

35. Robert Lum
P.O. Box 1389
Davidson, NC 28036

36. Grace Medina-Chow
357 St. Martin Drive
Redwood City, CA 94065

37. Professor James E. Moore, II
University of Southern California
KER 204 MC 7725 USC
734 West Adams Blvd.
Los Angeles, CA 90089
(Vice-Dean for Academic Programs, Viterbi School of Engineering
Professor Public Policy and Management
USC Price School of Public Policy)

38. Beatrice Pludow
812 Desoto Road
Prescott, Arizona 86303

39. Michele Jacobson, AICP
1043 Cecil Place NW
Washington, DC 20007

40. Jane Osborne
42444 Meadow Sage Drive
Ashburn, VA 20148

41. Francine Farinet
83 12th Street
Cayucos, CA 93430

42. Julie Tacker
P.O. Box 6070,
Los Osos, CA 93402

43. Carol Baptiste
150 El Sereno Ave.
Cayucos, Ca. 93430

44. Dave Congalton
KVEC
51 Zaca Lane, Suite 100
San Luis Obispo, Ca 93401

45. David Sneed
The Tribune
3825 S. Higuera Street
San Luis Obispo, Ca 93406-0112

46. Leslie Dufour
1930 Wilbur Avenue
San Diego, CA 92109

47. Toni LeGras
Beachside Rentals, Inc.
P.O. Box 455
Cayucos, CA 93430

48. Mark Massara
1642 Great Hwy
San Francisco, CA 94122

49. Lee Sugimoto
2111 Marshallfield Ln. #B
Redondo Beach, CA 90278

WARREN A. SINSHEIMER III
DAVID A. JUHNKE
JUNE R. McIVOR
HERBERT A. STROH
DAVID S. HAMILTON
KEVIN D. ELDER
N. ELLEN DREWS

SJMS
SINSHEIMER JUHNKE McIVOR & STROH, LLP
ATTORNEYS AT LAW

Of Counsel:
ROBERT K. SCHIEBELHUT
K. ROBIN BAGGETT

E-Mail:
KElder@sjmslaw.com

January 15, 2015

Client: 3203.003

California Coastal Commission
Central Coast District
725 Front Street, No. 300
Santa Cruz, California 95060

GOLDEN STATE OVERNIGHT
526654599

Re: Appeal of San Luis Obispo County's Approval of Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216)

Dear Chair Kinsey and Honorable Members of the Commission:

On behalf of Ethel M. Pludow and Cynthia R. Sugimoto, (collectively, "Appellant") we respectfully submit this letter and enclosed materials to appeal the December 9, 2014, decision of the San Luis Obispo County Board of Supervisors (the "Board") to approve the Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) ("MUP/CDP"). For the Commission's reference, copies of the Appellant's past correspondence and hearing presentations to San Luis Obispo County regarding this project are provided as Exhibits 1-15. We may submit additional information to staff and the Commission to support this appeal request.

Presence of Substantial Issue

The decision of the Board is inconsistent with the County's Local Coastal Plan ("LCP"), certified Coastal Zone Land Use Ordinance ("CZLUO"), and the Coastal Act in several ways as detailed below, and therefore the project should not have been approved and the Final Environmental Impact Report ("F-EIR") should not have been certified. We therefore respectfully request that the California Coastal Commission ("CCC") find that a substantial issue exists and review the project *de novo* for consistency with the LCP, the CZLUO and the Coastal Act.

Project Description

The project site is located in the unincorporated community of Cayucos, in San Luis Obispo County. The site is on the northern end of Studio Drive, approximately 250 feet south of the intersection of Studio Drive and Highway 1, and is adjacent to Morro Strand State Beach. The County Planning Commission (the "Planning Commission") at its April 10, 2014, hearing, approved Jack Loperena's ("Applicant") proposal to construct a 2,374 square foot residence, with a basement and a mezzanine, on a never before developed, 3,445 square foot lot (the "Planning Commission Approved Project"). A large portion of the lot is sandy beach. The main floor of the Planning Commission Approved Project would have cantilevered 21 feet beyond the seaward edge of the basement, including 11 feet over the sandy beach, and included a seaward facing

basement wall that would act as and was deliberately designed to function as a prohibited shoreline protective device, as well as a north facing seawall. The Planning Commission Approved Project was 33 feet high and would have had a jarring visual impact upon visitors to the adjacent Morro Strand State Beach. The EIR and Planning Commission's fundamental conclusion was that the site was not on a coastal bluff, but contended it is a fluvial bluff created by Old Creek and therefore determined that no coastal bluff related requirements applied to the project.[1]

Appellant appealed the Planning Commission Approved Project to the Board. At its hearing on December 9, 2014, the Board approved the Planning Commission Approved Project, but included significantly modified Findings, Revised Conditions of Approval, and Revised CEQA Required Findings for the Loperena Minor Use Permit/Coastal Development Permit Environmental Impact Report (Revised CEQA Findings). For example, Findings item J acknowledged that the project site contains a coastal bluff. Condition 1 provides the basic requirements for the Board Approved Project ("BAP"):

> "1. This approval authorizes a request by Jack Loperena for a Minor Use Permit/Coastal Development Permit to allow for the construction of a single family residence. The applicant shall submit revised plans at the time of construction permits detailing the following:
>
> a. The revised single family residence shall comply with the Cayucos small scale neighborhood standards (height, setbacks, upper floor setbacks, gross structural area requirements).
>
> b. The maximum height of the structure shall be 15 feet above the centerline elevation of Studio Drive.
>
> c. The house (including all projections such as decks and cantilevers) shall be setback a minimum of 25 feet from the edge of the rocks and ice plant along the western side of the property as noted on the basement floor plan (as outlined in the December 9, 2014 staff report Attachment 3)
>
> d. The design shall remain in the nautical style with natural appearing siding as illustrated in the Planning Commission approved project."

It is our understanding that there was a typographical error in Condition 1.c. and it was intended to be as depicted in photo-graphic Attachment 4 of the staff report for the December 9th hearing (the "Board Approved Project Setback Line") shown in Tab 1.

Unfortunately there are no written plans depicting the BAP. There is nothing to indicate how the BAP will be sited on Applicant's lot, its proposed size, or even the number of levels.

The BAP and the Planning Commission Approved Project are sometimes collectively referred to as the "Project," as the context may require. See illustrations of the Project see Tab 1.

---

1 Inexplicably, the Planning Commission Approved Project incorporated no fluvial or creek setbacks either.

Standard for Appeal

Appellant has exhausted all possible local appeals as required by CZLUO Section 23.01.043.b, pursuant to CZLUO Section 23.01.043.c.

Coastal Act Section 30603 provides for appeals to the CCC of certain actions taken by local government.

Coastal Act Section 30603(a)(1) provides that developments "*approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance*" are appealable.

Section 30603(a)(2) provides that developments not included in Section 30603(a)(1) that are located "*within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff*" may also be appealed to the CCC.

The Project is located between the sea and the first public road paralleling the sea, is adjacent to a beach, is within 100 feet of a stream, and is within 300 feet of the seaward face of a coastal bluff. Therefore, the Project is properly appealable to the CCC pursuant to both Coastal Act subsections 30603(a)(1) and (a)(2).

Grounds for Appeal

Without any project plans analyzing whether the BAP is consistent with the LCP, the CZLUO, and the Coastal Act is challenging in relation to certain applications of the laws and regulations. However, several grounds for appeal clearly exist:

1) BAP Improperly Allowed on Bluff Face
2) BAP Setback Improperly Applied to Bluff Toe Instead of the Top of the Bluff
3) BAP Improperly Allows Shoreline Protective Devices
4) BAP is Inconsistent with LCP Visual Resources Policies
5) BAP Underestimates Coastal Hazards and Project Allows House in Hazardous Area
6) BAP Fails to Include or Analyze Creek Setbacks
7) BAP is Inconsistent with Policy 3 Stringline Method
8) BAP is Inconsistent with Cayucos Small Scale Neighborhood Standards
9) Onsite Cypress Tree Inadequately Protected in Violation of LCP
10) BAP Fails to Adequately Consider Alternatives
11) BAP Conspicuously Ignores Proposed Retaining Walls on County ROW; Existing Public Access; and Planned Drainage onto Morro Strand State Beach
12) BAP Includes Incorrect and Conflicting Findings and Conditions of Approval

The resulting Project is not just vague and ambiguous but blatantly inconsistent with the LCP's and the CZLUO's coastal bluff related protections and numerous other important LCP and planning issues. These items are discussed briefly below and additional supporting detail is provided in the associated tabs.

1) BAP Improperly Allowed on Bluff Face

After the Final EIR was published, the Applicant again sought to dispute the fact that the site contains a coastal bluff, by commissioning Shoreline Engineering, Inc. to prepare a study using 1953 and 2014 photographic evidence. The result was Shoreline's "Evaluation of Bluff Geometry Adjacent to Loperena Property," dated September 28, 2014 (the "Shoreline 2014 Study"). This study approximates the natural topography before the addition of fill that obscured the natural bluff top edge.

Dr. Johnsson, CCC Staff Geologist, reviewed the Shoreline 2014 Study and summarized his conclusions in a December 8, 2014 email, which was forwarded to SLO County by Daniel Robinson, CCC Planner. Dr. Johnsson concluded that the Shoreline 2014 Study is incomplete in its analysis and its conclusions flawed. He made several key conclusions, two of which are:

a) "The plan views show the natural bluff edge to lie landward of the entire Loperena parcel. Thus, the natural topography and ground surface of the entire parcel is either on the natural bluff face or beach."
b) "Thus, it appears that the entire parcel is seaward of the bluff edge, whether the bluff is a coastal bluff or an [undefined] 'fluvial bluff.'"

Haro Kasunich and Associates, Inc. (HKA) also reviewed and analyzed the Shoreline 2014 Study, and reported their conclusions in a December 2, 2014 letter, attached as part of Exhibit 13. HKA also came to the conclusion that the Shoreline 2014 Study was incomplete, its conclusions were flawed, and that it did not refute HKA's earlier findings that the site is a coastal bluff. They also determined that based on the study that the project is located on a bluff face.

Development on a bluff face is in violation of SLO County Coastal Plan Policy 11: Development on Coastal Bluff. Policy 11 limits new development on bluff faces to public access stairways and shoreline protection structures. Therefore, the Project is in violation of the Local Coastal Program, portion of Land Use Element of SLO County General Plan. For more detail see Tab 2.

2) BAP Setback Improperly Applied to Toe of the Bluff

The Planning Commission Approved Project did not apply any setbacks to the seaward facing side of the project, rather, it allowed the deck to cantilever 11 feet over the lateral public access easement area and the public beach. While the setback amount is increased in the BAP, it is still inconsistent with the setback requirements in the CZLUO Section 23.04.118 and Estero Area Plan, Cayucos section, Sensitive Resource Area.

Pursuant to CZLUO Section 23.04.118, Estero Area Plan Section V.F.1 and Section III.1.4, and Policy S-23 Safety Element of County General Plan, the coastal bluff setback should be measured from the top of the bluff, and not the toe of the bluff. The setback must be a sufficient distance to withstand erosion for a period of 75 years or 100 years (depending on policy), and a minimum of 25 feet.

Appellant's Letter (by SJMS) dated December 8, 2014, Exhibit 14, raised the Appellant's concern that draft Project Findings and Conditions of Approval were in conflict regarding the location of the required setback. This issue was reiterated in the Appellant's presentation at the December 9th Board Hearing. Unfortunately, the issue was not corrected in the Board Approved Findings and Conditions. BAP Findings item F states "The revised design which includes a 25 foot buffer from the edge of the rocks on the property which is illustrated as the "bluff' on Attachment 4 of the Board staff report." BAP Findings item J states "The project is conditioned to require a 25 foot setback from the bluff which complies with the Coastal Zone Land Use Ordinance bluff setback requirements (23.04.118 Blufftop Setbacks)." The BAP Condition 1.c sets a "25 foot setback from the edge of the rocks and ice plant", which is approximately or nearly the toe of the bluff. Based on Condition 1.c, the western wall of the Project could be located seaward of the bluff top edge with zero setback from the bluff edge.

Additionally, in the Appellant's Letter (SJMS) dated December 8, 2014, Exhibit 14, it was recommended that Figures using Applicant's Drawing A1.1 be used to replace Staff Report Attachment 4, Bluff Setback Line, because a topographic surveyed drawing is more accurate and easier to verify than Attachment 4 photo-graphic. The HKA Letter attached to Exhibit 14 provides a figure based on the setback being applied to the toe of the bluff similar to County staff's Attachment 4. The figure indicates the edge of the rocks and ice plant, the 25 foot setback line from the toe of the bluff, and the top of the bluff as shown in the Shoreline 2014 Study. It was recommended that the Board either use this figure, or preferably a similar figure based on setback from the top of the bluff, so the diagram is consistent with the Board of Supervisors' intent. Unfortunately, the revised figure was not included as part of the BAP.

For information, at the Board's June 3rd hearing the Board directed Applicant to "explore modifications to the project that could potentially involve a property exchange and/or County property (right of way) purchase in an effort to move the project closer to Studio Drive and to allow an appropriate setback from the top of the bluff and sufficient space for the residence. During the Board's December 9th hearing, County Staff reported that the Applicant refused to pursue a property exchange or purchase of County right of way.

For more detail see Tab 3.

3) Shoreline Protective Devices Improperly Allowed

Per the Revised CEQA Findings, the "maximum wave runup would be 26 feet NAVD88". The BAP is allowed to remain within the wave run-up zone. The County Staff

Report for the December 9, 2014 Board hearing described County staff's meeting with CCC staff on July 31, 2014 and acknowledged that "Construction of any structure within the potential wave run-up area would be considered a shoreline structure or a seawall." Therefore the Planning Commission Approved Project reinforced concrete seaward facing basement wall would be considered a seawall.

Seawalls are prohibited for use in new development by the following policies:

- Estero Area Plan, Chapter 7, Areawide standards Section I.5, states that "*shoreline and bluff protection structures shall not be permitted to protect new development.*"
- LCP Hazard Policy 1 provides similar prohibition against shoreline protective devices.
- LCP Hazard Policy 4 provides similar prohibition against shoreline protective devices.

Similar to the Planning Commission Approved Project, the BAP could still include a traditional seawall on the north side, and the basement wall acting as another seawall built into the Project itself on the west side. For more detail see Tab 4.

4) Inconsistent with Visual Resources Policies

Since the design of the BAP is undefined, the impact on visual resources has not been properly assessed. It is possible that the BAP may be similar to the Planning Commission Approved Project in number of levels and resulting height. In that case, the view from Morro Strand State Beach will be greatly affected due to the height of the Project, which will be visible from various public venues and vantages for miles around. The BAP could be inconsistent with Coastal Act Section 30251 and with the LCP Visual and Scenic Resources Policies 1, 2, 5, 6 and 11. For more detail see Tab 5.

5) Coastal Hazards Underestimated and Project Allowed in Hazardous Area

The HKA Letter dated August 1, 2013 (HKA Report) attached as part of Exhibit 6 describes how the bluff is subject to wave run-up and marine erosion. The HKA Report also finds that coastal hazards are underestimated in the F-EIR. The HKA Report identifies inconsistencies in the EIR Consultants' wave run-up calculations supporting HKA's finding that hazards are underestimated. It includes several photographs that graphically and clearly show the exposed bedrock coastal bluff on the property and the "active beach" at the base of the bluff. When read in concert with CCC Staff Correspondence, it defies logic that the County would ignore such obvious constraints. The HKA Report also concludes and raises concerns that the basement wall, which acts as a seawall, will deflect wave run-up towards the neighboring properties and adversely impact them and the public beach.

The HKA March 31, 2014 Letter attached as part of Exhibit 9 finds that the results of the

Applicant's GeoSoils 2014 Letter wave run-up analyses reflect a continuing and gross underestimation of the hazards at the site, particularly in the oceanfront portion of the property where bedrock is not present to higher elevations and erodible fill soils exist. The HKA March 2014 Letter finds that the Planning Commission Approved Project still hangs over the beach, is inadequately set back and is located in a hazardous area that can safely be expected to be impacted by sea-level rise and routine wave run-up in the future. The effect of wave run-up on the BAP will be reduced, but has not been analyzed. If there is a basement, it will still be located within the wave run-up zone. However, since there are no site plans showing the BAP, it is impossible to know if these issues will be properly addressed.

HKA also identify in the Planning Commission Approved Project a door and window on the basement level that are located *lower* than the Applicant's GeoSoils wave run-up analysis and acknowledges a serious analytical error. Further, HKA finds that the Planning Commission Approved Project was not setback a sufficient distance to assure stability and structural integrity, or to withstand bluff erosion and wave action for a period of 75 and/or 100 years without construction of shoreline protection devices. The HKA March 2014 Letter describes several flaws in the GeoSoils analysis, including: that maximum breaking wave heights and wind velocities are underestimated, slope roughness is overestimated, and the worst case profile was not utilized. It goes on to recommend that critical items that are not depicted on the plans should be added to show: (i) the location of the landward edge of the beach, (ii) the location of the toe of the bluff and the top edge of the bluff, (iii) the location of the required setback from the top edge of the bluff required to withstand erosion and wave action for 75 years as required by Section 23.04.118.a of the CZLUO, and (iv) the location of the required setback from the top edge of the bluff required to withstand erosion and wave action for 100 years, as required by the Estero Area Plan and County Engineering Geology Report Guidelines. The BAP cannot be properly located on the site until the effects of coastal hazards on the site are correctly determined. However, what is obvious from the footprint of the BAP is that the location is not consistent with the LCP or CZLUO. For more detail see Tab 6.

6) Creek Setback Not Applied

The Planning Commission Approved Project was based on a determination that the site was not a coastal bluff and was instead on a fluvial (creek) bluff. Notably, and ironically, even if the Project area were a fluvial bluff, the Planning Commission Approved Project was still inconsistent with the setback requirements for fluvial bluffs.

While the BAP finally acknowledged that the western portion of the bluff edge was a coastal bluff, it ignored the northern portion of the bluff edge that was considered a fluvial bluff.

The CCC Staff email dated December 8th stated that the entire bluff edge was subject to marine erosion and therefore is a coastal bluff and that coastal bluff setbacks should be applied. However, if for any reason the northern portion of the bluff is considered a fluvial bluff, then the Project must be setback a minimum of 50 feet in accordance with Estero Area Plan, Cayucos section, Sensitive Resource Area Table 7-2 (coastal stream setbacks – Old Creek).

In addition to riparian (creek) setbacks, the HKA December 2, 2014 Letter, attached as part of Exhibit 13, explains that in this case the minimum coastal development setbacks should be determined and applied based on the inland extent of wave run-up that may occur during the expected life of the development. Based on the March 12, 2014 wave run-up study by the Applicant's consultant (GeoSoils Inc.) using 5.5 feet of sea level rise, this indicates that development must be located inland from the 25 foot contour line on the property. Per the Revised CEQA Findings, the "maximum wave runup would be 26 feet NAVD88". Therefore to keep the residence out of the wave run-up zone, it is recommended that another condition be added to restrict the bottom of the Project structure to the 25 or 26 foot elevation. This additional restriction would likely cause the deletion of the basement.

The lack of a riparian setback will establish a precedent for other properties adjacent to creeks statewide. For more detail see Tab 7.

7) Inconsistent with Policy 3 Stringline Method

The Planning Commission Approved Project was inconsistent with Coastal Plan Policy for Visual and Scenic Resources, Policy 3 Stringline Method for Siting New Development, because the Planning Commission Approved Project clearly extended significantly (approximately 35 feet) seaward of the adjacent house. The County incorrectly determined that the Planning Commission Approved Project complied with Policy 3.

In accordance with Policy 3 Stringline Method, if there are substantial variations in landform between adjacent lots, then the average setback of the adjoining lots should be used, which in this case is 25 feet from the bluff top.

As discussed in Grounds for Appeal #2 above, there is conflict regarding where the BAP setback is to be applied. The BAP's Condition 1.c setback should be revised to at least meet Policy 3 requirements. For more detail see Tab 8.

8) Inconsistent with Estero Area Plan - Cayucos Small Scale Neighborhood Standards

The Planning Commission Approved Project was inconsistent with the Cayucos Small Scale Neighborhood design standards and other communitywide standards. It was dissimilar and unlike existing residences along Studio Drive, especially when viewed from the public beach due to its imposing 33 foot height, and because the main floor was cantilevered 21 feet, including the highly unusual and novel proposal to stretch 11 feet over the sand. Obviously, while unprecedented in design, it was also blatantly inconsistent with the character and intent of the Cayucos community small scale design neighborhood.

While the design of the BAP is unknown, it could still have a similar 33 foot height from the north side and beach views, and be inconsistent with the character and intent of the Cayucos community small scale design neighborhood standards.

9) Cypress Tree Inadequately Protected

There is a Monterey Cypress tree located in the County right of way adjacent to the Project. BAP Conditions of Approval item 3 BR/mm-3 requires "grading plans shall clearly show the location of … protection fencing surrounding the Monterey cypress tree …". Condition of Approval item 33, requires "Prior to issuance of grading permits, the applicant shall retain a certified arborist to conduct any site preparation activities requiring cuts or impacts to the root zone of the existing mature cypress tree. The certified arborist shall monitor work within the root zone, including grading and excavation for the retaining wall, and utility work. The certified arborist shall verify that tree protection fencing shown on the plans and approved by the County is installed prior to ground disturbance within 25 feet of the trunk of the tree. The applicant shall comply with methods identified by the certified arborist to avoid unnecessary damage to the root zone, including use of hand tools within 25 feet of the trunk of the tree, protection and treatment of exposed roots during construction, and use of tunneling under shallow roots for utility installation in lieu of standard trenching."

The County's Biological Resources Section of the Conservation and Open Space Element of the General Plan, Policy BR 3.1, Native Tree Protection, requires that native and biologically valuable trees be protected to the maximum extent feasible. Policy BR 3.2 of the Biological Resources Section, Protection of Native Trees in New Development, requires that *"proposed discretionary development and land divisions to avoid damages to native trees (e.g. Monterey pines, oaks) through setbacks or… other appropriate measures."*

Condition 33 is inadequate to protect the tree and does not indicate an understanding that a portion of the basement and southern driveway wall are within the 25 foot radius of the tree trunk. The Appellant's consultant, Mr. Tamagni, a certified arborist of A&T Arborists, evaluated the Planning Commission Approved Project's likely effect on the tree and proposed conditions. In its letter dated June 2, 2014 attached as part of Exhibit 11, found that if the Project was built as proposed, it would most likely be a death sentence for the tree, and that the mitigation measures approved by the Planning Commission were insufficient to protect the tree. Their letter recommended additional mitigation measures necessary to protect the tree. Unfortunately, the Board Approved Condition 33 was not revised as recommended. The Board's failure to require mitigation measures adequate to protect the tree is inconsistent with the County's General Plan. For more detail see Tab 9.

10) Project Alternatives Inadequate

The F-EIR fails to propose adequate alternatives as required by the California Environmental Quality Act ("CEQA"). CEQA requires that an EIR provide alternative designs to a proposed project in order to determine whether alternatives would further mitigate any

environmental impacts. The County failed to consider alternatives to the Planning Commission Approved Project or BAP that may have resulted in a project that is consistent with the bluff (coastal and/or fluvial) setbacks or bluff face limitation as required by the LCP, CZLUO and the Coastal Act. The alternatives proposed in the F-EIR are all similar to Applicant's original project and do not provide sufficient variation. For example, no alternative is described or evaluated that would comply or be consistent with the LCP. For more detail see Tab 10.

11) Retaining Walls on County ROW; Public Access; and Drainage onto Morro Strand State Beach

The Planning Commission Approved Project plans included a design feature that would add fill and two retaining walls on County right of way (ROW) adjoining the north side of the site. It is believed this design element is part of the Planning Commission Approved Project's drainage plan that directs drainage onto the Morro Strand State Beach. This feature was included in the plans for the Planning Commission Approved Project, but were not clearly identified or addressed in the EIR.

Although the design for the BAP is unknown, the Conditions for Approval do not restrict this type of drainage system and retaining walls on County property, therefore it could be included in the BAP.

The location of this feature is inconsistent with Coastal Act Section 30211, which bars any development that interferes with the public's right of access to the sea. Coastal Act Section 30211 states that "*development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*" The BAP should have prohibited any retaining walls that will interfere with the public's right to access the beach, because the walls are in violation of Section 30211.

Further, it would be inappropriate to place retaining walls on public property that will block physical or visual access to the coastal resources in order to facilitate a private development. It is also inappropriate to divert drainage onto public property (Morro Strand State Beach) in order to facilitate a private development.

12) Incorrect and Conflicting Findings and Conditions of Approval

The Findings and Conditions of Approval adopted by the Board were incorrect and conflicting, and in some cases, inconsistent with applicable law.

As previously discussed, there is a conflict between Findings F and J and Condition 1.c on where the setback should be applied, and Findings F and Condition 1.c are inconsistent with various policies.

Additionally, Revised CEQA Findings do not appear to have been appropriately revised to reflect the latest information. Review and revision is especially recommended for the following sections: Section 5.F Geology and Soils (Class III), Section 6.9 Geology and Soils, and Section 7.0 Findings for Impacts Identified as Significant and Unavoidable. While there has been an attempt to revise the CEQA findings, the rest of the EIR has not been updated to reflect the Boards determination that the project is on a coastal bluff. Finally, it is concerning that the Board's Resolution, Findings, and Conditions of Approval make reference to the Staff Report Attachment 3 or 4 graphic, which shows the Board Approved "Setback Line" (see Tab 1 Figure 1-7), but this critical figure is not officially included in the EIR documents.

The EIR analyzed the site as a non-coastal bluff property. However, the BAP Findings and Conditions of Approval finally acknowledge that the site includes a coastal bluff. Therefore the EIR should have been amended to analyze the site as a coastal bluff and make the EIR consistent with the project site determination.

The BAP design is currently unknown. The BAP allows a new project to be designed and submitted with construction permit plans. This new project will differ significantly from the Original Project assessed by the EIR. There would be no public review or hearing of the proposed revised plans. This is not acceptable given the significant revisions to the current plans.

In conclusion, for the reasons stated in this appeal, the Appellants respectfully request that the CCC finds that a substantial issue exists and review the Project *de novo* for consistency with the LCP, CZLUO and the Coastal Act.

We appreciate your considered review and analysis of this appeal.

Sincerely,

SINSHEIMER JUHNKE McIVOR & STROH, LLP

KEVIN D. ELDER

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Tabs – Supporting Detailed Information

Tab 1 Project Description

Tab 2 Project Improperly Allowed on Bluff Face

Tab 3 Setback Improperly Applied to Toe of the Bluff

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Tab 10 Project Alternatives Inadequate

TAB 1 Project Description

Figures 1-1, 1-2, and 1-3 are the Original Project illustration and main floor plan upon which the EIR was based, and a flag pole study of the Original Project conducted for the EIR.

Figure 1-1 Original Project Illustration

Figure 1-2 Original Project Main Floor Plan

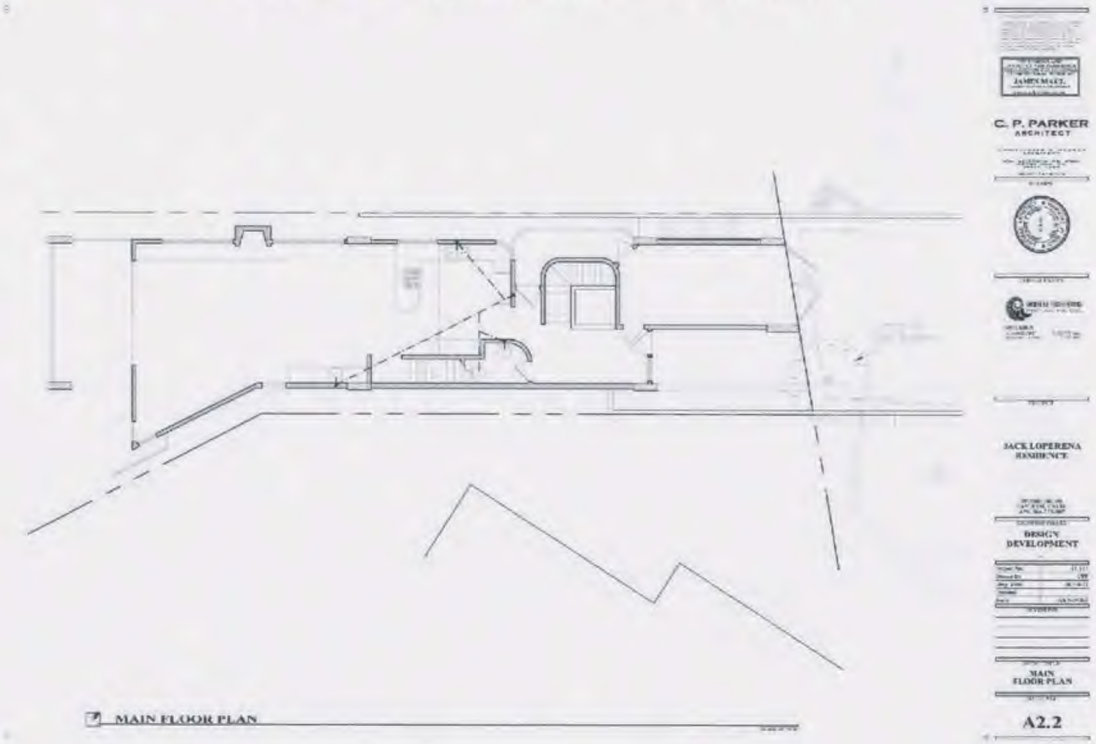


Figure 1-3 Original Project Flag Pole Study

Figures 1-4, 1-5, and 1-6 are the Planning Commission Approved Project Illustration, Floor Plans, and Comparison to Original Project.

Figure 1-4 Planning Commission Approved Project Illustration

Figure 1-5 Planning Commission Approved Project Floor Plans

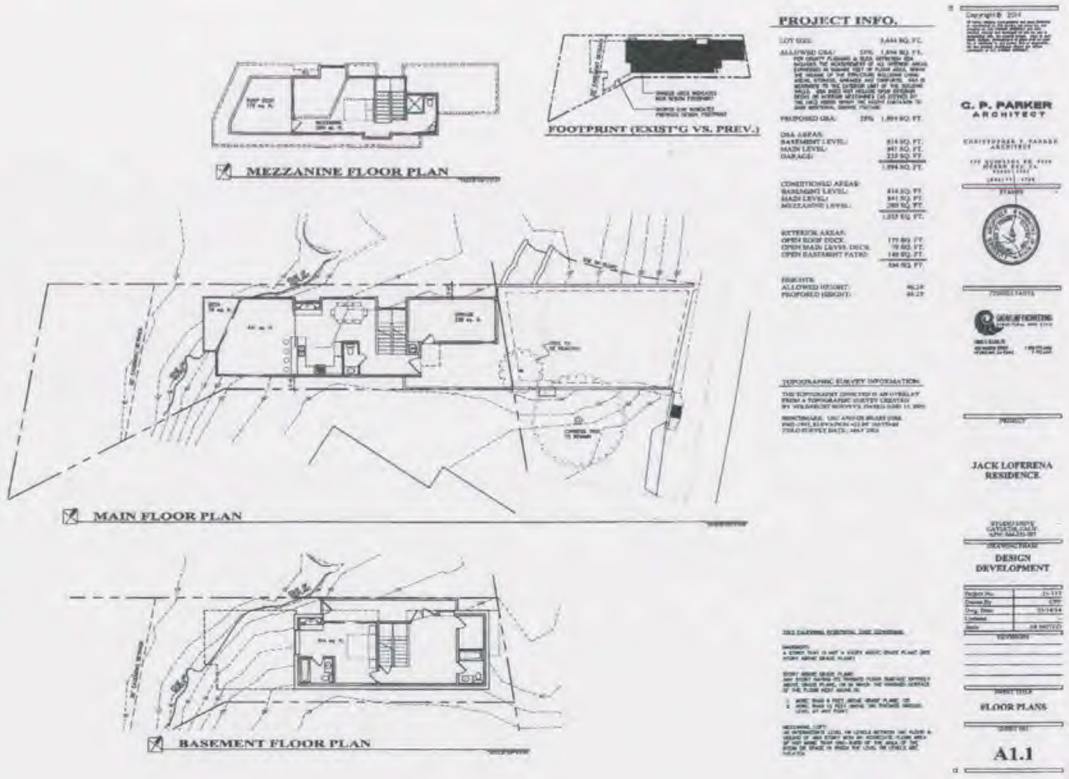


Figure 1-6 Planning Commission Approved Project with Comparison to Original

Figure 1-7 is the BAP Setback line from the December 9, 2014 Board Hearing Staff Report Attachment 4.

Figure 1-7 Board Approved Project Setback Line

Tab 2 Project Improperly Allowed on Bluff Face

a. Coastal Bluff

The Project is located on a coastal bluff as defined in CCR §13577(h)(1). The Planning Commission Approved Project does not comply with the setback requirements associated with a coastal bluff and is therefore inconsistent with the LCP, the CZLUO and the Coastal Act.

Although there is abundant scientific evidence (including the CCC's own geologic experts) to support the unequivocal conclusion that the Project site is a coastal bluff, and despite the untenable position of the County staff and Applicant that it isn't, Appellant contends that even an uncredentialed lay person, or an average visitor to Morro Strand State Park, could easily see and correctly determine the existence of the coastal bluff by simply looking at it. In fact, to view the coastal bluff and conclude it does not exist defies reality and flies in the face of common sense. See aerial photograph at www.cacoast.org/201316752.

Despite County Staff's and the Applicant's claims to the contrary, the BAP, finding J, finally acknowledges the existence of a coastal bluff.

Coastal Bluff Definition. CCR §13577(h)(1) defines coastal bluffs as "*1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion.*"

Therefore, by the definition set forth in CCR §13577 the site must be a coastal bluff, because the toe of the bluff is undoubtedly subject to marine erosion. The CCC 2013 and CCC 2014 Correspondence, report that the CCC staff geologist, Dr. Johnsson, determined that the Project site is comprised of a coastal bluff.

The HKA Report, attached as part of Exhibit 6, found that the lot is impacted by marine erosion. The report includes several figures and photographs that clearly show the exposed bedrock coastal bluff on the property, which indicates marine erosion, and the "active beach" at the base of the bluff. The HKA Report describes how the bluff is subject to wave run-up and marine erosion. Several photos showing the coastal bluff and beach portion of the property during a typical high tide in 2007 are included in the Report. Figure 2-1 is an example photograph showing the Pacific Ocean impacting the rock outcropping on the Project site.

HKA also determined that the Applicant's consultants, with peer review by the County's EIR consultants Cotton Shires and Associates (the "EIR Consultants"), incorrectly defined the bluff as a fluvial bluff.

Figure 2-1 Photograph of Wave Impact on Project Site (12-26-07)

The HKA Report and the CCC 2014 Correspondence make it clear that the Project site should be defined as a coastal bluff. Since the Planning Commission Approved Project was sited in a manner that is inconsistent with the Coastal Act, the CZLUO and the LCP, with respect to coastal bluff setbacks, and it's unlikely that the BAP can be sited any better, then neither the Planning Commission Approved Project nor the BAP should have been approved.

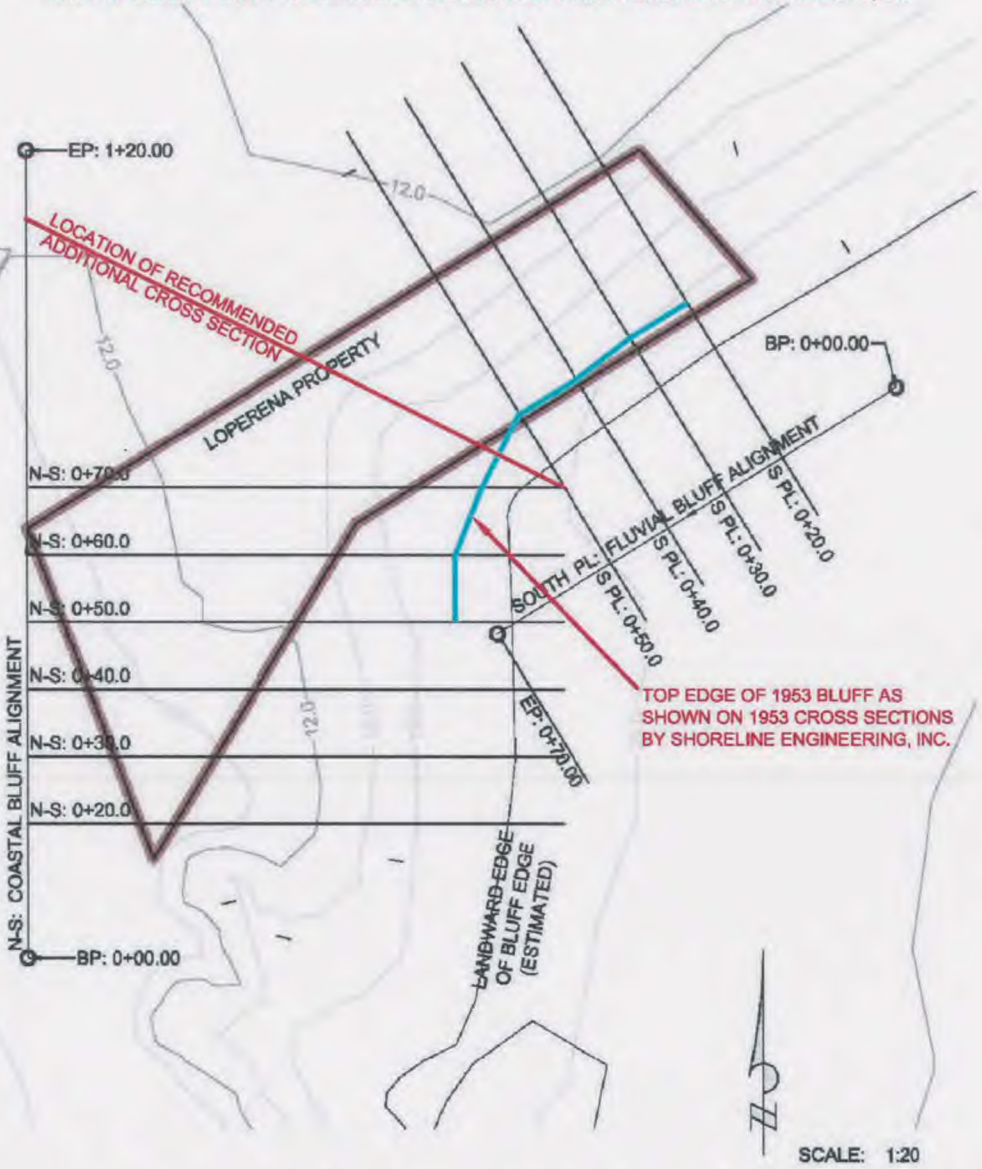
b. Bluff Face

Finally, in yet another effort to overcome the well supported conclusions of CCC expert geologic staff and HKA that the site is comprised of a coastal bluff, the Shoreline 2014 Study uses historical photographs from 1953 and 2014 to create surveys purporting to show that the site is not a coastal bluff.

HKA reviewed the Shoreline 2014 Study. In HKA's letter to County Planner, Ryan Hostetter, dated December 2, 2014, attached as part of Exhibit 13 HKA refutes Shoreline's conclusion, and in fact finds that the surveys produced by Shoreline support the position that the site is comprised of a coastal bluff and the Project is on a Bluff Face. Figure 2-2 is the 1953 Topographic Map by Shoreline Engineering, Inc., with the addition of the 1953 Top Edge of the Bluff. The 1953 Top Edge of the Bluff is shown in blue was added by HKA based on Shoreline Engineering cross section data.

Figure 2-2 1953 Topographic Map with 1953 Top Edge of Bluff

FIGURE 3: 1953 TOPOGRAPHIC MAP BY SHORELINE ENGINEERING, INC. SHOWING
1953 TOP EDGE OF BLUFF AS DEPICTED ON CROSS SECTIONS BY SHORELINE ENGINEERING, INC.



Loperena: Studio Drive, Cayucos

1953 Topographic Survey

NOTE: TOP EDGE OF 1953 BLUFF AND LOCATION OF RECOMMENDED ADDITIONAL CROSS SECTION BY HARO KASUNICH & ASSOCIATES, INC. 11/25/2014

Dr. Johnsson's December 8, 2014 email also analyzes the Shoreline 2014 Study conclusions and discusses that Shoreline's analysis is incomplete, the conclusion is flawed, and the Project is on a bluff face. He made several key conclusions:

i. That "the bluff definitely meets the definition of a Coastal Bluff in Section 13577 (h) (2) of the Coastal Act regulations. That is, it clearly has been subject to marine erosion in the recent past."

ii. "The plan views show the natural bluff edge to lie landward of the entire Loperena parcel. Thus, the natural topography and ground surface of the entire parcel is either on the natural bluff face or beach."

iii. "… it is unclear of what the significance would be of the bluff being less than ten feet in height. Nowhere in the Coastal Act regulations nor in the LCP is a figure of ten feet specified for the definition of a Coastal Bluff. The report makes reference to the Commissions outdated Statewide Interpretive Guidelines, but these are not regulatory in nature." Even if 10 feet is part of the bluff definition, "While it may be the case that the bluff is less than 10 ft. in relief along certain cross sections, there appear to be cross sections along which the relief exceeds 10 ft."

iv. "Thus, it appears that the entire parcel is seaward of the bluff edge, whether the bluff is a coastal bluff or an [undefined] "fluvial bluff."

v. That the "project triggers the coastal bluff setback requirements of the LCP at this location."

c. Termini of Bluff Diagrams Not Applicable

The EIR Consultants prepared several diagrams regarding determination of the termini of the bluff to support their claim that the property is not a coastal bluff. However, the location of the bluff termini is not applicable to this site.

Based on CCR §13577(h)(2) the bluff termini methodology is only applicable to sites that are not subject to marine erosion. CCR §13577(h)(2) states "*Coastal bluff shall mean: … (2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2),*" followed by a description of the bluff termini determination methodology. Since the toe of the bluff is clearly subject to marine erosion, CCR §13577(h)(2) is not applicable and siting the house pursuant to CCR §13577(h)(2) is inconsistent with applicable law.

If for any reason these diagrams are considered, it should be noted that the diagrams included in the EIR were based on a 300 foot distance, instead of the required 500 foot distance. Therefore the location of the termini of the bluff determined by the diagrams is inaccurate.

Tab 3 Setback Improperly Applied to Toe of the Bluff

The Planning Commission Approved Project is inconsistent with the LCP because it was not setback from the coastal bluff top in accordance with the LCP. The HKA Report and HKA December 2, 2014 letter, attached as part of Exhibit 13, and the CCC 2013 and 2014 Correspondence, all conclude that the Project site should be considered a coastal bluff and appropriate setbacks required.

Despite the Planning Commission Approved Project's reduction in size from the original design, and the 10 foot shift landward of the basement wall, the changes do not adequately mitigate the fact that the Project is proposed for construction on a coastal bluff, and therefore even as reduced and conditioned, the Project cannot comply with applicable setback requirements. Therefore, the Project cannot be constructed as proposed because it does not comply with coastal bluff setback requirements. Figure 3-1 depicts the main floor of the Planning Commission Approved Project. The green dotted line shows the approximate location of the bluff top edge. The building clearly extends seaward of the bluff top, with no setback. The graphic illustrates the inconsistency with applicable setback requirements, and how it seems unlikely that any project complying with the setback requirements can by constructed.

Figure 3-1 Planning Commission Approved Project
Main Floor with Added Graphics

CZLUO Section 23.04.118 states that new development shall be setback from the bluff edge a distance sufficient to withstand bluff erosion and wave action for a period of 75 years.

Additionally, Estero Area Plan Section III, I. Shoreline Development, Bluff Setbacks, page 7-10 and 7-11, states that new development to *"be located on or adjacent to a beach or coastal bluff are subject to the following standards: "4. Bluff Setbacks. The bluff setback is to be determined by the engineering geology analysis required in I.1.a above adequate to withstand bluff erosion and wave action for a period of 100 years. In no case shall bluff setbacks be less than 25 feet."* (underline added). The site is on a bluff, and is "on or adjacent to a beach" and therefore the setback must be at least 25 feet in order to comply with the Estero Area Plan.

The Estero Area Plan, Section V.F.1, states that bluff setbacks shall be in accordance with the CZLUO, "*except that the minimum setback shall be 25 feet in any case.*" Table 7-1 modifies that requirement, under the first column of the table, entitled "Area." A portion of Table 7-1, Cayucos Urban Area Special Setbacks—Communitywide is represented below:

LOCATION						MINIMUM SETBACKS (FT)[1]					
AREA	AREA-WIDE	SUB. NO.	BLOCK	LOTS	OTHER	BLUFF	FRONT	SIDE	STREET SIDE	REAR	REMARKS
BLUFF -TOP LOTS	X					25					Larger setbacks required where necessary to withstand 100 years of erosion (see Standard G1)

The Planning Commission Approved Project was inconsistent with these standards, because it was not setback from the bluff-top at all, and was certainly not setback a distance sufficient to withstand 100 years or 75 years of bluff erosion or even the minimum 25 feet.

Further, the BAP 25 foot setback requirement does not clearly require that the BAP comply with these standards, because of the conflict between the Board Approved Findings and Conditions. SJMS Letter dated December 8, 2014, Exhibit 14, raised the Appellant's concern that draft Project Findings and Conditions were in conflict regarding the location of the required setback. This issue was reiterated in the Appellant's presentation at the December 9th Board Hearing. Unfortunately, the issue was not corrected in the Board Approved Findings and Conditions. BAP Findings item F states "The revised design which includes a 25 foot buffer from the edge of the rocks on the property which is illustrated as the "bluff' on Attachment 4 of the Board staff report." BAP Findings item J states "The project is conditioned to require a 25 foot setback from the bluff which complies with the Coastal Zone Land Use Ordinance bluff setback requirements (23.04.118 Blufftop Setbacks)." However, the BAP Condition 1.c sets a "25 foot setback from the edge of the rocks and ice plant", which is approximately or nearly the toe of the bluff.

As CCC Geologist, Dr. Johnsson, stated in the July 31st meeting with County staff, the natural bluff top edge is undetermined. The added fill on the site complicates the determination of the natural bluff top edge. Therefore even the minimum 25 foot setback line had not yet been located.

Dr. Johnsson suggested that the EIR Consultant should determine the location of the top of the bluff by preparing three (3) dimensional mapping with a surveyor's support. However, the Applicant declined to conduct this analysis. Instead the Applicant prepared a photo analysis documented by Shoreline 2014 Study, which was previously discussed in Tab 2. The top of the bluff based on the Shoreline 2014 Study and shown in the graphic prepared by HKA attached as part of Exhibit 13 is indicated by the blue line. This figure is previously provided as Figure 2-2.

a. Safety Element of the General Plan

The Project is inconsistent with Policy S-23 of the Safety Element of the County General Plan. Safety Element Policy S-23 states that development shall not be permitted near the top of eroding coastal bluffs. Over the years wave run-up *at this site* has contributed to bluff erosion. Specifically, the HKA Report, pages 1, 3, and 4, describe *how this* bluff is subject to marine erosion. Therefore, allowing development to proceed on this eroding coastal bluff will violate the basic precept of Safety Element Policy S-23. The Project should not be approved unless it can be revised in a manner that is consistent with Policy S-23, due to the effect of marine erosion on the site's coastal bluff.

b. Replace Staff Report Attachment 4

Appellant's December 8, 2014 Letter commented on the Board Hearing staff report. It was recommended that Figures using Applicant's Drawing A1.1, be used to replace Staff Report Attachment 4, since a topographic surveyed drawing is more accurate and easier to verify than Attachment 4 photo-graphic. The HKA December 8th Letter provided Figure 1 (shown below as Figure 3-2) based on the setback being applied to the toe of the bluff similar to Attachment 4. The purple line indicates the edge of the rocks and ice plant. The orange line represents the 25 foot setback from the toe of the bluff. The light blue line indicates the top of the bluff as shown in the Shoreline 2014 Study. It was recommend that the Board either use these Figures, or preferably similar figures based on setback from the top of the bluff, so the diagram is consistent with the Board of Supervisors intent. Unfortunately, the BAP did not include a revised drawing.

Figure 3-2 Planning Commission Approved Project Basement and Main Floor Plans with Board Approved 25 foot Setback from Edge of Rocks and Ice Plant

c. Limitation on Cantilevered Structures Beyond Setback

The Planning Commission Approved Project was inconsistent with CZLUO Section 23.04.118.c(3) limiting the distance structures may encroach or cantilever over setback lines. The Planning Commission Approved Project had a cantilevered main floor living space and deck extending 21 feet beyond the proposed basement wall, beyond the bluff top edge (whether coastal or fluvial), and extending beyond the required setback line.

The Planning Commission Approved Project was inconsistent with the limited exception in Section 23.04.118.c(3) allowing certain aesthetic design features to extend beyond the applicable setback line. CZLUO Section 23.04.118.c(3), Exceptions to bluff setback requirements, states that the minimum setback requirements of CZLUO Section 23.04.118.a don't apply to "*Roof and wall projections including cantilevered and projecting architectural features including chimneys, bay windows, balconies, cornices, eaves and rain gutters may project into the required setback a maximum of 30 inches.*"

The exception to encroaching beyond a setback line pursuant to CZLUO Section 23.04.118.c(3) does not allow building floors to extend beyond the setback line, only roof and

wall projections and architectural features such as eaves or bay windows are accepted. Therefore, the living space and deck should not extend beyond the basement wall. The Planning Commission Approved Project was inconsistent with all applicable setback requirements, and was inconsistent with the exception to encroachment provided in Section 23.04.118.c(3). Thus, if the setback were appropriately applied to the Planning Commission Approved Project, at least 15 feet of the basement itself, and the *entire* cantilevered portion of the house are impermissible, and violate the LCP and Coastal Act.

Based on the Conditions of Approval for the BAP stating that *all* projections, including decks and cantilevers, shall be setback at least 25 feet from the edge of the rocks it seems that the BAP would prohibit any part of the project from extending over the setback line, but since it is unclear if the setback line is in the correct location, and there are no plans showing compliance with the BAP anyway, it is impossible to know if the BAP correctly applies LCP and other applicable laws and ordinances.

Tab 4 Shoreline Protective Devices Improperly Allowed

The HKA Report finds that the basement wall of the Planning Commission Approved Project acts as a seawall, which is prohibited for use in new development. The CCC 2013 and 2014 Correspondence state that the basement wall will act as a prohibited seawall. Even the BAP, as conditioned by the County with a 25 foot setback from the "bluff", it seems that the basement wall is likely to remain, and will be subject to wave run-up. As a basic Coastal Act planning principal, new development should not be facilitated by construction of seawalls. If allowed, not only will this basement seawall inspire construction of an otherwise inappropriate development, but it will also serve to deflect wave run-up toward neighboring public and private property and reverberate and adversely impact those adjacent landforms.

The Estero Area Plan (Chapter 7, Areawide standards Section I.5) states that "*shoreline and bluff protection structures shall not be permitted to protect new development.*" Shoreline Protection is defined as "*Structures or sand placed at or on the shore to reduce or eliminate upland damage from wave action or flooding during storm.*"

LCP Hazard Policy 1 requires that new development shall be designed so any shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, not be needed for the life of a structure.

In this case, the Planning Commission Approved Project includes a traditional seawall on the north side, and the basement wall is another seawall built into the Planning Commission Approved Project itself on the west side! See Figure 4-1 Planning Commission Approved Project basement floor plan with seawalls highlighted in red. Without plans for the BAP, it is impossible to know whether it too will include an impermissible seawall.

Figure 4-1 Planning Commission Approved Project Seawalls

Based on the GeoSoils 2014 Letter, the basement wall is designed to act as a prohibited seawall, as more particularly described in the HKA Report. The County and the Applicant claim that the basement wall is not a seawall because it is structurally necessary to support the cantilevered portion of the Planning Commission Approved Project. If so, one unpermitted designed element boot straps another, since neither the basement seawall or the cantilevered house are allowable under the LCP and Coastal Act.

Moreover, the logic employed by the County and Applicant cannot withstand even minimal scrutiny. Consider the precedent. If the Planning Commission Approved Project or the BAP with a similar basement wall was allowed to stand, every structure along the coast could be designed to include concrete reinforced basement seawalls, thereby avoiding the longstanding prohibition.

To claim the basement is not a seawall is both disingenuous and self-serving. The basement wall is purposely designed to act as a prohibited shoreline protective device, and is therefore inconsistent with the CZLUO Section 23.05.090, the Estero Area Plan and the LCP.

The lack of plans showing the BAP makes it difficult to know if a basement seawall or other seawall will be included. However, due to expected sea-level rise and wave run-up height, it seems likely that if the BAP has a basement wall, it will act as a prohibited seawall.

Tab 5 Inconsistent with Visual Resources Policies

The Planning Commission Approved Project (and likely any house built in compliance with the BAP) is inconsistent with LCP Chapter 10, Visual and Scenic Resources, Policies 1, 2, 5, 6 and 11, and Coastal Act Section 30251.

The property is adjacent to and on the edge of a very significant public scenic coastal vista and recreational resource area; Morro Strand State Beach. At 33 feet high and cantilevering 21 feet out and over the sand, the Planning Commission Approved Project's massing will significantly alter and affect public views and enjoyment of the coast. Even with a house that complies with the BAP requirements by reducing or removing the cantilevered portion of the house, at 33 feet high, it will still erode the public's view and enjoyment of the sandy beach, southerly views and ocean waves. The visual impact will be especially jolting from the beach and as viewed travelling south on Highway 1 and Studio Drive, where it will create a view blocking wall effect.

LCP Policy 1. LCP Policy 1, Protection of Visual and Scenic Resources, requires that "*attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved [and] protected ... where feasible.*" Siting the Project in compliance with coastal bluff setback requirements would likely reduce the impact on the visual features of the site and might be consistent with LCP Policy 1.

LCP Policy 2 and Policy 6.

LCP Policy 2, Site Selection for New Development, requires that development "*be sited so as to protect views to and along the ocean and scenic coastal areas*" to "*emphasize locations not visible from major public view corridors.*"

LCP Policy 6 requires that homes in small-scale neighborhoods "*be designed and sited to complement and be visually compatible with existing characteristics of the community which may include concerns for the scale of new structures, compatibility with unique or distinguished architectural historical style, or natural features that add to the overall attractiveness of the community.*"

Contrary to the EIR findings, the Planning Commission Approved Project is not consistent with current neighborhood conditions. Most of the residences are set-back from the bluff top 25 feet, and none are cantilevered over the sand. The nearby residence that is built to the edge of the bluff was built in 1964, prior to establishment of the Coastal Act and associated rules protecting bluffs. Figure 5-1 shows a photograph of the 1964 residence used by EIR to justify the EIR finding that Project is similar to existing neighborhood and therefore meets visual resource policies. It is not appropriate to compare the Project to it, because new residences must meet the current ordinances.

The Project is inconsistent with Policies 2 and 6, because it is not sited to protect views of the coast, ***and will in fact block views of the coast,*** and as such is radically out of character for the surrounding neighborhood.

Figure 5-1 1964 Residence

LCP Policy 5 and Policy 11.

The Planning Commission Approved Project would result in significant grading of the coastal bluff face including the removal of part of the historic rock face of the bluff that is proposed to be excavated in order to build the basement and protective subsurface walls which is inconsistent with Policy 5, Landform Alterations. Policy 5 states: "*Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. Where feasible, contours of the finished surface are to blend with adjacent natural terrain to achieve a consistent grade and natural appearance.*"

Policy 11, Development on Coastal Bluffs, requires that "*New development on bluff faces be limited to public access stairways and shoreline protection structures. Permitted development shall be sited and designed to be compatible with the natural features of the landform as much as feasible. New development on bluff tops shall be designed and sited to minimize visual intrusion on adjacent sandy beaches*".

The BAP is inconsistent with Policies 5 and 11 because it will destroy most of the bluff, it is on a bluff face, it is not sited to be compatible with the natural features of the bluff, and will be visually intrusive on the adjacent sandy beach.

The BAP, will destroy natural land forms and block coastal views, and is located on a bluff face, and it is therefore inconsistent with LCP Visual and Scenic Resource Policies 1, 2, 5, 6 and 11, as well as Coastal Act Section 30251.

Tab 6 Coastal Hazards Underestimated and Project Allowed in Hazardous Area

The Project is inconsistent with Coastal Act Section 30253(a) and (b), which states that new development shall: "*(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard*", and "*(b) 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*". Flaws in the coastal hazards analysis prepared by the County's EIR Consultants resulted in approval of a project that is inconsistent with the Coastal Act, the CZLUO and LCP.

The potential for future damage from wave run-up, coastal flooding and wave impact is substantial in light of accelerating sea level rise. Additionally, a basement wall, which will be close to the sandy beach, will act as a prohibited seawall, deflecting wave run-up towards the neighboring properties and adversely impact them.

a. Overtopping of Rock Outcropping

The County presented analysis regarding the impact of wave run-up and seawater overtopping the rock outcropping by nearly 1 foot. The analysis was updated by GeoSoils and reported in the GeoSoils 2014 Letter.

The HKA March 2014 Letter attached as part of Exhibit 9, finds that the results of the GeoSoils wave run-up and overtopping analyses underestimate the gross hazards at the site, particularly in the oceanfront portion of the property where bedrock is not present to higher elevations and erodible fill soils exists. The HKA Letter describes several flaws in the GeoSoils analysis, which are summarized below:

- Maximum breaking wave heights underestimated.
- Worst case profile was not utilized.
- Slope roughness overestimated.
- Wind velocities underestimated.

Reliance on the faulty GeoSoils analysis has, in part, led to approval of a project that is inconsistent with the LCP, CZLUO and the Coastal Act because of the failure to properly estimate the hazards.

See the HKA March 2014 Letter attached to Exhibit 9 for a detailed analysis of this issue.

The HKA Report and the HKA 2014 Letter clearly show that in the County's analysis the impact related to beach sand scour and coastal erosion were under estimated.

Attached as part of Exhibit 10 is a photograph prepared by Shoreline Engineering of the Project site showing the rock outcropping and the extent of past wave run-up. The picture also shows a person standing at a point near where a basement wall would have been located in the Planning Commission Approved Project. The picture clearly puts into context the close proximity between the northerly basement wall of the Planning Commission Approved Project and the beach, and shows that any basement in the BAP will be quite susceptible to the effects of wave run-up.

Testimony and visual presentations by the EIR Consultants at the April 10, 2014 Planning Commission hearing included discussion of how the worst case geologic conditions at the site were determined. At the June 3, 2014 Board of Supervisors hearing, HKA provided the following analysis regarding flaws in the EIR Consultants' analysis, in particular regarding what location on the site should have been used to determine the worst case scenario.

Cross-sections of the site show that much of the coastal rock face and a part of the historic coastal bluff has been covered with imported earth fill material. The analysis by Cotton Shires and Associates and GeoSoils Inc. did not utilize the worst case geologic conditions at the site. Both Cotton Shires Cross Sections 1-1' and 2-2' show beach sand under the proposed home in analyzing the potential for future coastal erosion and bluff recession. This beach sand deposit is likely connected to the exposed sand on the beach about 5 feet from the northwest corner of the home. The worst case geologic conditions at the site occur near the northwest corner of the proposed home, where it is located closest to the beach, and where the earth materials consist of fill and beach sand that that will continue to be exposed to marine erosion (coastal erosion) after the home is constructed. The F-EIR and the supporting documents from Cotton Shires and Associates and GeoSoils Inc. did not present a geologic cross section aligned through the worst case conditions which is a due west alignment through Boring HA-5 as located on F-EIR Figure 4.3-3, the Cotton Shires Engineering Geologic Map. As mapped by Cotton Shires, no bedrock is exposed in the coastal bluff face along this alignment. We disagree with Cotton Shires Geologist Michael Phipps statement to the Planning Commission that his Cross Section 1-1' represents worst case conditions. It is not the worst case condition for future coastal erosion, and is not the worst case condition for calculation of wave runup.

The Project is located on a cascading coastal bluff face and within a few feet of the sandy beach. At the northwest corner of the Planning Commission Approved Project basement, the basements walls are above grade, and contain doors and windows. Applicant concedes that ocean wave run-up will impact these exposed walls.

Clearly the County's analysis of the coastal hazards affecting the site resulted in approval of a project that is inconsistent with the CZLUO and the LCP.

b. Sea Level Rise

The effect of sea-level rise on the Project was not properly analyzed in the F-EIR or in the GeoSoils 2014 Letter. The HKA March 2014 Letter attached as part of Exhibit 9 finds that the GeoSoils 2014 Letter underestimates the gross hazards at the site. The HKA March 2014 Letter points out that wave action and water levels could in fact be much higher, due to the extremely conservative assumptions made in the GeoSoils 2014 Letter, some of which contradict the assumptions used in the F-EIR. One sample issue is that the sea-level rise was based on year 2100 estimates, but should have been extrapolated to the expected sea level rise in year 2114. Further, because the analysis didn't use the standards for sea-level rise set forth in the County's Energy Wise Plan, adopted as a part of the County's Conservation and Open Space Element of the General Plan, the analysis is inconsistent with the County's General Plan.

The sea-level rise analysis in the GeoSoils 2014 letter uses standards that are inconsistent with the standards used in the County's General Plan. This inconsistency ultimately leads to the Project being sited where it will require a shoreline protective device to avoid water damage to the house, because the sea-level rise is underestimated.

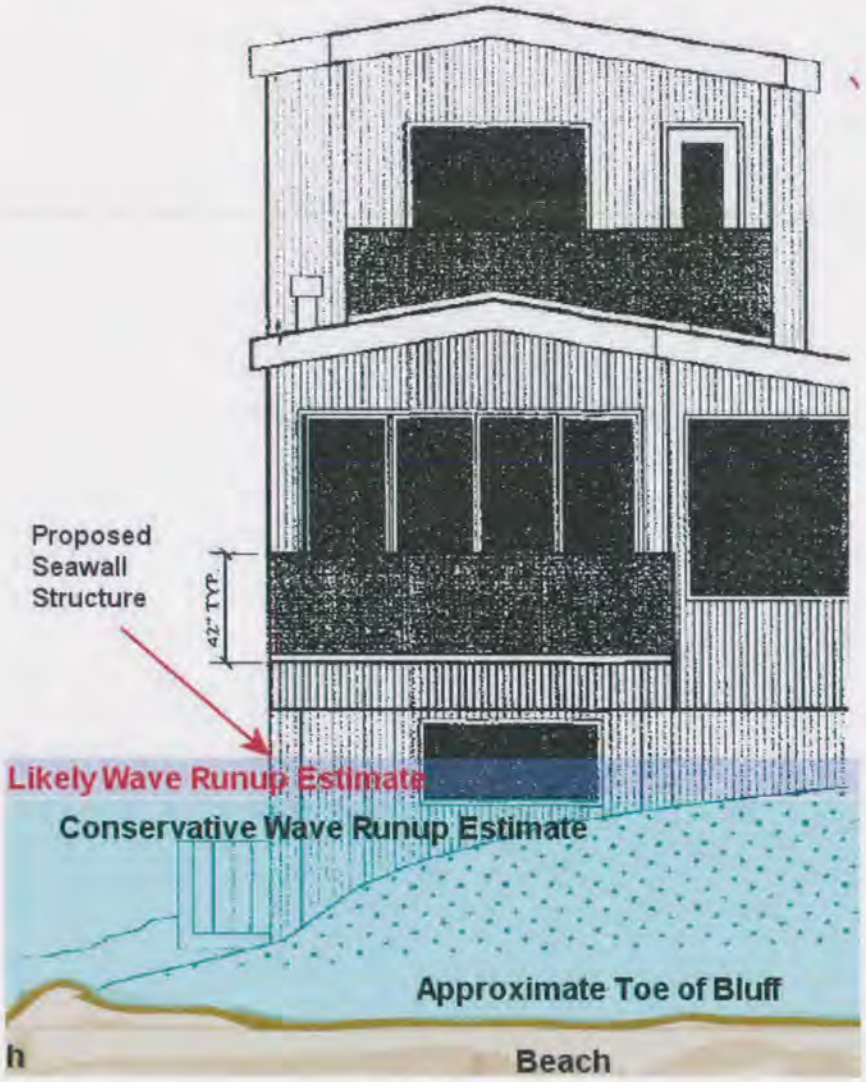
c. Wave Run-up

Note that even the Revised CEQA Findings (Board Hearing 12/9/14 Staff Report Attachment 2) states that based on the Supplemental Analysis water will over top the rock outcropping by one foot and hit the basement wall. The staff report concludes, however, that because the water will reach the house at a low velocity, it is not expected to structurally damage the house.

One foot of water will always cause damage to a house – but not to a seawall or shoreline protective device. Any basement wall constructed in such a manner that seawater won't cause damage is clearly a prohibited shoreline protective device. Figures 6-1 and 6-2 show the Planning Commission Approved Project with Wave Run-up Height graphics added, which illustrate just how high water will reach on the house. The light blue shows the conservative wave run-up height based on original EIR estimates, and the dark blue shows a more likely estimate for the wave run-up height.

Figure 6-1 Planning Commission Approved Project
Wave Run-up Height Northern Side

Figure 6-2 Planning Commission Approved Project
Wave Run-up Western Side



Tab 7 Creek Setback Not Applied

Projects located on the Old Creek Coastal Stream bluff must be set back a minimum of 50 feet in accordance with Estero Area Plan Cayucos section, Sensitive Resource Area, Table 7-2.

Table 7.2 states "*1. Setbacks – Coastal Streams. Development shall be setback from coastal streams as shown in Table 7-2. Riparian setbacks shall be measured from the upland edge of riparian vegetation or the top of stream bank where no riparian vegetation exists.*" Table 7-2 provides that the Old Creek coastal stream setback must be a minimum of 50 feet.

If the Project is determined to include a fluvial bluff, the coastal stream setback requirements must be applied to the Project.

Tab 8 Inconsistent with Policy 3 Stringline Method

The Planning Commission Approved Project was inconsistent with the County's Coastal Plan Policies regarding siting of new structures fronting a beach because it extended significantly (36 feet) beyond the adjacent existing residences. The BAP is still inconsistent with Policy 3, because it is not setback 25 feet from the top of the bluff, as are the neighboring houses.

County Coastal Plan Policies, Chapter 10, Visual and Scenic Resources, Policy 3, Stringline Method for Siting New Development states: "*In a developed area where new construction is generally infilling and is otherwise consistent with Local Coastal Plan policies, no part of a proposed new structure, including decks, shall be built farther onto a beachfront than a line drawn between the most seaward portions of the adjoining structures; except where the shoreline has substantial variations in landform between adjacent lots in which case the average setback of the adjoining lots shall be used.*"

Except for a few properties built prior to the enactment of the Coastal Act and creation of the California Coastal Commission, the average setback along Studio Drive is at least 25 feet. The BAP is inconsistent with Coastal Plan Policy 3 Stringline Method for Siting New Development, and therefore the Project should be revised appropriately or denied.

Tab 9 Cypress Tree Inadequately Protected

The Project is inconsistent with the Biological Resources Section of the County's Conservation and Open Space Element of the General Plan, Policy BR 3.1, Native Tree Protection, and Policy BR 3.2, Protection of Native Trees in New Development. Policy BR 3.1 requires that native and biologically valuable trees be protected to the maximum extent feasible. Policy BR 3.2 requires that *"proposed discretionary development and land divisions to avoid damages to native trees (e.g. Monterey pines, oaks) through setbacks or... other appropriate measures."*

The F-EIR identifies a significant mature cypress tree located in the County right-of-way very near the Project. The tree was evaluated in a report prepared by Chip Tamagni, Certified Arborist, A & T Arborists and Vegetation Management, Inc. and dated March 7, 2014, attached as part of Exhibit 9. In his professional opinion, it is "physically impossible" to save the tree given the design of the Planning Commission Approved Project, including impacts from the building foundations and utilities. According to the arborist, the tree, which has a trunk diameter of approximately 76 inches, has a shallow root system that extends into the area of the proposed construction site. The arborist's March 2014 report states: "In conclusion, we are quite certain the current design will negatively affect the Monterey cypress tree to the point of death. At a minimum, we feel the safe distance to remove the roots is located approximately 25 feet from the trunk of a tree this size to minimize long term impacts. We feel the EIR did not correctly identify mitigation measures to protect the tree. Although there is mention of an environmental monitor requirement in the EIR, there are no specific mitigations mentioned to protect the tree other than the misguided mention of tree fencing. The site, if developed according to plan will most likely be a death sentence for the cypress tree."

The BAP is inconsistent with the County's Biological Resources policies 3.1 and 3.2 as set forth in the Conservation and Open Space Element of the General Plan because the proposed mitigation measures are not sufficient to protect the cypress tree from destruction. To protect the tree and be consistent with County Biological Resource policies, a minimum construction clearance of at least 25 feet from the trunk of the cypress tree, which requires rerouting of the gas line, and redesign of the drainage system. The clearance area should be shown on all revised plans.

Additionally, Mr. Tamagni reviewed proposed Condition of Approval #33 that was revised in response to his March 7th letter, and found the mitigation measures lacking. By letter dated June 2, 2014, and attached as part of Exhibit 11, Mr. Tamagni recommended specific measures necessary to preserve the tree. Mr. Tamagni's recommendations should be incorporated into Condition of Approval #33.

The Board Approved Condition #33 is open ended, unrealistic, will likely be unsuccessful in protecting the tree, and ***did not include any specific measurable setback requirements*** through which it could be determined whether the tree would survive construction of the Project. Therefore, development of the Project would be inconsistent with the County's Biological Resources Policies 3.1 and 3.2.

Tab 10 Project Alternatives Inadequate

In its approval of the Project, the County did not analyze adequate alternatives that might be consistent with applicable bluff-top setback requirements. Title 14 of the California Code of Regulations, Section 15126.6 requires that an EIR provide a range of alternative designs to a proposed project in order to determine whether alternatives would further mitigate any environmental impacts. The alternatives included in the F-EIR were just slight alterations of the original design for the Project, and did not offer true alternatives for use in determining an environmentally superior alternative in light of the Project's location on a coastal bluff.

For example, an eco-friendly small-scale house could possibly be placed to allow for setbacks complying with coastal bluff requirements, the requirements of the BAP, and meet the standard to withstand 100 years of erosion. The reduced size and scale of such a project would provide a better transition with the open space nature of the adjacent Morro Strand State Beach. Such an option may be feasible. Yet, no such alternative was offered by the County.

The Project will impact the coastal beach, cause potential surface and subsurface drainage issues, impact scenic coastal views and is proposed to be built on a coastal bluff face. Based on the alternatives proposed in the F-EIR, the environmentally superior alternative should have been no project.

CEQA states there should be a reasonable range of alternatives based on project objectives. The alternatives proposed in the F-EIR are similar and do not provide sufficient variation. The F-EIR should not have been certified because it did not offer a reasonable range of alternatives, nor did it include an alternative that might comply with the setback requirements of the BAP.

Exhibits – Appellant's Past Correspondence and Hearing Presentations

1. Request for Review of Proposed Negative Declaration Form and Michael R. Jencks Letter dated August 23, 2007 – Request Review of Proposed Revised Mitigated Negative Declaration and Notice of Determination August 9, 2007

2. Michael R. Jencks Letter dated September 7, 2007 – Requested a Public Hearing

3. Request for Review of Proposed Negative Declaration Form and Kevin Elder Sinsheimer Juhnke Lebens & McIvor, LLP (SJLM) Letter dated April 16, 2009 – Request Review of Proposed Amended Mitigated Negative Declaration and Notice of Determination dated August 9, 2007 and amended April 2, 2009

4. Kevin Elder SJLM Letter dated May 7, 2009 – Requested a Public Hearing

5. Kevin Elder Sinsheimer Juhnke McIvor & Stroh, LLP (SJMS) Letter dated March 23, 2012 – Comments on the Engineering Evaluation by Shoreline Engineering dated January, 2012, and the Updated Geotechnical Investigation by GSI Soils Inc. dated December 27, 2011

6. Kevin Elder SJMS Letter dated August 5, 2013 – Comments on the June 2013 D-EIR

7. Kevin Elder SJMS Letter dated January 22, 2014 – Comments on December 2013 F-EIR

8. Appellant's Presentation at Planning Commission Hearing January 23, 2014

9. Kevin Elder SJMS Letter dated April 1, 2014 – Addresses Issues Raised During and After January 23, 2014 Planning Commission Hearing

10. Coastal Appealable Form and Kevin Elder SJMS Letter dated April 24, 2014 – Appeal Planning Commission April 10, 2014 Decision

11. Kevin Elder SJMS Letter dated June 3, 2014 – Request changes to Project Conditions #33 and #34

12. Appellant's Presentation at Board of Supervisors Hearing June 3, 2014 Hearing

13. Kevin Elder SJMS Letter dated December 3, 2014 – Comments on Shoreline 2014 Study

14. Kevin Elder SJMS Letter December 8, 2014 – Comments on Staff Report for 12-9-14 Board Hearing and proposed findings and resolutions

15. Appellant's Presentation at Board of Supervisors Hearing December 9, 2014

Exhibit 1
Request for Review of Proposed Negative Declaration Form and
Michael R. Jencks Letter dated August 23, 2007 – Request Review of Proposed Revised
Mitigated Negative Declaration and Notice of Determination August 9, 2007

San Luis Obispo County Department of Planning and Building

County Government Center San Luis Obispo, California 93408 Telephone: (805) 781-5600

Receipt #: 29200700000000000865

Date: 08/23/2007

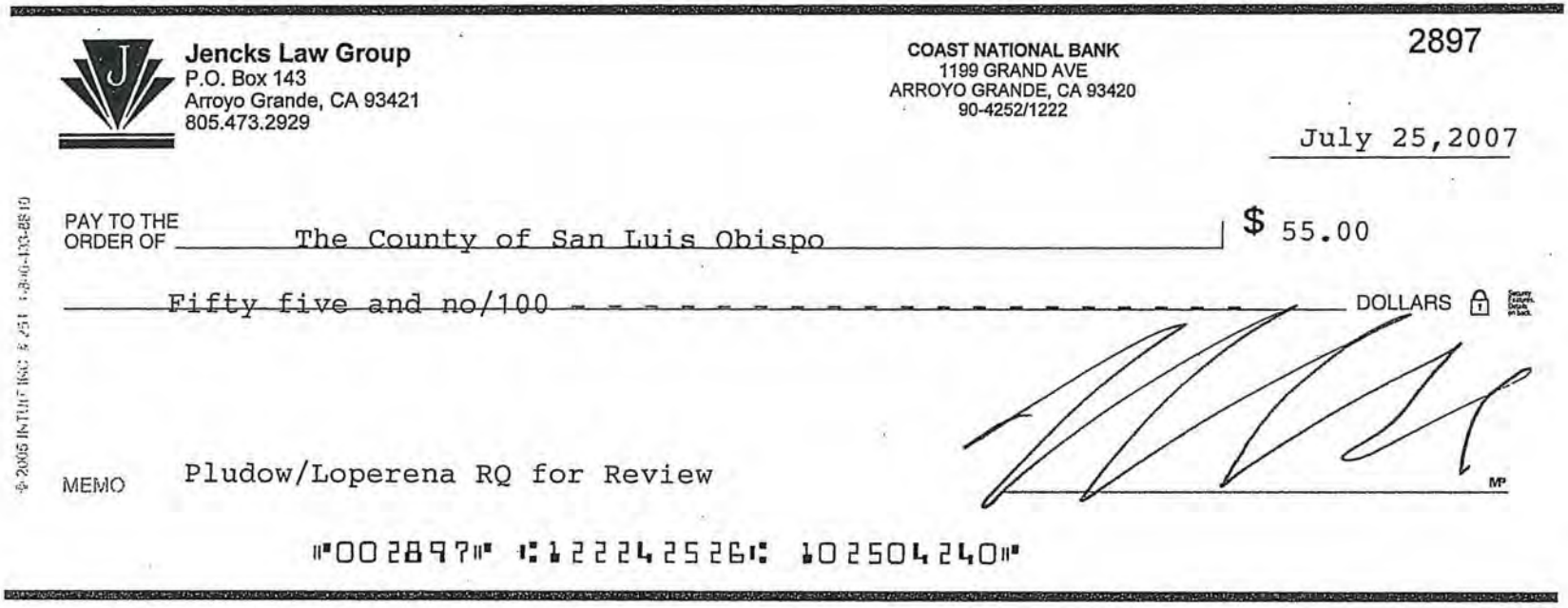
Line Items:

Case No	Last Name	Tran Code	Description	Revenue Account No	Amount Paid
		CUST DEP	Customer Deposit to Account - 55.00	0000-0000	55.00
				Line Item Total:	**$55.00**

Payments:

Method	Payer	Bank No	Account No	Confirm No	How Received	Amount Paid
Check	JENCKS LAW GROUP		2897	request for env. review, DRC2005-00216	In Person	55.00
					Payment Total:	**$55.00**

Balance



Jencks Law Group
P.O. Box 143
Arroyo Grande, CA 93421
805.473.2929

COAST NATIONAL BANK
1199 GRAND AVE
ARROYO GRANDE, CA 93420
90-4252/1222

2897

July 25,2007

PAY TO THE ORDER OF The County of San Luis Obispo $ 55.00

Fifty five and no/100 - DOLLARS

MEMO Pludow/Loperena RQ for Review

⑈002897⑈ ⑆122242526⑆ 102504240⑈

COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
ENVIRONMENTAL DIVISION

REQUEST FOR REVIEW OF A PROPOSED NEGATIVE DECLARATION

1. **PERSON FILING THE REQUEST:**

Name: MICHAEL R. JENCKS (on behalf of Ethel Pludow and Cynthia R. Sugimoto)

Address: 4349 Old Santa Fe Rd, #5
San Luis Obispo, CA 93401

Phone #: 805.548.0600 (daytime)

2. **NAME OF PROJECT:**

~~LOPERENA MUP/CDP DRC2005-00216~~

3. **REASONS FOR REQUEST FOR REVIEW:**

A letter stating your reasons for filing a Request for Review of the proposed Negative Declaration must be attached. Issues must be related to the environmental effects of the project.

4. **FILE REVIEW**

The person(s) filing the request has reviewed the project files and environmental information and has met with Environmental Division staff to discuss the Request for Review:

____ Yes _X_ No (Have reviewed project files, but have not specifically discussed Request for Review)

5. **SIGNATURES**

I/we hereby request a review of the proposed Negative Declaration.

Signed: Cynthia R. Sugimoto — July 25, 2007
Name: Cynthia R. Sugimoto — Date

Signed: 08.22.07 — July 25, 2007
Name: Michael R. Jencks — Date

Signed: _____ _____
Name — Date

6. **FEES**

Your Request for Review must be accompanied by the appropriate fee. This fee is currently $55. Please include a check, made out to "The County of San Luis Obispo" for this amount.

7. **WHERE TO SUBMIT THIS FORM**

Submit this completed form and your letter describing the reasons for the request for review to the Environmental Division of the Department of Planning and Building, County Government Center, San Luis Obispo, CA 93408 (805) 781-5600.

COUNTY OF SAN LUIS OBISPO

DEPARTMENT OF PLANNING AND BUILDING

ENVIRONMENTAL DIVISION

In re:

LOPERENA MUP/CDP

DRC2005-00216

ATTACHMENT TO REQUEST FOR REVIEW OF PROPOSED REVISED MITIGATED NEGATIVE DECLARATION AND NOTICE OF DETERMINATION

ETHEL PLUDOW and CYNTHIA R. SUGIMOTO respectfully request early review – and the County's reconsideration - of the proposed revised mitigated negative declaration and notice of determination dated August 9, 2007 ("Revised MND") for the above-titled Project.

The review of the Revised MND is requested upon the grounds, among others, that the document is inadequate in that it omits or fails to adequately identify, address, and mitigate environmental effects of the Project.

More particularly, review is warranted for each of the following reasons:

- the County's Initial Study ignores and fails to identify all potential impacts of the Project;
- the County's proposed mitigation measures fail to adequately mitigate those Project impacts which are identified;
- the issues raised by the County's analysis of the underlying Project implicate important policy issues on the consistent and equal application of County and California Coastal Commission policies to beach front and bluff top properties; and
- the County's file and information is incomplete and internally contradictory in significant respects.

Illustrations of disputed initial study conclusions and of specific errors and omissions in the initial study and Revised MND are set forth below and include, without limitation:

Hazards.

- The Initial Study finds no significant impacts as a result of risks associated with hazards, omitting and ignoring the fact that the Project is located in the Whale Rock Reservoir dam failure inundation area, even though the reservoir is directly up gradient. Similarly, other hazards, for example that the Project site is situated immediately adjacent to the mouth of a tributary susceptible of flooding, is within the Diablo Canyon Nuclear Power Plant Protective Action Zone 9 (evacuation) area, and is subject to and exposed to tsunami hazard, are not mentioned although the tsunami risk is referred to in another section of the initial study.
- The 5/06 Cleath report, page 5, item 22. states, *"The hazard of tsunamis within the Morro Bay and Cayucos coastline is greatest between the estimated elevations of 9.5 and 24.2 feet above mean sea level for the 100- to 500- year events."* The 3/07 Cleath report

concludes, "The property is in part below the elevation potentially reached by a tsunami." But only mentions "an elevation of 9.5 feet above mean sea level". The pre-Sumatra State tsunami planning elevation was 30 feet above MSL, the Post Sumatra County Seismic Safety Element used 50 feet Above MSL and the post Sumatra State planning level may be 100 feet above MSL. The consultant's numbers appear to under estimate the potential hazard and even though it is identified, no mitigation or building design considerations are proposed.

- The 3/30/07 Cleath report at Page 2, the second bullet states, *"A storm surge of 4.5 meters (14.5 feet) is the design runup factor that should be used ..."* and *"...the ground floor of all structures is to be constructed at a minimum of one-foot above the 100-year storm flood profile level. This section should be referred to when designing the structure for inundation due to storm surge at this site."* The 2/9/07 transmittal of the 1/12/07 Cleath & Assoc. report states in the last paragraph that the basement floor is at 15 feet. Therefore it would not have the required one-foot clearance above the wave inundation. The July 12, 2007 Staff Report apparently recalculates the 4.5 meters storm surge and gets 14.76 feet, indicating a basement floor at 15 feet would be o.76 feet too low.
- Consistency with the County Safety Element is questionable with respect to the Project's location in a dam inundation area and a tsunami inundation area without building design standards to improve structural survivability.

Water/Hydrology.

- The omissions in the hazard section of the Initial Study are compounded because the Initial Study omits key sections of the State Guideline-recommended checklist relating to hydrology and water quality, including whether the project is subject to "inundation by seiche, tsunami, or mudflow", whether the Project would "expose people or structures to risk involving flooding, including flooding as a result of the failure of a levee or dam", and whether the Project would "place within a 100 year flood hazard area structures which would impede or redirect flood flows."

Geology and Soils.

- The project site is clearly within a geologic hazard area and an adequate setback must be required. The project is located within the Geologic Study Area (GSA) designation. Policy 7 of the County's Coastal Plan Policies states the GSA combining designation in

coastal areas of the county which includes ***all coastal bluffs and cliffs greater than 10 feet in vertical relief*** and that are identified in the Assessment and Atlas of Shoreline Erosion (DNOD, 1977). These hazards shall include steep unstable slopes, expansive soils, coastal cliff and bluff instability, active faults, liquefaction and tsunami. Policy 12 of the County's Coastal Plan Policies states the GSA applies to areas where natural conditions of the land may pose potential hazards to life and property for new developments.

- The Project site is on a coastal bluff: the bluff fronting the Project site faces the ocean, trends north (upcoast) and begins to face inland approximately 600 feet upcoast of the Project site. We submit the Cleath report's determination of the purported terminus of the bluff's seaward face is based on a misinterpretation of Coastal Commission and other applicable precedents. The 3/07 Cleath report concludes the site is bounded by a fluvial bluff as stated in the 5/06 report and shown on Fig. 10. Test Pit #2 in 1/07 Cleath report documents ocean coastal bluff erosion of the site creating a cove leaving sand and shells. The 5/06 report states, "[t]he sandstone outcrop forms a buttress providing protection from wave action for the landward portion of the site." Which sounds like a coastal bluff. In fact, if the sand deposits from the river mouth were eroded away down to sea level, Figure 7 in the 5/06 Cleath report indicates a 10.5 foot high bluff may exist at the site which raises potential slope stability issues that have been ignored by the reports by ignoring highly erodable beach sand at a creek mouth next to the ocean. This suggests a sea wall or setbacks from both the beach and creek bluffs will be required to maintain the stability of a structure built at this location.
- The Revised MND fails to provide for required bluff setbacks. 25-foot minimum bluff setbacks are required unless a geologic report prepared by a *registered civil engineer* or other qualified professional indicates that a larger setback is necessary to withstand 75 years of bluff erosion. Policy 6 of the County's Coastal Policies states that new development or expansion of existing uses on bluff tops shall be designed and set back adequately to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years without construction of shoreline protection structures which would require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist based upon an on-site evaluation that indicates that the

bluff setback is adequate to allow for bluff erosion over the 75-year period.

- Item 6a in the Initial Study (Will the project result in exposure to or production of unstable earth conditions, such as landslides, earthquakes, liquefaction, ground failure, land subsidence or other similar hazards?) states that it is an impact that can and will be mitigated. However, no actual mitigation measures are identified or specified in the document. Indeed, the Revised MND states liquefaction potential is considered moderate to high, and therefore a report is required to evaluate geologic stability but no results or recommendations of such report are identified.
- The boulder Rip-Rap proposed on Applicant's plans is not consistent with the Coastal Act. The Initial Study does not address the use of Rip-Rap and the inconsistency with Coastal Policies. Such boulder Riprap is not permitted by the Coastal Act for new development. Section 30253 of the Coastal Act 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.*** (Emphasis added.)

  Section 30235 of the Coastal Act only allows consideration of revetments, breakwaters, groins, harbor channels, seawalls, cliff-retaining walls, ***and other such construction that alters natural shoreline processes*** when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. The Coastal Act requires that new development not create nor contribute to long-term erosion (Section 30253). Even were rip-rap allowed, Kuhn and Shepard (1964) have reported that boulders weighing less than 4 tons become artillery in large waves knocking down sea cliffs and walls.
- The 3/30/07 Cleath report concludes *"The undocumented fill and loose sand deposits are underlain at shallow depth by sound sedimentary strata that will serve well for foundation support."* Test Pit #2 in the 1/07 Cleath & Assoc. report never reached sound

sedimentary strata. The 5/06 Cleath & Assoc. report indicates within the sandstone are "thin friable shale interbeds." It also states, *"The shale beds are weakly resistant and represent severe indentations into the outcrop."* Weakly resistant means easily eroded. Although some bedding plane attitude weaknesses are mentioned, they were not found on a map of the site and other weaknesses of the sandstone like fracture and joint orientation, folding, cementation and grain size distribution were not mentioned. On page 5, item 26 of the 5/06 Cleath & Assoc. report indicates excavations *"will be in removable fractured rock."* which suggests it is more erodable than "sound". Erosion rates referred to by Dr. Chipping 5/06 report page 4, item 21 generally refer to a relatively linear coastline and not a bluff near right angles at a river mouth experiencing accelerated erosion, particularly during stormy wet Winters from both ocean wave and river meander erosion.

- Item 6d in the Initial Study (Will the project change rates of soil absorption, or amount or direction of surface runoff?) states that it is an impact that can and will be mitigated. However, no actual mitigation measures are identified or specified in the document.
- The requirement in the Initial Study that the lowest floor shall be one foot above the 14.76/foot storm surge elevation and shall comply with all flood elevation requirements of the Coastal Zone Land Use Ordinance is not included as mitigation measure in Exhibit B.
- The Initial Study states that the undocumented fill and loose sand deposits beneath the project site are highly erodable, and goes on to say that when highly erosive conditions exist, a sedimentation and erosion control plan is required. However, it does not appear anywhere that such a plan was ever prepared or submitted.
- Because the project directly faces the Pacific Ocean, it will be subject to severe wave runup on occasion, and resultant coastal erosion. These problems have not been addressed in detail in the studies provided by applicant.
- Recession rates at the bluff where the project is located may be much higher than represented by applicant's geologist, who relied on a 25-year-old erosion study.
- The Revised MND fails to provide mitigation for creek and coastal bluff retreat from enhanced erosion and slope failure. Increased erosion from increased flow from new impermeable surfaces from the proposed project has not been mitigated. The Coastal Act requires that new development not create nor contribute to long-term erosion (Section 30253).

- Meander at the mouth of Cayucos Creek may occur during wet winter as the result of ocean wave pattern pushing river mouth direction resulting in severe site erosion. No mitigation is proposed or included.
- Applicant's geotechnical investigation and the archaeological assessment categorize the Project site as being on an "active beach"; construction on or above an active beach is not permitted.
- The Mean High Tide Line used by the Applicant's geologist is not accurate during a winter beach sand scour condition, which is the condition required by the California Coastal Commission and State Lands Commission when demarcating the Mean High Tide Line.

Cultural Resources.

- The Cultural Resources Report is inadequate in light of the Cleath 1/12/07 Addendum which identified shell fragments having been found in borings at the site. The Cultural Resources Report did not mention shell fragments found on the site. Large aboriginal settlements are known to have been located at the mouths of Willow, Old and Cayucos Creeks. The project will be located at the mouth of Willow Creek. The observation of shells is reported in the geology reports and could indicate the presence of cultural resources encountered in the borings and not visible at the surface. Resources are usually located near food resources and a permanent source of water. Along the coast they may contain large amounts of shell fragments in dark soil. The Applicant seeks to minimize the materiality of the shell fragments by concluding they may have been moved there as a result of grading and construction of the adjacent state highway. Whether cultural or archaeological resources are intact in their original context or may have been transported by intervening human or natural processes is immaterial. The finding of shell fragments contradicts the surface survey and the initial study conclusions.

Land Use.

- The August 9, 2007 Initial Study states that lateral access must be provided and no construction is permitted over this portion. *(Reference Initial Study page 4, Aesthetics.)* The Initial Study further states that the current proposal will need to be revised to show no construction within the public access easement area prior to issuance of any

construction permits. However, no mitigation measure is included requiring this to occur. Without the mitigation measure or amended plans, the project is inconsistent with the Local Coastal Plan and Land Use Ordinance. The Initial Study on page 15 under Land Use a) should be identified as inconsistent with the local coastal plan and county land use plan.

- The "basement" for the Project requires excavation of about 6-11 feet in depth into the existing landform. This is in conflict with (1) Coastal Zone Land Use Ordinance 23.04.118 which states that substantially altering the natural landform or impacting sand movement is not permitted; and (2) Coastal Plan Policy Summary Chapter 10, Visual and Scenic Resources, Policy 5, Landform Alteration and Policy 10, Development on Beaches and Sand Dunes, stating that grading and other landform alterations are to be minimized and new development on open sandy beaches is prohibited except for facilities required for public health and safety.
- The Initial Study concludes that the Project, as mitigated, will *not* be potentially inconsistent with adopted agency environmental plans or policies with jurisdiction over the project, ignoring a number of respects in which the Project *is* inconsistent with California Coastal Commission policies and requirements, including, by example and without limitation, Coastal Commission policies re Lateral Beach Access (in fact, the County deleting the lateral access mitigation condition which was included in the original MND from the Revised MND), sea walls, embedded beach rocks/obstructions, and bluffs.
- The Initial Study Checklist incorrectly finds (15(a)) that the Project is consistent "with land use, policy/regulation ...adopted to avoid or mitigate for environmental effects".

Aesthetics/Visual Analysis.

- The Initial Study does not analyze the visual impacts of the Project yet finds the Project's impacts to be insignificant. A visual analysis must be prepared to determine whether the project is consistent with the Coastal Act and Local Coastal Plan.
- The project will change the visual character of the area by blocking the southern neighbors' views of the beach and coastal mountains.

- The 31.4 foot high structure will obstruct views from the beach, California Coastal Trail, and adjacent State Park property. The County's Coastal Plan Polices state that the protection of visual resources within the coastal zone is critical. Section 30251 of the Coastal Act requires the consideration and protection of the scenic and visual qualities of the coastal area. The proposed structure will be 31.4 feet in height when viewed from the coastline and beach. Section 30253 of the Coastal Act states that special communities and neighborhoods must be protected from new development with primary concern to protect ocean and coastal views from public areas such as beaches, parks, coastal trails and access ways, vista points, coastal streams and waters used for recreational purposes.
- The boulder rip-rap, the incised bluff face to accommodate the Project's "basement", and the seawall all are inconsistent with Section 30253 of the Coastal Act states new development shall 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. Policy 11 of the County's Coastal Plan Policies requires new development on bluff faces be limited to public access stairways and shoreline protection structures. Permitted development shall be sited and designed to be compatible with the natural features of the landform as much as feasible. New development on bluff tops shall be designed and sited to minimize visual intrusion ***on adjacent sandy beaches.***
- The Initial Study concludes generally, absent any specific findings, that the Project is consistent with the Small Neighborhood standards. Specific findings of consistency should be made. A review of the plans disclose a number of apparent inconsistencies with the small neighborhood standards; for example, the permissibility under those standards of a third "basement" level for living quarters and having full ingress and egress directly to the beach is in doubt, as is whether the proper methodology was used to calculate the height above road grade (where that is measured from and whether it utilizes the corner lot protocol as the last private lot), and what if any height will be added by solar panels.
- The impact of Project lighting, both exterior and through skylights, on the beach, on neighboring properties, and on dark skies, is neither identified nor mitigated.
- The Project extends well beyond the most seaward portions of the lots to the south, thereby obstructing views of neighboring residences. Coastal Plan Policies require

development to be sited so as to protect views to and along the ocean and scenic coastal areas and provide specific formulas for siting new infill development which restrict how far seaward the proposed new structure, including decks, may extend.

Air Quality.

- The Project calls for significant excavation and construction-related site disturbance and the Revised MND concedes that the Project will "result in the creation of construction dust" and "short and long term vehicle emissions" but proposes no mitigation (even restrictions on idling construction vehicles, avoiding grading in certain wind conditions, etc.). The unusual proximity of adjacent and neighboring residences and of the state highway underscore the importance of mitigating the impacts of construction-related particulate pollution, and fugitive dust from the Project site.
- The Revised MND contains no AB 32 analysis or assessment of the Project's potential contribution of regulated greenhouse gas emissions. The Applicant is to be commended for his announced intent to partially utilize solar-generated electricity (although use of an alternative energy source is not proposed as a condition of Project approval) but "green" design features do not excuse or exempt the project from the minimum analysis required by CEQA and opinions of the Attorney General.

Noise.

- The Project calls for significant excavation and construction activity but the Revised MND contains no identification of the potential for creation of temporary or periodic increase in noise and vibration and, while necessary in any event (and required by the Guidelines), the unusually close proximity of adjacent and neighboring residences and of public beach underscore the importance of identifying and mitigating the impacts of construction-related noise and vibration.
- The Revised MND concludes that "because of the unique design of the proposed residence, no significant noise impacts are anticipated, and no mitigation measures are

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necessary" yet fails to make those design features a condition of approval thereby rendering the mitigation relied on potentially illusory and ineffective under CEQA.

Dated: August 23, 2007

Respectfully submitted,

By_____
Michael R. Jencks
Counsel for Edith Pludow and
Cynthia R. Sugimoto

Exhibit 2
Michael R. Jencks Letter dated September 7, 2007 – Requested a Public Hearing

Michael R. Jencks

SLO CNTY
PLANNING/BUILDING
DEPT

2007 SEP -7 PM 1:58

September 7, 2007

San Luis Obispo County
Department of Planning & Building
County Government Center
San Luis Obispo, CA 93408

Re: Request for Public Hearing
September 21, 2007
Loperena MUP/CDP
County File No. DRC2005-00216

Dear Sir/Madam:

This office represents Cynthia Sugimoto and Ethel Pludow, owners of property located at 2612 Studio Drive, Cayucos, and adjacent to the Loperena property. On behalf of Ms. Sugimoto and Ms. Pludow, I would like to request a public hearing on the matter of the Loperena Minor Use Permit/Coastal Development Permit.

Thank you

Very truly yours,

Michael R Jencks

MICHAEL R. JENCKS

MRJ:sh

COPY

Hangar Thirty Five • 4349 Old Santa Fe Road #5 • San Luis Obispo, California 93401-8176
Tel 805.548.0600 Fax 805.548.0601

cc: Cynthia Sugimoto

Exhibit 3
Request for Review of Proposed Negative Declaration Form and
Kevin Elder Sinsheimer Juhnke Lebens & McIvor, LLP (SJLM) Letter dated April 16, 2009 –
Request Review of Proposed Amended Mitigated Negative Declaration and Notice of
Determination dated August 9, 2007 and amended April 2, 2009

San Luis Obispo County

Department of Planning and Building
Environmental Division

REQUEST FOR REVIEW OF A PROPOSED NEGATIVE DECLARATION

2009 APR 16 PM 4:13
SLO COUNTY PLANNING/BUILDING DEPT

1. PERSON FILING THE REQUEST:

Name Kevin Elder
Address 1010 Peach Street
P.O. Box 31, San Luis Obispo, CA 93406
Phone # 805-781-2817 (daytime)

2. NAME OF PROJECT:

Loperena Minor Use Permit – DRC2005-00216

3. REASONS FOR REQUEST FOR REVIEW:

A letter stating your reasons for filing a Request for Review of the proposed Negative Declaration must be attached. Issues must be related to the environmental effects of the project.

4. FILE REVIEW

The person(s) filing the request has reviewed the project files and environmental information and has met with Environmental Division staff to discuss the Request for Review:

X Yes _____ No

5. SIGNATURES

I/we hereby request a review of the proposed Negative Declaration.

Signed: _____ Date April 16, 2009
Name (printed) Kevin Elder

Signed: Cynthia R. Sugimoto Date April 16, 2009
Name (printed) Cynthia Sugimoto

Signed: _____ Date _____
Name (printed) _____

6. FEES

Your Request for Review must be accompanied by the appropriate fee. This fee is currently $67. Please include a check, made out to "The County of San Luis Obispo" for this amount.

7. WHERE TO SUBMIT THIS FORM

Submit this completed form and your letter describing the reasons for the request for review to the Environmental Division, Department of Planning and Building, County Government Center, San Luis Obispo, CA 93408 (805) 781-5600.

C:\Documents and Settings\KElder\Local Settings\Temporary Internet Files\Content.Outlook\0494DRZF\Enviornmental Appeal Form.doc

San Luis Obispo County Department of Planning and Building
County Government Center San Luis Obispo, California 93408 Telephone: (805) 781-5600

Receipt #: 29200800000000003347

Date: 04/16/2009

Line Items:

Case No	Last Name	Tran Code	Description	Revenue Account No	Amount Paid
		APPEAL ENV	Appeal Environmental Determination -	1420000-1000000000-142S59 PEDG -4350480	67.00
				Line Item Total:	**$67.00**

Payments:

Method	Payer	Bank No	Account No	Confirm No	How Received	Amount Paid
Check	ELDER		46307	DRC05-00216	In Person	67.00
					Payment Total:	**$67.00**
					Balance	

San Luis Obispo County

Department of Planning and Building
Environmental Division

REQUEST FOR REVIEW OF A PROPOSED NEGATIVE DECLARATION

1. PERSON FILING THE REQUEST:

Name Kevin Elder

Address 1010 Peach Street

P.O. Box 31, San Luis Obispo, CA 93406

Phone # 805-781-2817 (daytime)

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X Yes _____ No

5. SIGNATURES

I/we hereby request a review of the proposed Negative Declaration.

Signed: _____ Date April 16, 2009

Name (printed) Kevin Elder

Signed: Cynthia R. Sugimoto Date April 16, 2009

Name (printed) Cynthia Sugimoto

Signed: _____ Date _____

Name (printed) _____

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SJLM
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E-Mail:
KElder@sjlmlaw.com

Client: 3203002

April 16, 2009

County of San Luis Obispo
Environmental Division
Department of Planning and Building
County Governmental Center
San Luis Obispo, California 93408

VIA HAND DELIVERY

Re: Loperena MUP/CDP: DRC2005-00216 – Attachment to Request for Review of Proposed Amended Mitigated Negative Declaration and Notice of Determination

To Whom It May Concern:

On behalf of Ethel Pludow and Cynthia R. Sugimoto, please accept this Request for Review of the proposed amended Mitigated Negative Declaration and Notice of Determination dated August 9, 2007 and amended on April 2, 2009 ("Amended MND"), for the above referenced project (the "Project").

The Request for Review of the Amended MND follows the Request for Review dated August 23, 2007 (the "2007 Request for Review") and submitted by Michael Jencks on behalf of Ms. Pludow and Ms. Sugimoto, in relation to the proposed Mitigated Negative Declaration and Notice of Determination dated August 9, 2007.

While the Amended MND addresses some of the issues contained in the 2007 Request for Review, many concerns remain. Therefore, this Request for Review is made upon the grounds, among others, that the Amended MND is inadequate because it omits or fails to adequately identify, address, and mitigate certain environmental effects of the Project, including some of those previously raised in the 2007 Request for Review. Consequently, some of the concerns raised in the 2007 Request for Review are repeated in this Request for Review, in addition to some additional concerns.

More particularly, review is warranted for each of the following reasons:

1. The County's amended Initial Study ignores and fails to identify all potential impacts of the Project.

2. The County's proposed mitigation measures fail to adequately mitigate those Project impacts which are identified.

3. The issues raised by the County's analysis of the underlying Project implicate important policy issues on the consistent and equal application of County and California Coastal Commission policies to beach front and bluff top properties.

4. The County's file and information is incomplete and internally contradictory in significant respects.

Illustrations of disputed conclusions and of specific errors and omissions in the Amended MND are set forth below and include, without limitation:

Applicant Name; Developer's Statement.

It appears that the name of the applicant is incorrect. Also, it does not appear that a current Developer's Statement has been agreed to or executed by the applicant.

Hazards.

The following concerns were raised in the 2007 Request for Review. The Amended MND cites an October 10, 2008 memorandum (the "LandSet Engineers Memo") from the County Geologist in support of the position that the following estimates and/or calculations are correct, however, no additional support is provided in the LandSet Engineers Memo. Therefore, we reiterate our concerns about whether the hazards associated with tsunami and storm surge will be properly mitigated based on the calculations below, and as set forth in the Amended MND.

1. The 5/06 Cleath report, page 5, item 22. states, "*The hazard of tsunamis within the Morro Bay and Cayucos coastline is greatest between the estimated elevations of 9.5 and 24.2 feet above mean sea level for the 100- to 500- year events.*" The 3/07 Cleath report concludes, "The property is in part below the elevation potentially reached by a tsunami." But only mentions "an elevation of 9.5 feet above mean sea level". The pre-Sumatra State tsunami planning elevation was 30 feet above MSL, the Post Sumatra County Seismic Safety Element used 50 feet above MSL and the post Sumatra State planning level may be 100 feet above MSL. The consultant's numbers appear to under estimate the potential hazard and even though it is identified, no mitigation or building design considerations are proposed.

2. The 3/30/07 Cleath report at Page 2, the second bullet states, "*A storm surge of 4.5 meters (14.5 feet) is the design runup factor that should be used...*" and "*...the ground floor of all structures is to be constructed at a minimum of one-foot above the 100-year storm flood profile level. This section should be referred to when designing the structure for inundation due to storm surge at*

this site." The 2/9/07 transmittal of the 1/12/07 Cleath & Assoc. report states in the last paragraph that the basement floor is at 15 feet. Therefore it would not have the required one-foot clearance above the wave inundation. The July 12, 2007 Staff Report apparently recalculates the 4.5 meters storm surge and gets 14.76 feet, indicating a basement floor at 15 feet would be 0.76 feet too low.

Geology and Soils.

The Amended MND concludes that the Project is not located on a bluff. Our client disagrees with that conclusion. Therefore, the following concerns, first raised in the 2007 Request for Review, are amended and reasserted in this Request for Review.

1. The project site is clearly within a geologic hazard area and an adequate setback must be required. The project is located within the Geologic Study Area (GSA) designation. Policy 7 of the County's Coastal Plan Policies sets the GSA combining designation in coastal areas of the county, which includes **all coastal bluffs and cliffs greater than 10 feet in vertical relief**, and that are identified in the Assessment and Atlas of Shoreline Erosion (DNOD, 1977). These hazards shall include steep unstable slopes, expansive soils, coastal cliff and bluff instability, active faults, liquefaction and tsunami. Policy 12 of the County's Coastal Plan Policies states the GSA applies to areas where natural conditions of the land may pose potential hazards to life and property for new developments.

2. Despite the County's assertions to the contrary, our client believes the Project site is on a coastal bluff: the bluff fronting the Project site faces the ocean, trends north (upcoast) and begins to face inland approximately 600 feet upcoast of the Project site. (*See* the letter attached as Exhibit "A" and dated November 12, 2007, by John E. Kasunich, P.E., of Haro, Kasunich and Associates, Inc., (the "2007 Kasunich Memo")). We reiterate that the Cleath report's determination of the purported terminus of the bluff's seaward face is based on a misinterpretation of Coastal Commission and other applicable precedents. The 3/07 Cleath report concludes the site is bounded by a fluvial bluff as stated in the 5/06 report and shown on Fig. 10. Test Pit #2, in the 1/07 Cleath report, documents ocean coastal bluff erosion of the site creating a cove leaving sand and shells. The 5/06 report states, "[t]he sandstone outcrop forms a buttress providing protection from wave action for the landward portion of the site." Which sounds like a coastal bluff. In fact, if the sand deposits from the river mouth were eroded away down to sea level, then based on Figure 7 in the 5/06 Cleath report, a 10.5 foot high bluff may exist at the site (possibly covered by fill from construction of Studio Drive). This raises potential slope stability issues that have been ignored by the reports. This also suggests a sea wall or setbacks from both the beach and creek bluffs will be required to maintain the stability of a structure built at this location. Several photos are provided in Exhibit "B" to assist the reviewer's understanding of the site. The first photo shows the ocean on the Loperena property during high tide in December, 2007. The second and third photos show stakes marking the Loperena property, and are clearly on the side of the coastal bluff.

3. The Amended MND fails to provide for required bluff setbacks. 25-foot minimum bluff setbacks are required unless a geologic report prepared by a *registered civil engineer* or other qualified professional indicates that a larger setback is necessary to withstand 75 years of bluff erosion. Policy 6 of the County's Coastal Policies states that new development or expansion of existing uses on bluff tops shall be designed and set back adequately to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years without construction of shoreline protection structures which would require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist based upon an on-site evaluation that indicates that the bluff setback is adequate to allow for bluff erosion over the 75-year period.

4. Item 6a in the amended Initial Study (Will the project result in exposure to or production of unstable earth conditions, such as landslides, earthquakes, liquefaction, ground failure, land subsidence or other similar hazards?) states that it is an impact that can and will be mitigated. However, no actual mitigation measures are identified or specified in the document. Indeed, the Amended MND states liquefaction potential is considered moderate to high, and therefore a report was prepared to evaluate geologic stability, but no results or recommendations of such report are identified.

5. The 3/30/07 Cleath report concludes "*The undocumented fill and loose sand deposits are underlain at shallow depth by sound sedimentary strata that will serve well for foundation support.*" Test Pit #2 in the 1/07 Cleath & Assoc. report never reached sound sedimentary strata. The 5/06 Cleath & Assoc. report indicates within the sandstone are "thin friable shale interbeds." It also states, "*The shale beds are weakly resistant and represent sever indentations into the outcrop.*" Weakly resistant means easily eroded. Although some bedding plane attitude weaknesses are mentioned, they were not found on a map of the site and other weaknesses of the sandstone like fracture and joint orientation, folding, cementation and grain size distribution were not mentioned. On page 5, item 26 of the 5/06 Cleath & Assoc. report indicates excavations "*will be in removable fractured rock.*" Which suggests it is more erodible than "sound". Erosion rates referred to by Dr. Chipping 5/06 report page 4, item 21 generally refer to a relatively linear coastline and not a bluff near right angles at a river mouth experiencing accelerated erosion, particularly during stormy wet Winters from both ocean wave and river meander erosion.

6. The amended Initial Study states that the undocumented fill and loose sand deposits beneath the project site are highly erodible, and goes on to say that when highly erosive conditions exist, a sedimentation and erosion control plan is required. However, it does not appear anywhere that such a plan was ever prepared or submitted, and the LandSet Engineers Memo responds to this point by stating merely that a drainage and control plan "should be prepared." Preparation of the plan should be a condition of approval of the Amended MND.

7. Because the project directly faces the Pacific Ocean, it will be subject to severe wave

runup on occasion, and resultant coastal erosion. These problems have not been addressed in detail in the studies provided by applicant. The LandSet Engineers Memo responds to this point by indicating that because the piers to be used for the foundation will be so far below the surface, erosion will not be a factor in the safety or stability of the Project. Even assuming erosion is not a factor in safety and stability, wave runup and resulting erosion may affect the livability of the basement, and therefore, it would seem further investigation is necessary to determine the proper elevation above MSL for the basement floor.

8. Recession rates at the bluff where the project is located may be much higher than represented by applicant's geologist, who relied on a 25-year old erosion study. The Amended MND responds only by stating the Project is not on a bluff. However, our client's consultant believes it is. Further, our client's consultant questions reliance on a 25 year old study, and instead used the National Assessment of Shoreline Change, Part 4: Geological Survey Open File Report 2007-1133. We intend to present our client's findings at the hearing for the project.

Assuming, without admitting, that the pier foundation system will greatly reduce the likelihood of structural failure due to erosion of the bluff, if erosion occurs, the walkways, north facing camouflaging wall, and particularly access, could be greatly affected by such erosion, whether of the sand or the bluff. Therefore, the potential for erosion needs to be addressed.

9. The Amended MND fails to provide mitigation for creek and coastal bluff retreat from enhanced erosion and slope failure. Increased erosion from increased flow from new impermeable surfaces from the proposed project has not been mitigated. The Coastal Act requires that new development not create nor contribute to long-term erosion (Section 30253). It is not sufficient, as the Amended MND states, that a drainage and control plan "should be " prepared. The Amended MND should state that the Project "shall include" a drainage and erosion control plan.

10. The Mean High Tide Line used by the Applicant's geologist is not accurate during a winter beach sand scour condition, which is the condition required by the California Coastal Commission and State Lands Commission when demarcating the Mean High Tide Line. The response on page 9 of the LandSet Engineers Memo does not address our client's concerns. Again, the point is not whether pier foundations will protect the integrity of the structure, but the effect such water will have on the livability of the Project, and in particular, the basement.

11. Also with respect to Geology and Soils, please note the comments contained in the (i) 2007 Kasunich Memo, attached hereto as Exhibit "A", and incorporated herein by reference, and (ii) the letter dated April 16, 2009, by Doreen Liberto-Blanck, AICP, MDR, of Earth Design, Inc., (the "2009 Earth Design Memo"), attached hereto as Exhibit "C", and incorporated herein by reference.

Land Use.

The following concerns are repeated from the 2007 Request for Review, but are updated where appropriate to reflect the revisions contained in the Amended MND.

1. The "basement" for the Project requires excavation of about 6-11 feet in depth into the existing landform. This conflicts with (1) Coastal Zone Land Use Ordinance 23.04.118 which states that substantially altering the natural landform or impacting sand movement is not permitted; and (2) Coastal Plan Policy Summary Chapter 10, Visual and Scenic Resources, Policy 5, Landform Alteration and Policy 10, Development on Beaches and Sand Dunes, stating that grading and other landform alterations are to be minimized and new development on open sandy beaches is prohibited except for facilities required for public health and safety.

2. The amended Initial Study concludes that the Project, as mitigated, will *not* be potentially inconsistent with adopted agency environmental plans or policies with jurisdiction over the project, ignoring a number of respects in which the Project *is* inconsistent with California Coastal Commission policies and requirements, including, by example and without limitation, Coastal Commission policies regarding sea walls, embedded beach rocks/obstructions, and bluffs.

3. The amended Initial Study Checklist incorrectly finds (15(a)) that the Project is consistent "with land use, policy/regulation...adopted to avoid or mitigate for environmental effects."

Aesthetics/Visual Analysis.

1. The 31.4 foot high structure will obstruct views from the beach, California Coastal Trail, and adjacent State Park property. The County's Coastal Plan Policies state that the protection of visual resources within the coastal zone is critical. Section 30251 of the Coastal Act requires the consideration and protection of the scenic and visual qualities of the coastal area. The proposed structure will be 31.4 feet in height when viewed from the coastline and beach. Section 30253 of the Coastal Act states that special communities and neighborhoods must be protected from new development with primary concern to protect ocean and coastal views from public area such as beaches, parks, coastal trails and access ways, vista points, coastal streams and waters used for recreational purposes.

2. A review of the plans disclose a number of apparent inconsistencies with the small neighborhood standards; for example, the permissibility under those standards of a third "basement" level for living quarters and having full ingress and egress directly to the beach is in doubt, as is whether the proper methodology was used to calculate the height above road grade (where that is measured from and whether it utilizes the corner lot protocol as the last private lot), and what if any height will be added by solar panels.

3. Also with respect to aesthetics, please note the comments contained in the 2009 Earth Design Memo, attached hereto as Exhibit "C", and incorporated herein by reference.

Air Quality; Cultural Resources.

1. With respect to Air Quality and Cultural Resources, please note the comments contained in the 2009 Earth Design Memo, attached hereto as Exhibit "C", and incorporated herein by reference.

Sincerely,

SINSHEIMER JUHNKE LEBENS & McIVOR, LLP

KEVIN D. ELDER

KDE:lmm
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Exhibit "A"

2007 Kasunich Memo

(see attached)

HARO, KASUNICH AND ASSOCIATES, INC.
CONSULTING GEOTECHNICAL & COASTAL ENGINEERS

Project No. SLO9515
12 November 2007

MS. CINDY SUGIMOTO, P.E.
Lea & Elliott, Inc.
6151 W. Century Blvd., Suite 1200
Los Angeles, California 90045

Subject: Review of Residential Development On Coastal Bluff and Supporting Geologic and Geotechnical Reports Prepared for Development

Reference: Loperena Property
APN 064-253-007
Lot 41, Studio Drive, Cayucos
San Luis Obispo County, California

Dear Ms. Sugimoto:

At your request, we have reviewed various geologic, geotechnical and civil engineering documents prepared for the residential development at the referenced property. Our focus was on the evaluation presented by various consultants of the coastal bluff fronting an active beach the residential structure will be constructed on.

Haro, Kasunich and Associates have evaluated numerous coastal bluff developments for both proposed and existing developments. We have evaluated slope stabilities of these bluffs and have done extensive wave run-up analyses of the beach and backshore adjacent to coastal bluffs in San Mateo, Santa Cruz, Monterey and Los Angeles Counties. Refer to attached resume of John Kasunich, Principal Coastal Engineer. John Kasunich made a site visit on August 25, 2007 to examine the site conditions. The referenced parcel fronts on a coastal bluff and there is an active beach at the base of the bluff. The bluff is affected by coastal erosion processes related directly to ocean wave action. Ocean wave runup impacts the bluff. The bluff faces the Pacific Ocean.

The bluff fronting the reference property is facing the ocean. It is not a bluff that faces an inland creek or bank. We disagree with the location of the terminus of the bluff as shown on Figure 10 of the Cleath and Associates 2 May 2006 report. Where a coastal bluff curves landward to become a canyon bluff, the terminus of the coastal bluff line is the location where the seaward facing portion of the bluff turns and faces inland. The bluff at the reference property trends north (upcoast) and begins to face inland approximately 600 feet upcoast of the referenced property. The attached Figure 1 shows our interpretation of where the termini of the coastal bluff occurs.

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The Cleath and Associates 30 March 2007 Summary of Conclusions and Recommendations of their May 2006 Geologic Report recommends that coastal protection structures would be appropriate to protect any structure on the referenced property from wave runup. It is our professional opinion that coastal protection structures will inevitably be necessary at the referenced property. These protective structures will be necessary not only because of wave runup hazards, but also because of the highly erodible nature of some of the earth materials on the referenced property. California Coastal Commission policies do not allow construction of coastal protection structures for the purpose of protecting new development.

Because the home site directly faces the Pacific Ocean, it will be subject to severe wave runup on occasion and the resultant coastal erosion. The coastal erosion and wave runup hazards at the site have not been addressed in detail by the studies to date. Instead, the studies have relied upon an incorrect interpretation that the property does not have a coastal bluff on the ocean side of it and therefore that no coastal bluff setback is necessary to protect the proposed improvements from future coastal erosion. Furthermore, it is our opinion that coastal flooding due to wave run-up at the base of the coastal bluff is greater than +11 feet NGVD as presented by the applicant. Photographs submitted with the applicant's package to San Luis Obispo County clearly show that there is an active beach on the subject property. In fact the applicants geologic report/geologic map indicates there is an active beach there. Our review of oblique aerial photography, vertical aerial photography and other imagery indicates that the beach on the seaward portion of the referenced property is an active beach. Seaweed and other debris at the base of the coastal bluff on the subject property are evidence of the activity of this beach.

In our opinion, the site is subject to coastal erosion. The geologic report by Cleath and Associates references a coastal erosion study more than 25 years old, authored by Mr. D.H. Chipping, which suggests that coastal erosion rates are between 1 foot in 5 years and 1 foot in 20 years in this area of the coast, depending upon the composition of the earth materials. We suspect that recession rates on the reference property are much faster than 1 foot per 20 years, and are probably faster than 1 foot per 5 years. The National Assessment of Shoreline Change, Part 4: Historical Coastal Cliff Retreat along the California Coast, published as U. S. Geological Survey Open File Report 2007-1133 indicates that cliff retreat rates in the vicinity of the proposed Loperena residence are 0.5 to 0.9 feet per year. The County of San Luis Obispo Local Hazard Mitigation Plan (LHMP) from November 2005 indicates that during the intense storm waves of 1983 the bluff receded as much as 20 feet in areas of Cayucos. That LHMP also indicates that rates of erosion are highly variable along this portion of the coastline, and range from 6 to 10 inches per year. It is also

plausible that a combination of both creek and coastal erosion rates should be considered for this development. This combination is not just additive since the conflict of flow and energy between the ocean and creek create a great deal of turbulence that multiplies the erosive impacts of the two forces. The hazards of coastal erosion and the determination of appropriate coastal bluff setbacks have not been addressed in any materials submitted to San Luis Obispo County to date that we have seen. Additionally, determination of the original "natural" location of the edge of the bluff, prior to the addition of fill material, should be considered when deciding where the bluff setback should be applied.

The preliminary plans state by note that the Mean High Tide Line (MHWL) is approximately 200 feet west of the referenced back property line. This is not accurate during a winter beach sand scour condition which is the beach condition the California Coastal Commission and California State Lands Commission requires when demarcating the Mean High Tide Line.

Our review of the project plans indicates that the datum used on the plans is not the NGVD29 or Mean Sea Level, but rather is a datum that approximates Mean Lower Low Water. The significance of this is that the Base Flood Elevations by FEMA utilize an NGVD29 datum. When stated as NGVD 29 datum elevations, the proposed finished floor levels in the Loperena home are approximately 3.1 feet lower; that means the lowest floor is at an elevation of +11.9 feet NGVD29. This floor is only about 7.2 feet above ocean stillwater levels (without any wave runup) historically measured at Port San Luis. Although there is typically a wide beach seaward of the subject property, during severe winter storm seasons the beach can be narrower and as a result wave runup can be much higher. In our opinion, it is likely that the proposed home will be subject to ocean wave impact during it's life.

Excavating 6 to 11 feet into the face of the bluff to accommodate the proposed structure alters the natural landform and subjects the proposed residence to stronger wave impact forces during strong coastal storms with high wave runup.

In our professional opinion the hazards of coastal erosion and coastal recession for the referenced site must be addressed and appropriate setbacks must be determined and implemented in the design of the proposed project prior to approval of development on this oceanfront parcel. The analyses of these hazards should be addressed as stipulated in Section 21 of the San Luis Obispo Planning and Building Departments Guidelines for Engineering Reports, dated 11 January 2005 which pertains to the coastal hazard of bluff erosion. We also concur with the project geologists that the structure as designed and located on the coastal bluff must have seawall protection in order to mitigate wave run-up impact, erosion of foundation systems and flooding.

If you have any questions, please call our office.

Very truly yours,

HARO, KASUNICH AND ASSOCIATES, INC.

John E. Kasunich
G.E. 455

REGISTERED PROFESSIONAL ENGINEER
JOHN E. KASUNICH
No. 455
Exp. 6/10
GEOTECHNICAL
STATE OF CALIFORNIA

JEK/jm

Copies: 3 to Addressee

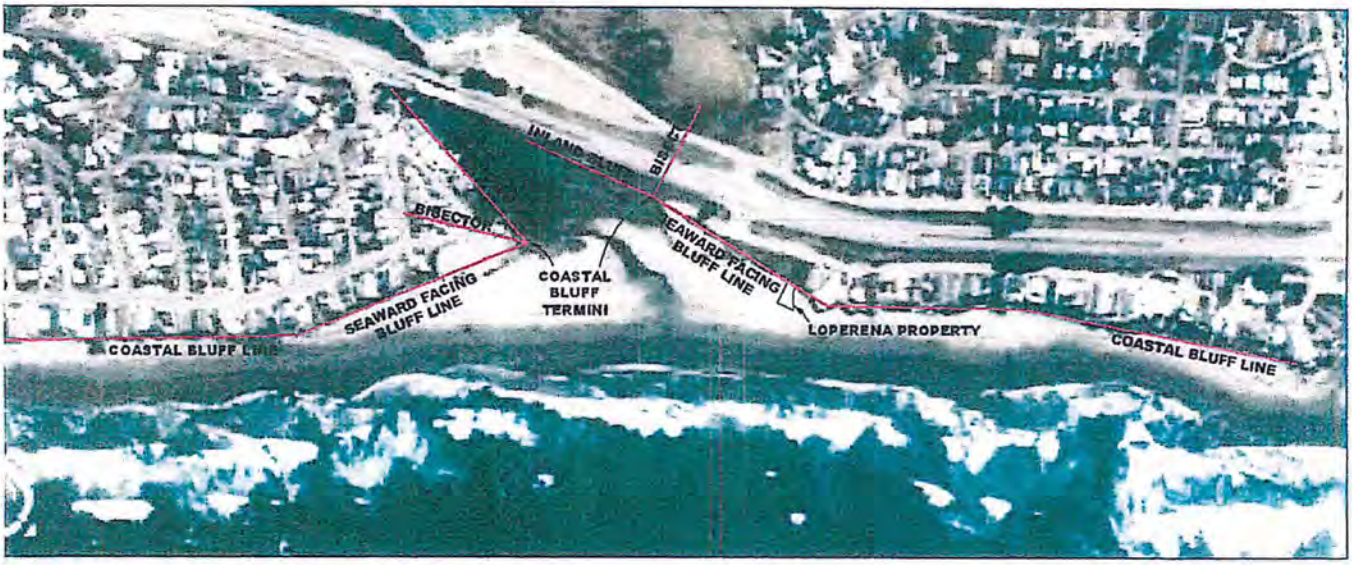

FIGURE 1
COASTAL BLUFF LINE
LOPERENA PROPERTY, STUDIO DRIVE
CAYUCOS, CALIFORNIA

APPROXIMATE SCALE: 1" = 500'

PHOTO DATE: 2007
by live.photo.com

HARO, KASUNICH & ASSOCIATES, INC.
Coastal and Geotechnical Engineers

JOHN E. KASUNICH
Principal
HARO, KASUNICH & ASSOCIATES

EDUCATION: University of California, Los Angeles
M.S. Engineering and Applied Science
B.S. Civil Engineering

California State University, Humbolt
Postgraduate Study, Watershed Management

REGISTRATION: California, Civil Engineer
California, Geotechnical Engineer

PROFESSIONAL EXPERIENCE:

1984 - Present **Principal**
Haro, Kasunich and Associates, Inc., Watsonville, California. Principal Geotechnical Engineer involved in active interfacing with clients, field analysis and report work. Project engineer for numerous evaluations of earthquake damage resulting from the Loma Prieta Earthquake (M7.1 - 1989) throughout the Monterey Bay Area. Geotechnical consultant hired by the County of Santa Cruz to determine degree of earthquake damage and appropriate mitigation repairs necessary for continued occupancy of structures, roadways, bridge and slope environments for 18 months after the Loma Prieta Earthquake.

Foundation investigation for industrial, commercial and residential developments. Geological reconnaissance including landslide and marginal land investigations. Responsible for earth grading design and supervision of construction grading. Design Geotechnical Engineer for 120-acre industrial park in Watsonville for Landmark Development Corporation. Project involves design for deep peat slough environments. Currently principal geotechnical engineer for 700-acre, Big Basin Water Company expansion, restoration and timber harvest plan, involving extensive grading and erosion control requirements. Project Geotechnical Engineer for the San Lorenzo Valley Water District.

Principal coastal engineer involving field investigation, oceanographic review and structural design for various coastal protection structures and coastline erosion projects. Project engineer for repair of 450-linear feet of earthquake damaged riverwall/seawall at Pajaro Dunes, Watsonville, coastal erosion study along Pebble Beach Golf Course, Pebble Beach and wave runup and coastal flooding study for Monterey Bay Aquariums Science, Engineering and Expedition Buildings, Moss Landing.

1978 - 1984 **Associate and Engineering Manager**
M. Jacobs and Associates, Watsonville, California. Management of staff engineers, field and laboratory technicians. Conducted geotechnical investigations and design of numerous 20 to 200-acre subdivisions including Oaktree Ranch, Monterey County; Galleon Heights, Boulder Creek; and Redwood meadows, Santa Cruz County.

Project soil and foundation engineer for the Highland Inn Addition, Hyatt Del Monte Hotel, and Del Monte Shopping Center Addition, all Monterey County. Design engineer for the Phase I Sanitary Sewer for Errington Road Assessment District, Watsonville. Project engineer for design and construction of 2,500-foot coastal beach revetment structure for Shorebirds Condominiums, Watsonville. Performed geotechnical studies and design reports for numerous seawalls, retaining walls, and foundations for commercial and industrial developments in Monterey Bay area.

1974 - 1976 **Civil Engineer**
Civil Engineering Laboratory, Port Hueneme, California. Project engineer; design, fabricated and tested flexible connectors for automatic coupling of Navy pontoon barges during at-sea operations. Surveyed and procured existing heavy cargo handling equipment and tested their ability to off-load containerized cargo from beached Navy pontoon barges across beach to truck. Modified equipment when needed to conform to amphibious environment and existing Navy pontoon lighterage.

Dynamic analysis involving wave force interaction with stationary and moving Naval cargo ships to accommodate auxiliary boom truck/track lift cranes and other heavy-duty equipment.

1972 - 1973 **Assistant Engineer**
City of Manhattan Beach, Public Works Department, California. Assisted in city engineering work, including surveying, drafting, traffic analysis, and public works design projects, including sewer and public utility installation.

TECHNICAL AND PROFESSIONAL ORGANIZATIONS

Consulting Engineers and Land Surveyors of California (President, Monterey Bay Chapter 1992 - 1993)
American Public Works Association (APWA)
National Society of Professional Engineers (Past President, Monterey Bay Chapter)
Society of American Military Engineers (SAME)
California Geotechnical Engineers' Association
Association of Soil & Foundation Engineers

American Shore and Beach Preservation Association
Surfrider Foundation
Coastal Education and Research Foundation

Exhibit "B"

Site Photos

(see attached)

Exhibit "C"

2009 Earth Design Memo

(see attached)

EARTH DESIGN

We help reduce conflict and build consensus

Date: April 16, 2009

To: Cindy Sugimoto

From: Doreen Liberto-Blanck, AICP, MDR, Earth Design, Inc.

RE: April 2, 2009 Amended Initial Study-Loperena Minor Use Permit

Background

As requested, following are our comments regarding the April 2, 2009 Amended Initial Study *("IS")* prepared on the Loperena Minor Use Permit (DRC2005-00216). Due to the short time period for review, we focused on the most significant issues. Lori Blanck reviewed the geological reports. Mr. Blanck has the following qualifications:

- California Registered Geophysicist GP 1011
- California Professional Registered Geologist PG 3995
- California Certified Engineering Geologist CEG 1130
- California Registered Environmental Assessor REA 03132
- California Certified Hydrogeologist CHG 175
- Idaho Registered Professional Geologist PG 805
- Oregon Certified Engineering Geologist 1763
- Washington State Licensed Geologist 1554
- Hydrogeologist & Engineering Geologist
- CA Off. of Emergency Service (Now Emergency Management Agency) Disaster Worker Trainer SAPS 50672

April 2, 2009 Amended Initial Study Review

We compared the comments provided in the 2007 REQUEST FOR REVIEW OF PROPOSED REVISED MITIGATED NEGATIVE DECLARATION AND NOTICE OF DETERMINATION and the technical reports identified below to the April 2, 2009 amended IS. Following are comments on the most significant issues:

Aesthetics (pages 3 & 4): The April 2, 2009 amended IS still requires a revised site plan submittal if the proposal with no construction within the public access easement. A statement is included in IS that the revised proposal will further reduce the visual profile of the structure no visual analysis has been provided as evidences to make such a conclusion. The statements regarding Aesthetics in the 2007 REQUEST FOR REVIEW OF PROPOSED REVISED MITIGATED NEGATIVE DECLARATION AND NOTICE OF DETERMINATION appears to still be legitimate.

Air Quality (pages 5 & 6): While the April 2, 2009 amended IS now addresses AB 32, it still does not include a mitigation measure to offset construction-related particulate pollution and fugitive dust from the Project site.

Cultural Resources (page 8): The September 28, 2007 Archeology response from Mr. Sean Lee, Central Coast Archaeology, concludes that marine shell was present in a brown fine to

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Email: earthdesign@earthdesign.com • Web: www.earthdesign.com

coarse-grained sand trapped between the bedrock and imported fill material." The Boring HA-3 log by D. Williams in Mr. Cleath's May 2, 2006, Geologic Conditions report refers to the shells containing layer as "FILL" (i.e., material derived from another location and placed there by man). Also, the boring log indicates "**Refusal at 6 feet depth**", but provides NO indication that the hand auger met refusal as a result of encountering bedrock. The unanswered archeological question of significance is whether archeological significant materials were dumped on the site in the fill material. Either way, if the material was transferred from another archeological site or originated from this site, appropriate Native American officials should be consulted by the County.

Also on page 3, Mr. Cleath provides his archeological opinion of the shells encountered in his staffs' hand augered boring. It is unclear whether Mr. Cleath is recognized as an archeologist on the County list.

Geology and Soils (page 8-10):

1. 6.a.-Should be checked POTENTIALLY SIGNIFICANT because of being situated at the highly dynamic mouth of a river on the edge of an ocean.
2. 6.c.- Erosion at the site is POTENTIALLY SIGNIFICANT from being part of an active beach intertwined with a bluff, part of a natural stream bank, in a tsunami inundation zone, subject to global warming sea level rise, in a dam inundation zone and near a drainage that drains runoff from the surrounding paved area. And as stated in this CEQA document, the NRCS soil survey considers the natural sedimentary material soil to be moderately erodable and the fill and loose beach sand to be highly erodable and not suitable for foundation support.
3. 6.d.- Should be checked POTENTIALLY SIGNIFICANT due to the change in direction of surface runoff as a result of being located at a river mouth.
4. 6.e.- POTENTIALLY SIGNIFICANT because the NRCS soil survey considers the natural sedimentary material to have a high shrink swell characteristic. Only one test for this was found in the reports provided for review. In fact the only soils testing appeared to be one direct shear, one consolidation, one expansion index and one moisture-density test. It is not apparent that the one expansion index test was done on the same "high shrink swell characteristic" material reported in the soil survey. The sandy clay soils in boring B-2 are at 6 to 9 feet deep according to the boring log. This shallow sample is not representative of the 25 to 40 feet below ground surface that the pilings have been proposed for the project foundation.
5. 6.h.- Should be checked POTENTIALLY SIGNIFICANT due to inconsistencies with the County's Safety Element goals relating to geologic and seismic hazards. December 2, 2008 memorandum from Ron Alsop confirms the site is in the Whale Rock inundation area, the potential tsunami inundation area and the Diablo Canyon Emergency Planning Zone (Active Zone 9).
6. 6.i.- Should be checked POTENTIALLY SIGNIFICANT. Sand and gravel resources can often be excavated at the mouth of rivers. The location of this project may preclude use of that resource. Also, the potential riprap, retaining walls and extraordinary foundation conditions of this project could impair the natural sedimentation from the site contributing to the starvation of beach sand from existing structures down gradient of the long-shore current.

Date: April 16, 2009
To: Cindy Sugimoto
From: Doreen Liberto-Blanck, AICP, MDR, Earth Design, Inc.
RE: April 2, 2009 Amended Initial Study-Loperena Minor Use Permit

First paragraph on page 9 states, *"The liquefaction potential during a ground shaking event is considered moderate to high."* With the lack of deep enough boring evidence there is nothing to show the proposed piers will mitigate the liquefaction hazard.

Following are specific comments related to the technical reports attached to the IS.

9-26-07 Mr. Cleath letter to Mr. Bruce Elster, Shoreline Engineering

Page 1, last paragraph: Mr. Cleath refers to looking at a tsunami book and talking to the "USGS staff geologist for the Central Coast" (without giving a name) and says, *"No revised tsunami estimates were mentioned . . . based on modifications related to the Banda Aceh earthquake tsunami."*

First, it is not evident from Mr. Cleath's statement whether the USGS representative was asked relevant questions to the issue or had the appropriate expertise (typically a geophysicist) to answer the question.

There was an historic tsunami that destroyed the Unocal refinery at Shell Beach at approximately 80 feet elevation in 1913 (per Darwin Sainz, Unocal historian). Please note that 80 feet from an historic Central Coast tsunami event is far more accurate than 9.4 feet based on no historic information.

Page 2, Middle of Page: Mr. Cleath's comment in the middle of page 2, that the potential for the 10.5 foot high bluff to be created if sand deposits are eroded down to sea level, *"is not based in fact."* The borings provided show that the beach sand will be eroded leaving a bluff of terrace and potentially sandstone sedimentary material. Erosion of two to three times this magnitude has been observed at the mouth of the Santa Maria River when Twitchell Reservoir became so full water had to be released causing great scour and meandering at the Santa Maria River mouth (1996-97 Winter). Also, certain types of episodic Winter storms can scour sand from the beach exposing the base of the bluff.

Page 3: Mr. Cleath claims there has been *"no significant erosion at the property since the previous report was prepared."* He also states, *"The meander has not in the past resulted in severe erosions suggested by the commenter."* First, Mr. Cleath's length of time observing the proposed project site is geologically insignificant and insignificant to the proposed project. Second, the width of the mouth of the creek emanating from the drainage now occupied by Whale Rock Reservoir is approximately 1000 feet from one side of the sedimentary material (terrace or sandstone) to the other side of sedimentary material as measured parallel to the coastline. This erosion of approximately 1000 feet of the sedimentary material by normal stream flow indicates significant historic meander and moderately erodable "bedrock" material.

October 10, 2008 Landset Engineering, Inc. Letter

Page 2: Mr. Papurello refers to the obsolete 9.5 foot runup as adequate for the site. The conclusion fails to consider the life of the structure and projected sea level rise now estimated to be 3 meters in 50 years from melting glaciers and expanding warmer seawater. Also the historic approximate 80 feet high tsunami in 1913 recorded at Shell Beach is not considered.

Page 3: Mr. Papurello refers to Safety Element language that inundation from dam failure is considered a low probability of occurrence. The problem with this site is that it does not take a dam failure to be a catastrophic problem. As we have seen at the mouth of the Santa Maria River, when the reservoir is so full

that water must be released, the reservoir release volume combined with the now unchecked river flow can combine to cause river mouth meandering and significant erosion.

No where has information been presented that complies with the County Coastal Plan Policy 7 to analyze the sandy saturated soils under and seaward of the site to show that they will not liquefy in an earthquake under the load of the project potentially resulting in a lateral spread to the ocean.

Page 5 (Bluff): The fill material and underlying terrace and "sandstone" sediments comprise the "bluff" at the site according to the Coastal Commission's interpretation of their definition of a bluff. However, the fill material over beach sand underlying the proposed foundation in the cove that was exposed before it was filled with fill dirt, trash and debris (including shells) is not bluff; but is "active beach." If this project is allowed to proceed, then all of the Cambria lots that were created in what is now ocean (partly as a result of bluff erosion) should also be allowed to be built using the same "logic". And 30 years from now when this house is an island away from the shore, how will water, sewer and gas utilities be safely and environmentally supplied to it?

Page 6: Mr. Papurello states, *"No rip-rap of(sic) other protective devices are proposed for the project."* This statement appears to be inconsistent with the Floor Plans, which shows the boulder "rip-rap" on the Northwest side of the building. *(Reference the San Luis Obispo County Department of Building and Planning Minor Use Permit/Coastal Development Permit, Loporenza DRC2005-0216, Exhibit Floor Plans.)*

Additionally, a drainage and erosion control plan is required to be prepared by a registered civil engineer. *(Reference pages 7 and 8.)* The required drainage and erosion control plan must be submitted and reviewed before this project can be approved. Area for drainage may be required through the area currently designed for foundation. Rip-rap and retaining walls may be required to stabilize sands of even sedimentary materials with unfavorable bedding of fracture orientations. Since some of these features may be incompatible with the current project design or the Coastal Commission requirements, project approval does not make sense until this report is submitted and staff and the public have time to review it.

As stated in the **REQUEST FOR REVIEW OF PROPOSED REVISED MITIGATED NEGATIVE DECLARATION AND NOTICE OF DETERMINATION** submitted to the Planning and Building Department in 2007, boulder rip-rap is not consistent with the Coastal Act. *(Reference page 5.)*

Page 8: Mr. Papurello states, *"the proposed residence be constructed on a drilled pier foundation system with pier depths extending 25 to 40 feet below the ground surface."* However the deepest boring log stops at 14.25 feet depth. It is not apparent how the available information is adequate to suggest the pile foundation design will work. For example, the "bedrock" sediments encountered could be the toe to a landslide or the nose of a thrust fault and could be underlain at 15 feet by liquefiable saturated beach sand.

Page 9: Mr. Papurello states, "mender" of a river mouth where it is debouching into an active ocean wave environment is "conjecture." The Santa Maria River also has a reservoir upstream that many said would never fill up since it is only

for flood control. That same Winter storms from the Southwest used ocean swells to push the river mouth Northward into the Guadalupe oilfield where it washed away roads and petroleum contamination plumes. This meander sliced through 30 feet high sand dunes like a hot knife through soft warm butter during the 1996-97 Winter.

Hazards & Hazardous Materials: Ron Alsop, Office of Emergency Services, confirms the site is in the Whale Rock inundation area, the potential tsunami inundation area and the Diablo Canyon Emergency Planning Zone (Active Zone 9). *(Reference December 2, 2008 Memorandum to Ryan Hostetter.)*

The comment in the **REQUEST FOR REVIEW OF PROPOSED REVISED MITIGATED NEGATIVE DECLARATION AND NOTICE OF DETERMINATION** related to the County Safety Element regarding needing building design standards to improve structural survivability still appears applicable.

Please contact me if you have any questions.

Exhibit 4
Kevin Elder SJLM Letter dated May 7, 2009 – Requested a Public Hearing

SJL&M
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May 7, 2009

County of San Luis Obispo
Department of Planning and Building
976 Osos Street, Room 300
San Luis Obispo, California 93408

VIA HAND DELIVERY

Re: Loperena MUP/CDP: DRC2005-00216 – Request for Public Meeting

To Whom It May Concern:

This firm represents Ethel Pludow and Cynthia R. Sugimoto, with respect to the above referenced matter. On behalf of Ms. Pludow and Ms. Sugimoto, I would like to request a hearing on this matter.

Thank you.

Sincerely,

SINSHEIMER JUHNKE LEBENS & McIVOR, LLP

KEVIN D. ELDER

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cc: Cynthia R. Sugimoto

Exhibit 5
Kevin Elder Sinsheimer Juhnke McIvor & Stroh, LLP (SJMS) Letter dated March 23, 2012 – Comments on the Engineering Evaluation by Shoreline Engineering dated January, 2012, and the Updated Geotechnical Investigation by GSI Soils Inc. dated December 27, 2011

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March 23, 2012

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Ms. Ryan Hostetter, LEED AP
County of San Luis Obispo
Current Planning and Permitting
Environmental Division
Department of Planning and Building
1055 Monterey Street
San Luis Obispo, California 93408

Re: Loperena Environmental Impact Report
Studio Drive, Cayucos, APN 064-253-007, ED06-317, DRC 2005-00216

Dear Ryan:

This letter is submitted on behalf of Ethel Pludow and Cynthia R. Sugimoto in response to the Engineering Evaluation by Shoreline Engineering (Shoreline) dated January, 2012, and the Updated Geotechnical Investigation by GSI Soils Inc. (GSI) dated December 27, 2011, both of which you recently forwarded to me.

We are wondering if the County has received other submittals, as the recent Shoreline and GSI reports fail to address many of the problems with the project noted in our Request for Review of the Amended Mitigated Negative Declaration and Notice of Determination (Amended MND) dated April 16th, 2009 (Request for Review).

For instance, in the Request for Review we raised the contention that the bluff on the Loperena property is a coastal bluff, rather than a fluvial bluff as stated in the Amended MND, and that the project fails to provide required and appropriate bluff setbacks. As the most recent Shoreline and GSI reports don't seem to address these items, we are wondering if the EIR will rely on the information used in the Amended MND or whether the County has other material to rely upon to address these items.

As a supplement to the Request for Review, please find enclosed a letter from John E. Kasunich, G.E. and Mark Foxx, C.E.G. of Haro, Kasunich and Associates, Inc., dated March 13, 2012 (Kasunich 2012 Letter). The Kasunich 2012 Letter was prepared in response to review of the recent GSI and Shoreline reports, and provides additional detail to the Request for Review regarding problems with the geotechnical engineering reports and the resulting fundamental design of the project. We are greatly concerned with this project as it seems there are many issues that are still unresolved. We request that the County and its EIR consultants give due consideration to the Kasunich 2012 Letter and hope that it may assist in their preparation of the draft EIR.

It is our desire to clearly express our concerns, encourage increased dialog, and to advance the EIR process to its conclusion. It is our expectation that all the issues contained in the Request for Review, as supplemented by the Kasunich Letter, will be responsibly addressed in the draft EIR.

Given that the California Environmental Quality Act (CEQA) encourages scoping and public outreach as part of early public consultation (section 15083), and since no public outreach or scoping meetings have been conducted, we formally request a stakeholder workshop be held with us prior to the release of the draft EIR for the public review period. It is proposed that the workshop be technical in nature discussing specific issues raised in our Request for Review, as supplemented by the Kasunich 2012 Letter. Excerpts of Section 15083 are provided for easy reference:

- Lead Agency may also consult directly with any person or organization it believes will be concerned with the environmental effects of the project. Many public agencies have found that early consultation solves many potential problems that would arise in more serious forms later in the review process. This early consultation may be called scoping.
- b. Scoping has been found to be an effective way to bring together and resolve the concerns of affected federal, state, and local agencies, the proponent of the action, and other interested persons including those who might not be in accord with the action on environmental grounds.

I look forward to hearing from you.

Sincerely,

SINSHEIMER JUHNKE McIVOR & STROH LLP

KEVIN D. ELDER

KDE:ggf
K:\PludowE\003 Loperena\Ltr\17HostetterR-032312.doc
Enclosure

Project No. SLO9515
13 March 2012

MS. CINDY SUGIMOTO, P.E.
Lea & Elliott, Inc.
17777 Center Court Drive, Suite 570
Cerritos, California 90703

Subject: Review of Additional Documents
Residential Development On Coastal Bluff

Reference: Loperena Property
APN 064-253-007
Lot 41, Studio Drive, Cayucos
San Luis Obispo County, California

Dear Ms. Sugimoto:

We understand an Environmental Impact Report is being prepared for the Referenced Property. At your request, we have reviewed various geologic, geotechnical and civil engineering documents prepared for the residential development at the referenced property. Our focus was on the evaluation presented by various consultants of the coastal bluff fronting an active beach the residential structure will be constructed on.

We prepared a letter report dated 12 November 2007 that indicated that in our opinion, the site is subject to coastal erosion. The National Assessment of Shoreline Change, Part 4: Historical Coastal Cliff Retreat along the California Coast, published as U. S. Geological Survey Open File Report 2007-1133 indicates that cliff retreat rates in the vicinity of the proposed Loperena residence are 0.5 to 0.9 feet per year. The County of San Luis Obispo Local Hazard Mitigation Plan (LHMP) from November 2005 indicates that during the intense storm waves of 1983 the bluff receded as much as 20 feet in areas of Cayucos. That LHMP also indicates that rates of erosion are highly variable along this portion of the coastline, and range from 6 to 10 inches per year. The hazards of coastal erosion and the determination of appropriate coastal bluff setbacks have not been addressed in any materials submitted to San Luis Obispo County to date that we have seen. Our letter also indicated that in our professional opinion the hazards of coastal erosion and coastal recession for the referenced site must be addressed and appropriate setbacks must be determined and implemented in the design of the proposed project prior to approval of development on this oceanfront parcel.

Recently you have provided us with additional documents including: 1) an Updated Geotechnical Investigation for the proposed residence that was prepared by GSI Soils, Inc. and dated December 27,2011; 2) Drawings including a Site Plan, Sections, Residence Profile and Shoring Detail prepared by Shoreline Engineering Structural and Civil dated Jan. 2012; and 3) an Engineering Evaluation prepared by Shoreline Engineering Structural and Civil dated January 2012.

The property where the residence is proposed is an oceanfront property with a coastal bluff. We have reviewed the Cayucos Urban Reserve Line Combining Designations Map published by the San Luis Obispo County Department of Planning and Building. That map indicates the property is within a Geologic Study Area. Geologic Study Areas are addressed in the San Luis Obispo County Coastal Zone Land Use Ordinance (see Sections 23.070.080 thru 23.070.086 of Title 23 of the County Code). Section 23.070.080d. defines areas of "Erosion and stability hazard-coastal bluffs" where Geologic Study Area Standards are applied. Section 23.07.082 exempts single family residences from these Standards unless the residence "is located in an area subject to liquefaction or landslide". In our opinion, the coastal bluff where the Loperena residence is proposed is subject to landsliding during the coastal erosion processes that naturally occur there.

The San Luis Obispo County Coastal Plan Policies, which is the Local Coastal Program Policy Document that is a portion of the San Luis Obispo County Land Use Element of the General Plan. Policy 6 in that document states:

"Bluff Setbacks:

New development or expansion of existing uses on blufftops shall be designed and set back adequately to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years without construction of shoreline protection structures which would require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist based upon an on-site evaluation that indicates that the bluff setback is adequate to allow for bluff erosion over the 75 year period. Specific standards for the content of geologic reports are contained in the Coastal Zone Land Use Ordinance."

San Luis Obispo County Coastal Zone Land Use Ordinance Section 23.04.118 of Title 23 of the County Code addresses Bluff Setbacks. It says ***new development proposed to be located adjacent to a beach or coastal bluff shall be located***

in accordance with the setbacks provided by this section. This complete Code Section says:

23.04.118 - Blufftop Setbacks:

New development or expansion of existing uses proposed to be located adjacent to a beach or coastal bluff shall be located in accordance with the setbacks provided by this section instead of those provided by Sections 23.04.110 or 23.04.112.

a. Bluff retreat setback method: New development or expansion of existing uses on blufftops shall be designed and set back from the bluff edge a distance sufficient to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years without construction of shoreline protection structures that would in the opinion of the Planning Director require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist based upon an on-site evaluation that indicates that the bluff setback is adequate to allow for bluff erosion over the 75 year period according to County established standards. The report shall accompany the land use permit application, and shall contain the following information:

(1) Historic, current and foreseeable cliff erosion, including investigation of recorded land surveys and tax assessment records in addition to the use of historic maps and photographs, where available, and possible changes in shore configuration and sand transport.

(2) Cliff geometry and site topography, extending the surveying work beyond the site as needed to depict unusual geomorphic conditions that might affect the site and the proposed development.

(3) Geologic conditions, including soil, sediment and rock types and characteristics in addition to structural features such as bedding, joints, and faults.

(4) Evidence of past or potential landslide conditions, the implications of such conditions for the proposed development, and the potential effects of the development on landslide activity.

(5) Wave and tidal action, including effects of marine erosion on seacliffs.

(6) Ground and surface water conditions and variations, including hydrologic changes caused by the development (e.g., introduction of sewage effluent and irrigation water to the groundwater system; alterations in surface drainage).

(7) Potential effects of seismic forces resulting from a maximum credible earthquake.

(8) Effects of the proposed development including sighting and design of structures, septic system, landscaping, drainage, and grading, and impacts of construction activity on the stability of the site and adjacent area.

(9) Potential erodibility of the site and mitigation measures proposed to minimize erosion problems during and after construction. Such measures may include but are not limited to landscaping and drainage design.

(10) The area of demonstration of stability shall include the base, face, and top of all bluffs and cliffs. The extent of the bluff top considered should include the area between the face of the bluff and a line described on the bluff top by the inter-section of a plane inclined a 20-1/4 degree angle from the horizontal passing through the toe of the bluff or cliff, or 50 feet inland from the edge of the cliff or bluff, whichever is greater.

(11) Any other factors that may affect slope stability.

(12) Additional information consistent with guidelines developed by the State Department of Conservation and other relevant agencies."

The San Luis Obispo County "Guidelines for Engineering Geology Reports" published by the Department of Planning and Building address Coastal Hazards (including Bluff Erosion and Tsunami) in Sections 21 and 22 on pages 8 and 9. This document indicates the geologic report must include a predicted long-term average erosion rate and a setback that will ensure the development will not require shoreline protection during its economic life. Using a 75 year economic life and the 2007 U. S. Geological Survey Open File Report 2007-1133 cliff retreat rates in the vicinity of the proposed Loperena residence that are 0.5 to 0.9 feet per year, a minimum bluff edge setback would be 37.5 to 67 feet, without adding a safety factor or buffer, and without any consideration of how accelerating sea level rise may increase coastal erosion rates and bluff recession rates in the future.

We have reviewed the Updated Geotechnical report by GSI Soils dated December 27, 2011 and the Geology report by Cleath and Associates dated May 2, 2006 for the project. We note that the Cleath report was prepared by Timothy

S. Cleath, Certified Engineering Geologist # 1102. The Cleath report indicates the building site is adjacent to an active beach, is subject to wave runup risks involving highly erodible materials, and is partly underlain by undocumented fill up to 11 feet thick. The Cleath report also indicates wave runup is expected to reach the building site. We note that the Cleath report was published prior to the 2007 U. S. Geological Survey Open File Report 2007-1133 that indicated much faster coastal erosion rates than those used by Cleath.

Cleath and Associates prepared a Memorandum for the project dated March 30, 2007 for the project. We note that the Cleath Memorandum indicates "Some coastal protection structure would be appropriate to protect any structure from wave runup from storm surges and tsunamis."

The Geotechnical Engineer (Ronald J. Church) and the Engineering Geologist (Timothy S. Cleath) for the Loperena project have not:

1) demonstrated that the site and bluff are stable,

2) evaluated the effects of marine erosion,

3) addressed foreseeable cliff erosion,

4) evaluated the influence of sea level rise during the economic life of the project (see www.**coastal**.ca.gov/climate/**Revell**_slr.pdf),

5) demonstrated that the proposed residence is set back from the bluff edge a distance sufficient to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years without construction of shoreline protection structures,

6) completed a site stability evaluation report that indicates that the bluff setback is adequate to allow for bluff erosion over the 75 year period according to County established standards,

7) proven they comply with San Luis Obispo County Coastal Zone Land Use Ordinance Section 23.04.118 of Title 23 of the County Code. It says ***new development proposed to be located adjacent to a beach or coastal bluff shall be located in accordance with the setbacks provided*** by this section.

Using a 75 year economic life and the 2007 U. S. Geological Survey Open File Report 2007-1133 cliff retreat rates in the vicinity of the proposed Loperena residence that are 0.5 to 0.9 feet per year, a minimum bluff edge setback would be 37.5 to 67 feet, without adding a safety factor or buffer, and without any

consideration of how accelerating sea level rise may increase coastal erosion rates and bluff recession rates in the future.

The Loperena Building site is directly exposed to the Pacific Ocean and in our opinion will not have stability and structural integrity to withstand bluff erosion and wave action for a period of 75 years without construction of shoreline protection structures. Thus the proposed project does not comply with Policy 6 of the San Luis Obispo County Coastal Plan Policies, which is the Local Coastal Program Policy Document that is a portion of the San Luis Obispo County Land Use Element of the General Plan.

If you have any questions, please call our office.

Very truly yours,

HARO, KASUNICH AND ASSOCIATES, INC.

John E. Kasunich
G.E. 455

Mark Foxx
C. E. G. 1493

JEK/dk

Copies: 3 to Addressee
1 to File

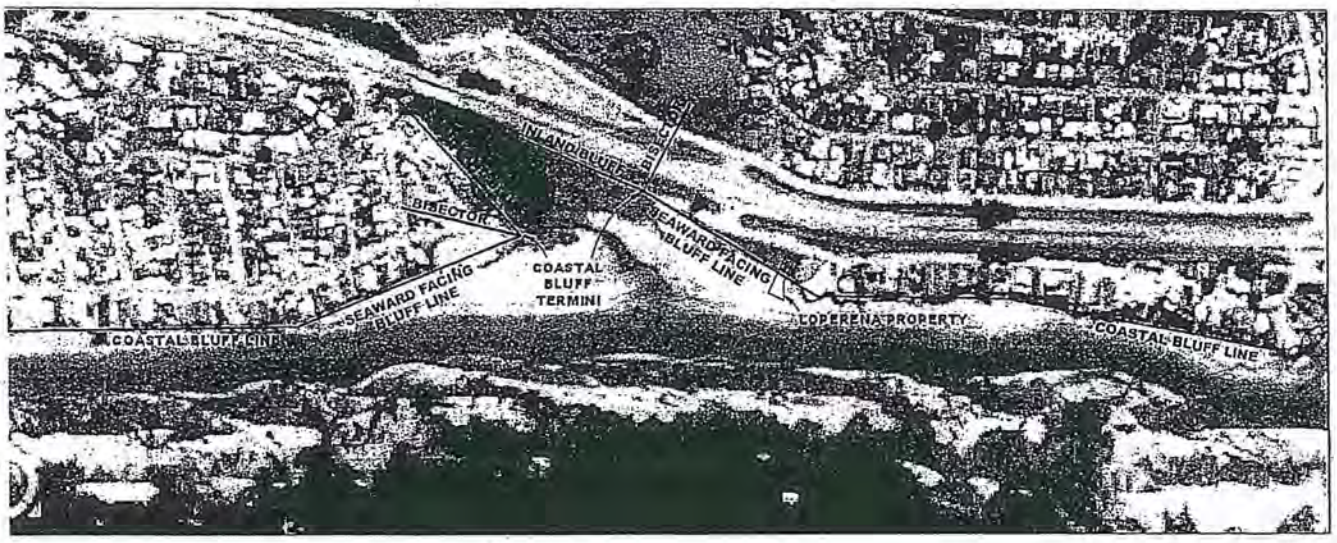

FIGURE 1
COASTAL BLUFF LINE
LOPERENA PROPERTY, STUDIO DRIVE
CAYUCOS, CALIFORNIA

APPROXIMATE SCALE: 1" = 500'

PHOTO DATE: 2007
by live.photo.com

Exhibit 6
Kevin Elder SJMS Letter dated August 5, 2013 – Comments on the June 2013 D-EIR

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August 5, 2013

Ryan Hostetter, Project Manager
San Luis Obispo County
Planning and Building Department
976 Osos Street, Room 300
San Luis Obispo, CA 93408-2040

Re: Comments to Draft Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216)

Dear Ms. Hostetter:

On behalf of Ethel Pludow and Cynthia R. Sugimoto, please accept these comments to the June 2013 Draft Environmental Impact Report ("D-EIR") for the Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216).

Doreen Liberto-Blanck, AICP, MDR, of Earth Design, Inc. was engaged to assist in analyzing the D-EIR and preparing these comments. Ms. Liberto-Blanck has over 25 years of experience in a range of land use planning, environmental planning and public policy making.

John Kasunich G.E., and Mark Foxx, C.E.G., of Haro, Kasunich and Associates, Inc., ("HKA") were engaged to review and analyze the D-EIR in respect to the geology, soils, and geotechnical engineering issues. John Kasunich is a Professional Engineer in Civil Engineering and a Geotechnical Engineer with over 30 years of experience in coastal engineering. Mr. Foxx is a Certified Engineering Geologist with more than 30 years of experience in coastal geology. Mr. Kasunich and Mr. Foxx have worked on numerous projects requiring the interpretation of the California Coastal Act, as well as local coastal plans and ordinances. Mr. Kasunich and Mr. Foxx have worked extensively with government agencies, including the California Coastal Commission, and their work is known to both the Executive Director and Deputy Director of the California Coastal Commission.

The results of their analysis are set forth in their report dated August 1, 2013, and attached as Exhibit A (the "HKA Report").

The D-EIR was prepared in response to applicant Jack Loperena's ("Applicant") proposal to build a 3,097 square foot residence on a 3,445 square foot lot (the "Project").

The County's initial review of the Project resulted in the issuance of a Mitigated Negative

Declaration (the "MND") dated April 9, 2007. A Request for Review was filed challenging aspects of the MND. The MND was amended in response to the 2007 Request for Review, and the Amended Mitigated Negative Declaration was issued on April 2, 2009 (the "Amended MND"). A request for review of the Amended MND was filed on April 16, 2009. In response, the Applicant voluntarily decided to prepare an Environmental Impact Report for the Project.

The D-EIR has not adequately addressed or provided mitigation measures for several issues raised in the prior requests for review, and has raised new areas of concern. The following are some of the issues and concerns that will be addressed in these comments.

- The bluff upon which the Project would be constructed is a coastal bluff. The D-EIR incorrectly determines that the bluff is a fluvial bluff, with its associated lack of set-back from the bluff edge, and with no limitation (other than the property line) on how far the Project can cantilever over the sandy beach.

- Although lateral access is discussed in the D-EIR, it seems that access is not being dedicated as required by the Estero Area Plan (CZLUO 23.04.420) and other policies. The lateral access should be provided as required and be free of encroachment by the Project's cantilevered deck.

- The D-EIR failed to propose adequate project alternatives as required by the California Environmental Quality Act ("CEQA").

- The reinforced concrete seaward facing basement wall is a seawall, and seawalls are not allowed. The San Luis Obispo LCP Hazard Policy 1 requires that new development shall be designed so any shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, not be needed for the life of a structure.

- The D-EIR failed to apply current ordinances.

- The visual impact of the Project will be significant, yet the D-EIR glosses over the issue, finding there will be little impact to the existing visual condition along Studio Drive.

- The County failed to hold a scoping meeting as required by CEQA. In fact, the County's public outreach has been lackluster at best, in addition to failing to meet CEQA requirements.

It is recommended that the County Planning Commission and Board of Supervisors deny the Project as proposed because it is inconsistent with several provisions of the certified Local Coastal

Plan related to bluff top setbacks, geologic hazards, alteration of natural landforms, protection of views from public vantage points and scenic areas, and public access and several of the environmental issues have not adequately been addressed. The bluff should be defined as a coastal bluff. Based on our analysis, there are significant adverse impacts that cannot be mitigated, and therefore, Statements of Overriding Consideration would be needed to approve the Project.

If the Applicant desires to continue pursuing development of the property, the County should require development of a new "eco–friendly house" alternative that will meet the requirements necessary to build on this coastal bluff property. It is recommended that an "eco-friendly house" development is necessary in order to: provide adequate set-back (minimum 25 feet, and to withstand bluff erosion and wave action for a period of 100 years of erosion) from the bluff edge; limit cantilever to 3 feet beyond set-back line; forego inclusion of a basement and associated seawall; provide unobstructed 25-foot lateral access easement dedication from toe of bluff; and provide a visualization of the new alternative project for consideration.

Additionally, it is recommended that the County Planning Commission and Board of Supervisors require the County planning staff to hold a well-advertised county-wide scoping meeting on the new alternative, and send written notices of future drafts of an amended D-EIR and public hearings to all Cayucos property owners and residents.

1. <u>Determination that the Property is not a Coastal Bluff and Related Geotechnical Issues</u>.

HKA determined that the County's EIR consultants, Cotton Shires and Associates (the "EIR Consultants") incorrectly defined the bluff as a fluvial bluff.

In summary, the HKA Report (Exhibit A) finds that the EIR Consultants' use of an obscure determination of what constitutes a bluff edge led the EIR Consultants to incorrectly find that the bluff is a fluvial bluff rather than a coastal bluff. The HKA report describes how the bluff is subject to wave run-up, subject to marine erosion, and under applicable law should properly be defined as a coastal bluff. It includes several figures and photographs that clearly show the exposed bedrock coastal bluff on the property and the "active beach" at the base of the bluff.

The HKA Report identifies that the methodology used by the EIR Consultants to assess the termini of the bluff differs from California Coastal Commission (CCC) guidelines. It is requested that a revised bluff termini diagram be prepared on a surveyed map that follows the CCC guidelines.

As part of their analysis, HKA notes that a story pole study was conducted for the Project. The D-EIR states that the locations of the story poles were used to prepare visual photo simulations of the Project, however, no pictures of the story poles are included in the D-EIR.

We obtained a photo from the story pole study, as well as other photos of the Project taken while the flags were in place. The visual impression created by these photos paints a clear picture of how the bluff edge is oriented toward the ocean. Further, while the D-EIR includes the methodology of how the story poles were used to create visual photo simulations, it doesn't describe or include the story poles study.

The story poles study is an important tool in determining how the Project will be situated on the bluff, and how it will impact environmental conditions. Therefore, the entire story poles study should have been included in the D-EIR.

The HKA Report also addresses the inconsistencies in the EIR Consultants' wave run-up calculations, and how the inconsistencies affect how wave run-up will affect the Project.

The HKA Report also finds that the basement wall is a seawall, which is prohibited for this type of development. If allowed, it will deflect wave run-up towards the neighboring properties and adversely impact them. They also believe the impact related to beach sand scour and coastal erosion are under estimated in the D-EIR and will be significant.

They also raise a concern about the potential for the borehole drilling and excavations for the shoring to encroach on the neighboring properties or damage those properties.

The HKA Report's analysis concludes that the Project site should be considered a coastal bluff and appropriate set-backs required.

2. 25-Foot Lateral Beach Access Easement; Encroachment by Covered Deck.

2.1 Required 25-Foot Lateral Beach Access Easement.

The Coastal Zone Land Use Ordinance ("CZLUO") Section 23.04.420d(3) requires that all new development provide a lateral access dedication of at least 25 feet of dry sandy beach, as noted on page 3-14 of the D-EIR. The D-EIR should clearly show where the project will be sited on the property, and how the lateral access easement will be accommodated by the location of the project. There is no verifiable depiction (such as a survey) showing exactly where the structure will be located on the lot.

Therefore, it is impossible to confirm that the project as designed can be sited on the lot and still comply with the requirement to provide a lateral beach access easement of at least 25 feet of dry sandy beach.

The D-EIR should note in relation to the lateral access easement that wave run-up is expected to hit the basement. Therefore, there will be times when no dry sandy beach is available. Several

photos showing the coastal bluff and beach portion of the property during a typical high tide in 2007 are shown in Exhibit B.

Section 23.04.420d(3) of the CZLUO states, "Lateral access dedication: All new development shall provide a lateral access dedication of 25 feet of dry sandy beach available at all times during the year. Where topography limits the dry sandy beach to less than 25 feet, lateral access shall extend from the mean high tide to the toe of the bluff. Where the area between the mean high tide line (MHTL) and the toe of the bluff is constrained by rocky shoreline or other limitations, the County shall evaluate the safety and other constraints and whether alternative siting of access ways is appropriate. This consideration would help maximize public access consistent with the LCP and the California Coastal Act."

Has the Applicant agreed to provide the 25-foot lateral access dedication in the location shown on the site plan in the D-EIR or anywhere else on the property? If the Project is approved, the requirement to dedicate the easement should be a mitigation measure, and included in the mitigation and monitoring report.

The D-EIR should have shown how the requirement of a 25-foot lateral beach access easement will be met.

2.2 Covered Deck Encroaches onto Lateral Beach Access Easement.

The design of the project includes a 180 square foot covered deck. The deck will encroach on about 10 linear feet of the 25foot lateral easement, as noted on page 3-8 of the D-EIR. The County should not allow the Applicant to encroach upon the required lateral access easement.

To address the encroachment, the D-EIR rationalizes that the encroachment is acceptable because the public will have plenty of lateral access, as there is dry sandy beach between the project and the mean high tide line.

CZLUO Section 23.04.420d(3) requires that new development provide a 25-foot lateral access easement. The ordinance does not condition that requirement on whether other access is available or not. Therefore, it is inappropriate for the D-EIR to rationalize the encroachment of 40% of the lateral access easement by the deck with a statement that other access will be available.

The encroachment of the access easement by the deck is certain to chill if not eliminate the public's use of the easement, as almost everyone will think that the sand beneath the deck is private. If the Applicant puts out furniture or landscaping near or under the deck, no one will think they have beach access across the easement.

The problem of lateral beach access will be particularly acute during periods of wave run-up,

where even now there are frequently times when there is no dry beach to access the beach laterally.

The D-EIR notes that wave run-up will occasionally hit the house. Therefore, the D-EIR confirms that at times there is no dry sandy beach, and therefore the requirements of CZLUO Section 23.04.420d(3) will not be met.

In fact, the second sentence of CZLUO Section 23.04.420d(3) states that where "topography limits the dry sandy beach to less than 25 feet, lateral access shall extend from the mean high tide to the toe of the bluff."

Therefore, the D-EIR should consider whether the lateral beach access easement should extend to the toe of the bluff, and not just 25 feet from the property line. At the very least, the deck should be removed from the project due to its encroachment of 40% of the easement area.

2.3 Failure to Address Estero Area Plan Lateral Access Requirements.

San Luis Obispo County Parks Department expressed concerns in its September 9, 2009, Memorandum from Shaun Cooper to Ryan Hostetter about the cantilevered design. The memo also states that State Parks should be notified about the design.

County Parks also requested plans showing the toe and top of the bluff. The D-EIR does not state whether any of County Parks' issues were addressed.

In particular, note that County Parks cites the Estero Area Plan, Land Use Element/Local Coastal Plan, San Luis Obispo County Plan, Chapter 8, page 8-11 (now page 8-6).

The section states:

> New development located between the sea and the first public road shall be required to make an offer of dedication of lateral access extending from the toe of the bluff to mean high tide, or where applicable, to the inland boundary of the public beach. (Chapter 7: V., Cayucos Urban Area Standards, Combining Designations, B., LCP) (underline added).

The D-EIR should address why the Applicant is not required to dedicate access from the mean high tide line to the toe of the bluff, rather than just 25 feet from the property line. No exceptions to the requirement are provided, thus the unique nature of the site should not have any bearing on where and what type of easement should be required.

The County should use the standard set forth in the Estero Area Plan to determine the type and location of the lateral beach access easement.

3. Failure to Provide Required Project Alternatives.

CEQA requires that an EIR provide alternative designs to the proposed project in order to determine whether alternatives would further mitigate any environmental impacts. The D-EIR should analyze such alternatives and determine which is the Environmentally Superior Alternative.

In the D-EIR, the County determined that the Environmentally Superior Alternative is the Project. However, this determination does not have validity in the reality of the impacts. The proposal will impact the coastal beach, cause potential surface and subsurface drainage issues, impact scenic coastal views and is proposed to be built on a historic coastal bluff. The Environmentally Superior Alternative should be no project. A substantially reduced scale structure built on pilings and located with adequate set-back (a minimum of 25-feet, to withstand bluff erosion and wave action for a period of 100-years of erosion) from the edge of the bluff would still have impacts, but those impacts would be considerably reduced from those of the subject proposal.

CEQA states there should be a reasonable range of alternatives based on project objectives. The proposed alternatives proposed in the D-EIR are similar and do not provide sufficient variation. On page ES-4, the Applicant's project objectives are outlined, including: *reducing visual impacts by design, avoiding development on sandy beach and minimizing site grading and disruption of the natural contours and, incorporation of green building considerations into the design and maximize exposure for solar panels.*

Based on these objectives, one of the alternatives should include an eco-friendly small house. The eco-friendly small house could possibly be placed to allow for a 100-year setback with no structures encroaching on the sandy beach. Additionally, the reduced size and scale of the project would provide a better transition with the open space nature of the adjacent Morro Strand State Beach.

Visualization of each alternative should be provided for comparison to the proposed project.

4. Failure to Apply Current Ordinances.

The D-EIR, Section 8.1.4.11 cites the 2010 CZLUO, and the 2007 Coastal Plan Policies – Local Coastal Program Policy Document ("Policies"), as the ordinances used to analyze land use issues addressed in the D-EIR.

Both the CZLUO and the Policies were updated in 2011.

A permit applicant's rights to proceed under a MUP or CUP do not vest until the permit is issued, and the applicant has in good faith commenced construction on the site. Since the permit has not been issued, outdated versions of the CZLUO and the Policies were improperly used as a basis

for land use analysis issues.

The D-EIR must review the project using the current versions of the ordinances.

5. Safety Element of the General Plan

County Coastal Policy S-23 requires that development shall not be permitted near the top of eroding coastal bluffs.

County Coastal Program S-63 requires coastal bluff erosion studies to determine the rate of erosion and the resulting safe distance from the top of the bluff for development. The D-EIR should address how the policy and program are impacted by the Project.

6. Scoping Meeting Required; Incorrect Claim Scoping Meeting Held

Executive Summary item F on page ES-14 and Section 1.2 of the D-EIR state that a scoping meeting was held at the Cayucos Veteran's Hall. This is incorrect. No scoping meeting was held.

Further, Section 1.3, page 1-1, states that the "scope of the EIR includes issues identified by the lead agency during the preparation of the NOP for the proposed project, ***as well as environmental issues raised by agencies and the general public in response to the NOP and at the scoping meeting***."

CEQA Guidelines Section 15082(c)(1) states that for "projects of statewide, regional or areawide significance pursuant to Section 15206, the lead agency shall conduct at least one scoping meeting." A D-EIR is mandated to be sent to the State Clearinghouse when the project meets the criteria for "statewide, regional or area wide significance." (PRC 21082.1; CCR 15205 and 15206).

CEQA Guidelines Section 15206(b)(4)(C) states that if an EIR is prepared for a project, the project is located in the California Coastal Zone, and the project would have a substantial impact on the environment, then the lead agency must determine that the project is of statewide, regional or areawide significance.

Here, an EIR has been prepared, and the project is located in the Coastal Zone. Further, the Loperena MUP/CUP was sent to the State Clearing House.

Therefore, based on the County's action of submitting the D-EIR to the State Clearinghouse and due to the project being located within the Coastal Zone, a scoping meeting should have been conducted.

We disagree with the County's determination that there will be no substantial environmental

impact.

This project, which proposes to redefine the term "coastal bluff," in order to evade the bluff top setback requirement, includes a seawall, cantilevers over the beach, and encroaches on the required lateral access. If allowed to proceed, the Project will set a precedent for all future coastal development and is thereby a project of statewide, regional and area-wide significance.

Therefore, the project will have a substantial environmental impact, satisfying the third prong of the Guidelines and requiring a scoping meeting. The County failed to do so, despite its claim of a meeting in the D-EIR.

A scoping meeting must be held before the D-EIR review process goes any further, to avoid violation of CEQA.

7. <u>County's Limited Public Outreach Efforts</u>

The County's efforts to reach out to the public have fallen short. The County seemed to think that because the project is just a single family residence, there would be little public interest. This view is clearly wrong as shown by the important organizations interested in the project.

Thanks to groups such as the Cayucos Citizens Advisory Council ("CCAC"), the Sierra Club – Santa Lucia Chapter, the Surfrider Foundation – San Luis Obispo Chapter, ECOSLO and Coastkeeper, along with many individuals, word of the project has gotten out. Clearly the County underestimated public interest in the project.

The general public is very interested in the project due to the dangerous precedents it would set. The precedents include:

(i) Building on a coastal bluff without adhering to coastal bluff setback requirements.
(ii) Allowing a cantilevered structure over the beach.
(iii) Allowing construction of a seawall (the basement wall is really a shoreline protection device).

One specific example of the County's failure to properly notify the public about the project and the availability of the D-EIR for public review is reflected in the June 2013 minutes of the CCAC. The June minutes show that the County liaison to the CCAC made no report to the CCAC informing them that the D-EIR was expected to be released soon. Further, the County's liaison's input at the July CCAC's Land Use Committee and CCAC meetings on July 8 and 10 respectively, was uninformed and minimal. Following release of the D-EIR, a CCAC request for a presentation or at least attendance by the SLO Project Manager to answer questions was ignored or dismissed.

No copy of the D-EIR was provided to the Cayucos Library. Also, no property owners or residents from the project vicinity were notified of the availability of the D-EIR, except for one property owner that expressly asked to be notified.

It is unclear why the County would fail to provide those with a stated interest in the project with even informal notice of the pendency of the release of the D-EIR when such interest is widely known. The County seems to be happy meeting the minimum notice requirements, when in fact there is widespread interest in the project.

The County's unwillingness to provide outreach beyond the bare minimum required will certainly result in a significant number of people being left out of the process. We don't want this to become one of those projects where many people say they just didn't know, and therefore were prevented from participating in the review process.

8. <u>Visual and Scenic Resources, Policy 2</u>

The D-EIR inadequately discusses the impact of the Project on views. None of the photos included in the D-EIR clearly illustrate the loss of view. Attached photo/graphic Exhibit C illustrates the estimated impact on public scenic coast views. The lot is on the edge of an expansive area of public scenic coastal view and adjacent to Morro Strand State Beach. The Project will further erode the public's view of sandy beach and ocean waves. The Project will hover over the sandy beach and obstruct views along the beach and from Highway 1 to the ocean. This is a significant adverse impact that has not been properly analyzed.

The D-EIR falsely states that the Project is consistent with the current conditions. Most of the residences are set-back on the bluff, and none are cantilevered over the sand. The nearby residence shown in Figure 4.1-14 and 4.1-15, which is built to the edge of the bluff, was built in 1964, prior to establishment of the CCC and associated rules protecting bluffs. It is not appropriate to compare the Project to it. None of the residences have a 31-foot high structure visible from the ocean side.

The size of the Project should be reduced and not allowed to cantilever over the sandy beach. If it is not reduced in size and prohibited from cantilevering over the beach, the D-EIR should then identify the Project as having a significant adverse impact on the environment based on visual scenic resources and being inconsistent with the County Policy 2.

The project is in a prominent location, adjacent to a Morro Strand State Beach and open to Highway 1. On page 4.1-8, the EIR Consultant states:

"The project would result in a significant impact if it had substantial adverse effect on a scenic resource as seen from Highway 1. A scenic resource would be a specific feature or element with a high degree of memorability or landmark characteristics that contributed to the high visual quality of the corridor. From along Highway 1 in the project vicinity, Morro Rock, the Pacific Ocean, and the Cayucos Pier are considered Scenic Resources. The project would result in a significant impact if it were to have a substantial negative effect on views of any of those resources, from public vantage points."

The Project will have "a substantial negative effect on views" as clearly shown in the photo graphic attached as Exhibit C. Therefore, the EIR Consultants should have concluded that the Project would result in a significant impact on visual scenic resources.

The structure is not consistent with Visual and Scenic Resources Policy 10: Development on Beaches and Sand Dunes. The Project appears to be two-stories from beach view and is inconsistent with the appearance of other houses.

9. Cayucos Small Scale Neighborhood Standards of the Estero Area Plan

The Project does not meet the Cayucos Small Scale Neighborhood design standards and other communitywide standards, and is inconsistent with the character and intent of the Cayucos community small scale design neighborhood for some of the following reasons:

9.1 The 3,097 square foot modern structure gives the appearance of a massive box on a 3,445 square foot lot. The expansive building facades should be broken up by various elements to avoid the box appearance from the public. The structure is eighteen or nineteen feet (18'-19') wide and ninety-five feet (95') long. The elongated structure, with concrete walls does not present a small-scale project and is out of character with other structures in the area. The building mass as seen from streets and public recreational areas does not incorporate design features, such as variations in wall planes, roof lines, or materials that promote a small scale appearance, as required in the Estero Area Plan.

As correctly stated in the 2009 Draft Mitigated Negative Declaration and attached as Appendix A of the D-EIR, *"... the design and style with the cantilevered deck area is different than neighboring residences as it proposes a much more modern design."*

9.2 The Community Small Scale Design Neighborhoods standards require, "The site design to incorporate landscaping materials that help reduce the scale of the proposed structure through proper selection and placement of trees, shrubs and other vegetation capable of screening portions of the structure from public viewpoints." Only two-hundred and thirty-eight square feet (238'), or seven percent (7%) of the lot is proposed to be landscaped. This includes hardscape and private walkways along the northern side of the residence. The Applicant proposes potted plants along the walkways and front entry. (Reference page 2-5 of D-EIR.)

The limited landscape, including hardscape, and potted plants will not reduce the scale and size of the modern structure from public viewpoints, as required by the Estero Area Plan.

9.3 The D-EIR Executive Summary (page ES-4) describes the Project as having one main floor and a basement. However, it also includes what is called a mezzanine. There is no definition in the Estero Area Plan for mezzanine, and it isn't specifically excluded as a story in the definition for "story" in the Estero Area Plan. We question whether this "mezzanine" should actually be considered as a second story. If it was considered a second story, then the Gross Structural Area (GSA) requirements included in the Estero Area Plan (section 7.V.D.3.d(2) and Table 7-3 page 7-71) should apply. Table 7-3 requires that lots between 2,900-4,999 square feet have a maximum gross structural area of 55% of usable lot, not to exceed 2,500 square feet. Since a good portion of the 3,445 square foot lot is sandy beach and therefore not usable, the usable lot area is much smaller. The proposed 3,094 square foot residence is about 90% of the lot size, and an even higher percentage of the usable lot size. If the mezzanine is determined to be a second story, then the Project is too large and should be reduced in size to meet the Estero Area Plan GSA requirements.

There also seems to be some uncertainty in the D-EIR regarding whether the Project sits atop the bluff or not. It is important that the location is clearly defined as it directly impacts the determination of the usable lot size, and therefore the allowable size of the residence.

The architecture, materials and building mass are not consistent with the Residential Development Design Concepts found in the Cayucos Urban Design Standards of the Estero Area Plan. The structure does not provide articulated rooflines, small scale building mass, or meet the other standards illustrated in Figure 7.37.

In conclusion, for the reasons stated in this letter, the Project should not be approved.

We appreciate your considered review and analysis of these comments.

Sincerely,

SINSHEIMER JUHNKE McIVOR & STROH, LLP

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cc: Cynthia R. Sugimoto

Exhibit A

August 1, 2013 Haro, Kasunich and Associates Report

(see attached)

Project No. SLO9515
1 August 2013

To: Ms. Ryan Hostetter
County of San Luis Obispo
Department of Planning and Building County
Government Center Room 200
San Luis Obispo, CA 93408-2040

From: Mark Foxx, CEG 1493
John E. Kasunich, G.E 455

Subject: June 2013 Draft EIR Comments

Reference: Loperena Minor Use Permit/Coastal Development
Permit DRC 2005-00216
SCH No. 2007081044

Dear Ms. Hostetter:

We have reviewed Section 4.3 of the referenced D-EIR (Geology and Soils), as well as referenced documents in Appendix C of the D-EIR by Cotton Shires and Associates Inc. dated May 31, 2011, August 21, 2012, October 31, 2012, and May 17, 2013; documents by GeoSoils Inc. dated March 14, 2011 and April 10, 2013, documents by Cleath-Harris Geologists Inc. dated June 25, 2012, September 19, 2012; and GSI Soils Inc. dated December 27, 2011.

We provide the following comments:

1. **Incorrect Finding that Property is Not a Coastal Bluff**

   Cotton Shires and Associates Inc. (the EIR consultant who addressed the presence or lack of a coastal bluff at the site) interprets that a coastal bluff does not exist at the Loperena property. We disagree. The bluff fronting the project site faces the Pacific Ocean, and there is an active beach at the base of this bluff. The bluff is subject to severe wave run-up on occasion and resultant coastal erosion. California Code of Regulations, Title 14, Section 13577(h)(1) defines coastal bluffs as those where the toe of which is now **or** was historically (generally **within** the last 200 years) subject to marine erosion. **There can be no doubt that the toe of the bluff on the seaward portion of the Loperena property, is now and was historically (within the last 200 years) subject to marine erosion.** Unfortunately, there is no mention of this definition in the Cotton Shires reports.

   Instead they focus on a more obscure determination of bluff edge termination, based on criteria involving geologic history and fail to consider the present geologic and oceanographic conditions at the site. Cotton Shires makes their finding based primarily on conditions shown on an aerial photo taken more than 75 years ago. We believe that present conditions must be considered when evaluating the presence of coastal bluffs or lack thereof. For more than 50 years a coastal bluff has extended hundreds of feet upcoast from the Loperena property. Much of that coastal bluff consists entirely of fill, but that is not solely the case at the Loperena property. The bluff at the Loperena property has bedrock exposed across the full width of the property.

   Cotton Shires and Associates Inc. asserts that the seaward slope on the Loperena property consists of a fillslope and therefore it is not part of the coastal bluff. That is not

supported by the geologic maps, cross sections and boring logs prepared by the applicant's geologist (Cleath-Harris). Exposed bedrock extends across the full width of the Loperena property.

In our opinion the present conditions matter, and can and should not be ignored. The property should be considered a coastal bluff and appropriate setbacks should be required.

We support this, in part, from review of the geologic maps and cross sections in the Cleath-Harris Geology reports dated 6-25-2012 and 9-19-2012 as well as the Cotton Shires report dated 5-31-2011; all of which are contained in Appendix C of the Draft EIR. The Cotton Shires Engineering Geologic Map Plate 1 (originally prepared by Shoreline Engineering in 2006) is missing from Appendix C, but is included at a reduced scale as Figure 4.3-3 in the Draft EIR.

Several Figurers and photographs are presented below to support our position that the property includes a coastal bluff and to counter the DEIR finding that it doesn't.

Figure 1 shows Cleath-Harris's Geologic Map of the site that clearly shows exposed bedrock (Franciscan Assemblage Graywacke sandstone) across the entire width of the property along the coastal bluff face, with Beach Deposits seaward of the bedrock.

Figure 2 shows Cleath-Harris's Cross Section D-D'. The applicant's geologist (Cleath) terminated this cross section at elevation 16 and did not extend it down the near vertical bedrock coastal bluff face down to the beach. This cross section shows a thin mantle of fill covering the bedrock on the inland portion of the lot. We have sketched an extended portion of the cross section below elevation 16, to show the coastal bluff face and beach that exists there.

Figure 3 shows Cleath-Harris's Cross Section C-C'. Cross Section C, which is located at the upcoast property boundary, shows that the bluff face is composed of exposed Franciscan Assemblage Bedrock from the sandy beach up to about Elevation 17. The bedrock is mantled by 3 to 4 feet of fill. In fact, as depicted by the applicant's geologist, the bedrock under the fill extends up to elevation 22, and one could argue that the fill is covering what was once the coastal bluff face between elevation 17 and 22. We have labeled the cross section to show the coastal bluff face and beach that exists there.

Photograph 1 is a 2002 Aerial Photo from www.CaliforniaCoastline.org that clearly shows the exposed bedrock face along the coastal bluff, as correctly mapped by the applicant's geologist (Cleath-Harris) and the EIR geologist (Cotton Shires).

Photograph 2 was taken at the site and shows the coastal bluff on the Loperena property, the beach at the base of the bluff, and the Pacific Ocean. We have outlined the portion of the coastal bluff face where bedrock is exposed on Photograph 2.

Photograph 3 is a 2002 Aerial Photo showing the coastal bluff on the Loperena property, the beach at the base of the bluff, the Pacific Ocean wave action on the beach, and a sketch of the Loperena property boundaries. The property boundaries shown are not to scale because of parallax and foreshortening in this oblique photo, but are in approximately the right positions. Most of the Loperena property is only 25 feet wide. The seaward portion of the Loperena property (below the coastal bluff) is a sandy beach.

Photograph 4 is a site photo taken from the downcoast neighbor's property that shows the coastal bluff on the Loperena property, the beach at the base of the bluff, and Pacific Ocean wave action on the beach.

Figure 4 is Cotton Shires Geologic Cross Section which shows the proposed Loperena residence projecting (cantilevered) out over the coastal bluff and what they depict as an "Active Beach". The area between the Active Beach and the landward portion of the residence is the coastal bluff, as defined by the California Coastal Commission.

Figure 5 is a figure from Cotton Shires & Associates report dated May 31, 2011. It is a portion of a 1937 aerial photo that they have interpreted to show an inland bluff line that was formed by Old Creek. This bluff line pre-dates the bluff line that exists since Highway One was constructed in its present alignment circa 1960.

In 1937 (the date of aerial photograph Cotton Shires used in their analysis) the bluff turned inland just north of the bedrock outcrop. Between 1937 and 1972 (when the Coastal Act Initiative was passed by the voters and the Coastal Commission was created) State Highway 1 was constructed (circa 1960). In 1972 and 1976 (when the Coastal Act was passed) the bluff at the landward edge of the beach north of the Loperena property followed the fill slope seaward of Highway 1. The Cotton Shires premise that whether a coastal bluff exists is determined only by where a bluff was during historical geologic conditions (in 1937) and not where the coastal bluff existed at the time the Coastal Commission was created (in 1972) or where a bluff exists today, is inappropriate.

The toe of the bluff on the seaward side of the Loperena property has historically been subject to marine erosion and is subject to ocean wave run-up and coastal erosion today.

Regardless of the conditions at the Loperena property before Highway 1 was built, those conditions do not determine there is not a coastal bluff there today, which has been there for the last 50 years, and in fact has been there ever since the Coastal Act was passed.

Figure 6 is a figure from Cotton Shires & Associates report dated May 31, 2011. It interprets which portion of the bluff at the Loperena property is a coastal bluff and which portion is an inland bluff. An inland bluff might be defined as a creek bank or river bank not subject to marine erosion. The Cotton Shires methodology for assessing the transition point from a coastal bluff to an inland bluff differs from the California Coastal Commission (CCC) guidelines for determination of bluff termini. Public Resources Code Section 13577 states "The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations." For some reason, Cotton Shires diagram, ignores the 500 foot requirement and instead uses a minimum length of the bluff line of 300 feet. It is requested that a revised diagram be prepared and included in the Final EIR that follows the CCC guidelines including the 500 ft. requirement.

Based on the conditions depicted on the geologic maps and cross sections and on the photographs in this letter, we believe the bluff on the Loperena property is a coastal bluff. We believe it is inappropriate to solely define the existence of coastal bluffs based on

photographs from 75 years ago or geologic conditions from more than 50 years ago. We believe that current geologic and oceanographic conditions must be considered, in order to accurately define the existence of coastal bluffs. The interpretation by Cotton Shires & Associates relies on conditions depicted in photographs from 75 years ago and geologic and geomorphic conditions from more than 50 years ago. We believe their interpretation is erroneous. California Code of Regulations, Title 14, Section 13577(h)(1) defines coastal bluffs as those where the toe of which is now or was historically (generally **within** the last 200 years) subject to marine erosion. That includes those bluffs that have had marine erosion at their toe for 50 years. This regulation does not say that if there has not been marine erosion at the toe of the bluff **continuously** for the last 200 years it is not a coastal bluff. In our opinion the present conditions matter, and can and should not be ignored.

Because the Loperena property is only 25 feet wide, slight variations in geologic mapping have great impact. The Cotton Shires maps (Figures 5 and 6) that they use to delineate their interpretation of the coastal bluff are presented in their report at a scale of 1 inch equals 300 feet, such that the Loperena property is less than a tenth of an inch wide. It is our opinion that precise location of the coastal bluff terminus relative to property boundaries based on stereoscopic aerial photograph interpretation is not possible and that mapping and consideration of site specific conditions is required.

Fortunately, site specific mapping of the bluff was done in 1955. Figure 7 is a 1955 State Of California Acquisition Map for Morro Strand State Beach. This map shows the Loperena property and the bluff configuration at that time. Cotton Shires and Cleath-Harris make no reference to this map (included in this report) in their reports.

Figure 8 is an enlarged portion of State of California Acquisition Map from 1955 showing the toe of bluff that existed then on the Loperena property. The Loperena property was impacted by both the ocean and creek before Highway 1 was built, and now is primarily impacted by the ocean because the creek's alignment was altered. The map depicts that in 1955 (before Highway 1 was constructed in its present day alignment) it might be considered as a "corner lot", which is within a transition area that is part coastal bluff and part inland bluff. If it was partly a coastal bluff then, and is impacted by coastal processes such as marine erosion, ocean wave run-up, and wave impact today, it should be considered a coastal bluff.

D-EIR 4.1.4.1 discusses a "story-poles" or flag study used to assess visual impacts of the project, however no photos with the flags are provided in the D-EIR. It is requested that the photographs from this flag study be included in the Final EIR. In the absence of official flag study photographs, we have reviewed Photographs 5 and 6, which are unofficial photographs of the flag study for the Loperena residence. Per D-EIR 4.1.4.1 these flags represent the proposed building corners. It says that "Locations of critical structure elements were identified based on site plan information and architectural elevations provided by the project applicant. These critical project features were surveyed and staked in the field, and corresponding horizontal and vertical location data was developed. Poles and reference flags were positioned at each critical point."

Photograph 5 clearly shows the building extending past the coastal bluff over the beach. The exposed bedrock coastal bluff is shown on the photo. Marine erosion is the process which has exposed the bedrock on the bluff face. The project plans by James Maul-Architect, upon which the plans by C. P. Parker –Architect are based, show that the seaward edge of the home is 14.81 feet from the seaward property line and overhangs the bedrock coastal bluff and the beach. These plans are consistent with the position of

the main floor shown in D-EIR Figure ES-4a; which shows the main floor extending approximately 10 feet into the Access Easement on the beach..

Photograph 6 shows another view of the position of the corners of the proposed residence relative to the coastal bluff face and the beach. Note that the proposed house corners extend over the beach.

The Cotton Shires studies argue that the bedrock bluff at the back edge of the beach shown in Photographs 1, 2, 3, 4, 5, and 6 is an inland facing bluff. The Cotton Shires studies ignore the presence of an active beach that is subject to wave run-up, wave impact and marine (coastal) erosion within the building envelope of the proposed structure.

2. **Wave Run-up Calculations: Inconsistencies**

We have reviewed the Geosoils Inc. report dated April 10, 2013 that calculates wave runup to an elevation of 20.1 NAVD88 (Still water elevation of 10.1 Feet NAVD88 plus Wave Runup R of 10.0 Feet). It predicts that at an elevation of +17 NAVD88 one cubic foot per second of ocean water will impact the seaward portion of the proposed home for each foot of the width of the home during oceanographic conditions expected over the life of the development.

There are internal inconsistencies in the wave run-up calculations between 2011 and 2013. In 2011, GeoSoils used a scour elevation of 0.6 feet NAVD88 at the toe of the bedrock, with 9 feet of water depth and a 1% nearshore slope in their analysis which resulted in a still water level of 9.6 feet NAVD88 and generated 12.6 feet of run-up using 7.0 foot high waves. In 2013, when considering greater sea level rise to a still water elevation of 9.6 feet NAVD88, GeoSoils used a scour elevation of 3.1 feet NAVD88 at the toe of the bedrock (2 ½ feet higher than the 2011 analysis), with 7 feet of water depth and a 2% nearshore slope in their analysis which generated 10.0 feet of run-up using 5.5 foot high waves.

This analysis is not plausible. Greater sea level rise will result in higher still water levels, which will result in larger breaking waves. They do not justify using the 2 ½ foot higher scour level in 2013 compared the 2011 analysis, other than the depth of the bedrock below the beach sand estimated and depicted by Cotton Shires on their 2011 Cross Section 1-1' (Figure 9). The depth of bedrock shown on the Cotton Shires Cross Section 1-1' is not substantiated; it is queried due to uncertainty. Greater scour will cause higher wave runup. In any case, the wave runup analysis indicates that ocean wave runup will reach much higher than the basement floor elevation and will reach the basement windows depicted on the Rear Elevation in D-EIR Figure ES-5.

3. **Basement Wall is a Seawall**

The March 14, 2011 Geosoils Inc. report defines that this wave run-up will reach the basement wall, but indicates (because the basement walls will be constructed of reinforced concrete) that the wave run-up will not adversely impact the proposed residence. It is therefore functioning as a seawall. The San Luis Obispo LCP Hazard Policy 1 requires that new development shall be designed so that shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, will not be needed for the life of the structure; yet the proposed residence design incorporates a foundation system including a reinforced concrete wall that will be impacted by wave run-up and is

nearly the full width of the property. Therefore the basement and associated seawall should not be allowed.

If allowed, the reinforced concrete seaward facing basement wall will deflect wave run-up towards the neighboring properties and adversely impact them. This deflected wave run-up will increase erosion on the neighbor's bluff. D-EIR GS Impact 5 indicates that beach sand scour caused by heavy surf may create unstable slopes adjacent to the proposed residence and finds that this impact is less than significant. We believe this impact will be significant because the exacerbated impact from deflected wave runup that results from the construction of the proposed Loperena residence will extend onto the neighboring properties.

4. **Erosion Rate is Underestimated**

We disagree with GeoSoils that coastal erosion at the Loperena property is not a significant hazard over the next 100 years. The reason that bedrock is exposed along the full width of the Loperena property at the landward edge of the beach sand is because of active marine (coastal) erosion processes acting there. Sea level rise will result in increased future erosion rates compared to the historical erosion rates.

5. **Potential Shoring and Construction Impacts Not Evaluated**

The project Plans by James Maul- Architect (Sheets 1 and 2 of 4) show the exterior walls of the proposed residence with 3 foot side yard setbacks from the property lines. No property lines are depicted on the Elevation or Section (Sheets 3 and 4 of 4). The proposed residence foundation width is depicted as 19 feet. The plans in the D-EIR (Figures ES-4a, Es-4b and ES-5 by C. P. Parker (Architect) indicate they are based on the plans by James Maul, but lack setback dimensions on the floor plans and property lines on the Elevations. The Site Plan in the D-EIR (Figure ES-3) also lacks setback dimensions and does not show the main floor that cantilevers over the Public Access Easement on the seaward part of the property. The D-EIR does not address what impact to the Access Easement will occur during construction. We have reviewed the December 27, 2011 Updated Geotechnical Investigation report from GSI and 20 September 2012 letter from Shoreline Engineering including Shoring Details SL-1 and SL-2 (D-EIR Figures ES-7a and ES-7b). Given the 2 foot diameter boreholes necessary for the shoring pilings and the 25 foot lot width, we are concerned whether the shoring can be installed without any impact on the neighboring properties. It appears that there is the potential for the borehole drilling or excavations for the shoring to encroach on the neighboring properties or damage those neighboring properties.

In conclusion:

We disagree with the Cotton Shires interpretation which terminates the coastal bluff at the Loperena property based on the bisector they drew, which was solely based on conditions before Highway 1 was built, and classifies the bluff on the Loperena property as an inland bluff. We believe it is wrong for them not to consider present day conditions. The present day conditions include the presence of an active beach seaward of the property and Pacific Ocean waves directly impact the bluff on the property. Fluvial processes and creek or river bank conditions are not present at the Loperena property today. **As a result the bluff on the property should be considered a coastal bluff and appropriate setbacks should be required.**

The proposed reinforced concrete seaward facing basement wall is a seawall and should not be allowed. If allowed, it will deflect wave run-up towards the neighboring properties and adversely impact them. D-EIR GS Impact 5 indicates that beach sand scour caused by heavy surf may create unstable slopes adjacent to the proposed residence and finds that this impact is less than significant. We believe this impact will be significant because the exacerbated impact from deflected wave runup that results from the construction of the proposed Loperena residence will extend onto the neighboring properties.

The wave run-up calculations indicate that ocean wave runup will exceed the basement floor level and reach the basement windows. The calculations have inconsistences and require additional detailed review to determine the appropriate floor levels and structural requirements.

We disagree with GeoSoils that coastal erosion at the Loperena property is not a significant hazard over the next 100 years. The reason that bedrock is exposed along the full width of the Loperena property at the landward edge of the beach sand is because of active marine (coastal) erosion processes acting there. Sea level rise will result in increased future erosion rates compared to the historical erosion rates.

The D-EIR does not address what impact to the Access Easement will occur during construction.

Given the 2 foot diameter boreholes necessary for the shoring pilings and the 25 foot lot width, we are concerned whether the shoring can be installed without any impact on the neighboring properties. It appears that there is the potential for the borehole drilling or excavations for the shoring to encroach on the neighboring properties or damage those neighboring properties.

Please call us to discuss these plans and this project if you have any questions.

Very truly yours,

HARO, KASUNICH AND ASSOCIATES, INC.

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G.E. 455

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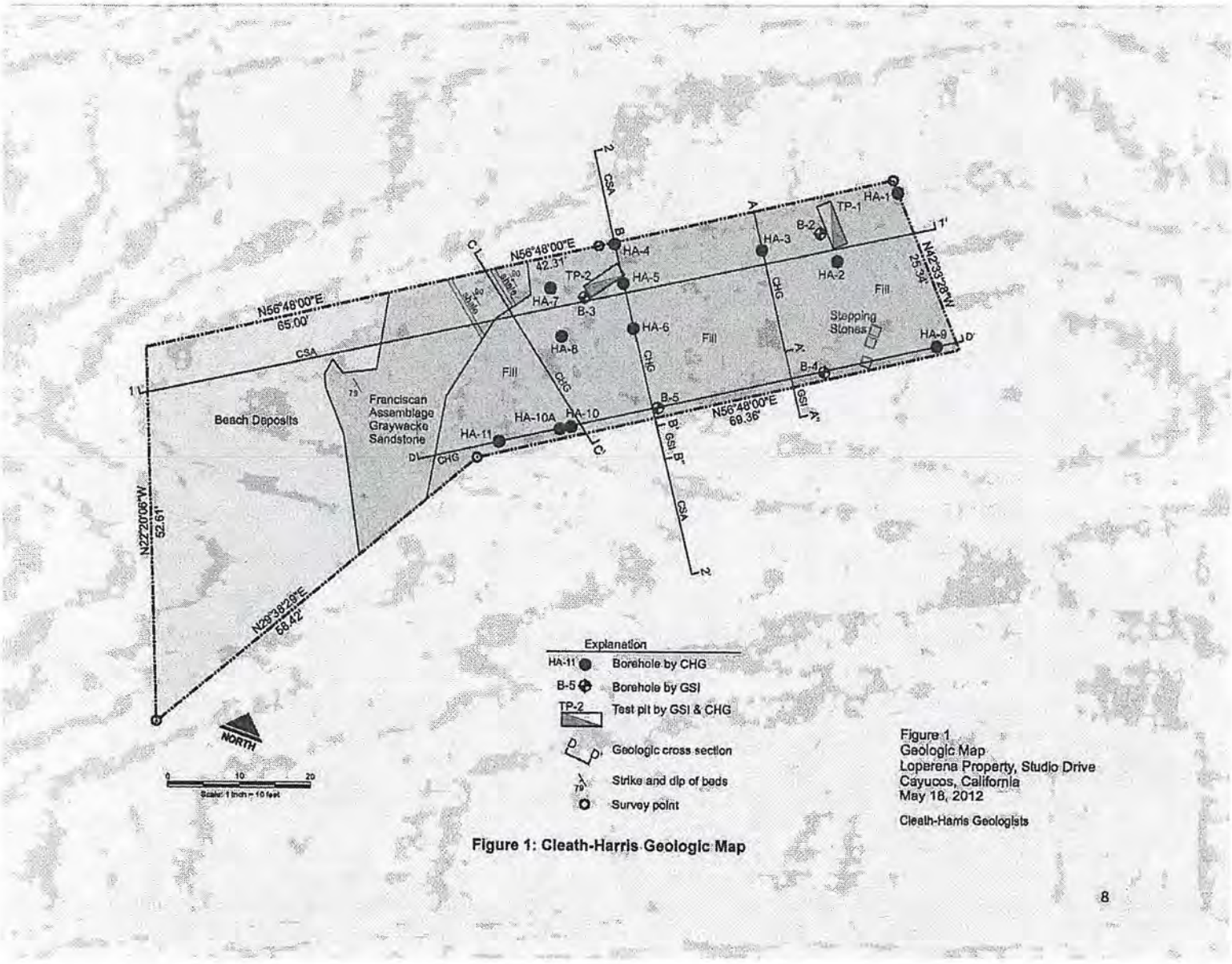
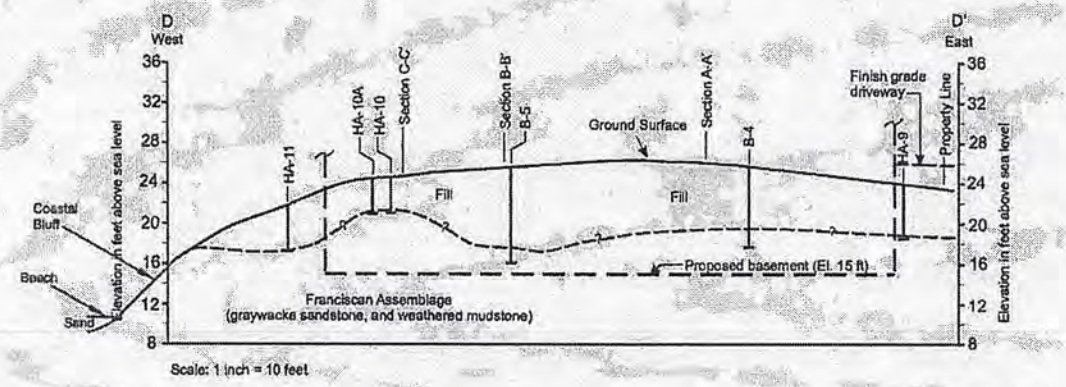


Figure 1: Cleath-Harris Geologic Map



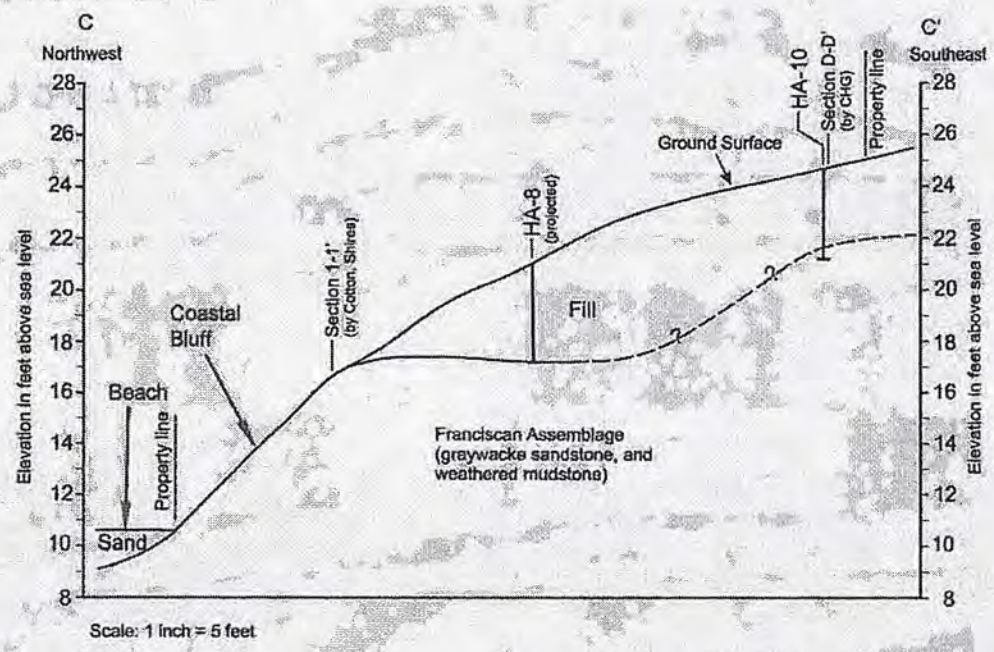
Explanation

HA-11	Hand auger boring location (by CHG)
B-5	Power auger boring location (by GSI)
---?---	Geologic contact, queried and dashed where inferred

Figure 2
Cross Sections D-D'
Loperena Property, Studio Drive
Cayucos, California
May 18, 2012

Cleath-Harris Geologists

Figure 2: Cleath-Harris Geologic Cross Section D-D' Modified to Show Coastal Bluff and Beach



Explanation

HA-10 Hand auger boring location

Geologic contact, queried and dashed where inferred

Figure 3
Revised Cross Section C-C'
Loperena Property, Studio Drive
Cayucos, California
May 18, 2012

Cleath-Harris Geologists

Figure 3: Cleath-Harris Geologic Cross Section C-C' Modified to Show Coastal Bluff and Beach

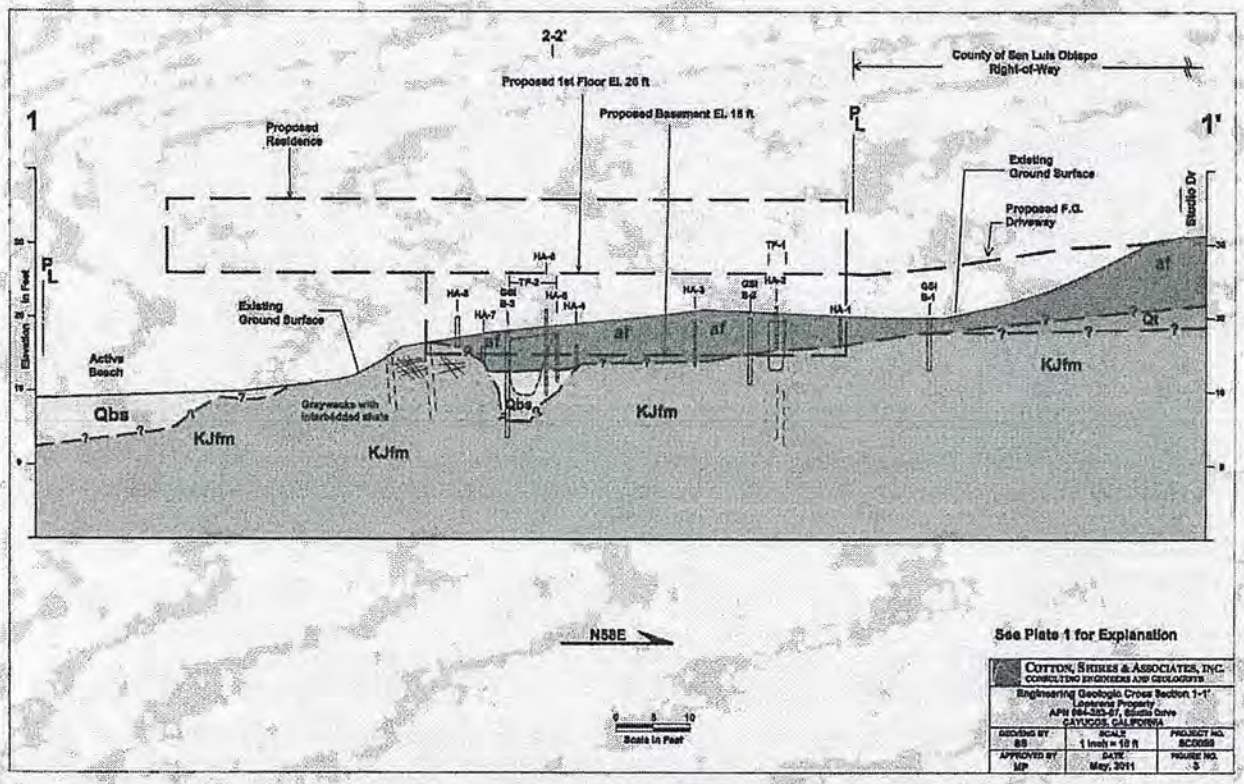


Figure 4: Cotton Shires Geologic Cross Section 1-1' Showing Proposed Home Extending Over Coastal Bluff and Beach

Figure 5: Cotton Shires 1937 Aerial Photo Features. Their Interpretation of Coastal Bluff.

Figure 6: Cotton Shires Bluff Edge Delineation. Their Interpretation of Bluff Termini.

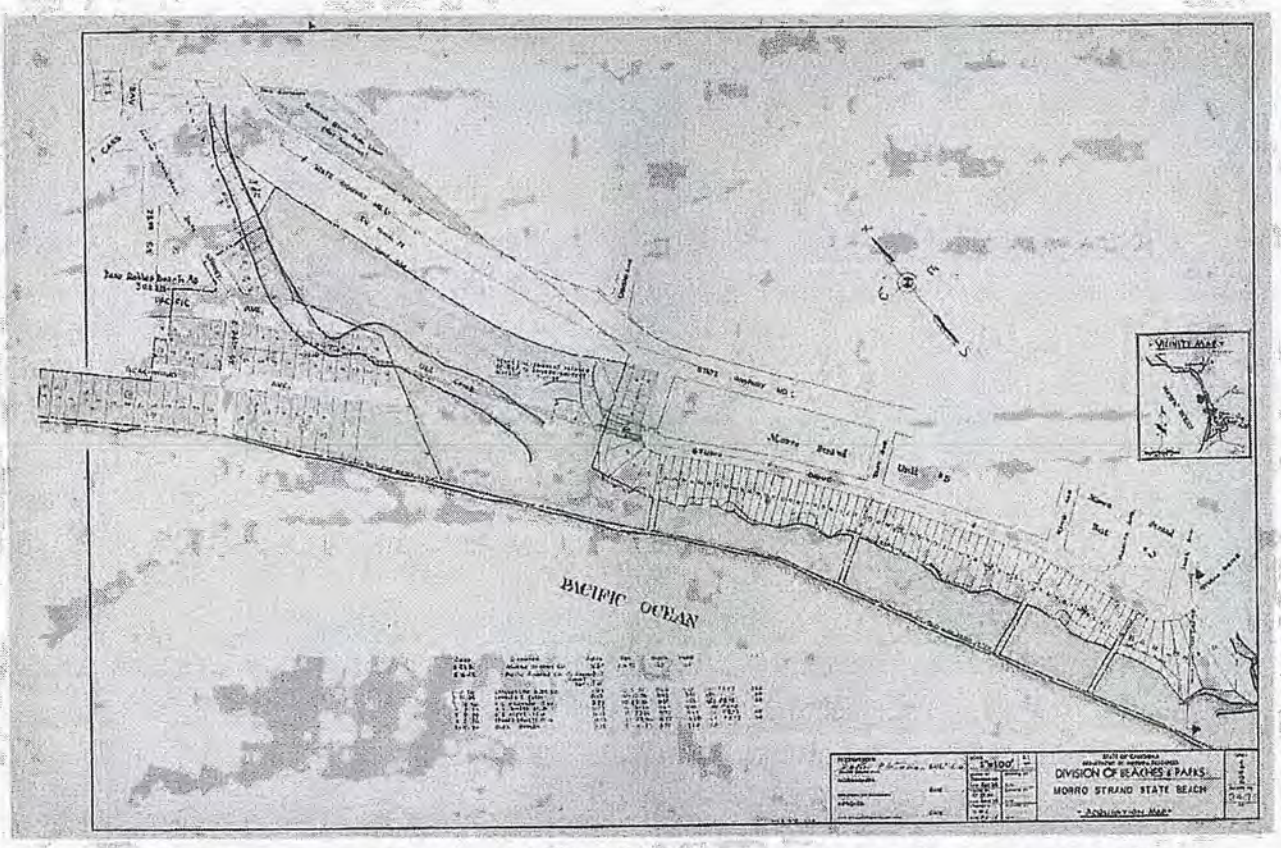


Figure 7: State of California Acquisition Map from 1955 showing the Toe of Bluff that existed on the Loperena property in 1955

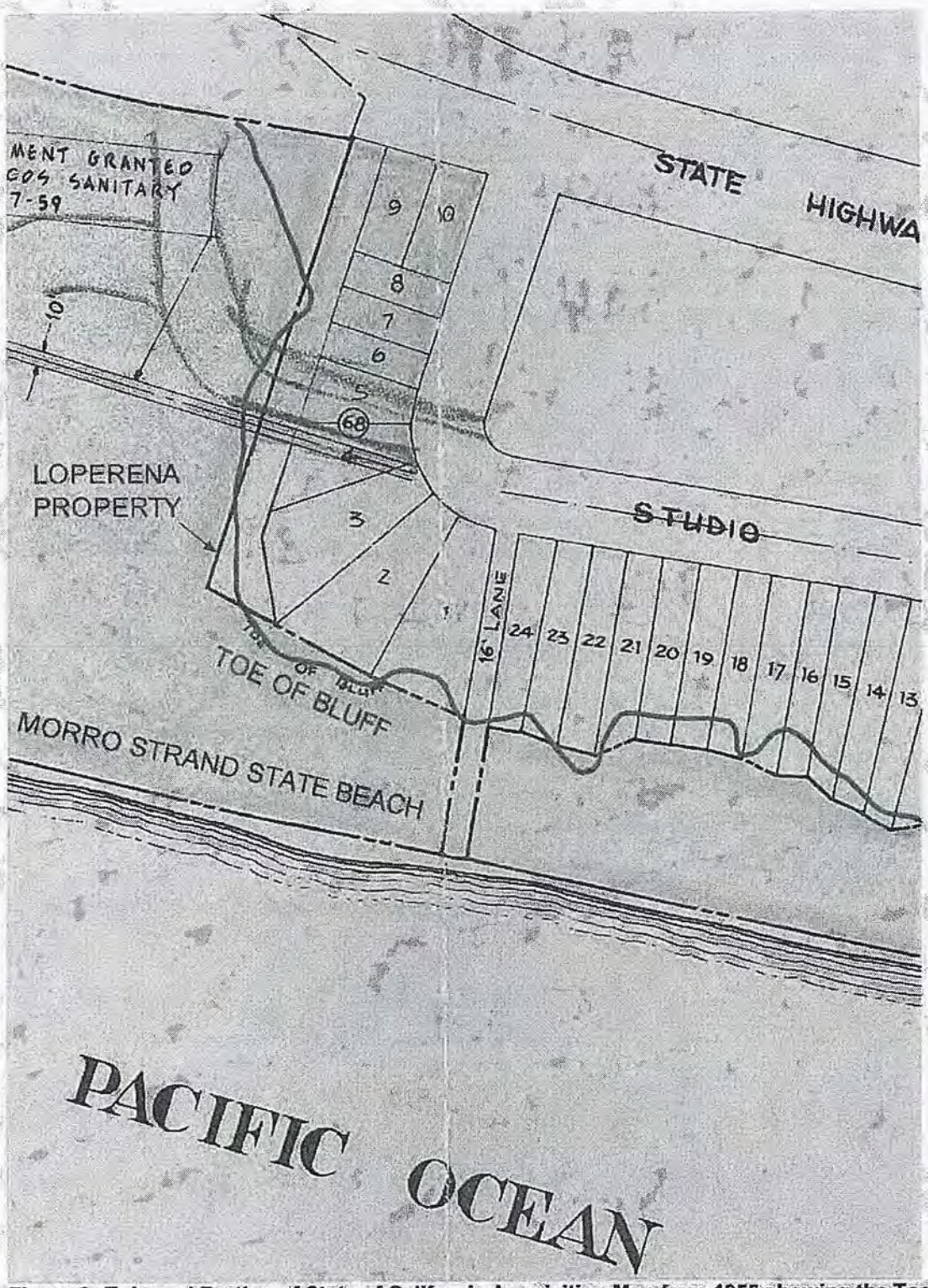
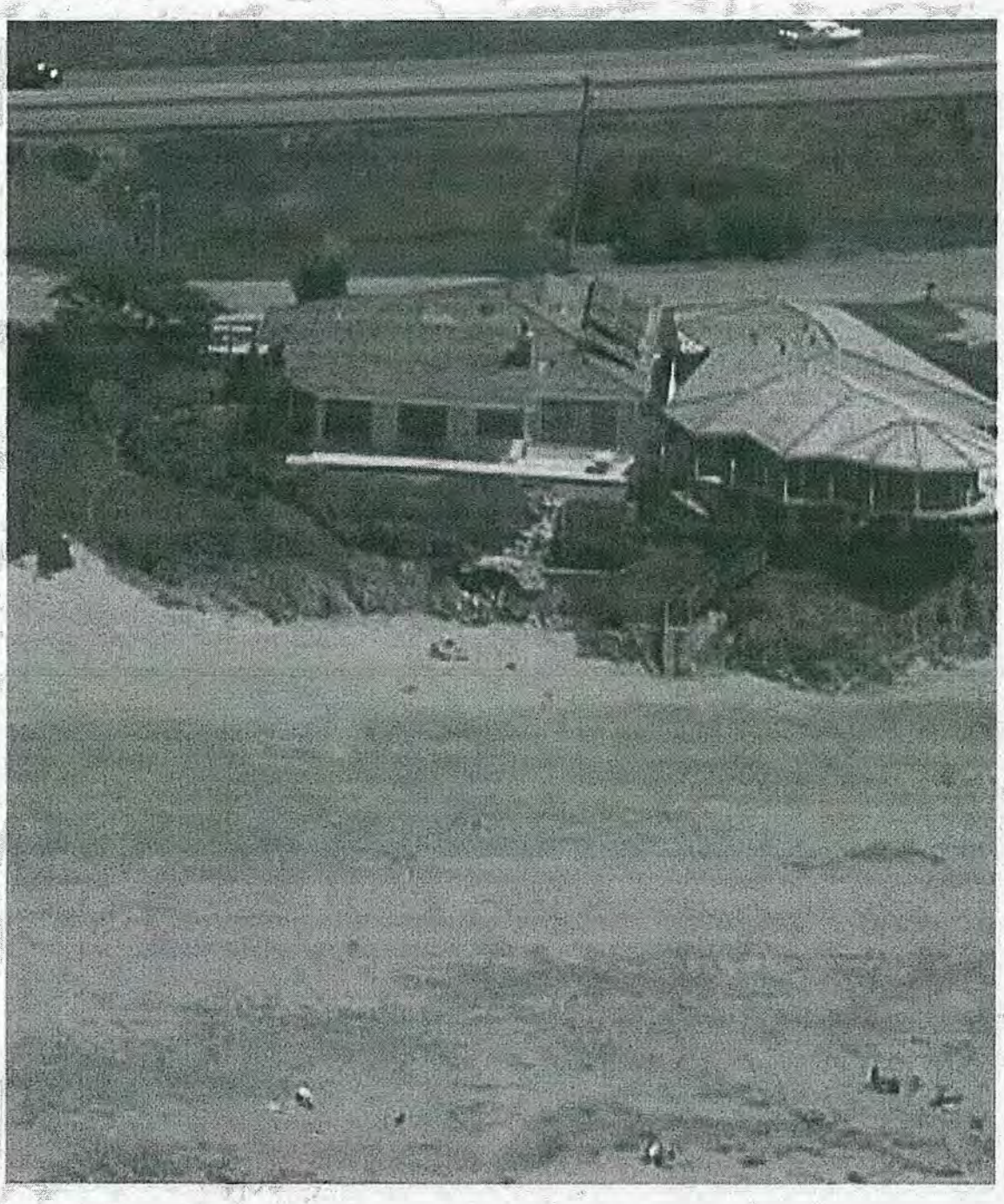
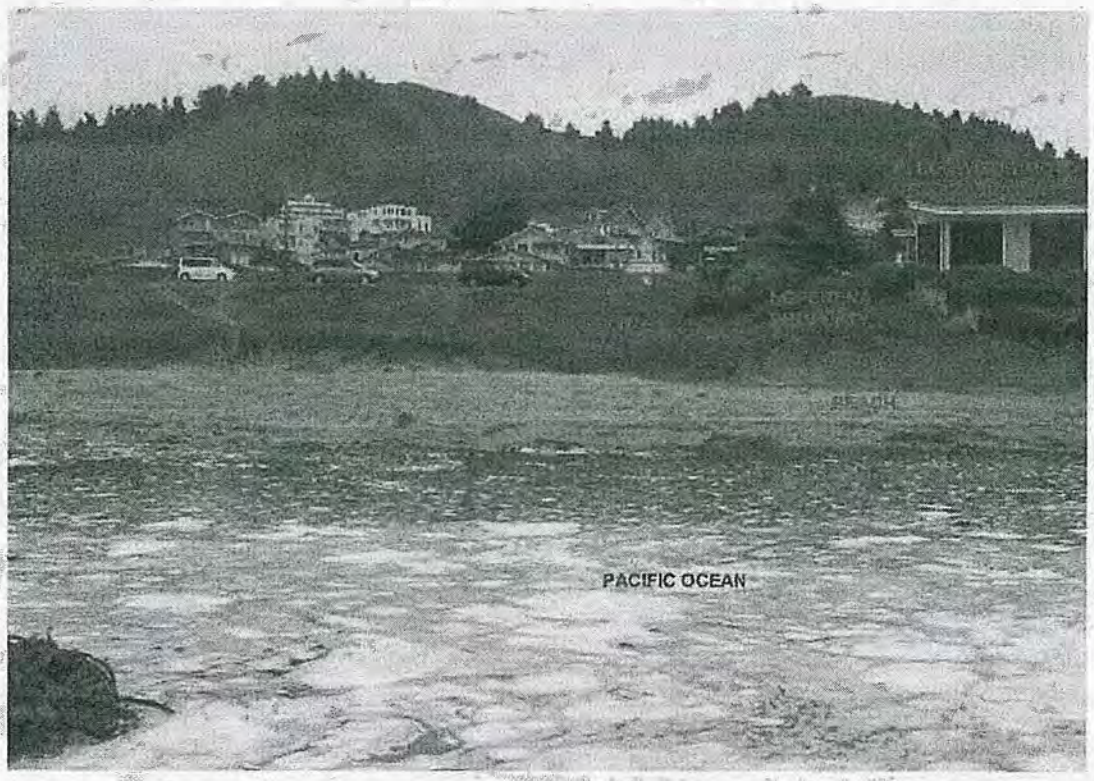


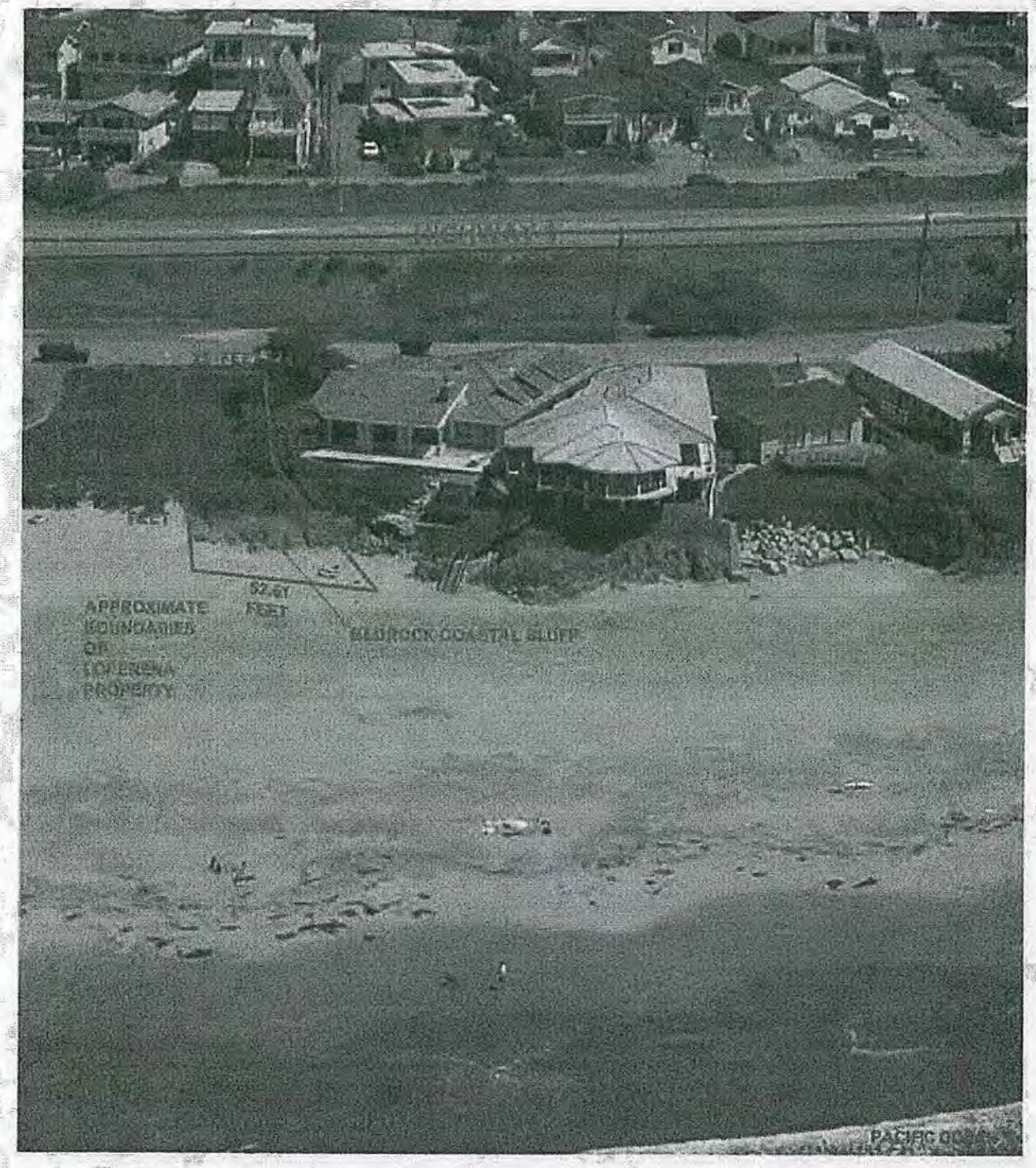
Figure 8: Enlarged Portion of State of California Acquisition Map from 1955 showing the Toe of Bluff that existed on the Loperena property in 1955



Photograph 1: 2002 Aerial Photograph from www.CaliforniaCoastline.org

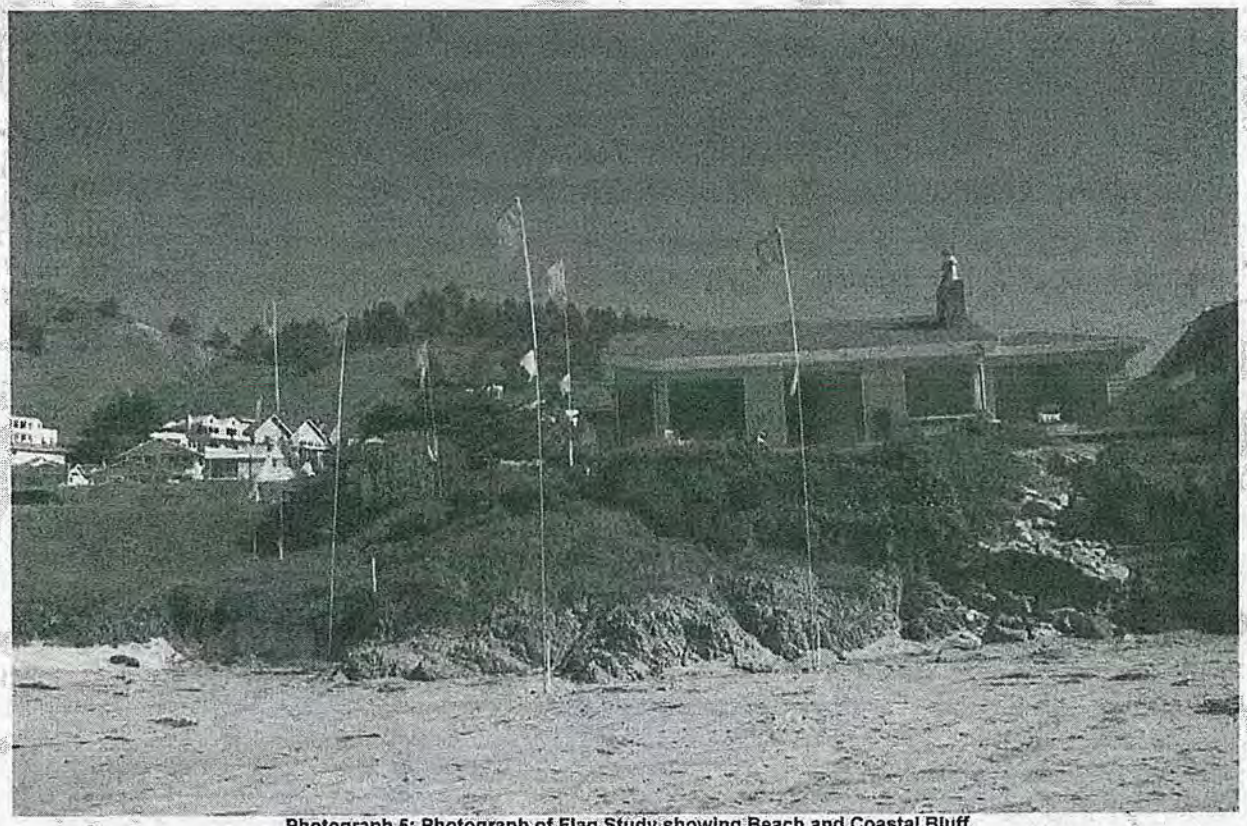


Photograph 2: Site photograph showing the Pacific Ocean, beach and portion of the coastal bluff face where bedrock is exposed

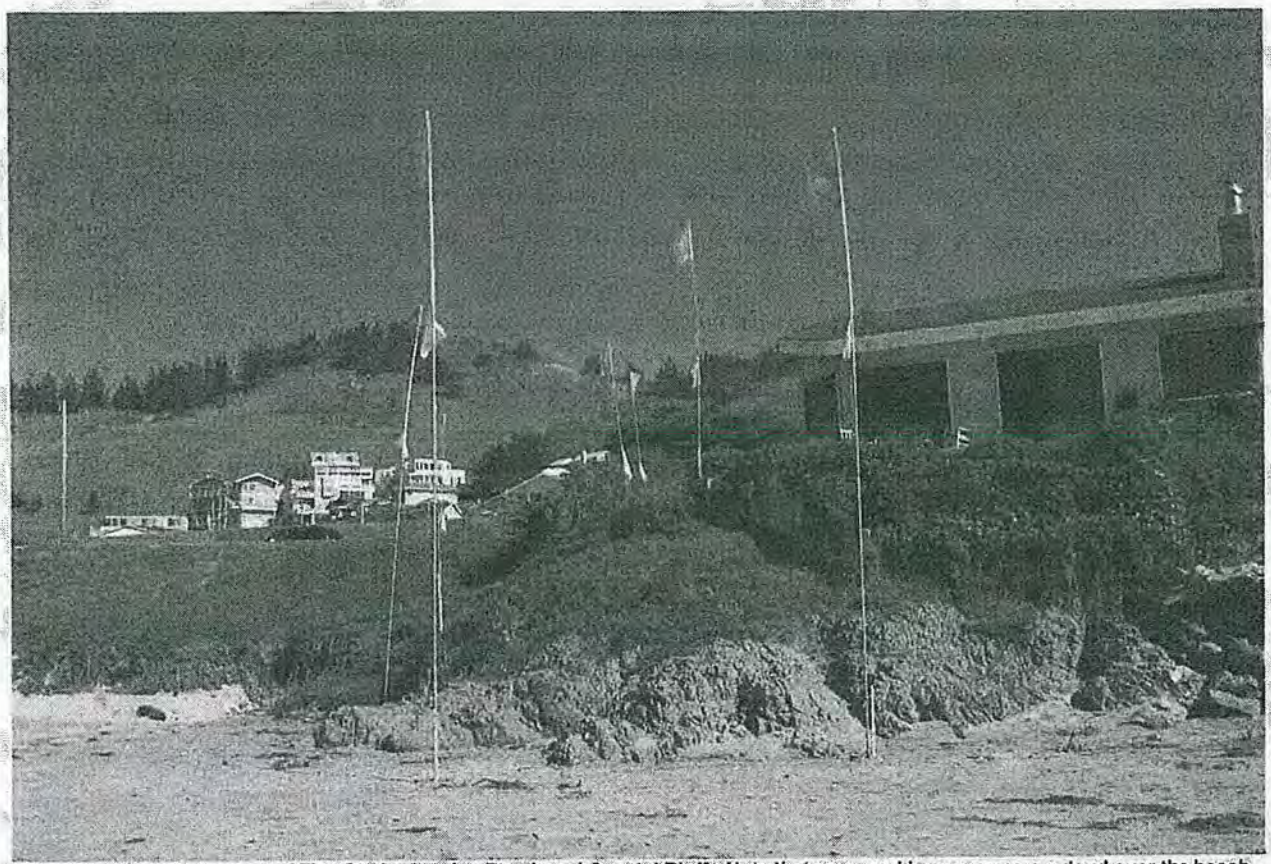


Photograph 3: 2002 Aerial Photograph showing the coastal bluff on the Loperena property, the beach at the base of the bluff, the Pacific Ocean wave action on the beach, and a sketch of the Loperena property boundaries

Photograph 4: Shows the coastal bluff on the Loperena property, the beach at the base of the bluff, and Pacific Ocean wave action on the beach



Photograph 5: Photograph of Flag Study showing Beach and Coastal Bluff



Photograph 6: Photograph of Flag Study showing Beach and Coastal Bluff ; Note that proposed house corners extend over the beach.

Exhibit B
Photographs of Property and Ocean at Typical High Tide

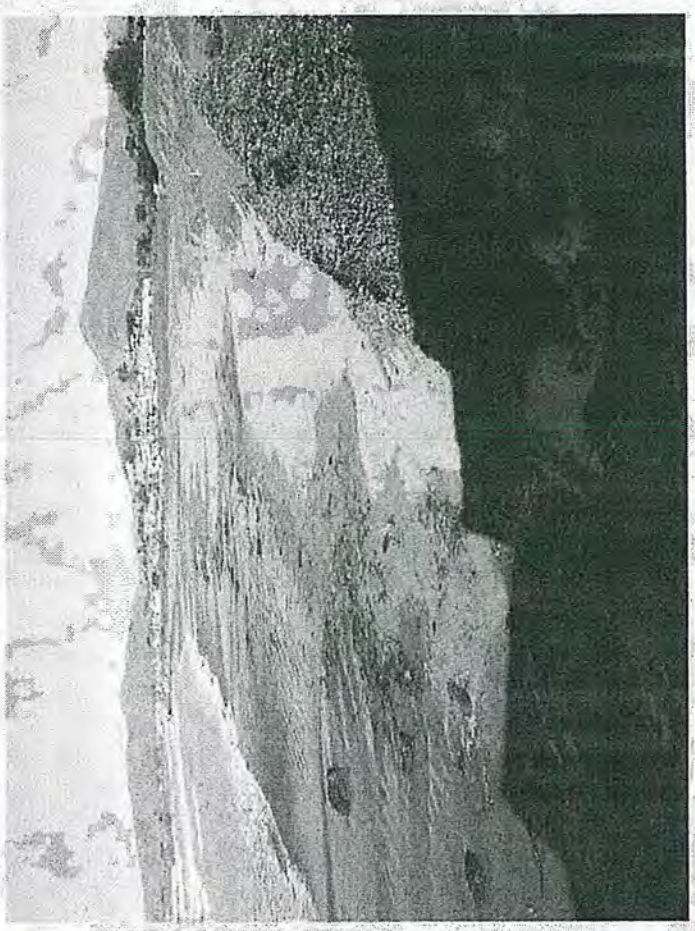


Exhibit C
Photo Graphic Showing Effect of Project on View of Ocean

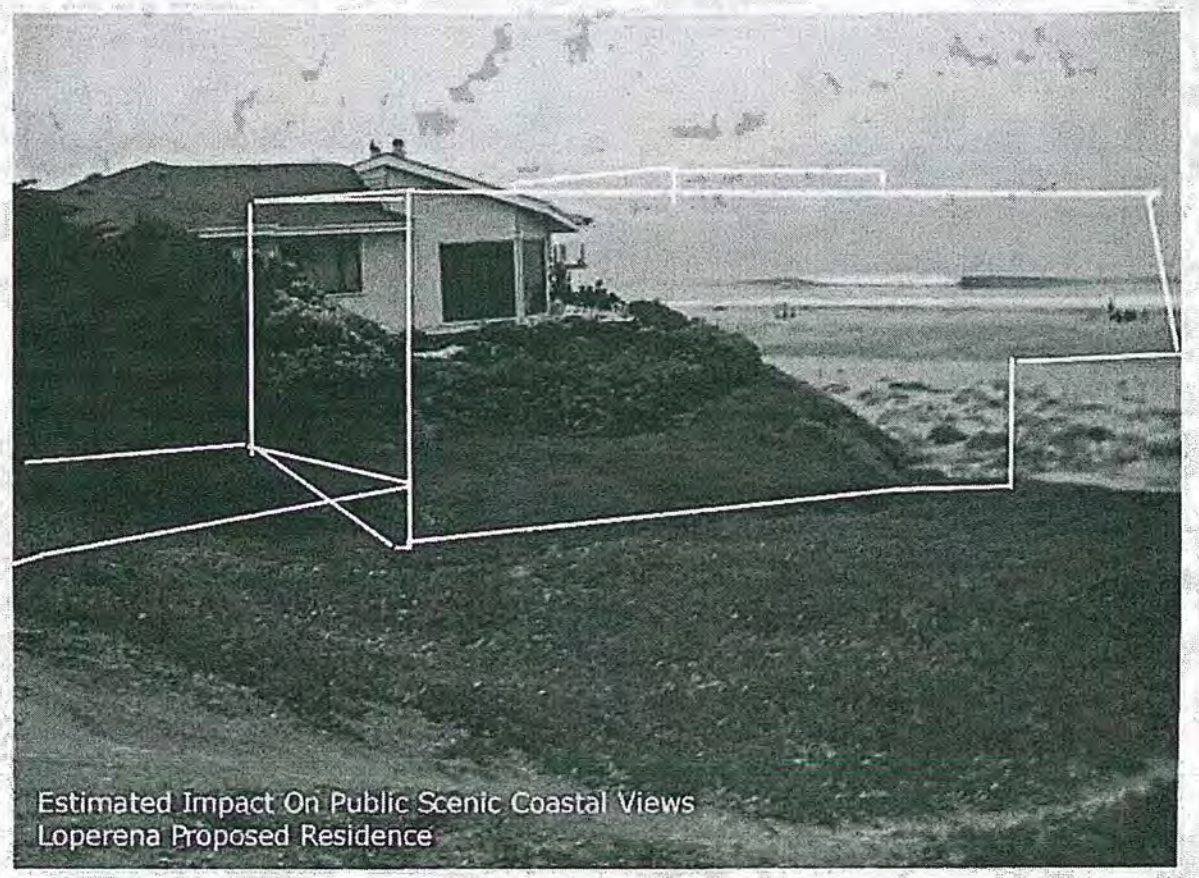


Exhibit 7
Kevin Elder SJMS Letter dated January 22, 2014 – Comments on December 2013 F-EIR

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January 22, 2014

Client: 3203.003

Jim Irving, Planning Commissioner
Ken Topping, Planning Commissioner
Eric Meyer, Planning Commissioner
Tim Murphy, Planning Commissioner
Don Campbell, Planning Commissioner
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Planning and Building Department
Attn: Ramona Hedges, Planning Commission Secretary
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San Luis Obispo, CA 93408-2040

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Re: Comments to Final Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216)

Dear Planning Commissioners Irving, Topping, Meyer, Murphy and Campbell:

On behalf of Ethel Pludow and Cynthia R. Sugimoto, please accept these comments to the December 2013 Final Environmental Impact Report ("F-EIR") for the Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216). These comments supplement our previous comments on the matter, and are expressly reserved and restated with respect to the F-EIR.

Doreen Liberto-Blanck, AICP, MDR, of Earth Design, Inc. / Santa Lucia Group, LLC, was engaged to assist in analyzing the F-EIR and preparing these comments. Ms. Liberto-Blanck has over 25 years of experience in a range of land use planning, environmental planning and public policy making. Don Funk, CPESC, QSD/QSP, Santa Lucia Group, LLC., has been assisting Ms. Liberto-Blanck. Mr. Funk specializes in erosion control, creek restoration and public works issues.

John Kasunich G.E., and Mark Foxx, C.E.G., of Haro, Kasunich and Associates, Inc., ("HKA") were engaged to review and analyze the F-EIR in respect to the geology, soils, and geotechnical engineering issues. John Kasunich is a Professional Engineer in Civil Engineering and a Geotechnical Engineer with over 30 years of experience in coastal engineering. Mr. Foxx is a Certified Engineering Geologist with more than 30 years of experience in coastal geology. Mr. Kasunich and Mr. Foxx have worked on numerous projects requiring the interpretation of the California Coastal Act, as well as local coastal plans and ordinances. Mr. Kasunich and Mr. Foxx have worked extensively with government agencies, including the California Coastal Commission (the "CCC"), and their work is known to both the Executive Director and Deputy

Director of the CCC.

The results of their analysis are set forth in their report dated August 1, 2013, and attached as Exhibit A (the "HKA Report").

The F-EIR was prepared in response to applicant Jack Loperena's ("Applicant") proposal to build a 3,097 square foot residence on a 3,445 square foot vacant lot located at the north end of Studio Drive in Cayucos (the "Project").

The County's initial review of the Project resulted in the issuance of a Mitigated Negative Declaration (the "MND") dated April 9, 2007. A Request for Review was filed challenging aspects of the MND. The MND was amended in response to the 2007 Request for Review, and an Amended Mitigated Negative Declaration was issued on April 2, 2009 (the "Amended MND"). A request for review of the Amended MND was filed on April 16, 2009. In response, the Applicant voluntarily decided to prepare an Environmental Impact Report for the Project. A Draft Environmental Impact Report (the "D-EIR") was prepared and circulated for comment in June, 2013.

The F-EIR has not adequately addressed or provided mitigation measures for several issues raised in the prior requests for review and in our comments to the D-EIR submitted in our letter dated August 5, 2013, and has also raised new areas of concern. The following are some of the issues and concerns that will be addressed in these comments.

- The bluff upon which the Project would be constructed is a coastal bluff. The F-EIR incorrectly determines that the bluff is a fluvial bluff, with its associated lack of set-back from the bluff edge, and with no limitation (other than the property line) on how far the Project can cantilever over the sandy beach.

- The F-EIR is inconsistent with the General Plan in its calculation of the effect on the Project of sea-level rise. The F-EIR analysis uses a sea level rise of 2.5 feet in the next 100 years. However, the F-EIR should have used a projected sea level rise of 3.3 to 4.6 feet by 2100, as adopted in the County's Energy Wise Plan, and extrapolated that rate out to cover the next 100 years to at least the year 2114. The Energy Wise Plan is required by the Conservation and Open Space Element of the General Plan. The EnergyWise Plan will assist the County's participation in the regional effort to implement land use and transportation measures to reduce greenhouse gas emissions by 2035. Since there is a discrepancy between information in the Energy Wise Plan and the FEIR, it is inconsistent with the General Plan and cannot be approved until the sea level rise figures are rectified.

- Although lateral access is discussed in the F-EIR, it seems that access is not being dedicated as required by the Estero Area Plan (CZLUO 23.04.420) and other policies. The lateral access should be provided as required and be free of encroachment by the Project's cantilevered deck.

- The F-EIR fails to propose adequate project alternatives as required by the California Environmental Quality Act ("CEQA").

- The reinforced concrete seaward facing basement wall acts as a seawall, and seawalls are not allowed. The San Luis Obispo LCP Hazard Policy 1 requires that new development shall be designed so any shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, not be needed for the life of a structure.

- The Project will be a significant, landmark structure affecting the visual resources of the area, yet the F-EIR glosses over the issue, finding there will be little impact to the existing visual condition along Studio Drive.

- If the County does not find that the property is a coastal bluff, but is instead a fluvial bluff related to Old Creek, then the Project site should be considered a stream channel bluff. Projects located on the Old Creek Coastal Stream bluff must be set back a minimum of 50 feet in accordance with Estero Area Plan Cayucos section, Sensitive Resource Area, Table 7-2.

- The County failed to hold a scoping meeting as required by CEQA. In fact, the County's public outreach has been lackluster at best, in addition to failing to meet CEQA requirements.

- Due to the inconsistencies between County and State Coastal Commission requirements, and inconsistencies between findings in the F-EIR and the County's General Plan, we have prepared findings supporting denial of the Project. The findings are attached as Exhibit B.

It is recommended that the County Planning Commission and Board of Supervisors deny the Project as proposed because it is inconsistent with several provisions of the certified Local Coastal Plan related to bluff top setbacks, geologic hazards, alteration of natural landforms, protection of views from public vantage points and scenic areas, and public access, and several of the environmental issues have not been adequately addressed. The bluff should be defined as a coastal bluff. Based on our analysis, there are significant adverse impacts that cannot be mitigated, and therefore, Statements of Overriding Consideration would be needed to approve the Project.

If the Applicant desires to continue pursuing development of the property, the County should require a greatly reduced project, such as an "eco–friendly house" in order to: provide adequate set-back (minimum 25 feet, and to withstand bluff erosion and wave action for a period of 100 years of erosion) from the bluff edge; limit cantilever to 30" beyond set-back line; forego inclusion of a basement and associated basement walls that act as a seawall and is subject to

wave impact; provide unobstructed 25-foot lateral access easement dedication from toe of bluff; and provide a visualization of the new alternative project for consideration.

Additionally, it is recommended that the County Planning Commission and Board of Supervisors require the County planning staff to hold a well-advertised county-wide scoping meeting on the new alternative, and send written notices of any revisions to the F-EIR and public hearings to all Cayucos property owners and residents. The County has determined that the Project is not of statewide significance and therefore no scoping meeting was required. That determination is in error. The potential for the Project to set a precedent for construction on coastal bluffs throughout the state means this decision is of state-wide importance. Therefore, a scoping meeting should have been held.

1. Determination that the Property is not a Coastal Bluff and Related Geotechnical Issues.

HKA determined that the Owner's consultants with peer review by the County's EIR consultants, Cotton Shires and Associates (the "EIR Consultants") incorrectly defined the bluff as a fluvial bluff. The California Coastal Commission staff in its letter dated August 5, 2013 and email dated August 8, 2013, commenting on the D-EIR (the "CCC Correspondence"), also finds that it is a coastal bluff (Exhibit C).

In summary, the HKA Report and the CCC Correspondence found that the property is impacted by marine erosion and is by definition a coastal bluff. Coastal Act Section 13577 defines coastal bluffs as "1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion". The HKA Report describes how the bluff is subject to wave run-up and marine erosion, and under applicable law should properly be defined as a coastal bluff. It includes several figures and photographs that clearly show the exposed bedrock coastal bluff on the property and the "active beach" at the base of the bluff.

Additionally the HKA Report and the CCC Correspondence describe how the methodology used by the Applicant's Consultants to assess the termini of the bluff differs from CCC guidelines. The Applicant's Consultants modified the methodology to support an incorrect finding that the bluff is a fluvial bluff rather than a coastal bluff. In our comments to the D-EIR we requested that a revised bluff termini diagram be prepared on a surveyed map that follows the CCC guidelines. A similar request was made by the CCC. The F-EIR failed to comply with the CCC and HKA request for the analysis to be revised, and contend that the difference in methodology would not change the results.

As part of their analysis, HKA notes that a story pole study was conducted for the Project. The F-EIR states that the locations of the story poles were used to prepare visual photo simulations of the Project, however, no pictures of the story poles are included in the F-EIR.

We obtained a photo from the story pole study, as well as other photos of the Project taken while the flags were in place. The photo with the story poles is attached to the HKA Report as photograph 5. The visual impression created by these photos paints a clear picture of

how the bluff edge is oriented toward the ocean, and how far the Project will extend over the sandy beach. Further, while the F-EIR includes the methodology of how the story poles were used to create visual photo simulations, it doesn't describe or include the story poles study.

The story poles study is an important tool in determining how the Project will be situated on the bluff, and how it will impact environmental conditions. Therefore, the entire story poles study should have been included in the F-EIR.

The HKA Report also addresses the inconsistencies in the Owner's Consultants' wave run-up calculations, and how the inconsistencies affect how wave run-up will affect the Project.

The HKA Report also finds that the basement wall acts as a seawall, which is prohibited for this type of development. If allowed, it will deflect wave run-up towards the neighboring properties and adversely impact them. The HKA Report also finds that the impact related to beach sand scour and coastal erosion are under estimated in the F-EIR and will be significant.

They also raise a concern about the potential for the borehole drilling and excavations for the shoring to encroach on the neighboring properties and/or damage those properties.

The HKA Report's analysis concludes that the Project site should be considered a coastal bluff and appropriate set-backs required. Once the property has been correctly defined as a coastal bluff, the proper establishment of the natural bluff edge or upper edge of the bluff top is essential. The required setback must be applied to this bluff edge, not from either the western property boundary or the toe of the bluff as mentioned in the Staff Report. Then the safe setback needs to be determined. This analysis should be conducted in accordance with the SLO Eng Geology Report Guidelines (section 21 and 22) updated Oct 2013.

If this project is approved as proposed or with any of the alternatives, it will likely be appealed to the California Coastal Commission. Based on HKA experience with the CCC, their review of the project will indicate the necessity for site-specific hazards analyses that addresses wave run-up, breaking waves, and consideration of future potential shoreline changes due to erosion and sea-level rise over the design life of the project (100 years) via appropriate modeling. Despite the Owner's Consultant analysis being accepted by County Staff and the peer review team, we are confident that it will not pass CCC's scrutiny. We recommend review of Mark Johnsson, CCC Staff Geologist memo on "Establishing development setbacks from coastal bluffs" and dated January 16, 2003. We suggest revision of the analysis to correct deficiencies.

2. **Sea Level Rise Analysis; Inconsistency with General Plan**.

The F-EIR, Chapter 4, page 4.3-20, discusses the effect of coastal hazards on the Project. This section states that "a site specific site-specific coastal hazards study was prepared by David W. Skelly, Professional Engineer (PE) (GeoSoils, Inc. 2011, 2013), and is included in Appendix C of this EIR. The report includes a worst-case analysis of wave runup conditions incorporating a potential sea level rise of 2.5 feet over the next 100 years. The report evaluates four different

potential oceanographic hazards at the project site: shoreline erosion, flooding hazard due to water level changes in the ocean, breaking wave elevation, and wave runup."

The San Luis Obispo County EnergyWise Plan (Page 7-4) adopted a projected Sea Level rise of 3.3 to 4.6 feet by 2100. The EnergyWise Plan was adopted by the County as part of the Conservation and Open Space Element of the General Plan. Since there is an inconsistency between the standard adopted in the EnergyWise Plan and the F-EIR, the F-EIR is inconsistent with the General Plan and cannot be approved until the sea level rise figures are rectified.

3. 25-Foot Lateral Beach Access Easement; Encroachment by Covered Deck.

3.1 Required 25-Foot Lateral Beach Access Easement.

The Coastal Zone Land Use Ordinance ("CZLUO") Section 23.04.420d(3) requires that all new development provide a lateral access dedication of at least 25 feet of dry sandy beach, as noted on page 3-15 of the F-EIR. The F-EIR should clearly show where the Project will be sited on the property, and how the lateral access easement will be accommodated by the location of the Project. There is no verifiable depiction (such as a survey) showing exactly where the structure will be located on the lot, and how the lateral easement will be accommodated.

Therefore, it is impossible to confirm that the project as designed can be sited on the lot and still comply with the requirement to provide a lateral beach access easement of at least 25 feet of dry sandy beach.

The F-EIR should note in relation to the lateral access easement that wave run-up is expected to hit the basement. Therefore, there will be times when no dry sandy beach is available. Several photos showing the coastal bluff and beach portion of the property during a typical high tide in 2007 are shown in Exhibit D.

Section 23.04.420d(3) of the CZLUO states, "Lateral access dedication: All new development shall provide a lateral access dedication of 25 feet of dry sandy beach available at all times during the year. Where topography limits the dry sandy beach to less than 25 feet, lateral access shall extend from the mean high tide to the toe of the bluff. Where the area between the mean high tide line (the "MHTL") and the toe of the bluff is constrained by rocky shoreline or other limitations, the County shall evaluate the safety and other constraints and whether alternative siting of access ways is appropriate. This consideration would help maximize public access consistent with the LCP and the California Coastal Act."

Has the Applicant agreed to provide the 25-foot lateral access dedication in the location shown on the site plan in the F-EIR or anywhere else on the property? If the Project is approved, the requirement to dedicate the easement should be a mitigation measure, and included in the mitigation and monitoring report.

The F-EIR should have shown how the requirement of a 25-foot lateral beach access easement will be met.

3.2 Covered Deck Encroaches onto Lateral Beach Access Easement.

The design of the Project includes a 180 square foot covered deck. The deck will encroach on about 10 linear feet of the 25-foot lateral easement, as noted on page 3-8 of the F-EIR. The County should not allow the Applicant to encroach upon the required lateral access easement.

To address the encroachment, the F-EIR rationalizes that the encroachment is acceptable because the public will have plenty of lateral access, as there is dry sandy beach between the project and the mean high tide line.

CZLUO Section 23.04.420d(3) requires that new development provide a 25-foot lateral access easement. The ordinance does not condition that requirement on whether other access is available or not. Therefore, it is inappropriate for the F-EIR to rationalize the encroachment of 40% of the lateral access easement by the deck with a statement that other access will be available.

The encroachment of the access easement by the deck is certain to chill if not eliminate the public's use of the easement, as almost everyone will think that the sand beneath the deck is private. If the Applicant puts out furniture or landscaping near or under the deck, no one will believe they have beach access across the easement.

The problem of lateral beach access will be particularly acute during periods of wave run-up, where even now there are frequently times when there is no dry beach to access the beach laterally.

The F-EIR notes that wave run-up will hit the house. Therefore, the F-EIR confirms that at times there is no dry sandy beach, and therefore the requirements of CZLUO Section 23.04.420d(3) will not be met.

In fact, the second sentence of CZLUO Section 23.04.420d(3) states that where "topography limits the dry sandy beach to less than 25 feet, lateral access shall extend from the mean high tide to the toe of the bluff."

Therefore, the F-EIR should have considered whether the lateral beach access easement should extend to the toe of the bluff, and not just 25 feet from the property line.

3.3 Failure to Address Estero Area Plan Lateral Access Requirements.

San Luis Obispo County Parks Department expressed concerns in its September 9, 2009, Memorandum from Shaun Cooper to Ryan Hostetter about the cantilevered design. The memo also states that State Parks should be notified about the design.

County Parks also requested plans showing the toe and top of the bluff. The F-EIR does

not state whether any of County Parks' issues were addressed.

In particular, note that County Parks cites the Estero Area Plan, Land Use Element/Local Coastal Plan, San Luis Obispo County Plan, Chapter 8, page 8-11 (now page 8-6).

The section states:

> New development located between the sea and the first public road shall be required to make an offer of dedication of lateral access extending from the toe of the bluff to mean high tide, or where applicable, to the inland boundary of the public beach. (Chapter 7: V., Cayucos Urban Area Standards, Combining Designations, B., LCP) (underline added).

In our comments to the D-EIR, we noted that the F-EIR should address why the Applicant is not required to dedicate access from the MHTL to the toe of the bluff, rather than just 25 feet from the property line. No exceptions to the requirement are provided, thus the unique nature of the site should not have any bearing on where and what type of easement should be required. In the F-EIR, comment 29 to our August 5th letter states that the lateral access easement will extend "up to the exposed rock," however, that is not shown on any of the plans for the Project included in the F-EIR and is inconsistent with Chapter 3 of the FEIR.

The County should use the standard set forth in the Estero Area Plan to determine the type and location of the lateral beach access easement, which will require re-ducing the cantilevered deck at the very least.

4. Failure to Provide Required Project Alternatives.

CEQA requires that an EIR provide alternative designs to the proposed project in order to determine whether alternatives would further mitigate any environmental impacts. We noted on our comments to the D-EIR that the F-EIR should analyze such alternatives and determine which is the Environmentally Superior Alternative.

The F-EIR states that sufficient alternatives were provided. We continue to disagree that sufficient Project alternatives were considered in the F-EIR, and renew our objections as set forth in our August 5th letter.

In the F-EIR, the County determined that the Environmentally Superior Alternative is the Project. However, this determination does not have validity in the reality of the impacts of the Project on the environment. The proposal will impact the coastal beach, cause potential surface and subsurface drainage issues, impact scenic coastal views and is proposed to be built on a coastal bluff. Based on the current alternatives proposed, the Environmentally Superior Alternative should be no project.

CEQA states there should be a reasonable range of alternatives based on project objectives. The proposed alternatives proposed in the F-EIR are similar and do not provide sufficient variation. On page ES-4, the Applicant's project objectives are outlined, including:

reducing visual impacts by design, avoiding development on sandy beach and minimizing site grading and disruption of the natural contours and, incorporation of green building considerations into the design and maximize exposure for solar panels.

Based on these objectives, one of the alternatives should include an eco-friendly small house. The eco-friendly small house could possibly be placed to allow for a 100-year setback with no structures encroaching on the sandy beach. Additionally, the reduced size and scale of the Project would provide a better transition with the open space nature of the adjacent Morro Strand State Beach.

Visualization of each alternative should be provided for comparison to the proposed project.

5. Failure to Define as a Coastal Bluff; Fluvial Bluff Setbacks.

The HKA Report and the CCC Correspondence make it clear that the Project site should be defined as a coastal bluff. However, the F-EIR incorrectly concludes that the site is not a coastal bluff, and instead that it is a fluvial bluff, as noted in various sections of the F-EIR.

For example, Section 3.1.1, page 3-1, states:

> "The project site is situated near the broad mouth and alluvial valley of Old Creek (approximately 600 feet northwest of the site), and appears to physically sit atop and/or straddle a bedrock remnant of the fluvial bluff that is now mostly buried by artificial fill materials."

Section 4.3.1.1, page 4.3-3, states:

> "The elevated portion of the site sits atop or slightly straddles the buried edge of a fluvial bluff on the south side of the mouth of the Old Creek drainage."

The F-EIR should analyze the required setbacks for the Project as if it is sited on a fluvial bluff, if the F-EIR concludes it is not on a coastal bluff.

As noted above, projects located on the Old Creek Coastal Stream bluff must be set back a minimum of 50 feet in accordance with Estero Area Plan Cayucos section, Sensitive Resource Area, Table 7-2.

Table 7.2 It states "1. Setbacks – Coastal Streams. Development shall be setback from coastal streams as shown in Table 7-2. Riparian setbacks shall be measured from the upland edge of riparian vegetation or the top of stream bank where no riparian vegetation exists." Table 7-2 provides that the Old Creek coastal stream setback must be 50 feet.

If the County concludes that the Project site is a fluvial bluff, rather than a coastal bluff, the coastal stream setback requirements should be applied to the Project.

6. Safety Element of the General Plan

County Coastal Policy S-23 requires that development shall not be permitted near the top of eroding coastal bluffs. Comment 33 to our August 5th letter states that the bluff is not eroding. We believe that is inaccurate, and that over the years wave run-up has contributed to bluff erosion.

County Coastal Program S-63 requires coastal bluff erosion studies to determine the rate of erosion and the resulting safe distance from the top of the bluff for development. The F-EIR should address how the policy and program are impacted by the Project.

7. Scoping Meeting Required

CEQA Guidelines Section 15082(c)(1) states that for "projects of statewide, regional or areawide significance pursuant to Section 15206, the lead agency shall conduct at least one scoping meeting." The precedential nature of the Project will lead to state-wide, or at least area-wide significance, as it will allow coastal development new rights to overhang sandy beach, creating an impact on the environment.

CEQA Guidelines Section 15206(b)(4)(C) states that if an EIR is prepared for a project, the project is located in the California Coastal Zone, and the project would have a substantial impact on the environment, then the lead agency must determine that the project is of statewide, regional or areawide significance.

Here, an EIR has been prepared, and the project is located in the Coastal Zone. Further, the Loperena MUP/CUP was sent to the State Clearing House.

Therefore, based on the County's action of submitting the D-EIR to the State Clearinghouse, the project being located within the Coastal Zone, and the fact that the precedent set by the Project will allow others to build over sandy beaches, thereby impacting the environment, a scoping meeting should have been held.

This project, which proposes to redefine the term "coastal bluff," in order to evade the bluff top setback requirement, includes a basement wall that acts as a seawall, cantilevers over the beach, and encroaches on the required lateral access. If allowed to proceed, the Project will set a precedent for all future coastal development, allowing construction over sandy beaches, and is thereby a project of statewide, regional and area-wide significance.

Therefore, the Project will have a substantial environmental impact, satisfying the third prong of the Guidelines and requiring a scoping meeting.

8. County's Limited Public Outreach Efforts

The County's efforts to reach out to the public regarding the Project have fallen short.

The County seemed to think that because the Project is just a single family residence, there would be little public interest. This view is clearly wrong as shown by the number of individuals commenting on the D-EIR and the important organizations interested in the Project.

Thanks to groups such as the Cayucos Citizens Advisory Council ("CCAC"), the Sierra Club – Santa Lucia Chapter, the Surfrider Foundation – San Luis Obispo Chapter, ECOSLO and Coastkeeper, along with many individuals, word of the project has gotten out. Clearly the County underestimated public interest in the project.

The general public is very interested in the Project due to the dangerous precedents it would set. The precedents include:

(i) Building on a coastal bluff without adhering to coastal bluff setback requirements.
(ii) Allowing a cantilevered structure over the beach.
(iii) Allowing construction of a seawall (the basement wall acts as a shoreline protection device).

One specific example of the County's failure to properly notify the public about the Project and the availability of the D-EIR for public review is reflected in the June 2013 minutes of the CCAC. The June minutes show that the County liaison to the CCAC made no report to the CCAC informing them that the D-EIR was expected to be released soon. Further, the County's liaison's input at the July CCAC's Land Use Committee and CCAC meetings on July 8 and 10 respectively, was uninformed and minimal. Following release of the D-EIR, a CCAC request for a presentation or at least attendance by the SLO Project Manager to answer questions was ignored or dismissed.

No copy of the D-EIR was provided to the Cayucos Library. Also, no property owners or residents from the Project vicinity were notified of the availability of the D-EIR, except for one property owner that expressly asked to be notified. Notification about the F-EIR were similarly minimal, with additional notification to individuals who commented on the D-EIR.

It is unclear why the County would fail to provide those with a stated interest in the Project with even informal notice of the pendency of the release of the F-EIR when such interest is widely known. The County seems to be happy meeting the minimum notice requirements, when in fact there is widespread interest in the Project.

The County's unwillingness to provide outreach beyond the bare minimum required will certainly result in a significant number of people being left out of the process. We don't want this to become one of those projects where many people say they just didn't know, and therefore were prevented from participating in the review process.

9. <u>Visual and Scenic Resources, Policy 2</u>

The F-EIR inadequately discusses the impact of the Project on visual resources, a point of

view expressed by the CCC in the CCC Correspondence. The Project will be a landmark structure, especially from the beach and as it is viewed by those travelling south on Highway 1 and Studio Drive.

None of the photos included in the F-EIR clearly illustrate the loss of view. Attached photo/graphic Exhibit E illustrates the estimated impact on public scenic coast views. The lot is on the edge of an expansive area of public scenic coastal view and adjacent to Morro Strand State Beach. The Project will further erode the public's view of sandy beach and ocean waves. The Project will hover over the sandy beach and obstruct views along the beach and from Highway 1 to the ocean. This is a significant adverse impact that has not been properly analyzed.

The F-EIR falsely states that the Project is consistent with the current conditions. Most of the residences are set-back on the bluff, and none are cantilevered over the sand. The nearby residence shown in Figure 4.1-14 and 4.1-15, which is built to the edge of the bluff, was built in 1964, prior to establishment of the CCC and associated rules protecting bluffs. It is not appropriate to compare the Project to it, because new residences must meet the current ordinances. The Project will have a high level of memorability and has landmark design characteristics, due to its cantilevered modern design. Also, none of the other houses have 31-foot high structures visible from the ocean.

The size of the Project should be reduced and not allowed to cantilever over the sandy beach. If it is not reduced in size and prohibited from cantilevering over the beach, the F-EIR should then identify the Project as having a significant adverse impact on the environment based on visual scenic resources and being inconsistent with the County Policy 2.

The Project is in a prominent location, adjacent to a Morro Strand State Beach and open to Highway 1. On page 4.1-8, the EIR Consultant states:

"The project would result in a significant impact if it had substantial adverse effect on a scenic resource as seen from Highway 1. A scenic resource would be a specific feature or element with a high degree of memorability or landmark characteristics that contributed to the high visual quality of the corridor. From along Highway 1 in the project vicinity, Morro Rock, the Pacific Ocean, and the Cayucos Pier are considered Scenic Resources. The project would result in a significant impact if it were to have a substantial negative effect on views of any of those resources, from public vantage points."

The Project will have "a substantial negative effect on views" as clearly shown in the photo/graphic attached as Exhibit E. Therefore, the EIR Consultants should have concluded that the Project would result in a significant impact on visual scenic resources.

The structure is not consistent with Visual and Scenic Resources Policy 10: Development on Beaches and Sand Dunes. The Project appears to be two-stories from beach view and is inconsistent with the appearance of other houses.

10. Cayucos Small Scale Neighborhood Standards of the Estero Area Plan

The comments below were set forth in our August 5th letter, and were not properly addressed in the F-EIR and therefore are restated. The EIR Consultant's comments to our letter contained in Section 9 of the F-EIR essentially state that there are no concerns with the scale and design of the Project.

The Project does not meet the Cayucos Small Scale Neighborhood design standards and other communitywide standards, and is inconsistent with the character and intent of the Cayucos community small scale design neighborhood for some of the following reasons:

10.1 The 3,097 square foot modern structure gives the appearance of a massive box on a 3,445 square foot lot. The expansive building facades should be broken up by various elements to avoid the box appearance from the public. The structure is eighteen or nineteen feet (18'-19') wide and ninety-five feet (95') long. The elongated structure, with concrete walls does not present a small-scale project and is out of character with other structures in the area. The building mass as seen from streets and public recreational areas does not incorporate design features, such as variations in wall planes, roof lines, or materials that promote a small scale appearance, as required in the Estero Area Plan.

As correctly stated in the 2009 Draft Mitigated Negative Declaration and attached as Appendix A of the F-EIR, *"... the design and style with the cantilevered deck area is different than neighboring residences as it proposes a much more modern design."*

10.2 The Community Small Scale Design Neighborhoods standards require, "The site design to incorporate landscaping materials that help reduce the scale of the proposed structure through proper selection and placement of trees, shrubs and other vegetation capable of screening portions of the structure from public viewpoints." Only two-hundred and thirty-eight square feet (238'), or seven percent (7%) of the lot is proposed to be landscaped. This includes hardscape and private walkways along the northern side of the residence. The Applicant proposes potted plants along the walkways and front entry. (Reference page 2-5 of F-EIR.)

The limited landscape, including hardscape, and potted plants will not reduce the scale and size of the modern structure from public viewpoints, as required by the Estero Area Plan.

10.3 The F-EIR Executive Summary (page ES-4) describes the Project as having one main floor, a basement, and a mezzanine. There is no definition in the Estero Area Plan for mezzanine, and it isn't specifically excluded as a story in the definition for "story" in the Estero Area Plan. We question whether this "mezzanine" should actually be considered as a second story. If it was considered a second story, then the Gross Structural Area (GSA) requirements included in the

Estero Area Plan (section 7.V.D.3.d(2) and Table 7-3 page 7-71) should apply. Table 7-3 requires that lots between 2,900-4,999 square feet have a maximum gross structural area of 55% of usable lot, not to exceed 2,500 square feet. Since a good portion of the 3,445 square foot lot is sandy beach and therefore not usable, the usable lot area is much smaller. The proposed 3,094 square foot residence is about 90% of the lot size, and an even higher percentage of the usable lot size. If the mezzanine is determined to be a second story, then the Project is too large and should be reduced in size to meet the Estero Area Plan GSA requirements.

There also seems to be some uncertainty in the F-EIR regarding whether the Project sits atop the bluff or not. It is important that the location is clearly defined as it directly impacts the determination of the usable lot size, and therefore the allowable size of the residence.

The architecture, materials and building mass are not consistent with the Residential Development Design Concepts found in the Cayucos Urban Design Standards of the Estero Area Plan. The structure does not provide articulated rooflines, small scale building mass, or meet the other standards illustrated in Figure 7.37.

11. Compliance with California Building Code.

The Project should also be subject to a condition to ensure that prior to issuance of a construction permit that the design be reviewed and approved to confirm it meets current California Building Codes. In particular and without limitation, the Project should comply with the requirements of the 2007 CBC Table 704.8, Increased Setbacks from Property Line. The minimum distance required is now 5' without having to use fire rated wall construction. A 3' minimum setback is still allowed provided that the wall and eave use fire rated construction and the windows or open areas in the wall line is limited to a maximum of 25% of the wall area.

In conclusion, for the reasons stated in this letter, our August 5th letter, our requests for review, and all prior correspondence, the Project should not be approved.

We appreciate your considered review and analysis of these comments.

Sincerely,

SINSHEIMER JUHNKE McIVOR & STROH, LLP

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cc: Cynthia R. Sugimoto

Exhibit A

August 1, 2013 Haro, Kasunich and Associates Report

HARO, KASUNICH AND ASSOCIATES, INC.

CONSULTING GEOTECHNICAL & COASTAL ENGINEERS

Project No. SLO9515
1 August 2013

To: Ms. Ryan Hostetter
County of San Luis Obispo
Department of Planning and Building County
Government Center Room 200
San Luis Obispo, CA 93408-2040

From: Mark Foxx, CEG 1493
John E. Kasunich, G.E 455

Subject: June 2013 Draft EIR Comments

Reference: Loperena Minor Use Permit/Coastal Development
Permit DRC 2005-00216
SCH No. 2007081044

Dear Ms. Hostetter:

We have reviewed Section 4.3 of the referenced D-EIR (Geology and Soils), as well as referenced documents in Appendix C of the D-EIR by Cotton Shires and Associates Inc dated May 31, 2011, August 21, 2012, October 31, 2012, and May 17, 2013; documents by GeoSoils Inc. dated March 14, 2011 and April 10, 2013, documents by Cleath-Harris Geologists Inc. dated June 25, 2012, September 19, 2012; and GSI Soils Inc. dated December 27, 2011.

We provide the following comments:

1. **Incorrect Finding that Property Is Not a Coastal Bluff**

   Cotton Shires and Associates Inc. (the EIR consultant who addressed the presence or lack of a coastal bluff at the site) interprets that a coastal bluff does not exist at the Loperena property. We disagree. The bluff fronting the project site faces the Pacific Ocean, and there is an active beach at the base of this bluff. The bluff is subject to severe wave run-up on occasion and resultant coastal erosion. California Code of Regulations, Title 14, Section 13577(h)(1) defines coastal bluffs as those where the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion. **There can be no doubt that the toe of the bluff on the seaward portion of the Loperena property, is now and was historically (within the last 200 years) subject to marine erosion.** Unfortunately, there is no mention of this definition in the Cotton Shires reports.

   Instead they focus on a more obscure determination of bluff edge termination, based on criteria involving geologic history and fail to consider the present geologic and oceanographic conditions at the site. Cotton Shires makes their finding based primarily on conditions shown on an aerial photo taken more than 75 years ago. We believe that present conditions must be considered when evaluating the presence of coastal bluffs or lack thereof. For more than 50 years a coastal bluff has extended hundreds of feet upcoast from the Loperena property. Much of that coastal bluff consists entirely of fill, but that is not solely the case at the Loperena property. The bluff at the Loperena property has bedrock exposed across the full width of the property.

   Cotton Shires and Associates Inc. asserts that the seaward slope on the Loperena property consists of a fillslope and therefore it is not part of the coastal bluff. That is not

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supported by the geologic maps, cross sections and boring logs prepared by the applicant's geologist (Cleath-Harris). Exposed bedrock extends across the full width of the Loperena property.

In our opinion the present conditions matter, and can and should not be ignored. The property should be considered a coastal bluff and appropriate setbacks should be required.

We support this, in part, from review of the geologic maps and cross sections in the Cleath-Harris Geology reports dated 6-25-2012 and 9-19-2012 as well as the Cotton Shires report dated 5-31-2011; all of which are contained in Appendix C of the Draft EIR. The Cotton Shires Engineering Geologic Map Plate 1 (originally prepared by Shoreline Engineering in 2006) is missing from Appendix C, but is included at a reduced scale as Figure 4.3-3 in the Draft EIR.

Several Figurers and photographs are presented below to support our position that the property includes a coastal bluff and to counter the DEIR finding that it doesn't.

Figure 1 shows Cleath-Harris's Geologic Map of the site that clearly shows exposed bedrock (Franciscan Assemblage Graywacke sandstone) across the entire width of the property along the coastal bluff face, with Beach Deposits seaward of the bedrock.

Figure 2 shows Cleath-Harris's Cross Section D-D'. The applicant's geologist (Cleath) terminated this cross section at elevation 16 and did not extend it down the near vertical bedrock coastal bluff face down to the beach. This cross section shows a thin mantle of fill covering the bedrock on the inland portion of the lot. We have sketched an extended portion of the cross section below elevation 16, to show the coastal bluff face and beach that exists there.

Figure 3 shows Cleath-Harris's Cross Section C-C'. Cross Section C, which is located at the upcoast property boundary, shows that the bluff face is composed of exposed Franciscan Assemblage Bedrock from the sandy beach up to about Elevation 17. The bedrock is mantled by 3 to 4 feet of fill. In fact, as depicted by the applicant's geologist, the bedrock under the fill extends up to elevation 22, and one could argue that the fill is covering what was once the coastal bluff face between elevation 17 and 22. We have labeled the cross section to show the coastal bluff face and beach that exists there.

Photograph 1 is a 2002 Aerial Photo from www.CaliforniaCoastline.org that clearly shows the exposed bedrock face along the coastal bluff, as correctly mapped by the applicant's geologist (Cleath-Harris) and the EIR geologist (Cotton Shires).

Photograph 2 was taken at the site and shows the coastal bluff on the Loperena property, the beach at the base of the bluff, and the Pacific Ocean. We have outlined the portion of the coastal bluff face where bedrock is exposed on Photograph 2.

Photograph 3 is a 2002 Aerial Photo showing the coastal bluff on the Loperena property, the beach at the base of the bluff, the Pacific Ocean wave action on the beach, and a sketch of the Loperena property boundaries. The property boundaries shown are not to scale because of parallax and foreshortening in this oblique photo, but are in approximately the right positions. Most of the Loperena property is only 25 feet wide. The seaward portion of the Loperena property (below the coastal bluff) is a sandy beach.

Photograph 4 is a site photo taken from the downcoast neighbor's property that shows the coastal bluff on the Loperena property, the beach at the base of the bluff, and Pacific Ocean wave action on the beach.

Figure 4 is Cotton Shires Geologic Cross Section which shows the proposed Loperena residence projecting (cantilevered) out over the coastal bluff and what they depict as an "Active Beach". The area between the Active Beach and the landward portion of the residence is the coastal bluff, as defined by the California Coastal Commission.

Figure 5 is a figure from Cotton Shires & Associates report dated May 31, 2011. It is a portion of a 1937 aerial photo that they have interpreted to show an inland bluff line that was formed by Old Creek. This bluff line pre-dates the bluff line that exists since Highway One was constructed in its present alignment circa 1960.

In 1937 (the date of aerial photograph Cotton Shires used in their analysis) the bluff turned inland just north of the bedrock outcrop. Between 1937 and 1972 (when the Coastal Act Initiative was passed by the voters and the Coastal Commission was created) State Highway 1 was constructed (circa 1960). In 1972 and 1976 (when the Coastal Act was passed) the bluff at the landward edge of the beach north of the Loperena property followed the fill slope seaward of Highway 1. The Cotton Shires premise that whether a coastal bluff exists is determined only by where a bluff was during historical geologic conditions (in 1937) and not where the coastal bluff existed at the time the Coastal Commission was created (in 1972) or where a bluff exists today, is inappropriate.

The toe of the bluff on the seaward side of the Loperena property has historically been subject to marine erosion and is subject to ocean wave run-up and coastal erosion today.

Regardless of the conditions at the Loperena property before Highway 1 was built, those conditions do not determine there is not a coastal bluff there today, which has been there for the last 50 years, and in fact has been there ever since the Coastal Act was passed.

Figure 6 is a figure from Cotton Shires & Associates report dated May 31, 2011. It interprets which portion of the bluff at the Loperena property is a coastal bluff and which portion is an inland bluff. An inland bluff might be defined as a creek bank or river bank not subject to marine erosion. The Cotton Shires methodology for assessing the transition point from a coastal bluff to an inland bluff differs from the California Coastal Commission (CCC) guidelines for determination of bluff termini. Public Resources Code Section 13577 states "The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations." For some reason, Cotton Shires diagram ignores the 500 foot requirement and instead uses a minimum length of the bluff line of 300 feet. It is requested that a revised diagram be prepared and included in the Final EIR that follows the CCC guidelines including the 500 ft. requirement.

Based on the conditions depicted on the geologic maps and cross sections and on the photographs in this letter, we believe the bluff on the Loperena property is a coastal bluff. We believe it is inappropriate to solely define the existence of coastal bluffs based on

photographs from 75 years ago or geologic conditions from more than 50 years ago. We believe that current geologic and oceanographic conditions must be considered, in order to accurately define the existence of coastal bluffs. The interpretation by Cotton Shires & Associates relies on conditions depicted in photographs from 75 years ago and geologic and geomorphic conditions from more than 50 years ago. We believe their interpretation is erroneous. California Code of Regulations, Title 14, Section 13577(h)(1) defines coastal bluffs as those where the toe of which is now or was historically (generally **within** the last 200 years) subject to marine erosion. That includes those bluffs that have had marine erosion at their toe for 50 years. This regulation does not say that if there has not been marine erosion at the toe of the bluff **continuously** for the last 200 years it is not a coastal bluff. In our opinion the present conditions matter, and can and should not be ignored.

Because the Loperena property is only 25 feet wide, slight variations in geologic mapping have great impact. The Cotton Shires maps (Figures 5 and 6) that they use to delineate their interpretation of the coastal bluff are presented in their report at a scale of 1 inch equals 300 feet, such that the Loperena property is less than a tenth of an inch wide. It is our opinion that precise location of the coastal bluff terminus relative to property boundaries based on stereoscopic aerial photograph interpretation is not possible and that mapping and consideration of site specific conditions is required.

Fortunately, site specific mapping of the bluff was done in 1955. Figure 7 is a 1955 State Of California Acquisition Map for Morro Strand State Beach. This map shows the Loperena property and the bluff configuration at that time. Cotton Shires and Cleath-Harris make no reference to this map (included in this report) in their reports.

Figure 8 is an enlarged portion of State of California Acquisition Map from 1955 showing the toe of bluff that existed then on the Loperena property. The Loperena property was impacted by both the ocean and creek before Highway 1 was built, and now is primarily impacted by the ocean because the creek's alignment was altered. The map depicts that in 1955 (before Highway 1 was constructed in its present day alignment) it might be considered as a "corner lot", which is within a transition area that is part coastal bluff and part inland bluff. If it was partly a coastal bluff then, and is impacted by coastal processes such as marine erosion, ocean wave run-up, and wave impact today, it should be considered a coastal bluff.

D-EIR 4.1.4.1 discusses a "story-poles" or flag study used to assess visual impacts of the project, however no photos with the flags are provided in the D-EIR. It is requested that the photographs from this flag study be included in the Final EIR. In the absence of official flag study photographs, we have reviewed Photographs 5 and 6, which are unofficial photographs of the flag study for the Loperena residence. Per D-EIR 4.1.4.1 these flags represent the proposed building corners. It says that "Locations of critical structure elements were identified based on site plan information and architectural elevations provided by the project applicant. These critical project features were surveyed and staked in the field, and corresponding horizontal and vertical location data was developed. Poles and reference flags were positioned at each critical point."

Photograph 5 clearly shows the building extending past the coastal bluff over the beach. The exposed bedrock coastal bluff is shown on the photo. Marine erosion is the process which has exposed the bedrock on the bluff face. The project plans by James Maul-Architect, upon which the plans by C. P. Parker –Architect are based, show that the seaward edge of the home is 14.81 feet from the seaward property line and overhangs the bedrock coastal bluff and the beach. These plans are consistent with the position of

the main floor shown in D-EIR Figure ES-4a, which shows the main floor extending approximately 10 feet into the Access Easement on the beach..

Photograph 6 shows another view of the position of the corners of the proposed residence relative to the coastal bluff face and the beach. Note that the proposed house corners extend over the beach.

The Cotton Shires studies argue that the bedrock bluff at the back edge of the beach shown in Photographs 1, 2, 3, 4, 5, and 6 is an inland facing bluff. The Cotton Shires studies ignore the presence of an active beach that is subject to wave run-up, wave impact and marine (coastal) erosion within the building envelope of the proposed structure.

2. **Wave Run-up Calculations: Inconsistencies**

We have reviewed the Geosoils Inc. report dated April 10, 2013 that calculates wave runup to an elevation of 20.1 NAVD88 (Still water elevation of 10.1 Feet NAVD88 plus Wave Runup R of 10.0 Feet). It predicts that at an elevation of +17 NAVD88 one cubic foot per second of ocean water will impact the seaward portion of the proposed home for each foot of the width of the home during oceanographic conditions expected over the life of the development.

There are internal inconsistencies in the wave run-up calculations between 2011 and 2013. In 2011, GeoSoils used a scour elevation of 0.6 feet NAVD88 at the toe of the bedrock, with 9 feet of water depth and a 1% nearshore slope in their analysis which resulted in a still water level of 9.6 feet NAVD88 and generated 12.6 feet of run-up using 7.0 foot high waves. In 2013, when considering greater sea level rise to a still water elevation of 9.6 feet NAVD88, GeoSoils used a scour elevation of 3.1 feet NAVD88 at the toe of the bedrock (2 ½ feet higher than the 2011 analysis), with 7 feet of water depth and a 2% nearshore slope in their analysis which generated 10.0 feet of run-up using 5.5 foot high waves.

This analysis is not plausible. Greater sea level rise will result in higher still water levels which will result in larger breaking waves. They do not justify using the 2 ½ foot higher scour level in 2013 compared the 2011 analysis, other than the depth of the bedrock below the beach sand estimated and depicted by Cotton Shires on their 2011 Cross Section 1-1' (Figure 9). The depth of bedrock shown on the Cotton Shires Cross Section 1-1' is not substantiated; it is queried due to uncertainty. Greater scour will cause higher wave runup. In any case, the wave runup analysis indicates that ocean wave runup will reach much higher than the basement floor elevation and will reach the basement windows depicted on the Rear Elevation in D-EIR Figure ES-5.

3. **Basement Wall is a Seawall**

The March 14, 2011 Geosoils Inc. report defines that this wave run-up will reach the basement wall, but indicates (because the basement walls will be constructed of reinforced concrete) that the wave run-up will not adversely impact the proposed residence. It is therefore functioning as a seawall. The San Luis Obispo LCP Hazard Policy 1 requires that new development shall be designed so that shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, will not be needed for the life of the structure; yet the proposed residence design incorporates a foundation system including a reinforced concrete wall that will be impacted by wave run-up and is

nearly the full width of the property. Therefore the basement and associated seawall should not be allowed.

If allowed, the reinforced concrete seaward facing basement wall will deflect wave run-up towards the neighboring properties and adversely impact them. This deflected wave run-up will increase erosion on the neighbor's bluff. D-EIR GS Impact 5 indicates that beach sand scour caused by heavy surf may create unstable slopes adjacent to the proposed residence and finds that this impact is less than significant. We believe this impact will be significant because the exacerbated impact from deflected wave runup that results from the construction of the proposed Loperena residence will extend onto the neighboring properties.

4. **Erosion Rate is Underestimated**

We disagree with GeoSoils that coastal erosion at the Loperena property is not a significant hazard over the next 100 years. The reason that bedrock is exposed along the full width of the Loperena property at the landward edge of the beach sand is because of active marine (coastal) erosion processes acting there. Sea level rise will result in increased future erosion rates compared to the historical erosion rates.

5. **Potential Shoring and Construction Impacts Not Evaluated**

The project Plans by James Maul- Architect (Sheets 1 and 2 of 4) show the exterior walls of the proposed residence with 3 foot side yard setbacks from the property lines. No property lines are depicted on the Elevation or Section (Sheets 3 and 4 of 4). The proposed residence foundation width is depicted as 19 feet. The plans in the D-EIR (Figures ES-4a, Es-4b and ES-5 by C. P. Parker (Architect) indicate they are based on the plans by James Maul, but lack setback dimensions on the floor plans and property lines on the Elevations. The Site Plan in the D-EIR (Figure ES-3) also lacks setback dimensions and does not show the main floor that cantilevers over the Public Access Easement on the seaward part of the property. The D-EIR does not address what impact to the Access Easement will occur during construction. We have reviewed the December 27, 2011 Updated Geotechnical Investigation report from GSI and 20 September 2012 letter from Shoreline Engineering including Shoring Details SL-1 and SL-2 (D-EIR Figures ES-7a and ES-7b). Given the 2 foot diameter boreholes necessary for the shoring pilings and the 25 foot lot width, we are concerned whether the shoring can be installed without any impact on the neighboring properties. It appears that there is the potential for the borehole drilling or excavations for the shoring to encroach on the neighboring properties or damage those neighboring properties.

In conclusion:

We disagree with the Cotton Shires interpretation which terminates the coastal bluff at the Loperena property based on the bisector they drew, which was solely based on conditions before Highway 1 was built, and classifies the bluff on the Loperena property as an inland bluff. We believe it is wrong for them not to consider present day conditions. The present day conditions include the presence of an active beach seaward of the property and Pacific Ocean waves directly impact the bluff on the property. Fluvial processes and creek or river bank conditions are not present at the Loperena property today. **As a result the bluff on the property should be considered a coastal bluff and appropriate setbacks should be required.**

Project No. SLO9515
1 August 2013

The proposed reinforced concrete seaward facing basement wall is a seawall and should not be allowed. If allowed, it will deflect wave run-up towards the neighboring properties and adversely impact them. D-EIR GS Impact 5 indicates that beach sand scour caused by heavy surf may create unstable slopes adjacent to the proposed residence and finds that this impact is less than significant. We believe this impact will be significant because the exacerbated impact from deflected wave runup that results from the construction of the proposed Loperena residence will extend onto the neighboring properties.

The wave run-up calculations indicate that ocean wave runup will exceed the basement floor level and reach the basement windows. The calculations have inconsistences and require additional detailed review to determine the appropriate floor levels and structural requirements.

We disagree with GeoSoils that coastal erosion at the Loperena property is not a significant hazard over the next 100 years. The reason that bedrock is exposed along the full width of the Loperena property at the landward edge of the beach sand is because of active marine (coastal) erosion processes acting there. Sea level rise will result in increased future erosion rates compared to the historical erosion rates.

The D-EIR does not address what impact to the Access Easement will occur during construction.

Given the 2 foot diameter boreholes necessary for the shoring pilings and the 25 foot lot width, we are concerned whether the shoring can be installed without any impact on the neighboring properties. It appears that there is the potential for the borehole drilling or excavations for the shoring to encroach on the neighboring properties or damage those neighboring properties.

Please call us to discuss these plans and this project if you have any questions.

Very truly yours,

HARO, KASUNICH AND ASSOCIATES, INC.

John E. Kasunich
G.E. 455

REGISTERED PROFESSIONAL ENGINEER
JOHN E. KASUNICH
No. 455
Exp. 6/14
GEOTECHNICAL
STATE OF CALIFORNIA

Mark Foxx
C. E. G. 1493

MF/JEK/dk

REGISTERED GEOLOGIST
MARK FOXX
No. 1493
CERTIFIED ENGINEERING GEOLOGIST
STATE OF CALIFORNIA

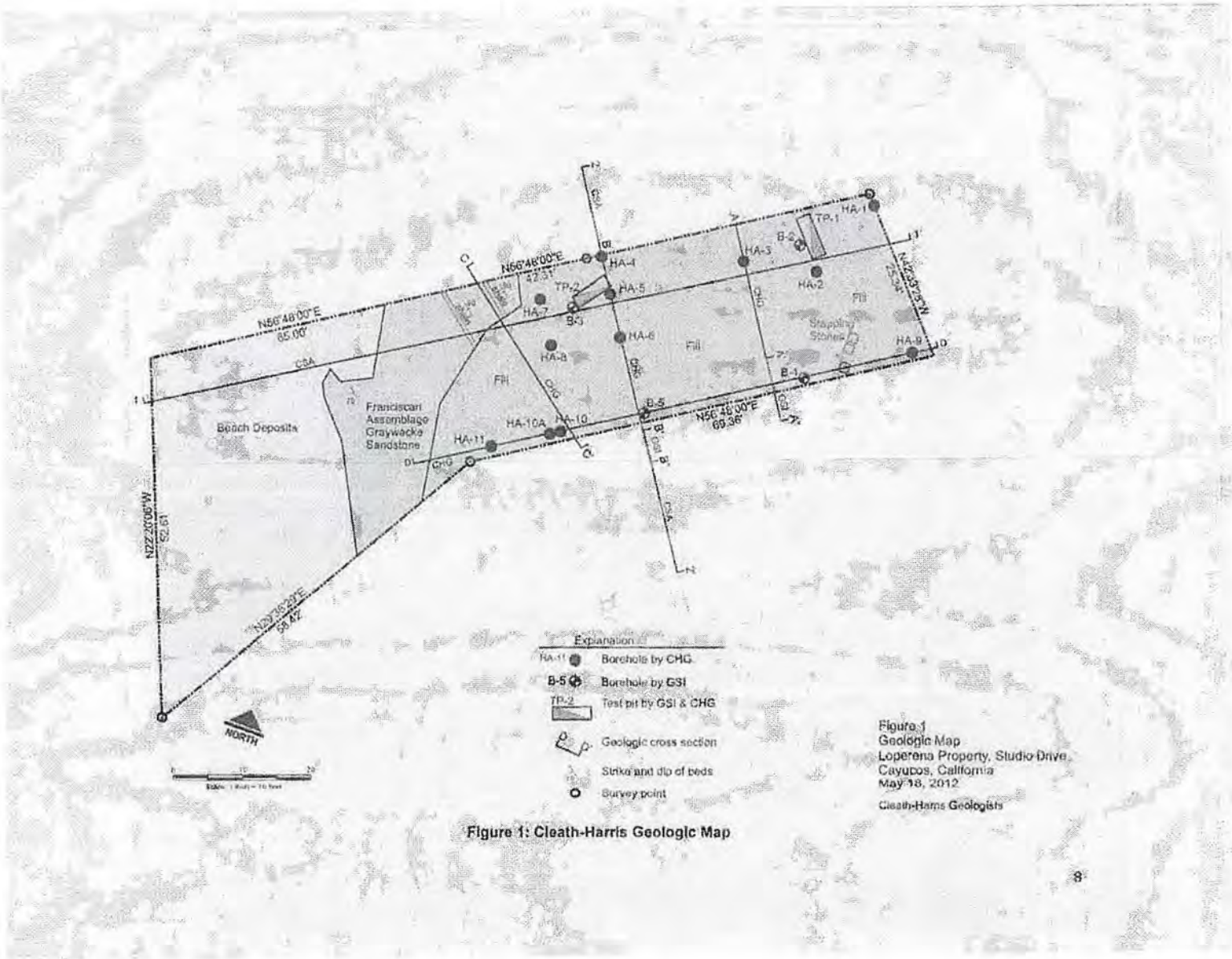
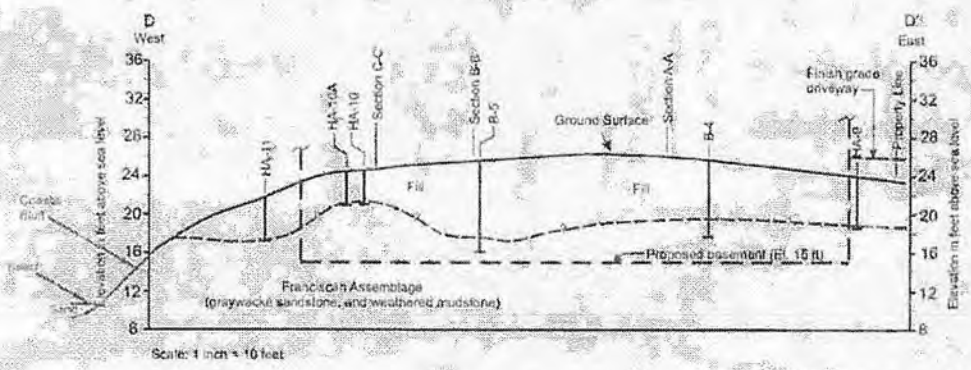


Figure 1: Cleath-Harris Geologic Map



Explanation

HA-11 Hand auger boring location (by CHG)

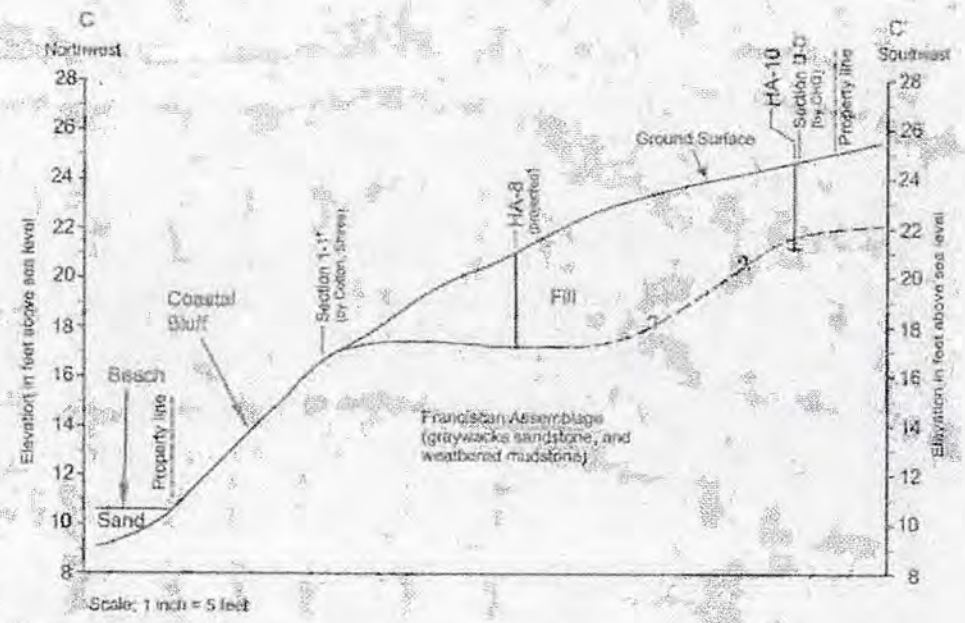
B-5 Power auger boring location (by GSI)

?? Geologic contact, queried and dashed where inferred

Figure 2
Cross Sections D-D'
Laperana Property, Studio Drive
Cayucos, California
May 18, 2012

Cleath-Harris Geologists

Figure 2: Cleath-Harris Geologic Cross Section D-D' Modified to Show Coastal Bluff and Beach



Explanation

HA-10 Hand auger boring location

Geologic contact, queried and dashed where inferred

Figure 3
Revised Cross Section C-C'
Loperena Property, Studio Drive
Cayucos, California
May 18, 2012

Cleath-Harris Geologists

Figure 3: Cleath-Harris Geologic Cross Section C-C' Modified to Show Coastal Bluff and Beach

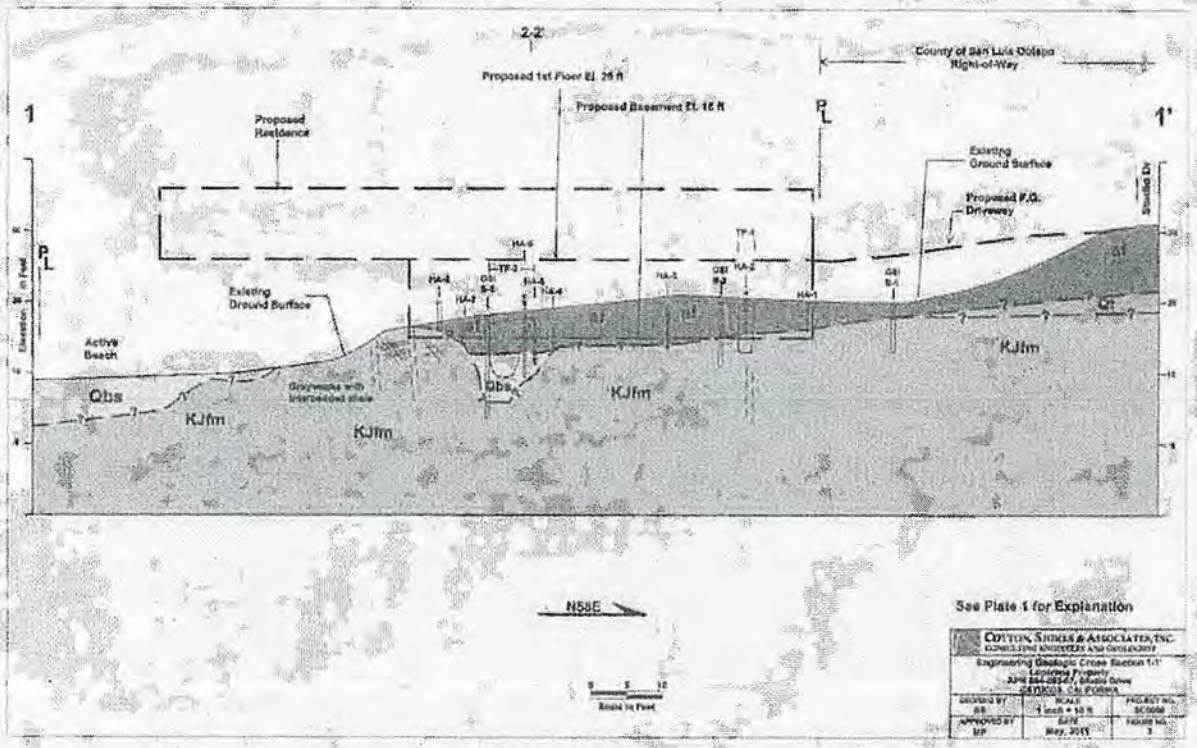


Figure 4: Cotton Shires Geologic Cross Section 1-1' Showing Proposed Home Extending Over Coastal Bluff and Beach

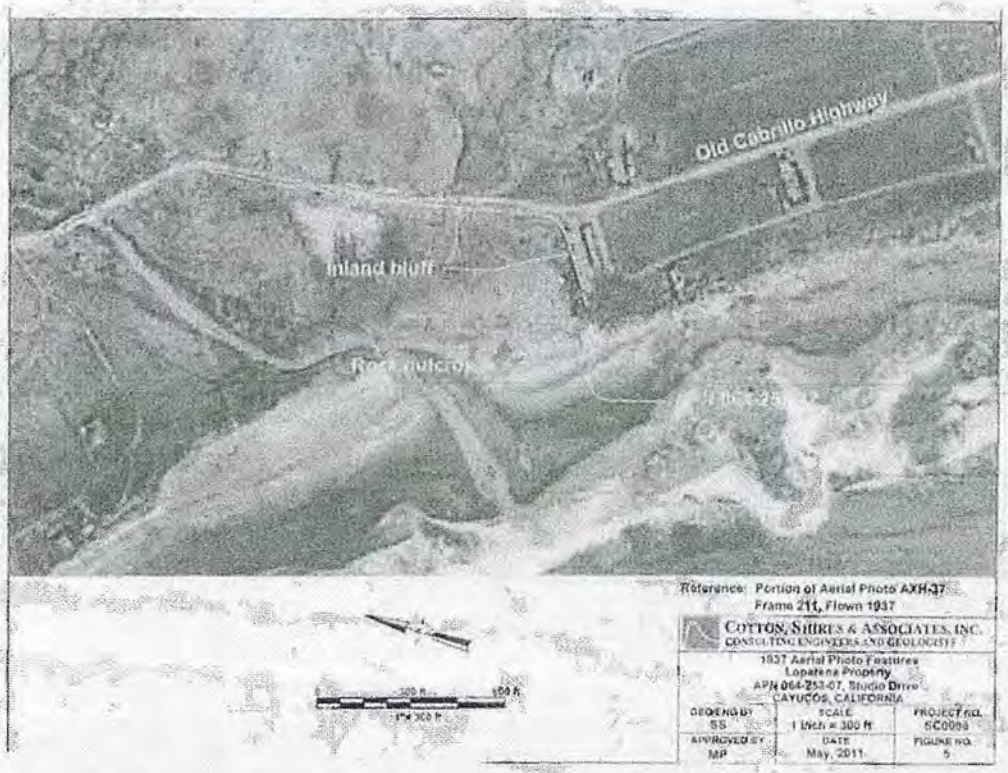


Figure 5: Cotton Shires 1937 Aerial Photo Features. Their interpretation of Coastal Bluff.

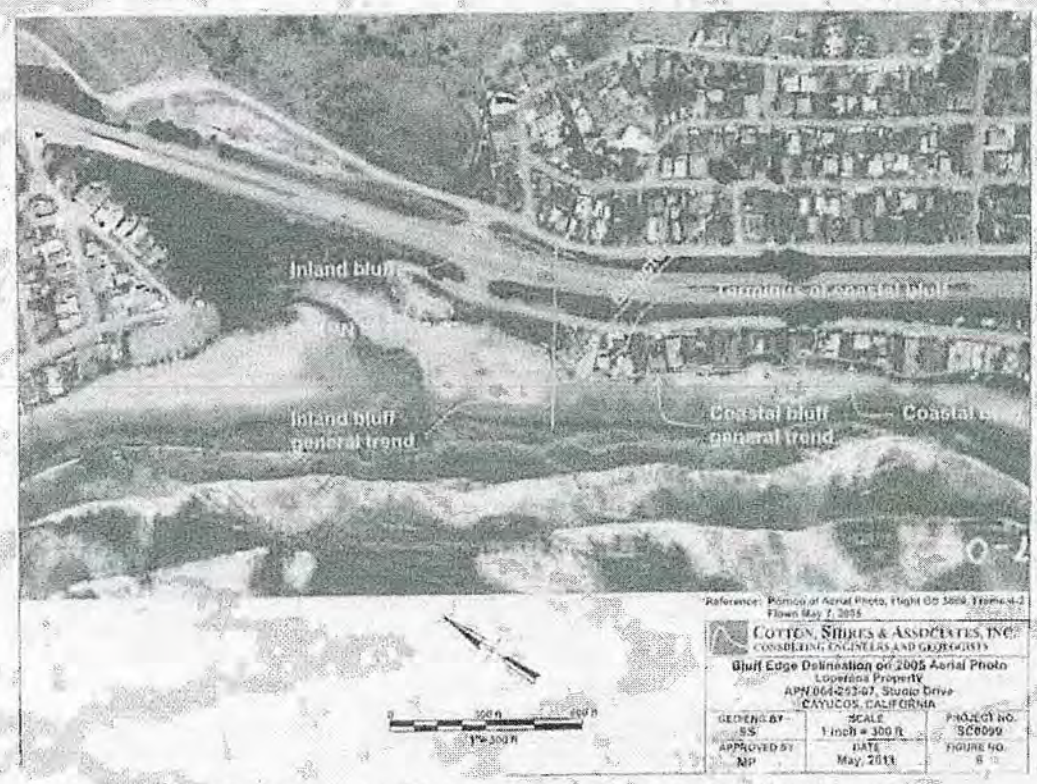


Figure 6: Cotton Shires Bluff Edge Delineation. Their interpretation of Bluff Termini.

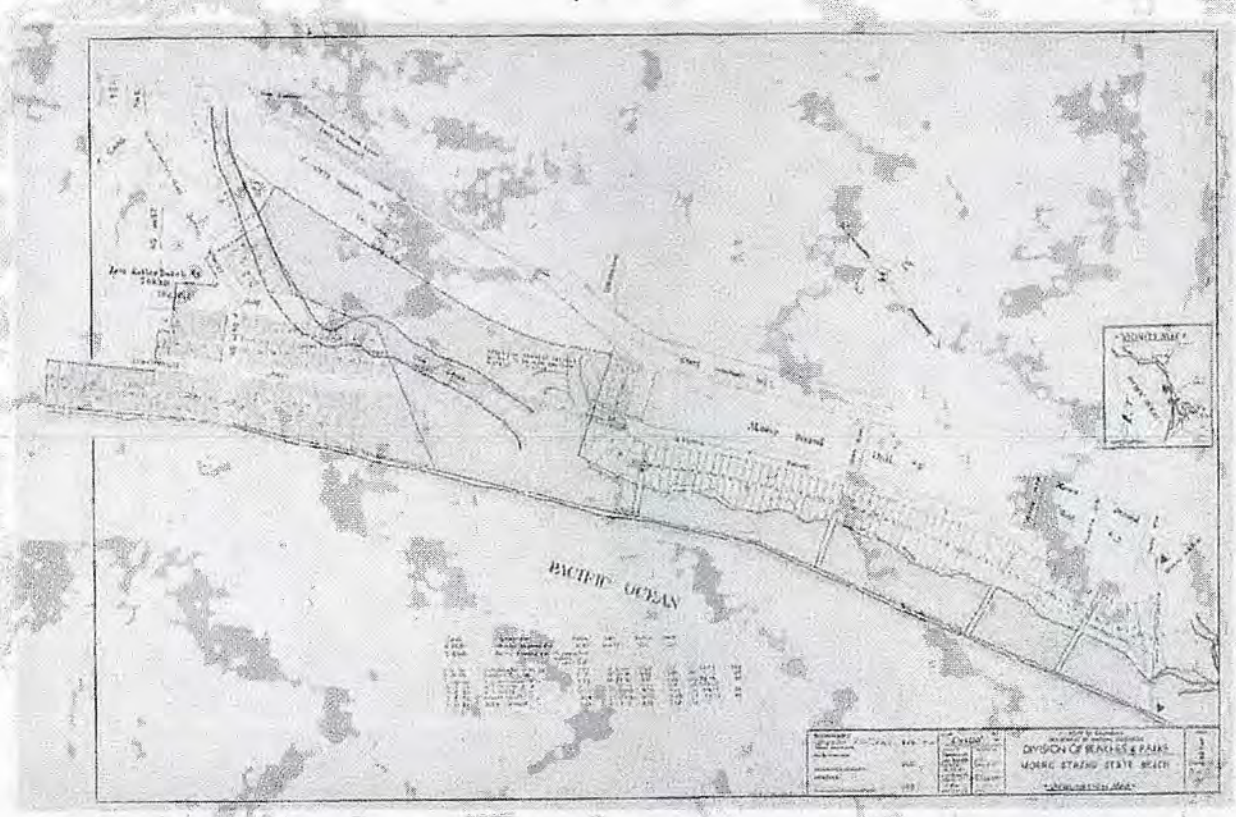


Figure 7: State of California Acquisition Map from 1955 showing the Toe of Bluff that existed on the Loperena property in 1955

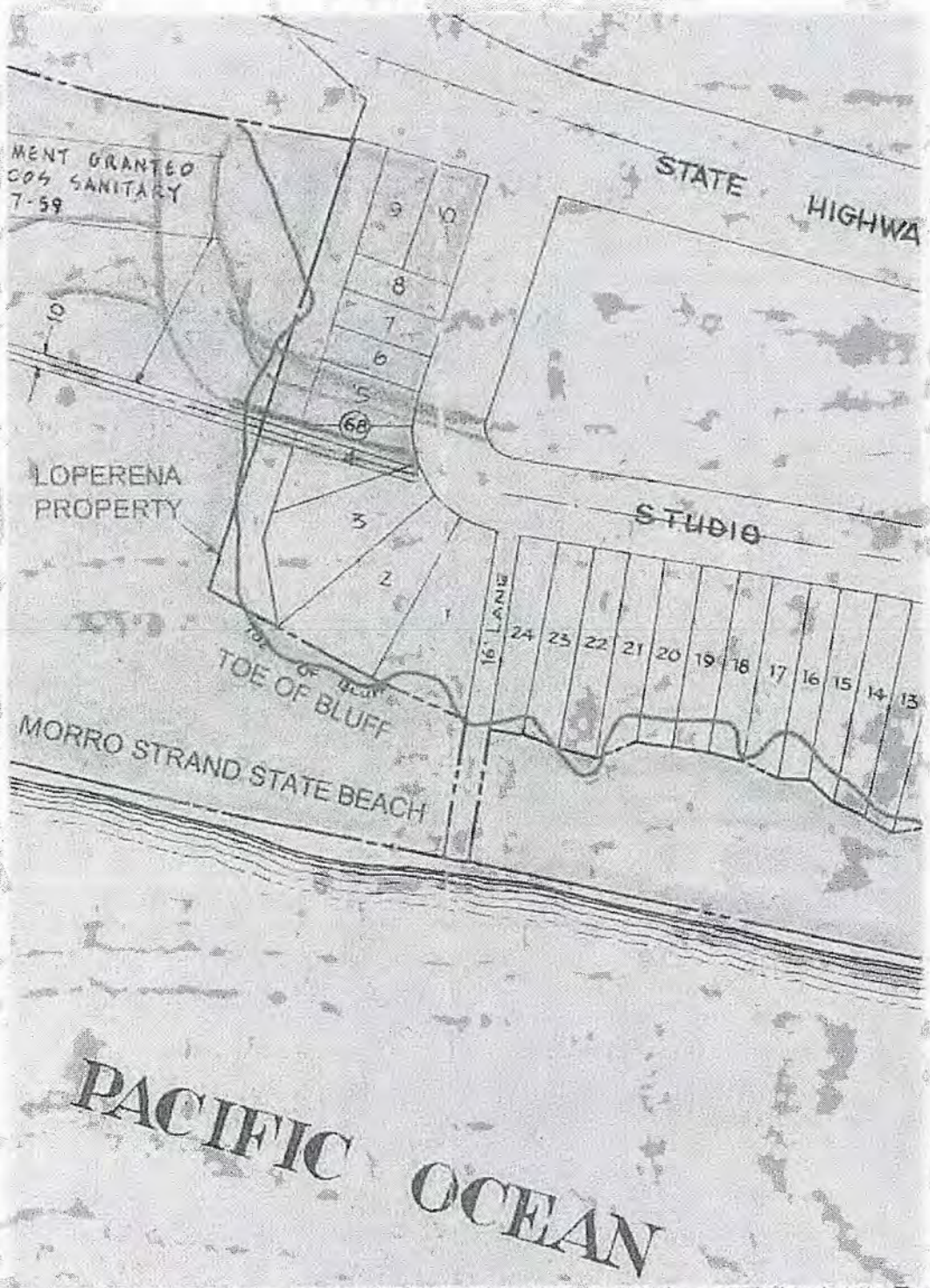
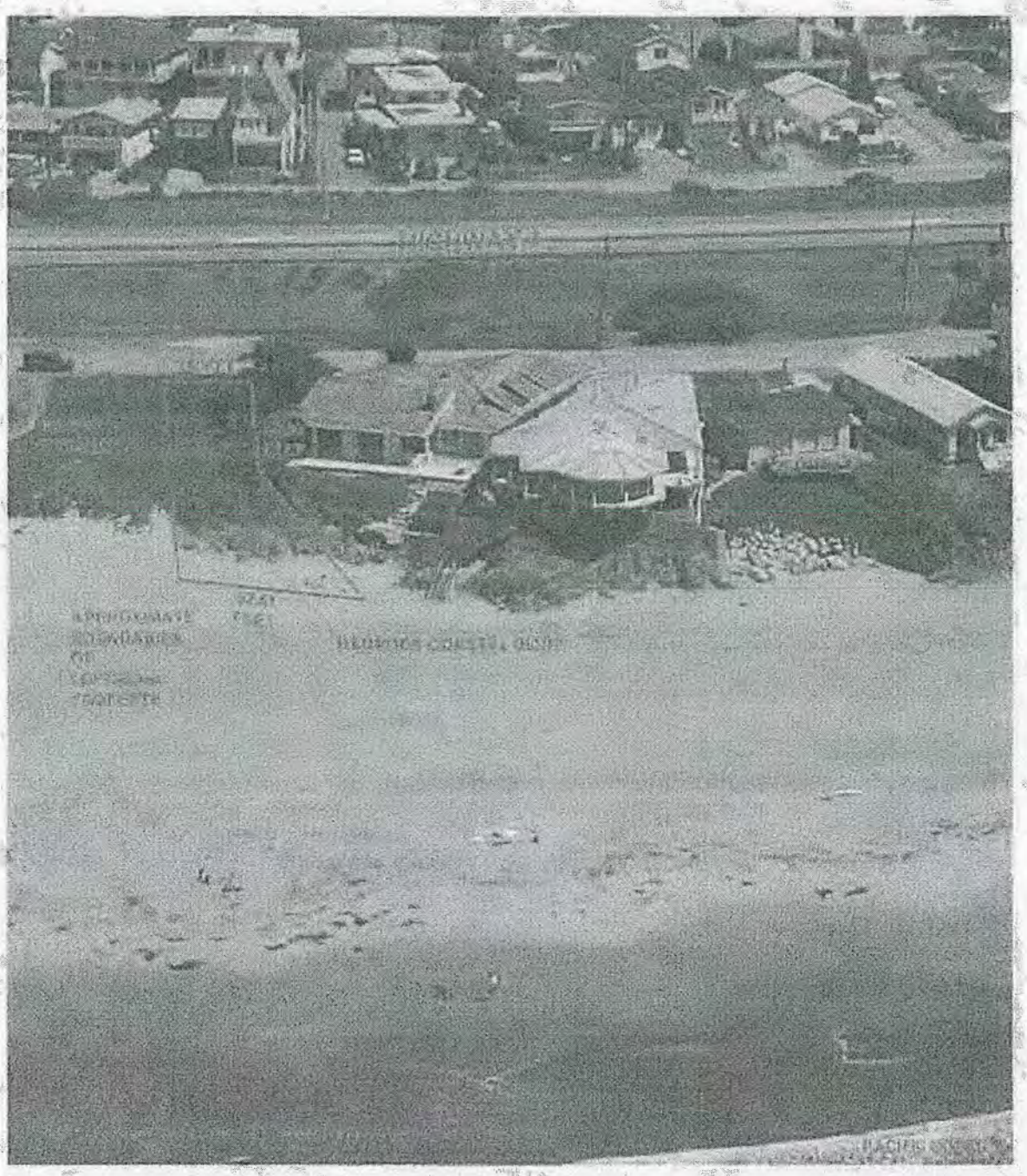


Figure 8: Enlarged Portion of State of California Acquisition Map from 1955 showing the Toe of Bluff that existed on the Loperena property in 1955

Photograph 1: 2002 Aerial Photograph from www.CaliforniaCoastline.org

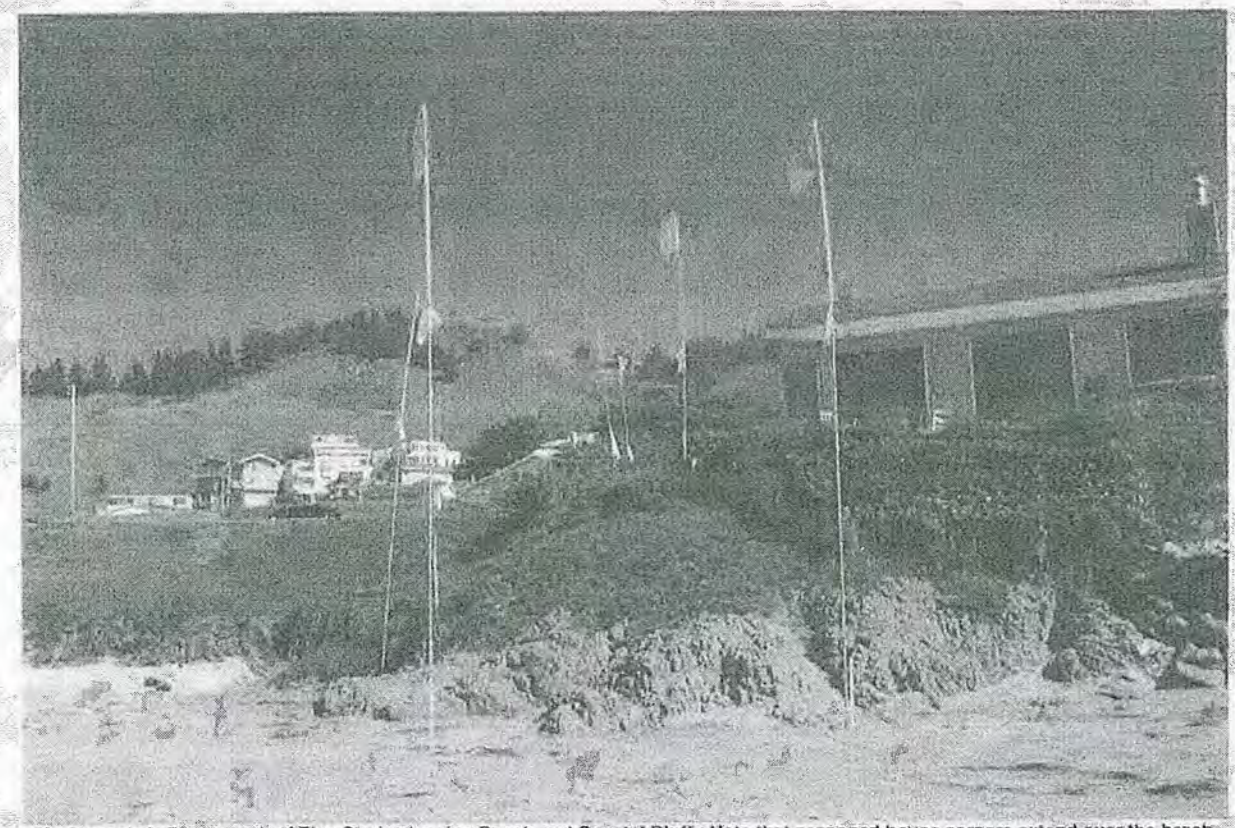
Photograph 2: Site photograph showing the Pacific Ocean, beach and portion of the coastal bluff face where bedrock is exposed



Photograph 3: 2002 Aerial Photograph showing the coastal bluff on the Loperena property, the beach at the base of the bluff, the Pacific Ocean wave action on the beach, and a sketch of the Loperena property boundaries

Photograph 4: Shows the coastal bluff on the Loperena property, the beach at the base of the bluff, and Pacific Ocean wave action on the beach

Photograph 5: Photograph of Flag Study showing Beach and Coastal Bluff



Photograph 6: Photograph of Flag Study showing Beach and Coastal Bluff ; Note that proposed house corners extend over the beach.

Exhibit B

Findings Supporting Denial of the Project

INFORMATION SUPPORTING DENIAL OF THE PROJECT DESIGN
Loperena Minor Use Permit and Coastal Permit
For Proposed Residence on Coastal Bluff Face and Beach
INCONSISTENCIES WITH PLANS AND ORDINANCES OF THE COUNTY OF SAN LUIS OBISPO AND THE CALIFORNIA COASTAL ACT

Project Is Inconsistent With County and State Coastal Commission Requirements Because It Is Proposed On a Coastal Bluff Face and Over a Coastal Sandy Beach

A. As defined by the California Coastal Act, the proposed residence is determined to be a coastal bluff project. The bluff on which the proposed project is situated, while it may have been influenced in the distant past by stormwater stream flows of Old Creek, today is definitely influenced by marine erosion since it faces toward the Pacific Ocean, is impacted by tidal action on a regular basis, and is located at the back of the coastal beach. Under the California Coastal Act, CCR California Code of Regulations, Title 14, Section 13577(h)(1) & (2) coastal bluffs are defined as:

> "(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and"
>
> "(2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2)."

During storms and high surf, the Pacific Ocean batters the bluff face at the project site on a regular basis. Clearly, the bluff face and beach at the base of the bluff are subject to marine erosion and are therefore "coastal bluffs" under the definition of the California Coastal Act.

B. In the case of the proposed development, the project is located on a sloping coastal bluff cliff face, and as such, is inconsistent with the County Estero Area Plan and State Coastal Act. Under the California Coastal Act, the bluff edge is defined as: "... the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge..." (California Code of Regulations, Title 14, §13577 (h) (2). (Refer to Memorandum dated 16 January 2003 to California State Coastal Commissioners and Interested Parties from: Mark Johnsson, California Staff Geologist, Subject: "Establishing development setbacks from coastal bluffs").

C. The proposed project, as designed is inconsistent with the San Luis Obispo County General Plan because:
   1. The project encroaches onto the coastal bluff face and over a sandy beach, and
   2. the EnergyWise Plan prepared as part of the General Plan, establishes a sea level rise of 3.3 to 4.6 feet by 2100 but the EIR uses only 2.5 feet over the next 100 years; and

therefore, the EIR used standards that are not consistent with the General Plan.

D. The proposed project is inconsistent with the Estero Area Plan for Shoreline Development as designed and fails to meet bluff-top setback standards, which stipulate that the project be setback a distance from the bluff top "adequate to withstand bluff erosion and wave action for a period of 100 years. In no case shall bluff setbacks be less than 25 feet from the top edge of the bluff." The project, as currently designed, is not located back of the coastal bluff-top, but encroaches onto the bluff face and over the sandy beach. The site is subject to potentially severe coastal wave impact that will adversely impact the residence as currently designed.

Project Is Not Consistent With General Setback and Coastal Hazards Setback Criteria

A. The project, as designed, incorporates a potential sea level rise of only 2.5 feet over the next 100 years. SLO County EnergyWise Plan (Page 7-4) states a projected Sea Level rise of 3.3 to 4.6 feet by 2100. EnergyWise Plan was adopted by the Conservation and Open Space Element of the General Plan. Since there is a discrepancy between information in the EnergyWise Plan and the Loperena EIR, it is inconsistent with the General Plan and cannot be approved until the sea level rise figures are rectified.

B. The project, as designed, extends significantly beyond the adjacent existing residence, and is therefore inconsistent with Coastal Plan Policy 3 Stringline Method for Siting New Development. "In a developed area where new construction is generally infilling and is otherwise consistent with Local Coastal Plan policies, no part of a proposed new structure, including decks, shall be built farther onto a beachfront than a line drawn between the most seaward portions of the adjoining structures; except where the shoreline has substantial variations in landform between adjacent lots in which case the average setback of the adjoining lots shall be used." Except for a few properties built prior to the enactment of California Coastal Commission ordinances, the average setback along Studio Drive is at least 25 ft.

C. The project, as designed, extends significantly beyond the required setback location. It is therefore inconsistent with the Coastal Zone Land Use Ordinance 23.04.118c.(3) "Roof and wall projections including cantilevered and projecting architectural features including chimneys, bay windows, balconies, cornices, eaves and rain gutters may project into the required setback a maximum of 30 inches."

Seawalls Are Prohibited

A. The proposed basement, located on the cascading bluff face, is determined to constitute a sea-wall, and as such, is prohibited by I-5 of the Estero Area Plan for Shoreline Development.

Project Will Impact Coastal Views and Is Out of Scale with the Neighborhood Due to Excessive Square-Footage in Relation to Lot Size

A. The scale of the proposed project is inconsistent with the character of the immediate neighborhood because the proposed single-family residence comprises a floor area of 3,097 sq. ft., which is over ten times the area of the buildable bluff-top.

B. Public views of the ocean from Highway and from the adjacent Studio Drive are significantly impacted due to the size of the proposed residence and the fact that it is proposed to be built on the coastal bluff face and over the sandy beach.

Project Is Inconsistent With Coastal Access Provisions

A. The project, as designed, encroaches over the sandy beach and is therefore inconsistent with Coastal Act Section 30211, which states that "development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation."

B. The proposed project, because it cantilevers over the sandy beach at the base of the bluff, is inconsistent with coastal access provisions of the Estero Area Plan.

Project Environmental Impact Report is Not in Compliance With CEQA

A. Because there were insufficient scoping meetings and minimal outreach for the EIR, the EIR is not in compliance with CEQA.

B. The statements in the Environmental Impact Report (EIR) that the project is not located on a coastal bluff are patently incorrect. (see definition of coastal bluff above). The project is in fact located on the Coastal bluff face and bluff-top and therefore is required to meet those standards applicable to Coastal Bluff setbacks and coastal beaches.

C. The geologic safety of the project has not been adequately confirmed and, in fact, the location and design of the project may create hazards for both the occupants of the proposed residence as well as increase the hazards to the coastal bluff south of the project and the hazards to the residents of the homes located south of the proposed project.

D. The proposed basement is located at an elevation that puts the residents of the proposed structure in harm. Said basement also constitutes a "seawall" and is therefore inconsistent with the County Estero Bay Plan. LCP Hazard Policy 1 requires that new development shall be designed so that shoreline protective devices (such as seawalls, cliff retaining walls, etc.) that would substantially alter landforms or natural shoreline processes, will not be needed for the life of the structure.

E. The project, as designed, has serious significant environmental impacts and is not incompliance with CEQA.

F. The project, as designed, will cause significant adverse environmental impacts, including but not limited to
   1. Hazards to the occupants of the residence due to wave run-up, tsunami, and coastal storms;
   2. Potential hazards and coastal erosion of the bluff-top and bluff face adjacent to the proposed project;
   3. Potential erosion of the beach at the base of the site;
   4. Adverse visual impacts due to the encroachment onto the coastal bluff face, over the beach and large scale of the project in relation to the small lots size and 31 ft. tall structure, impacting coastal views from the street, highway and from the public beach;
   5. The proposed scale of the project (proposed on a coastal bluff face and over the sandy beach) is inconsistent with the neighborhood;

6. The project will impact access on the sandy beach at the base of the coastal bluff;
7. The proposed project, as designed, is inconsistent with County and State Plans, including but not limited to the Estero Area Plan (local coastal plan) and the State Coastal Act.

Exhibit C

August 5, 2013 California Coastal Commission Letter and
August 8, 2013 E-mail Correspondence

STATE OF CALIFORNIA – THE RESOURCES AGENCY EDMUND G. BROWN JR., Governor

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

August 5, 2013

Ryan Hostetter, Project Manager
County Planning and Building Dept.
976 Osos St., Rm. 300
San Luis Obispo, CA 93408-2040

Subject: ***Draft Environmental Impact Report (DEIR) for the Loperena SFD***

Dear Ms. Hostetter:

Thank you for the opportunity to review the above-referenced DEIR. The proposed project consists of construction of a single-family residence on a bluff-top lot at the north end of Studio Drive in the unincorporated community of Cayucos, San Luis Obispo County. We have the following comments:

1. **Visual Resources.** The proposed project is located in a visually sensitive area adjacent to State Parks property (Morro Strand State Beach) at the north end of Studio Drive. Morro Strand State Beach is a popular public beach in the area and includes a scenic overlook/parking lot that is located just to the north of the project site. The project site is also highly visible from Highway 1, a designated state scenic highway and National Scenic Byway. The LCP includes a suite of visual and scenic resource protection policies for development within unincorporated San Luis Obispo County. Per the LCP, new development must be sited to protect scenic views and vistas, minimize visibility from public view corridors, minimize grading and earthmoving, and minimize visual intrusion on adjacent sandy beaches (including LCP Visual and Scenic Resources Policies 1, 2, 5, and 11 and corresponding LCP Coastal Zone Land Use Ordinance (CZLUO) Sections.

   In addition, the project is located within the Cayucos Community Small Scale Design Neighborhood (Studio Drive Neighborhood), which requires new development to be designed and sited to complement and be visually compatible with existing characteristics of the community. LCP Visual and Scenic Resources Policy 6 requires that the scale and architecture of new structures add to the overall attractiveness of the community and be compatible with natural features. Further, other policies, such as those found within the Estero Area Plan provide for enhanced protections for new developments along the shoreline. The project appears inconsistent with all of the above requirements because the modern-style, cantilevered, residential development would be highly prominent in a highly scenic public view (including from Highway 1) in a way that will degrade the character of this significant scenic viewshed.

2. **Bluff Setbacks.** The DEIR asserts that the bluff located north of the project site consists of fill. The DEIR also has determined that the project site is not located on a coastal bluff but rather a "river" or inland facing bluff. Thus, the DEIR concludes that the LCP's coastal bluff

policies, including required bluff setback distances for development, do not apply. However, in this case, it appears the line that was used in this analysis on the river bluff side is only 300 feet long, as opposed to the minimum 500-foot-long line that should have been used to determine the point at which the coastal and canyon bluffs converge. Understanding the DEIR's contentions about the limits of the 500-foot rule in this case, the final EIR should analyze the proposed project's location (and thus corresponding policy requirements) using the 500-foot line minimum. This may significantly alter the project. It should be noted in addition, that if the LCP's coastal bluff policies (including Areawide Standard I-4, Hazards Policy 6, or CZLUO Section 23.04.118) are in fact triggered by this proposed project (i.e. if it is determined that this is a coastal bluff significant revisions) to the project (i.e. an LCP-consistent bluff-top setback) would need to be made.

3. Sea Level Rise and Coastal Hazards. The proposed project is located within an LCP-mapped Geologic Study Area (combining designation) and fronts Morro Strand State Beach. This site is on a steep slope and in an area known for overall geologic instability (including due to wave run-up, unconsolidated soils, erosion, tsunamis, etc.). The LCP requires that new development ensure structural stability while not creating or contributing to erosion or geological instability (including LCP Hazards Policies 1 and 2, and CZLUO Section 23.07.086). The project includes substantial areas of cut and fill and substantial retaining walls, including basement walls reinforced with steel (themselves raising questions of shoreline protection). It is not clear if the project can ensure safety from, and not contribute to, geologic hazards, and it appears to raise (at the least) LCP hazard avoidance and minimization issues as well. Additionally, it is unclear how projected sea level rise rates in this area may influence expected coastal hazards over the project's lifetime.

In short, it does not appear that the proposed project is consistent with the LCP's Visual and Scenic Resources protection policies, Hazards policies, and other related requirements.

Thank you again for the opportunity to comment on the proposed project. If you have any questions regarding these comments or wish to discuss the project further, please contact me at 427-4863.

Sincerely,

Daniel Robinson
Coastal Planner
Central Coast District Office

CC: State Clearinghouse

From: rhostetter@co.slo.ca.us
To: Shawna Scott
Subject: Fw: Draft EIR for Loperena
Date: Wednesday, August 14, 2013 9:34:08 AM

Lets count these as additional comments from Coastal Commission below:

Ryan Hostetter, LEED AP
County of San Luis Obispo
Current Planning and Permitting
(805) 788-2351
----- Forwarded by Ryan Hostetter/Planning/COSLO on 08/14/2013 09:32 AM -----

From: "Robinson, Daniel@Coastal" <Daniel.Robinson@coastal.ca.gov>
To: "rhostetter@co.slo.ca.us" <rhostetter@co.slo.ca.us>
Date: 08/08/2013 12:38 PM
Subject: RE: Draft EIR for Loperena

Hi Ryan - yes we will provide. We may be more definitive that this is a coastal bluff after further review as well. Not exactly positive what LCP policy this corresponds to, if any, but Coastal act Section 13577 defines coastal bluffs:

(h) Coastal Bluffs. Measure 300 feet both landward and seaward from the bluff line or edge. Coastal bluff shall mean:

(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and

So you really don't even get to the second part about 500 feet lines, etc. if the site is or has been impacted by marine erosion within the past 200 years or so. This is certainly the case here. So it appears that coastal bluff policies would apply, and with appropriate setbacks, the project as proposed is severely flawed. (and of course this is even bracketing the severe visual impacts in this highly scenic area).

Hope this helps,
Daniel

-----Original Message-----
From: rhostetter@co.slo.ca.us [mailto:rhostetter@co.slo.ca.us]
Sent: Tuesday, August 06, 2013 8:09 AM
To: Robinson, Daniel@Coastal
Subject: RE: Draft EIR for Loperena

Hi Daniel,

We would like your full comments if possible before the hearing.... I think they will be really helpful for everyone. We have not scheduled a hearing yet, but maybe a follow up letter from your office within the next 30 days or so will be ok.... does that work for your schedule?

Thanks again,

Ryan Hostetter, LEED AP
County of San Luis Obispo
Current Planning and Permitting
(805) 788-2351

Exhibit D
Photographs of Property and Ocean at Typical High Tide

Exhibit E
Photo Graphic Showing Effect of Project on View of Ocean

Exhibit 8
Appellant's Presentation at Planning Commission Hearing January 23, 2014

Cindy Sugimoto, P.E.

- **Project Description**
- **Issues and Concerns**
  - Coastal Bluff, Set-back, and Cantilever limits
  - Basement Wall act as a Seawall
  - Hazards and Visual Impacts under estimated
  - Inconsistent with the General Plan (EnergyWise Plan) due to Sea Level Rise
  - Size inconsistent with Small-Scale Neighborhood
  - Encroachment on Lateral Access
  - Alternatives Insufficient

Loperena MUP/CDP 2005-00216 EIR (SCH No. 2007081044)

County Planning Commission

23 January 2014

Doreen Liberto-Blanck, AICP MDR

Earth Design, Inc.

Issue No. 1: Public Outreach

Lack of Scoping Meeting

CEQA § 15206 (b)(C) Requires Scoping Meeting when within the Coastal Zone and there is a substantial impact on critical environmental sensitivity.

- Until the EIR is prepared, it is difficult to make the above determination.
- Coastal Act PRC § 30116 identifies sensitive coastal resource areas, including visitor destination areas, highly scenic areas, areas possessing significant recreational values.

Issue No 2: Scenic And Visual Resources

Project Inconsistencies:

- **Section 30251 of Coastal Act** requires protection of scenic/visual qualities of coastal area.
- **Section 30253 of Coastal Act** addresses protecting public views of beaches, oceans, coastal trails, etc.

Structure Height: 31.4-feet high.

Obstruct views from the beach, coastal trail and adjacent Morro Strand State Beach.

EIR incorrectly characterizes proposed Project as similar to existing residences.

- No Recently Constructed Structures are Cantilevered over Beach.
- Wrong for EIR to compare project to nearby house built in 1964 prior to CCC rules enacted to protect the coast.
- None of Existing Structures have 31-foot structure visible from beach.

Issue No. 2 : Scenic and Visual Resources (con't)

EIR Determination: *"The project site does not represent a unique or attractive feature of the landscape, and does not support sensitive habitat due to its location along a line of existing residences. . ."* (pg. 3-10)

Policy Inconsistencies:

1. The project is on the edge of a popular State Park Beach (Morro Strand State Beach) in a visually sensitive area.
2. Adjacent to the project is the scenic overlook/parking lot.
3. The project is highly visible from Highway 1, a designated state scenic highway and National Scenic Byway.

Issue No. 3: Sea Level Rise Rate Inconsistent With Adopted Standards

EIR Determination: Incorporates a potential Sea Level Rise of 2.5-feet over the next 100-years (page 20 of Section 4.3)

Project Inconsistencies: SLO County EnergyWise Plan (Page 7-4) states a projected Sea Level rise of 3.3-feet to 4.6-feet by 2100. EnergyWise Plan was adopted by the Conservation and Open Space Element of the General Plan.

Since there is a discrepancy between information in the EnergyWise Plan and the Loperena EIR, it is inconsistent with the General Plan and cannot be approved until the Sea Level Rise figures are rectified.

Issue No 4: Size Inconsistent With Small-Scale Neighborhood

Policy Inconsistencies: Estero Area Plan Gross Structural Area (GSA) requirements should apply, especially if they continue to claim it is not a bluff top site.

Lot Size: **3,445 square feet**

House Size: **3,097**

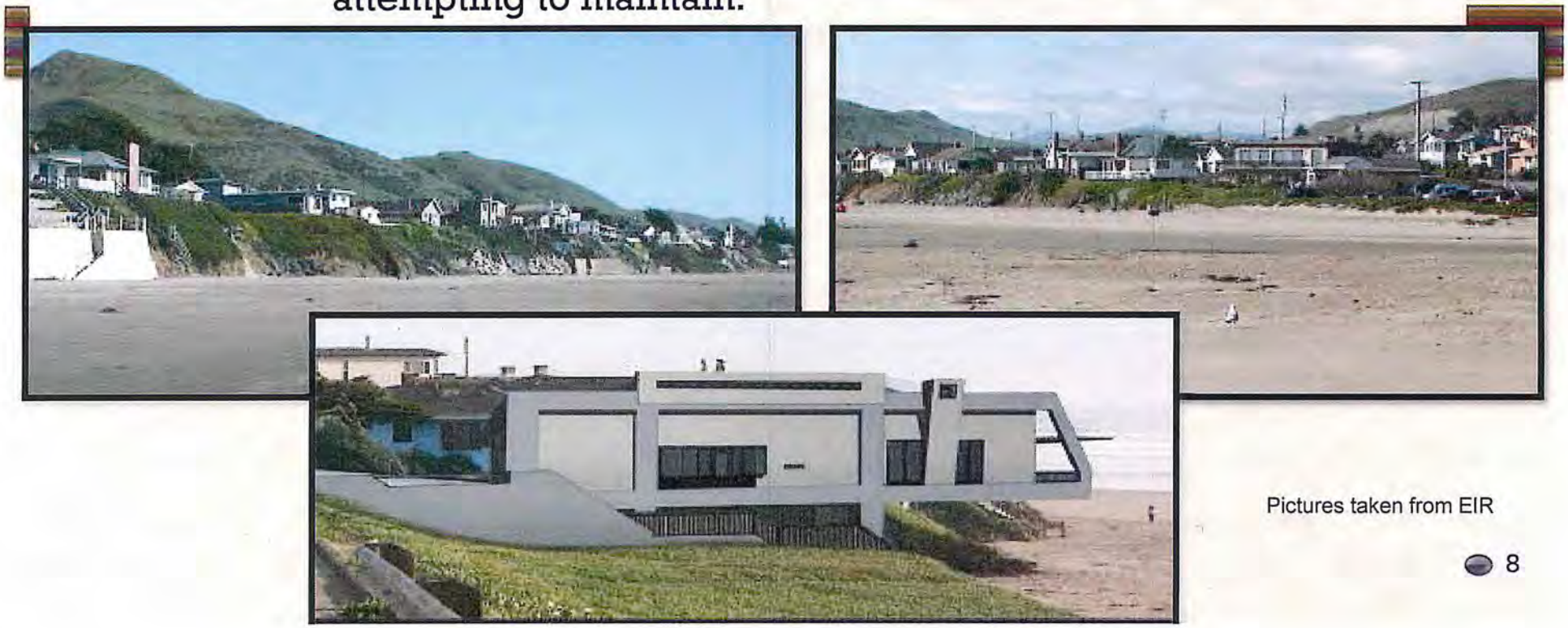
House Size is about 90% of Lot Size and Higher Percentage of Usable Lot Size, Maybe 180%

House size should be considered based on Table 7-3, which requires lots between 2,900-4,999 square feet have a maximum GSA of 55% of usable lot, not to exceed 2,500 sq. ft.

Since much of lot is sandy beach and therefore not usable, the usable lot area is much smaller.

Issue No. 5: Architecture/Style Inconsistent With Neighborhood

The design of the project is modern and includes a cantilevered deck. The futuristic design is substantially different from the small beach character Cayucos is attempting to maintain.



Pictures taken from EIR

Issue No 6: Encroachment On Lateral Access

Plans show Cantilevered deck encroaching 10-feet into the proposed lateral access area.

Lateral access should be free from encroachment by the residence's deck above.

Issue No. 7: Altering Natural Landform

Project Inconsistencies: **Coastal Zone LUO 23.04.118** does not permit substantially altering of the natural landform or impacting sand movement.

Coastal Plan Policy, Chapter 10, Visual and Scenic Resources, Policy 10 state that grading and other land form alterations must be minimized, and new development on open sandy beaches is prohibited except for facilities for public health and safety.

The basement requires excavation of about 6-feet to 11-feet in depth into the existing landform, and act as a seawall allowing incoming waves to undermine adjacent bluff.

Issue No 8: EIR Includes Inadequate Alternatives

Alternative Name			Total sf	Width x Length
Proposed Project			3,097 sf	19 ft x 95 ft
No Project Alternative		Include none of the components of the proposed project. A residential project may be proposed in the future.	0 sf	none
Design Alternative A	Reduced Project, Pilings	Eliminate the basement and construct residence on steel-reinforced concrete pilings.	1,857 sf	18 ft x 95 ft
Design Alternative B	Reduced Project, Traditional Design	Eliminate cantilevered portion of main floor. More traditional design with sloped roofs.	2,572 sf	18 ft x 70 ft.
Design Alternative C	Vegetation and Articulation	Same as proposed project, with added native shrubs on north and western aspects and native or simulated rocks on driveway wall.	3,097 sf	19 ft x 95 ft
Environmentally Superior Alternative		Considered the Proposed project, with adoption and incorporation of recommended mitigation measures.	3,097 sf	19 ft x 95 ft

CEQA Requires Range of Alternatives

An Alternative For An Eco-Friendly House Meeting Various Setback.

Issue No. 9: Findings Of Fact Need To Be Specific

Findings of Fact need to clearly show the basis upon which a decision has been made by decision makers.

Findings of Facts Based on Analysis and Evidence Have Been Provided to the Planning Commission That Clearly Demonstrate Project Is Inconsistent With County Plans And Ordinances.

Mark Foxx, P. G. and C.E.G.

Professional Geologist

Certified Engineering Geologist

Haro Kasunich & Associates, Inc.

Coastal Bluff

EIR Determination: Property is Not on Coastal Bluff.

Project Inconsistencies: The proposed residence extends seaward over a bluff slope at the back edge of the sandy beach adjacent to the Pacific Ocean. The bluff fronting the project site faces the Pacific Ocean, and there is an active beach at the base of this bluff. The bluff is subject to severe wave run-up on occasion and resultant coastal erosion.

California Code of Regulations, Title 14, Section 13577(h)(1) defines coastal bluffs as:

". . . those where the toe of which is now or was historically (generally within the last 200-years) subject to marine erosion."

COASTAL BLUFF GRAPHIC NO. 1

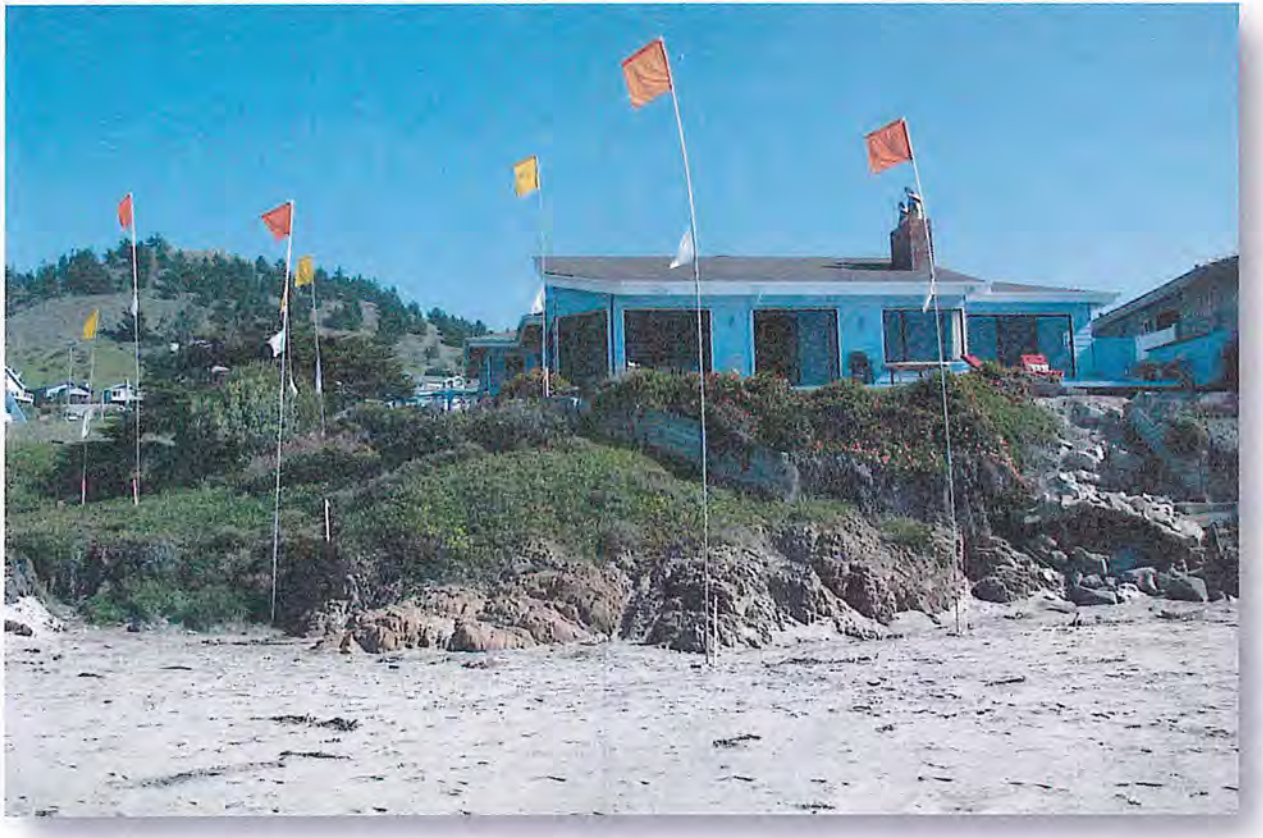
The toe of the bluff on the seaward portion of the Loperena property is now and was historically (within the last 200-years) subject to marine erosion. **It should be defined as a coastal bluff and bluff setbacks should be used in project design.**

COASTAL BLUFF GRAPHIC NO. 2 : SHOWING ERODED BEDROCK FACE

4

COASTAL BLUFF GRAPHIC NO. 3 : SHOWING WAVE ACTION

STORY POLE PHOTO NO. 1: NOTE POLES ON BEACH



STORY POLE PHOTO #2 : NOTE POLES ON BEACH

SEA LEVEL RISE INCREASES HAZARDS TO HOME

EIR Determination: Incorporates a potential Sea Level Rise of 2.5-feet over the next 100-years.

Project Inconsistencies: The State of California, through the California Ocean Protection Council agency, has adopted the following Sea Level Rise projections:

Year	Average of Models
2030	7 in (0.6 Feet)
2050	14 in (1.2 Feet)
2070	Low 23 in (1.9 Feet)
	Medium 24 in (2.0 Feet)
	High 27 in (2.3 Feet)
2100	Low 40 inches **(3.3 Feet)**
	Medium 47 inches (3.9 Feet)
	High 55 inches **(4.6 Feet)**

SEA LEVEL RISE INCREASES HAZARDS TO HOME

EIR Determination: Relies on a potential Sea Level Rise of 2.5-feet over the next 100-years.

Project Inconsistencies:

1. In 2012, the National Academy of Sciences Committee on Sea Level Rise in California, Oregon, and Washington projected that relative to 2000, sea level will rise:
   - ✓ 0.4 to 2-feet by 2050, and
   - ✓ 1.5 to 5.5-feet by 2100 (the average is 3.5-feet)
2. County Adopted EnergyWise Plan states a Sea Level Rise of:
   - ✓ 3.3 to 4.6-feet by 2100

SEA LEVEL RISE GRAPHIC

Portion of 2009 Pacific Institute graphic of Sea Level Rise in Cayucos Quadrangle. It shows the estimated Landward Limit of Erosion High Hazard Zone in 2100, represented by a yellow line. Near Loperena property (north of 35° 25'N about #23 mark) yellow line is on Highway 1.

Loperena property is clearly within the Erosion High Hazard Zone.

10

EROSION RATE UNDERESTIMATED

EIR Determination: Coastal Erosion Not a Hazard for Next 100-Years

Project Inconsistencies: We disagree with GeoSoils that coastal erosion at the Loperena property is not a significant hazard over the next 100-years. The reason that barren bedrock is exposed along the full width of the property at the landward edge of the beach sand is because of active marine (coastal) erosion processes acting there. Sea Level Rise will result in increased future erosion rates compared to the historical erosion rates, because of more frequent future wave impact on the bluff face.

TYPICAL HIGH TIDE PHOTO NO. 1

TYPICAL HIGH TIDE PHOTO NO. 2

TYPICAL HIGH TIDE PHOTO NO. 3

John Kasunich, P.E. and G.E.

Professional Engineer in Civil Engineering and Geotechnical Engineer

Haro Kasunich & Associates, Inc.

Inconsistencies Regarding Wave Action

EIR Determination: Wave Run-up Insignificant

Project Inconsistencies: The home is proposed at very low elevation above sea level (12.1-feet above Mean Sea Level elevation not 15-feet Mean Sea Level as the EIR states). Wave run-up as analyzed and presented by GeoSoils reaches more than 5-feet above the basement floor impacting the basement windows. Realistic beach scour elevations were not used, and sea level rise was not adequately considered in the wave run-up calculations.

Consideration of accepted Sea Level Rise results in calculated ocean wave run-up reaching much higher elevations than the basement windows. Greater scour and greater Sea Level Rise will result in larger breaking waves, higher wave run-up, and greater flooding around the home.

Basement Wall Acts As A Seawall

EIR Determination: Basement Wall Not a Seawall

Project Inconsistencies: LCP Hazard Policy 1 requires that new development shall be designed so that shoreline protective devices (such as seawalls, cliff retaining walls, etc.) that would substantially alter landforms or natural shoreline processes, will not be needed for the life of the structure.

Fact: The proposed residence design incorporates a foundation system including a reinforced concrete basement wall that will be impacted by wave run-up, and is nearly the full width of the property. The basement wall will deflect wave run-up towards the neighboring properties and adversely impact them.

Since the basement wall acts as a seawall, it should not be permitted.

Shoring And Construction Impacts Not Evaluated

EIR Determination: Construction and Shoring Impacts Insignificant

Project Inconsistencies: The proposed home is founded on the coastal bluff face and cantilevers out toward the ocean, more than 20-feet over the beach. The EIR does not address what adverse impacts to the beach and to the Access Easement along the back edge of the beach will occur during and after construction. The Shoring Details show 2-foot diameter boreholes for the shoring pilings in the 3-foot wide setbacks on each side of the 25-foot wide lot. We are concerned whether the shoring can be feasibly installed without impact on the neighboring properties. It is likely the borehole drilling or excavations for the shoring will slump and encroach on and damage the neighboring properties during construction.

QUESTIONS?

Kevin Elder

Sinsheimer Juhnke McIvor & Stroh, LLP

Summary of Issues

- Coastal Bluff, Set-back, and Cantilever limits
- Basement Wall acts as a Seawall
- Hazards and Visual Impacts under estimated
- Size inconsistent with Small-Scale Neighborhood
- Encroachment on Lateral Access
- Inconsistent with the General Plan (EnergyWise Plan) due to Sea Level Rise
- EIR Alternatives Insufficient

Recommendations

- **Deny Project as Proposed –** *Needed Findings of Fact Cannot Be Made In The Affirmative.*
- **Reject the other Alternatives as Insufficient.**
- **Define Bluff as a Coastal Bluff**
- **Revise to Reconcile General Plan Inconsistency on Sea Level Rise**
- **Encourage "Eco-friendly" Alternative Development**
  - **Require adequate set-back based on appropriate erosion rates, sea level rise, and wave run-up**
  - **Limit cantilever to 30-inches beyond set-back**
  - **Prohibit basement wall that acts as seawall and is subject to wave impact**
  - **Require unobstructed 25-foot lateral access easement**

For the San Luis Obispo County Planning Commission

Loperena Proposed Coastal Bluff Project
Town of Cayucos

Don Funk, CPESC, QSD/QSP
Planning & Environmental Consultant
Former River Morphologist for US-LT RCD
Representing Bill Beltz et al., A Cayucos Property Owner

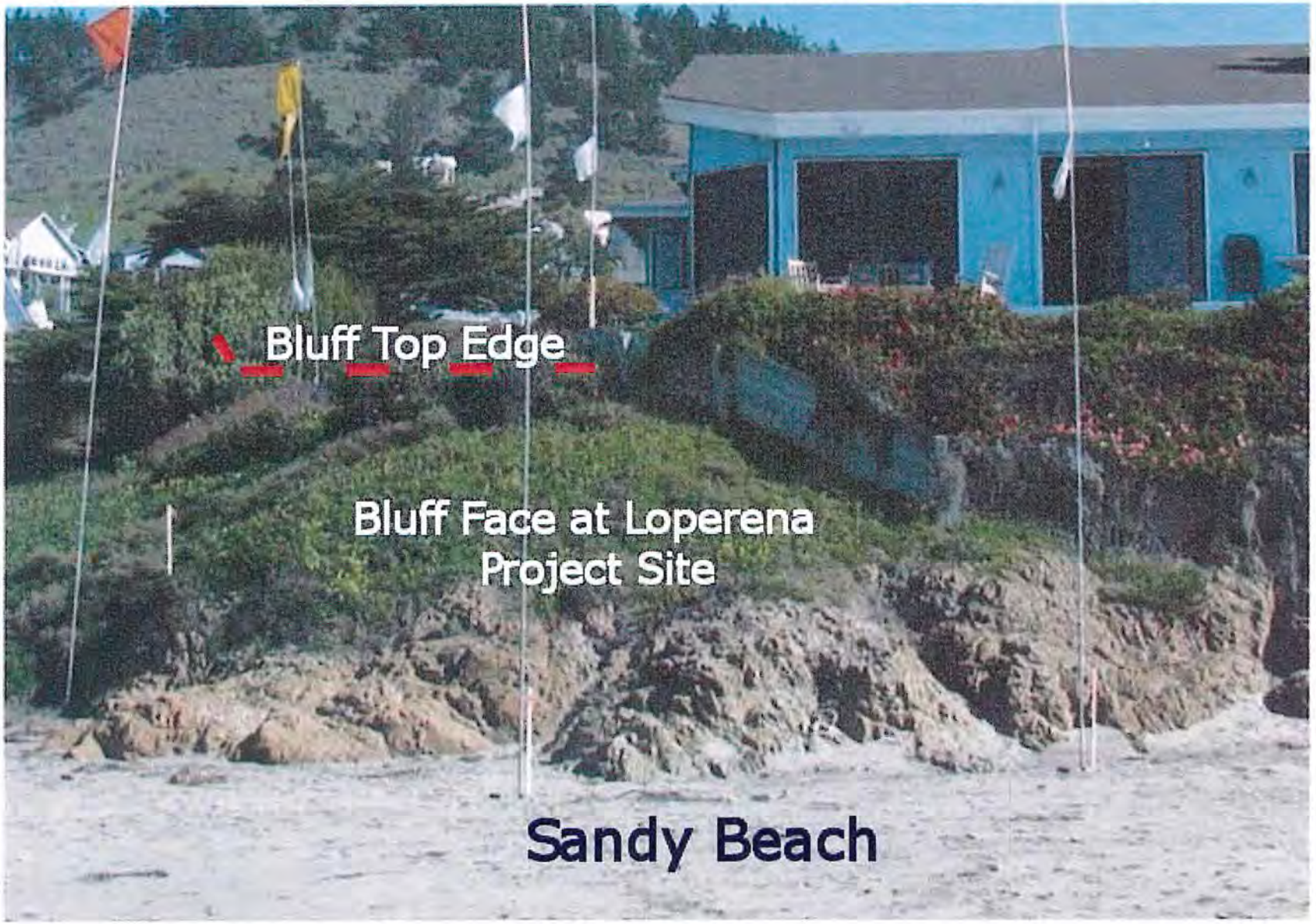
The Proposal Is Inconsistent with Requirements for Development on a Coastal Bluff Top, Coastal Bluff Face and Coastal Sandy Beach.

- It is inappropriate for a residence located west of Studio Drive to be built on the bluff face and overhand the sandy beach. The home should be redesigned to conform to the local coastal plan standards applicable to the Cayucos community.
- The home, because of its large scale and extension down the coastal bluff and over the beach, will significantly impact views from Highway 1.
- Approving this home will set a precedent (allowing a building to be built on a coastal bluff and over a sandy beach) that will affect other bluff-top properties within San Luis Obispo County and across the coast of California.
- The house should be redesigned to be built at least 25 feet from the bluff-top edge, consistent with the Estero Bay Plan for the community of Cayucos. (see photo in slide #4)

The EIR Consultant Asserts that this property is a creekbank of Old Creek.

- We disagree with the EIR consultant's theory. As can be seen in the following photo, the Proposed Project is clearly influenced by coastal wave impact and is therefore a Coastal Bluff and not a streambank. The base of the bank parallels the rest of the coastal bluff along the beach west of Studio Drive.
- If the County determines that the project is the Old Creek stream channel edge, the Estero Area Plan Cayucos section, Sensitive Resource Area (SRA) states "1. Setbacks – Coastal Streams. Development shall be setback from coastal streams as shown in Table 7-2" which requires a minimum 50 foot setback from the top of bank.
- The County Criteria for determining top of creekbank: "Riparian setbacks shall be measured from the upland edge of riparian vegetation or the top of stream bank where no riparian vegetation exists.

Coastal Bluff Edge, Bluff Face and Sandy Beach at Loperena Site



California Coastal Commission Staff D-EIR Comments

We agree with the Coastal Commission staff's concerns that the EIR fails to properly identify that the site is a coastal bluff, and therefore the project does not meet coastal setback requirements established for the lots located west of Studio Drive.

CCC Staff 8/5/13 Letter, Paragraph 2 includes:

policies, including required bluff setback distances for development, do not apply. However, in this case, it appears the line that was used in this analysis on the river bluff side is only 300 feet long, as opposed to the minimum 500-foot-long line that should have been used to determine the point at which the coastal and canyon bluffs converge. Understanding the DEIR's contentions about the limits of the 500-foot rule in this case, the final EIR should analyze the proposed project's location (and thus corresponding policy requirements) using the 500-foot line minimum. This may significantly alter the project. It should be noted in addition, that if the LCP's coastal bluff policies (including Areawide Standard I-4, Hazards Policy 6, or CZLUO Section 23.04.118) are in fact triggered by this proposed project (i.e. if it is determined that this is a coastal bluff significant revisions) to the project (i.e. an LCP-consistent bluff-top setback) would need to be made.

California Coastal Commission Staff D-EIR Comments

We strongly recommend that the Commissioners review the entire California Coastal Commission (CCC) Staff comments and SLO Staff responses, included in FEIR Chapter 9 page 8-16.

The comments were submitted by Daniel Robinson, CCC Coastal Planner and included input by Mark Johnsson, the CCC Geologist. Their letter addresses Visual Resources, Bluff Setbacks, and Sea Level Rise and Coastal Hazards. While the entire letter is important, we will focus on part of Paragraph 2. It explains that the analysis used to determine the termini of bluff and the basis of the EIR's finding that property is not a coastal bluff did not follow CCC procedures. It used a 300-ft line, instead of the required 500-foot line minimum. They stated that the FEIR should re-analyze using the 500 ft. minimum. SLO County Staff responses did not adequately address CCC comments.

California Coastal Commission Staff D-EIR Comments

CCC Staff 8/8/13 email includes:

So you really don't even get to the second part about 500 feet lines, etc. if the site is or has been impacted by marine erosion within the past 200 years or so. This is certainly the case here. So it appears that coastal bluff policies would apply, and with appropriate setbacks, the project as proposed is severely flawed. (and of course this is even bracketing the severe visual impacts in this highly scenic area).

The State Coastal Commission staff believe that the EIR has failed to correctly address the coastal bluff-top setbacks for the site.

Hi Ryan - yes we will provide. We may be more definitive that this is a coastal bluff after further review as well. Not exactly positive what LCP policy this corresponds to, if any, but Coastal act Section 13577 defines coastal bluffs:

(h) Coastal Bluffs. Measure 300 feet both landward and seaward from the bluff line or edge. Coastal bluff shall mean:

(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and

(2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2).

Bluff line or edge shall be defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge. The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations.

We respectfully recommend that the project be redesigned to meet code and denied as currently designed.

Exhibit 9
Kevin Elder SJMS Letter dated April 1, 2014 – Addresses Issues Raised During and After January 23, 2014 Planning Commission Hearing

WARREN A. SINSHEIMER III
DAVID A. JUHNKE
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April 1, 2014

Jim Irving, Planning Commissioner
Ken Topping, Planning Commissioner
Eric Meyer, Planning Commissioner
Tim Murphy, Planning Commissioner
Don Campbell, Planning Commissioner

San Luis Obispo County
Planning and Building Department
Attn: Ramona Hedges, Planning Commission Secretary
976 Osos Street, Room 300
San Luis Obispo, CA 93408-2040

rhedges@co.slo.ca.us

RE: Comments Regarding Final Environmental Impact Report and Loperena Minor Use Permit/Coast Development Permit (DRC2005-00216) (the "Project")

Dear Planning Commissioners:

On behalf of Ethel Pludow and Cynthia Sugimoto, this letter provides supplemental comments regarding the Project that surfaced during and after the January 23, 2014 County Planning Commission hearing, including new exhibits that were provided on behalf of Jack Loperena (the "Applicant") and by County staff. This letter is supplemental to all letters and material previously provided to the County relating to the Project, including but not limited to the January 22, 2014 letter submitted by Sinsheimer Juhnke McIvor & Stroh, LLP.

The following comments are provided regarding issues that surfaced during and after the January 23, 2014 Planning Commission hearing.

1. California Coastal Commission Staff Letter: A letter dated January 22, 2014 from Daniel Robinson, California Coastal Commission ("CCC") staff, provided comments regarding the Project and the associated Final EIR. The letter clearly stated the Project is inconsistent with the County's Local Coastal Plan and should not be approved. However, County staff did not specifically respond to the issues raised in the CCC staff's letter and the Planning Commissioners did not discuss it. It is requested that County staff respond specifically to each of the issues during the continued hearing scheduled for April 10, 2014. The three (3) primary issues addressed in the CCC staff letter include:

a. Visual Resources: The Project will be a significant, landmark structure affecting the visual resources of the area. For this and many other reasons, the Project is inconsistent with the Local Coastal Plan Visual and Scenic Resources Policies 1, 2, 5, 6 and 11.

b. Bluff Setbacks: The CCC's staff geologist determined that the Project site constitutes a coastal bluff due to the definition found in California Code of Regulations (CCR) §13577(h)(1) that coastal bluffs are "... those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion.". It concludes by stating "It is Commission's staff's strong opinion that the proposed project triggers the LCP's coastal bluff policies (including Areawide Standard I-4, Hazards Policy 6, and CZLUO §23.04.118), and that the proposed project is inconsistent with these LCP policies and standards. Given this fact, the project should be significantly revised to ensure that it meets the LCP's coastal bluff-top setback requirements."

c. Sea Level Rise and Coastal Hazards: The Project is inconsistent with LCP Hazards Policies 1 and 2, and CZLUO §23.07.086 due to the "substantial areas of cut and fill and substantial retaining walls, including basement walls reinforced with steel (which likely constitute shoreline protection)." [Seawalls and other shoreline protection are prohibited by code.] It also states that "... the proposed project raises LCP hazard avoidance and hazard minimization issues as well."

2. Coastal Bluff: During the January 23, 2014 Planning Commission Hearing, the County Geologist Consultant, Michael Phipps, discussed waves overtopping the rock outcropping near the toe of the bluff and their impact on the Project, including a description of run-up of storm waves onto the basement walls of the Project, confirming that the site is impacted by marine erosion.

By definition, and during the January 23rd Planning Commission hearing, through his statements the County's Geologist Consultant verified that the site is a coastal bluff, and therefore all of the standards applicable to coastal bluffs should apply per the Code. Additionally, Mark Foxx, Certified Engineering Geologist with Haro, Kasunich and Associates, verified that the site is a coastal bluff property through his testimony during the January 23, 2014 hearing.

Even in the face of this evidence, County staff and some of the Planning Commissioners ignored the first part of the definition of a coastal bluff, as defined by CCR §13577(h)(1) (i.e., where toe of bluff is subject to marine erosion), and failed to acknowledge the property as a coastal bluff.

County staff continued to address only the second part of the definition (i.e., when toe of bluff is not subject to marine erosion) as they presented revised versions of Bluff Edge Delineation on 2005 Aerial Photo, Figure No. 6, illustrating their termini of the bluff analysis. Figure No. 6, prepared by Cotton, Shires and Associates Inc. (CSA), changes the location of Old Creek and the line of the inland side of the beach. The identification of the alignment of the old historic stream channel and the rest of the coastal bluff has no consequence in an analysis to determine whether this site is a coastal bluff or not, since it has already been established that marine erosion impacts the toe of the bluff on this property. We believe that these revised drawings are not pertinent. However, since these revised drawings were presented during the hearing as evidence to support the County's position, it should be noted that to date the complete set of revised bluff termini analysis using a 500 ft. long line has not been made available for the public's technical review.

During the hearing the Applicant's Engineering Consultant exaggerated the setback provided by the current plan, stating that the basement wall is 25 feet from the "rock outcropping". To clarify the location of the original structure for the Commissioners, based on the F-EIR Figure 4.3-4 Engineering Geologic Cross Section prepared by CSA, the basement wall is at the top of the rock outcropping, and is located approximately 6 feet from the toe of the bluff. The required bluff setback is to be applied from the bluff top edge, not from the toe of the bluff. Since the natural/historic bluff top edge has not yet been established on any F-EIR drawings, it is requested that it be identified on a revised version of Figure 4.3-4, and setback dimensions, if any, should be referenced from that point.

3. Setback from Creek: The fact that the Project site has also been influenced in the past by stream storm water flows is of no consequence in determining whether or not the site is a coastal bluff. If however the County wishes to define the site as both a coastal bluff and streambank, then setback requirements of both coastal bluff standards and streambank setback requirements would apply. Specifically the Estero Area Plan Cayucos section, Sensitive Resource Area ("SRA") states "1. Setbacks – Coastal Streams. Development shall be setback from coastal streams as shown in Table 7-2", which requires a minimum 50 foot setback from the top of bank. The County's criteria for determining top of creekbank: "Riparian setbacks shall be measured from the upland edge of riparian vegetation or the top of stream bank where no riparian vegetation exists." At the hearing, the County staff minimized the need for creek setback and reported that creek setback is not intended for safety purposes, but is only intended for protection of vegetation. We strongly disagree. There is significant historical evidence that coastal streams can cause hazards and therefore establish the need for stream setbacks. The mention of the "riparian vegetation" in the Estero Area Plan is simply intended to clearly identify the location for the start of the setback.

4. Sea Level Rise: Less than a week before the Planning Commission hearing, staff prepared an amended Sea Level Rise study using new criteria not addressed in the Draft or Final EIR. We appreciate Commissioner Topping requesting the County Staff to analyze a higher potential sea level rise. However, we have several concerns related to the new analysis.

a. To be consistent with the County's Energy Wise Plan, we still believe the sea level rise assumed for the January 2014 analysis to be too low. Based on the presentation at the hearing, it seems that the new sea level rise of 5.5 ft. was based on the data in year 2100. The sea level rise data should have been extrapolated to year 2114 or 2115, which would increase the sea level to approximately 6.5 or 7 feet.

b. We question the accuracy of the new analysis and the associated results presented during the hearing. Comparison of the F-EIR analysis results to the new results indicated a 3 foot increase (2.5 feet to 5.5 feet) in sea level rise only resulted in a 0.33 feet increase (0.8 feet to 1.13 feet) in the height of the water over-topping of the rock outcropping.

After the hearing, GeoSoils, Inc. submitted a letter "Sea Level Rise and Coastal Hazard Discussion, Northwest and Immediately Adjacent to 2612 Studio Drive (APN 064-253-07), Cayucos, San Luis Obispo County, California", dated March 12, 2014, which documented their updated analysis.

Our Geotechnical experts from Haro, Kasunich and Associates, Inc. (HKA) reviewed the GeoSoils 3/12/14 letter. The HKA letter dated March 31, 2014, "Comments on March 12, 2014 Sea Level Rise and Coastal Hazard Letter from GeoSoils and the revised plans for the Loperena Residence by C.P. Parker dated 3/14/2014", is attached as Exhibit 1. The HKA report finds that the results of the GeoSoils wave run-up and overtopping analyses underestimate the gross hazards at the site, particularly in the oceanfront portion of the property where bedrock is not present to higher elevations and erodible fill soils exists. The HKA report describes several flaws of the GeoSoils analysis, which are summarized below:

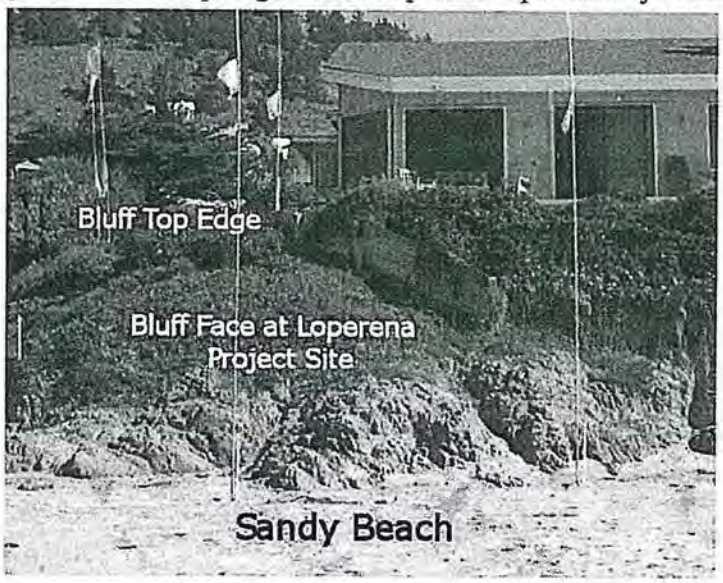
- maximum breaking wave heights underestimated
- worst case profile was not utilized
- slope roughness overestimated
- wind velocities underestimated

c. Unfortunately copies of the new analysis were not distributed to the public for review prior to the Planning Commission hearing. Pub. Res. Code §21092.1 requires recirculation of an EIR after significant new information is added to an EIR. The new information was presented during the public hearing and was not distributed for public discussion. While staff indicates there are no new impacts from the new analysis, public discussion should have occurred before making a decision that the EIR does not need to be recirculated. Since the new information was not distributed to the public to review and provide comments, the County failed to comply with CEQA.

5. New Alternative Layout: New alternative plans dated March 14, 2014 were developed for the Applicant by C.P. Parker in response to the Planning Commissioners' request at the hearing. The revised plans are an improvement over the original design due to the reduction of the cantilever by approximately 25 feet, and pushing the basement wall landward approximately 10 feet. However, we continue to have serious concerns about this new alternative layout. The HKA letter, attached as Exhibit 1, addresses these issues in detail. Our primary concerns are summarized below:

- Unfortunately the new alternative plan still does not provide any setback from the top of the bluff. The revised Project's basement wall is about 10 ft. landward of the rock outcropping, but only 3 ft. from the beach at the NW corner of the property. Figure 1 Bluff Top Edge Photographic at Loperena Project Site is provided to assist Commissioners visualize the site.

Figure 1 – Bluff Top Edge Photo/Graphic at Loperena Project Site



- The main floor living space and deck are cantilevered 21 ft., including 11 ft. over the sandy beach. This cantilevered structure "beyond the setback" is not allowed by the CZLUO §23.04.118.c(3) or the SLO County Engineering Geology Report Guidelines, Item 21 Bluff Erosion. The entire cantilevered structure should be eliminated from the plans.

- The revised Project is still located in a hazardous area and impacted by wave run-up. It includes a door and window on the seaward facing basement wall, which are located lower than the GeoSoils wave run-up analysis resultant elevations. The door and window should not be allowed below the run-up elevation.

- Critical items are not depicted on the revised plans. Items such as landward edge of the beach, toe of the bluff, top edge of the bluff, and required setbacks (75 years, 100 years, and minimum 25 ft.) from the top edge of the bluff should be added to the plans.

- Although the revised plans do not depict the top edge of the bluff, it is clear that the Project is not in conformance with bluff setback requirements and does not comply with other related code requirements.

- The Project is not setback a sufficient distance to assure stability and structural integrity, and to withstand bluff erosion and wave action for a period of 75 and/or 100 years without construction of shoreline protection structures.

- We agree with Commissioner Meyer's statement during the hearing that the County must be consistent in defining the lot and applying various regulations. If the County continues to define it as not a coastal bluff for setback purposes, then the review must be consistent for other issues such as Gross Structural Area (GSA) limitations. Therefore, Estero Area Plan (§7.V.D.3.d(2) and Table 7-3 page 7-71) should apply.

  Sheet A1.1 of the new alternative plans includes the following Project information: Lot size 3,444 sq. ft.; Allowed and Proposed (GSA) of 55% or 1,894 sq. ft. Unfortunately, the Allowed GSA stated on the plan is incorrect and ignores a key part of Table 7-3, which states "55% of usable lot". Since a good portion of the lot is sandy beach and therefore not usable, the usable lot area is much smaller than indicated. If the County continues to consider the lot non-bluff top, in order to meet the Small Scale Design Neighborhood GSA requirements the Allowed GSA should be revised and the plan redesigned accordingly.

6. Good Neighbor Issue: We agree with Commissioner Topping statements regarding the need for good neighbor consideration. A good neighbor approach seeks to prevent impacts upon adjacent neighbors. During the hearing Ms. Kathy Novak, the Applicant's

representative, and County Staff incorrectly replied to the Commissioner's question and informed him that there are no such County Policies that protect private views.

To correct this mis-information, Coastal Plan Policy 3 Stringline Method for Siting New Development clearly states that "... no part of a proposed new structure, including decks, shall be built farther onto a beachfront than a line drawn between the most seaward portions of the adjoining structures; except where the shoreline has substantial variations in landform between adjacent lots in which case the average setback of the adjoining lots shall be used." The proposed structure clearly extends beyond the adjacent house.

On page 3-10 of the January 23, 2014 hearing staff report, the Stringline Method for Siting New Development is addressed. The County Staff incorrectly determined that the Project complies with the requirement. The justification for this finding in part states "...does not extend as far toward the west as the three to four properties to the south ...". For some unknown reason County staff is twisting the facts and the intent of Policy 3.

7. Cypress Tree: Based on a citizen's comments during the Planning Commission hearing regarding the Cypress Tree, we reviewed the mitigation related to the tree in the F-EIR and realized that the mitigation measures included in the Final EIR are not sufficient to protect the cypress tree located near the Loperena property.

The EIR identifies a significant mature cypress tree located in the right-of-way very near the subject proposed Project. While the EIR did not provide an evaluation of the tree, the EIR states that the tree will be protected.

The tree was recently evaluated by a certified arborist, Charles Tamagni. The Arborist Report prepared by Chip Tamagni, Certified Arborist, A & T Arborists and Vegetation Management, Inc. and dated March 7, 2014, is attached as Exhibit 2. In his professional opinion, it is "physically impossible" to save the tree given the current design of the project, including impacts from the building foundations and utilities. [His findings also apply to the new alternative plan]. According to the arborist, the tree, which has a trunk diameter of approximately 76 inches, has a shallow root system that extends into the area of the proposed construction site. The EIR should be re-written to correctly identify that the cypress tree cannot be saved unless the Project design is significantly changed.

The arborist's report states: "In conclusion, we are quite certain the current design will negatively affect the Monterey cypress tree to the point of death. At a minimum, we feel the safe distance to remove the roots is located approximately 25 feet from the trunk of a tree this size to minimize long term impacts. We feel the EIR did not correctly identify mitigation measures to protect the tree. Although there is mention of an environmental monitor requirement in the EIR, there are no specific mitigations mentioned to protect the tree other than the misguided mention of tree fencing. The site, if developed according to plan will most likely be a death sentence for the cypress tree."

We request that the County require the Applicant to redesign the Project to protect the tree. At a minimum, revise mitigation BR/mm-3 and BR/mm-4 to clearly indicate the design revisions necessary to protect the tree, such as providing a minimum construction clearance of at least 25 foot distance from the trunk of cypress tree, which requires the general redesign of the Project, rerouting of the gas line relocation, and redesign of drainage system. We also request the clearance area be shown on revised plans.

We appreciate this opportunity to address some of the issues raised during and after the hearing applicable to the proposed Project. The above issues should be incorporated into the Findings of Denial submitted as part of the January 22, 2014 letter. The Project is clearly not consistent with County regulations and the EIR is clearly inadequate. It appears obvious that the EIR should be required to be re-written and Project should be redesigned to comply with code.

Sincerely,

SINSHEIMER JUHNKE McIVOR & STROH, LLP

KEVIN D. ELDER

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Attachments: Exhibit 1: Letter from Haro, Kasunich and Associates, Inc. "Comments on March 12, 2014 Sea Level Rise and Coastal Hazard Letter from GeoSoils and the revised plans for the Loperena Residence by C.P. Parker dated 3/14/2014", dated March 31, 2014.

Exhibit 2: Arborist Report prepared by Chip Tamagni, Certified Arborist, A & T Arborists and Vegetation Management, Inc. and dated March 7, 2014.

cc: Ryan Hostetter (via e-mail w/encls.)

Exhibit 1

[See Attached]

31 March 2014

Ms. Ryan Hostetter
County of San Luis Obispo
Department of Planning and Building
County Government Center Room 200
San Luis Obispo, CA 93408-2040

Subject: Mark Foxx, CEG 1493, John E. Kasunich, GE 455
Comments on March 12, 2014 Sea Level Rise and Coastal Hazard Letter from GeoSoils and the revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014.

Reference: Loperena Minor Use Permit/Coastal Development Permit
DRC 2005-00216
SCH No. 2007081044

Dear Ms. Hostetter:

We have reviewed the March 12, 2014 Sea Level Rise and Coastal Hazard Letter from GeoSoils Inc. and the revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014.

The results of the wave runup and overtopping analyses contained therein underestimate the gross hazards at the site.

Review of the GeoSoils work was made more difficult because their letter provided incomplete supporting data. Their letter does not present the geologic profile they used that relates to their calculations, only the computer model results. We may have additional comments after complete information is received.

A. OUR COMMENTS REGARDING THE MARCH 12, 2014 SEA LEVEL RISE AND COASTAL HAZARD LETTER FROM GEOSOILS INC. FOLLOW:

Maximum Breaking Wave Heights Underestimated in Analysis:

We note that the prior April 10, 2013 GeoSoils report indicates that with 2.5 feet of future sea level rise the water surface used for wave runup and overtopping analysis will be at an elevation +10.1 feet NAVD88; and the maximum scour elevation at the toe of the rock outcropping (coastal bluff) is at 3.1 feet NAVD88. This yields a water depth of 7.0 feet at the toe of the rock outcropping (coastal bluff), which was used in the 2013 GeoSoils analysis, which used a 5.5 foot high wave at the toe. The "new" March 12, 2014 GeoSoils analysis uses future sea level rise amounts of 4.6 and 5.5 feet respectively, which makes the water surface used for wave runup and overtopping analysis be at an elevation +12.1 and 13.0 feet NAVD88. GeoSoils acknowledges this

by using water depths of 9.0 and 9.9 feet at the toe of the rock outcropping (coastal bluff) for the 2014 analysis. They then use 7.0 and 7.7 foot high waves at the toe in the analysis. Larger waves than those they used in their analysis have the potential to occur at the site. Our analysis suggests that wave heights of 8.9 to 9.8 feet could occur at the toe of the bluff and are appropriate. Use of appropriate wave heights would significantly increase wave runup, overtopping frequency and overtopping volumes at the site. With future sea level rise, deeper water will occur at the toe of the bluff, and larger waves will break there creating higher wave runup; this will result in greater rates of bluff overtopping, more frequent wave impact on the proposed home, and more rapid bluff erosion, which will erode the bluff over time.

Worst Case Profile Not Utilized In Analysis:

GeoSoils has only used a single profile in their analysis, which appears to include the existing condition bluff profile; no wave runup or overtopping analysis with an eroded bluff profile has been conducted. On the northern part of the site, fill soils comprise the bluff all the way down to the present beach sand level, making the likelihood of future erosion and bluff recession in that area very high. Such erosion and recession is expected to reach the proposed home, particularly the northern part. This factor is unaccounted for in the GeoSoils model. Geosoils states that existing fill soils will be removed and compacted fill soils will be placed between the residence and the ocean. Compacted soils remain susceptible to erosion under ocean wave impact.

Slope Roughness Overestimated:

A Rough Slope Coefficient of 0.398 was used in the GeoSoils modeling, for what we think is the portion of the profile above 3.1 NAVD88, which is indicative of an extremely rough surface, which does not exist at the site. Slope Roughness Coefficients of at least 0.8 are appropriate. Use of higher coefficients (which represent smoother surfaces) would significantly increase wave runup, overtopping frequency and overtopping volumes at the site.

Wind Velocities Underestimated:

Onshore Wind Velocities of 3.376 feet per second (about 2.25 MPH) were used in the 2014 GeoSoils analysis. Wind velocities of 16.878 feet per second (about 11.6 MPH) were used in the 2013 GeoSoils analysis, closer to actual wind velocities that frequently occur onshore at the site during stormy conditions with large waves. No explanation of why the reduced wind velocity was made. Use of appropriate wind velocities in the 2014 study would significantly increase wave overtopping frequency and overtopping volumes at the site.

B. OUR COMMENTS REGARDING THE REVISED PLANS FOR THE LOPERENA RESIDENCE BY C. P. PARKER DATED 3/14/2014.FOLLOW:

The northwestern corners of the lower level (basement level) of the proposed home depicted on the revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014 are about 3 feet from the landward edge of the beach. All of the seaward wall of the basement is within 20 feet of the beach. The plans label the landward edge of the beach approximately at the "edge of rocks" and "edge of iceplant" on Sheet A1.1. The revised plans depict that the main floor and deck cantilever 21 feet above grade seaward of the basement floor; 11 feet of this cantilever are above the beach sand.

Although the 2013 and 2014 wave runup analyses by GeoSoils indicates wave runup will reach elevations of 21.1 to 22.9 feet NAVD88, the home remains designed with a door threshold at the northwestern corner of the home at approximately elevation 15 NAVD88 , and a basement window on the seaward side of the home at approximately elevation 20 NAVD88. The revised design for the home keeps it located where it will be impacted by ocean wave runup. The revised plans show that portions of the seaward basement wall of the home are designed to be exposed above finished grade at elevation 16 NAVD88, approximately 3 feet from the landward edge of the beach. The revised design of the home keeps it located in a hazardous area, an area subject to marine erosion, well seaward of the top edge of the coastal bluff.

As previously communicated and documented, California Code of Regulations, Title 14, Section 13577(h)(1) defines coastal bluffs as those where the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion. **There can be no doubt that the toe of the bluff on the seaward portion of the Loperena property, is now and was historically (within the last 200 years) subject to marine erosion.**

The revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014 do not depict the location of the landward edge of the beach or the toe of the bluff.

Under the California Coastal Act, the bluff edge is defined as:

... the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge..."

(California Code of Regulations, Title 14, §13577 (h) (2).

The revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014 do not depict the location of the top edge of the bluff.

Analysis of bluff setbacks is required by San Luis Obispo County regulations. Some of the pertinent regulations are included in Appendix A of this letter. These documents vary, but require that new development be designed and set back from the bluff edge a distance sufficient to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years and 100 years. The SLO County Local Coastal Program Policy Document updated in 2007 and SLO County Coastal Zone Land Use Ordinance updated in 2013 both state 75 years. However, the SLO County Estero Area Plan updated in 2009 and the SLO County Engineering Geology Report Guidelines updated in 2013 states 100 years.

Because the toe of the bluff at the landward edge of the beach at the property proposed for development is now subject to marine erosion, then it constitutes a coastal bluff, as defined by California Code of Regulations, Title 14, Section 13577(h)(1). Because it is a coastal bluff, the top edge of the bluff must be identified on the plans and the required bluff setback must be shown. The SAN LUIS OBISPO COUNTY ESTERO AREA PLAN status that: "In no case shall bluff setbacks be less than 25 feet."

Although the revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014 do not depict the location of the top edge of the bluff, it is clear that the residence is not in conformance with bluff setback requirements.

The revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014 depict that the main floor and deck of the proposed home cantilever 21 feet horizontally above grade seaward of the basement floor and wall; 11 feet of this cantilever are above the beach sand.

San Luis Obispo County regulations address cantilever portions of buildings in relation to coastal bluffs. The Coastal Zone Land Use Ordinance maximum allows roof and wall projections to cantilever a maximum of 30 inches per 23.04.118.c(3). This provision applies to new development proposed to be **located adjacent to a beach or coastal bluff.** Our interpretation of this code section is that it does not apply to building floors, only roof or wall projections such as eaves or bay windows.

The San Luis Obispo County Engineering Geology Report Guidelines indicate all **development, including** second story and **cantilevered portions of a structure shall**

be set back a minimum of 25 feet from the top edge of the bluff. There is no indication of any exception to the setback requirements for cantilevers.

CONCLUSIONS:

In conclusion, it remains our opinion that the GeoSoils studies underestimate the hazards and risks at the homesite from coastal wave runup and overtopping, particularly in the oceanfront portion of the property where bedrock is not present to higher elevations and erodible fill soils exist.

The 2013 and 2014 wave runup analyses by GeoSoils indicates ocean wave runup will reach 6 to 8 feet above the finished floor of the lower level of the home, and will impact the doors and window adjacent to the beach. The revised design for the home keeps it located where it will be impacted by ocean wave runup. The revised design of the home keeps it located in a hazardous area, in an area subject to marine erosion, well seaward of the top of the coastal bluff.

As previously communicated and documented, California Code of Regulations, Title 14, Section 13577(h)(1) defines coastal bluffs as those where the toe of which is now **or** was historically (generally **within** the last 200 years) subject to marine erosion. **There can be no doubt that the toe of the bluff on the seaward portion of the Loperena property, is now and was historically (within the last 200 years) subject to marine erosion.**

The revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014 do not demonstrate that the proposed home and **all development, including second story and cantilevered portions of a structure is set back a minimum of 25 feet from the top edge of the bluff.** We note that the previously submitted 1955 State Of California Acquisition Map for Morro Strand State Beach shows the Loperena property and the configuration and location of the toe of bluff in 1955. It stands to reason that at that time the top edge of the bluff would have been landward of the toe of the bluff. Defining the edge of the bluff can be complicated by the presence of irregularities in the bluff edge, a rounded or stepped bluff edge, a sloping bluff top, or previous grading near the bluff edge. Mark J. Johnsson, California Coastal Commission Staff Geologist, in a publication he authored entitled "Establishing Development Setbacks From Coastal Bluffs"[1] indicates: "Placing artificial fill on or near a bluff edge generally does not alter the position of the natural bluff edge; the natural bluff edge still exists; buried beneath fill, and the natural bluff edge is used for purposes of defining development setbacks." The required setbacks for all development on the Loperena property should be depicted on the plans as measured from the top bluff edge.

We still do not believe that the Applicant has demonstrated that the proposed residence is set back from the bluff edge a distance sufficient to assure stability and structural integrity, and to withstand bluff erosion and wave action for a period of 75 and 100 years without construction of shoreline protection structures. We do not see evidence that indicates that the bluff setback is adequate to allow for future bluff erosion, especially in the areas where the residence is proposed about 3 feet from the landward edge of the beach. We expect that any existing fill soils between the home and the beach, and those re-densified fill soils proposed to be placed between the home and the beach during construction, will be eroded within the next 50 years.

[1] *Proceedings, California and the World Ocean, 2002, Orville Magoon, Editor"* http://www.coastal.ca.gov/W-11.5-2mm3.pdf

We recommend that:

1) The back edge of the sandy beach, the toe of the bluff, and the top edge of the bluff be depicted on the project plans.

2) Any proposed home on the property be setback a sufficient distance from the top edge of the coastal bluff (as defined by California Code of Regulations §13577(h)(1) which defines the bluff at the site as a coastal bluff because the toe of bluff is subject to marine erosion).

3) The required bluff setback should be delineated on the plans. Since County regulations stipulate 75 year, 100 year and 25 foot minimum setbacks, all three of these setbacks should be depicted. The foundation of the home, and any cantilevered section of the home should not extend into the setback. No utilities or other development should be allowed within (seaward of) the setback.

4) Wave runup analysis using realistic potential maximum breaking wave heights, slope roughness characteristics and onshore wind velocities should be completed, using a worst case profile that accounts for potential erosion and resultant bluff erosion (particularly in the bluff areas composed of artificial fill) during the design life of the proposed home.

5) Any proposed home on the property should be situated landward of areas of potential wave runup. Doors and windows should not be allowed below the runup elevation.

Please call us to discuss this project if you have any questions.

Very truly yours,

HARO, KASUNICH AND ASSOCIATES, INC.

John E. Kasunich
G.E. 455

Mark Foxx
C. E. G. 1493

APPENDIX A

Pertinent Blufftop Setback Regulations

1. COUNTY OF SAN LUIS OBISPOLOCAL COASTAL PROGRAM POLICY DOCUMENT
A PORTION OF THE SAN LUIS OBISPO COUNTY LAND USE ELEMENT OF THE GENERAL PLAN
Adopted March 1, 1988; Revised April 2007

Chapter 11 Hazards, Policy 6: Bluff Setbacks
New development or expansion of existing uses on blufftops shall be designed and set back adequately to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of **75 years** without construction of shoreline protection structures which would require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist based upon an on-site evaluation that indicates that the bluff setback is adequate to allow for bluff erosion over the **75 year period.** Specific standards for the content of geologic reports are contained in the Coastal Zone Land Use Ordinance. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.118 OF THE CZLUO.]

2. COUNTY OF SAN LUIS OBISPO COASTAL ZONE LAND USE ORDINANCE
Revised November 2013

23.04.118 - Blufftop Setbacks:
New development or expansion of existing uses proposed to be located adjacent to a beach or coastal bluff shall be located in accordance with the setbacks provided by this section

New development or expansion of existing uses on blufftops shall be designed and set back from the bluff edge a distance sufficient to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of **75 years** without construction of shoreline protection structures that would, in the opinion of the Planning Director, require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist based upon an onsite evaluation that indicates that the bluff setback is adequate to allow for bluff erosion over the 75 year period according to County established standards.

3. SAN LUIS OBISPO COUNTY ESTERO AREA PLAN

THE LAND USE ELEMENT AND LOCAL COASTAL PLAN (LCP) of the SLO GENERAL PLAN
Adopted March 1, 1988
Cayucos and Rural Portions Updated January 7, 2009
Shoreline development standards in the Estero Area Plan include the following (Areawide Standard I-4):

Bluff Setbacks. The bluff setback is to be determined by the engineering geology analysis required in I.1.a. above adequate to withstand bluff erosion and wave action for a period of **100 years. In no case shall bluff setbacks be less than 25 feet.**

Geologic bluff setback. As determined by a site stability evaluation prepared by a certified engineering geologist based upon an on-site evaluation, development shall be set back from the top edge of the bluff sufficiently to withstand bluff erosion and wave action for a period of **100 years** without the need for construction of shoreline protective structures that require substantial alterations to the natural landforms along bluffs and cliffs. **In any case, the minimum setback shall be, 25 feet.**

4. SAN LUIS OBISPO COUNTY ENGINEERING GEOLOGY REPORT GUIDELINES
January 2005, Updated October 2013

The geologic report must include a predicted long-term average erosion rate and a setback that will ensure the development will not require shoreline protection during its economic life, based on either a or b below:

a. Develop a long-term annual average erosion rate, multiply this by the economic life of the structure and either multiply that by a buffer factor or add a buffer factor as a set distance. For example, if the rate of erosion is determined to be 3 inches per year, the economic life of the structure is 100 years, and the buffer factor is 1.2, then the minimum setback is 30 feet (3 in. x 100 yrs. = 300 in., 300 in. = 25 feet, 25 feet x 1.2 = 30 feet). ....

b. **Provide 100-year setback lines** and give the methodology for determining the setback. Define the bluff edge as the upper termination of a bluff, cliff, or sea cliff. In cases where the top edge of the cliff is rounded away from the face of the cliff, the bluff line or edge is that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a step-like feature at the top of the cliff face, the landward edge of the uppermost riser is taken to be the cliff edge.

APPENDIX B

Pertinent Cantilever Regulations

COUNTY OF SAN LUIS OBISPO COASTAL ZONE LAND USE ORDINANCE SITE DESIGN STANDARDS (REVISED APRIL 2011) TITLE 23 OF THE SAN LUIS OBISPO COUNTY CODE

23.04.118 - Blufftop Setbacks:

"New development or expansion of existing uses proposed to be located adjacent to a beach or coastal bluff shall be located in accordance with the setbacks provided by this section."

"New development or expansion of existing uses on blufftops shall be designed and set back from the bluff edge a distance sufficient to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of **75 years** without construction of shoreline protection structures that would, in the opinion of the Planning Director, require substantial alterations to the natural landforms along bluffs and cliffs."

"**c. Exceptions to bluff setback requirements:** The minimum setback requirements of this section do not apply to the following:"

"(3) Roof and wall projections including cantilevered and projecting architectural features including chimneys, bay windows, balconies, cornices, eaves and rain gutters may project into the required setback a maximum of 30 inches."

SAN LUIS OBISPO COUNTY ENGINEERING GEOLOGY REPORT GUIDELINES

21. Bluff erosion

"Based on the above criteria, **all development, including second story and cantilevered portions of a structure shall be set back a minimum of 25 feet** or the long-term annual average erosion rate multiplied by the economic life of the structure and by a buffer factor of 1.2 **from the top edge of the bluff**, whichever is greater."

Exhibit 2

[See Attached]

A&T ARBORISTS
CERTIFIED ARBORISTS
Contractor Lic.#906700

3/7/14
To: Donald Funk

From: Chip Tamagni, A & T Arborists and Vegetation Management Inc.

Re: Planned Lot Development for APN# 064-253-007, Loperena Residence

This report is in regard to the planned construction of a new home located on a coastal bluff at the north end of Studio Drive in Cayucos, CA. A & T Arborists was hired primarily to study the potential construction impacts to a Monterey Cypress tree (*Cupressus macrocarpa*) located within the county right of way. There appears to be some confusion regarding the "coastal bluff" or "stream bank" designation for this lot. First, the Monterey cypress is a species found on coastal bluffs in California. They are by no means a riparian species that primarily exist next to streams. With the out flow of Old Creek 600 feet to the north and the ocean and beach in the immediate vicinity, the proper definition of this property is a coastal bluff. Any deviation from referring to this property as a coastal bluff appears to be biased in that setback obligations can be avoided.

Monterey Cypress trees are indigenous to the Monterey Peninsula area, however they thrive in the Central Coast region. They are generally a shallow rooted species and are subject to wind throw especially as a result of root loss and ground disturbance. Although this tree is relatively short (approximately 25 feet tall), the trunk section is quite extensive. The multi-trunk diameter is approximately 76 inches. Within the last few years, we removed a diseased Monterey Cypress tree several blocks south of this location that we estimated at 75-80 years old. This tree is similar in size, therefore, it may be somewhat close to the same age. The following photograph illustrates the massive trunk and shallow roots of the cypress tree.

When we review construction impacts, we look at impacts within the "critical root zone". This zone comprises a circular area equal to a radius of 76 feet (one inch of diameter equals one foot of critical root zone radius) for this particular tree. Through producing literally hundreds of tree plans, we have concluded that most trees can withstand root loss of up to about 25% and still survive especially with mitigation that may consist of fertilization, fungicide, insecticide, trimming for less wind sail, etc. We come across very few trees that survive impacts greater than 50% in the long term. These surviving trees are usually vigorous "sprouting" species such as a mulberry or an elm. This particular tree appears to be subject to a potential 60% impact as per the "extent of grading" from the Loperena site plan. Per the EIR, BR/mm-3, fencing is to surround the cypress tree. That is physically impossible due to the fact the grading will cover 60% of the drip line. I measured the distance from the edge of the trunk to the existing culvert and the result was seven feet. At about eight feet from the trunk is a planned retaining wall that will support the fill driveway. This wall will require a substantial footing to

retain the fill soil for the driveway. The excavation for this footing will completely destroy all the roots from seven feet north of the tree. The grading outside of the wall will also damage the roots north of the trunk. In addition, the tree will have to be side trimmed extensively (1/3 of the canopy) at a minimum to work in that area.

In addition to the cypress tree, there is also a long-leaf pine tree (*Pinus palustris*) within the county right of way that will definitely have to be removed for the driveway construction.

In conclusion, we are quite certain the current design will negatively affect the Monterey cypress tree to the point of death. At a minimum, we feel the safe distance to remove the roots is located approximately 25 feet from the trunk of a tree this size to minimize long term impacts. We feel the EIR did not correctly identify mitigation measures to protect the tree. Although there is mention of an environmental monitor requirement in the EIR, there are no specific mitigations mentioned to protect the tree other than the misguided mention of tree fencing. The site, if developed according to plan will most likely be a death sentence for the cypress tree.

Chip Tamagni
Certified Arborist #WE 6436-A
ISA Certified Hazard Risk Assessor #1209
BS Cal Poly Forestry and Natural Resources Management
California State Pest Control Advisor #75850
California State Applicator #104758

Exhibit 10
Coastal Appealable Form and Kevin Elder SJMS Letter dated April 24, 2014 – Appeal Planning Commission April 10, 2014 Decision

COASTAL APPEALABLE FORM

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING
976 OSOS STREET ☐ ROOM 200 ☐ SAN LUIS OBISPO ☐ CALIFORNIA 93408 ☐ (805) 781-5600

Promoting the Wise Use of Land ☐ Helping to Build Great Communities

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

PROJECT INFORMATION Name: Loperena File Number: DRC 2005-00216

Type of permit being appealed:
☐ Plot Plan ☐ Site Plan ☒ Minor Use Permit ☐ Development Plan/Conditional Use Permit
☐ Variance ☐ Land Division ☐ Lot Line Adjustment ☒ Other: Coastal Development Permit

The decision was made by:
☐ Planning Director (Staff) ☐ Building Official ☐ Planning Department Hearing Officer
☐ Subdivision Review Board ☒ Planning Commission ☐ Other

Date the application was acted on: April 10, 2014

The decision is appealed to:
☐ Board of Construction Appeals ☐ Board of Handicapped Access
☐ Planning Commission ☒ Board of Supervisors

BASIS FOR APPEAL

☒ INCOMPATIBLE WITH THE LCP. The development does not conform to the standards set forth in the Certified Local Coastal Program of the county for the following reasons (attach additional sheets if necessary)
Explain: Please see attached.

☒ INCOMPATIBLE WITH PUBLIC ACCESS POLICIES. The development does not conform to the public access policies of the California Coastal Act – Section 30210 et seq of the Public Resource Code (attach additional sheets if necessary).
Explain: Please see attached.

List any conditions that are being appealed and give reasons why you think it should be modified or removed.

Condition Number Several Reason for appeal (attach additional sheets if necessary)
Please see attached.

APPELLANT INFORMATION
Print name: Kevin Elder on behalf of Ethel Pludow and Cynthia Sugimoto
Address: 1010 Peach St., San Luis Obispo, CA 93401 Phone Number (daytime): (805) 541-2800

I/We are the applicant or an aggrieved person pursuant to the Coastal Zone Land Use Ordinance (CZLUO) and are appealing the project based on either one or both of the grounds specified in this form, as set forth in the CZLUO and State Public Resource Code Section 30603 and have completed this form accurately and declare all statements made here are true.

Signature April 24, 2014 Date

OFFICE USE ONLY
Date Received: By:
Amount Paid: Receipt No. (if applicable):

WARREN A. SINSHEIMER III
DAVID A. JUHNKE
JUNE R. McIVOR
HERBERT A. STROH
DAVID S. HAMILTON
KEVIN D. ELDER
N. ELLEN DREWS

SJMS
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KElder@sjmslaw.com

April 24, 2014

Client: 3203.003

San Luis Obispo County Board of Supervisors
Bruce Gibson
Debbie Arnold
Adam Hill
Frank Mecham
Caren Ray
c/o Clerk of the Board
County Government Center, Room D-430
San Luis Obispo, California 93408

Re: Appeal of San Luis Obispo County Planning Commission Decision Certifying Final Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) and Approval of Project

Dear Supervisors Gibson, Arnold, Hill, Mecham and Ray:

On behalf of Ethel M. Pludow and Cynthia R. Sugimoto, we respectfully submit this letter and enclosed materials to appeal the April 10, 2014, decision of the San Luis Obispo County Planning Commission (the "Commission") to approve the Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) ("MUP/CDP") and to certify the related Final Environmental Impact Report ("F-EIR").

As detailed in this letter and based on the reasons set forth in prior comments and correspondence submitted on behalf of Ms. Pludow and Ms. Sugimoto, the Commission erred when it approved the MUP/CDP and certified the F-EIR. Therefore, we respectfully request that the San Luis Obispo County Board of Supervisors (the "Board") deny the permit and reverse the certification of the F-EIR.

Doreen Liberto-Blanck, AICP, MDR, of Earth Design, Inc., was engaged to assist in analyzing the F-EIR and preparing this appeal. Ms. Liberto-Blanck has over 25 years of experience in a range of land use planning, environmental planning and public policy making. Don Funk, CPESC, QSD/QSP, of Earth Design, Inc., has been assisting Ms. Liberto-Blanck. Mr. Funk specializes in erosion control, creek restoration and public works issues.

John Kasunich P.E. and G.E., and Mark Foxx, C.E.G., of Haro, Kasunich and Associates, Inc., ("HKA") were engaged to analyze the F-EIR and assist with this appeal in respect to the geology, soils, and geotechnical engineering issues. John Kasunich is a Professional Engineer in Civil Engineering and a Geotechnical Engineer with over 30 years of experience in coastal engineering. Mr. Foxx is a Certified Engineering Geologist with more than 30 years of experience in coastal geology. Mr. Kasunich and Mr. Foxx have worked on numerous projects requiring the interpretation of the California Coastal Act, as well as local coastal plans and ordinances. Mr. Kasunich and Mr. Foxx have worked extensively with government agencies, including the California Coastal Commission (the "CCC"), and their work is known to both the Executive Director and Deputy Director of the CCC.

The results of their analysis of the D-EIR are set forth in their report dated August 1, 2013, and attached as Exhibit A (the "HKA Report"). By letter dated March 31, 2014 (the "HKA 2014 Letter"), HKA also analyzed the sea level rise and coastal hazards supplement letter provided by David Skelly of GeoSoils, Inc., dated March 12, 2014 (the "GeoSoils 2014 Letter"), and the revised plans for the project dated March 14, 2014. The HKA 2014 Letter is attached as Exhibit B.

1 Summary of Proceedings.

1.1 Planning Commission Hearing.

The F-EIR was prepared in response to applicant Jack Loperena's ("Applicant") proposal to build a 2,917 square foot single story residence, with a basement and a mezzanine, on a 3,445 square foot lot located at the north end of Studio Drive in Cayucos (the "Original Project"). The Original Project was not approved at the January 23, 2014 Commission hearing, because the Commission asked the Applicant to reduce the size of the project, and continued the hearing to April 10, 2014.

The Applicant presented revised plans at the April 10, 2014 continued hearing that reduced the project to 2,374 square feet (the "Reduced Project"). The Commission certified the F-EIR and approved the Reduced Project at the April 10, 2014 hearing. The Reduced Project is an improvement over the Original Project, but nevertheless fails to meet the coastal bluff requirements related to setbacks, restriction of shoreline protective devices, and cantilever limitations and other inconsistencies with County policies. Therefore, the Reduced Project should not be approved nor should the F-EIR be certified.

1.2 Initial Environmental Review.

The MUP/CDP application was submitted on April 24, 2006 and was accepted on April 16, 2007. The County's initial review of the Original Project resulted in the issuance of a Mitigated Negative Declaration (the "MND") dated July 12, 2007. A Revised Mitigated Negative Declaration and Notice of Determination (the "Revised MND") dated August 9, 2007 was re-issued. A Request for Review was filed by Michael R. Jencks on August 23, 2007

challenging aspects of the Revised MND. The Revised MND was amended in response to the 2007 Request for Review, and an Amended Mitigated Negative Declaration (the "Amended MND") was issued on April 2, 2009. We submitted a request for review of the Amended MND on April 16, 2009. In response, the Applicant voluntarily decided to prepare an Environmental Impact Report for the project. Due to Applicant's delays in responding to the County's requests for information regarding the project, it took over four years after the April 16, 2009 request for review to prepare the Draft Environmental Impact Report ("D-EIR"). The D-EIR was circulated for comment in June, 2013. We submitted comments on the D-EIR in a letter dated August 5, 2013. Following receipt of comments to the D-EIR from the public, the F-EIR was produced in December of 2013. We submitted comments on the F-EIR in a letter dated January 22, 2014. We provided testimony at the January 23, 2014 Commission hearing. We submitted a letter dated April 1, 2014 providing supplemental comments on issues that surfaced during and after the January 23, 2014 Planning Commission hearing. We provided testimony at the April 10, 2014 Commission hearing.

2 Summary of Grounds for Appeal.

We request that our prior requests for review and other correspondence, including without limitation our comments to the D-EIR and the F-EIR and attachments thereto, be made a part of the administrative record. We will provide additional copies of any and all of those documents upon request.

The F-EIR has not adequately addressed or provided mitigation measures for several issues raised in our prior submissions. The following is a summary of the key issues and concerns that form the basis of this appeal.

2.1 Coastal Bluff.

The project is proposed to be constructed on a coastal bluff as defined in California Code of Regulations ("CCR") Title 14 §13577(h)(1) which states that coastal bluffs are "(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion." The HKA Report and HKA 2014 Letter (Exhibits A and B) support the finding that the project is on a coastal bluff. Photographic evidence shows the project is located adjacent to an active beach, and that marine forces have acted upon the rock outcropping near the toe of the bluff. Additionally, the County's F-EIR analysis and the subsequent revised sea level analysis (GeoSoils 2014 Letter) state that the ocean will overtop the rock outcropping. The CCC staff letter dated August 5, 2013 and email dated August 8, 2013, (the "CCC 2013 Correspondence") commenting on the D-EIR finds that it is a coastal bluff. The CCC staff's letter on the F-EIR dated January 22, 2014, (the "CCC 2014 Correspondence") attached as Exhibit C reiterated that the CCC's staff geologist determined that the project site constitutes a coastal bluff. County staff discounted the CCC staff correspondence as not fully vetted because it was signed by a staff planner instead of the staff geologist and therefore lacking in authority, even though it clearly states that the CCC staff geologist determined the site is a coastal bluff.

The proposed project triggers the Estero Area Plan and San Luis Obispo County Local Coastal Program ("LCP") coastal bluff policies including: Areawide Standard I-4, Hazards Policy 1 and 6, Coastal Zone Land Use Ordinance ("CZLUO") Section 23.04.118, and Safety Elements of the General Plan, Sections S-23 and S-63. The Reduced Project is inconsistent with these policies and standards.

The Reduced Project does not meet the coastal bluff setback requirements, the associated restriction on shoreline protective devices, and limitations on cantilevered structures beyond the setback line. The Reduced Project does not provide any setback from the top of the bluff. Its basement wall is about 10 feet landward of the rock outcropping, and only 3 feet from the beach at the northwest corner of the property. The reinforced concrete seaward facing basement wall acts as a seawall, and is therefore inconsistent with LCP Hazard Policy 4 prohibiting shoreline protective devices for new development. The main floor living space and deck are cantilevered 21 feet, including 11 feet over the sandy beach. The project should be significantly revised to ensure that it meets the LCP's coastal bluff-top requirements.

The F-EIR incorrectly determined that the bluff is not a coastal bluff, but instead contends it is a fluvial bluff created by Old Creek and that the coastal bluff policies don't apply. For more detail see Section 3.

2.2 Visual Resources.

The Original Project, which is adjacent to Morro Strand State Beach, would have been a significant, landmark structure affecting the visual resources of the area. Yet the F-EIR glossed over the issue, finding there would be little impact to the existing visual condition along Studio Drive. Although the Reduced Project lessens the impact, it is still a significant, 33 foot high structure, with the main floor cantilevered 21 feet, including 11 feet over the sand. The view from the beach will be greatly affected due to the height of the Reduced Project. The Reduced Project is inconsistent with the LCP Visual and Scenic Resources Policies 1, 2, 5, 6 and 11. For more detail see Section 4.

2.3 Coastal Hazards.

The HKA Report describes how the bluff is subject to wave run-up and marine erosion and finds that coastal hazards are underestimated in the F-EIR. The impact related to beach sand scour and coastal erosion are underestimated and will be significant. The HKA Report identifies inconsistencies in the EIR Consultants' wave run-up calculations supporting their finding that hazards are underestimated. It includes several photographs that clearly show the exposed bedrock coastal bluff on the property and the "active beach" at the base of the bluff. The report raises a concern that the basement wall, which acts as a seawall, will deflect wave run-up towards the neighboring properties and adversely impact them.

The HKA 2014 Letter finds that the results of the GeoSoils 2014 Letter wave run-up analyses continue to underestimate the gross hazards at the site, particularly in the oceanfront portion of the property where bedrock is not present to higher elevations and erodible fill soils exists. It finds that the Reduced Project, although moved 10 feet landward, is still located in a hazardous area and impacted by wave run-up, and identifies a door and window on the basement level, which are located lower than the GeoSoils wave run-up analysis resultant elevations. It finds that the project is not setback a sufficient distance to assure stability and structural integrity, and to withstand bluff erosion and wave action for a period of 75 and/or 100 years without construction of shoreline protection structures. The HKA 2014 Letter describes several flaws in the GeoSoils analysis, including: maximum breaking wave heights and wind velocities underestimated, slope roughness overestimated, and the worst case profile was not utilized. It recommends that critical items that are not depicted on the plans should be added to show: (i) the location of the landward edge of the beach, (ii) the location of the toe of the bluff and the top edge of the bluff, (iii) the location of the required setback from the top edge of the bluff required to withstand erosion and wave action for 75 years (CZLUO), (iv) the location of the required setback from the top edge of the bluff required to withstand erosion and wave action for 100 years (Estero Area Plan and County Engineering Geology Report Guidelines), and (v) the location of the minimum 25 foot setback (Estero Area Plan). For more detail see Section 5.

2.4 Sea Level Rise.

The F-EIR is inconsistent with the General Plan in its assumptions of the sea level rise and therefore its resulting effect on the Reduced Project. The F-EIR analysis uses a projected sea level rise of 2.5 feet in the next 100 years. However, the F-EIR should have used a projected sea level rise of 3.3 to 4.6 feet by 2100, as adopted in the County's EnergyWise Plan, and extrapolated that rate out to at least the year 2114 which would increase the sea level rise to approximately 6.5 or 7 feet.

The County commissioned an additional wave run-up study using a new sea level rise of 5.5 feet. The results of the study were presented orally at the January 23, 2014 Commission hearing, and the study was documented in the GeoSoils 2014 Letter. While this sea level rise is greater than that used in the F-EIR, it is still too low.

The EnergyWise Plan is required by the Conservation and Open Space Element of the General Plan. The EnergyWise Plan will assist the County's participation in the regional effort to implement land use and transportation measures to reduce greenhouse gas emissions by 2035. Since there is a discrepancy between information in the EnergyWise Plan and the F-EIR, even if supplemented by the GeoSoils 2014 Letter, the F-EIR is inconsistent with the General Plan and cannot be approved until the sea level rise figures are rectified.

Note: It seems that that approved F-EIR findings have not been correctly updated to reflect the revised sea level rise analysis and its impact on the Reduced Project. For more detail see Section 6.

2.5 Lateral Access.

Although lateral beach access is discussed in the F-EIR, access is not being dedicated as required by the LCP Shoreline Development Policy 2, Estero Area Plan, and by CZLUO 23.04.420 and other policies. The Reduced Project Plans incorrectly show a 25 foot easement from the western property line to fulfill the lateral access requirement. Since topography limits the dry sandy beach to less than 25 feet at times during the year, the access should extend from the mean high tide to the toe of the bluff. The lateral access should be provided as required and be free of encroachment by the cantilevered portion of the Reduced Project. Also pursuant to CZLUO 23.04.420, lateral access must be dedicated prior to any permits being issued. However, the conditions of approval approved and adopted by the Commission do not require that the Applicant dedicate the lateral access easement prior to obtaining any permits. Condition 41 (per the Staff Report for the April 10, 2014 Commission Hearing) incorrectly requires the dedication for lateral access prior to the final building inspection. The description of the lateral access easement in the Reduced Project plans is inconsistent with the description of the lateral access in Condition 41. For more detail see Section 7.

2.6 Bluff-top and Creek Setback.

The Reduced Project should comply with the setback requirements in the Estero Area Plan, Cayucos section, Sensitive Resource Area. Despite the dispute about whether it is a coastal bluff, there is no dispute that it is a bluff. Pursuant to the Estero Area Plan, the Reduced Project should be setback a minimum of 25 feet per table 7-1 (minimum setbacks for bluff-tops, west of Studio Drive), and farther where necessary to withstand 100 years of erosion. If the County continues to consider the site a fluvial bluff, then the Reduced Project must be setback a minimum of 50 feet in accordance with Table 7-2 (coastal stream setbacks – Old Creek). For more detail see Section 8.

2.7 Coastal Plan Policies for Visual and Scenic Resources Policy 3 Stringline Method.

The Reduced Project is inconsistent with the Coastal Plan Policy 3 Stringline Method for Siting New Development, because the proposed structure clearly extends seaward of the adjacent house. In accordance with the Policy, if there are substantial variations in landform between adjacent lots, then the average setback of the adjoining lots should be used. The County incorrectly determined that the Reduced Project complies with the requirement. The project's setback should be revised to meet Policy 3 requirements. For more detail see Section 9.

2.8 Estero Area Plan - Cayucos Small Scale Neighborhood Standards.

The Reduced Project does not meet the Cayucos Small Scale Neighborhood design standards and other communitywide standards, and is inconsistent with the character and intent of the Cayucos community small scale design neighborhood. Although the Reduced Project is an improvement over the Original Project, it is still inconsistent with the intent of the design

standards and is unlike the existing residences on Studio Drive, especially when viewed from the beach due to its 33 foot height, and because the main floor is cantilevered 21 feet, including 11 feet over the sand.

The County must be consistent in defining the lot and applying various regulations. If the County continues to define it as non-coastal bluff for setback purposes, then the review must be consistent for other issues such as Gross Structural Area (GSA) limitations. Therefore, Estero Area Plan (§7.V.D.3.d(2) and Table 7-3 page 7-71) should apply. Sheet A1.1 of the Reduced Project plans lists the Allowed GSA as 55% of the total lot (3,444 sq. ft.) or 1,894 sq. ft. Unfortunately, this is incorrect and ignores a key part of Table 7-3, which states "55% of usable lot". Since a good portion of the lot is sandy beach, and associated with an easement for lateral access, the usable lot area should be much smaller than indicated. The Allowed GSA should be revised and the plan redesigned accordingly to meet the GSA requirements. For more detail see Section 10.

2.9 Cypress Tree.

The mitigation measures included in the F-EIR (BR/mm-3 and BR/mm-4) and the new Condition 33 approved during the April 10, 2014 Commission hearing are not sufficient to protect the cypress tree located near the project. An Arborist Report was prepared by Chip Tamagni, Certified Arborist, A & T Arborists and Vegetation Management, Inc., dated March 7, 2014, and attached as Exhibit H. In his professional opinion, it is "physically impossible" to save the tree given the current design of the Project, including impacts from the building foundations and utilities. His findings also apply to the new Reduced Project. The new Condition 33 is quite open ended, unrealistic and will likely be unsuccessful in protecting the tree. We again request revision of these mitigations/conditions to provide more specific mitigation measures, such as a minimum construction clearance of at least 25 feet from the trunk of the cypress tree. For more detail see Section 11.

2.10 California Building Code.

The project should be subject to a condition to ensure that prior to issuance of a construction permit that the design be reviewed and approved to confirm it meets current California Building Codes. For more detail see Section 12.

2.11 Project Alternatives.

The F-EIR fails to propose adequate project alternatives as required by the California Environmental Quality Act ("CEQA"). CEQA requires that an EIR provide alternative designs to the proposed project in order to determine whether alternatives would further mitigate any environmental impacts. CEQA states there should be a reasonable range of alternatives based on project objectives. The alternatives proposed in the F-EIR are all similar to the Original Project and do not provide sufficient variation. Based on these objectives, one of the alternatives should have included an eco-friendly small house. For more detail see Section 13.

2.12 Public Outreach.

The County failed to hold a scoping meeting as required by CEQA Section 15206(b)(4)(C) and CEQA Guidelines Section 15082(c)(1). The County determined that the project is not of statewide significance and therefore no scoping meeting is required. That determination is in error. The potential for the project to set a precedent for construction on coastal bluffs and over sandy beaches throughout the state means this decision is of state-wide importance. Therefore, a scoping meeting should have been held.

The County's public outreach on this project and associated EIR has been lackluster at best. County liaison reports about the status of the EIR to the Cayucos Citizens Advisory Council (the "CCAC') were non-existent to minimal and uninformed. The County only formally notified one property owner in the vicinity of the project of the availability of the D-EIR. Notification about the F-EIR was similarly minimal, with additional notification to individuals who commented on the D-EIR.

Public Resources Code Section 21092.1 requires recirculation of an EIR after significant new information is added to an EIR. While the new sea level rise analysis and wave run-up results were presented during the public hearing, it was not formally distributed for public discussion and therefore the County failed to comply with CEQA. We question if this new sea level rise analysis and the new impact to Morro Strand State Beach described in Section 2.13 should trigger recirculation of the EIR. For more detail see Section 14.

2.13 New Project Impact on Morro Strand State Beach.

The Reduced Project plans include a new "design feature" that will add fill and two retaining walls on the adjoining land north of the site on Morro Strand State Beach property. It is believed this new design element is part of a revised drainage plan. This new feature is included in the plans for the Reduced Project, but the fill or retaining walls are not clearly identified. It was not disclosed in the County's staff report describing the revised project, or discussed at the April 10, 2014 Commission hearing. It is inconsistent with Coastal Act Section 30211. We question if this new impact from the revised plans would trigger a re-circulation of the EIR. For more information see Section 15.

In summary, the Reduced Project is inconsistent with several provisions of the certified Local Coastal Plan related to bluff top setbacks, geologic hazards, alteration of natural landforms, protection of views from public vantage points and scenic areas, and public access, and several of the environmental issues have not been adequately addressed. Based on our analysis, there are significant adverse impacts that cannot be mitigated, and therefore, Statements of Overriding Consideration would be needed to approve the Reduced Project. The project site should be defined as a coastal bluff. We request that the Board reverse the Commission's

decision and deny the Reduced Project for the reasons set forth in this appeal. To assist the Board, we have prepared proposed findings supporting denial of the project. The findings are attached as Exhibit D.

3 Determination that the Site is a Coastal Bluff; Related Issues.

3.1 Coastal Bluff Definition.

The Board should deny certification of the F-EIR and deny approval of the Reduced Project, because the F-EIR incorrectly defined the project site as a fluvial bluff instead of a coastal bluff.

HKA determined that the Applicant's consultants, with peer review by the County's EIR consultants Cotton Shires and Associates (the "EIR Consultants"), incorrectly defined the bluff as a fluvial bluff.

The HKA Report found that the property is impacted by marine erosion. The report includes several figures and photographs that clearly show the exposed bedrock coastal bluff on the property, which indicates marine erosion, and the "active beach" at the base of the bluff. The HKA Report describes how the bluff is subject to wave run-up and marine erosion. Several photos showing the coastal bluff and beach portion of the property during a typical high tide in 2007 are shown in Exhibit E.

Coastal Act Section 13577 defines coastal bluffs as "*1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion.*" Therefore, by the definition set forth in Section 13577 the site must be a coastal bluff.

The CCC 2013 Correspondence and CCC 2014 Letter (Exhibit C), report that the CCC staff geologist also determined that the project site constitutes a coastal bluff.

The HKA Report and the CCC 2014 Letter make it clear that the project site should be defined as a coastal bluff.

3.2 Termini of Bluff Diagrams Not Applicable.

The EIR Consultants prepared several diagrams regarding determination of the termini of the bluff to support their claim that the property is not a coastal bluff. However, these diagrams do not pertain to this site.

Based on Coastal Act Section 13577 subparagraph 2, this bluff termini methodology is only applicable to sites that are not subject to marine erosion. Coastal Act section 13577 subparagraph 2 states "*Coastal bluff shall mean:*" ... "*(2) those bluff, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2).*" followed by a description of the bluff termini methodology. Since this site's toe of bluff is clearly subject to marine erosion, the diagrams are not applicable.

3.3 Incorrect Determination that Site is a Fluvial Bluff.

The F-EIR incorrectly concludes that the site is not a coastal bluff, and instead that it is a fluvial bluff, as noted in various sections of the F-EIR.

Because the bluff was incorrectly defined in the EIR, the project impacts analyzed in the EIR are inadequate because the project was not evaluated against the applicable LCP coastal bluff policies and standards for new development.

3.4 Overtopping of Rock Outcropping.

The F-EIR presented analysis regarding the impact of wave run-up and seawater overtopping the rock outcropping. The analysis was updated by GeoSoils and reported in the GeoSoils 2014 Letter.

The HKA 2014 Letter finds that the results of the GeoSoils wave run-up and overtopping analyses underestimate the gross hazards at the site, particularly in the oceanfront portion of the property where bedrock is not present to higher elevations and erodible fill soils exists. The HKA Report describes several flaws in the GeoSoils analysis, which are summarized below:

- Maximum breaking wave heights underestimated.
- Worst case profile was not utilized.
- Slope roughness overestimated.
- Wind velocities underestimated.

See the HKA 2014 Letter for a detailed analysis of this issue.

3.5 Story Poles Study.

The HKA Report notes that a story pole study was conducted for the Original Project. The F-EIR states that the locations of the story poles were used to prepare visual photo simulations of the project.

We obtained a photo from the story pole study, as well as other photos of the project taken while the flags were in place. The photo with the story poles is attached to the HKA Report as photograph 5. The visual impression created by these photos paints a clear picture of how the bluff edge is oriented toward the ocean, is affected by marine erosion, and how far the Original Project would have extended over the sandy beach. Further, while the F-EIR includes the methodology of how the story poles were used to create visual photo simulations, it doesn't describe or include the story poles study.

The story poles study is, while geared toward the Original Project, an important tool in determining how the Reduced Project will be situated on the bluff, and how it will impact environmental conditions. Therefore, the entire story poles study should have been included in the F-EIR.

3.6 Coastal Bluff Setback Requirements.

The HKA Report's analysis concludes that the project site should be considered a coastal bluff and appropriate setbacks required. Despite the Reduced Project's reduction in size from the Original Project, and the 10 foot shift landward of the basement wall, the changes do not adequately mitigate the fact that the project is proposed for construction on a coastal bluff, and therefore even the Reduced Project will not comply with applicable setback requirements. Therefore, the Reduced Project cannot be constructed as proposed because it does not comply with coastal bluff setback requirements.

CZLUO Section 23.04.118 states that new development shall be setback from the bluff edge a distance sufficient to withstand bluff erosion and wave action for a period of 75 years. The Estero Area Plan, Section III, I.4, Bluff Setbacks, states that the bluff setback shall be sufficient to withstand bluff erosion and wave action for a period of 100 years, and in no case shall it be less than 25 feet.

(Note: HKA's analysis and conclusion that the project site is a coastal bluff is supported by CCC staff geologist Mark Johnson, as noted in the CCC 2013 Correspondence and the CCC 2014 Correspondence. County staff's comments in the F-EIR responding to our August 5, 2013 letter to the contrary are inaccurate.)

3.7 Shoreline Protective Devices Prohibited.

The HKA Report finds that the basement wall acts as a seawall, which is prohibited for new coastal bluff development. If allowed, it will deflect wave run-up toward the neighboring property and adversely impact it.

The reinforced concrete seaward facing basement wall acts as a seawall, and seawalls are not allowed. The Estero Area Plan and San Luis Obispo LCP Hazard Policy 1 requires that new development shall be designed so any shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, not be needed for the life of a structure.

Based on the GeoSoils 2014 Letter, it is clear that the basement walls act as a prohibited seawall, as more particularly described in the HKA Report. The F-EIR and the Applicant claim that the basement wall cannot be a seawall because it is structurally necessary to support the cantilevered portion of the house. That logic cannot stand. If it is allowed to stand, every structure along the coast will be designed in a way that will require a concrete reinforced basement wall, to avoid the prohibitions against seawalls. The wall is purposely designed to act as a prohibited seawall, and the Board should therefore deny certification of the F-EIR and deny approval of the Reduced Project.

3.8 Limitation on Cantilevered Structures Beyond Setback.

The Reduced Project does not comply with County ordinances limiting structures from encroaching or cantilevering over setback lines.

The Reduced Project, as designed, has a 21 foot cantilevered main floor living space and deck extending beyond the proposed basement wall, beyond the bluff edge (whether coastal or fluvial), and is beyond the required setback location as described in Section 3.6.

The Reduced Project also fails to meet the limited exception to cantilevered structures extending beyond the setback line provided in CZLUO Section 23.04.118c.(3), Exceptions to bluff setback requirements, which states that the minimum setback requirements of CZLUO Section 23.04.118 don't apply to "*Roof and wall projections including cantilevered and projecting architectural features including chimneys, bay windows, balconies, cornices, eaves and rain gutters may project into the required setback a maximum of 30 inches.*"

Our interpretation of this code section is that it does not apply to building floors, only roof or wall projections such as eaves or bay windows. Therefore, the living space and deck should not extend beyond the basement wall. The Reduced Project is inconsistent with all applicable setback requirements, and does not comply with the exception to encroachment.

3.9 Safety Element of the General Plan.

The Board should deny certification of the F-EIR and deny approval of the Reduced Project for failure to comply with County coastal policies.

County Coastal Policy S-23 requires that development shall not be permitted near the top of eroding coastal bluffs. F-EIR comment 33 to our August 5th letter states that the bluff is not eroding. We believe that is inaccurate, and that over the years wave run-up has contributed to bluff erosion. Specifically, the HKA Report, pages 1, 3, and 4, describe how the bluff is subject to marine erosion.

County Coastal Program S-63 requires coastal bluff erosion studies to determine the rate of erosion and the resulting safe distance from the top of the bluff for development. Before it is certified the F-EIR should address how the policy and program are impacted by the Reduced Project.

The Board should deny certification of the F-EIR and deny approval of the Reduced Project because the site is a coastal bluff, and the Reduced Project will not meet the setback requirements of a coastal bluff.

4 Visual Resources.

4.1 Visual and Scenic Resources, Policy 2.

The Reduced Project is inconsistent with LCP Visual and Scenic Resources Policies 1, 2, 5, 6 and 11.

The F-EIR's discussion of the impact of the Original Project on visual resources is inadequate, a point of view expressed by CCC staff in the CCC 2013 Correspondence. The Reduced Project will be a landmark structure as it is 33 feet high and cantilevers 21 feet, including 11 feet over the sand. The visual impact will be especially strong from the beach and as it is viewed by those travelling south on Highway 1 and Studio Drive.

LCP Policy 1, Protection of Visual and Scenic Resources, requires that "*attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved [and] protected . . where feasible.*" Siting the Reduced Project in compliance with coast bluff setback requirements would likely preserve much or all of the visual features of the site and be consistent with LCP Policy 1

None of the photos included in the F-EIR clearly illustrated the loss of view. Attached photo/graphic Exhibit F illustrates the estimated impact of the Original Project on public scenic coastal views. The lot is on the edge of an expansive area of public scenic coastal view and adjacent to Morro Strand State Beach. The Reduced Project will erode the public's view of sandy beach and ocean waves. The Reduced Project will extend 21 feet and hover over 11 feet of the sandy beach and obstruct views along the beach and from Highway 1 to the ocean. This is a significant adverse impact that has not been properly analyzed.

The F-EIR falsely states that the project is consistent with current neighborhood conditions. Most of the residences are set-back on the bluff, and none are cantilevered over the sand. The nearby residence shown in Figure 4.1-15 and 4.1-16 of the F-EIR, which is built to the edge of the bluff, was built in 1964, prior to establishment of the Coastal Act and associated rules protecting bluffs. It is not appropriate to compare the Reduced Project to it, because new residences must meet the current ordinances.

LCP Policies 2 and 6 require that development be sited so as to protect views to and along the ocean and scenic coastal areas to emphasize locations not visible from major public view corridors. The policies also require that homes in small-scale neighborhoods "*be designed and sited to complement and be visually compatible with existing characteristics of the community which may include concerns for the scale of new structures, compatibility with unique or distinguished architectural historical style, or natural features that add to the overall attractiveness of the community.*" (LCP Policy 6). The Reduced Project is inconsistent with Policies 2 and 6, because it will not protect views of the coast, and is out of character for the surrounding neighborhood.

The project will result in significant grading of the coastal bluff face including the removal of part of the historic rock face of the bluff that is proposed to be excavated in order to build the basement and protective subsurface walls, in contravention of Policy 5. Policy 5 states: "*Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. Where feasible, contours of the finished surface are to blend with adjacent natural terrain to achieve a consistent grade and natural appearance.*"

Policy 11 requires that development on bluff faces be limited to public access stairways and shoreline protection structures. Development is to be sited and designed to be compatible with the natural features of the landform. New development on bluff tops shall be designed and sited to minimize visual intrusion on adjacent sandy beaches.

The Reduced Project is inconsistent with Policies 5 and 11 because it will destroy most of the bluff, and is not sited to be compatible with the natural features of the bluff.

Even though the project has been reduced in size, it still improperly cantilevers over the sandy beach will destroy natural land forms, block coastal views, and is therefore inconsistent with LCP Visual and Scenic Resource Policies 1, 2, 5, 6 and 11.

5 <u>Coastal Hazards</u>.

The EIR underestimated the potential for future damage from wave run-up, coastal flooding and wave impact, despite acknowledging the Reduced Project will be hit by ocean waves. Those hazards are substantial in light of accelerating sea level rise in the future. Additionally, the basement wall which is only a few feet from the sandy beach, will act as a seawall, deflecting wave run-up towards the neighboring properties and adversely impact them.

The HKA Report and the HKA 2014 Letter clearly show that even after GeoSoils produced the GeoSoils 2014 Letter that the impact related to beach sand scour and coastal erosion were under estimated and will be significant.

Attached as Exhibit G is a photograph prepared by Shoreline Engineering of the project site showing the rock outcropping and the extent of past wave run-up. The picture also shows a person standing at a point near where a basement wall will be located. The picture clearly puts into context the close proximity between the northerly basement wall and the beach, and shows that the basement will be quite susceptible to the effects of wave run-up.

Testimony and visual presentations by the EIR Consultants at the April 10, 2014 Commission hearing included discussion of how the worst case geologic conditions at the site were determined. This information was not available to the public prior to the hearing, and therefore HKA was unable to analyze it prior to the hearing. The HKA 2014 Letter provided the following analysis regarding flaws in the EIR Consultants' analysis, in particular regarding what location on the site should have been used to determine the worst case scenario.

> "Cross-sections of the site show that much of the coastal rock face and a part of the historic coastal bluff has been covered with imported earth fill material. The analysis by Cotton Shires and Associates and GeoSoils Inc. did not utilize the worst case geologic conditions at the site. Both Cotton Shires Cross Sections 1-1' and 2-2' show beach sand under the proposed home in analyzing the potential for future coastal erosion and bluff recession. This beach sand deposit is likely connected to the exposed sand on the beach about 5 feet from the northwest corner of the home. The worst case geologic conditions at the site occur near the northwest corner of the proposed home, where it is located closest to the beach, and where the earth materials consist of fill and beach sand that that will continue to be exposed to marine erosion (coastal erosion) after the home is constructed. The F-EIR and the supporting documents from Cotton Shires and Associates and GeoSoils Inc. did not present a geologic cross section aligned through the worst case conditions which is a due west alignment through Boring HA-5 as located on F-EIR Figure 4.3-3, the Cotton Shires Engineering Geologic Map. As mapped by Cotton Shires, no bedrock is exposed in the coastal bluff face along this alignment. We disagree with Cotton Shires Geologist Michael Phipps statement to the Planning Commission that his Cross Section 1-1' represents worst case conditions. It is not the worst case condition for future coastal erosion, and is not the worst case condition for calculation of wave runup."

The proposed home is located on a cascading coastal bluff face and within approximately five feet of the sandy beach. At the northwest corner of the basement, the basements walls are above grade, and contain doors and windows. Applicant concedes that ocean wave run-up will impact these walls of the residence in the future.

The coastal hazards facing the Reduced Project are substantial and have been underestimated by the EIR consultants.

6 Sea Level Rise; Inconsistency with General Plan.

The Board should deny certification of the F-EIR and deny approval of the Reduced Project because the F-EIR has incorrectly analyzed the effect of sea level rise on the Reduced Project.

6.1 Summary of HKA 2014 Letter.

The effect of sea-level rise on the Original Project was not properly analyzed in the F-EIR, and the effect of sea-level rise on the Reduced Project was not properly analyzed in the GeoSoils 2014 Letter. The HKA 2014 Letter (Exhibit B) finds that the GeoSoils 2014 Letter underestimates the gross hazards at the site. The HKA 2014 Letter points out that wave action and water levels could in fact be much higher, due to the extremely conservative assumptions made in the GeoSoils 2014 Letter, some of which contradict the assumptions used in the F-EIR.

Note that even the County's staff report (page 4-3) for the April 10th continued hearing states that water will be approximately one foot deep at the basement wall. The staff report concludes, however, that because the water will reach the house at a low velocity, it is not expected to structurally damage the house. One foot of water will always cause damage to a house – but not to a seawall or shoreline protective device. The basement wall will be constructed in such a manner as to create a shoreline protective device, and that is the only way to reach the conclusion that one foot of seawater won't cause damage to a structure.

The fact that the GeoSoils 2014 Letter uses such different assumptions from those used in the F-EIR, and due to the fact that the results of its conservative analysis is that water one foot deep will likely reach the basement wall means that the EIR should be re-circulated.

6.2 F-EIR Must be Re-Circulated.

An EIR must be re-circulated when significant new information is added to the EIR. Re-circulation is required where the public has been deprived of the opportunity to review the new material. Here, the F-EIR went from a finding that water would possibly gently lap against the basement, to a finding that the water could be one foot deep along the basement wall. That is a significant change. Especially in light of the fact that the basement wall has been moved 10 feet landward, meaning the waves have farther to travel to reach the basement walls. Therefore, the F-EIR must be re-circulated.

6.3 F-EIR is Inconsistent with General Plan.

The F-EIR is also inconsistent with the General Plan, and that has not been corrected through the preparation of the GeoSoils 2014 Letter. The F-EIR, Chapter 4, page 4.3-20,

discusses the effect of coastal hazards on the project. This section states that "a site-specific coastal hazards study was prepared by David W. Skelly, Professional Engineer (P.E.) (GeoSoils, Inc. 2011, 2013), and is included in Appendix C of this EIR. The report includes a worst-case analysis of wave runup conditions incorporating a potential sea level rise of 2.5 feet over the next 100 years. The report evaluates four different potential oceanographic hazards at the project site: shoreline erosion, flooding hazard due to water level changes in the ocean, breaking wave elevation, and wave runup."

The San Luis Obispo County EnergyWise Plan (Page 7-4) adopted a projected Sea Level rise of 3.3 to 4.6 feet by 2100. The EnergyWise Plan was adopted by the County as part of the Conservation and Open Space Element of the General Plan. Since there is an inconsistency between the standard adopted in the EnergyWise Plan and the F-EIR, the F-EIR is inconsistent with the General Plan and cannot be approved until the sea level rise figures are rectified in the F-EIR. The F-EIR should have used a projected sea level rise of 3.3 to 4.6 feet by 2100, as adopted in the County's Energy Wise Plan, and extrapolated that rate out to at least the year 2114 which would increase the sea level rise to approximately 6.5 or 7 feet. The GeoSoils 2014 Letter was based on a 5.5 feet sea level rise. Therefore the sea level rise assumptions are too low and inconsistent with the general Plan.

6.4 Inaccurate Findings.

Due to the significant new information provided by the GeoSoils 2014 Letter, the findings contained in the staff report should not have been adopted. In particular, Section 8, Coastal Hazards, beginning on page 4-40 of the staff report were based on the wave run-up analysis contained in the F-EIR. The findings as adopted are inaccurate and do not reflect the County's most recent understanding of the wave run-up analysis. The Reduced Project should not have been approved with inaccurate findings.

7 Lateral Access.

The Board should deny certification of the F-EIR and deny approval of the Reduced Project due to a failure to properly describe the location of the required lateral beach access dedication.

7.1 Required 25-Foot Lateral Beach Access Easement.

The Reduced Project Plans incorrectly show a 25 foot easement from the western property line to fulfill the lateral access requirement. The lateral access should be provided as required and be free of encroachment by the Reduced Project's cantilevered deck. The CZLUO Section 23.04.420d(3) requires that all new development provide a lateral access dedication of at least 25 feet of dry sandy beach, as noted on page 3-15 of the F-EIR. The F-EIR and Original Project plans should have clearly shown where the project will be sited on the property, and how

the lateral access easement will be accommodated by the location of the project. There is no verifiable depiction (such as a survey) showing exactly where the structure will be located on the lot, and how the lateral easement will be accommodated.

The F-EIR should have noted in relation to the lateral access easement that wave run-up is expected to hit the basement. The GeoSoils 2014 Letter and the staff report also make it clear that up to one foot of water will occasionally reach the basement wall. Therefore, there will be times when no dry sandy beach is available. Several photos showing the coastal bluff and beach portion of the property during a typical high tide in 2007 are shown in Exhibit E.

Section 23.04.420d(3) of the CZLUO states, "*Lateral access dedication: All new development shall provide a lateral access dedication of 25 feet of dry sandy beach available at all times during the year. Where topography limits the dry sandy beach to less than 25 feet, lateral access shall extend from the mean high tide to the toe of the bluff. Where the area between the mean high tide line (the "MHTL") and the toe of the bluff is constrained by rocky shoreline or other limitations, the County shall evaluate the safety and other constraints and whether alternative siting of access ways is appropriate. This consideration would help maximize public access consistent with the LCP and the California Coastal Act.*"

Lastly, pursuant to CZLUO 23.04.420, lateral access must be dedicated prior to any permits being issued. However, the conditions of approval approved and adopted by the Commission do not require that the Applicant dedicate the lateral access easement prior to obtaining any permits. Condition 41 (per the Staff Report for the April 10, 2014 Commission Hearing) incorrectly requires the dedication for lateral access prior to the final building inspection.

Certification of the F-EIR and approval of the Reduced Project should be denied because of the lack of lateral access on the dry sandy beach "at all times during the year" as required by Section 23.04.420d(3), and because the conditions of approval failed to require dedication of the easement prior to issuance of any building permits.

7.2 Failure to Address Estero Area Plan Lateral Access Requirements.

The Estero Area Plan, Land Use Element/Local Coastal Plan, San Luis Obispo County Plan, Chapter 8, page 8-11 (now page 8-6), states:

> New development located between the sea and the first public road shall be required to make an offer of dedication of lateral access extending from the toe of the bluff to mean high tide, or where applicable, to the inland boundary of the public beach. (Chapter 7: V., Cayucos Urban Area Standards, Combining Designations, B., LCP) (underline added).

The Applicant must be required to dedicate access from the MHTL to the toe of the bluff, as required in the Estero Area Plan, rather than just 25 feet from the property line. No exceptions to the requirement are provided in the Estero Area Plan, thus the unique nature of the site should not have any bearing on where and what type of easement should be required. In the F-EIR, comment 29 to our August 5th letter states that the lateral access easement will extend "up to the exposed rock," however, that is not shown on any of the plans for the project included in the F-EIR and is inconsistent with Chapter 3 of the F-EIR.

The conditions of approval approved and adopted by the Commission do not require that the Applicant dedicate the lateral access easement prior to obtaining any permits. Condition 41 (per the Staff Report for the April 10, 2014 Commission Hearing) incorrectly requires the dedication for lateral access prior to the final building inspection. The Reduced Project plans lateral access area is inconsistent with the description of the lateral access in Condition 41.

The Board should deny certification of the F-EIR and deny approval of the Reduced Project due to the failure to apply the standard set forth in the Estero Area Plan for determining the type and location of the lateral beach access easement.

8 Bluff-top and Creek Setback.

8.1 Non-Coastal Bluff Top Setbacks.

The F-EIR should analyze the required setbacks for the Reduced Project as if it is cited on a fluvial bluff, if the F-EIR concludes it is not on a coastal bluff. The F-EIR failed to make the required analysis and therefore should not have been certified by the Commission.

The Estero Area Plan, Section V.F.1, states that bluff setbacks shall be in accordance with the CZLUO, "except that the minimum setback shall be 25 feet in any case." Table 7-1 modifies that requirement, under the first column of the table, entitled "Area."

Row 3 of the Area column is entitled "STUDIO DRIVE AREA (See "Bluff-top lots" where applicable)." Table 7-1, column 1, row 1, entitled "BLUFF-TOP LOTS," requires a minimum setback on a bluff of 25 feet. The Reduced Project is on a bluff top. There is a dispute regarding whether the bluff top is a coastal bluff, but there is no dispute that the Reduced Project is located on a bluff top, and therefore the minimum setback of 25 feet from the bluff top should apply.

Projects located on the Old Creek Coastal Stream bluff must be set back a minimum of 50 feet in accordance with Estero Area Plan Cayucos section, Sensitive Resource Area, Table 7-2.

Table 7.2 states "*1. Setbacks – Coastal Streams. Development shall be setback from coastal streams as shown in Table 7-2. Riparian setbacks shall be measured from the upland edge of riparian vegetation or the top of stream bank where no riparian vegetation exists.*" Table 7-2 provides that the Old Creek coastal stream setback must be a minimum of 50 feet.

If the County concludes that the project site is a fluvial bluff, rather than a coastal bluff, the coastal stream setback requirements should be applied to the Reduced Project.

Even if Tables 7-1 and 7-2 are not applicable, Estero Area Plan Section III, I. Shoreline Development, Bluff Setbacks, page 7-10 and 7-11, states that new development to "be located on or adjacent to a beach or coastal bluff are subject to the following standards:

"4. Bluff Setbacks. The bluff setback is to be determined by the engineering geology analysis required in I.1.a above adequate to withstand bluff erosion and wave action for a period of 100 years. In no case shall bluff setbacks be less than 25 feet." (underline added).

The site is on a bluff, and is "on or adjacent to a beach" and therefore the setback must be at least 25 feet in order to comply with the Estero Area Plan.

The F-EIR should not be certified and the Reduced Project should be denied because the County has failed to apply the correct setback requirements to the project.

9 **Stringline Method**.

The Reduced Project does not comply with the County's Coastal Plan Policies regarding siting of new structures fronting a beach because it extends significantly beyond the adjacent existing residences.

County Coastal Plan Policies, Chapter 10, Visual and Scenic Resources, Policy 3, Stringline Method for Siting New Development states: "*In a developed area where new construction is generally infilling and is otherwise consistent with Local Coastal Plan policies, no part of a proposed new structure, including decks, shall be built farther onto a beachfront than a line drawn between the most seaward portions of the adjoining structures; except where the shoreline has substantial variations in landform between adjacent lots in which case the average setback of the adjoining lots shall be used.*"

Except for a few properties built prior to the enactment of the Coastal Act and creation of the California Coastal Commission, the average setback along Studio Drive is at least 25 feet. The Reduced Project is inconsistent with Coastal Plan Policy 3 Stringline Method for Siting New Development.

10 Estero Area Plan – Cayucos Small Scale Neighborhood Standards.

The Reduced Project should not be approved because it exceeds the gross structural area allowed in Estero Area Plan Section 7.V.D.3.d(2) and Table 7-3 for structures exceeding 15 feet in height (and non-bluff top structures).

Pursuant to Table 7-3, the maximum gross structural area shall not exceed 55% of the usable lot. County staff in its April 10, 2014, memorandum to the Commission states that the sandy beach part of the Applicant's lot is "usable" by the Applicant for yard area and recreational purposes, just as any other typical backyard would be usable by the owner of such land.

However, unlike the typical backyard, the Applicant is required to dedicate the property from the toe of the bluff seaward to the public for lateral beach access, as discussed in section 7.1. Therefore, the dedicated portion of the lot is not usable to the Applicant in any way, other than use in the same manner as any other member of the general public.

The area of the lot dedicated to public access and therefore non-usable to the Applicant is approximately 1,092 square feet. Subtracting 1,092 square feet from the total lot size of 3,445 square feet provides a total usable area of 2,353 square feet. Applying the standard set forth in Table 7-3, the project may not exceed 55% of 2,353 square feet, or 1,295 square feet.

11 Cypress Tree.

Based on a citizen's comments during the Commission hearing regarding the Cypress Tree, we reviewed the mitigation related to the tree in the F-EIR and realized that the mitigation measures included in the F-EIR are not sufficient to protect the cypress tree located near the Loperena property.

The F-EIR identifies a significant mature cypress tree located in the right-of-way very near the subject Reduced Project. While the F-EIR did not provide an evaluation of the tree, the F-EIR states that the tree will be protected.

The tree was recently evaluated by a certified arborist, Charles Tamagni. The Arborist Report prepared by Chip Tamagni, Certified Arborist, A & T Arborists and Vegetation Management, Inc. and dated March 7, 2014, attached as Exhibit H. In his professional opinion, it is "physically impossible" to save the tree given the current design of the Reduced Project, including impacts from the building foundations and utilities. According to the arborist, the tree, which has a trunk diameter of approximately 76 inches, has a shallow root system that extends into the area of the proposed construction site. The F-EIR should be re-written to correctly identify that the cypress tree cannot be saved unless the Reduced Project design is significantly changed.

The arborist's report states: "In conclusion, we are quite certain the current design will negatively affect the Monterey cypress tree to the point of death. At a minimum, we feel the safe distance to remove the roots is located approximately 25 feet from the trunk of a tree this size to minimize long term impacts. We feel the EIR did not correctly identify mitigation measures to protect the tree. Although there is mention of an environmental monitor requirement in the EIR, there are no specific mitigations mentioned to protect the tree other than the misguided mention of tree fencing. The site, if developed according to plan will most likely be a death sentence for the cypress tree."

We request that the County require the Applicant to redesign the project to protect the tree. At a minimum, revise mitigations BR/mm-3 and BR/mm-4 and new Condition 33 approved at the April 10th Commission hearing to clearly indicate the design revisions necessary to protect the tree, such as providing a minimum construction clearance of at least 25 feet from the trunk of the cypress tree, which requires a redesign of the Reduced Project, rerouting of the gas line relocation, and redesign of the drainage system. We also request the clearance area be shown on all revised plans.

The new Condition 33, which was presented by County Staff in its memorandum to the Commission dated April 10, 2014 states:

> "Prior to issuance of grading permits, the applicant shall retain a certified arborist to conduct any site preparation activities requiring cuts or impacts to the root zone of the existing mature cypress tree. The certified arborist shall monitor work within the root zone, including grading and excavation for the retaining wall, and utility work. The applicant shall comply with methods identified by the certified arborist to avoid unnecessary damage to the root zone, including use of hand tools, protection and treatment of exposed roots during construction, and use of tunneling under shallow roots for utility installation in lieu of standard trenching."

The new Condition 33 is quite open ended, unrealistic and will likely be unsuccessful in protecting the tree. We again request revision of these mitigations/conditions to provide more specific mitigation measures, such as (i) a minimum construction clearance of at least 25 feet from the trunk of the cypress tree, (ii) that the footing for the driveway foundation shall be a minimum of 25 feet from the trunk of the tree, (iii) that tree fencing as shown on the plans and approved by the County shall be in place before work start, and (iv) that trenching for all utilities within 25 feet of the trunk shall be hand dug.

12 <u>California Building Code</u>.

The project should also be subject to a condition to ensure that prior to issuance of a construction permit that the design be reviewed and approved to confirm it meets current California Building Codes. In particular and without limitation, the project should comply with the requirements of the 2007 CBC Table 704.8, Increased Setbacks from Property Line. The minimum distance required is now 5' without having to use fire rated wall construction. A 3'

minimum setback is still allowed provided that the wall and eave use fire rated construction and the windows or open areas in the wall line is limited to a maximum of 25% of the wall area.

13 Project Alternatives.

The Board should deny certification of the F-EIR and deny approval of the Reduced Project due to a failure to properly include and analyze a range of project alternatives.

CEQA requires that an EIR provide a range of alternative designs to a proposed project in order to determine whether alternatives would further mitigate any environmental impacts. (14 CCR §15126.6). Both the HKA Report and the CCC correspondence find that the project is proposed to be built on a coastal bluff. The alternatives included in the F-EIR were just slight alterations of the Original Project, and did not offer true alternatives for use in determining an environmentally superior alternative in light of the project's location on a coastal bluff.

Section 2.8.E, Certification of the Loperena MUP/CDP EIR, of the findings adopted by the Commission states that the F-EIR and "other documents in the record, specific environmental, economic, social, legal, and other considerations make infeasible other project alternatives identified in the Final EIR." This is not accurate as a house much smaller than those proposed in the F-EIR would be feasible.

For example, an eco-friendly small-scale house could possibly be placed to allow for setbacks complying with coastal bluff requirements, and meet the 100 years of erosion. The reduced size and scale of such a project would provide a better transition with the open space nature of the adjacent Morro Strand State Beach. Such an option is not infeasible. Yet, no such alternative was offered in the F-EIR.

The F-EIR states that a sufficient range of alternatives were provided. We continue to disagree that sufficient project alternatives were considered in the F-EIR, and renew our objections as set forth in our August 5th letter. A reasonable range of alternatives was not proposed as required by CEQA, because none of the proposed alternatives complies with the coastal bluff setback requirements.

In the F-EIR, the County determined that the environmentally superior alternative is the Original Project. However, even the Reduced Project is not acceptable due to the impacts it will have on the environment. The project will impact the coastal beach, cause potential surface and subsurface drainage issues, impact scenic coastal views and is proposed to be built on a coastal bluff. Based on the alternatives proposed in the F-EIR, the environmentally superior alternative should have been no project.

CEQA states there should be a reasonable range of alternatives based on project objectives. The proposed alternatives proposed in the F-EIR are similar and do not provide sufficient variation. The F-EIR should not have been certified because it did not offer a reasonable range of alternatives.

14 Public Outreach; Scoping Meeting Required.

The Board should deny certification of the F-EIR and deny approval of the Reduced Project because the County failed to conduct a scoping meeting as required under CEQA.

CEQA Guidelines Section 15082(c)(1) states that for "projects of statewide, regional or areawide significance pursuant to Section 15206, the lead agency shall conduct at least one scoping meeting." The precedential nature of the project will lead to state-wide, or at least area-wide significance, as it will create new rights for coastal development to overhang sandy beach, creating an impact on the environment.

CEQA Guidelines Section 15206(b)(4)(C) states that if an EIR is prepared for a project, the project is located in the California Coastal Zone, and the project would have a substantial impact on the environment, then the lead agency must determine that the project is of statewide, regional or areawide significance.

The Reduced Project has the potential to redefine the term "coastal bluff," in order to evade the bluff top setback requirement, allow use of a basement wall as a seawall, and allow a significant cantilever over sandy beach. If allowed to proceed, the project will set a precedent for all future coastal development, allowing construction over sandy beaches, and is thereby a project of statewide, regional and area-wide significance.

Therefore, the Board should deny certification of the F-EIR and deny approval of the Reduced Project because the County failed to conduct a scoping meeting as required under CEQA.

15 New Project Details.

The plans for the Reduced Project show that two retaining walls and fill will be required along the north side of the project, as depicted in Exhibit I. It appears from the plans that the retaining walls will run northerly from the site and encroach upon Morro Strand State Beach. Encroachment onto the State beach is prohibited.

It is therefore inconsistent with Coastal Act Section 30211, which states that "*development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*" We question if this new impact to Morro Strand State Beach should trigger a re-circulation of the EIR.

16 Incorrect Conditions.

16.1 Commission Adopted Incorrect Conditions of Approval.

The Conditions of Approval adopted by the Commission were incomplete and/or inaccurate due to the change in the Reduced Project. In some cases, the conditions do not comply with applicable ordinances. Specific examples are provided in the following subsections.

16.2 Recordation of Prohibition Prior to Permits.

Estero Area Plan, Section III, I.5, Seawall Prohibitions (page 7-11), requires that as a condition of approval for blufftop and shoreline lots, that prior to any construction or grading permits being issued, that "*the property owner record a deed restriction that no shoreline protection structure shall be proposed or constructed to protect the development, and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235 and the San Luis County certified LCP.*"

The Reduced Project site is a shoreline lot (and a coastal blufftop lot in our opinion) and therefore the conditions of approval should have required recordation of the above referenced deed restriction prior to issuance of any grading or building permits.

16.3 Recordation of Dedication Prior to Permits.

The adopted condition of approval 41, Lateral Access, states that a dedication for lateral access shall be recorded prior to final inspection. However, CZLUO Section 23.040.420.e(1) requires that the dedication be recorded prior to issuance of any construction permits. Therefore, this finding was adopted in violation of the CZLUO.

16.4 Recordation of Waiver of Liability Prior to Permits.

Estero Area Plan, Section III, I.6, Liability (page 7-12), requires that as a condition of approval of a project "*on a beach or shoreline which is subject to wave action, the property owner shall be required to execute and record a deed restriction which acknowledges and assumes these risks and waives any future claims of damage or liability against*" the County. No such condition was adopted by the Commission.

The Reduced Project should not be approved until all conditions of approval are in compliance with all applicable County ordinances and planning standards, including those cited above.

In conclusion, for the reasons stated in this appeal and our prior correspondence and communications, we respectfully request the Board reverse the Commission's certification of the F-EIR and decline to approve the Reduced Project or any other modified version of the project that does not comply with applicable ordinances.

We appreciate your considered review and analysis of these comments.

Sincerely,

SINSHEIMER JUHNKE McIVOR & STROH, LLP

KEVIN D. ELDER

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cc: Cynthia R. Sugimoto

Exhibit A
HKA REPORT

Exhibit A

August 1, 2013 Haro, Kasunich and Associates Report

HARO, KASUNICH AND ASSOCIATES, INC.

Project No. SLO9515
1 August 2013

To: Ms. Ryan Hostetter
County of San Luis Obispo
Department of Planning and Building County
Government Center Room 200
San Luis Obispo, CA 93408-2040

From: Mark Foxx, CEG 1493
John E. Kasunich, G.E 455

Subject: June 2013 Draft EIR Comments

Reference: Loperena Minor Use Permit/Coastal Development
Permit DRC 2005-00216
SCH No. 2007081044

Dear Ms. Hostetter:

We have reviewed Section 4.3 of the referenced D-EIR (Geology and Soils), as well as referenced documents in Appendix C of the D-EIR by Cotton Shires and Associates Inc. dated May 31, 2011, August 21, 2012, October 31, 2012, and May 17, 2013; documents by GeoSoils Inc. dated March 14, 2011 and April 10, 2013; documents by Cleath-Harris Geologists Inc. dated June 25, 2012, September 19, 2012; and GSI Soils Inc. dated December 27, 2011.

We provide the following comments:

1. **Incorrect Finding that Property is Not a Coastal Bluff**

Cotton Shires and Associates Inc. (the EIR consultant who addressed the presence or lack of a coastal bluff at the site) interprets that a coastal bluff does not exist at the Loperena property. We disagree. The bluff fronting the project site faces the Pacific Ocean, and there is an active beach at the base of this bluff. The bluff is subject to severe wave run-up on occasion and resultant coastal erosion. California Code of Regulations, Title 14, Section 13577(h)(1) defines coastal bluffs as those where the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion. **There can be no doubt that the toe of the bluff on the seaward portion of the Loperena property, is now and was historically (within the last 200 years) subject to marine erosion.** Unfortunately, there is no mention of this definition in the Cotton Shires reports.

Instead they focus on a more obscure determination of bluff edge termination, based on criteria involving geologic history and fail to consider the present geologic and oceanographic conditions at the site. Cotton Shires makes their finding based primarily on conditions shown on an aerial photo taken more than 75 years ago. We believe that present conditions must be considered when evaluating the presence of coastal bluffs or lack thereof. For more than 50 years a coastal bluff has extended hundreds of feet upcoast from the Loperena property. Much of that coastal bluff consists entirely of fill, but that is not solely the case at the Loperena property. The bluff at the Loperena property has bedrock exposed across the full width of the property.

Cotton Shires and Associates Inc. asserts that the seaward slope on the Loperena property consists of a fillslope and therefore it is not part of the coastal bluff. That is not

supported by the geologic maps, cross sections and boring logs prepared by the applicant's geologist (Cleath-Harris). Exposed bedrock extends across the full width of the Loperena property.

In our opinion the present conditions matter and can and should not be ignored. The property should be considered a coastal bluff and appropriate setbacks should be required.

We support this, in part, from review of the geologic maps and cross sections in the Cleath-Harris Geology reports dated 6-25-2012 and 9-19-2012 as well as the Cotton Shires report dated 5-31-2013, all of which are contained in Appendix C of the Draft EIR. The Cotton Shires Engineering Geologic Map Plate 1 (originally prepared by Shoreline Engineering in 2006) is missing from Appendix C, but is included at a reduced scale as Figure 4.3-3 in the Draft EIR.

Several Figurers and photographs are presented below to support our position that the property includes a coastal bluff and to counter the DEIR finding that it doesn't.

Figure 1 shows Cleath-Harris's Geologic Map of the site that clearly shows exposed bedrock (Franciscan Assemblage Graywacke sandstone) across the entire width of the property along the coastal bluff face, with Beach Deposits seaward of the bedrock.

Figure 2 shows Cleath-Harris's Cross Section D-D'. The applicant's geologist (Cleath) terminated this cross section at elevation 18 and did not extend it down the near vertical bedrock coastal bluff face down to the beach. This cross section shows a thin mantle of fill covering the bedrock on the inland portion of the lot. We have sketched an extended portion of the cross section below elevation 18, to show the coastal bluff face and beach that exists there.

Figure 3 shows Cleath-Harris's Cross Section C-C'. Cross Section C, which is located at the upcoast property boundary, shows that the bluff face is composed of exposed Franciscan Assemblage Bedrock from the sandy beach up to about Elevation 17. The bedrock is mantled by 3 to 4 feet of fill. In fact, as depicted by the applicant's geologist, the bedrock under the fill extends up to elevation 22, and one could argue that the fill is covering what was once the coastal bluff face between elevation 17 and 22. We have labeled the cross section to show the coastal bluff face and beach that exists there.

Photograph 1 is a 2002 Aerial Photo from www.CaliforniaCoastline.org that clearly shows the exposed bedrock face along the coastal bluff, as correctly mapped by the applicant's geologist (Cleath-Harris) and the EIR geologist (Cotton Shires).

Photograph 2 was taken at the site and shows the coastal bluff on the Loperena property, the beach at the base of the bluff, and the Pacific Ocean. We have outlined the portion of the coastal bluff face where bedrock is exposed on Photograph 2.

Photograph 3 is a 2002 Aerial Photo showing the coastal bluff on the Loperena property, the beach at the base of the bluff, the Pacific Ocean wave action on the beach, and a sketch of the Loperena property boundaries. The property boundaries shown are not to scale because of parallax and foreshortening in this oblique photo, but are in approximately the right positions. Most of the Loperena property is only 25 feet wide. The seaward portion of the Loperena property (below the coastal bluff) is a sandy beach.

Photograph 4 is a site photo taken from the downcoast neighbor's property that shows the coastal bluff on the Loperena property, the beach at the base of the bluff, and Pacific Ocean wave action on the beach.

Figure 4 is Cotton Shires Geologic Cross Section which shows the proposed Loperena residence projecting (cantilevered) out over the coastal bluff and what they depict as an "Active Beach". The area between the Active Beach and the landward portion of the residence is the coastal bluff, as defined by the California Coastal Commission.

Figure 5 is a figure from Cotton Shires & Associates report dated May 31, 2011. It is a portion of a 1937 aerial photo that they have interpreted to show an inland bluff line that was formed by Old Creek. This bluff line pre-dates the bluff line that exists since Highway One was constructed in its present alignment circa 1960.

In 1937 (the date of aerial photograph Cotton Shires used in their analysis) the bluff turned inland just north of the bedrock outcrop. Between 1937 and 1972 (when the Coastal Act Initiative was passed by the voters and the Coastal Commission was created) State Highway 1 was constructed (circa 1960). In 1972 and 1976 (when the Coastal Act was passed) the bluff at the landward edge of the beach north of the Loperena property followed the fill slope seaward of Highway 1. The Cotton Shires premise that whether a coastal bluff exists is determined only by where a bluff was during historical geologic conditions (in 1937) and not where the coastal bluff existed at the time the Coastal Commission was created (in 1972) or where a bluff exists today, is inappropriate.

The toe of the bluff on the seaward side of the Loperena property has historically been subject to marine erosion and is subject to ocean wave run-up and coastal erosion today.

Regardless of the conditions at the Loperena property before Highway 1 was built, those conditions do not determine there is not a coastal bluff there today, which has been there for the last 50 years, and in fact has been there ever since the Coastal Act was passed.

Figure 6 is a figure from Cotton Shires & Associates report dated May 31, 2011. It interprets which portion of the bluff at the Loperena property is a coastal bluff and which portion is an inland bluff. An inland bluff might be defined as a creek bank or river bank not subject to marine erosion. The Cotton Shires methodology for assessing the transition point from a coastal bluff to an inland bluff differs from the California Coastal Commission (CCC) guidelines for determination of bluff termini. Public Resources Code Section 13577 states "The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations." For some reason, Cotton Shires diagram ignores the 500 foot requirement and instead uses a minimum length of the bluff line of 300 feet. It is requested that a revised diagram be prepared and included in the Final EIR that follows the CCC guidelines including the 500 ft. requirement.

Based on the conditions depicted on the geologic maps and cross sections and on the photographs in this letter, we believe the bluff on the Loperena property is a coastal bluff. We believe it is inappropriate to solely define the existence of coastal bluffs based on

photographs from 75 years ago or geologic conditions from more than 50 years ago. We believe that current geologic and oceanographic conditions must be considered in order to accurately define the existence of coastal bluffs. The interpretation by Cotton Shires & Associates relies on conditions depicted in photographs from 75 years ago and geologic and geomorphic conditions from more than 50 years ago. We believe their interpretation is erroneous. California Code of Regulations, Title 14, Section 13577(h)(1) defines coastal bluffs as those where the toe of which is now or was historically (generally **within** the last 200 years) subject to marine erosion. That includes those bluffs that have had marine erosion at their toe for 50 years. This regulation does not say that if there has not been marine erosion at the toe of the bluff **continuously** for the last 200 years it is not a coastal bluff. In our opinion the present conditions matter, and can and should not be ignored.

Because the Loperena property is only 25 feet wide, slight variations in geologic mapping have great impact. The Cotton Shires maps (Figures 5 and 6) that they use to delineate their interpretation of the coastal bluff are presented in their report at a scale of 1 inch equals 300 feet, such that the Loperena property is less than a tenth of an inch wide. It is our opinion that precise location of the coastal bluff terminus relative to property boundaries based on stereoscopic aerial photograph interpretation is not possible and that mapping and consideration of site specific conditions is required.

Fortunately, site specific mapping of the bluff was done in 1955. Figure 7 is a 1955 State Of California Acquisition Map for Morro Strand State Beach. This map shows the Loperena property and the bluff configuration at that time. Cotton Shires and Cleath-Harris make no reference to this map (included in this report) in their reports.

Figure 8 is an enlarged portion of State of California Acquisition Map from 1955 showing the toe of bluff that existed then on the Loperena property. The Loperena property was impacted by both the ocean and creek before Highway 1 was built, and now is primarily impacted by the ocean because the creek's alignment was altered. The map depicts that in 1955 (before Highway 1 was constructed in its present day alignment) it might be considered as a "corner lot", which is within a transition area that is part coastal bluff and part inland bluff. If it was partly a coastal bluff then, and is impacted by coastal processes such as marine erosion, ocean wave run-up, and wave impact today, it should be considered a coastal bluff.

D-EIR 4.1.4.1 discusses a "story-poles" or flag study used to assess visual impacts of the project, however no photos with the flags are provided in the D-EIR. It is requested that the photographs from this flag study be included in the Final EIR. In the absence of official flag study photographs, we have reviewed Photographs 5 and 6, which are unofficial photographs of the flag study for the Loperena residence. Per D-EIR 4.1.4.1 these flags represent the proposed building corners. It says that "Locations of critical structure elements were identified based on site plan information and architectural elevations provided by the project applicant. These critical project features were surveyed and staked in the field, and corresponding horizontal and vertical location data was developed. Poles and reference flags were positioned at each critical point."

Photograph 5 clearly shows the building extending past the coastal bluff over the beach. The exposed bedrock coastal bluff is shown on the photo. Marine erosion is the process which has exposed the bedrock on the bluff face. The project plans by James Maul-Architect, upon which the plans by C. P. Parker –Architect are based, show that the seaward edge of the home is 14.81 feet from the seaward property line and overhangs the bedrock coastal bluff and the beach. These plans are consistent with the position of

the main floor shown in D-EIR Figure ES-4a, which shows the main floor extending approximately 10 feet into the Access Easement on the beach.

Photograph 6 shows another view of the position of the corners of the proposed residence relative to the coastal bluff face and the beach. Note that the proposed house corners extend over the beach.

The Cotton Shires studies argue that the bedrock bluff at the back edge of the beach shown in Photographs 1, 2, 3, 4, 5, and 6 is an inland facing bluff. The Cotton Shires studies ignore the presence of an active beach that is subject to wave run-up, wave impact and marine (coastal) erosion within the building envelope of the proposed structure.

2. **Wave Run-up Calculations: Inconsistencies**

We have reviewed the Geosoils Inc. report dated April 10, 2013 that calculates wave runup to an elevation of 20.1 NAVD88 (Still water elevation of 10.1 Feet NAVD88 plus Wave Runup R of 10.0 Feet). It predicts that at an elevation of +17 NAVD88 one cubic foot per second of ocean water will impact the seaward portion of the proposed home for each foot of the width of the home during oceanographic conditions expected over the life of the development.

There are internal inconsistencies in the wave run-up calculations between 2011 and 2013. In 2011, GeoSoils used a scour elevation of 0.6 feet NAVD88 at the toe of the bedrock with 6 feet of water depth and a 1% nearshore slope in their analysis which resulted in a still water level of 9.6 feet NAVD88 and generated 12.6 feet of run-up using 7.0 foot high waves. In 2013, when considering greater sea level rise to a still water elevation of 9.6 feet NAVD88, GeoSoils used a scour elevation of 3.1 feet NAVD88 at the toe of the bedrock (2 ½ feet higher than the 2011 analysis), with 7 feet of water depth and a 2% nearshore slope in their analysis which generated 10.0 feet of run-up using 5.6 foot high waves.

This analysis is not plausible. Greater sea level rise will result in higher still water levels which will result in larger breaking waves. They do not justify using the 2 ½ foot higher scour level in 2013 compared the 2011 analysis, other than the depth of the bedrock below the beach sand estimated and depicted by Cotton Shires on their 2011 Cross Section 1-1' (Figure 9). The depth of bedrock shown on the Cotton Shires Cross Section 1-1' is not substantiated; it is queried due to uncertainty. Greater scour will cause higher wave runup. In any case, the wave runup analysis indicates that ocean wave runup will reach much higher than the basement floor elevation and will reach the basement windows depicted on the Rear Elevation in D-EIR Figure ES-6.

3. **Basement Wall is a Seawall**

The March 14, 2011 Geosoils Inc. report defines that this wave run-up will reach the basement wall, but indicates (because the basement walls will be constructed of reinforced concrete) that the wave run-up will not adversely impact the proposed residence. It is therefore functioning as a seawall. The San Luis Obispo LCP Hazard Policy 1 requires that new development shall be designed so that shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, will not be needed for the life of the structure, yet the proposed residence design incorporates a foundation system including a reinforced concrete wall that will be impacted by wave run-up and is

nearly the full width of the property. Therefore the basement and associated seawall should not be allowed.

If allowed, the reinforced concrete seaward facing basement wall will deflect wave run-up towards the neighboring properties and adversely impact them. This deflected wave run-up will increase erosion on the neighbor's bluff. D-EIR GS Impact 5 indicates that beach sand scour caused by heavy surf may create unstable slopes adjacent to the proposed residence and finds that this impact is less than significant. We believe this impact will be significant because the exacerbated impact from deflected wave runup that results from the construction of the proposed Loperena residence will extend onto the neighboring properties.

4. **Erosion Rate is Underestimated**

We disagree with GeoSoils that coastal erosion at the Loperena property is not a significant hazard over the next 100 years. The reason that bedrock is exposed along the full width of the Loperena property at the landward edge of the beach sand is because of active marine (coastal) erosion processes acting there. Sea level rise will result in increased future erosion rates compared to the historical erosion rates.

5. **Potential Shoring and Construction Impacts Not Evaluated**

The project Plans by James Maul- Architect (Sheets 1 and 2 of 4) show the exterior walls of the proposed residence with 3 foot side yard setbacks from the property lines. No property lines are depicted on the Elevation or Section (Sheets 3 and 4 of 4). The proposed residence foundation width is depicted as 19 feet. The plans in the D-EIR (Figures ES-4a, Es-4b and ES-5 by C. P. Parker (Architect) indicate they are based on the plans by James Maul, but lack setback dimensions on the floor plans and property lines on the Elevations. The Site Plan in the D-EIR (Figure ES-3) also lacks setback dimensions and does not show the main floor that cantilevers over the Public Access Easement on the seaward part of the property. The D-EIR does not address what impact to the Access Easement will occur during construction. We have reviewed the December 27, 2011 Updated Geotechnical Investigation report from GSI and 20 September 2012 letter from Shoreline Engineering including Shoring Details SL-1 and SL-2 (D-EIR Figures ES-7a and ES-7b). Given the 2 foot diameter boreholes necessary for the shoring pilings and the 25 foot lot width, we are concerned whether the shoring can be installed without any impact on the neighboring properties. It appears that there is the potential for the borehole drilling or excavations for the shoring to encroach on the neighboring properties or damage those neighboring properties.

In conclusion:

We disagree with the Cotton Shires interpretation which terminates the coastal bluff at the Loperena property based on the bisector they drew, which was solely based on conditions before Highway 1 was built, and classifies the bluff on the Loperena property as an inland bluff. We believe it is wrong for them not to consider present day conditions. The present day conditions include the presence of an active beach seaward of the property and Pacific Ocean waves directly impact the bluff on the property. Fluvial processes and creek or river bank conditions are not present at the Loperena property today. **As a result the bluff on the property should be considered a coastal bluff and appropriate setbacks should be required.**

Project No. SLO9S15
1 August 2013

The proposed reinforced concrete seaward facing basement wall is a seawall and should not be allowed. If allowed, it will deflect wave run-up towards the neighboring properties and adversely impact them. D-EIR GS Impact 5 indicates that beach sand scour caused by heavy surf may create unstable slopes adjacent to the proposed residence and finds that this impact is less than significant. We believe this impact will be significant because the exacerbated impact from deflected wave runup that results from the construction of the proposed Loperena residence will extend onto the neighboring properties.

The wave run-up calculations indicate that ocean wave runup will exceed the basement floor level and reach the basement windows. The calculations have inconsistences and require additional detailed review to determine the appropriate floor levels and structural requirements.

We disagree with GeoSoils that coastal erosion at the Loperena property is not a significant hazard over the next 100 years. The reason that bedrock is exposed along the full width of the Loperena property at the landward edge of the beach sand is because of active marine (coastal) erosion processes acting there. Sea level rise will result in increased future erosion rates compared to the historical erosion rates.

The D-EIR does not address what impact to the Access Easement will occur during construction.

Given the 2 foot diameter boreholes necessary for the shoring pilings and the 25 foot lot width, we are concerned whether the shoring can be installed without any impact on the neighboring properties. It appears that there is the potential for the borehole drilling or excavations for the shoring to encroach on the neighboring properties or damage those neighboring properties.

Please call us to discuss these plans and this project if you have any questions.

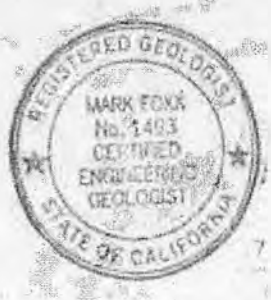
Very truly yours,

HARO, KASUNICH AND ASSOCIATES, INC.

John E. Kasunich
G.E. 455

Mark Foxx
C. E. G. 1493

MF/JEK/dk



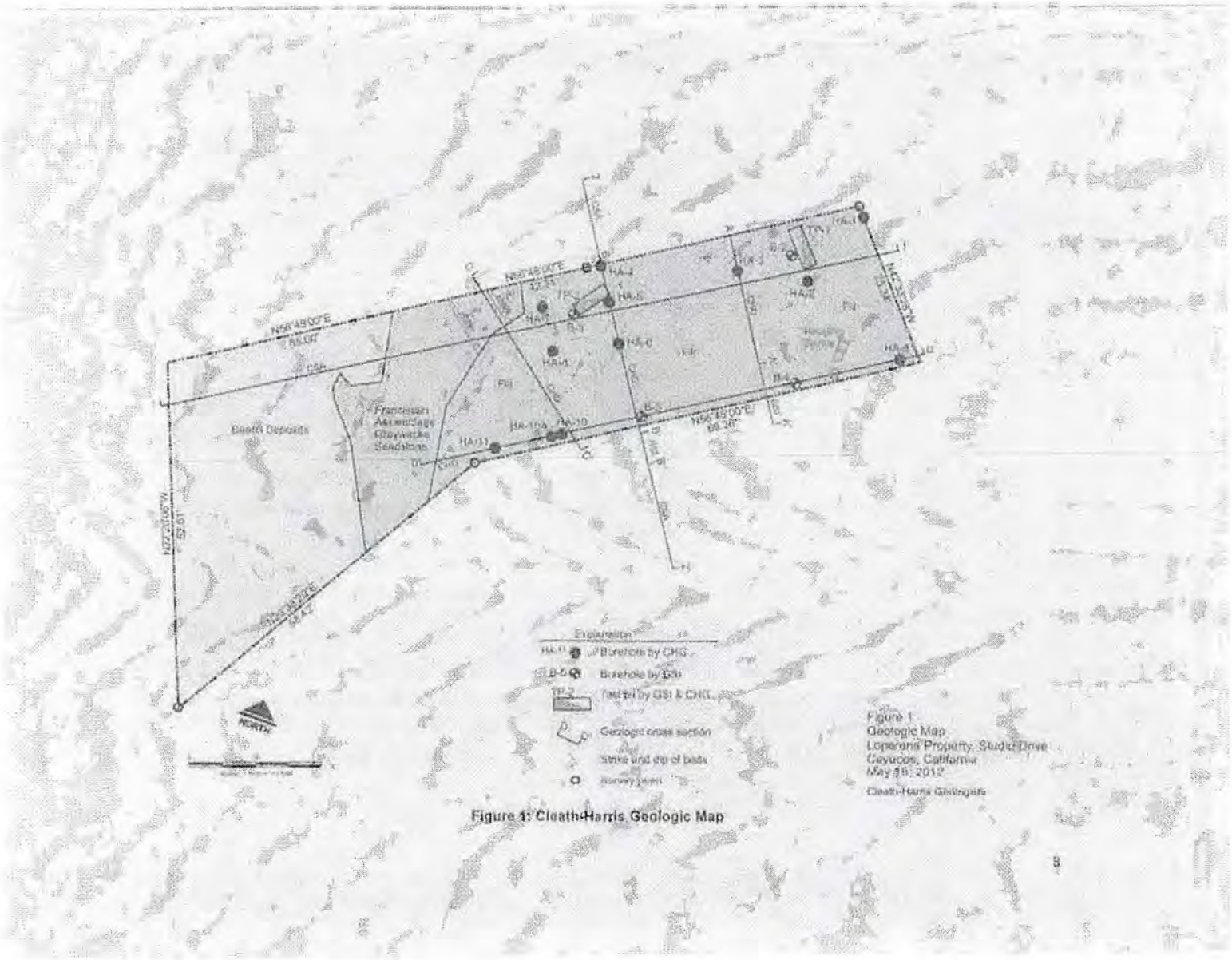


Figure 1: Cleath-Harris Geologic Map

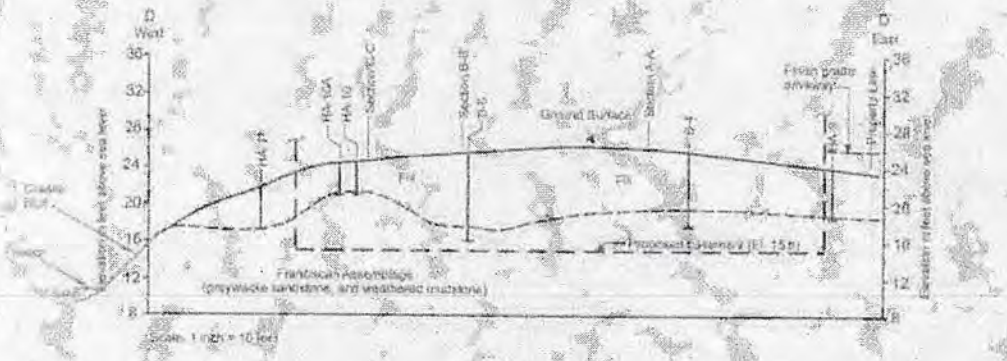


Figure 2: Cleath-Harris Geologic Cross Section D-D' Modified to Show Coastal Bluff and Beach

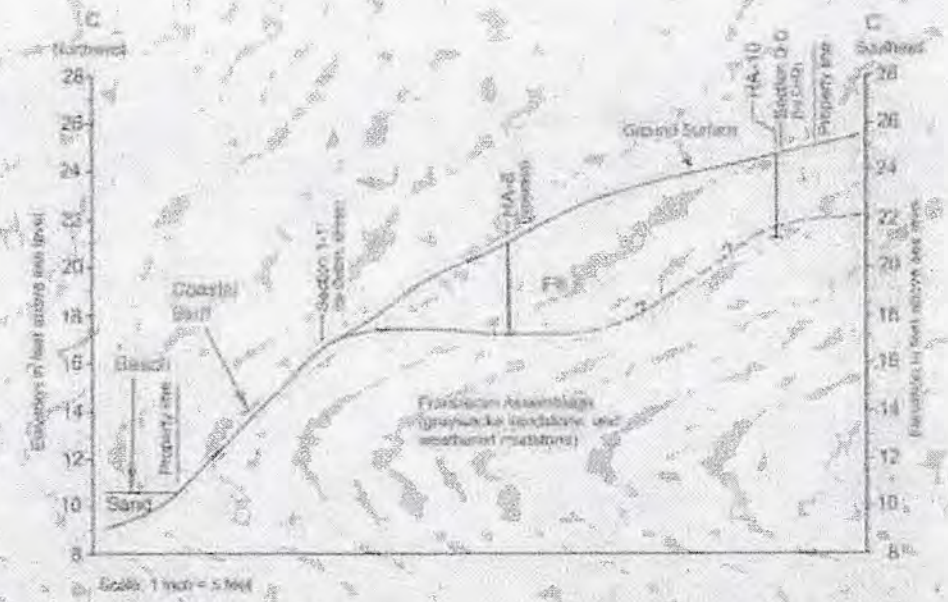


Figure 3
Revised Cross Section C-C'
Lopersena Property, Studio Drive
Cayucos, California
May 18, 2012

Cleath-Harris Geologists

Figure 3: Cleath-Harris Geologic Cross Section C-C' Modified to Show Coastal Bluff and Beach

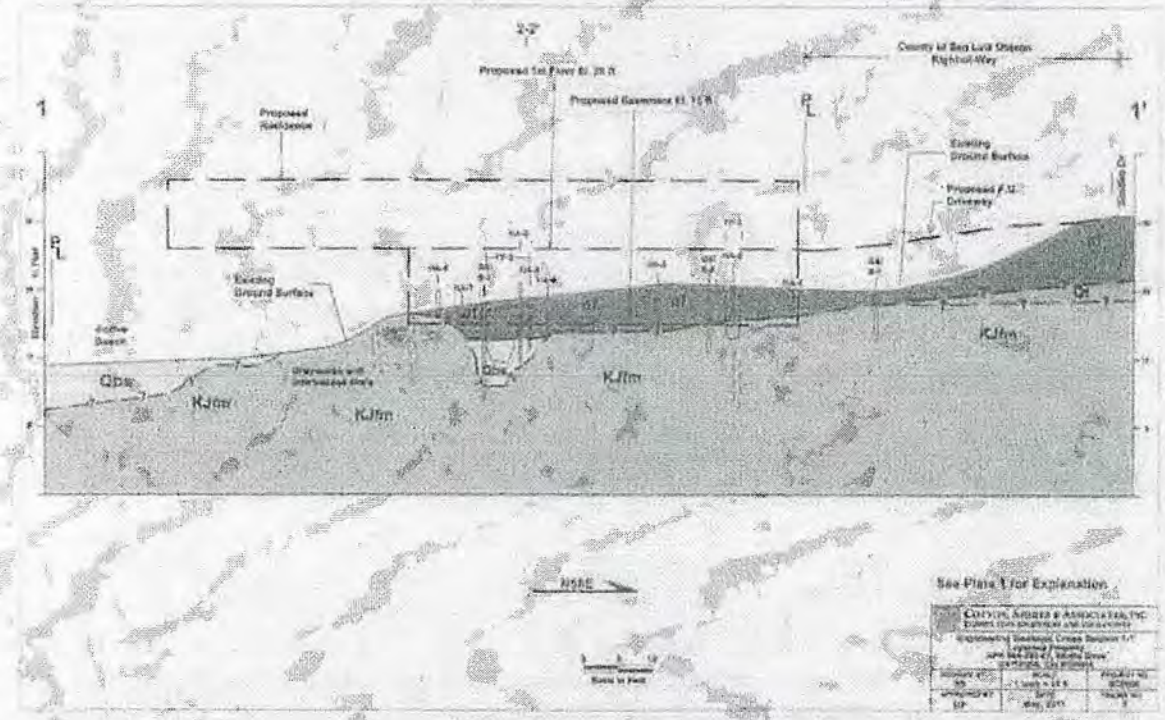


Figure 4: Cotton Shires Geologic Cross Section 1-1' Showing Proposed Home Extending Over Coastal Bluff and Beach

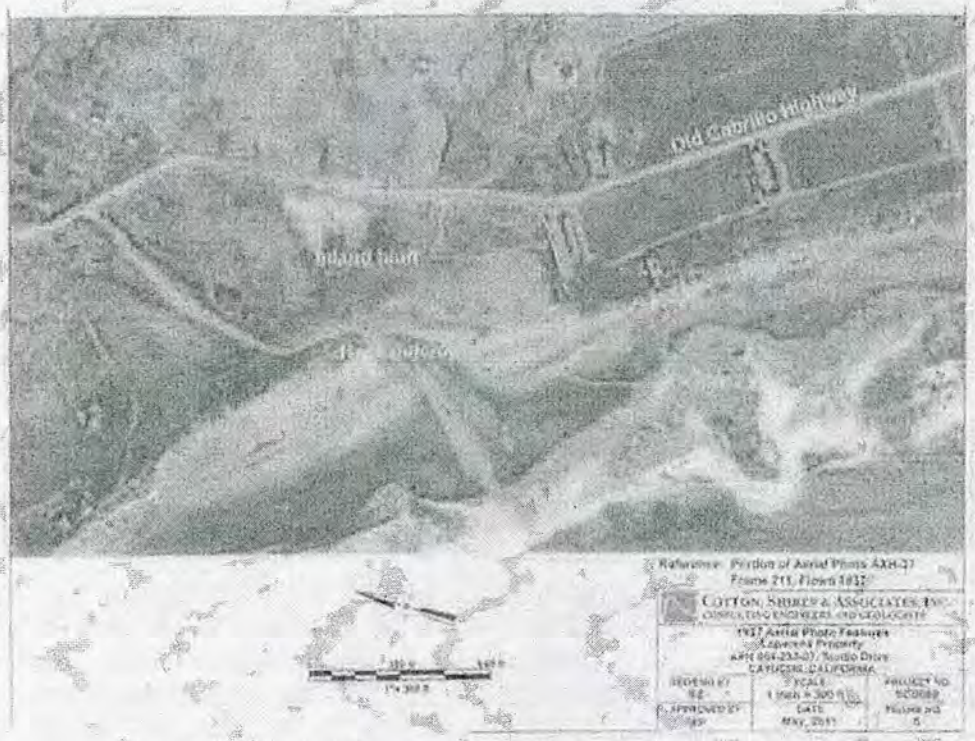


Figure 5: Cotton Shires 1937 Aerial Photo Features, Their Interpretation of Coastal Bluff.

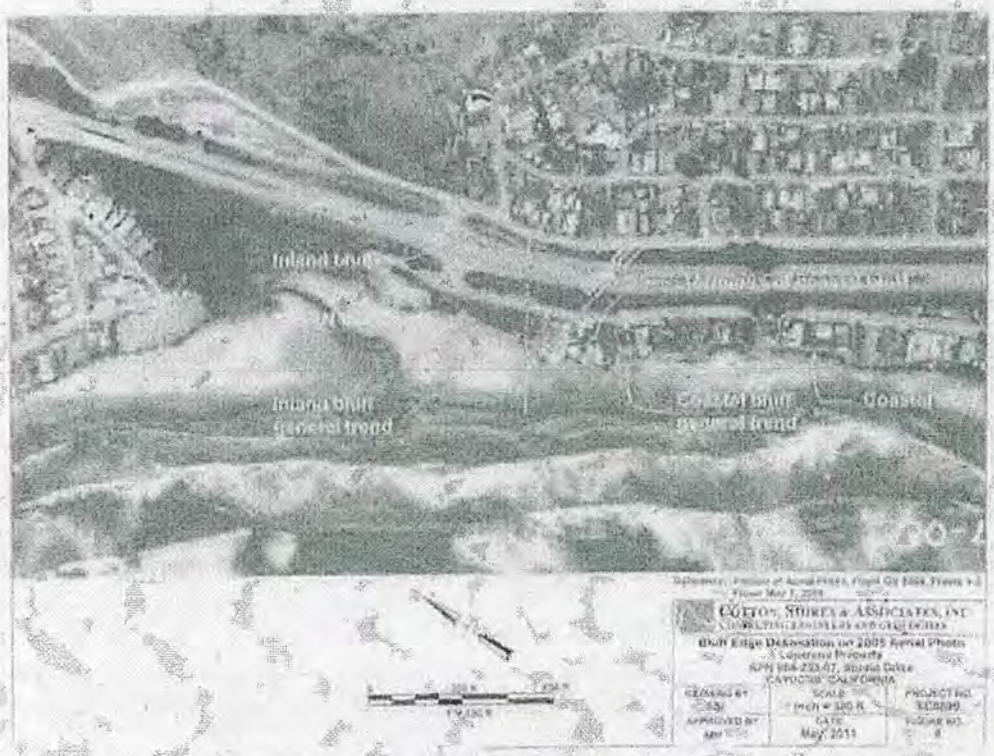


Figure 6: Cotton Shires Bluff Edge Delineation, Their Interpretation of Bluff Termini.

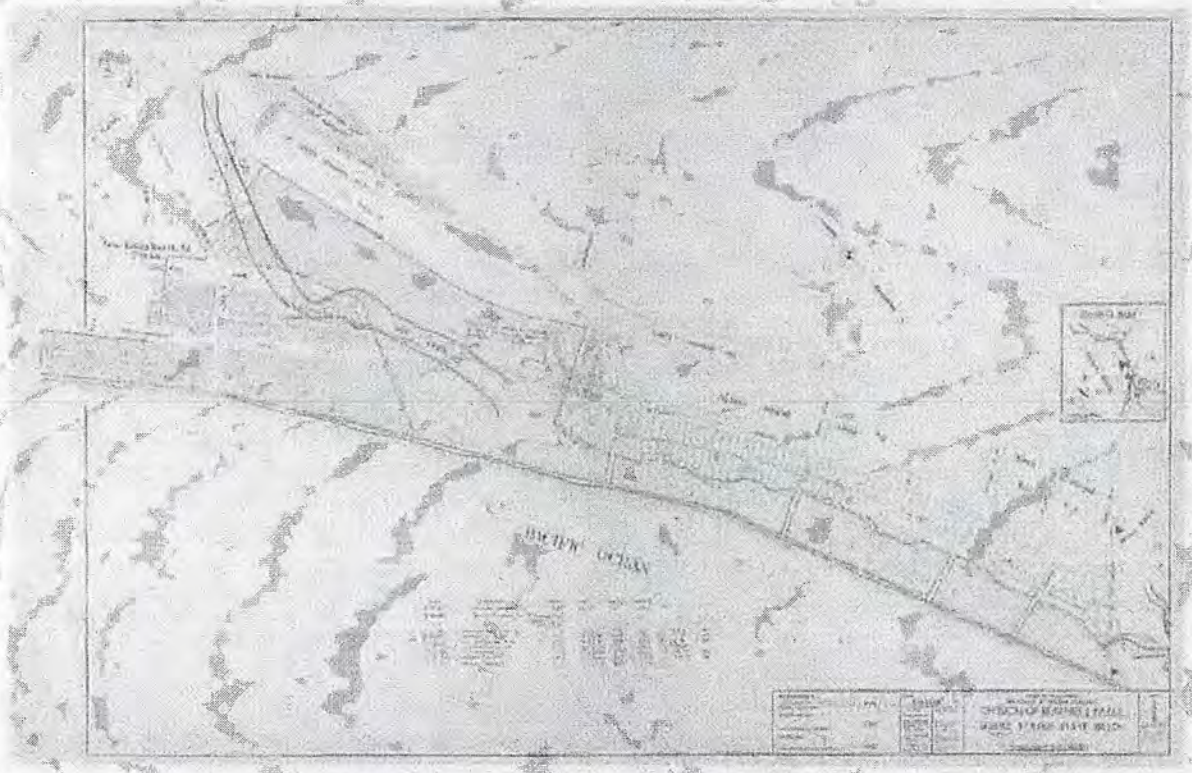
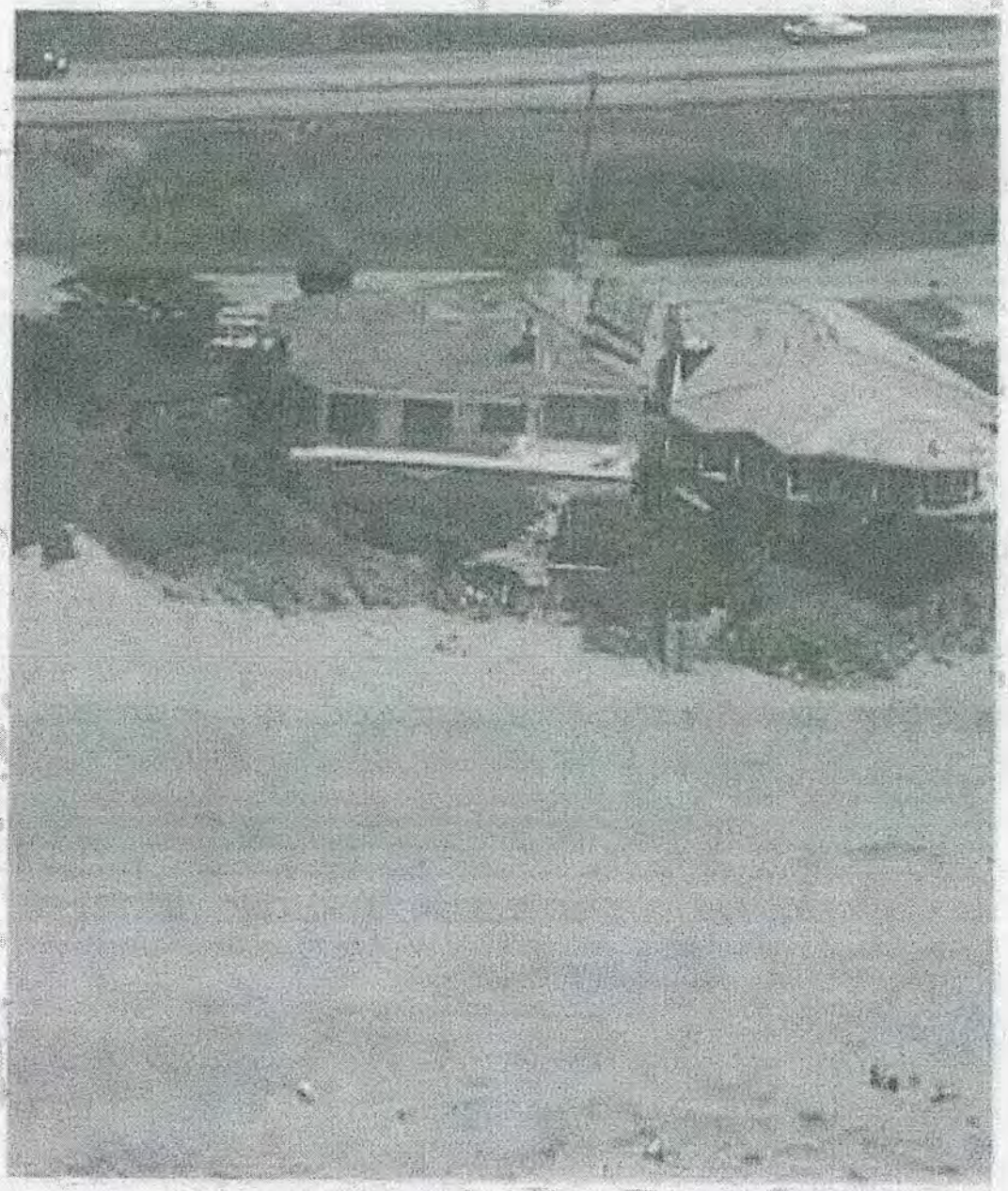
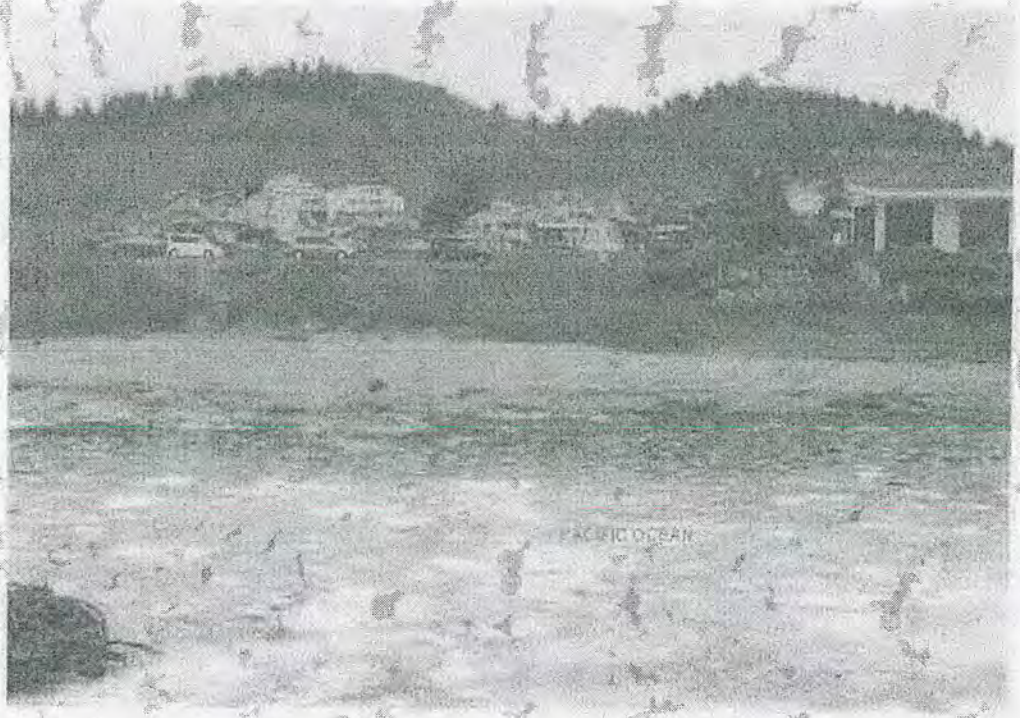


Figure 7: State of California Acquisition Map from 1955 showing the Toe of Bluff that existed on the Laperena property in 1955

Figure 8: Enlarged Portion of State of California Acquisition Map from 1955 showing the Toe of Bluff that existed on the Loperena property in 1955

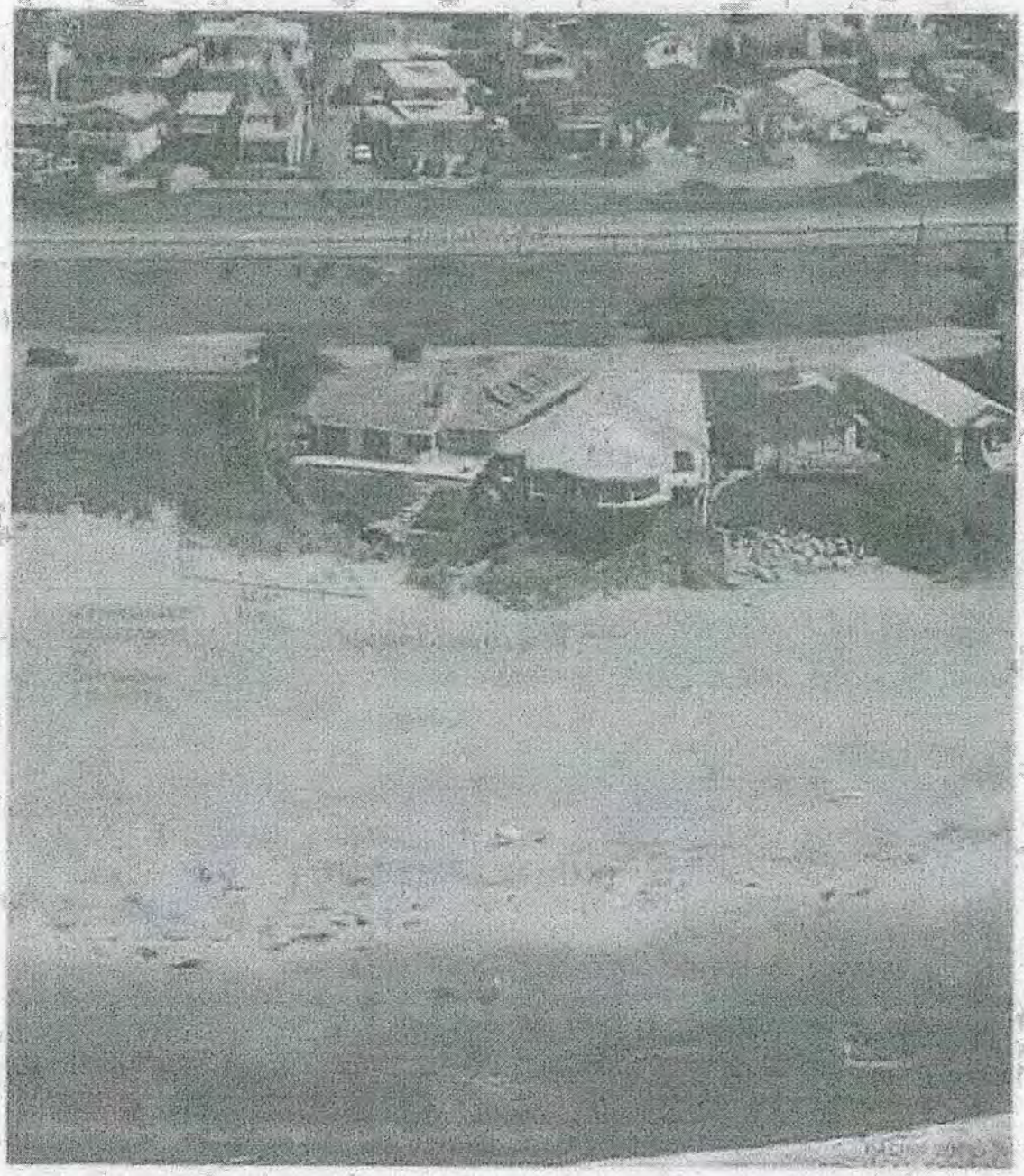


Photograph 1: 2002 Aerial Photograph from www.CaliforniaCoastline.org



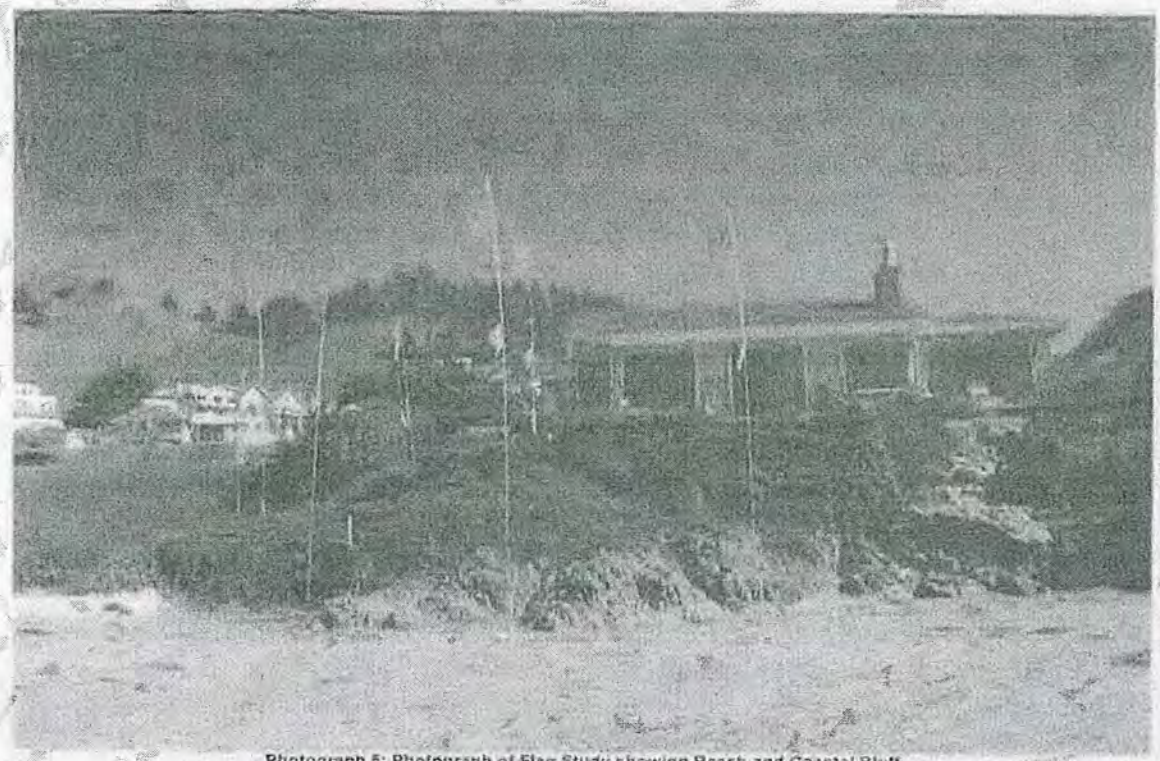
Photograph 2: Site photograph showing the Pacific Ocean, beach and portion of the coastal bluff face where bedrock is exposed

17



Photograph 3: 2002 Aerial Photograph showing the coastal bluff on the Loperena property, the beach at the base of the bluff, the Pacific Ocean wave action on the beach, and a sketch of the Loperena property boundaries

Photograph 4: Shows the coastal bluff on the Loperena property, the beach at the base of the bluff, and Pacific Ocean wave action on the beach



Photograph 5: Photograph of Flag Study showing Beach and Coastal Bluff

Photograph 6: Photograph of Flag Study showing Beach and Coastal Bluff . Note that proposed house corners extend over the beach.

Exhibit B
HKA 2014 LETTER

Exhibit B
2014 HKA Letter

HARO, KASUNICH AND ASSOCIATES, INC.
CONSULTING GEOTECHNICAL & COASTAL ENGINEERS

31 March 2014

Ms. Ryan Hostetter
County of San Luis Obispo
Department of Planning and Building
County Government Center Room 200
San Luis Obispo, CA 93408-2040

Subject: Mark Foxx, CEG 1493, John E. Kasunich, GE 455
Comments on March 12, 2014 Sea Level Rise and Coastal Hazard Letter from GeoSoils and the revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014.

Reference: Loperena Minor Use Permit/Coastal Development Permit
DRC 2005-00216
SCH No. 2007081044

Dear Ms. Hostetter:

We have reviewed the March 12, 2014 Sea Level Rise and Coastal Hazard Letter from GeoSoils Inc. and the revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014.

The results of the wave runup and overtopping analyses contained therein underestimate the gross hazards at the site.

Review of the GeoSoils work was made more difficult because their letter provided incomplete supporting data. Their letter does not present the geologic profile they used that relates to their calculations, only the computer model results. We may have additional comments after complete information is received.

A. OUR COMMENTS REGARDING THE MARCH 12, 2014 SEA LEVEL RISE AND COASTAL HAZARD LETTER FROM GEOSOILS INC. FOLLOW:

Maximum Breaking Wave Heights Underestimated in Analysis:

We note that the prior April 10, 2013 GeoSoils report indicates that with 2.5 feet of future sea level rise the water surface used for wave runup and overtopping analysis will be at an elevation +10.1 feet NAVD88, and the maximum scour elevation at the toe of the rock outcropping (coastal bluff) is at 3.1 feet NAVD88. This yields a water depth of 7.0 feet at the toe of the rock outcropping (coastal bluff), which was used in the 2013 GeoSoils analysis, which used a 5.5 foot high wave at the toe. The "new" March 12, 2014 GeoSoils analysis uses future sea level rise amounts of 4.6 and 5.5 feet respectively, which makes the water surface used for wave runup and overtopping analysis be at an elevation +12.1 and 13.0 feet NAVD88. GeoSoils acknowledges this

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by using water depths of 9.0 and 9.9 feet at the toe of the rock outcropping (coastal bluff) for the 2014 analysis. They then use 7.0 and 7.7 foot high waves at the toe in the analysis. Larger waves than those they used in their analysis have the potential to occur at the site. Our analysis suggests that wave heights of 8.9 to 9.8 feet could occur at the toe of the bluff and are appropriate. Use of appropriate wave heights would significantly increase wave runup, overtopping frequency and overtopping volumes at the site. With future sea level rise, deeper water will occur at the toe of the bluff, and larger waves will break there creating higher wave runup; this will result in greater rates of bluff overtopping, more frequent wave impact on the proposed home, and more rapid bluff erosion, which will erode the bluff over time.

Worst Case Profile Not Utilized In Analysis:

GeoSoils has only used a single profile in their analysis, which appears to include the existing condition bluff profile; no wave runup or overtopping analysis with an eroded bluff profile has been conducted. On the northern part of the site, fill soils comprise the bluff all the way down to the present beach sand level, making the likelihood of future erosion and bluff recession in that area very high. Such erosion and recession is expected to reach the proposed home, particularly the northern part. This factor is unaccounted for in the GeoSoils model. Geosoils states that existing fill soils will be removed and compacted fill soils will be placed between the residence and the ocean. Compacted soils remain susceptible to erosion under ocean wave impact.

Slope Roughness Overestimated:

A Rough Slope Coefficient of 0.398 was used in the GeoSoils modeling, for what we think is the portion of the profile above 3.1 NAVD88, which is indicative of an extremely rough surface, which does not exist at the site. Slope Roughness Coefficients of at least 0.8 are appropriate. Use of higher coefficients (which represent smoother surfaces) would significantly increase wave runup, overtopping frequency and overtopping volumes at the site.

Wind Velocities Underestimated:

Onshore Wind Velocities of 3.376 feet per second (about 2.25 MPH) were used in the 2014 GeoSoils analysis. Wind velocities of 16.878 feet per second (about 11.6 MPH) were used in the 2013 GeoSoils analysis, closer to actual wind velocities that frequently occur onshore at the site during stormy conditions with large waves. No explanation of why the reduced wind velocity was made. Use of appropriate wind velocities in the 2014 study would significantly increase wave overtopping frequency and overtopping volumes at the site.

B. OUR COMMENTS REGARDING THE REVISED PLANS FOR THE LOPERENA RESIDENCE BY C. P. PARKER DATED 3/14/2014.FOLLOW:

The northwestern corners of the lower level (basement level) of the proposed home depicted on the revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014 are about 3 feet from the landward edge of the beach. All of the seaward wall of the basement is within 20 feet of the beach. The plans label the landward edge of the beach approximately at the "edge of rocks" and "edge of iceplant" on Sheet A1.1. The revised plans depict that the main floor and deck cantilever 21 feet above grade seaward of the basement floor; 11 feet of this cantilever are above the beach sand.

Although the 2013 and 2014 wave runup analyses by GeoSoils indicates wave runup will reach elevations of 21.1 to 22.9 feet NAVD88, the home remains designed with a door threshold at the northwestern corner of the home at approximately elevation 15 NAVD88 , and a basement window on the seaward side of the home at approximately elevation 20 NAVD88. The revised design for the home keeps it located where it will be impacted by ocean wave runup. The revised plans show that portions of the seaward basement wall of the home are designed to be exposed above finished grade at elevation 16 NAVD88, approximately 3 feet from the landward edge of the beach. The revised design of the home keeps it located in a hazardous area, an area subject to marine erosion, well seaward of the top edge of the coastal bluff.

As previously communicated and documented, California Code of Regulations, Title 14, Section 13577(h)(1) defines coastal bluffs as those where the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion. **There can be no doubt that the toe of the bluff on the seaward portion of the Loperena property, is now and was historically (within the last 200 years) subject to marine erosion.**

The revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014 do not depict the location of the landward edge of the beach or the toe of the bluff.

Under the California Coastal Act, the bluff edge is defined as:

... the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge...*

(California Code of Regulations, Title 14, §13577 (h) (2).

The revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014 do not depict the location of the top edge of the bluff.

Analysis of bluff setbacks is required by San Luis Obispo County regulations. Some of the pertinent regulations are included in Appendix A of this letter. These documents vary, but require that new development be designed and set back from the bluff edge a distance sufficient to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years and 100 years. The SLO County Local Coastal Program Policy Document updated in 2007 and SLO County Coastal Zone Land Use Ordinance updated in 2013 both state 75 years. However, the SLO County Estero Area Plan updated in 2009 and the SLO County Engineering Geology Report Guidelines updated in 2013 states 100 years.

Because the toe of the bluff at the landward edge of the beach at the property proposed for development is now subject to marine erosion, then it constitutes a coastal bluff, as defined by California Code of Regulations, Title 14, Section 13577(h)(1). Because it is a coastal bluff, the top edge of the bluff must be identified on the plans and the required bluff setback must be shown. The SAN LUIS OBISPO COUNTY ESTERO AREA PLAN status that: "In no case shall bluff setbacks be less than 25 feet."

Although the revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014 do not depict the location of the top edge of the bluff, it is clear that the residence is not in conformance with bluff setback requirements.

The revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014 depict that the main floor and deck of the proposed home cantilever 21 feet horizontally above grade seaward of the basement floor and wall; 11 feet of this cantilever are above the beach sand.

San Luis Obispo County regulations address cantilever portions of buildings in relation to coastal bluffs. The Coastal Zone Land Use Ordinance maximum allows roof and wall projections to cantilever a maximum of 30 inches per 23.04.118.c(3). This provision applies to new development proposed to be **located adjacent to a beach or coastal bluff.** Our interpretation of this code section is that it does not apply to building floors, only roof or wall projections such as eaves or bay windows.

The San Luis Obispo County Engineering Geology Report Guidelines indicate all **development, including** second story and **cantilevered portions of a structure shall**

be set back a minimum of 25 feet from the top edge of the bluff. There is no indication of any exception to the setback requirements for cantilevers.

CONCLUSIONS:

In conclusion, it remains our opinion that the GeoSoils studies underestimate the hazards and risks at the homesite from coastal wave runup and overtopping, particularly in the oceanfront portion of the property where bedrock is not present to higher elevations and erodible fill soils exist.

The 2013 and 2014 wave runup analyses by GeoSoils indicates ocean wave runup will reach 6 to 8 feet above the finished floor of the lower level of the home, and will impact the doors and window adjacent to the beach. The revised design for the home keeps it located where it will be impacted by ocean wave runup. The revised design of the home keeps it located in a hazardous area, in an area subject to marine erosion, well seaward of the top of the coastal bluff.

As previously communicated and documented, California Code of Regulations, Title 14, Section 13577(h)(1) defines coastal bluffs as those where the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion. **There can be no doubt that the toe of the bluff on the seaward portion of the Loperena property, is now and was historically (within the last 200 years) subject to marine erosion.**

The revised plans for the Loperena Residence by C. P. Parker dated 3/14/2014 do not demonstrate that the proposed home and **all development, including second story and cantilevered portions of a structure is set back a minimum of 25 feet from the top edge of the bluff.** We note that the previously submitted 1955 State Of California Acquisition Map for Morro Strand State Beach shows the Loperena property and the configuration and location of the toe of bluff in 1955. It stands to reason that at that time the top edge of the bluff would have been landward of the toe of the bluff. Defining the edge of the bluff can be complicated by the presence of irregularities in the bluff edge, a rounded or stepped bluff edge, a sloping bluff top, or previous grading near the bluff edge. Mark J. Johnsson, California Coastal Commission Staff Geologist, in a publication he authored entitled "Establishing Development Setbacks From Coastal Bluffs"[1] indicates: "Placing artificial fill on or near a bluff edge generally does not alter the position of the natural bluff edge; the natural bluff edge still exists; buried beneath fill, and the natural bluff edge is used for purposes of defining development setbacks." The required setbacks for all development on the Loperena property should be depicted on the plans as measured from the top bluff edge.

We still do not believe that the Applicant has demonstrated that the proposed residence is set back from the bluff edge a distance sufficient to assure stability and structural integrity, and to withstand bluff erosion and wave action for a period of 75 and 100 years without construction of shoreline protection structures. We do not see evidence that indicates that the bluff setback is adequate to allow for future bluff erosion, especially in the areas where the residence is proposed about 3 feet from the landward edge of the beach. We expect that any existing fill soils between the home and the beach, and those re-densified fill soils proposed to be placed between the home and the beach during construction, will be eroded within the next 50 years.

[1] *Proceedings, California and the World Ocean, 2002, Orville Magcon, Editor"* http://www.coastal.ca.gov/W-11.5-2mm3.pdf

We recommend that:

1) The back edge of the sandy beach, the toe of the bluff, and the top edge of the bluff be depicted on the project plans.

2) Any proposed home on the property be setback a sufficient distance from the top edge of the coastal bluff (as defined by California Code of Regulations §13577(h)(1) which defines the bluff at the site as a coastal bluff because the toe of bluff is subject to marine erosion).

3) The required bluff setback should be delineated on the plans. Since County regulations stipulate 75 year, 100 year and 25 foot minimum setbacks, all three of these setbacks should be depicted. The foundation of the home, and any cantilevered section of the home should not extend into the setback. No utilities or other development should be allowed within (seaward of) the setback.

4) Wave runup analysis using realistic potential maximum breaking wave heights, slope roughness characteristics and onshore wind velocities should be completed, using a worst case profile that accounts for potential erosion and resultant bluff erosion (particularly in the bluff areas composed of artificial fill) during the design life of the proposed home.

5) Any proposed home on the property should be situated landward of areas of potential wave runup. Doors and windows should not be allowed below the runup elevation.

Please call us to discuss this project if you have any questions.

Very truly yours,

HARO, KASUNICH AND ASSOCIATES, INC.

John E. Kasunich
G.E. 455

Mark Foxx
C. E. G. 1493

APPENDIX A

Pertinent Blufftop Setback Regulations

1. COUNTY OF SAN LUIS OBISPOLOCAL COASTAL PROGRAM POLICY DOCUMENT
A PORTION OF THE SAN LUIS OBISPO COUNTY LAND USE ELEMENT OF THE GENERAL PLAN
Adopted March 1, 1988; Revised April 2007

Chapter 11 Hazards, Policy 6: Bluff Setbacks
New development or expansion of existing uses on blufftops shall be designed and set back adequately to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of **75 years** without construction of shoreline protection structures which would require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist based upon an on-site evaluation that indicates that the bluff setback is adequate to allow for bluff erosion over the **75 year period**. Specific standards for the content of geologic reports are contained in the Coastal Zone Land Use Ordinance. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.118 OF THE CZLUO.]

2. COUNTY OF SAN LUIS OBISPO COASTAL ZONE LAND USE ORDINANCE
Revised November 2013

23.04.118 - Blufftop Setbacks:
New development or expansion of existing uses proposed to be located adjacent to a beach or coastal bluff shall be located in accordance with the setbacks provided by this section

New development or expansion of existing uses on blufftops shall be designed and set back from the bluff edge a distance sufficient to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of **75 years** without construction of shoreline protection structures that would, in the opinion of the Planning Director, require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist based upon an onsite evaluation that indicates that the bluff setback is adequate to allow for bluff erosion over the 75 year period according to County established standards.

3. SAN LUIS OBISPO COUNTY ESTERO AREA PLAN
THE LAND USE ELEMENT AND LOCAL COASTAL PLAN (LCP) of the SLO GENERAL PLAN
Adopted March 1, 1988
Cayucos and Rural Portions Updated January 7, 2009
Shoreline development standards in the Estero Area Plan include the following (Areawide Standard I-4):

Bluff Setbacks. The bluff setback is to be determined by the engineering geology analysis required in I.1.a. above adequate to withstand bluff erosion and wave action for a period of **100 years. In no case shall bluff setbacks be less than 25 feet.**

Geologic bluff setback. As determined by a site stability evaluation prepared by a certified engineering geologist based upon an on-site evaluation, development shall be set back from the top edge of the bluff sufficiently to withstand bluff erosion and wave action for a period of **100 years** without the need for construction of shoreline protective structures that require substantial alterations to the natural landforms along bluffs and cliffs. **In any case, the minimum setback shall be, 25 feet.**

4. SAN LUIS OBISPO COUNTY ENGINEERING GEOLOGY REPORT GUIDELINES
January 2005, Updated October 2013

The geologic report must include a predicted long-term average erosion rate and a setback that will ensure the development will not require shoreline protection during its economic life, based on either a or b below:

a. Develop a long-term annual average erosion rate, multiply this by the economic life of the structure and either multiply that by a buffer factor or add a buffer factor as a set distance. For example, if the rate of erosion is determined to be 3 inches per year, the economic life of the structure is 100 years, and the buffer factor is 1.2, then the minimum setback is 30 feet (3 in. x 100 yrs. = 300 in., 300 in. = 25 feet, 25 feet x 1.2 = 30 feet). ....

b. **Provide 100-year setback lines** and give the methodology for determining the setback. Define the bluff edge as the upper termination of a bluff, cliff, or sea cliff. In cases where the top edge of the cliff is rounded away from the face of the cliff, the bluff line or edge is that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a step-like feature at the top of the cliff face, the landward edge of the uppermost riser is taken to be the cliff edge.

APPENDIX B

Pertinent Cantilever Regulations

COUNTY OF SAN LUIS OBISPO COASTAL ZONE LAND USE ORDINANCE SITE DESIGN STANDARDS (REVISED APRIL 2011) TITLE 23 OF THE SAN LUIS OBISPO COUNTY CODE

23.04.118 - Blufftop Setbacks:

"New development or expansion of existing uses proposed to be located adjacent to a beach or coastal bluff shall be located in accordance with the setbacks provided by this section."

"New development or expansion of existing uses on blufftops shall be designed and set back from the bluff edge a distance sufficient to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years without construction of shoreline protection structures that would, in the opinion of the Planning Director, require substantial alterations to the natural landforms along bluffs and cliffs."

"**c. Exceptions to bluff setback requirements:** The minimum setback requirements of this section do not apply to the following:"

"(3) Roof and wall projections including cantilevered and projecting architectural features including chimneys, bay windows, balconies, cornices, eaves and rain gutters may project into the required setback a maximum of 30 inches."

SAN LUIS OBISPO COUNTY ENGINEERING GEOLOGY REPORT GUIDELINES

21. Bluff erosion

"Based on the above criteria, **all development, including second story and cantilevered portions of a structure shall be set back a minimum of 25 feet** or the long-term annual average erosion rate multiplied by the economic life of the structure and by a buffer factor of 1.2 **from the top edge of the bluff**, whichever is greater."

Exhibit C
CALIFORNIA COASTAL COMMISSION LETTER DATED JANUARY 22, 2014

STATE OF CALIFORNIA--THE RESOURCES AGENCY EDMUND G. BROWN JR., Governor

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

January 22, 2014

Ryan Hostetter, Project Manager
County Planning and Building Dept.
976 Osos St., Rm. 300
San Luis Obispo, CA 93408-2040

Subject: *Loperena SFD, Cayucos, California.*

Dear Ms. Hostetter:

Thank you for the opportunity to comment on the Final EIR and the upcoming SLO County Planning Commission public hearing on January 23, 2014 regarding the proposed project. The proposed project consists of construction of a single-family residence on a bluff-top lot at the north end of Studio Drive in the unincorporated community of Cayucos, in San Luis Obispo County. As previously expressed in our DEIR letter dated August 5, 2013, Coastal Commission staff continues to have substantial concerns about this project and its impacts on coastal resources.

We have the following comments:

1. **Visual Resources.** The proposed project is located in a highly visually sensitive area adjacent to State Parks property (Morro Strand State Beach) at the north end of Studio Drive. Morro Strand State Beach is an extremely popular public beach in the area and includes a scenic overlook/parking lot that is located just to the north of the project site. The project site is also highly visible from Highway 1, which is a designated state scenic highway and National Scenic Byway. The LCP includes a suite of visual and scenic resource protection policies and standards for development within unincorporated San Luis Obispo County. Per the LCP, new development must be sited to: protect scenic views and vistas; minimize visibility from public view corridors; minimize grading and earthmoving, and; minimize visual intrusion on adjacent sandy beaches (including LCP Visual and Scenic Resources Policies 1, 2, 5, and 11 and corresponding LCP Coastal Zone Land Use Ordinance (CZLUO) Sections. The proposed project is inconsistent with all of these above policies.

   In addition, the project is located within the Cayucos Community Small Scale Design Neighborhood (Studio Drive Neighborhood), which includes standards that require new development to be designed and sited to complement and be visually compatible with the existing characteristics of the community. Also, LCP Visual and Scenic Resources Policy 6 requires that the scale and architecture of new structures add to the overall attractiveness of the community and be compatible with natural features. Furthermore, other LCP policies, such as those found within the Estero Area Plan, provide for enhanced protections for new developments along the shoreline. The project is inconsistent with all of the above requirements because the modern-style and cantilevered residential development would be

highly prominent in a highly scenic public view (including from Highway 1) in a way that will degrade the character of this significant scenic viewshed, and the proposed project is not visually compatible with the surrounding community.

2. **Bluff Setbacks.** The FEIR continues to assert that the project site is not located on a coastal bluff but rather a "river" or inland facing bluff. Thus, the FEIR concludes that the LCP's coastal bluff policies, including required bluff setback distances for development, do not apply. However, the Commission's staff geologist has determined that the project site constitutes a coastal bluff for the following two reasons:

   The first is that California Code of Regulations (CCR) Section 13577(h)(1) defines coastal bluffs as "those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion." Because the project site is located directly adjacent to a relatively narrow and active beach, and including because there are photographs that document marine forces upon the bluff in this location, the project site meets the above definition of "coastal bluff."

   Second, and bracketing the first threshold above (which hasn't been met), the line that was used in the EIR's analysis regarding the bluff was only 300 feet long, as opposed to the minimum 500-foot-long line that should have been used to determine the point at which the coastal and canyon bluffs converge, as required by CCR Section 13577(h). Thus, the findings in the FEIR are based on an assessment of the bluff that does not comply with the requirements of CCR Section 13577(h).

   Because the bluff was incorrectly defined in the EIR, the project impacts analyzed in the EIR are inadequate because the project was not evaluated against the applicable LCP coastal bluff policies and standards for new development.

   It is Commission's staff's strong opinion that the proposed project triggers the LCP's coastal bluff policies (including Areawide Standard I-4, Hazards Policy 6, and CZLUO Section 23.04.118), and that the proposed project is inconsistent with these LCP policies and standards.. Given this fact, the project should be significantly revised to ensure that it meets the LCP's coastal bluff-top setback requirements.

3. **Sea Level Rise and Coastal Hazards.** The proposed project is located within an LCP-mapped Geologic Study Area and fronts Morro Strand State Beach. This site is on a steep slope and in an area known for overall geologic instability (including due to wave run-up, unconsolidated soils, erosion, tsunamis, etc.). The LCP requires that new development ensure structural stability while not creating or contributing to erosion or geological instability (including LCP Hazards Policies 1 and 2, and CZLUO Section 23.07.086). The project includes substantial areas of cut and fill and substantial retaining walls, including basement walls reinforced with steel (which likely constitutes shoreline protection). It is not clear that the proposed project can ensure safety from, and not contribute to, geologic hazards. It is

clear, however, that the proposed project raises LCP hazard avoidance and hazard minimization issues as well.

In short, as proposed, the project is inconsistent with the LCP's Visual and Scenic Resources protection policies, the LCP's Hazards policies, and other related LCP requirements. For all of the above reasons the proposed project should not be approved.

If you have any questions regarding these comments or wish to discuss the project further, please contact me at 427-4863.

Sincerely,

Daniel Robinson
Coastal Planner
Central Coast District Office

Exhibit D
FINDINGS SUPPORTING DENIAL OF THE PROJECT

Findings of Fact Supporting the Denial of the Reduced Project

As Designed (March 14, 2014)

FINDINGS OF FACT PROVIDED BY APPELLANTS
SUPPORTING DENIAL OF THE REDUCED PROJECT DESIGN
Loperena Minor Use Permit, Coastal Development Permit (DRC 2005-00216) and Environmental Impact Report
For Proposed Residence on Coastal Bluff Face and Beach

INCONSISTENCIES WITH PLANS AND ORDINANCES OF THE COUNTY OF SAN LUIS OBISPO, THE CALIFORNIA COASTAL ACT AND THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

I. The Reduced Project Violates and is Inconsistent With San Luis Obispo County LCP, California Coastal Commission and California Coastal Act Requirements Because the Residence is Proposed On a Coastal Bluff Face and Over a Coastal Sandy Beach and the Proposed Residence as Designed Fails to Meet the Coastal Bluff-top Setback Standards.

A. The determination that the project site does not contain a coastal bluff is incorrect. As defined by the California Coastal Act, the proposed residence is determined to be located on a coastal bluff. The bluff on which the proposed project is situated, while it may have been influenced in the distant past by stormwater stream flows of Old Creek, historically and today it is irrefutably influenced by marine erosion since it faces toward the Pacific Ocean, is impacted by ocean wave action on a regular basis, and is located at the back of an active coastal beach. These facts are indisputable, and supported by photographic evidence as well as the Applicants' and County's consultant's analysis "overtopping of rock outcropping" results. Any statement to the contrary is in error of the facts applicable to this property. Under the California Coastal Act, California Code of Regulations (CCR), Title 14, Section 13577(h)(1) & (2) coastal bluffs are defined as:

"(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; *and*

(2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2)." Note: Bold and underline added for emphasis.

During storms and high surf, the Pacific Ocean batters the bluff face at the project site on a regular basis. Clearly, the bluff face and beach at the base of the bluff are subject to marine erosion, and therefore the site is a "coastal bluff" under the definition of the California Coastal Act.

(In this regard, it should be noted that ONLY sites that are NOT impacted by coastal ocean influences such as wave or surf induced erosion, can be determined to NOT be coastal bluff properties through use of the bluff termini analysis methodology.)

B. In this case, the Reduced Project is located directly on a sloping coastal bluff face with a basement level that will be located less than five (5) feet off of the beach at its NW corner and the main floor of the structure will extend

approximately 11 feet over the coastal sandy beach, and as such, is inconsistent with the County Estero Area Plan and State Coastal Act. The project will result in significant grading of the coastal bluff face including the removal of part of the historic rock face of the bluff that is proposed to be excavated in order to build the basement and protective subsurface walls, in contravention of County Coastal Plan Policies, Chapter 10, Visual and Scenic Resources, Policy 5. Policy 5 states: "Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. Where feasible, contours of the finished surface are to blend with adjacent natural terrain to achieve a consistent grade and natural appearance." Policy 11 requires that development on bluff faces be limited to public access stairways and shoreline protection structures. Development is to be sited and designed to be compatible with the natural features of the landform. New development on bluff tops shall be designed and sited to minimize visual intrusion on adjacent sandy beaches.

The extensive grading necessary to develop the Reduced Project, and the modern design of the structure are inconsistent with Policies 5 and 11.

C. Under the California Coastal Act, the bluff edge is defined as: "... *the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge...*" (CCR, Title 14, §13577 (h) (2)).

The proposed project is inconsistent with the Estero Area Plan for Shoreline Development as designed and fails to meet bluff-top setback standards, which stipulate that the project be setback a distance from the bluff top "*adequate to withstand bluff erosion and wave action for a period of 100 years. In no case shall bluff setbacks be less than 25 feet from the top edge of the bluff.*" (Estero Area Plan, Section III, I. Shoreline Development, Bluff Setbacks, pages 7-10 and 7-11). Although the bluff top edge is not identified on the Reduced Project plans, it is clear that the project, as currently designed, is not located landward of the coastal blufftop, but encroaches onto the bluff face and over the sandy beach. The site is subject to potentially severe coastal wave impact.

D. To grant approval of the project as designed would constitute a grant of special privilege inconsistent with the standards that apply to other new residences and additions to existing residences along the west side of Studio Drive under the current coastal setback provisions. To approve the project as designed will create a dangerous precedent that will adversely impact all other coastal bluff development in Cayucos, SLO County, and California.

II. The Reduced Project Is Not Consistent With the San Luis Obispo County General Plan.

A. The Reduced Project encroaches onto the coastal bluff face and over the public

sandy beach.

B. The F-EIR analysis uses a projected sea level rise of 2.5 feet over the next 100 years. However, the F-EIR should have used a projected sea level rise of 3.3 to 4.6 feet by 2100, as adopted in the County's Energy Wise Plan, and extrapolated that rate out to at least the year 2114, which would increase the sea level to approximately 6.5 or 7 feet.

The County commissioned an additional wave run-up study using a new sea level rise of 5.5 feet. The results of the study were presented orally at the January 23, 2014 Commission hearing, and the study was documented in the March 12, 2014 GeoSoils letter. The Reduced Project claims to be designed sufficiently to meet 5.5 feet of sea level rise. While this sea level rise is greater than that used in the F-EIR, it is still too low.

The Energy Wise Plan was adopted by the Conservation and Open Space Element of the General Plan. Since there is a discrepancy between information in the Energy Wise Plan and the EIR, even if correctly updated to reflect the revised sea level rise analysis, it is inconsistent with the General Plan and cannot be approved until the sea level rise figures are rectified.

III. The Project Is Not Consistent With General Setback and Coastal Hazards Setback Criteria, and Coastal Bluff Cantilever Limitation Requirements

A. The EIR underestimates the potential for future damage from wave run-up, coastal flooding and wave impact, despite acknowledging the proposed home will be hit by ocean waves. Those hazards are substantial in light of accelerating sea level rise in the future. Additionally, the basement wall which is only a few feet from the sandy beach, will act as a seawall, deflecting wave run-up towards the neighboring properties and adversely impact them.

Cross-sections of the site show that much of the coastal rock face and a part of the historic coastal bluff has been covered with imported earth fill material. The analysis by Cotton Shires and Associates and GeoSoils Inc. did not utilize the worst case geologic conditions at the site. Both Cotton Shires Cross Sections 1-1' and 2-2' in F-EIR Section 4.3 show beach sand under the proposed home in analyzing the potential for future coastal erosion and bluff recession. This beach sand deposit is likely connected to the exposed sand on the beach about 5 feet from the northwest corner of the home. The worst case geologic conditions at the site occur near the northwest corner of the proposed home, where it is located closest to the beach, and where the earth materials consist of fill and beach sand that that will continue to be exposed to marine erosion (coastal erosion) after the home is constructed. The F-EIR and the supporting documents from Cotton Shires and Associates and GeoSoils Inc. did not present a geologic cross section aligned through the worst case conditions which is a due west alignment through Boring HA-5 as located on F-EIR Figure 4.3-3, the Cotton Shires Engineering Geologic Map. As mapped by Cotton Shires, no bedrock is exposed in the coastal bluff face along this alignment. We disagree with Cotton Shires Geologist Michael Phipps statement at the April 10, 2014 Commission hearing that his Cross Section 1-1' represents worst case conditions. It is not the worst case condition for future coastal erosion, and is not the worst case condition for

calculation of wave run-up.

The Project is not setback a sufficient distance to assure stability and structural integrity, and to withstand bluff erosion and wave action for a period of 75 and/or 100 years without construction of shoreline protection structures, which is prohibited by County regulations.

B. The Reduced Project, as designed, extends significantly beyond the adjacent existing residence, and is therefore inconsistent with Coastal Plan Policy 3 Stringline Method for Siting New Development. Policy 3 states "*In a developed area where new construction is generally infilling and is otherwise consistent with Local Coastal Plan policies, no part of a proposed new structure, including decks, shall be built farther onto a beachfront than a line drawn between the most seaward portions of the adjoining structures; except where the shoreline has substantial variations in landform between adjacent lots in which case the average setback of the adjoining lots shall be used.*" Except for a few properties built prior to the enactment of California Coastal Commission ordinances, the average setback along Studio Drive is at least 25 ft.

C. The Reduced Project, as designed, has a 21 foot cantilevered main floor living space and deck extending beyond the proposed basement wall and even further beyond the required setback location. It fails to meet limitations on cantilevered structures and it is therefore inconsistent with the Coastal Zone Land Use Ordinance 23.04.118c.(3), which states "*Roof and wall projections including cantilevered and projecting architectural features including chimneys, bay windows, balconies, cornices, eaves and rain gutters may project into the required setback a maximum of 30 inches.*"

IV. Seawalls Are Prohibited and the Project Basement Constitutes the Equivalent of a Shoreline Protective Device or Seawall.

A. The proposed reinforced concrete basement wall, located on the cascading coastal bluff face and within approximately five (5) feet of the sandy beach. At the northwest corner of the basement, the basement walls are above grade, and contains doors and windows. The applicant concedes that ocean wave run-up will impact these walls of the residence in the future. The north and west basement walls constitute the equivalent of a shoreline protective device or seawall, and as such, is prohibited by the Estero Area Plan for Shoreline Development. (Section III, I.5, Seawall Prohibition, page 7-11).

V. The Project Will Impact Coastal Views and Is Out of Scale with the Neighborhood Due to Excessive Square-Footage in Relation to Lot Size; It is Not Consistent with LCP Visual and Scenic Resources Policies 1, 2, 5, 6, 11 and Estero Area Plan – Cayucos Small Scale Neighborhood Standards.

A. The scale of the Reduced Project is inconsistent with the character of the immediate neighborhood because the proposed single-family residence comprises a floor area of 2,174 sq. ft. including the garage, 1,935 sq. ft. of which is gross living area, which is many times the area of the buildable bluff-top.

If the County determines the site is not a coastal bluff, then the Reduced Project has a Gross Structural Area (GSA) of 1,894 sq. ft., which is higher than the allowed GSA for non-bluff top lots, per Small Scale Neighborhood Standards (§7.V.D.3.d(2) and Table 7-3 page 7-71). GSA is calculated as 55% of the "usable" lot. The majority of the site is coastal bluff-face and beach. The beach portion should not be included in the usable area, because it is included in the lateral access easement and therefore not available for the applicant's private use. The Reduced Project is therefore inconsistent with the Small Scale Neighborhood Standards.

B. The proposed residence extends seaward (21 feet, 11 feet of which are over sand) blocking coastal views down the Morro Strand State (Public) beach, and the 33 foot high structure detracts from the natural beach view. Public views of the ocean from Highway 1 and from the adjacent Studio Drive are significantly impacted due to the size and scale of the proposed Reduced Project, and the fact that it is proposed on the coastal bluff face and over the sandy beach, extending well beyond the adjacent development along the west side of Studio Drive.

VI. The Project Is Inconsistent With Coastal Access Provisions

A. The Reduced Project, as redesigned, encroaches over the sandy beach and the applicant appears to propose adding fill and two retaining walls on the adjoining land north of the site on the Morro Strand State Beach. It is believed this new design element is part of a revised drainage plan associated with the new Reduced Plan. It is therefore inconsistent with Coastal Act Section 30211, which states that "*development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*"

B. The Reduced Project, because it cantilevers over the sandy beach at the base of the bluff, is inconsistent with coastal access provisions of the Estero Area Plan and CZLUO 23.04.420, which require lateral access. Lateral Access Easement is not dedicated as required. The Easement should be revised to extend from the toe of the bluff to its western property line, should be free of encroachment by the Reduced Project's cantilevered deck, and should be dedicated prior to obtaining any permits.

VII. The Reduced Project Environmental Impact Report is Not in Compliance With CEQA

A. Because there were insufficient scoping meetings and minimal outreach for the EIR, the EIR is not in compliance with CEQA.

B. This new "design feature" related to fill and retaining walls on Morro Strand State Beach, described in Section VI of this appeal, was not disclosed in the County's staff report describing the revised project or discussed at the April 10, 2014 Commission hearing. We question if it would trigger a re-circulation of the EIR.

C. The statements in the Environmental Impact Report (EIR) that the project is not

located on a coastal bluff are patently incorrect. (see definition of coastal bluff above). The project is in fact located on the Coastal bluff face and bluff-top and therefore is required to meet those standards applicable to Coastal Bluff setbacks and coastal beaches.

D. The geologic safety of the project has not been adequately confirmed and, in fact, the location and design of the project may create hazards for both the occupants of the proposed residence as well as increase the hazards to the coastal bluff south of the project and the hazards to the residents of the homes located south of the proposed project.

E. The Reduced Project's basement is located at an elevation such that the residents of the proposed structure may be harmed. Said basement also constitutes a "seawall" and is therefore inconsistent with the County Estero Bay Plan. LCP Hazard Policy 1 requires that new development shall be designed so that shoreline protective devices (such as seawalls, cliff retaining walls, etc.) that would substantially alter landforms or natural shoreline processes, will not be needed for the life of the structure.

F. The Reduced Project, as designed, has serious significant environmental impacts and is not incompliance with CEQA.

G. The Reduced Project, as designed, will cause significant adverse environmental impacts, including but not limited to:

1. Hazards to the occupants of the residence due to wave run-up, tsunami, and coastal storms;
2. Potential hazards and coastal erosion of the bluff-top and bluff face adjacent to the proposed project;
3. Potential erosion of the beach at the base of the site;
4. Adverse visual impacts due to the encroachment onto the coastal bluff face, over the beach, and the large scale of the project in relation to the small lot's size and 33 ft. tall structure by approximately 67 ft. in length, impacting coastal views from the street and highway as well as impacting views from the beach looking back toward the coastal bluff and down the length of the coastal bluffs;
5. The proposed scale of the project (proposed on a coastal bluff face and over the sandy beach) is inconsistent with the neighborhood;
6. The project will impact access on the sandy beach at the base of the coastal bluff due to the encroachment of the cantilevered structure over the required lateral access;
7. The Reduced Project, as designed, is inconsistent with County and State Plans, including but not limited to the Estero Area Plan (local coastal plan) and the State Coastal Act.

H. The project, as designed, will cause irreparable harm to a mature approximately 70-yr old native cypress tree located within the County right-of-way near the front of the subject property. The F-EIR failed to properly identify the serious impacts that the subject project will have on this cypress tree, and failed to provide realistic mitigations to protect the tree. Loss of said tree will be a significant impact. Certified Arborist, Chip Tamagni, states that "The mitigation measures

included in the F-EIR (BR/mm-3 and BR/mm-4) and the new condition 33 approved during the April 10, 2014 Commission hearing are not sufficient to protect the cypress tree located near the Project. His findings also apply to the new Reduced Project. The new condition 33 is unrealistic and will likely be unsuccessful in protecting the tree." The project needs to be redesigned to provide a minimum construction clearance of at least 25 foot distance from the trunk of the cypress tree.

I. Because there was an insufficient range of project alternatives included in the EIR, the EIR is not in compliance with CEQA. The alternatives were too similar and did not provide sufficient variation. An additional alternative of an eco-friendly small house alternative should have been developed.

Exhibit E
PHOTOGRAPHS OF PROPERTY AND OCEAN AT TYPICAL HIGH TIDE

Exhibit E
Photographs of Property and Ocean at Typical High Tide

Exhibit F
PHOTO GRAPHIC SHOWING EFFECT OF ORIGINAL PROJECT ON VIEW OF OCEAN

Photo Graphic Showing Effect of Project on View of Ocean

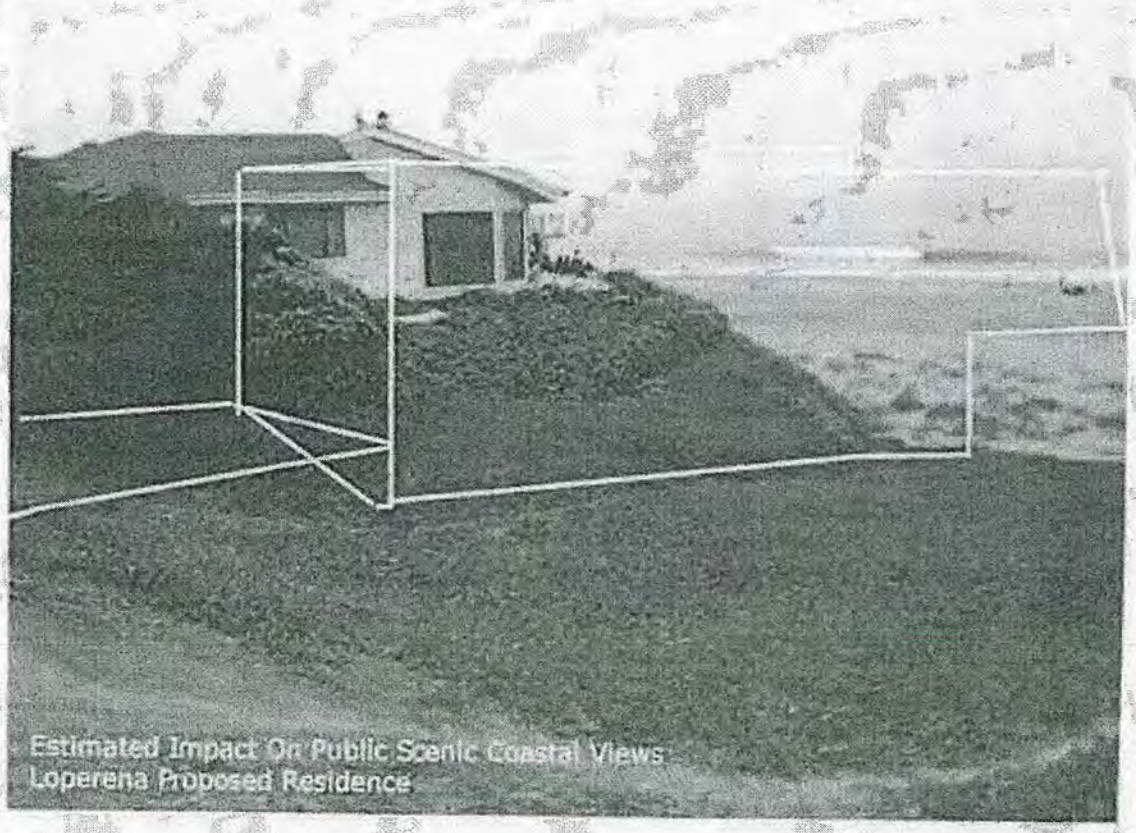
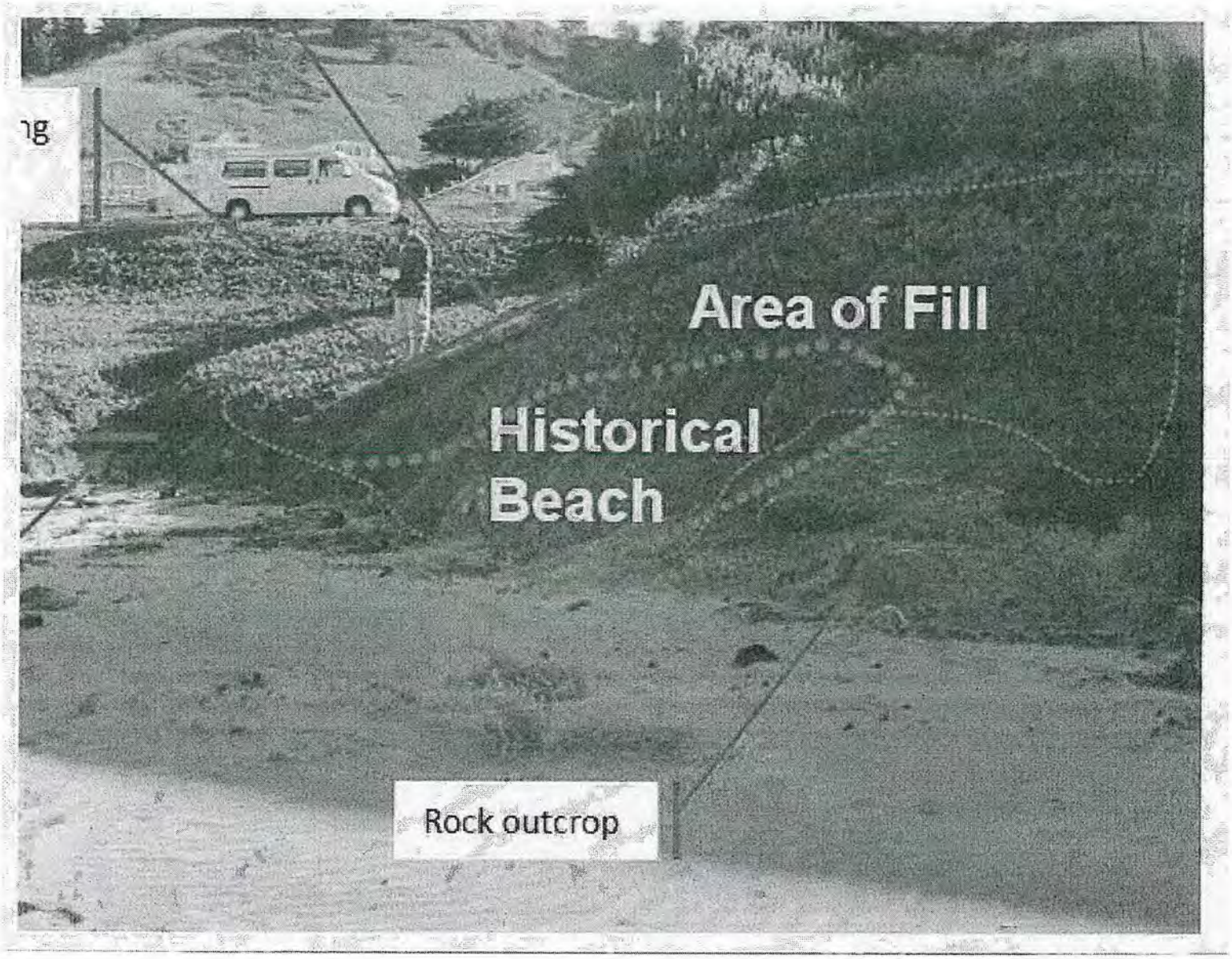


Exhibit G
SHORELINE ENGINEERING PHOTOGRAPH OF SITE


Area of Fill
Historical
Beach
Rock outcrop

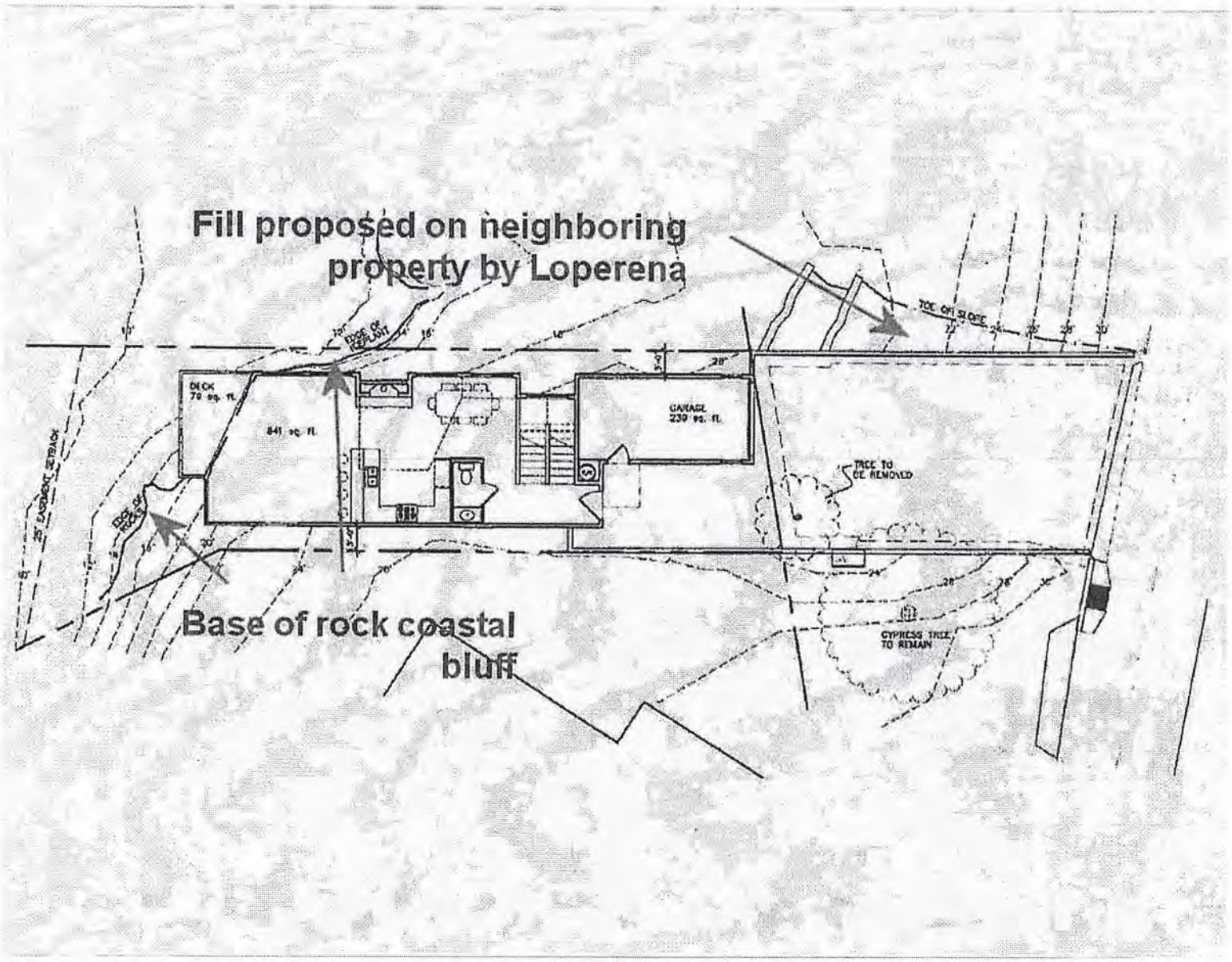

Fill proposed on neighboring property by Loperena
Base of rock coastal bluff
TOE OF SLOPE
DECK
79 sq. ft.
841 sq. ft.
GARAGE
239 sq. ft.
TREE TO BE REMOVED
CYPRESS TREE TO REMAIN
25' EASEMENT SETBACK

Exhibit H
ARBORIST REPORT

A&T ARBORISTS
CERTIFIED ARBORISTS
Contractor Lic #906700

3/7/14
To: Donald Funk

From: Chip Tamagni, A & T Arborists and Vegetation Management Inc.

Re: Planned Lot Development for APN# 064-253-007, Loperena Residence

This report is in regard to the planned construction of a new home located on a coastal bluff at the north end of Studio Drive in Cayucos, CA. A & T Arborists was hired primarily to study the potential construction impacts to a Monterey Cypress tree (*Cupressus macrocarpa*) located within the county right of way. There appears to be some confusion regarding the "coastal bluff" or "stream bank" designation for this lot. First, the Monterey cypress is a species found on coastal bluffs in California. They are by no means a riparian species that primarily exist next to streams. With the out flow of Old Creek 600 feet to the north and the ocean and beach in the immediate vicinity, the proper definition of this property is a coastal bluff. Any deviation from referring to this property as a coastal bluff appears to be biased in that setback obligations can be avoided.

Monterey Cypress trees are indigenous to the Monterey Peninsula area, however they thrive in the Central Coast region. They are generally a shallow rooted species and are subject to wind throw especially as a result of root loss and ground disturbance. Although this tree is relatively short (approximately 25 feet tall), the trunk section is quite extensive. The multi-trunk diameter is approximately 76 inches. Within the last few years, we removed a diseased Monterey Cypress tree several blocks south of this location that we estimated at 75-80 years old. This tree is similar in size, therefore, it may be somewhat close to the same age. The following photograph illustrates the massive trunk and shallow roots of the cypress tree.

When we review construction impacts, we look at impacts within the "critical root zone". This zone comprises a circular area equal to a radius of 76 feet (one inch of diameter equals one foot of critical root zone radius) for this particular tree. Through producing literally hundreds of tree plans, we have concluded that most trees can withstand root loss of up to about 25% and still survive especially with mitigation that may consist of fertilization, fungicide, insecticide, trimming for less wind sail, etc. We come across very few trees that survive impacts greater than 50% in the long term. These surviving trees are usually vigorous "sprouting" species such as a mulberry or an elm. This particular tree appears to be subject to a potential 60% impact as per the "extent of grading" from the Loperena site plan. Per the EIR, BR/mm-3, fencing is to surround the cypress tree. That is physically impossible due to the fact the grading will cover 60% of the drip line. I measured the distance from the edge of the trunk to the existing culvert and the result was seven feet. At about eight feet from the trunk is a planned retaining wall that will support the fill driveway. This wall will require a substantial footing to

retain the fill soil for the driveway. The excavation for this footing will completely destroy all the roots from seven feet north of the tree. The grading outside of the wall will also damage the roots north of the trunk. In addition, the tree will have to be side trimmed extensively (1/3 of the canopy) at a minimum to work in that area.

In addition to the cypress tree, there is also a long-leaf pine tree (*Pinus palustris*) within the county right of way that will definitely have to be removed for the driveway construction.

In conclusion, we are quite certain the current design will negatively affect the Monterey cypress tree to the point of death. At a minimum, we feel the safe distance to remove the roots is located approximately 25 feet from the trunk of a tree this size to minimize long term impacts. We feel the EIR did not correctly identify mitigation measures to protect the tree. Although there is mention of an environmental monitor requirement in the EIR, there are no specific mitigations mentioned to protect the tree other than the misguided mention of tree fencing. The site, if developed according to plan will most likely be a death sentence for the cypress tree.

Chip Tamagni
Certified Arborist #WE 6436-A
ISA Certified Hazard Risk Assessor #1209
BS Cal Poly Forestry and Natural Resources Management
California State Pest Control Advisor #75850
California State Applicator #104758

Exhibit I
PLANS SHOWING NEW IMPACT ON MORRO STRAND STATE BEACH

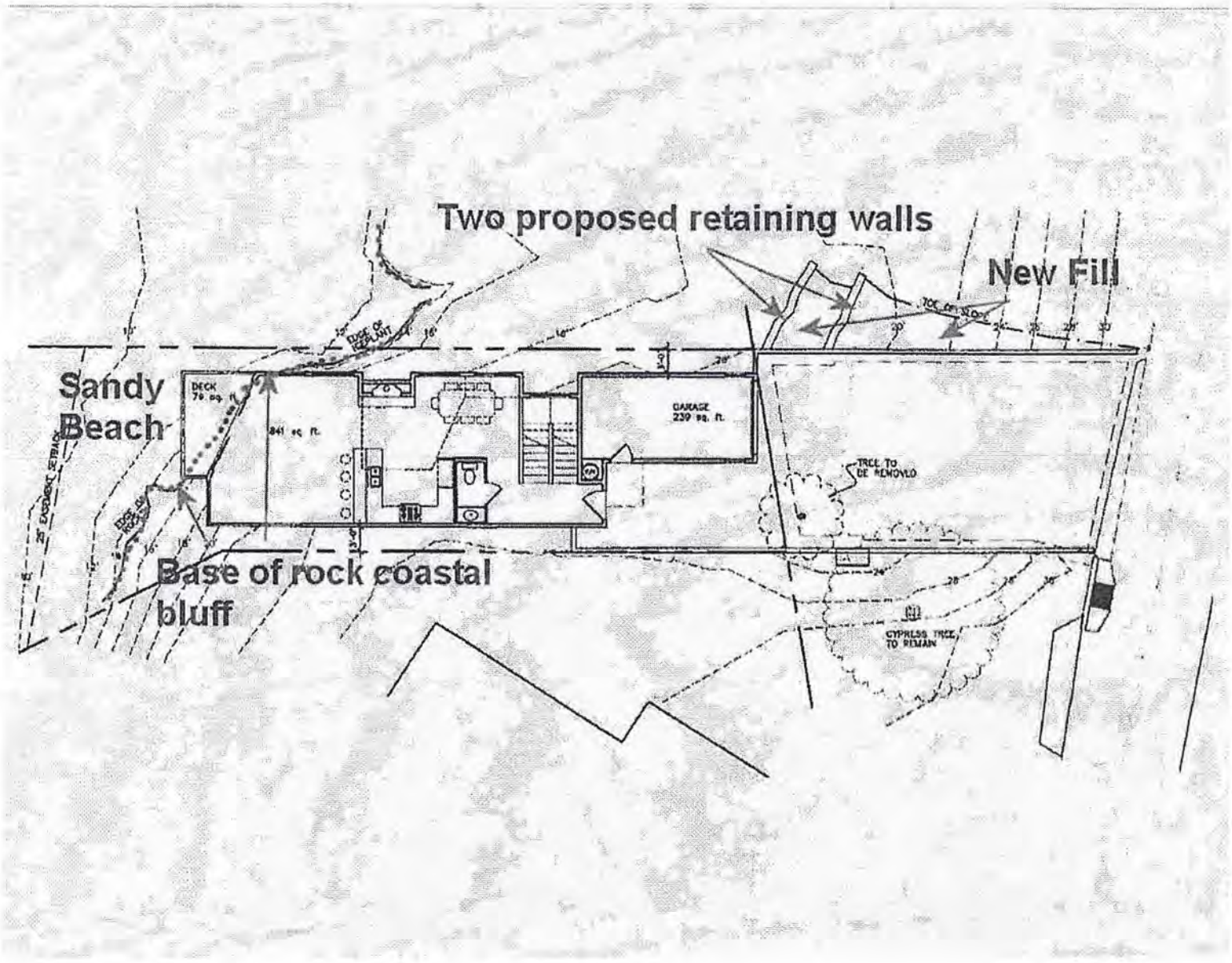

Two proposed retaining walls
New Fill
Sandy Beach
Base of rock coastal bluff
DECK
841 sq. ft.
GARAGE
239 sq. ft.
TREE TO BE REMOVED
CYPRESS TREE TO REMAIN

Exhibit 11
Kevin Elder SJMS Letter dated June 3, 2014 – Request changes to Project Conditions #33 and #34

WARREN A. SINSHEIMER III
DAVID A. JUHNKE
JUNE R. McIVOR
HERBERT A. STROH
DAVID S. HAMILTON
KEVIN D. ELDER
N. ELLEN DREWS

SJMS
SINSHEIMER JUHNKE McIVOR & STROH, LLP
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Of Counsel:
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K. ROBIN BAGGETT

E-Mail:
KElder@sjmslaw.com

June 3, 2014

Client: 3203.003

San Luis Obispo County Board of Supervisors
Bruce Gibson
Debbie Arnold
Adam Hill
Frank Mecham
Caren Ray
c/o Clerk of the Board
County Government Center, Room D-430
San Luis Obispo, California 93408

TO BE HAND DELIVERED

Re: Appeal of San Luis Obispo County Planning Commission Decision Certifying Final Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) and Approval of Project

Dear Supervisors Gibson, Arnold, Hill, Mecham and Ray:

On behalf of Ethel M. Pludow and Cynthia R. Sugimoto, we respectfully submit this request for changes to Project Conditions #33 and #34 of the above referenced project. In addition to this written request, we will be addressing our requested changes in our presentation today.

Condition #33.

Condition #33 regards the mitigation measures associated with the cypress tree located in the County right-of-way adjacent to the project. Some revisions to Condition #33 have been made, and are appreciated. However, we recommend and respectfully request that the recommendations contained in the June 2, 2014 letter from A&T Arborists be incorporated into Condition #33. A copy of the letter is enclosed as Attachment 1.

Condition #34.

Condition #34 regards the location of the required lateral access dedication. We again appreciate the change in the condition requiring that lateral access extend from the western property line to the toe of the bluff, rather than just the first 25 feet from the western property line.

The staff report states that no structures will be allowed within the lateral access easement, but that restriction is not a part of Condition #34. Therefore, we request that the following sentence be added to the condition: "No structures including the basement or cantilevered main floor are allowed within this lateral access easement."

We appreciate your consideration of our requests, realizing that they have been made for the first time at the hearing.

Sincerely,

SINSHEIMER JUHNKE McIVOR & STROH, LLP

KEVIN D. ELDER

KDE:ggf
K:\PludowE\003 Loperena\Ltr\17CoastalCommAppeal-060314.docx
Enclosure

cc: Cynthia R. Sugimoto

Attachment 1

(See Attached)

A&T ARBORISTS
CERTIFIED ARBORISTS
Contractor Lic.#906700

6-2-14

Donald Funk

Re: Loperena Cypress Tree

After reviewing the added mitigation measures for the Monterey cypress tree at the Cayucos location, I believe the following mitigation measures should be added to any permit.

- The project arborist and engineer shall develop specific mitigation measures that address bridging the roots for the driveway stem wall. In addition, the fill behind the wall shall consist of a very porous material with drainage pipes that daylight throughout the driveway to provide aeration for the roots.
- The project arborist shall monitor ALL ground disturbance activities within 25 feet of the cypress tree with photo documentation. These photographs shall not be just before and after but also during all construction that could impact the tree.
- No roots over three inches in diameter shall be cut. They must be bridged over. All footings shall be hand dug within 25 feet of the tree.
- The applicant shall bond the cypress tree for a period of 5 years with an amount set by an independent tree appraiser. The amount should be consistent with values calculated from *The Guide for Plant Appraisal* publicized by the International Society of Arboriculture. After 5 years, the tree should be evaluated for decline with photographs from before and after construction and then at the 5 year mark.
- Any violation of the above and any other previously published mitigation measures shall result in a stop work for the project until all violations are remedied.

Please feel free to call us with any questions

Chip Tamagni
Certified Arborist #WE 6436-A
California State Pest Control Advisor #75850
California State Pest Control Applicator #104758
ISA Certified Hazard Risk Assessor #1209
Cal Poly BS Forestry and Natural Resources Management

Steven Alvarez
Certified Arborist #WE 0511-A
California State Pest Control Advisor #72589
California State Pest Control Applicator #97782

Exhibit 12
Appellant's Presentation at Board of Supervisors Hearing June 3, 2014 Hearing

BOS - Loperena Appeal 6/3/2014

Recommendation:

- Define Site as a coastal bluff.
- Reverse the Commission's decision
- Uphold the Appeal
- Deny the Project as Designed

"Bluff-Top" Setbacks Apply

- Estero Area Plan, Section V.F.1, "bluff" "minimum setback shall be 25 feet in any case. "

"**F. Setbacks - Communitywide**.

Unless specified in other Cayucos Urban Area standards, the following special setbacks in Table 7-1 apply to the respective neighborhoods shown on Figure 7-17.

1. Bluff Setbacks. Bluff setbacks shall be in accordance with the Coastal Zone Land Use Ordinance, except that the minimum setback shall be 25 feet in any case."

"Bluff-Top" Setbacks Apply

3

Table 7-1, Cayucos Urban Area Special Setbacks—Communitywide

LOCATION						MINIMUM SETBACKS (FT)[1]					
AREA	AREA-WIDE	SUB. NO.	BLOCK	LOTS	OTHER	BLUFF	FRONT	SIDE	STREET SIDE	REAR	REMARKS
BLUFF-TOP LOTS	X					25					Larger setbacks required where necessary to withstand 100 years of erosion (see Standard G1)

Gross Structural Area Limitation

- GSA Limited
- Estero Area Plan §7.V.D.3.d(2) & Table 7-3.
- Allowed GSA 55% of "**usable lot,**" not of <u>total lot.</u>
  "Usable lot" area & allowed GSA should be less due to lateral access easement area.

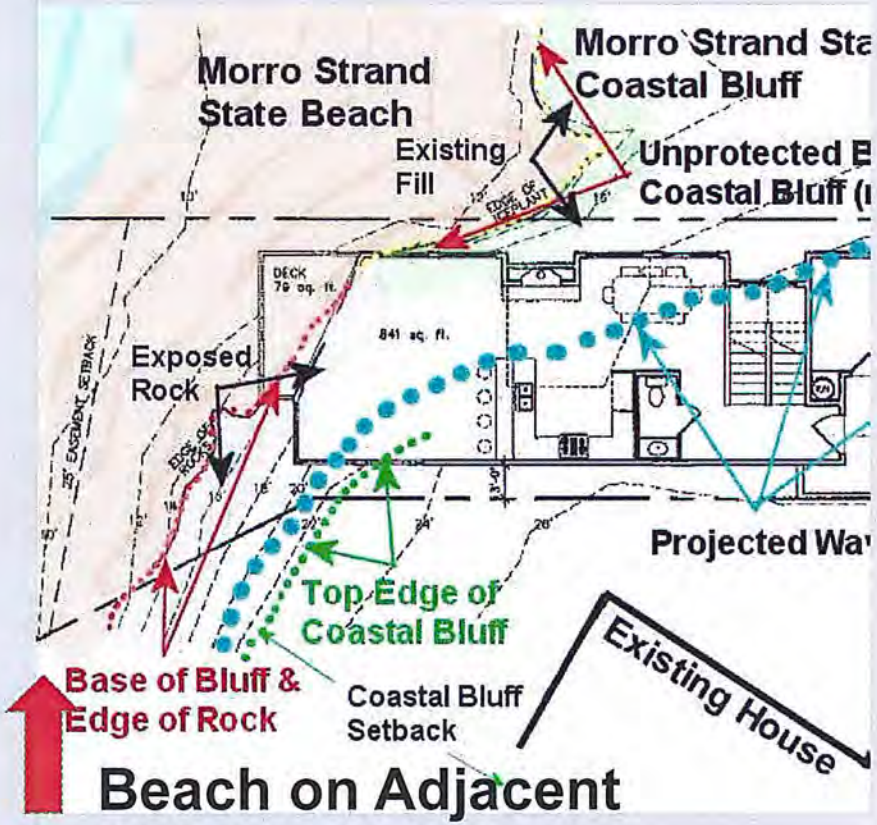
Table 7-3, Maximum Gross Structural Area, Non-Bluff-Top Sites Greater Than One Story or 15'

Lot Size	Maximum Gross Structural Area Shall Be:
Up to 2899	60% of usable lot, not to exceed 1595 square feet
2900 – 4999	55% of usable lot, not to exceed 2500 square feet
5000+	50% of usable lot, not to exceed 3500 square feet

Stringline Method

5

- Inconsistent with Coastal Plan Policy 3
- Project extends seaward of adjacent house.
- "If there are substantial variations in landform between adjacent lots, then the average setback of the adjoining lots should be used."
- Avg. setback 25 feet.
- Contrary to Staff Report Neighbor Property includes Beach



Cypress Tree – Revise Condition #33

6

Recommended Additions:

- Project arborist and engineer shall develop specific mitigation measures that address bridging the roots for the driveway stem wall. In addition, the fill behind the wall shall consist of a very porous material with drainage pipes that daylight throughout the driveway to provide aeration for the roots.
- Project arborist shall monitor ALL ground disturbance activities within 25 feet of the cypress tree with photo documentation (before, during construction, and after completion of construction).
- No roots over three inches in diameter shall be cut. They must be bridged over. All footings shall be hand dug within 25 feet of the tree.
- The applicant shall bond the cypress tree for 5 years with an amount set by an independent tree appraiser, and calculated from *The Guide for Plant Appraisal*. After 5 years, the tree should be evaluated for decline with photographs from before and after construction and then at the 5 year mark.
- Any violation of the mitigation measures shall result in a stop work until all violations are remedied.

Lateral Access – Revise Condition #34

- Revise proposed Condition #34 by adding sentence "No Structures including the basement or cantilevered main floor are allowed within this lateral access easement."

Widespread Opposition to Project

- 4 Environmental Groups –
  - Sierra Club
  - EcoSlo
  - Surfrider Foundation
  - Coastkeeper
- CCAC
- General public 27 letters on D-EIR

Conclusion and Recommendations

- Inconsistent with Local Coastal Plan
- Site is a Coastal Bluff.
- Does not comply with coastal bluff requirements.
- Significant adverse impacts cannot be mitigated

- Define Site as a coastal bluff.
- Reverse the Commission's decision
- Uphold the Appeal
- Deny the Reduced Project as Designed

Appellant's Consultants

10

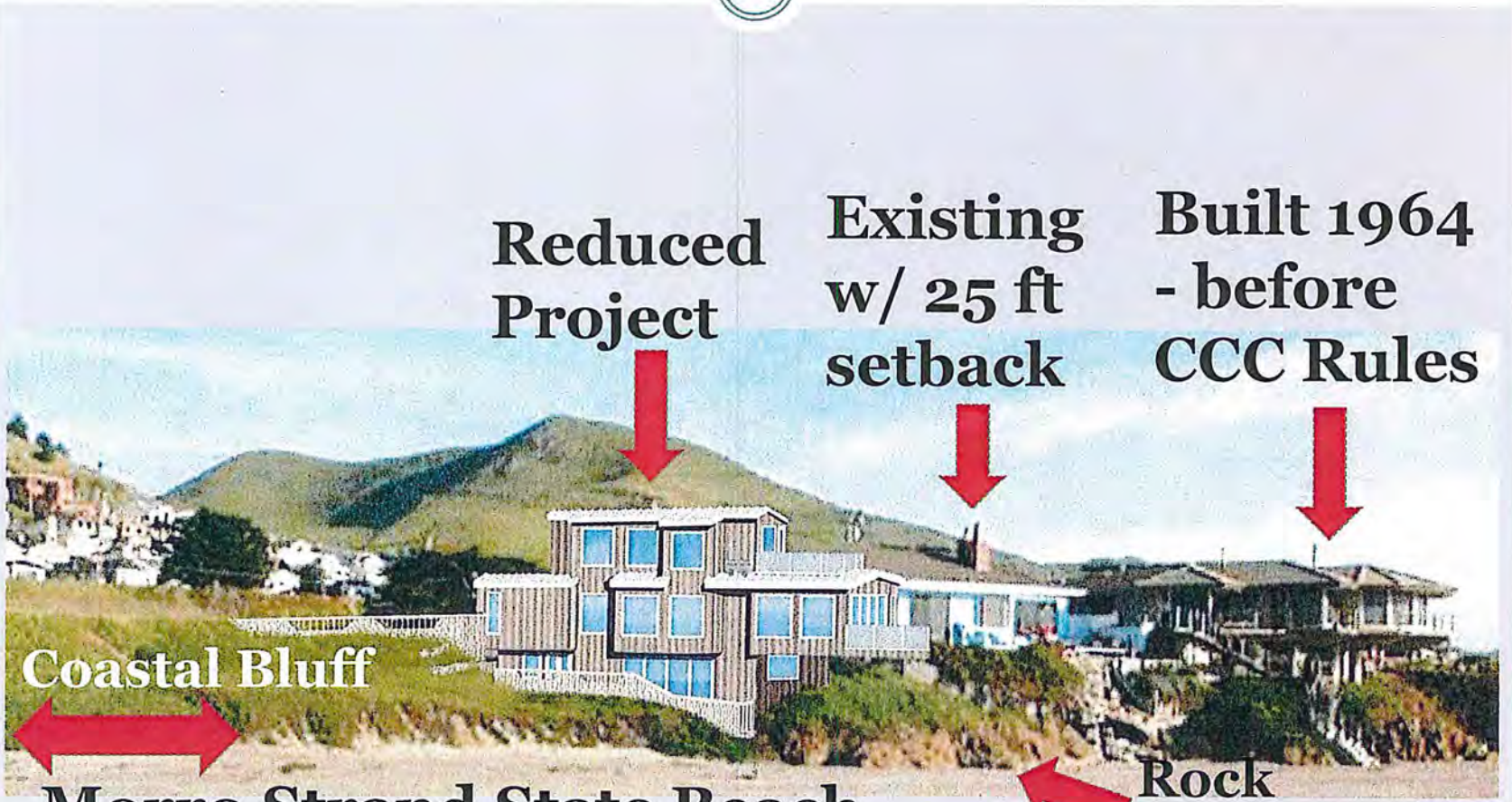
MARK FOXX, P. G. & C.E.G.
JOHN KASUNICH, P.E. & G.E.
HARO KASUNICH & ASSOCIATES, INC.

DOREEN LIBERTO, AICP MDR
DON FUNK, CPESC, QSD/QSP
EARTH DESIGN, INC.

KEVIN ELDER
SINSHEIMER JUHNKE MCIVOR & STROH, LLP

Adjacent Neighbors

11



"Original" Project Outline (2011)

- Flag Poles show "original" floor plan outline

Coastal Bluff Definition

CCR Title 14, §13577(h):

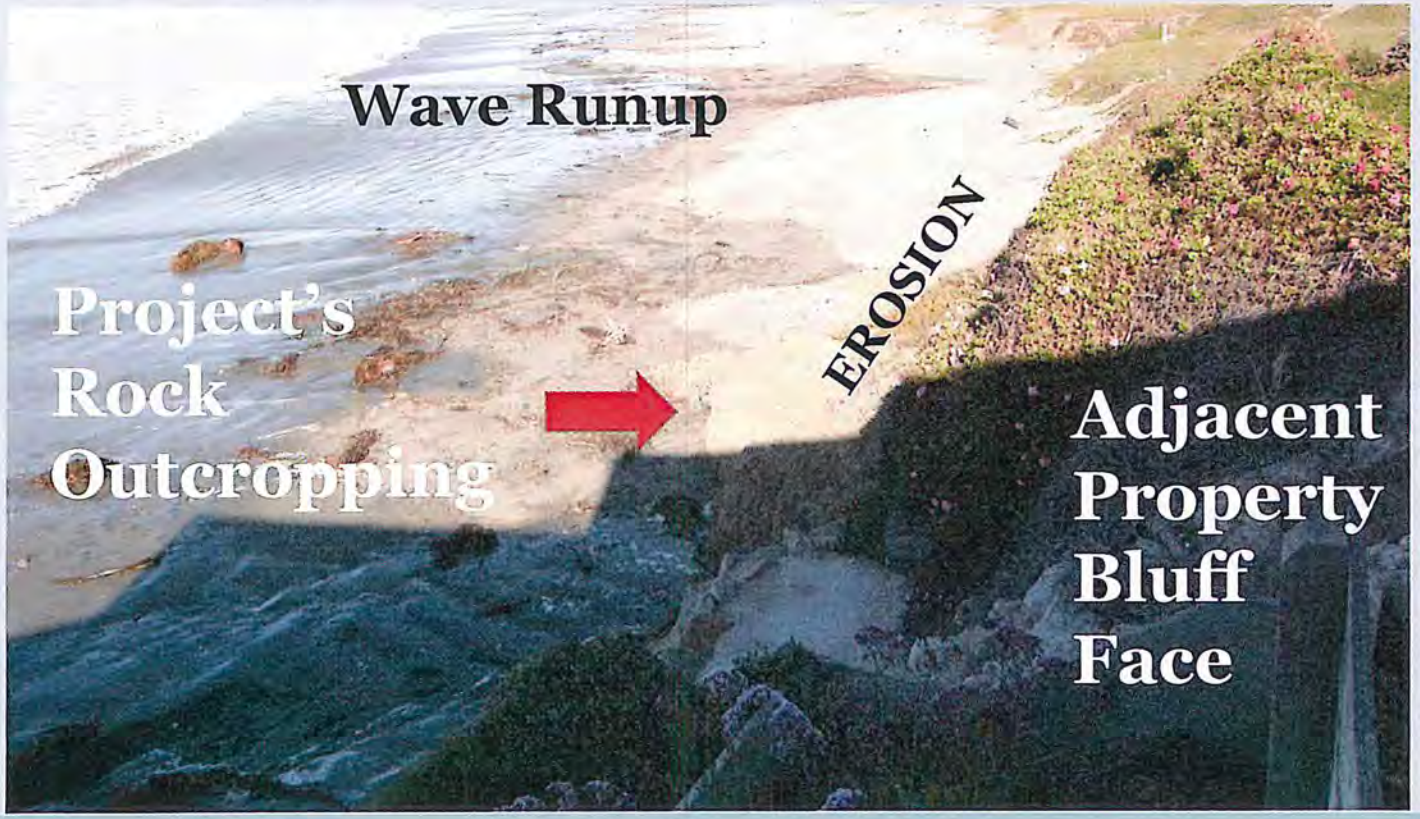
"...Coastal bluffs shall mean:

(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and ...

Applies

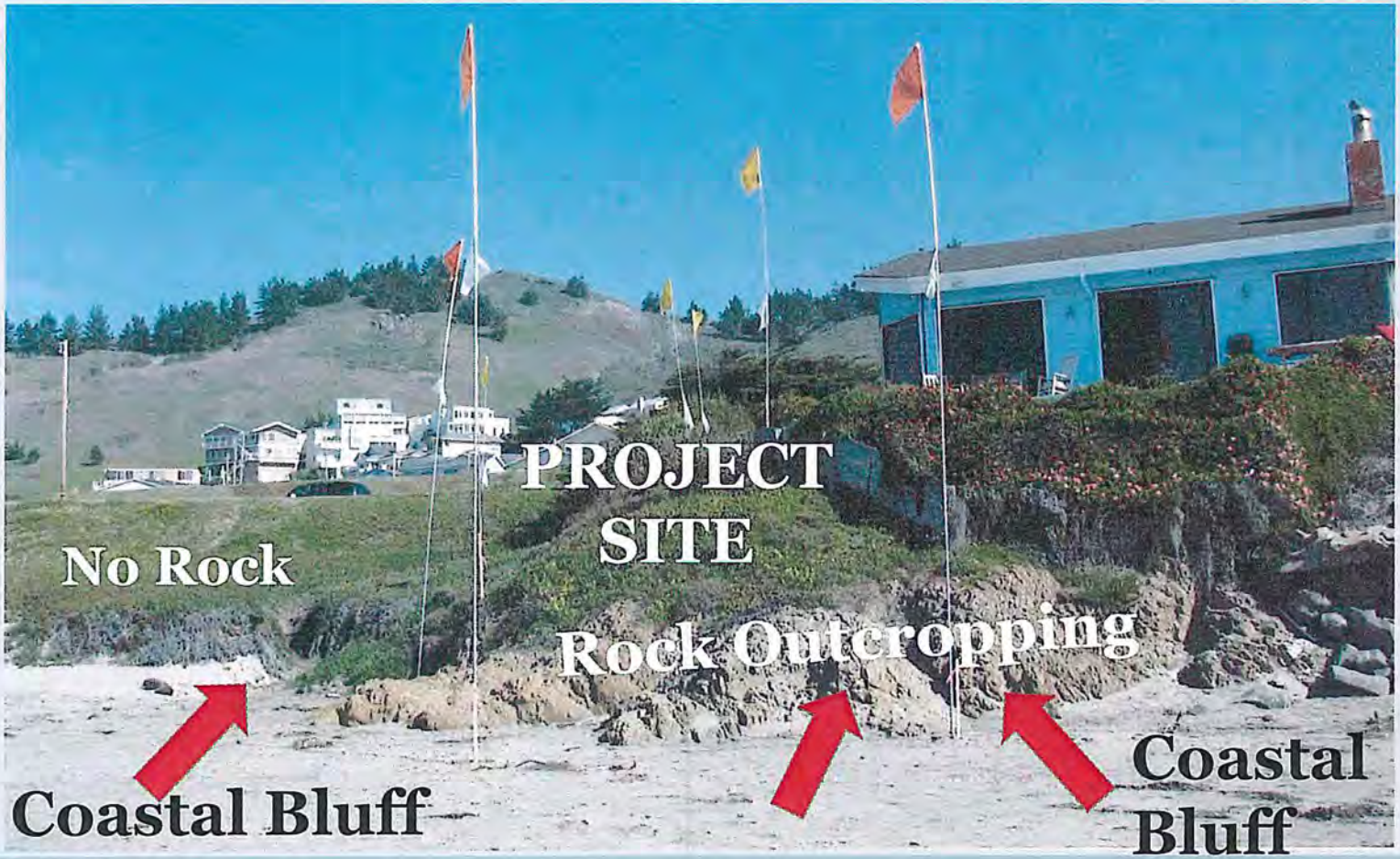
Photo From Neighbors' Deck (12/26/07)

- Wave run-up = Marine Erosion at Bluff Toe



Exposed Bedrock = Marine Erosion

15



It is a Coastal Bluff

16

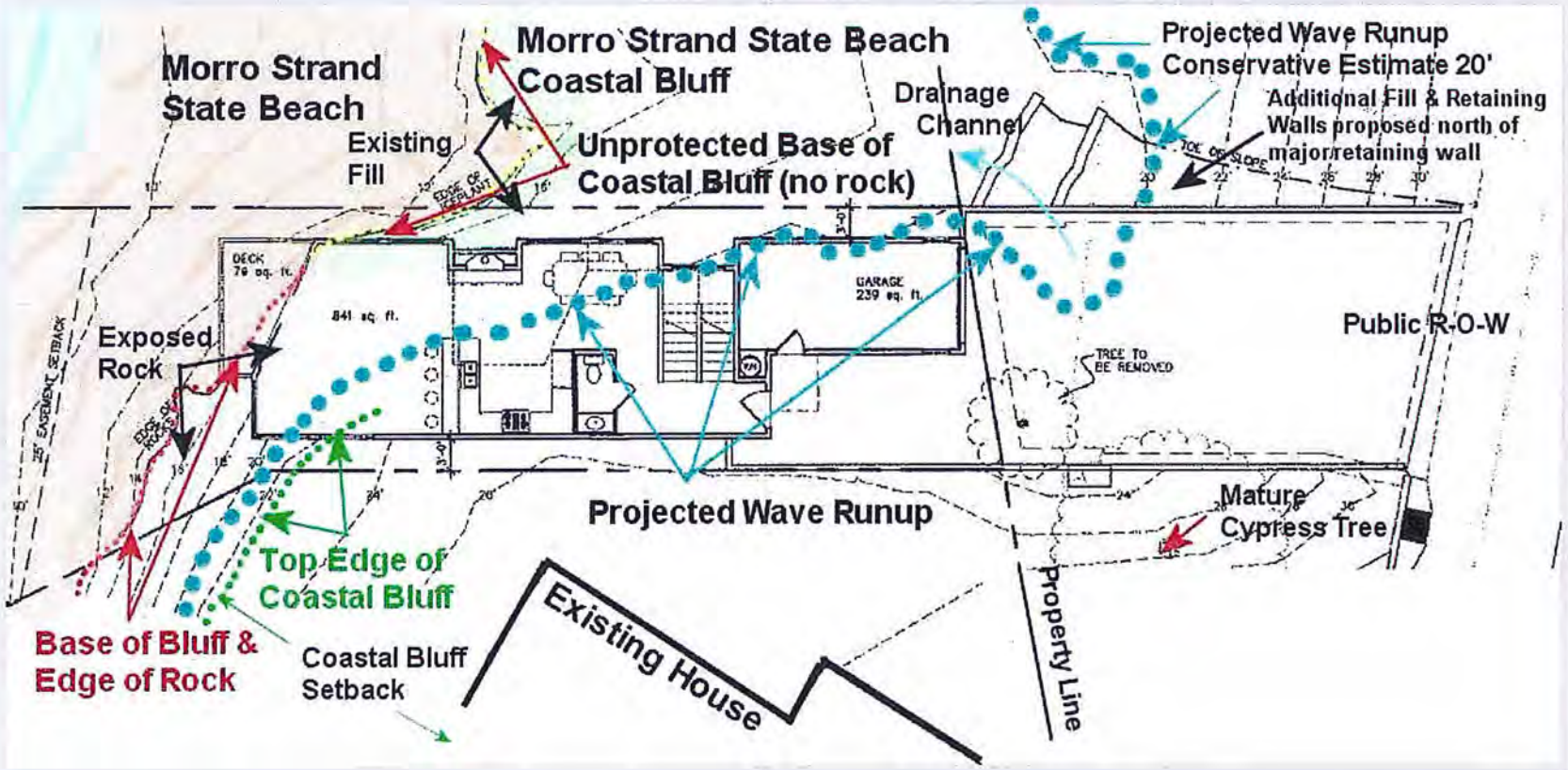
- EIR wave run-up Analysis finds ocean will overtop the rock face by 1 foot and hits the home. Analysis shows wave runup will flow up house walls.
- CCC Staff Geologist finds it is a coastal bluff
- EIR Incorrectly Determined that it is not a Coastal Bluff. Therefore, no setback was required.

Coastal Bluff Requirements

Requirements	Violations
Setback Required from Bluff Top Edge to withstand 75 or 100 years of erosion without shoreline protective device, and minimum of 25 feet. (CZLUO 23.04.118 or Estero Area Plan III, 1.4)	No or Inadequate Setback
No Cantilever Structure Allowed beyond Setback (CZLUO 23.04.118c(3))	21 Ft Cantilever (11 Ft over beach sand)

Reduced Project - Main Floor Plan

18



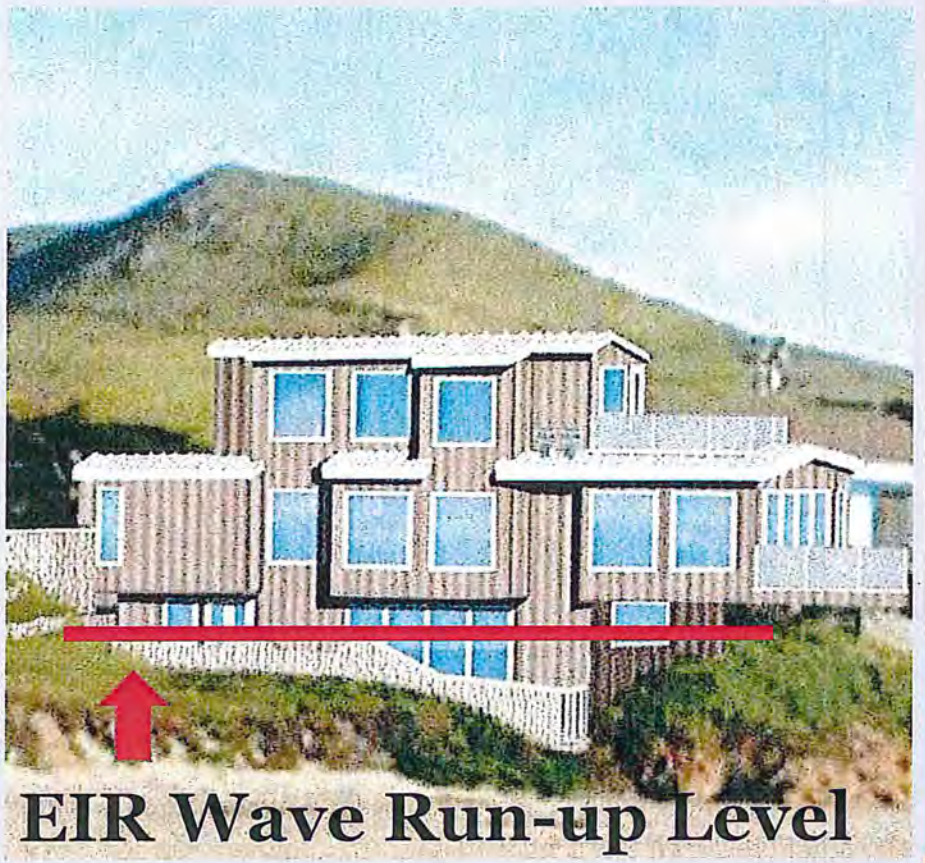
Coastal Hazards Underestimated

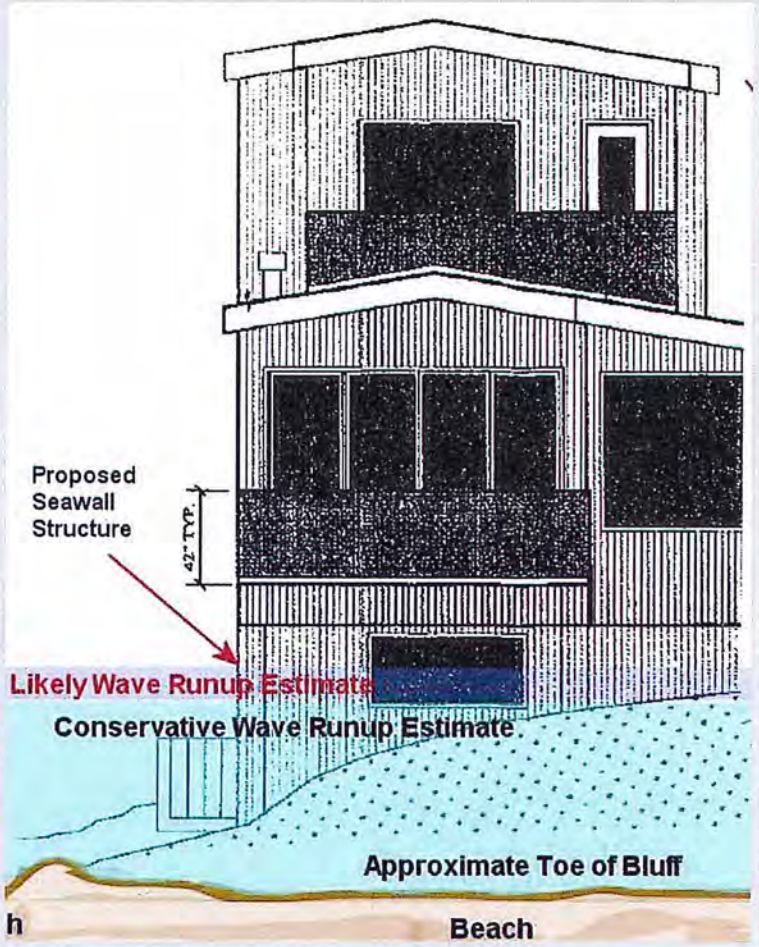
19

- Wave run-up Hazard is underestimated, flaws & inconsistencies.
- Greater Erosion Hazard where No Bedrock exists at beach level. Subject to higher erosion rate.
- Greater Wave Runup Hazard where No Bedrock exists along North (upcoast) Side. Topography is lower there than applicant's wave runup analysis presented.
- Hazardous area.

Wave Run-up Height

20





Wave Run-up Hazards At North Side

13

North (Upcoast) Side of Home is Exposed to Wave Runup Hazards

Shoreline Protection

22

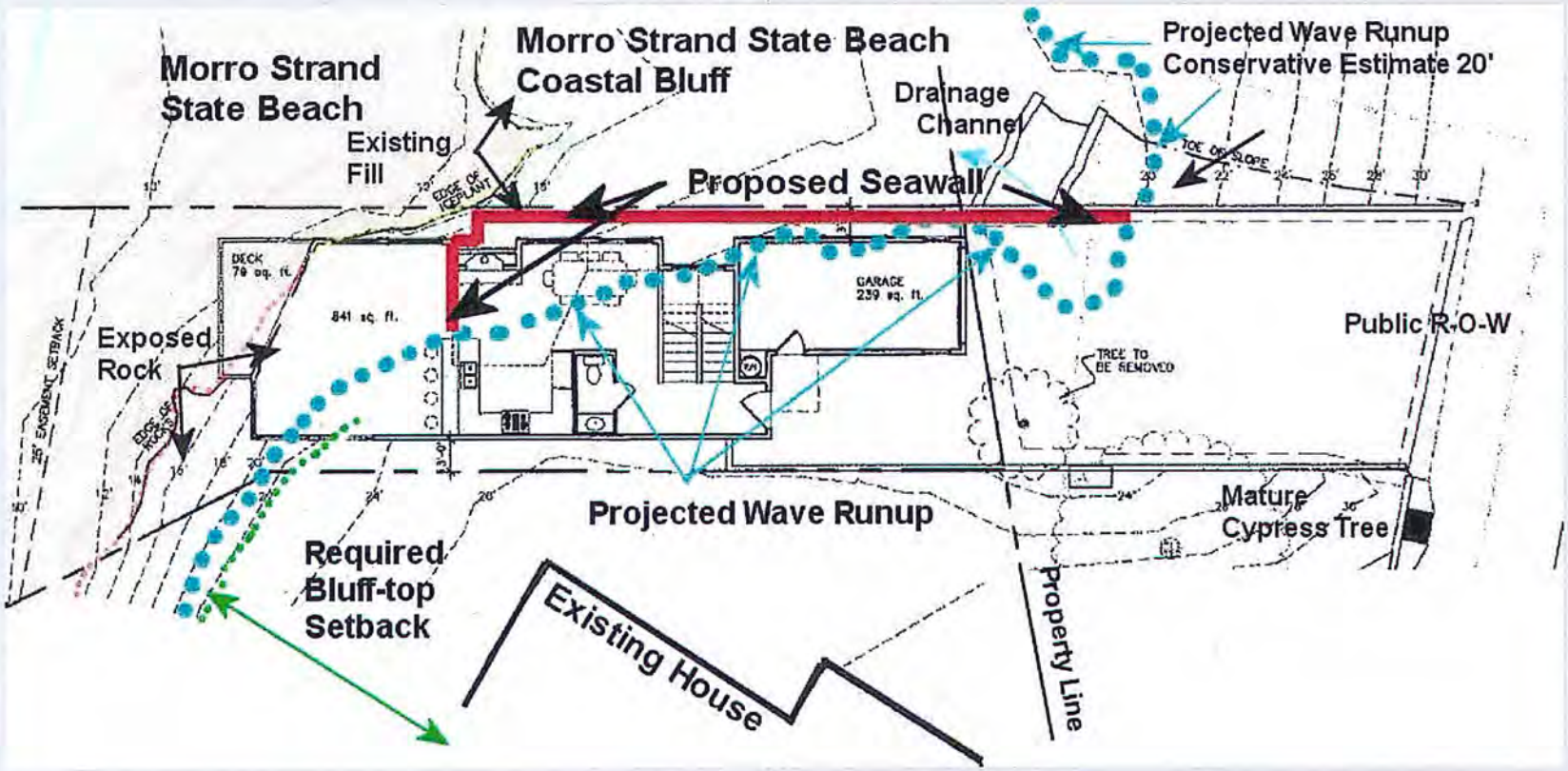
- **Definition**: Shoreline Protection is defined as "Structures or sand placed at or on the shore to reduce or eliminate upland damage from wave action or flooding during storm."

  Reference: http://www.coastal.ca.gov/la/glossary.html#let_s
- **New Development**: New development should be stable without the construction of protective devices to minimize hazards. References: Ca Pub. Res Code Section 30253

  LCP Hazard Policy 1 and 4
- **Project Design**: The basement wall and foundation are Shore Protection structures, which are shoreline protective devices, because they are necessary to protect the proposed home from wave action and flooding during a storm.

Proposed Shore Protection (Seawall)

23



Inconsistent w/ Visual Resource Policies

24

- **Inconsistent with LCP Visual & Scenic Resources Policies 1, 2, 5, 6 & 11, & character of community**
- **33 feet high and 21 foot cantilever, 11 feet over Sand**
- **Unlike existing – Don't Compare to Pre-CCC House**

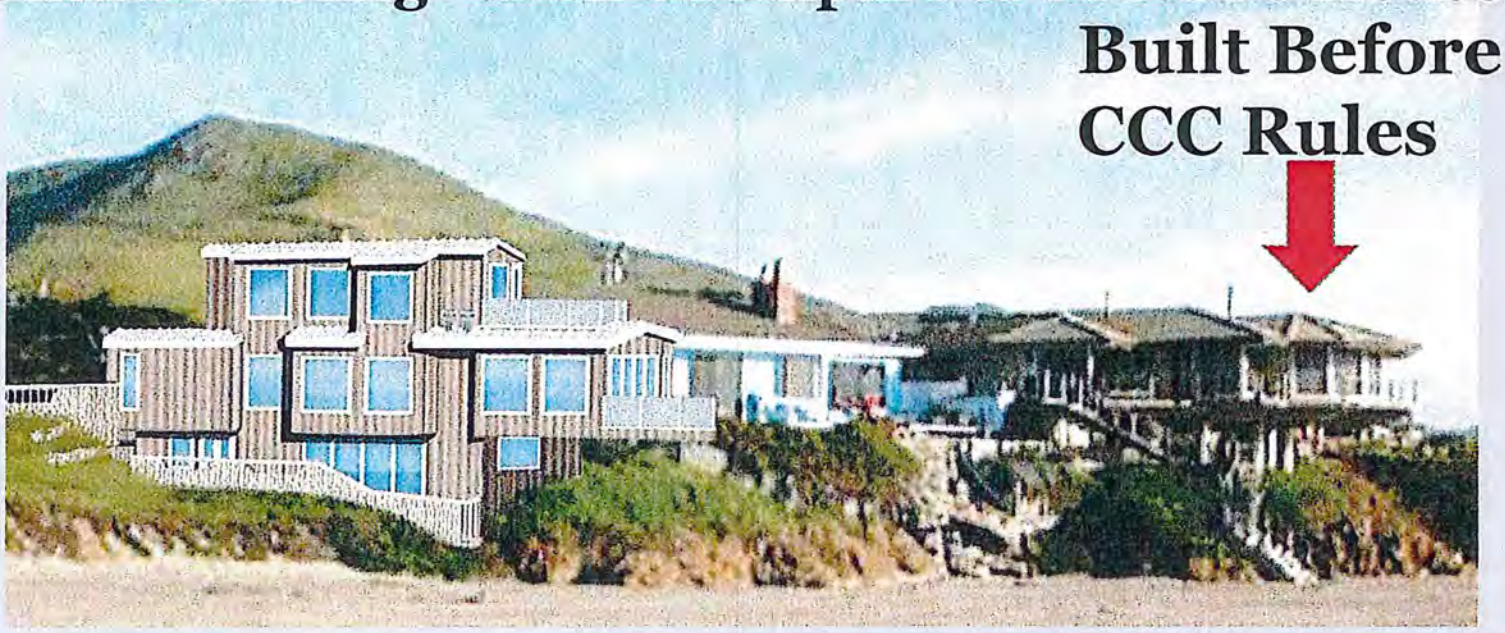


Exhibit 13
Kevin Elder SJMS Letter dated December 3, 2014 – Comments on Shoreline 2014 Study

WARREN A. SINSHEIMER III
DAVID A. JUHNKE
JUNE R. McIVOR
HERBERT A. STROH
DAVID S. HAMILTON
KEVIN D. ELDER
N. ELLEN DREWS
W. MARTIN BEHN

SJMS
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Of Counsel:
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KElder@sjmslaw.com

December 3, 2014

Client: 3203.003

San Luis Obispo County Board of Supervisors
Bruce Gibson
Debbie Arnold
Adam Hill
Frank Mecham
Caren Ray
County Government Center, Room D-430
San Luis Obispo, California 93408

VIA E-MAIL
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darnold@co.slo.ca.us
ahill@co.slo.ca.us
fmecham@co.slo.ca.us
cray@co.slo.ca.us

Re: Appeal of San Luis Obispo County Planning Commission Decision Certifying Final Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) and Approval of Project

Dear Supervisors Gibson, Arnold, Hill, Mecham and Ray:

On behalf of Ethel M. Pludow and Cynthia R. Sugimoto, this letter provides supplemental comments regarding the Project, including comments regarding a new study that was prepared on behalf of Jack Loperena (the "Applicant"). This letter is supplemental to all letters and material previously submitted to the County relating to the Project, including but not limited to the April 24, 2014 letter submitted by Sinsheimer Juhnke McIvor & Stroh, LLP.

Haro, Kasunich and Associates, Inc., ("HKA") reviewed the "Evaluation of Bluff Geometry Adjacent to Loperena Property" prepared by Shoreline Engineering ("Shoreline") on behalf of the Applicant and dated September 28, 2014, and associated Caltrans photographs from 1953 and 1965. The results of HKA's analysis of the Shoreline Engineering Study ("Shoreline Study") are set forth in HKA's letter to Ryan Hostetter, Senior County Planner, dated December 2, 2014, and attached as Attachment A.

The Shoreline Study included figures illustrating topographic mapping and cross sections from 2014 and 1953, based on analysis of the photographs. Shoreline concludes that the Loperena property is not located on a coastal bluff and no portion of the pre-development coastal bluff or the fluvial bluff is more than ten feet in height. Based on this novel theory, Shoreline promulgates the unprecedented position that the property is "exempt" from coastal setback requirements.

HKA disagrees with the Shoreline Study conclusions. In fact, HKA finds the study's profiles and cross sections prove that the Project is on a bluff and most of the Project is located below the top of the bluff and on the bluff face, in direct contravention of the County LCP[1].

HKA further explains how to properly determine the vertical elevation difference of the slope and concludes that Shoreline misinterpreted the bluff definition and the results of their analysis. In sum, Shoreline's conclusion is wrong, because it is based on a flawed methodology.

Moreover, HKA indicates that the Caltrans photographs provide additional evidence of marine erosion at the toe of this bluff and therefore, by definition the bluff is a coastal bluff. HKA also found inconsistencies between the Shoreline Study and the EIR Geologic analysis, which raises questions about the accuracy of the Shoreline Study.

The 1953 cross sections in the Shoreline Study show the pre-fill conditions and are useful to determine the amount of natural vertical relief to confirm whether the slope is a bluff or not. They are also helpful in determining the location of the natural bluff top edge, upon which the appropriate setback can be applied. Based on HKA's review, it is apparent that Shoreline misinterpreted the definition of a "bluff[2]", and their results are based on a flawed methodology, which lead to the wrong conclusion that the bluff is not a coastal bluff.

HKA's letter explains that bluff height must include the entire slope, not just the portion within the Loperena property boundaries, which is Shoreline's methodology. The bluff height measurements on the 1953 profiles should include the height between the step-like features indicating the bluff base up to the "Coastal Bluff Top Zone". The 1953 cross sections show the base of bluff elevations varying from elevation 7 to 12 and the top edge of bluff at an elevation between 20 and 21. The resulting difference indicates 8 to 14 feet of vertical relief, depending on the cross section. Therefore, the slope meets the definition of Bluff, because it has a vertical relief of ten (10) feet or more; and the cross sections prove that the entire 1953 slope is in fact a bluff.

Additionally, the definition states that "The cliff or bluff may be simple planar or curved surface or it may be step-like in section." Therefore, a bluff may have some areas that are flatter and some that are steeper. Just because the Loperena property happens to cover a small portion of bluff, which has slightly less than 10 feet of vertical relief, does not change the classification of the geological feature; it is still a bluff. There is nothing in the definition that indicates that a bluff is determined based on the amount of vertical relief on a limited or piecemeal or parcel by parcel basis.

---

[1] SLO County Coastal Plan Policies, Polices for Visual and Scenic Resources, Policy 11: Development on Coastal Bluffs: "New development on bluff faces shall be limited to public access stairways and shoreline protection structures."

[2] Per the Coastal Commission Resources for Local Governments glossary, *"Bluff (or cliff) - A scarp or steep face of rock, weathered rock, sediment or soil resulting from erosion, faulting, folding, or excavation of the land mass. The cliff or bluff may be simple planar or curved surface or it may be steplike in section. For purposes of (the Statewide Interpretive Guidelines), cliff or bluff is limited to those features having vertical relief of ten feet or more and seacliff is a cliff whose toe is or may be subject to marine erosion."*

The Shoreline Study cross sections also indicate that most of the Loperena property is located below the top of the bluff and on the bluff face. Since SLO Coastal Plan Policy 11 limits new development on bluff faces to public access stairways and shoreline protection structures, the Project on its face clearly violates the LCP.

The Caltrans photographs used in the Shoreline Study provide additional evidence that the toe of the bluff has historically been subject to marine erosion; and therefore in accordance with 14 CCR § 13577 this bluff is a coastal bluff.

HKA found inconsistencies between the 1953 profile and the EIR Geologic Cross Section 1-1', which raises questions about the accuracy of their Study. If we are debating about a couple of feet of vertical relief, it is important to remember that the level of accuracy of Shoreline's analysis has not been established. Also note that the amount of vertical relief has varied over the past 200 years and could have been even greater at some time prior to or after this single 1953 data point. Generally, the Shoreline Study uses data selectively and in a piecemeal fashion, resulting in an erroneous conclusion.

Unfortunately, the Board and your staff has not been provided the topographic surveys prepared by Central Coast Aerial Mapping and/or ATGeoMapping that Shoreline used to prepare their report. In order to ascertain the validity of the Shoreline Study, your staff must obtain a copy of the Central Coast Aerial Mapping work products for public review and scrutiny. We also recommend an additional profile be prepared for the area not analyzed, and that erosion and wave run-up analysis be conducted using this new profile.

Because the property is clearly on a coastal bluff, all coastal bluff requirements must be applied including: appropriate set-backs (75 or 100 years of erosion and a minimum of 25 feet) from the natural (pre-fill) top of the bluff, including compliance with LCP limits regarding development on bluff faces, limitations on cantilevering of development beyond set-back areas, and prohibitions on seawalls and residential development masquerading as seawalls.

If for some reason it is determined that any portion of the property is not a coastal bluff, but instead is a "low laying coastal adjacent property" then the Applicant's unprecedented position exempting itself from any set-back whatsoever does not logically follow. Instead, a reasonable and safe set-back must still be applied to this portion of the property by this Board. In order to determine a safe set-back, the Board must require a wave run-up analysis using profiles that account for projected future erosion of the fill on that portion of the property to show where wave run-up will reach during the life of the development. However, in no case should development occur seaward of the 25 foot contour line on the property as it currently exists, based on the Applicant's most recent wave run-up study. In addition, if part of the property is determined to be a fluvial bluff, instead of a coastal bluff, then an additional 50 foot riparian setback must be applied where appropriate along the fluvial bluff.

In conclusion, it is clear the Applicant's oceanfront property is on a coastal bluff. Yet even if it weren't, that does not support the Applicant's illogical position that no set-back is appropriate and that a home cantilevered out over the sandy beach is somehow allowable. Instead, some reasonable set-back is mandated to protect the public beach as well as the future residents of any development on the site. At a minimum, a 25-ft set-back is required from the top of the bluff, which has yet to be established. We look forward to working with your Board to resolve these important questions.

Sincerely,

SINSHEIMER JUHNKE McIVOR & STROH, LLP

KEVIN D. ELDER

KDE:ggf
K:\PludowE\003 Loperena\Ltr\17BOSLtr-120314.doc
Enclosure

cc: Ms. Ryan Hostetter, Senior County Planner (via e-mail)

Attachment A

Letter from Haro, Kasunich and Associates, Inc.
"Review of Shoreline Engineering Bluff Study dated 9/28/14", dated December 2, 2014

HARO, KASUNICH AND ASSOCIATES, INC.
CONSULTING GEOTECHNICAL & COASTAL ENGINEERS

2 December 2014
Project No. SLO9515

To: Ms. Ryan Hostetter
County of San Luis Obispo
Department of Planning and Building
County Government Center Room 200
San Luis Obispo, CA 93408-2040

From: Mark Foxx, CEG 1493 John E. Kasunich,GE 455

Subject: Review of "Evaluation of Bluff Geometry Adjacent to Loperena Property" prepared by Shoreline Engineering dated 9/28/14

Reference: Loperena Minor Use Permit/Coastal Development Permit DRC 2005-00216
SCH No. 2007081044

Dear Ms. Hostetter:

We are in receipt of an "Evaluation of Bluff Geometry Adjacent to Loperena Property" prepared by Shoreline Engineering dated 9/28/14; as well as aerial photography obtained from Caltrans dated December 2, 1953 and 1965 that Shoreline Engineering subsequently provided.

Based on our review, we believe Shoreline Engineering misinterpreted the bluff definition contained in the Glossary on the California Coastal Commission Resources for Local Governments webpage (http://www.coastal.ca.gov/la/glossary.html) which contains the following definition: " *Bluff (or cliff) - A scarp or steep face of rock, weathered rock, sediment or soil resulting from erosion, faulting, folding or excavation of the land mass. The cliff or bluff may be simple planar or curved surface or it may be steplike in section. For purposes of (the Statewide Interpretive Guidelines), cliff or bluff is limited to those features having vertical relief of ten feet or more and seacliff is a cliff whose toe is or may be subject to marine erosion.*", and the results of their own analysis. We conclude that the cross sections prove that the entire 1953 slope below elevation 20 to 21 is in fact a bluff. The 1953 cross sections indicate this slope meets the definition of Bluff, because it has a vertical relief of ten (10) feet or more.

In fact, the bluffs on the Loperena property are contoured just like classic coastal bluffs are, as defined by the Glossary on the California Coastal Commission Resources for Local Governments webpage which states that "The cliff or bluff may be simple planar or curved surface or it may be steplike in section." Therefore, by definition a bluff may have some areas that are flatter and some that are steeper. Just because the Loperena property happens to cover a small portion of bluff, which has slightly less than 10 feet of vertical relief, does not change the geomorphic classification of the area; it is still a bluff. Even if Shoreline Engineering were correct that an insignificant portion of the bluff has a total height less than 10 feet, nothing in the definition indicates that a bluff is determined based on the portion of it's height within the boundaries of the parcel proposed for development.

The cross sections also indicate that most of the Loperena property is located below the top of the bluff and on the bluff face. The Visual and Scenic Resources section of the County of San Luis Obispo Local Coastal Program Policy Document entitled "Coastal Plan Policies" states that: "New development on bluff faces shall be limited to public access stairways and shoreline protection structures", neither of which are applicable to the proposed development on the Loperena property.

116 EAST LAKE AVENUE • WATSONVILLE, CALIFORNIA 95076 • (831) 722-4175 • FAX (831) 722-3202

The Caltrans photographs used in the Shoreline Engineering study provide additional evidence that the toe of the bluff has historically been subject to marine erosion; and therefore this bluff is a coastal bluff. Figures 5 and 6 (attached) are the Caltrans photographs, which show evidence of recent erosion on both the Sugimoto and Loperena properties. The evidence of erosion includes areas of barren rock and areas stripped of vegetation. Evidence of ocean wave runup onto the Loperena property is visible in both Figures 5 and 6, and on Figure 8 (taken before the construction of Highway 1) and Figure 9 (taken after the construction of Highway 1 which involved placement of fill on the Loperena property). Our submittal "Review of Draft EIR Comments" dated 1 August 2013 photographically documents wave runup reaching and impacting the bluff face on the Loperena property during the last few years.

We request a copy of the Central Coast Aerial Mapping work products that are signed and stamped by the preparer. We recommend an additional profile be prepared for the area not analyzed, and that erosion and wave run-up analysis be conducted using this new profile. San Luis Obispo County staff and the EIR consultants must have a copy of this information to verify the position of the top edge of the bluff and the bluff face on the Loperena property relative to the position of the proposed development and the geologic and coastal hazards it is exposed to; including coastal erosion and wave runup.

The following comments provide more detail on these issues:

1. The Bluff Geometry document included figures illustrating topographic mapping and cross sections from 2014, as well as topographic mapping and cross sections from 1953. We have not seen complete copies of the 1953 and 2014 topographic surveys prepared by Central Coast Aerial Mapping that Shoreline Engineering used to prepare these figures.

   The Shoreline figure depicting 2014 topography has a one foot contour interval and the Shoreline figure depicting 1953 topography has a three foot contour interval. The nine accompanying cross sections suggest that the photogrammetrist at Central Coast Aerial Mapping had sufficient photogrammetric detail to illustrate one foot contours on the 1953 topography. We request the opportunity to review the complete set of work products prepared by Central Coast Aerial Mapping. We anticipate that one foot contours on the 1953 topographic map will make the bluff face position more apparent on that map.

2. The cross sections associated with the 1953 and 2014 Topographic Surveys reveal approximately 7 feet of fill blanketing the upper portion of the cross sections in 2014 , as shown on attached Figure 1. The 1953 cross sections show the pre-fill conditions and may be useful to determine the amount of natural vertical relief to confirm that the slope is a bluff. It is also helpful in determining the location of the natural bluff top edge, upon which the appropriate setback can be applied.

3. Shoreline states "No portion of the pre-development coastal bluff or the fluvial bluff is more than ten feet in height." We disagree.

   The bluff height must include the entire slope, not just the portion within the Loperena property boundaries. The bluff height measurements on the 1953 profiles should include the height of the steplike features shown on Sections N-S 0+50.00 and 60.00, and up to the "Coastal Bluff Top Zone", see attached Figure 1. The 1953 cross sections show the top edge of bluff at elevation 20 to 21 NAVD88; and the base of bluff elevations varying from elevation 7 to 12 NAVD88. The units of measurement were not indicated on the Shoreline cross sections, but are presumably in feet. The resulting difference indicates 8 to 14 feet of vertical relief, depending on the cross section.

4. Bluff faces are frequently stepped or benched as shown in cross section. The position of the bluff edge may be changed by a variety of processes. Most obvious is the landward retreat of the bluff edge through coastal erosion. Changes in beach elevation also result in changes in bluff height. The location of the base of the bluff in 1953 is determined by the step in elevation on the cross sections near elevation 7 as shown in Figure 1, and comparison to the 1953 photo showing the edge of the sandy beach at that point. The height of "steps" in the cross section should be included in the total bluff height. Although the back edge of the beach sand is now (2014) at approximately elevation 12, as shown on the 1953 cross sections, the base of the bluff varied between elevation 7 and 12 depending on cross section.

The step-like feature may be a bedrock outcrop or may consist of accumulated beach sand. If the step is bedrock, it is the lower portion of the coastal bluff and it's height should be included in the measurement of total bluff height; using the elevation of the "Bottom of 1953 Bluff" and the elevation of the "Top Edge of 1953 Bluff" where indicated on Figure 1. If it is accumulated beach sand, then when the sand is naturally removed at the back edge of the beach, the buried lower portion of the bluff is exposed and the total bluff height can be measured. If the step is not bedrock, then historical erosion (scour) at the toe of the coastal bluff should be included in the measurement of total bluff height; using the elevation of the "Bottom of Bluff with erosion" and the elevation of the "Top Edge of 1953 Bluff" where indicated on Figure 1. In either case, there was ten feet or greater of vertical relief in 1953, substantiating that the area is a bluff.

Sandy back beach areas typically vary seasonally and sometimes dramatically from year to year and periodically erode until the full bluff height consists of a slope that is similar in gradient. It is our opinion that:

a) scour sometimes historically has reached the back of the beach; thus increasing or decreasing the visible bluff height.
b) at such low elevations, ocean wave impact likely acted on all of the 1953 bluff faces on the Loperena property, thereby causing "marine erosion" as defined in 14 CCR section 13577 (h) (2).

The Shoreline Engineering study developed cross sections based on a detailed and complicated analysis of 1953 photographs and estimated the elevation of the bluffs. Based on our interpretation of the cross sections, as provided by the Shoreline Engineering analysis, there was ten feet or greater of vertical relief in 1953, substantiating that the area is a bluff. If Shoreline Engineering wants to debate over a couple of feet of vertical relief, it is important to remember 1) that their analysis is subject to error and the level of accuracy of their analysis has not been established, and 2) the amount of vertical relief has varied over the past 200 years and could have been even greater at some time prior to or after this single 1953 data point, since beach scour and accretion naturally exposes greater or lesser amounts of bluff face height year to year and season to season.

We ask that you consider that the present 2014 bluff top area is at an elevation of +27 feet NAVD88, as shown on Figure 1. Using the current beach sand elevation of +12 feet NAVD88, that makes the current 2014 bluff face 15 feet high. In their analysis of wave runup, Geosoils Inc. projects that vertical erosion (beach scour) at the base of the present bluffs fronting the Loperena property will occur down to an elevation of + 3 feet NAVD88, approximately 9 feet below the existing elevation of the surface of the landward edge of the beach. Accounting for this scour and erosion, that makes the bluff face 24 feet high.

5. A large gap exists in the array of cross sections provided in the Shoreline Engineering Study; between N-S 0+70.00 and S PL 0+50.00. Figures 2 and 3 shows the

recommended location for an additional cross section, highlighted in pink, on the 2014 and 1953Topographic Surveys from pages 4 and 5 of the Shoreline Engineering study, respectively. This is the area of the Loperena Property most exposed to future erosion and bluff recession and where the EIR geologist (Cotton Shires) has indicated that beach sand underlies a portion of the proposed building area footprint (see Cotton Shires Geologic Cross Section 1-1'). We recommend Shoreline Engineering prepare another profile in this area, where shown on attached Figures 2 and 3. Additionally we recommend erosion and wave run-up analysis be conducted using that profile as well as 2014 Profile N-S 0+70.00.

6. Comparison of the 2014 Sections and the 1953 Sections S PL 0+20.00, 30.00, 40.00, and 50.00 indicate that fill exists down to elevation 12 on the Loperena property. This material was placed on the Loperena property between 1953 and 2014 and is subject to future erosion. Because of rising sea level, future erosion at the elevation where this fill is located is a significant hazard. Blufftop setbacks should be determined using this anticipated future erosion of this fill and the resultant bluff recession. Wave run-up analysis should be conducted using profiles that account for projected future erosion of this fill, which extends out to the back edge of the beach.

7. The N-S profiles are incompatible with the geology previously mapped by Cotton Shires. Cotton Shires mapped bedrock exposed in the bluff face adjacent to the back edge of the beach sand (see Cotton Shires Geologic Cross Section 1-1'). Where the ground surface on the 2014 profile is higher in elevation or further seaward than the position of the 1953 profile that should be because there is fill or beach sand that has been placed or accumulated there. There is bedrock presently exposed on portions of the bluff face in areas where the 1953 profile is shown at lower elevation or landward position, see attached Figure 2. That casts doubt on the accuracy of the 1953 profiles, because bedrock has only eroded since 1953, not accreted.

8. California Coastal Commission (CCC) Engineering Geologist Dr. Mark Johnsson indicated that if a portion of the bluffs on the upcoast area of the Loperena property were classified as fluvial bluffs where bluff edge setbacks do not apply, then minimum coastal development setbacks should be determined and applied based on the inland extent of wave run-up that may occur during the expected life of the development. Based on the March 12, 2014 wave runup study by the applicant's consultant (GeoSoils Inc.) using 5.5 feet of sea level rise, this indicates that development must be located inland from the 25 foot contour line on the property. This is calculated as follows: Scoured beach elevation of +3.1 feet NAVD88 plus Ds of 9 feet plus R of 12.95 feet = Runup Elevation of 25.05 Feet NAVD88. An analysis of wave run-up using profiles that account for projected future erosion of the fill on the property, which extends out to the back edge of the beach, may result in higher run-up elevations and further landward setbacks. Riparian setbacks may also apply along a fluvial bluff.

9. Based on the 1953 cross sections provided in the Shoreline Engineering study, we have mapped the top edge of the natural 1953 bluff on the 1953 and 2014 topographic maps provided Shoreline Engineering, see attached Figures 2 and 3. Most of the proposed development on the Loperena property is located below the top of the bluff and on the bluff face. SLO Coastal Plan Policies page 10-10, Policy 11 Development on Coastal Bluffs states "New development on bluff faces shall be limited to public access stairways and shoreline protection structures." Our understanding of Policy 11 is that a residential development is not allowed on the bluff face.

10. We have put the approximate property boundaries on a 2013 Google Earth image, 1965 Caltrans aerial photo and on a 1953 Caltrans aerial photo and have made prints at

approximately 1 inch = 50 feet (Figures 4, 5 and 6) and 1 inch = 200 feet (Figures 7, 8 and 9). See attached.

These photos clearly depict the Loperena property being subject to marine erosion (from ocean wave impact) in both 1953 and 1965. It is apparent on the 1953 Caltrans photo (Figures 6 and 9) that the Loperena property was being bombarded by ocean wave impact and subject to marine erosion. On the 1953 photograph, darker colored sand that appears to be wet from wave run-up exists close to the base of the bluff and little if any dry beach area exists seaward of the Loperena lot. Erosion has exposed barren bedrock just downcoast of the Loperena lot and has resulted in an erosional scarp extending across the Loperena lot and the area immediately upcoast.

Based on the conditions depicted on the geologic maps and cross sections we have previously submitted, the new 1953 and 2014 topographic information and cross sections submitted by Shoreline Engineering, and the photographs in this letter, we continue to believe the bluff on the Loperena property is a coastal bluff. We believe that current geologic and oceanographic conditions must be considered, in order to accurately define the existence of coastal bluffs. California Code of Regulations, Title 14, Section 13577(h)(1) defines coastal bluffs as those where the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion. That includes the bluffs that had marine erosion at their toe, as shown on the attached 1953 Caltrans photographs and 2014 Google Earth Images.

If it is determined that a portion of the property lacks a coastal bluff, then an analysis of wave run-up using profiles that account for projected future erosion of the fill on the property, which extends out to the back edge of the beach, must be completed to see where wave run-up will reach during the life of the development; but in no case should development occur seaward of the 25 foot contour line on the property, since the applicant's March 2014 wave runup study indicates wave runup to an elevation of +25 Feet NAVD88.

Please call us to discuss this project if you have any questions.

Very truly yours,

HARO, KASUNICH AND ASSOCIATES, INC.

John E. Kasunich
G.E. 455

Mark Foxx
C. E. G. 1493

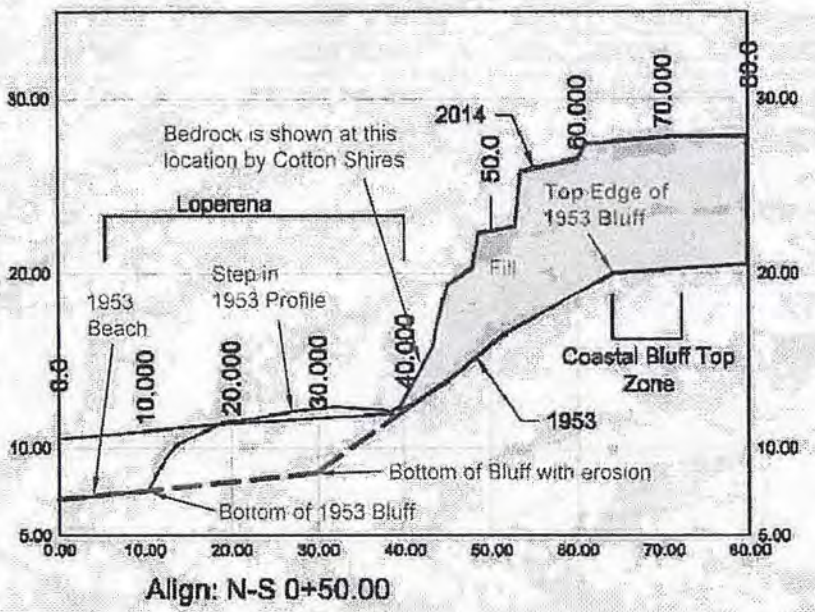
List of Figures:

Figure 1: Cross Sections Showing 1953 and 2014 Topographic Profiles & Locations of Fill, 1953 Beach, Bottom of Bluff and Top Edge of Bluff by Haro Kasunich and Associates, Inc.

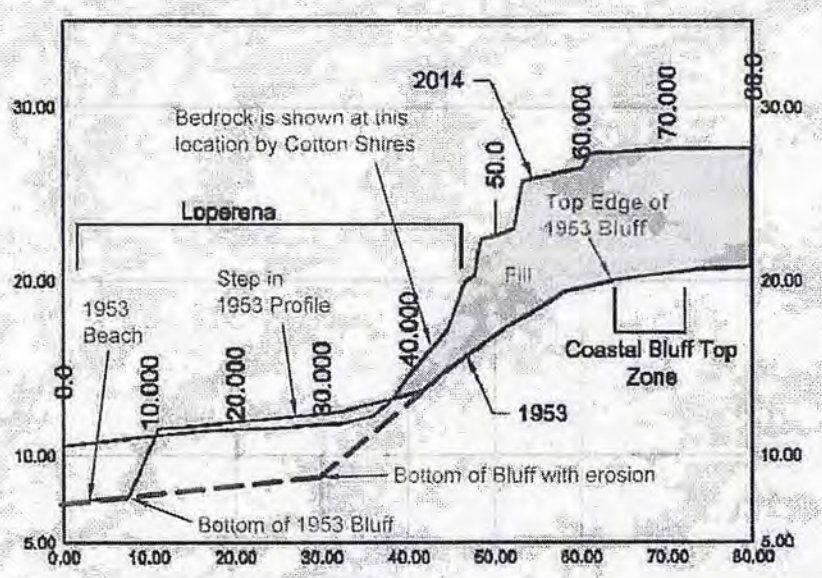
Figure 2: 2014 Topographic Map by Shoreline Engineering, Inc. showing 1953 Top Edge of Bluff As Depicted on Cross Sections by Shoreline Engineering, Inc.

Figure 3: 1953 Topographic Map by Shoreline Engineering, Inc. showing 1953 Top Edge of Bluff As Depicted on Cross Sections by Shoreline Engineering, Inc.
Figure 4: 8-20-2013 Google Earth Image (Approximate Scale 1 inch = 50 feet)
Figure 5: 1965 Caltrans Aerial Photograph (Approximate Scale 1 inch = 50 feet)
Figure 6: 12-2-1953 Caltrans Aerial Photograph (Approximate Scale 1 inch = 50 feet)
Figure 7: 8-20-2013 Google Earth Image (Approximate Scale 1 inch = 200 feet)
Figure 8: 1965 Caltrans Aerial Photograph (Approximate Scale 1 inch = 200 feet)
Figure 9: 12-2-1953 Caltrans Aerial Photograph (Approximate Scale 1 inch = 200 feet)

FIGURE 1: CROSS SECTIONS SHOWING 1953 AND 2014 TOPOGRAPHIC PROFILES BY SHORELINE ENGINEERING, INC., & LOCATIONS OF FILL, 1953 BEACH, BOTTOM OF BLUFF AND TOP EDGE OF BLUFF BY HARO KASUNICH & ASSOCIATES, INC.



Align: N-S 0+50.00



Align: N-S 0+60.00

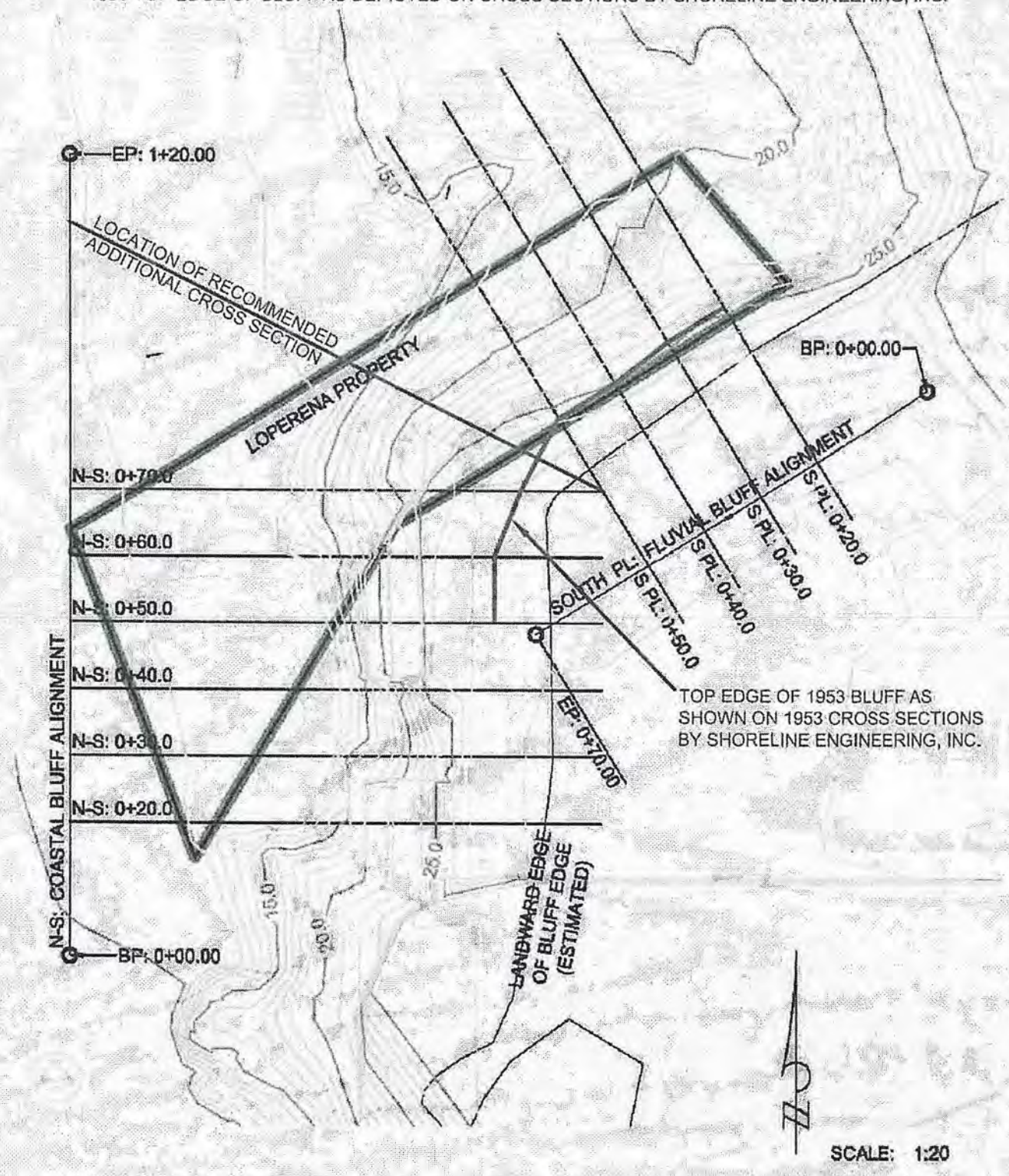
SCALE: 1:20, HORIZ; 1:10, VERT
SECTIONS LOOKING NORTHERLY

Loperena: Studio Drive, Cayucos

2014 Topographic Survey

HARO KASUNICH & ASSOCIATES, INC. 11/25/2014

FIGURE 2: 2014 TOPOGRAPHIC MAP BY SHORELINE ENGINEERING, INC. SHOWING
1953 TOP EDGE OF BLUFF AS DEPICTED ON CROSS SECTIONS BY SHORELINE ENGINEERING, INC.

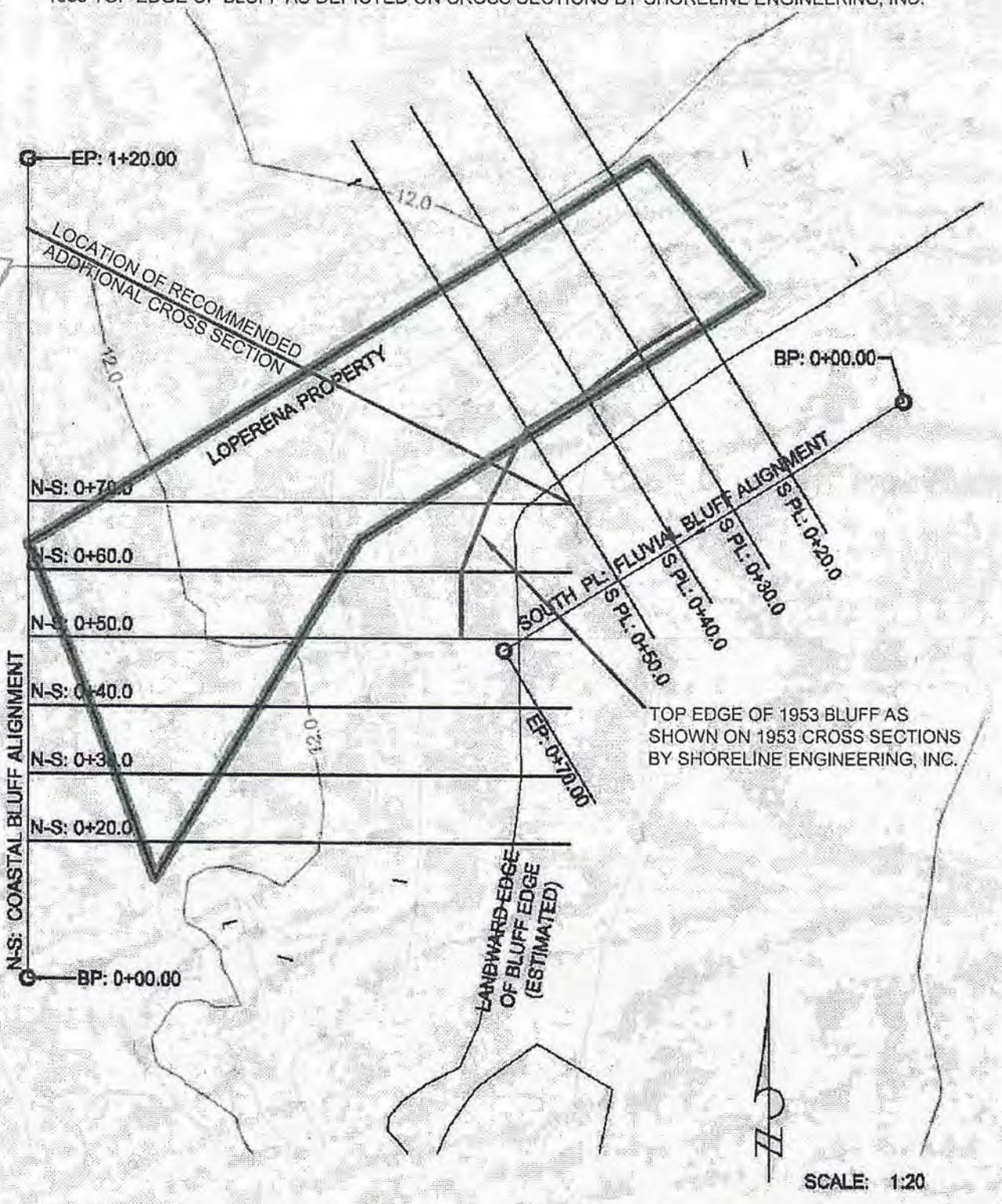


Loperena: Studio Drive, Cayucos

2014 Topographic Survey

NOTE: TOP EDGE OF 1953 BLUFF AND LOCATION OF RECOMMENDED ADDITIONAL CROSS SECTION
BY HARO KASUNICH & ASSOCIATES, INC. 11/25/2014

FIGURE 3: 1953 TOPOGRAPHIC MAP BY SHORELINE ENGINEERING, INC. SHOWING
1953 TOP EDGE OF BLUFF AS DEPICTED ON CROSS SECTIONS BY SHORELINE ENGINEERING, INC.



Loperena: Studio Drive, Cayucos

1953 Topographic Survey

NOTE: TOP EDGE OF 1953 BLUFF AND LOCATION OF RECOMMENDED ADDITIONAL CROSS SECTION BY HARO KASUNICH & ASSOCIATES, INC. 11/25/2014

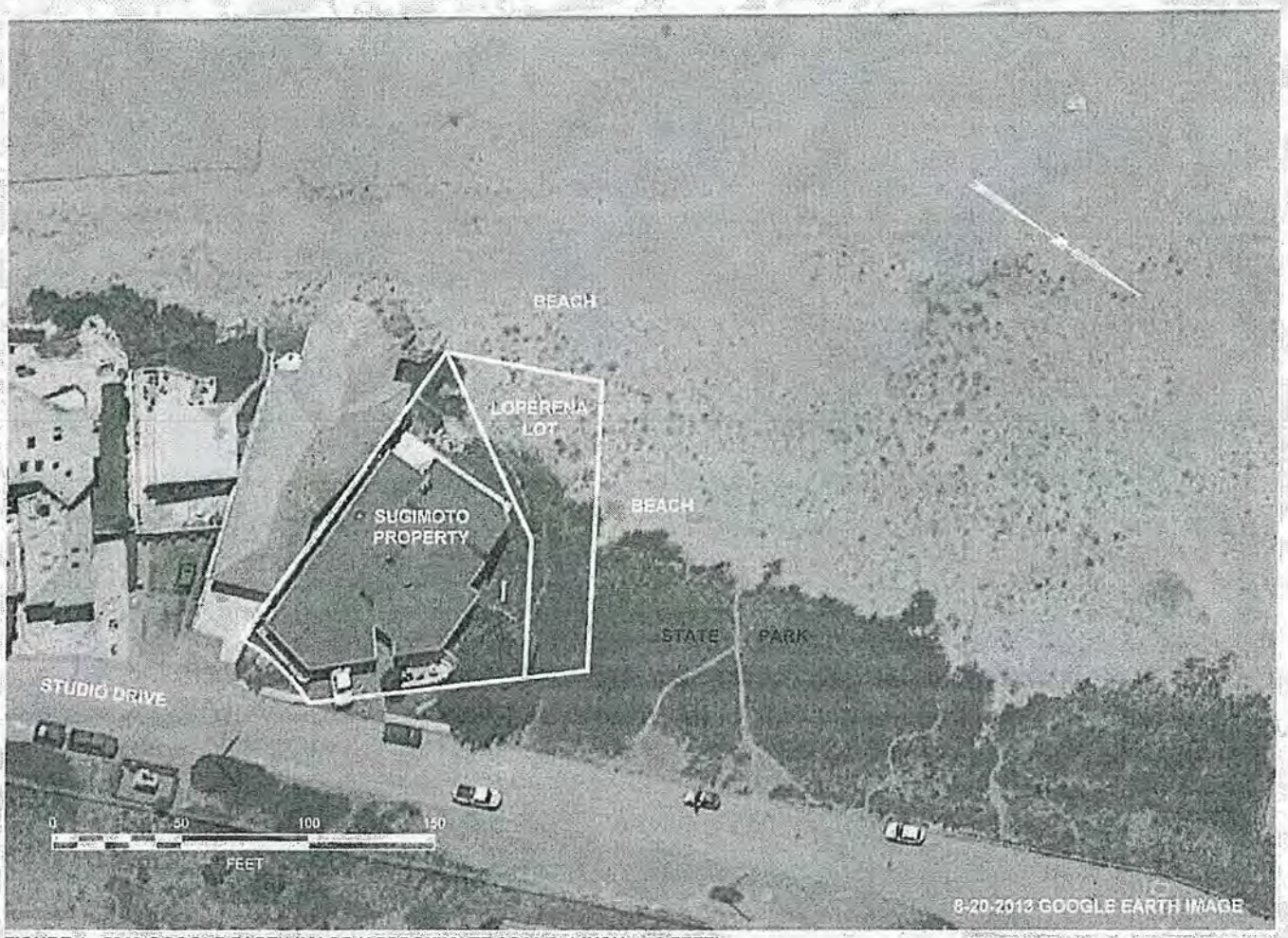


FIGURE 4 - 2013 GOOGLE EARTH IMAGE (APPROXIMATE SCALE: 1 INCH = 50 FEET)

(PROPERTY BOUNDARIES ARE APPROXIMATE)

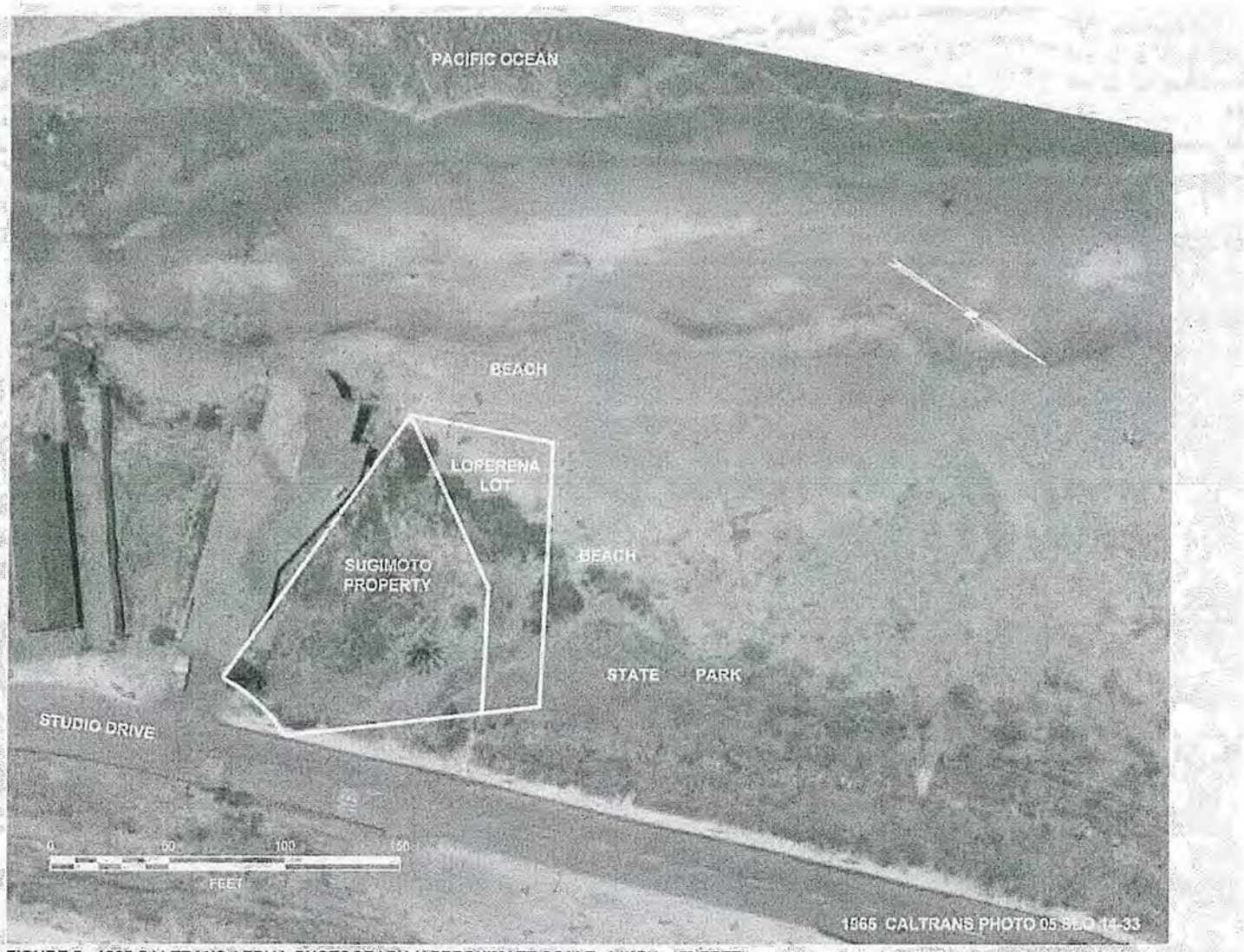


FIGURE 5 - 1965 CALTRANS AERIAL PHOTOGRAPH (APPROXIMATE SCALE: 1 INCH = 50 FEET)

(PROPERTY BOUNDARIES ARE APPROXIMATE)

FIGURE 6 - 1953 CALTRANS AERIAL PHOTOGRAPH (APPROXIMATE SCALE: 1 INCH = 50 FEET)

(PROPERTY BOUNDARIES ARE APPROXIMATE)

FIGURE 7 - 2013 GOOGLE EARTH IMAGE (APPROXIMATE SCALE: 1 INCH = 200 FEET)

(PROPERTY BOUNDARIES ARE APPROXIMATE)

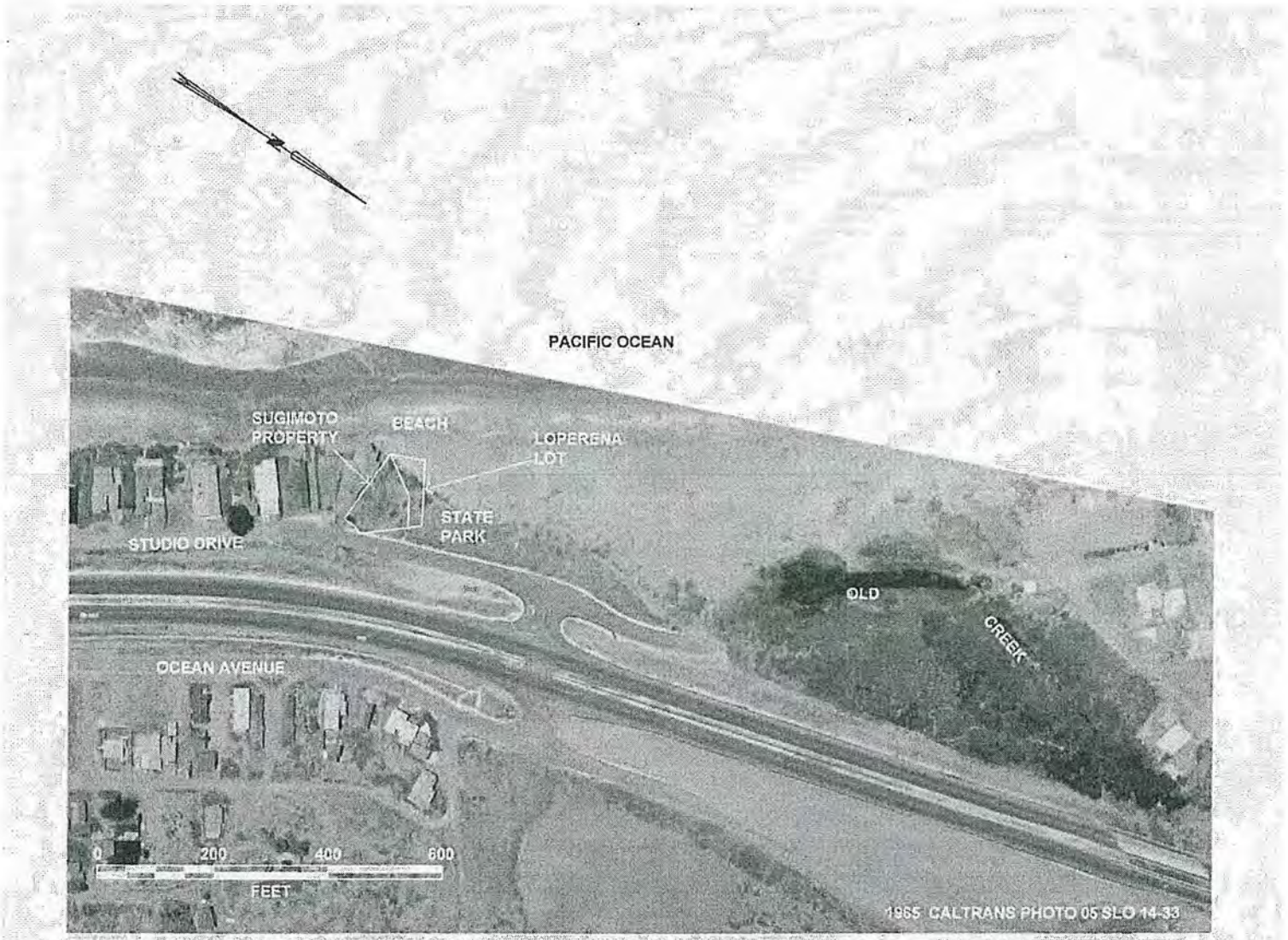


FIGURE 8 - 1965 CALTRANS AERIAL PHOTOGRAPH (APPROXIMATE SCALE: 1 INCH = 200 FEET)

(PROPERTY BOUNDARIES ARE APPROXIMATE)

FIGURE 9 - 1953 CALTRANS AERIAL PHOTOGRAPH (APPROXIMATE SCALE: 1 INCH = 200 FEET)

(PROPERTY BOUNDARIES ARE APPROXIMATE)

Exhibit 14
Kevin Elder SJMS Letter December 8, 2014 – Comments on Staff Report for 12-9-14 Board Hearing and Proposed Findings and Resolutions

WARREN A. SINSHEIMER III
DAVID A. JUHNKE
JUNE R. McIVOR
HERBERT A. STROH
DAVID S. HAMILTON
KEVIN D. ELDER
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SINSHEIMER JUHNKE McIVOR & STROH, LLP
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K. ROBIN BAGGETT

E-Mail:
KElder@sjmslaw.com

December 8, 2014

Client: 3203.003

San Luis Obispo County Board of Supervisors
Bruce Gibson
Debbie Arnold
Adam Hill
Frank Mecham
Caren Ray
County Government Center, Room D-430
San Luis Obispo, California 93408

HAND DELIVERED

Ms. Ryan Hostetter
County of San Luis Obispo
Department of Planning and Building County
Government Center, Room 200
San Luis Obispo, CA 93408-2040

HAND DELIVERED

Re: Appeal of San Luis Obispo County Planning Commission Decision Certifying Final Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) and Approval of Project

Dear Supervisors Gibson, Arnold, Hill, Mecham, Ray and Ms. Hostetter:

As you will recall, this firm represents Ethel M. Pludow and Cynthia R. Sugimoto with respect to the above referenced matter. Please accept the attached letter dated December 8, 2014, from Haro, Kasunich and Associates ("HKA") providing comments on the staff report for the December 9, 2014 hearing, and proposed findings and resolution in the staff report.

We understand that we are delivering the letter on the eve of the hearing, but we worked as quickly as possible to prepare this information once the staff report was posted.

To briefly summarize the attached letter, HKA finds that the location of where the setback is applied in Exhibit B, Conditions of Approval Paragraph 1.c. and Attachment 4, Proposed Bluff Line, is inconsistent with the Staff Report description of Option 4 and Exhibit A Findings Paragraph I. It is recommended that these inconsistencies be resolved and corrected to avoid any confusion regarding the Board of Supervisor's intent when considering the option. It must be clear whether the county's proposed setback is intended to be applied from the toe of the bluff or the top edge of the bluff.

HKA recommends that the figures in the HKA letter using Applicant's Drawing A1.1 replace Staff Report Attachment 4. A topographic surveyed drawing is more accurate and easier to verify than the Attachment 4 photo graphic.

Figure 1 attached to the HKA Letter is based on the set back being applied to the toe of the bluff. HKA recommends use of Figure 1, or a similar figure based on setback from top of bluff, so as to be consistent with BOS intent regarding the consideration of Option 4 of the staff report.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

SINSHEIMER JUHNKE McIVOR & STROH, LLP

KEVIN D. ELDER

KDE:ggf
K:\PludowE\003 Loperena\Ltr\17BOS HostetterR-120814.doc
Enclosure

To: Cindy Sugimoto
Via Email

Project No. SLO9515
8 December 2014

Dear Ms. Sugimoto:

The County of San Luis Obispo has scheduled a Board of Supervisors Meeting on December 9, 2014. Agenda Item Number 891/2014 pertains to a hearing to consider an appeal of the Planning Commission's approval of a Minor Use Permit/Coastal Development Permit DRC 2005-00216 and Environmental Impact Report to allow for the construction of a single family residence on the west side of Studio Drive in the community of Cayucos.

In regard to this matter, the Planning and Building Department Staff Report to the Board of Supervisors says:

"TO: Board of Supervisors
FROM: Planning and Building / Ryan Hostetter, Senior Planner
VIA: Ellen Carroll, Planning Manager / Environmental Coordinator
DATE: 12/9/2014

SUBJECT

Hearing to consider an appeal by Kevin Elder on behalf of Ethel Pludow and Cynthia Sugimoto of the Planning Commission's approval of a Minor Use Permit/Coastal Development Permit and Environmental Impact Report to allow for the construction of a 2,374 square foot single family residence within the Residential Single Family land use category on the west side of Studio Drive in the community of Cayucos. Hearing continued from October 7, 2014. District 2.

RECOMMENDED ACTION

It is recommended that the Board:

1. Hold the continued public hearing on the appeal of the approval by the Planning Commission as set forth in the attached Exhibits and staff report.

2. Adopt and instruct the chairman to sign the revised December 9, 2014 resolution affirming and modifying the decision of the Planning Commission, and certifying the Environmental Impact Report in accordance with the applicable provisions of CEQA, and approving Minor Use Permit/Coastal Development Permit DRC2005-00216 for a revised project based on the amended findings in Exhibits A and C and the amended conditions in Exhibit B."

The staff report indicates the Board of Supervisors has several options in proceeding with the project and states:

"Based on all the information submitted, staff recommends Option #4 and has prepared revised findings and conditions of approval that the Board could use to approve the revised project. This option takes into consideration the Board's direction, the comments submitted by the Coastal Commission staff, as well as balancing all of the information in the record. This revised project is appealable to the Coastal Commission.

OPTION 4. Affirm and modify the Planning Commission decision by approving a revised project. The revised project would recognize the existence of a coastal bluff on the western side of the subject property based on the additional photogrammetry information, and observation of marine influence. Consistent with that information and the analysis in the EIR the coastal bluff extent would not extend to the northern side of the parcel where the historic bedrock bluff is nearly perpendicular to the beach. ***This would require that the applicant revise their site plan to show the bluff line, and submit revised construction documents which indicates all construction and structures at least 25 feet from the edge of this coastal bluff line. This line is shown in Attachment 3*** *and includes acknowledgement of a fluvial bluff along the northern side of the property, and a coastal bluff on the western side of the property."* Bold font added for emphasis.

From review of the attachments to the Board of Supervisors agenda, it appears that there is a typographical error in the staff report, and that staff intended to refer to Attachment **4** rather than refer to Attachment **3** in the paragraph above. Attachment **4** is entitled "Proposed Bluff Line" and depicts a drawing illustrating a schematic "25' Bluff Buffer" line overlaid on an aerial photograph of the site.

The County of San Luis Board of Supervisors Agenda Item Number 891/2014 includes Attachment 1, which is the revised December 9, 2014 Resolution with Exhibits A & B that the Planning and Building Department is recommending that the Board of Supervisors adopt and instruct the chairman to sign. It includes the following language:

"RESOLUTION AFFIRMING AND MODIFYING THE DECISION OF THE PLANNING COMMISSION AND CONDITIONALLY APPROVING THE APPLICATION OF JACK LOPERENA FOR A MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT DRC2005-00216"

EXHIBIT A – FINDINGS

"Coastal Bluff and Setback

I. The project site contains a coastal bluff based on the information in the record, and information submitted by the California Coastal Commission (letter dated June 2, 2014). ***The project is conditioned to require a 25 foot setback***

from the bluff which complies with the Coastal Zone Land Use Ordinance bluff setback requirements (23.04.118 Blufftop Setbacks). *The structure is engineered to withstand a minimum of 100 years of coastal processes."* Bold font added for emphasis.

REVISED EXHIBIT B – CONDITIONS OF APPROVAL

"Approved Development

1. *This approval authorizes a request by Jack Loperena for a Minor Permit/Coastal Development Permit to allow for the construction of a single family residence. The applicant shall submit revised plans at the time of construction permits detailing the following:*
    a. *The revised single family residence shall comply with the Cayucos small scale neighborhood standards (height, setback, gross structural area requirements).*
    b. *The maximum height of the structure shall be 15 feet above the centerline elevation of Studio Drive.*
    c. *The house (including all projections such as decks and cantilevers) shall* ***be setback a minimum of 25 feet from the edge of the rocks and ice plant along the western side of the property as noted on the basement floor plan (as outlined in the December 9, 2014 staff report Attachment 3)"*** Bold font added for emphasis.

The location of where the setback is applied in Exhibit B Conditions of Approval Paragraph 1.c. and Attachment 4 Proposed Bluff Line is inconsistent with the Staff Report description of Option 4 and Exhibit A Findings Paragraph I. It is recommended that these inconsistencies be resolved and corrected to avoid any confusion on the Board of Supervisor's intent. It must be clear whether the County's proposed setback is intended to be applied from the toe of the bluff or the top edge of the bluff.

Additionally, using Attachment 4 as a reference is problematic. This aerial photograph provides a proposed setback based on the edge of vegetation but does not register the setback to the property lines of the Loperena property. Unfortunately due to scour and other natural processes (such as seasonal growth of vegetation that sometimes covers the landward portion of the beach) the apparent edge of vegetation and the toe of the bluff varies considerably from year to year, so it is an un-reliable method for the County to use as a reference point to apply the setback. It is more accurate for the County's proposed bluff line to be put on a topographical survey drawing, instead of the aerial photo they provided in the staff report.

Sheet No. A1.1 was previously submitted by the applicant and shows the Floor Plans for the Jack Loperena Residence as drawn by the permit applicant's Architect (C. P. Parker). This drawing, dated 3-14-2014, shows a previously proposed residential design. It also shows topographic survey information from a Topographic Survey by the permit applicant's surveyor (Volbrecht Surveys). The Topographic Survey shows property lines, elevation contours and the "Edge of Rocks" and "Edge of Iceplant" along the edge of the beach on the western part of the Loperena property.

In accordance with the proposed Board of Supervisors Resolution Revised Exhibit B – Conditions of Approval Condition 1 c., which states that "The house (including all projections such as decks and cantilevers) **shall be setback a minimum of 25 feet from the edge of the rocks and ice plant along the western side of the property as noted on the basement floor plan",** Haro Kasunich and Associates Inc. has used the A1.1 Floor Plans dated 3-14-2014 to calculate and depict that 25 foot setback on the Topographic Survey; so the setback can be dimensioned in relationship to the property lines of the Loperena property. The resultant setback line (from edge of rocks and ice plant) and those dimensions are shown on Figure 1. The setback line is drawn setback from the approximate toe of the bluff line (the edge of rocks and edge of ice plant as surveyed and mapped by the applicant), in a fashion consistent with standard industry practice for delineating bluff setback lines, except with the setback delineated from the toe of the bluff, rather than from the top edge of the bluff. We note that the Attachment 4 proposed bluff buffer line does not follow the standard practice of delineating the setback in a manner which can be surveyed in relation to the property lines.

It is recommended that the Board of Supervisors replace Attachment 4, with either Figure 1, or a similar figure with the setback applied to the top of the coastal bluff, which would result in a setback approximately 25 feet further landward than that shown on Figure 1, such that the figure is consistent with the corrected Findings and Resolution. This will greatly simplify the verification of construction plans required by Exhibit B Condition number 2. Please call our office if you have any questions.

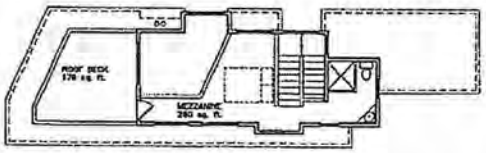
Sincerely,

HARO KASUNICH AND ASSOCIATES INC.

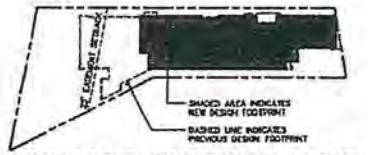
John E. Kasunich
C. E. 33177
G. E. 455

Attachment:
Figure 1 (25 Foot Setback from Edge of Rocks and Ice Plant Drawing by Haro Kasunich and Associates, Inc., dated December 7, 2014)

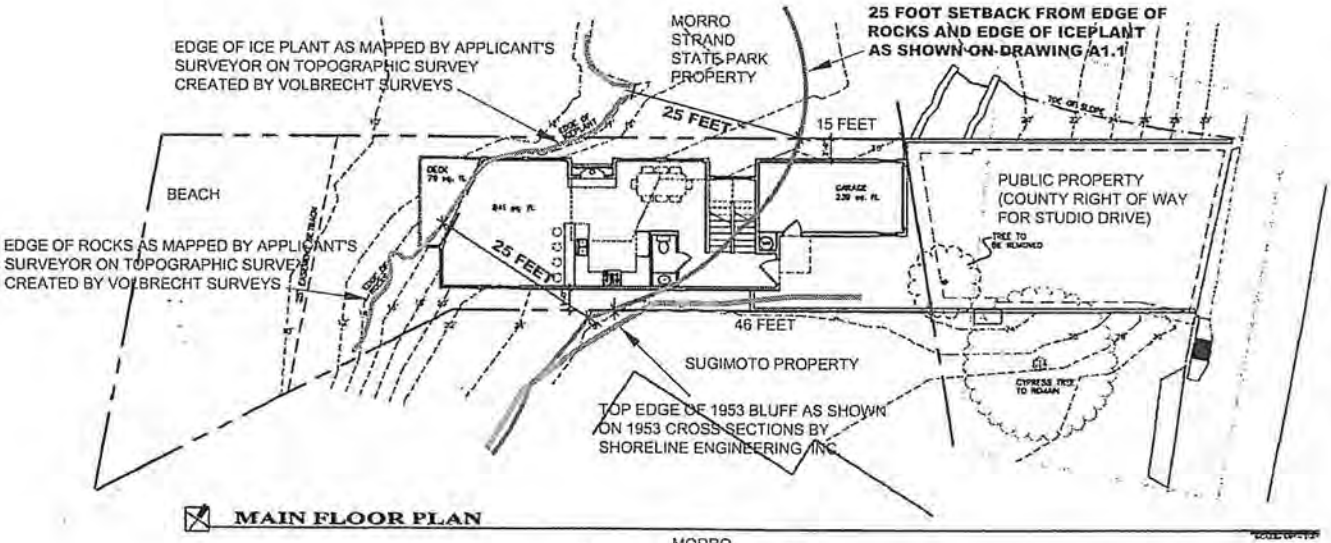
FIGURE 1
25 FOOT SETBACK
FROM EDGE OF ROCKS AND ICE PLANT
BY HARO KASUNICH AND ASSOCIATES, INC.
DECEMBER 7, 2014



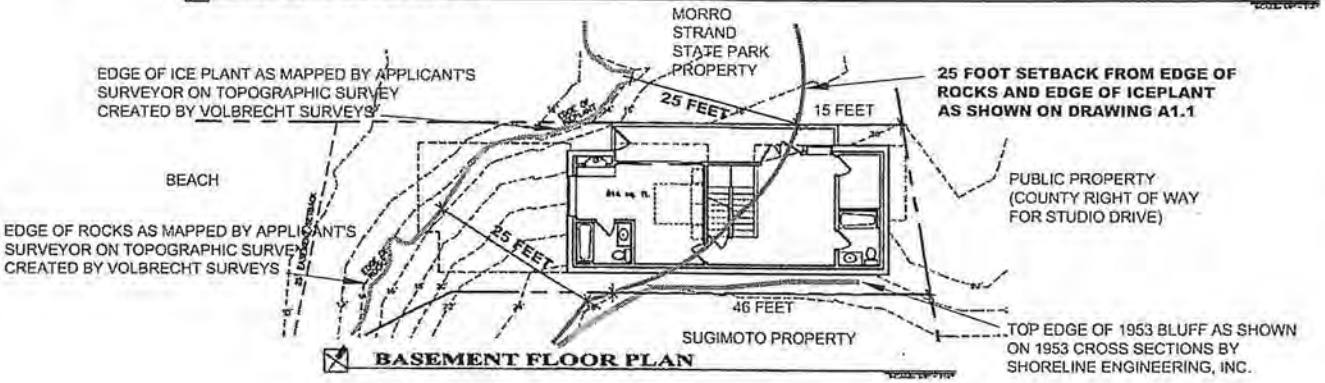
MEZZANINE FLOOR PLAN



FOOTPRINT (EXIST'G VS. PREV.)



MAIN FLOOR PLAN



BASEMENT FLOOR PLAN

PROJECT INFO.

LOT SIZE:		3,444 SQ. FT.
ALLOWED GSA:	55%	1,894 SQ. FT.
PROPOSED GSA:	55%	1,894 SQ. FT.

PER COUNTY PLANNING & BLDG. DEFINITION GSA INCLUDES THE MEASUREMENT OF ALL INTERIOR AREAS, EXPRESSED IN SQUARE FEET OF FLOOR AREA, WITHIN THE VOLUME OF THE STRUCTURE INCLUDING LIVING AREAS, STORAGE, GARAGES AND CARPORTS. GSA IS MEASURED TO THE EXTERIOR LIMIT OF THE BUILDING WALLS. GSA DOES NOT INCLUDE OPEN EXTERIOR DECKS OR INTERIOR MEZZANINES (AS DEFINED BY THE UBC) ABOVE WITH THE HEIGHT LIMITATION TO GAIN ADDITIONAL SQUARE FOOTAGE.

GSA AREAS:

BASEMENT LEVEL:	814 SQ. FT.
MAIN LEVEL:	841 SQ. FT.
GARAGE:	239 SQ. FT.
	1,894 SQ. FT.

CONDITIONED AREAS:

BASEMENT LEVEL:	814 SQ. FT.
MAIN LEVEL:	841 SQ. FT.
MEZZANINE LEVEL:	280 SQ. FT.
	1,935 SQ. FT.

EXTERIOR AREAS:

OPEN ROOF DECK:	179 SQ. FT.
OPEN MAIN LEVEL DECK:	79 SQ. FT.
OPEN BASEMENT PATIO:	146 SQ. FT.
	404 SQ. FT.

HEIGHTS:

ALLOWED HEIGHT:	46.34'
PROPOSED HEIGHT:	46.25'

TOPOGRAPHIC SURVEY INFORMATION:

THE TOPOGRAPHY DEPICTED IS AN OVERLAY FROM A TOPOGRAPHIC SURVEY CREATED BY VOLBRECHT SURVEYS, DATED JUNE 13, 2003.

BENCHMARK: USC AND GS BRASS DISK #493-1943, ELEVATION =23.89' NAVD-88
FIELD SURVEY DATE: MAY 2003

2013 CALIFORNIA RESIDENTIAL CODE DEFINITIONS:

BASEMENT:
A STORY THAT IS NOT A STORY ABOVE GRADE PLANE (SEE STORY ABOVE GRADE PLANE)

STORY ABOVE GRADE PLANE:
ANY STORY HAVING ITS FINISHED FLOOR SURFACE ENTIRELY ABOVE GRADE PLANE, OR IN WHICH THE FINISHED SURFACE OF THE FLOOR NEXT ABOVE IS:

1. MORE THAN 6 FEET ABOVE GRADE PLANE; OR
2. MORE THAN 12 FEET ABOVE THE FINISHED GROUND LEVEL AT ANY POINT.

MEZZANINE, LOFT:
AN INTERMEDIATE LEVEL OR LEVELS BETWEEN THE FLOOR & CEILING OF ANY STORY WITH AN AGGREGATE FLOOR AREA OF NOT MORE THAN ONE-THIRD OF THE AREA OF THE ROOM OR SPACE IN WHICH THE LEVEL OR LEVELS ARE LOCATED.

C. P. PARKER
ARCHITECT

CHRISTOPHER P. PARKER
ARCHITECT

630 QUINTANA RD. #330
MORRO BAY, CA.
93442 - 1982
(805)772 - 5700

STAMPS

CONSULTANTS

SHORELINE ENGINEERING
STRUCTURAL AND CIVIL

PROJECT

JACK LOPERENA RESIDENCE

STUDIO DRIVE
CAYUCOS, CALIF.
APN: 064-253-007

DRAWING PHASE

DESIGN DEVELOPMENT

Project No.	13-117
Drawn By	CPP
Dwg. Date	03/14/14
Updated	-
Scale	AS NOTED

REVISIONS

SHEET TITLE

FLOOR PLANS

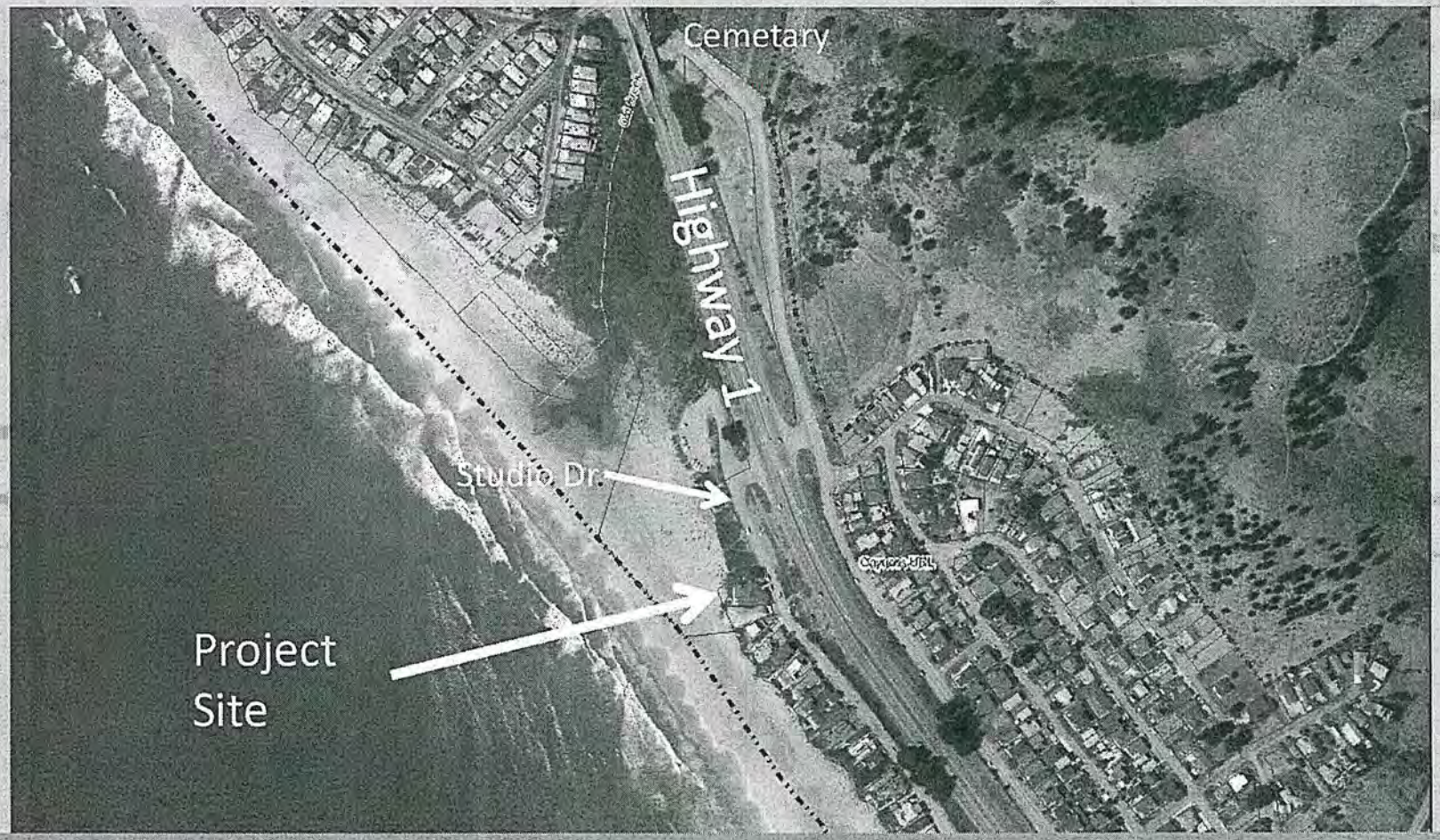
SHEET NO.

A1.1

Exhibit 15
Appellant's Presentation at Board of Supervisors Hearing December 9, 2014

BOS Hearing 12/9/14

1



I. Coastal Bluff Setback Location

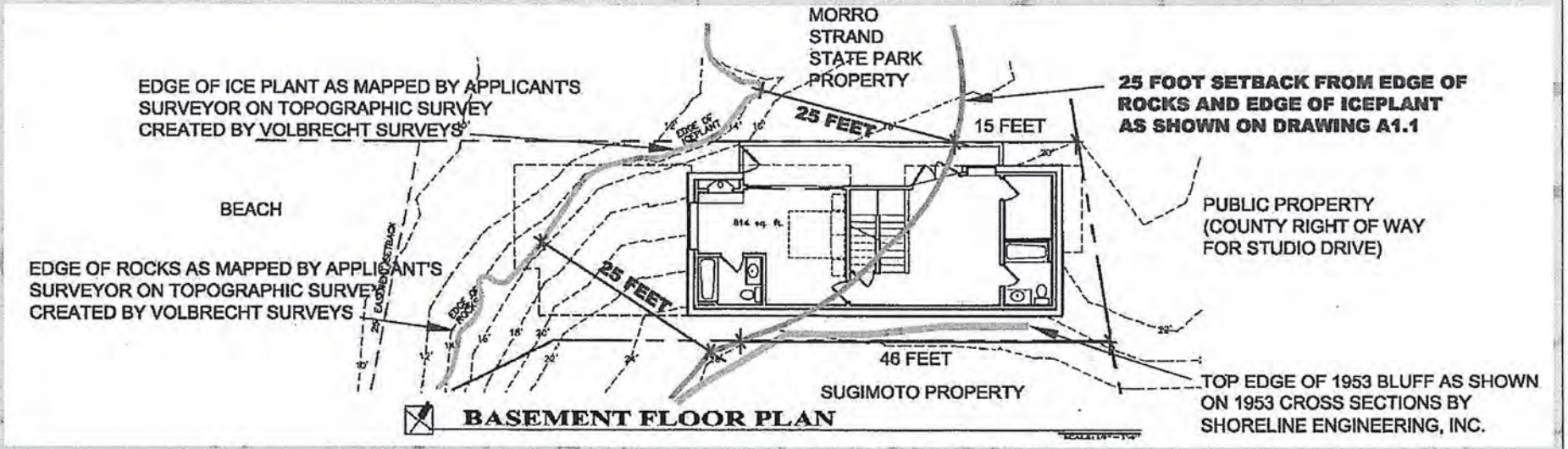
- Clarify if proposed setback is to be applied from the bluff toe or top edge.
- Setback applied to top of bluff per:
  - CZLUO Section 23.04.118;
  - Estero Area Plan, Section V.F.1 Table 7-1 & Section III, I.4;
  - County General Plan Safety Element, Policy S-23

II. Bluff Face

- Project is on a coastal bluff. Located below top of bluff and on bluff face.
- Development on Bluff Face is in violation of County Coastal Plan Policy 11: Development on Coastal Bluff.
- Policy 11 limits new development on bluff faces to public access stairways and shoreline protection structures.

III. Setback on Dwg A1.1 Basement Floor

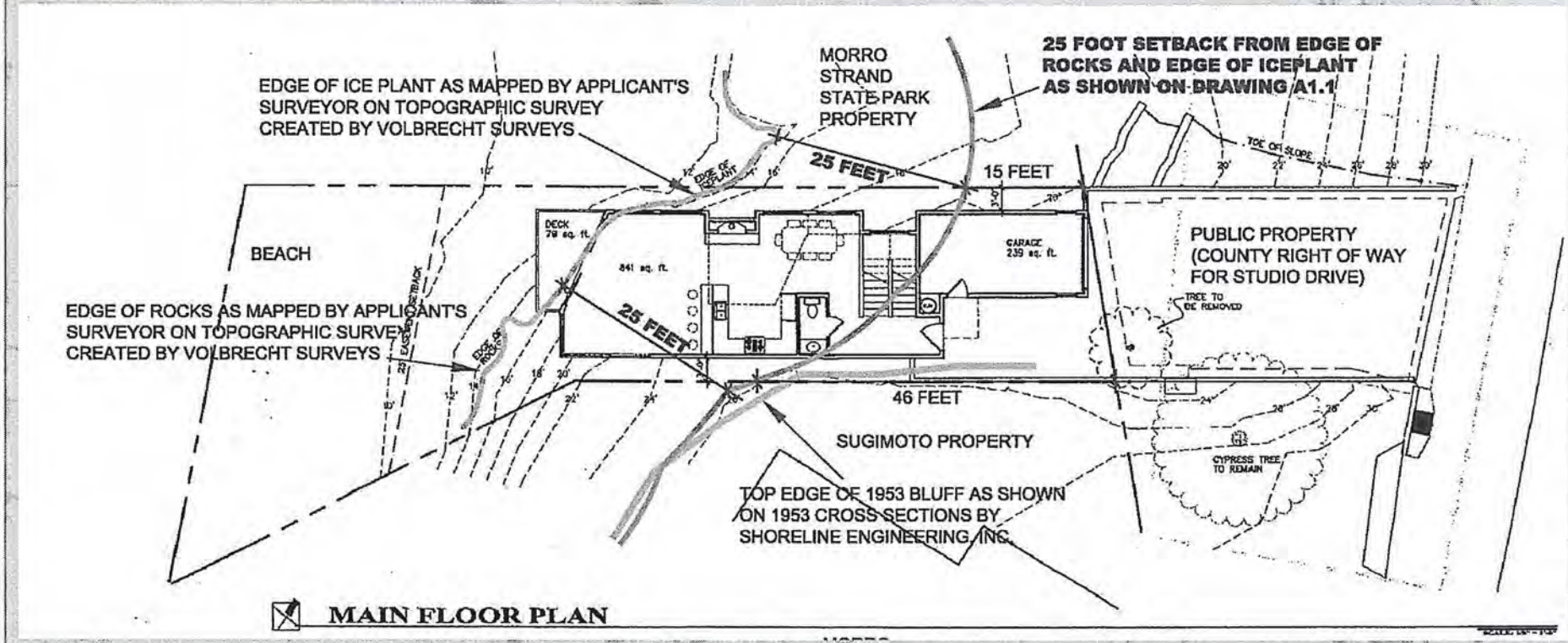
- Recommend Figures using DWG A1.1, replace Staff Report Attachment 4.
- Figure 1 shows 25 ft setback from Toe of Bluff.
- Use either these Figures, or similar with setback from bluff top, consistent with BOS intent.



Setback on Dwg A1.1 Main Floor

5

- Topographic surveyed drawing more accurate and easier to verify than **Attachment 4** photo-graphic.



IV. Coastal Hazards and Seawalls

- Staff Recommendation allows project in wave runup zone @ 26 Feet.
- Structure in wave run-up area considered a seawall.
- Seawalls prohibited for new development per:
  - Estero Area Plan, Chapter 7, Areawide standards Section I.5
  - LCP Hazard Policy 1.
- Staff recommended Project includes traditional seawall and basement wall acting as a seawall.

V. Northern Bluff and Creek Setback

7

- Staff recommendation ignores northern bluff.
- Old Creek Coastal Stream bluff projects must be set back 50 feet IAW Estero Area Plan, Cayucos section, Sensitive Resource Area, Table 7-2.
- Lack of riparian setback sets a precedence for creek adjacent properties countywide.

VI. EIR Update and Public Review of Revised Plans Required

- Project changed significantly. Fundamental finding of coastal bluff reversed. EIR should be amended.
- Public review and hearing of proposed revised plans important.

VII. County ROW Offer

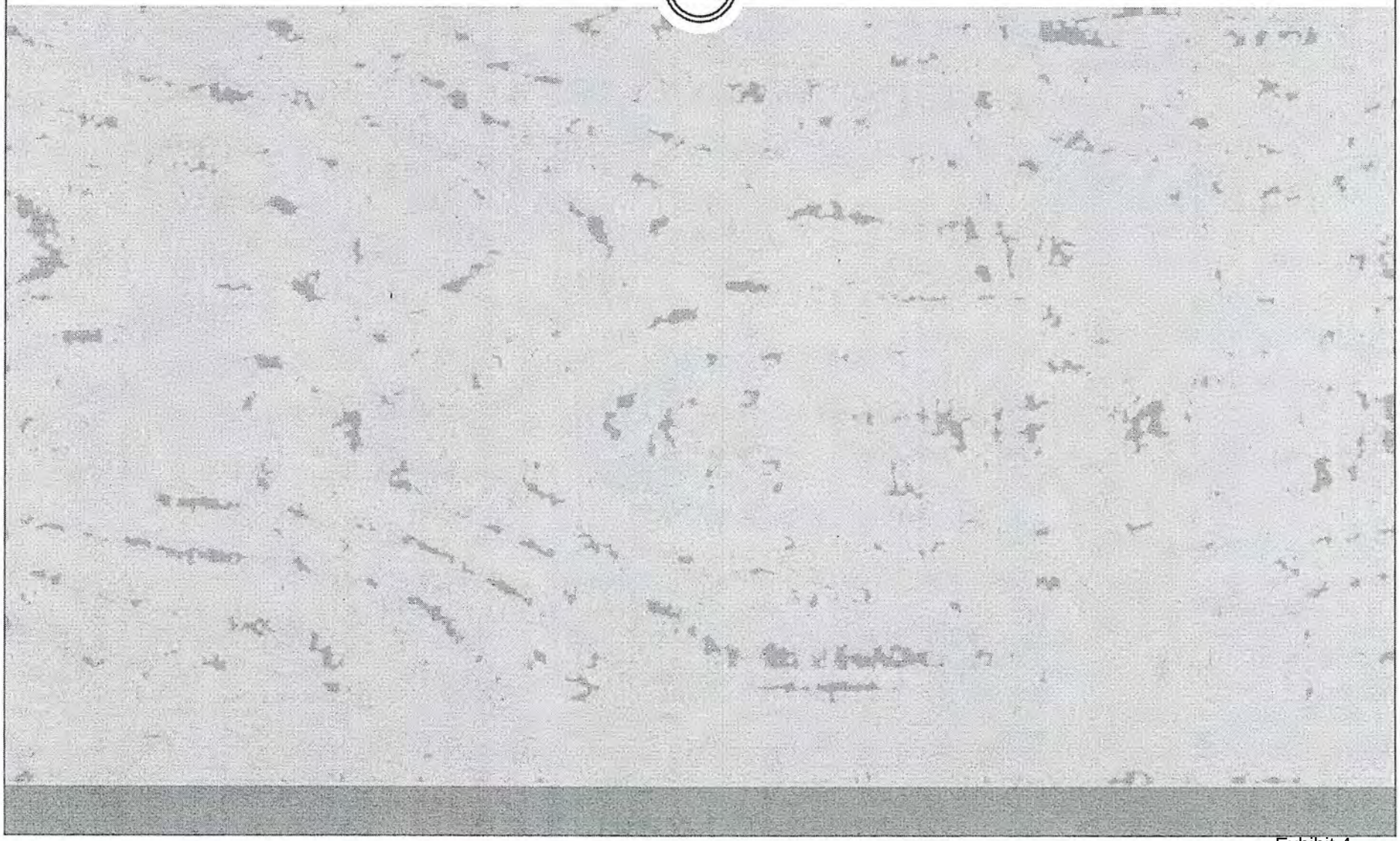
- It appears the applicant is refusing to pursue the property exchange of County right-of-way, as discussed by the Board of Supervisor.

VIII. Recommendation

Request:

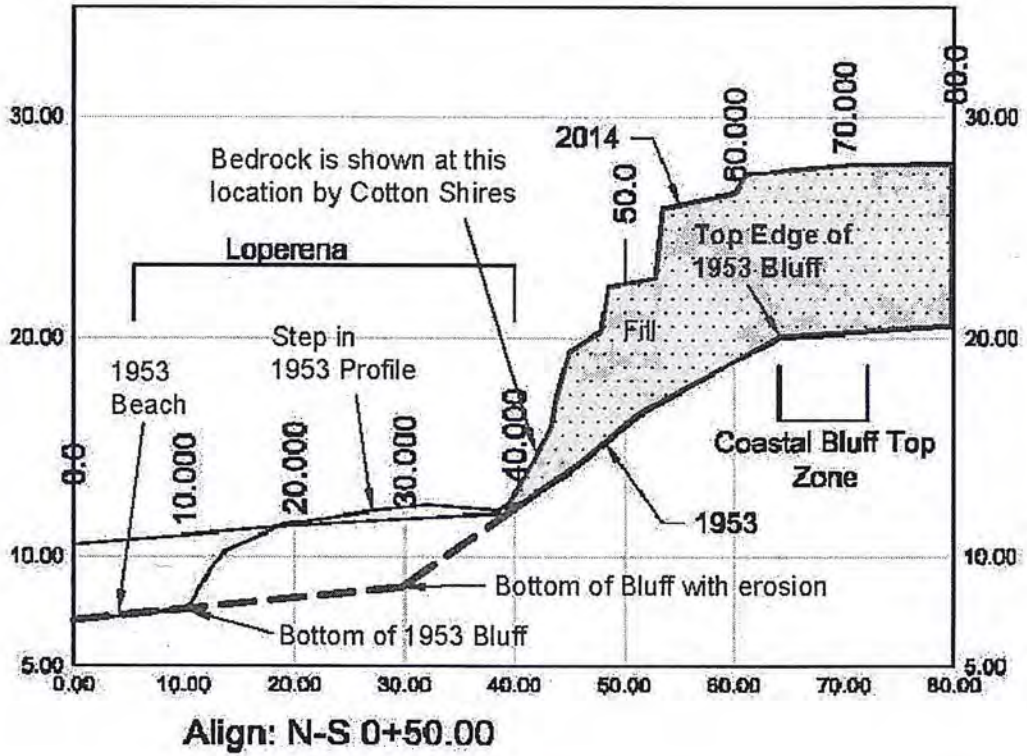
- Reverse Commission's decision
- Uphold Appeal
- Deny Project as Designed

Backup Slides



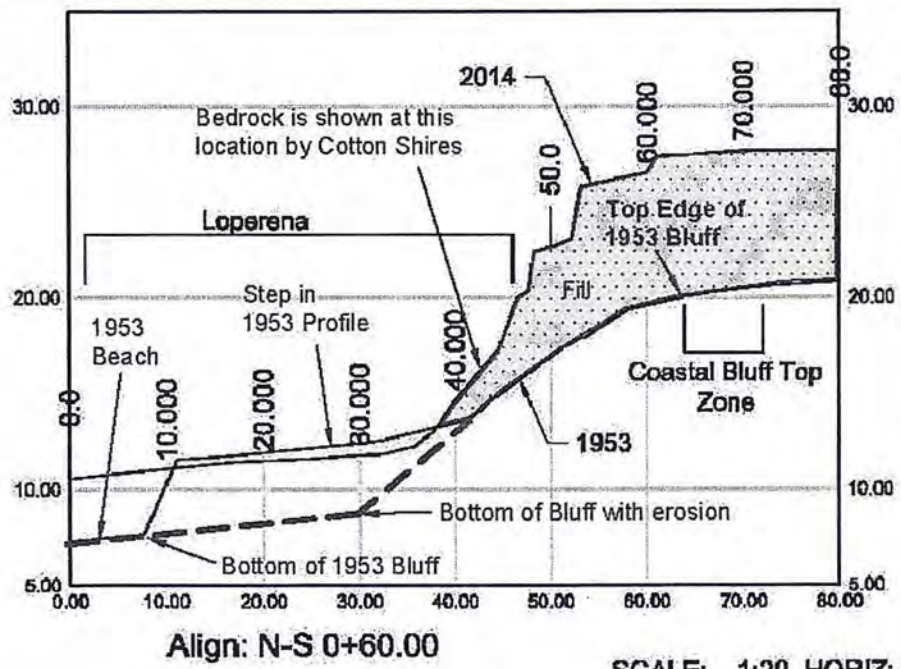
HKA Analysis of Shoreline Study (Figure 1)

FIGURE 1: CROSS SECTIONS SHOWING 1953 AND 2014 TOPOGRAPHIC PROFILES BY SHORELINE ENGINEERING, INC., & LOCATIONS OF FILL, 1953 BEACH, BOTTOM OF BLUFF AND TOP EDGE OF BLUFF BY HARO KASUNICH & ASSOCIATES, INC.



HKA Analysis of Shoreline Study (Figure 1)

13



Align: N-S 0+60.00

SCALE: 1:20, HORIZ; 1:10, VERT
SECTIONS LOOKING NORTHERLY

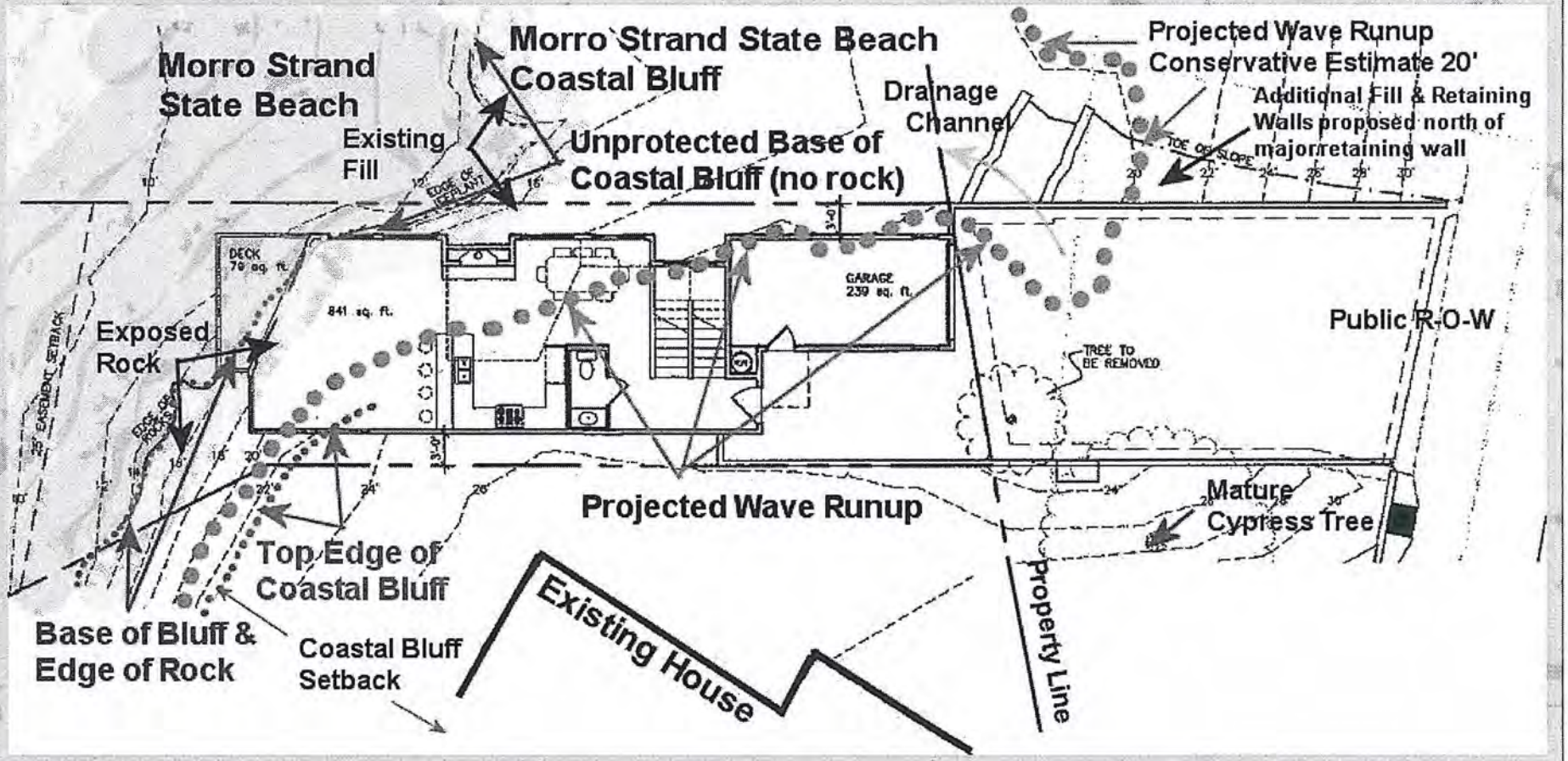
Loperena: Studio Drive, Cayucos

2014 Topographic Survey

HARO KASUNICH & ASSOCIATES, INC. 11/25/2014

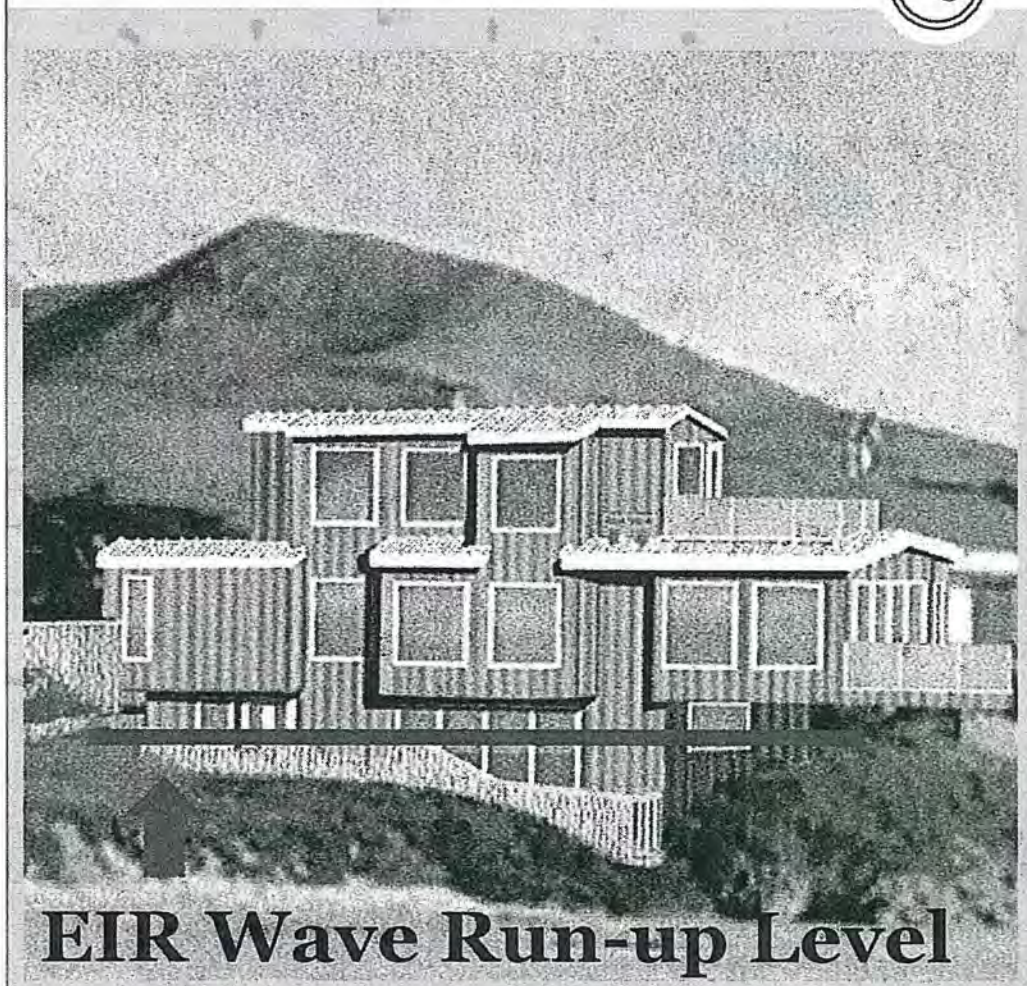
Planning Commission Approved Project - Main Floor Plan

14

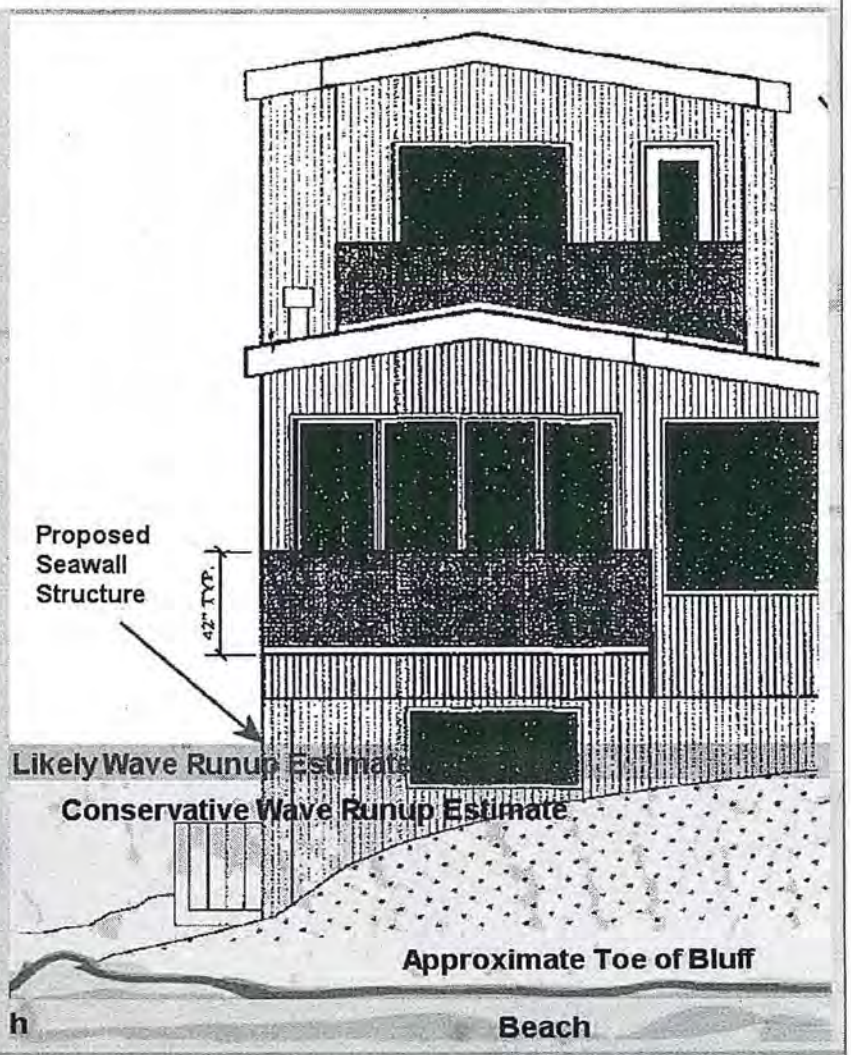


Wave Run-up Height

15



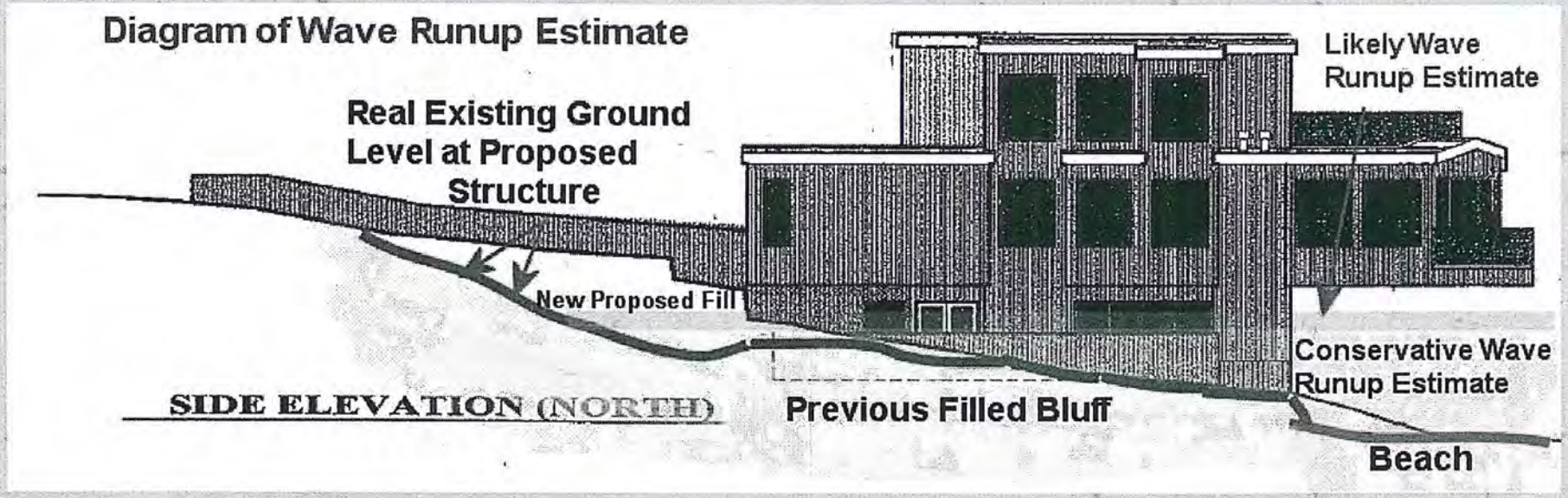
EIR Wave Run-up Level



Wave Run-up Hazards At North Side

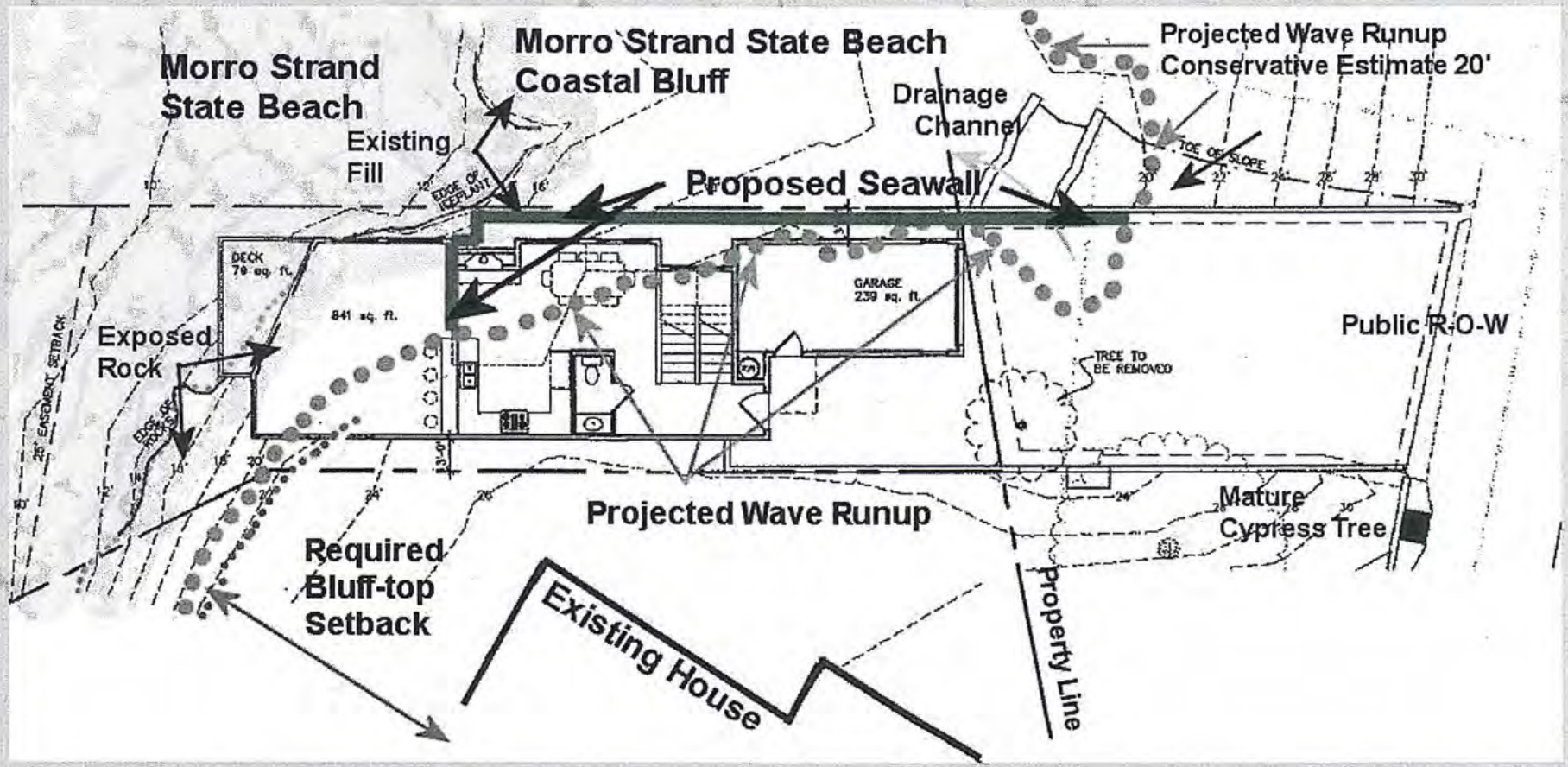
13

North (Upcoast) Side of Home is Exposed to Wave Run-up Hazards



Proposed Shore Protection (Seawall)

17



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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Jack Loperena

Mailing Address: 2764 West Athens

City: Fresno, CA Zip Code: 93711 Phone: (559) 436-8219

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of San Luis Obispo

2. Brief description of development being appealed:

Single family residence

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

On Studio Drive, Cayucos: APN #064-253-007

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: _____

DATE FILED: _____

DISTRICT: _____

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

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

☐ Planning Director/Zoning Administrator

☒ City Council/Board of Supervisors

☐ Planning Commission

☐ Other

6. Date of local government's decision: 12/9/14

7. Local government's file number (if any): DRC2005-00216

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:

Jack Loperena
2764 West Athens
Fresno, CA 93711

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) Cynthia Sugimoto & Ethel Pludow
C/O Sinsheimer juhnke McIvor & Stroh, LLP
Mr. Kevin Elder
1010 Peach Street
San Luis Obispo, CA 93406

(2) Sinsheimer juhnke McIvor & Stroh, LLP
Mr. Kevin Elder
1010 Peach Street
San Luis Obispo, CA 93406

(3) Earth Design
Ms. Doreen Liberto
1241 Knollwood Dr Ste 125
Cambria, California 93428

(4) Cathy Novak
Cathy Novak Consulting
PO Box 296
Morro Bay, CA 93443

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

See attached sheet.

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.

Jack Loperena
Signature of Appellant(s) or Authorized Agent

Date: 1-7-15

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

Section VI. Agent Authorization

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

Jack Loperena
Signature of Appellant(s)

Date: 1-7-15

Appeal for Loperena Project
San Luis Obispo County #DRC2005-00216
January 20, 2015

The Board of Supervisors approval is not consistent with the County's certified LCP as it relates to the following, but not limited to:

Coastal Bluff: The County relied and based the "Findings" of approval on an Attachment #4 (County staff report for the December 9, 2014 hearing). This attachment does not provide consistency with the application of County policies or factual information with enough specificity for the Board of Supervisors to have adopted the findings and conditions of approval contained in the Board Resolution and revised CEQA Findings.

1. Coastal Land Use Ordinance section 23.07.080 (d). *"Erosion and stability hazard - coastal bluffs. Areas along the coast with coastal bluffs and cliffs greater than 10 feet in vertical relief that are identified in the Coastal Erosion Atlas, prepared by the California State Department of Navigation and Ocean Development (1977), in accordance with Hazards Policy No. 7 of the Local Coastal Plan."* The County used Certified LCP Standard 23.04.118, Bluff Retreat setback method, in Findings # J to determine that the project site contained a coastal bluff. However, the County failed to apply the standard of a vertical relief of ten feet or more when assessing the site to establish if there was a coastal bluff which is also inconsistent with the FEIR conclusion that the project as approved by the County Planning Commission was consistent with the County Certified LCP policies. In addition, the FEIR determined that "based upon the review of available data and a sequence of aerial photographs dating back to 1937, from a geological perspective, the landward portion of the site sits atop or slightly straddles a bedrock remnant of a fluvial bluff that is now mostly buried by artificial fill materials". (FEIR, page 4.3-14)
2. Estero Area Plan: "Coastal Bluff" definition: *"Coastal Bluff - A steep bank or cliff generally having a relief of 10 feet or more **and** the toe of the bluff may be subject to marine erosion."* The Certified LCP contains a definition for a coastal bluff, however the Findings # F & J are inconsistent with this definition. The definition must be considered in its entirety with the conjunction "**and**". Therefore a bluff must have a vertical relief of 10 feet or more **and** be subject to marine erosion. First the project must be evaluated on the predevelopment conditions which is prior to 1965 when the artificial fills were placed on the property. Second, the definition must be considered in its entirety with the conjunction "**and**". Therefore a bluff must have a vertical relief of 10 feet or more **and** be subject to marine erosion.

   The FEIR stated that the project site "sits atop or slightly straddles a bedrock remnant of a fluvial bluff". (FEIR pages 4.3-14) Furthermore, the FEIR

concluded that the terminus of the coastal bluff is located to the south on the adjacent property. (FEIR 4.3-16 - 19)

a. The property has a gross elevation change from approximately 10.6 feet to 22 feet as shown in the 1953 topographic survey provided in the Shoreline Engineering Report, page 5 of 14, dated September 28, 2014. However, the gross elevation change of more than 10 feet does not in of itself make this a coastal bluff. The property topography as shown in this is figure is comprised of beach following the approximate 12 foot contour line on the western side and the northern portion is along a fluvial bluff. For the purposes of the coastal bluff definition, there is no point at which you would have an elevation change of more than eight feet for this to be considered a coastal bluff (Exhibit A).
b. The portion of the property along the fluvial bluff has not been subject to marine erosion. Since it fails to meet the criteria with both items, it is not a coastal bluff by definition. The purpose for establishing whether the site has been or may be subject to marine erosion is for determining setbacks for coastal bluffs to be consistent with the County LCP (discussion of polices under Hazards below) and Coastal Act Section 30253 which 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."

    "This section requires that new development be located such that it will not be subject to erosion or stability hazard over the course of its design life. Further, the last clause requires the finding that no seawall, revetment, jetty, groin, retaining wall, or other shoreline protective structure, inasmuch as such a structure would substantially alter natural landforms along bluffs and cliffs, will be needed to protect the development over the course of its design life. The Commission has found on many occasions that siting new development away from eroding bluffs is the preferred means of assuring consistency with this section, and the establishment of bluff-top setbacks for new development is an integral part of most local coastal programs. Further, the State's draft Policy on Coastal Erosion Planning and Response states that avoidance of geologic hazards, such as eroding coastal bluffs, should be the primary means of safeguarding new development.
    Accordingly, the determination of what constitutes an adequate setback is a critical component of the analysis of proposals for new development. Because coastal bluffs are dynamic, evolving landforms, establishing appropriate development setbacks from coastal bluffs is far more

challenging than it is for manufactured or natural slopes not subject to erosion at the base of the slope. The mechanisms of coastal bluff retreat are complex, but can be grouped into two broad categories. Bluff retreat may occur suddenly and catastrophically through slope failure involving the entire bluff, or more gradually through grain by-grain erosion by marine, subaerial, and ground water processes. For both processes, the setback must be adequate to assure safety over the design life of the development." (Mark Johnsson, Staff Geologist, Memo to Commission, January 16, 2003). This excerpt clearly articulates the rationale behind the determination of whether the site has been subject to marine erosion.

A coastal hazards assessment evaluates a project for bluff top development setback standards; it will quantify the likelihood if the bluff edge will erode to any particular point in a given time and allow for a better definition of risk. There are several sections in the FEIR that evaluated the project site as it relates to consistency with the County LCP policies specifically, Hazards, Policy 1: New Development , Hazards, Policy 2: Erosion and Geologic Stability, Hazards. Policy 3: Development Review in Hazard Areas, Hazards. Policy 6: Bluff Setbacks. (FEIR Table 3.1 pages 3-13 & 14)

The FEIR concluded that "In an effort to determine typical changes in the shoreline position aerial photographs from the early 1970s to 2010 were reviewed. Due to the hard rock nature of the shoreline material there has been very little erosion or retreat of the shoreline over the last 4 decades. The United States Geologic service in 2006 (USGS 2006) prepared the National Assessment of Shoreline Change Part 3: Historical Shoreline Change and Associated Coastal Land Loss Along Sandy Shorelines of the California Coast, which concluded that the shoreline in front of this site was relatively stable over the long term. Based on the hard rock material at the shoreline, and the elevation of the proposed development, a 2 foot rise in sea level will likely not result in (sic) a significant impact on the erosion rate or (sic) the proposed residence. There is no potential significant marine erosion hazard at the site over the next 100 years." (FEIR Appendix C: Geology & Soils Background Information, Cotton Shires Appendix A, March 14, 2011. Discussion of Coastal Hazards and Wave Runup, Page 11 - Erosion Hazard)

Furthermore the other pertinent sections from the FEIR and County staff reports regarding erosion and coastal hazards include the following:

I. "Erosion Hazard -- The report cites a 2006 USGS study which concluded that the shoreline in front of the subject property has been relatively stable over the long term. On the basis of the USGS study, aerial photograph review spanning 39 years, the elevation of the proposed development, and the presence of

hard rock material between the shoreline and the proposed residence, the report concludes that:

- there has been very little erosion or retreat of the shoreline over the last four decades;
- a 2-foot rise in sea level will likely not result in a significant impact on the erosion rate or the proposed residence; and,
- there is no potential significant marine erosion hazard at the site over the next 100 years." (FEIR Appendix C: Geology & Soils Background Information, section 4.2.1, page 25)

II. The potential coastal hazards associated with the proposed residential development at

III. Northwest and Immediately Adjacent to 2612 Studio Drive, Cayucos, include shoreline erosion, wave runup, and coastal flooding. Based upon review of historical aerial photographs, the shoreline fronting the site is stable over the long term. During the coincidence of high tides and high waves, the residence may be subject to wave runup.

IV. However, based upon our analysis herein, the residence is reasonably safe from coastal hazards. There are no recommendations necessary to mitigate potential coastal hazards. New shore protection will not be required to protect the proposed residence over the next 100 years. The proposed residence will neither create nor contribute to erosion, geologic instability, or destruction of the site or adjacent area. (FEIR Appendix C: Geology & Soils Background Information, Cotton Shires Appendix A, March 14, 2011. Discussion of Coastal Hazards and Wave Runup, Page 12 - Conclusions)

V. "*...There is no science available that shows that SLR (*Sea Level Rise*) will increase the frequency of large storm waves. The bedrock material at the site is very erosion resistant....There is no potential significant bedrock erosion at the site over the next 75 to 100 years even in consequence of the maximum predicted SLR.*" (County Planning Commission Memo from staff dated April 10, 2014, attachment Letter from GeoSoils, section Worst Case Profiles Not Utilized in Analysis page 3)

VI. "Furthermore, CSA determined through analysis that the project is not located on a coastal bluff; rather, the property is situated atop a bedrock remnant of the inland bluff adjacent to the mouth of Old Creek. The property is clearly set back significantly landward of the general trend of the coastal bluff, which terminates southeast of the subject property. In terms of the cliff retreat rate cited, this was likely determined at properties south of the subject property that actually are situated atop a coastal bluff." (FEIR, page 4.3-23)

VII. "The proposed development is clearly safe from coastal hazards for the next several decades under even the most onerous SLR projects." (County Planning Commission staff report, GeoSoils Letter dated March 12, 2014, page 4-66)

VIII. "This "transition" section of the rock outcropping extends south of the project site approximately 100 feet, to a point on the property at 2614 Studio Drive. Beyond this point, the landform generally trends about S47ºE and appears wholly influenced by coastal erosion processes and represents true "coastal" bluff in the geomorphic sense." (FEIR, page 4.3-15)

3. Coastal Zone Land Use Ordinance section 23.04.118.a. *"Bluff retreat setback method: New development or expansion of existing uses on blufftops shall be designed and set back from the bluff edge a distance sufficient to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years without construction of shoreline protection structures that would in the opinion of the Planning Director require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist based upon an on-site evaluation that indicates that the bluff setback is adequate to allow for bluff erosion over the 75 year period according to County established standards."* This section of the Certified LCP was the basis for approval in Finding # J. However, the County incorrectly used this section because the Estero Area Plan Chapter 7 Areawide Standard 1-4 and Cayucos Urban Area Standard F govern the 25 foot setback from bluffs. The Estero Area Plan supersedes the standards in section 23.04.118a because it states, "Bluff setbacks shall be in accordance with the Coastal Zone Land Use Ordinance, except that the minimum setback shall be 25 feet in any case". The FEIR also determined that the Estero Area Plan supercedes the CZLUO section. (FEIR page 4.3-25)

4. Estero Area Plan: Chapter 7. I. Shoreline Development Standard 4**.** Bluff Setbacks. *"The bluff setback is to be determined by the engineering geology analysis required in I.1.a. above adequate to withstand bluff erosion and wave action for a period of 100 years. In no case shall bluff setbacks be less than 25 feet. Alteration or additions to existing development that is non-conforming with respect to bluff setbacks that equals or exceeds 50 percent of the size of the existing structure, on a cumulative basis beginning July 10, 2008, shall not be authorized unless the entire structure is brought into conformance with this setback requirement and all other policies and standards of the LCP. On parcels with legally established shoreline protective devices, the setback distance may account for the additional stability provided by the permitted seawall, based on its existing design, condition, and routine repair and maintenance that maintain the seawall's approved design life. Expansion and/or other alteration to the seawall shall not be factored into setback calculations." "*This section of the Coastal Zone Land Use Ordinance is intended to implement Coastal Hazards Policies 1 and 6 above. The project was required by the Certified LCP to include a geologic evaluation and a bluff setback shall be implemented based on the evaluation which would essentially allow for 75 years or 100 years (based on Estero Area

Plan Chapter 7.1) of wave action. This 100 year erosion rate will establish an appropriate buffer or setback between the proposed development and the edge of the bluff. This project complies with these requirements and is sited to withstand at least 100 years of coastal processes." (County Staff Report June 3, 2014). The approved project is inconsistent with this policy by requiring a setback for the purposes of a buffer between the bluff and development whereby the project as approved by the County Planning Commission met the intent of the policy and the house foundation was not considered a shoreline protective device that was designed to withstand extreme events to eliminate potential hazards with extreme high tides and sea level rise. The FEIR determined that "Regardless of the bluff determination, consistent with this policy, technical reports including a geotechnical and coastal hazards review and wave run-up analysis were prepared (refer to the Geology and Soils section of the EIR and EIR Appendices). As noted in Table 3-1 the project does not include, or require, the construction of protection structures". (FEIR page 9-15 CCC-5). Furthermore, the County Finding # K concludes that "evidence presented in the Final EIR and associated and subsequent technical reports support the conclusion that the exposure to rising sea level over the life of the structure and associated coastal hazards would not result in substantial adverse effects to the structure, including compromised structural integrity, or to adjacent properties". This finding is directly contrary to the conclusion in the FEIR that states that "the project is not located on a coastal bluff" (FEIR page 4.3-24 & 25) for which Finding # F & J were based upon. The FEIR additionally discusses within the same section for Section 23.04.118 that "In the event the artificial fill was considered to be a coastal bluff, the project as proposed would not meet the setbacks identified in the CZLUO and Estero Area Plan, and a Variance would be considered pursuant to Section 23.01.045 of the CZLUO". (FEIR page 4.3-25)

5. *Estero Area Plan Cayucos Urban Area Standards, Chapter 7, F. Setbacks - Communitywide. "Unless specified in other Cayucos Urban Area standards, the following special setbacks in Table 7-1 apply to the respective neighborhoods shown on Figure 7-17. 1. Bluff Setbacks. Bluff setbacks shall be in accordance with the Coastal Zone Land Use Ordinance, except that the minimum setback shall be 25 feet in any case."* The County adopted Finding #F which incorporates Attachment 4 depicted an inconsistent use when applying 25 foot setback across property from which to measure the buffer. The Certified LCP states it is to be measured from the bluff edge. This inaccurate measurement on the Attachment #4 for which the County approved a modified project results in a design with more space than is allowable by County code, and therefore, is inconsistent with the Certified LCP. There is no substantial evidence justifying how this line was established on Attachment 4 other than County staff stated at the December hearing that it followed the vegetation line. The mere fact that a line of vegetation is growing at the edge of sandy beach does not support the conclusion that this is a coastal bluff. The Certified LCP (sections mentioned above) and CCR Title 14, Section 13577 define what a bluff edge is. The FEIR discusses the termination of the coastal bluff per CCR Title 14, Section 13577 which states "The termini of the bluff line, or edge along the seaward face of the

bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations". (FEIR page 4.3-17) The FEIR further explains that the terminus of the coastal bluff is southeast of the project site and that this project site is not on a coastal bluff. The FEIR states, "The 500-feet rule was inserted to ensure that a reasonable length of bluff was used to differentiate between a coastal bluff and an inland facing bluff (Mark Johnsson 2011, pers. comm.). The difficulty in applying these criteria to the project site rests with establishing the general trend of the fluvial/inland bluff along a distance of 500 feet. As noted above, the northwest-facing portion of the rock outcropping is seen in the 1937 photograph extending at least 300 feet inland from its ocean-ward end on the project site, along a trend of approximately N50ºE, which is perpendicular to the shoreline. Beyond this point the inland bluff turns to an approximate N15ºW trend following what is now Cabrillo Avenue (refer to Figures 4.3-6 and 4.3-7). Any reasonable interpretation of a "general trend" for the inland bluff, following the Coastal Commission's guidelines (whether it be the aforementioned 300-foot segment from the ocean-ward tip of the rock outcropping, or an average trend of the first 500 lineal feet extending inland from the ocean-ward tip of the rock outcropping) will all result in a determination of the coastal bluff terminus being located southeast of the project site. In this particular case, the 300-foot segment of inland bluff is sufficient for differentiation insofar as it is perpendicular to the shoreline and is thus inland-facing. In summary, based on our interpretation and application of the California Coastal Commission guidelines for 14 CCR 13577, the project site is not located on a coastal bluff." (FEIR pages 4.3-17 & 18). In addition, the following identifies further inconsistencies with the LCP.

a. This new bluff line and buffer is drawn such all the houses to the south are now within the buffer making those houses inconsistent with County LCP policies. The difference between the 1957 (sic) and the 2011 bluff lines is 20 plus feet. However, there is no evidence in any of the historic aerial photographs that have been used that show a bluff in this location. It has consistently remained sandy beach for over 75 years
b. The fact that there was no bluff at the location identified in Attachment 4 and finding number F is demonstrated by the fact that if there was a bluff there in 1957 (sic), this particular section of the coast would have had a bluff retreat of well over 20 feet during that 57 year period. This equates to almost three feet per year. Such a finding is not supported by any substantial evidence in the record, or the certified FEIR which states "there has been very little erosion or retreat of the shoreline over the last four decades". (FEIR page 4.3-35) This means that the finding of the location of a coastal bluff under LCP standards was erroneous.

6. County Finding # J is also based on the fact that the site contains a coastal bluff based upon a comment letter submitted by Coastal Commission staff dated June 2, 2014 and an additional e-mail from Coastal Commission staff dated December

8, 2014. However, the Coastal Staff letter from June did not have the benefit of the further detailed evidence and analysis that was submitted by Shoreline Engineering, September 28, 2014. The Shoreline Engineering study documented that this site is not on a coastal bluff. The report stated, "The purpose of this engineering evaluation is to identify whether or not the Loperena property is on a coastal bluff or not. The evaluation is in keeping with Coastal Commission policies that determine the coastal and fluvial bluff geometry prior to development and compare pre-development bluff geometry with current bluff geometry. In general, the engineering evaluation compares CALTRANS archival photogrammetric survey information made in 1953 with current 2014 photogrammetric survey information prepared by ATGeoSystems. Coastal bluff termination was evaluated by Cotton-Shires, independent geotechnical/geologic consultants for the County of San Luis Obispo. They found the coastal bluff terminated to the south of the Loperena property. Their findings and methodology are published in the Final EIR". The Coastal Commission staff comments from the December 8 e-mail are as follows: 1) concur that the methodologies employed by the Shoreline Engineering report were appropriate, 2) the Coastal Commission staff made recommendations for obtaining information regarding obtaining the natural topography beneath the artificial fill during a meeting with County staff on 31 July 2014. The method used in the Shoreline Engineering report was one method recommended; however there might have been other information on the State Park parcel that would have been additionally helpful, 3) "Although the bluff edge of both the "coastal bluff" and the "fluvial bluff" are only broadly defined on the cross sections that are provided, the plan views show the natural bluff edge to lie landward of the entire Loperena parcel. Thus, the natural topography and ground surface of the entire parcel is either on the natural bluff face or beach", 4) "1953: In several cases it is difficult to tell based on the cross-section alone where the toe of the bluff is, and without the photos themselves it is impossible to evaluate the accuracy of the cross-sections". The Coastal Commission staff concluded by stating, "Thus, it appears that the entire parcel is seaward of the bluff edge, whether the bluff is a coastal bluff or an [undefined] "fluvial bluff." The change in orientation of the bluff that the applicant uses to delineate a coastal bluff from a fluvial bluff does not, in my opinion, constitute a change in the bluff from a "coastal bluff" as defined in the Coastal Act regulations (13577 (h))." However it must be considered that the Coastal Commission staff was making this determination on an unofficial review and without the benefit of entire administrative record. Furthermore, the County "Findings" is inconsistent with the LCP policies by not identifying the actual location of the termini of the coastal bluff and top of the coastal bluff, and is not supported by substantial evidence for the County identified bluff line contained in the County staff report for the December 9, 2014 hearing, Attachment #4 (Finding # F), is inconsistent with the Certified LCP and leads to findings and a modified project which is not consistent with the standards of the certified LCP:

a. The exhibit does not accurately depict the location of the termini and coastal bluff.

i. The exhibit does not identify whether it was the toe of the bluff or top of bluff, other than County staff stated at the December hearing that this was the “toe of the bluff”. If the rock outcrop is the toe of the bluff, which it appears to be based on the findings and conditions, then it is inconsistent with the LCP because it does not identify the location of the top of the bluff. If is the top of the bluff, then the toe is not identified on the Exhibit and does not provide substantial evidence to be consistent with the certified LCP. The precise location of the toe of the bluff must be identified precisely to be consistent with the certified LCP. The County relied on information submitted by the Coastal Commission, Finding # J, from a letter dated June 2, 2014 for the approval of the bluff line in Attachment 4, Finding # F. However the Coastal Commission letter stated, “Due to the complexities of the natural topography of the site, and the fact that that topography is largely obscured by artificial fill, Commission staff has not yet determined the location of the blufftop edge on this coastal bluff site. The location of the blufftop edge is critical for understanding LCP conformance more specifically” which makes the County approved bluff line inconsistent with the FEIR and the Coastal Commission’s determination regarding the location of the bluff line.

ii. If the toe and the top of the bluff are in the same location and with the same elevation, then there is no bluff. The LCP policies, Coastal Land Use Ordinance section 23.07.080 (d), section 23.04.118.a, Estero Area Plan: “Coastal Bluff” definition, Chapter 7. I. Shoreline Development Standard 4, and Chapter 7, F. Setbacks – Communitywide define a coastal bluff that has a vertical relief and coastal erosion that would require a house to be setback a sufficient distance to withstand erosion and wave action for 100 years. If there is no elevation change between the toe and the top of bluff, there is no bluff that would be subject erosion that would require implementing of a setback or buffer to protect the structure so therefore, it is inconsistent with the LCP policies.

iii. The finding and Exhibit are inconsistent with the certified LCP. If the County identified bluff line is in fact the toe of the bluff and the top of bluff line is located further inland from the newly identified top of bluff line, the result is a denial of any beneficial use because of an arbitrary and LCP inconsistent reduction in the buildable area of this lot.

iv. It created an ambiguous line that is left to a later interpretation of the actual location of the top of bluff and a clear and concise way to measure a 25 foot setback is not justified or appropriate for the statutory requirements for the Findings of Approval # F & J.

Given this information, the County approvals are inconsistent with the LCP because 1) it did not locate the termini of the coastal bluff as required by CCR Title 14, Section 13577, 2) it did not identify the "top of bluff" per the LCP sections Estero Area Plan: "Coastal Bluff" definition, Estero Area Plan Chapter 7 Areawide Standard 1-4 and Cayucos Urban Area Standard F, Coastal Zone Land Use Ordinance section 23.04.118.a, and CCR Title 14, Section 13577, 3) Incorrectly applied a 25 foot setback buffer line across property from a measurement point that staff used by scaling the plans however, the point at which the bluff setback line intersects the building wall on the north side changes to less than a 25 foot setback when the correct buffer is applied from the County identified bluff line, 4) The County did not rely on factual information with enough specificity to make a decision consistent with the certified LCP and for the Board of Supervisors to have adopted the findings and conditions of approval contained in the Board Resolution (Findings # F & J and revised CEQA Findings section 2.4.)

7. The CA Code of Regulations Title 14, section 13577 describes the termini of the bluff line or edge based upon the general trends of the seaward and inland facing bluff lines. This Commission adopted definition has been used repeatedly to determine the termini of coastal bluffs and is addressed in this FEIR page 4.3-17. Specifically, the Cotton and Shires 2011 report used a strict application of this definition along with guidelines prepared and received from Coastal Commission geologist Johnnson (FEIR page 4.3-13 & 17). The County approved project is inconsistent with the LCP as explained in the Certified FEIR which states, "The California Code of Regulations (CCR) Title 14, Section 13577 (h)(2) is the only part of the Coastal Act that defines what a bluff edge is. The last part of this code section deals with termination of a coastal bluff line versus a canyon or inland bluff line. Specifically, the section states:

   > *"The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations."* (FEIR page 4.3-15)

   "The 500-feet rule was inserted to ensure that a reasonable length of bluff was used to differentiate between a coastal bluff and an inland facing bluff (Mark Johnsson 2011, pers. comm.). The difficulty in applying these criteria to the project site rests with establishing the general trend of the fluvial/inland bluff along a distance of 500 feet. As noted above, the northwest-facing portion of the rock outcropping is seen in the 1937 photograph extending at least 300 feet inland from its ocean-ward end on the project site, along a trend of approximately N50ºE, which is perpendicular to the shoreline. Beyond this point the inland bluff turns to an approximate N15ºW trend following what is now Cabrillo Avenue (refer to Figures 4.3-6 and 4.3-7). Any reasonable interpretation of a "general trend" for the inland bluff, following the Coastal Commission's guidelines (whether it be the aforementioned 300-foot

segment from the ocean-ward tip of the rock outcropping, or an average trend of the first 500 lineal feet extending inland from the ocean-ward tip of the rock outcropping) will all result in a determination of the coastal bluff terminus being located southeast of the project site. In this particular case, the 300-foot segment of inland bluff is sufficient for differentiation insofar as it is perpendicular to the shoreline and is thus inland-facing.

In summary, based on our interpretation and application of the California Coastal Commission guidelines for 14 CCR 13577, the project site is not located on a coastal bluff." (FEIR, pages 4.3-15 & 16)

Furthermore the following information also support the conclusion the County approval was not consistent with the LCP and Coastal Act policies for a coastal bluff.

a. Most recently the County's EIR Team geologist, Mike Phipps reviewed and commented on the report submitted by Shoreline Engineering dated, September 28 which provided additional evaluation materials, 1965 Cal Trans aerial photographs and site cross sections to further document the historic coastal and fluvial bluff locations.

   As noted in the December 9 County staff report, Mr. Phipps concluded that the report generally supports the analysis found in the technical report prepared for the FEIR which locates the termini of the coastal bluff on the adjacent parcel south of the near the Loperena property.

b. The Coastal Commission Draft Sea-Level Rise Policy Guidance states in part, "For purposes of (the Statewide Interpretive Guidelines), "cliff" or "bluff" is limited to those features having vertical relief of ten feet or more and "seacliff" is a cliff whose toe is or may be subject to marine erosion.

   i. Definition has a second part that states "**and** seacliff is a cliff whose toe is or may be subject to marine erosion". The definition must be considered in its entirety with the conjunction "**and**". Therefore a bluff must have a vertical relief of 10 feet or more **and** be subject to marine erosion. If it fails to meet the criteria with both items, it is not a coastal bluff by definition.

8. Current versus historic topographic conditions: It must be established that if the current topographic conditions are the basis for determining whether this is a coastal bluff or fluvial bluff because the CA Code of Regulations Title 14, Section 1357 (h) (2) defines what is a coastal bluff versus a canyon or inland bluff by determining the termini of the bluff line. The placement of artificial fills from prior construction projects does not create a coastal bluff when the natural and historic area was not a coastal bluff prior to the manmade topographic conditions.

   a. Originally it was thought that the artificial fills placed on this property was the result of the construction of Highway 1 and Studio Drive. However after reviewing the Cal Trans archival images from 1965

(Exhibit B), it has become indisputable that these fills were placed on the site after 1965 and without the owner's permission. Documentation was presented in Shoreline Engineering Report dated, September 28, 2014 which irrefutably demonstrates that the predevelopment conditions did not have a coastal bluff per the definition in the County's LCP (see discussion in items 1-5 above). The determination for a coastal bluff should be based upon predevelopment conditions without artificial fills and to additionally include the terminus of the coastal bluff location based upon the CA Code of Regulations Title 14, Section 13577 (h) (2). The County relied on information (Finding #J) from the Coastal Commission which in part stated that the Code of Regulations "defines coastal bluffs as "those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion". This sets precedence that projects are evaluated based upon the predevelopment conditions.

b. The Coastal Commission has had a long standing policy that projects are evaluated on predevelopment conditions and the natural bluff edge is used for purposes of defining development setbacks. The Coastal Commission memo dated December 8, 2014 furthermore discusses the appropriateness and recommendation for obtaining information on the natural topography below the artificial fills. Specifically the memo stated, "Coastal Commission Staff made several recommendations for obtaining information regarding obtaining the natural topography beneath the artificial fill during a meeting with County staff on 31 July 2014". And, "The Shoreline Engineering report made use of orthophotrectified aerial photographs obtained from Caltrans and flown in 1953 (Exhibit B), in conjunction with an aerial survey flown in 2014, to define the ground surface on and adjacent to the subject parcel in 1953 and 2014. The former approximates the natural topography, before the addition of large amounts of fill during the relocation of Highway 1 in the 1960s, that obscured the natural bluff edge throughout much of the area. I concur that the methodologies employed were appropriate".

c. County staff noted in prior reports (Board of Supervisors dated June 3, 2014, page 5…) and in the Certified FEIR (pages 4.3-16 & 17 & page 9-160) that it is inappropriate to consider that manmade features such as artificial fill prisms graded for roadway developments comprise "bluffs". Therefore, the determination for the terminus of the coastal bluff should be based upon natural historic features.

    i. The County approved bluff line (Finding #F) was based on post development conditions and identified as "2011 Bluff" in Attachment #4 to the County approvals. This is clearly inconsistent with the determination from the Coastal Commission letters and FEIR (page 4.3.16) and policies stated above that artificial fills and manmade development should comprise buffs.

It is evident that the County created a false bluff by changing the topographic profile from the 1957 (sic) to the 2011 bluff line.

9. The site is located below a fluvial bluff. However; the County approved the project with special setback standards that do not apply to fluvial bluffs and is inconsistent with the County LCP, Coastal Land Use Ordinance section 23.07.080 (d), section 23.04.118.a, Estero Area Plan: "Coastal Bluff" definition, Chapter 7. I. Shoreline Development Standard 4, and Chapter 7, F. Setbacks – Communitywide. The FEIR determined that this is not a coastal bluff. As per the FEIR it stated, "In the event the artificial fill material was considered to be a coastal bluff, the 25-foot setback line would be located approximately 40 feet from the northeast property line (along Studio Drive) leaving approximately 1,000 square feet for development (not including the driveway within County road right-of-way). The footprint of the proposed structure including the basement would extend beyond this point by approximately 28 feet. The intent of the bluff setback is to ensure that a proposed structure could withstand erosion for a minimum timeframe of 100 years without shoreline protection. As proposed, the project would not require shoreline protection, meeting the intent of the measure." (page 4.3-24)
10. The FEIR states that the project is unique in that underlying geology consists of a fluvial bluff, which has been buried under artificial fill (FEIR pages 4.3-33 & 34). It is inconsistent with the LCP as determined by the FEIR which states, "In the event the artificial fill was considered to be a coastal bluff, the project as proposed would not meet the setbacks identified in the CZLUO and Estero Area Plan, and a Variance would be considered pursuant to Section 23.01.045 of the CZLUO. (page 4.3-25)
11. Coastal Commission staff comments provided in a letter August 5, 2013 for the draft EIR. These comments are inconsistent with the County LCP policies and analysis from other projects.
    a. The responses to these comments are in the FEIR, pages 9-14 to 9-16. The FEIR determines that the coastal bluff determination presented in the Cotton & Shires 2011 report is based upon a strict application of the definition of a coastal bluff termini contained in the California Code of Regulations (FEIR 4.3-17).
    b. LCP definitions and polices and determination of a coastal bluff: SLO County is no different than many other Counties and Cities such as Morro, Bay, San Clemente, Humboldt County and Laguna Beach to mention a few, that have included provisions in their LCP's to define coastal bluffs as having a vertical relief of 10 feet or more. The Coastal Commission has also acknowledged and approved these definitions. The Commission has furthermore used these policies in the analysis of other projects and determined that the projects are consistent with the Coastal Act with the inclusion of these policies.

Hazards:

1. Coastal Plan Policies: Hazard Policy 6: *"Bluff Setbacks. New development or expansion of existing uses on blufftops shall be designed and set back adequately to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years without construction of shoreline protection structures which would require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist based upon an on-site evaluation that indicates that the bluff setback is adequate to allow for bluff erosion over the 75 year period. Specific standards for the content of geologic reports are contained in the Coastal Zone Land Use Ordinance."* The County approved project is inconsistent with the LCP policy because the project provided "technical reports including a geotechnical and coastal hazards review and wave run-up analysis (refer to the Geology and Soils section of the FEIR pages 4.3-24 - 36). Based on the FEIR analysis, and supportive technical reports, the project site is not located on a "coastal bluff", as defined by the California Coastal Commission, and the underlying landform slopes down from the road to the sandy beach. The project does not include, or require, the construction of protection structures; however, the proposed basement wall will be constructed of steel reinforced concrete to withstand spray and splash from wave run-up striking an existing rock outcropping. The FEIR analysis and supportive technical reports determined that based on the location of the basement wall, geology of surrounding landforms, and analysis of wave run-up and storm surge, the project would not cause off-site erosion. Based on the location and design, no shoreline protection structures would be required over the next 100 years, which exceeds the 75-year standards identified in the policy". (FEIR page 3-14)
2. Coastal Plan Policies: Policy 7: *"Geologic Study Area Combining Designation The GSA combining designation in coastal areas of the county is amended to include all coastal bluffs and cliffs greater than 10 feet in vertical relief and that are identified in the Assessment and Atlas of Shoreline Erosion (DNOD, 1977) as being critical to future or present development. Maps clearly distinguish the different geologic and seismic hazards which the county covers by the GSA combining designation. These hazards shall include steep slopes, unstable slopes, expansive soils, coastal cliff and bluff instability, active faults, liquefaction and tsunami."* The FEIR determined that this project is in a GSA designation however, the potential hazards were assessed in the FEIR (section 4.3) and technical support documents. The FEIR (page 4.3-35) concluded that:
    a. "there has been very little erosion or retreat of the shoreline over the last four decades;
    b. a 2.5-foot rise in sea level will likely not result in a significant impact on the erosion rate or the proposed residence; and,
    c. there is no potential significant marine erosion hazard at the site over the next 100 years.

c. Therefore, the potential for significant erosion due to sea level rise would not be significant in this location." (page 4.3-35)

Furthermore, the FEIR determined that "In addition to wave runup, the analysis considered exposure to tsunami. Based upon review of historical data and tsunami forecast modeling by the University of Southern California Tsunami Research Center, a 6.5-foot-high tsunami wave occurring at the project site would be a 500-year recurrence interval event. The wave runup analysis used a design wave height of 5.5 feet, which also represents a suitable site-specific tsunami runup at the site.

As proposed, the basement would be located at elevation 15 feet NAVD88, and basement concrete would be reinforced with steel; therefore, wave runup will not adversely impact the proposed residence over the next 100 years. An extreme tsunami may reach as high as the basement, but, for the reasons stated above, a tsunami will not adversely impact the residence. Based on the analysis presented above, and incorporated by reference from the coastal hazards and wave runup analysis report (GeoSoils, Inc. 2011, 2012), no significant impacts related to coastal hazards, including sea level rise, shoreline erosion, wave runup, and coastal flooding would occur, and the proposed residence would neither create nor contribute to erosion, geologic instability, or destruction of the site or adjacent area." (page 4.3-36)

Marine & Other Erosion: The purpose of reviewing marine and other erosion is to provide consistency with the County's Safety Element polices. These policies address potential loss of life and property resulting from geologic events as well as slope instability, eroding coastal bluffs and identifying safe distances from the top of the coastal bluff to mitigate any hazards. (In addition see discussion under #2 – Estero Area Plan)

1. Safety Element Program S-23 "Coastal Bluffs - Development shall not be permitted near the top of eroding coastal bluffs." As determined in the FEIR, "The project site is unique in that the underlying geology consists of a fluvial bluff, which has been buried under artificial fill. The Technical Analysis (Cotton Shires and Associates 2011), which is included in Appendix C (Geology and Soils Background Information) and incorporated by reference in this EIR section, included an assessment of potential coastal erosion hazards, and did not identify any significant adverse effects or safety hazards related to coastal erosion. Therefore, the project is consistent with the intent of this policy." (page 4.3-32)
2. Safety Element Program S-63 *"Require coastal bluff erosion studies to determine the rate or erosion and the resulting safe distance from the top of the bluff for development, in accordance with the LCP."* The FEIR and prior testimony from the independent EIR Team, during the County hearings, concludes that there has been very little erosion or retreat of the shoreline over the past four decades, an approximate four foot sea level rise will not

result in any significant impact and there is no potential significant marine erosion hazard at the site over the next 100 years. The requirement for a 25 foot setback is inconsistent with the LCP policies because the FEIR has concluded that the site is not on a coastal bluff, is not located within an area of high landslide risk, the applicant submitted technical reports and plans completed by registered engineers, and independently peer reviewed during the EIR analysis, consistent with this implementation measure and project site is not located in an area of known landslide activity. Per the FEIR, "Preparation of the EIR included a comprehensive analysis of potential erosion hazards, both short- and long-term. Based on the analysis, the project would not result in a safety issue related to erosion, thus meeting the intention of this Program." (page 4.3-34)

3. Safety Element Geologic and Seismic Hazards, Implementation Measure, Standard S-60 *"Enforce current building code requirements and applicable ordinances and sections of the General Plan that pertain to development on sloping ground."* The County requires compliance with the California Building Code, Estero Area Land Use Element and Local Coastal Plan, and Coastal Zone Land Use Ordinance, consistent with this implementation measure.

Small Scale Neighborhood policies: The County approved project is inconsistent with the LCP with respect to the following standards:

Design:

Estero Area Plan Cayucos Urban Area Standards, Chapter 7, D.2.a.1 Plot Plan Permit: *"Development with proposed structures that are one-story and do not exceed 15 feet in height, where all the development is located at least 100 feet from any wetland, estuary or stream, and at least 300 feet from the ocean bluff-top."* The revised project approved by the County will result in a project that is inconsistent with the LCP because the project approved by the County Planning Commission utilized a mezzanine level and a basement as part of the design to be consistent with as a one-story project. The County approved design forces any habitable space to be located above a garage which requires smoke and fire resistance measures. This results in the habitable area being closed off from the first floor which then becomes a two-story project which is against the County policies.

In addition this restricted building location would prevent a basement from achieving the proper lighting and ventilation to be habitable space per the CA Building Code. The County Planning Commission approved design utilized a walk-out basement design. However, the approved design sets the basement further eastward at a point in which the grades on the west and north of the basement walls would preclude the design from having openings without retaining the grade past the 25' setback line created. This would be inconsistent with the LCP polies and specifically for S-60 described above.

Parking:

Coastal Land Use Ordinance section 23.04.166 – *"Required Number of Parking Spaces: All land uses requiring a permit under this Title shall be provided off-street parking spaces as follows: section 23.04.166 (c) (5) Single-Family Dwellings - 2 per dwelling".* The County approved a project that is in direct violation of this code section since the revised project with the bluff setback limitations will not provide sufficient space to meet the standards.

a. Estero Area Plan Cayucos Urban Area Standards, Chapter 7, Residential Single Family, D.3.f – *"**Parking**. New development parking spaces shall comply with the CZLUO for required parking spaces except as follows (see Figure 7-36):*

(1) At least one off-street parking space shall be enclosed with an interior space a minimum size of 10 feet by 20 feet.

(2) A maximum of one required off-street parking space may be located in the driveway within the required front yard setback area. However, the minimum front yard setback from the property line to the garage is 20 feet if this design is used." The County approved project is not consistent with the LCP standards in this section because when the bluff setback is measured accurately, the remaining space on the property available for development will not meet the requirements for the off-street parking. A 20' depth cannot be achieved for two off-street parking spaces, nor can a space in the driveway be utilized, since the design is forced to a 0' front setback.

Regulatory Takings: The Coastal Commission has interpreted "Section 30010, together with the *Lucas v. South Carolina Coastal* decision and *Penn Central Transp. Co v. New York City*, to mean that if denial of the project would likely deprive an applicant's property of all reasonable economic use, the Commission may be required to allow some development, even where a Coastal Act or LCP provision would otherwise prohibit it. Unless the proposed project would constitute a public nuisance under state law or another background principle applies, the Commission may not deny all economic use of the land." (Coastal Commission staff reports for Winget, February 2014, 1-12-023 and Wernette, November 2010, A-1-MEN-09-023)

The County approved project is inconsistent with the LCP and the Fifth Amendment of the United States Constitution that provides that private property shall not "be taken for public use, without just compensation and Section 30010. As a result a Regulatory Takings analysis should be completed based upon the following:

1. Applying a bluff setback will make a worst case scenario that is inconsistent with the County LCP policies as described above.
2. The buildable area for this house, as approved, has been reduced to a point that it is infeasible to construct a single family home that meets the CA Building Code and other County requirements.
3. Per the County staff report for the December 9, 2014 hearing Attachment #4 shows the buildable area with the 25 foot setback. Because of this, the

available area to construct a single family house is approximately 260 square feet. The only habitable area to be used as floor area would be above the garage. There are further requirements for a 3' setback from the front wall and 2'-6" (Estero Area Plan Standards, Chapter 7) from the sidewalls, leaving approximately 260 sq. ft.

a. On the western side, the house is only six feet wide at the outer dimensions. However, California Building code requires seven feet for habitable space.
b. Estero Area Plan Cayucos Urban Area Standards, Chapter 7, D.3.a. *"Front Setbacks. The ground level floor shall have setbacks as provided in Cayucos Communitywide Standard G. and at no point shall a lower story wall exceed 12 feet in height including its above ground foundation. The second floor of proposed two-story construction shall have an additional front setback of at least three feet from the front of the lower wall, except open rail, uncovered decks are excluded from this additional setback and may extend to the lower front wall (see Figure 7- 35)."*
c. Estero Area Plan Cayucos Urban Area Standards, Chapter 7, D.3.b. *"Side Setbacks. Single story dwellings shall have setbacks as provided in Cayucos Communitywide Standard G. Proposed two-story construction (including decks) shall have a lower floor setback on each side of not less than four feet, nor less than the required corner side setback if applicable. An upper story wall setback on each side yard of a minimum of two-and-one-half (2 1/2) feet greater than the lower story wall shall also be required. At no point shall a lower story wall exceed 12 feet in height including its above ground foundation. Thirty percent of the upper story side wall may align with the lower floor wall provided it is within the rear two-thirds of the structure (see Figure 7-35)."*
d. Estero Area Plan Cayucos Urban Area Standards, Chapter 7, D.3.c. *"Building Height Limitations. Heights shall be measured from the center line of the fronting street (narrowest side for corner lots) at a point midway between the two side property lines projected to the street center line, to the highest point of the roof. In the community small scale design neighborhood area defined in Standard 1, upslope lots shall use average natural grade. All proposed development including remodeling and building replacement is subject to the following limitations: (1) Ocean Front Lots. 15 feet maximum."*

4. When all the County LCP standards are applied and if the applicant could work with a two-story design, any space available on the ground level (approximately 20 sq. ft.) outside of the garage space would be used for a stairway. With the space allowed, a spiral stair will be required to access the second floor. According to the California Residential Building Code, the spiral stair will need to occupy a space of at least 66", making the area with walls at least 78" in diameter, which is all of the remaining space on the lower floor.

In conclusion, the County staff in previous reports (County Planning Commission staff report dated April 10, 2014, Notice of Final Action dated April 15, 2014 and, Board of Supervisors staff report June 3, 2014), the FEIR, and the Loperena project team testimony has presented sound and defensible evidence that this property is not located on a coastal bluff. The County adopting the modified project and bluff line as shown on County approved Attachment #4 (Findings # F) is arbitrary and capricious and is not based upon any laws, ordinances or standards. This hybrid project is also not justified based upon any technical expert review, environmental determinations, or factual basis and therefore should not be considered as consistent with the County LCP and Coastal Act policies.

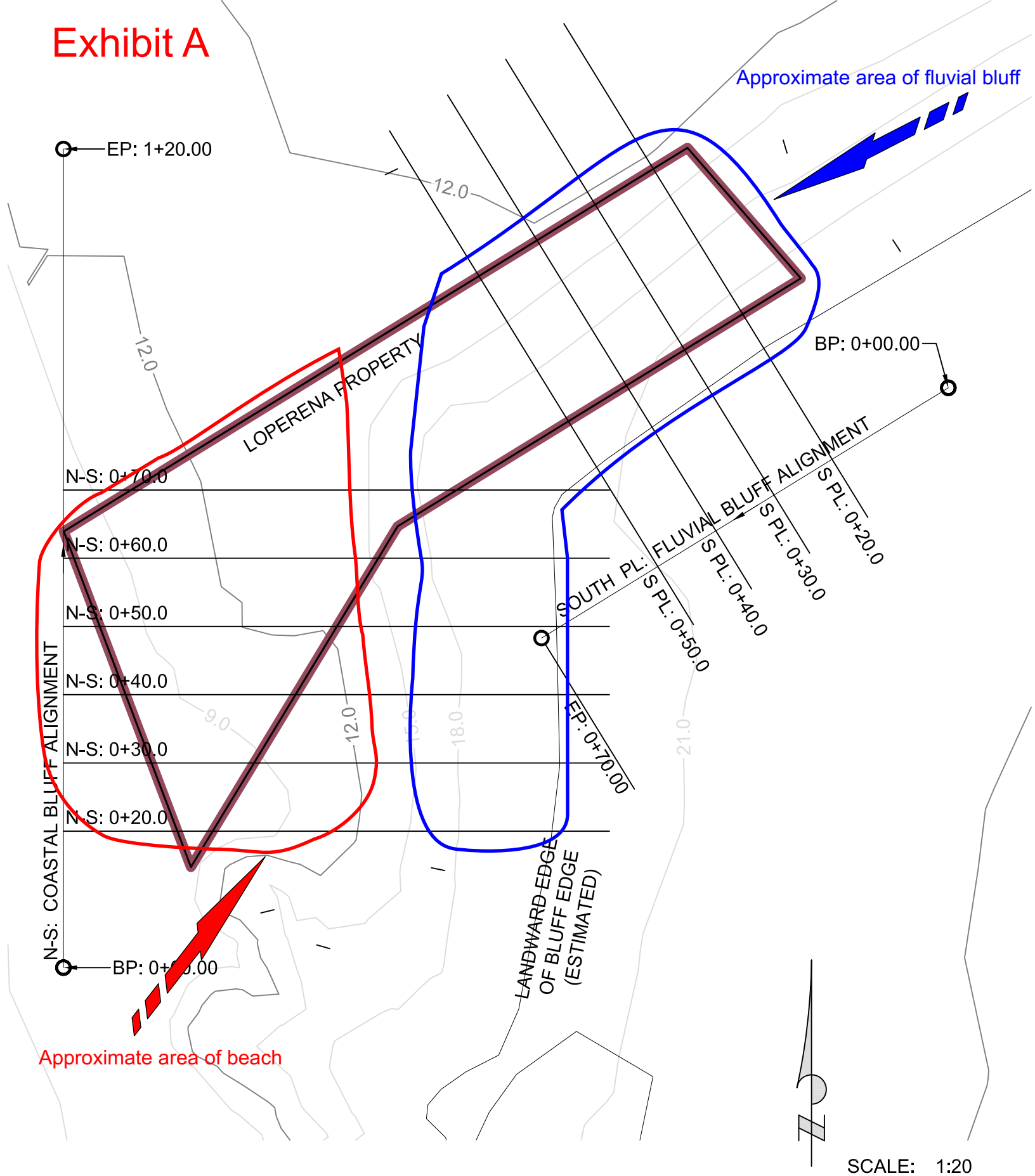
It is clear that that anything less than the project as presented and approved the San Luis Obispo County Planning Commission will deny reasonable economic use of the property and also deny this applicant reasonable use of the property as it relates to the prior approvals of other homes that are similar in size in the surrounding area.

EXHIBIT A

Shoreline Engineering Report, September 28, 2014, page 5 of 14

with beach and fluvial bluff information

Exhibit A



Shoreline Engineering, Inc
Structural/Civil/Forensic/Engineer-Divers

Loperena: Studio Drive, Cayucos

1953 Topographic Survey

Exhibit 4
A-3-SLO-15-0001
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EXHIBIT B

Archival photographic images from 1953 and 1965


12 2 53
V SLO 4 20


12 2 53
3627-21
V SLO 4 21

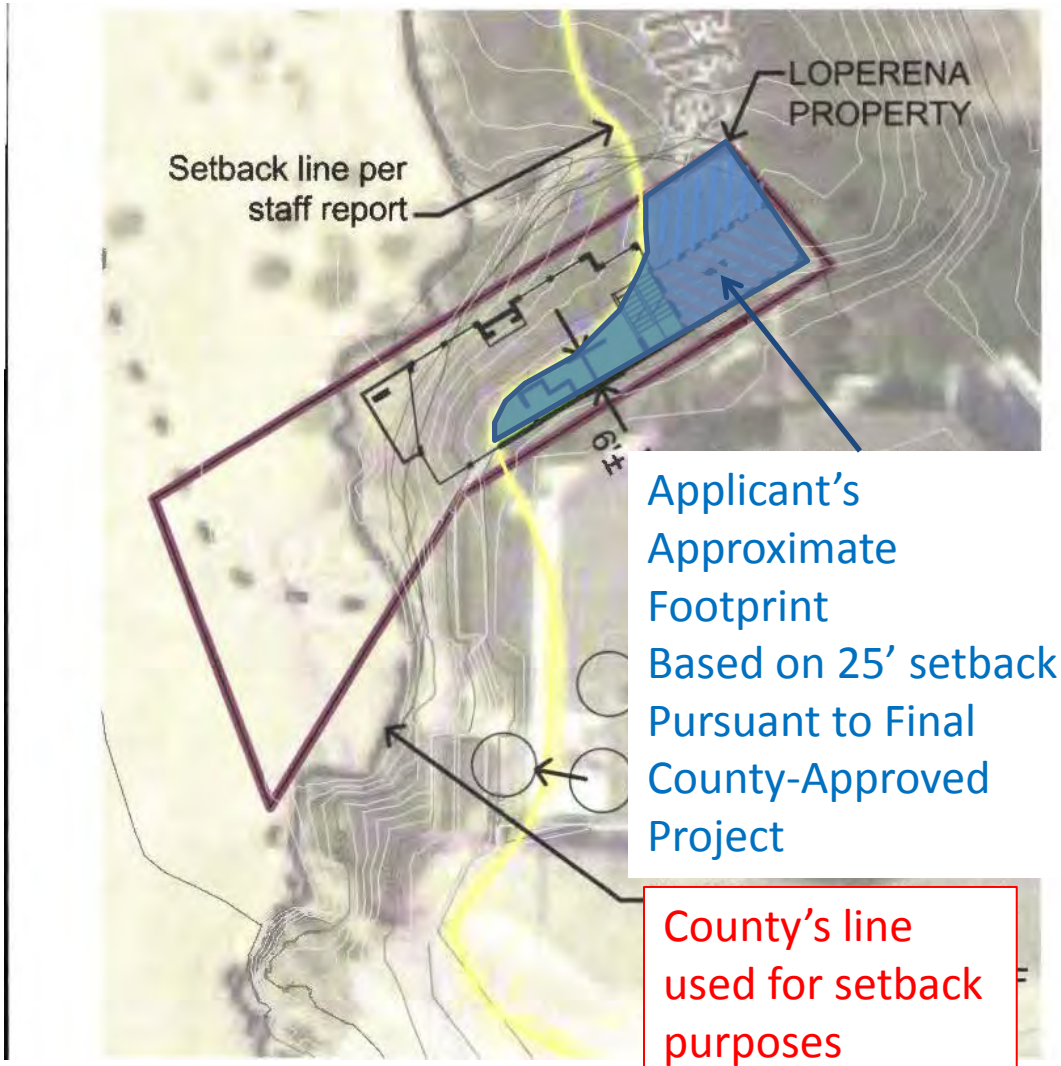

12-2-53
V SLO 4 22


12 2 53
V SLO 4 23


-65
05-SLO-14-33

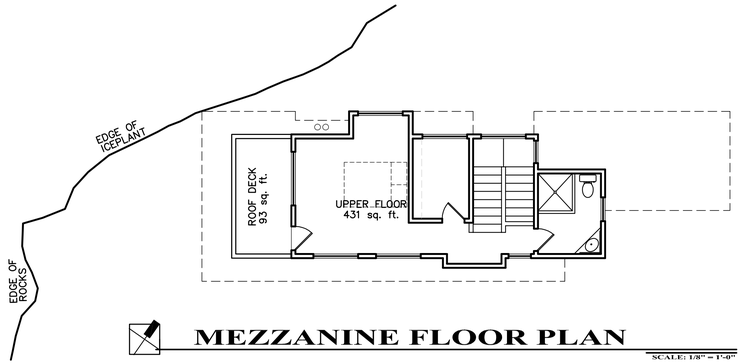
Attachment 4 of the County's Final Local CDP Action Notice, with 25-foot coastal bluff setback line from beach edge shown in yellow.

Exhibit 5
A-3-SLO-15-0001
1 of 2



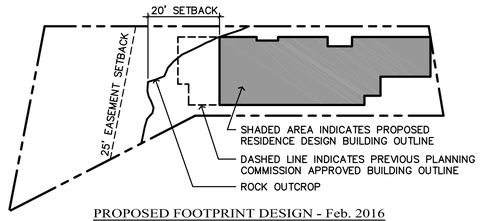
Attachment 4 of the County's Final Local CDP Action Notice, with 25-foot bluff setback line from beach edge shown in yellow and approximate approved footprint on the Loperena parcel.

Exhibit 5
A-3-SLO-15-0001
2 of 2



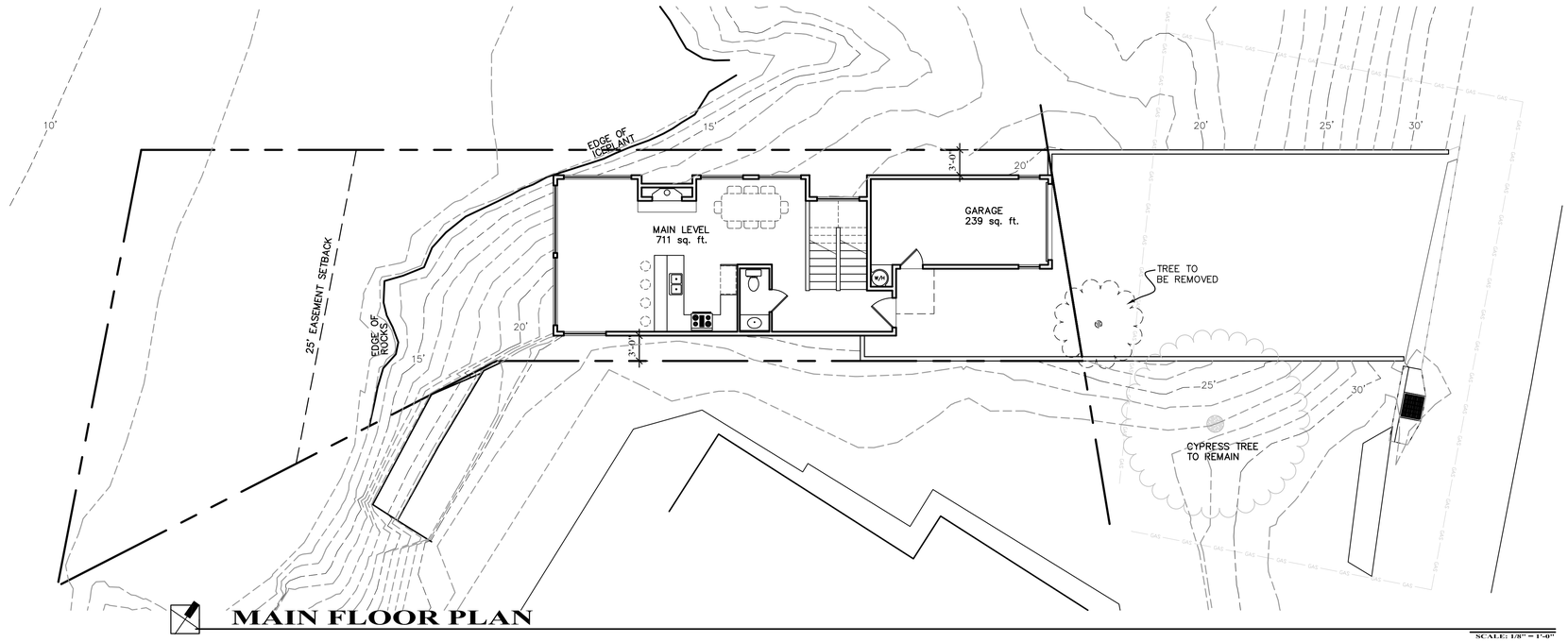
MEZZANINE FLOOR PLAN

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



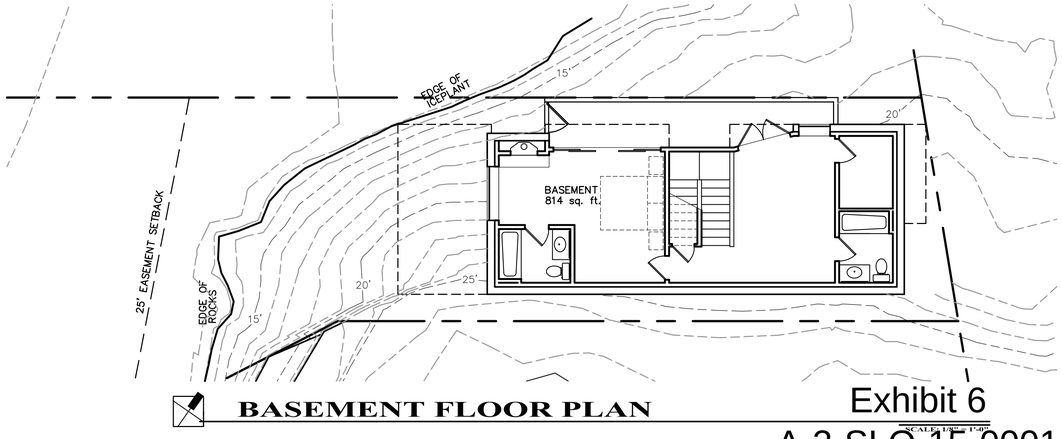
PROPOSED FOOTPRINT DESIGN - Feb. 2016

FOOTPRINT (EXIST'G VS. PREV.)



MAIN FLOOR PLAN

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



BASEMENT FLOOR PLAN

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

PROJECT INFO.

LOT SIZE:	3,444 SQ. FT.
CONDITIONED AREAS:	
BASEMENT LEVEL:	814 SQ. FT.
MAIN LEVEL:	711 SQ. FT.
UPPER LEVEL:	431 SQ. FT.
	1,956 SQ. FT.
EXTERIOR AREAS:	
OPEN ROOF DECK:	93 SQ. FT.
OPEN BASEMENT PATIO:	146 SQ. FT.
	239 SQ. FT.
HEIGHTS:	
ALLOWED HEIGHT:	46.34'
PROPOSED HEIGHT:	46.25'

TOPOGRAPHIC SURVEY INFORMATION:

THE TOPOGRAPHY DEPICTED IS AN OVERLAY FROM A TOPOGRAPHIC SURVEY CREATED BY VOLBRECHT SURVEYS, DATED JUNE 13, 2003.

BENCHMARK: USC AND GS BRASS DISK
P693-1943, ELEVATION =23.86' NAVD-88
FIELD SURVEY DATE : MAY 2003

2013 CALIFORNIA RESIDENTIAL CODE DEFINITIONS:

BASEMENT:
A STORY THAT IS NOT A STORY ABOVE GRADE PLANE (SEE STORY ABOVE GRADE PLANE)

STORY ABOVE GRADE PLANE:
ANY STORY HAVING ITS FINISHED FLOOR SURFACE ENTIRELY ABOVE GRADE PLANE, OR IN WHICH THE FINISHED SURFACE OF THE FLOOR NEXT ABOVE IS:

1. MORE THAN 6 FEET ABOVE GRADE PLANE; OR
2. MORE THAN 12 FEET ABOVE THE FINISHED GROUND LEVEL AT ANY POINT.

C. P. PARKER
ARCHITECT

CHRISTOPHER P. PARKER
ARCHITECT

630 QUINTANA RD. #330
MORRO BAY, CA.
93442 - 1962

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STAMPS

LICENSED ARCHITECT * CHRISTOPHER P. PARKER * C 30121 * REN. 08-31-17 * STATE OF CALIFORNIA

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PROJECT

JACK LOPERENA RESIDENCE

STUDIO DRIVE
CAYUCOS, CALIF.
APN: 064-253-007

DRAWING PHASE

DESIGN DEVELOPMENT

-

Project No.	11-117
Drawn By	CPP
Dwg. Date	02/25/16
Updated	-
Scale	AS NOTED

REVISIONS

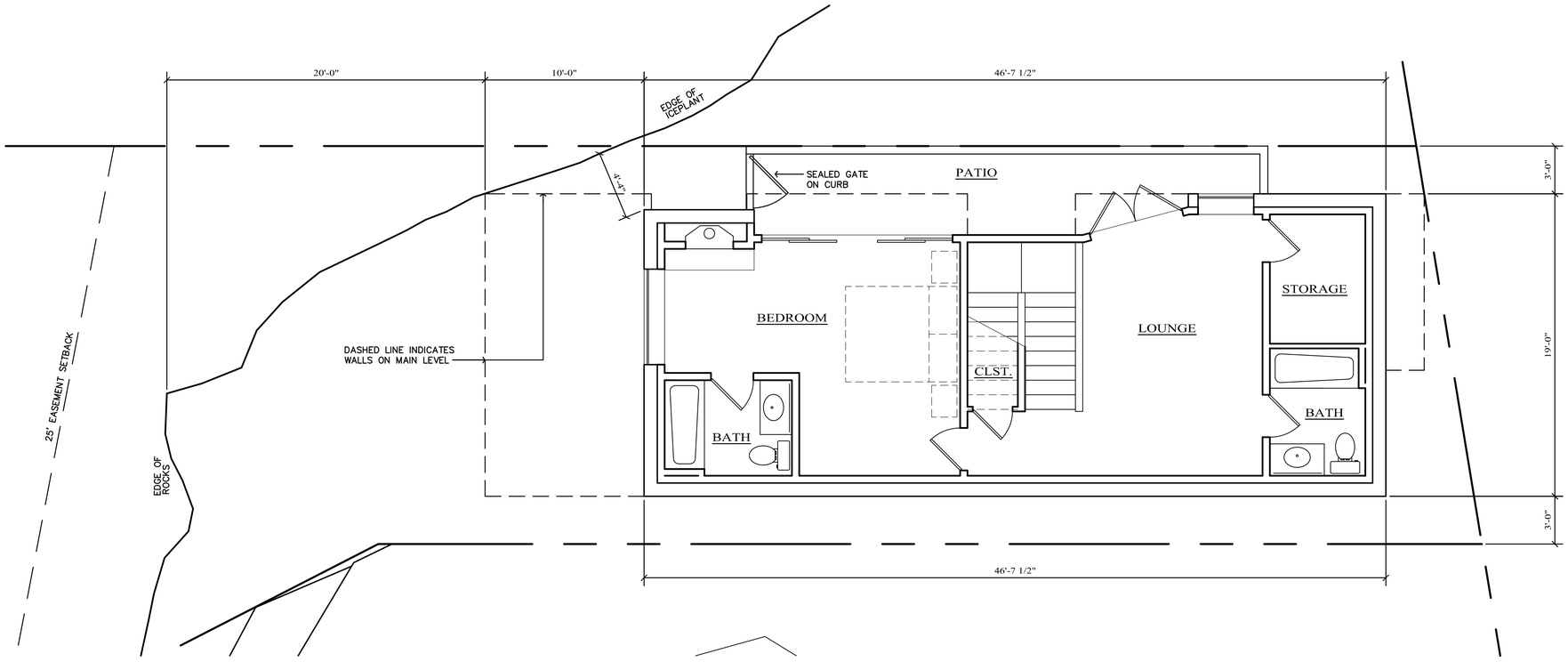
SHEET TITLE

FLOOR PLANS

SHEET NO.

A1.1

Exhibit 6
A-3-SLO-15-0001
1 of 4



BASEMENT FLOOR PLAN

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

2013 CALIFORNIA RESIDENTIAL CODE DEFINITIONS:

BASEMENT:
A STORY THAT IS NOT A STORY ABOVE GRADE PLANE (SEE STORY ABOVE GRADE PLANE)

STORY ABOVE GRADE PLANE:
ANY STORY HAVING ITS FINISHED FLOOR SURFACE ENTIRELY ABOVE GRADE PLANE, OR IN WHICH THE FINISHED SURFACE OF THE FLOOR NEXT ABOVE IS:

1. MORE THAN 6 FEET ABOVE GRADE PLANE; OR
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Dwg. Date	02/25/16
Updated	-
Scale	AS NOTED

REVISIONS

SHEET TITLE

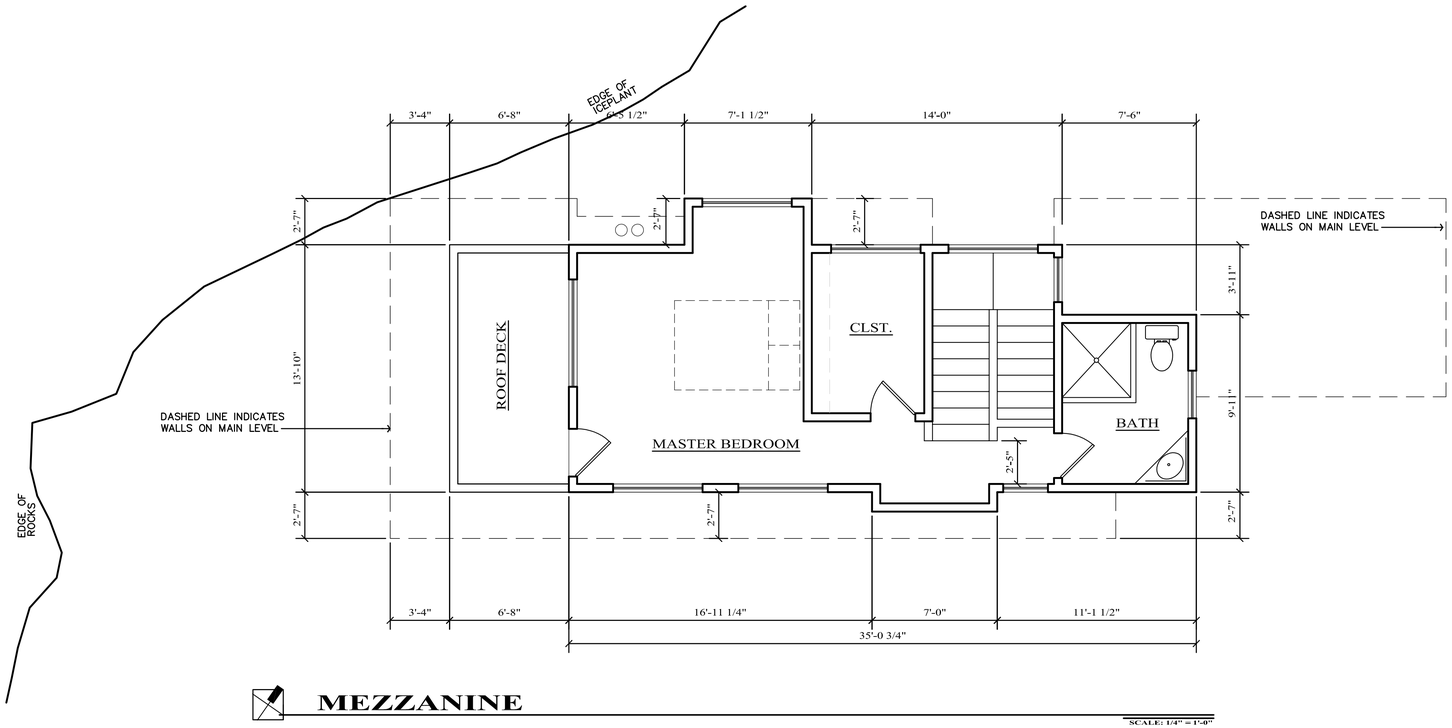
BASEMENT FLOOR PLAN

SHEET NO.

A2.1

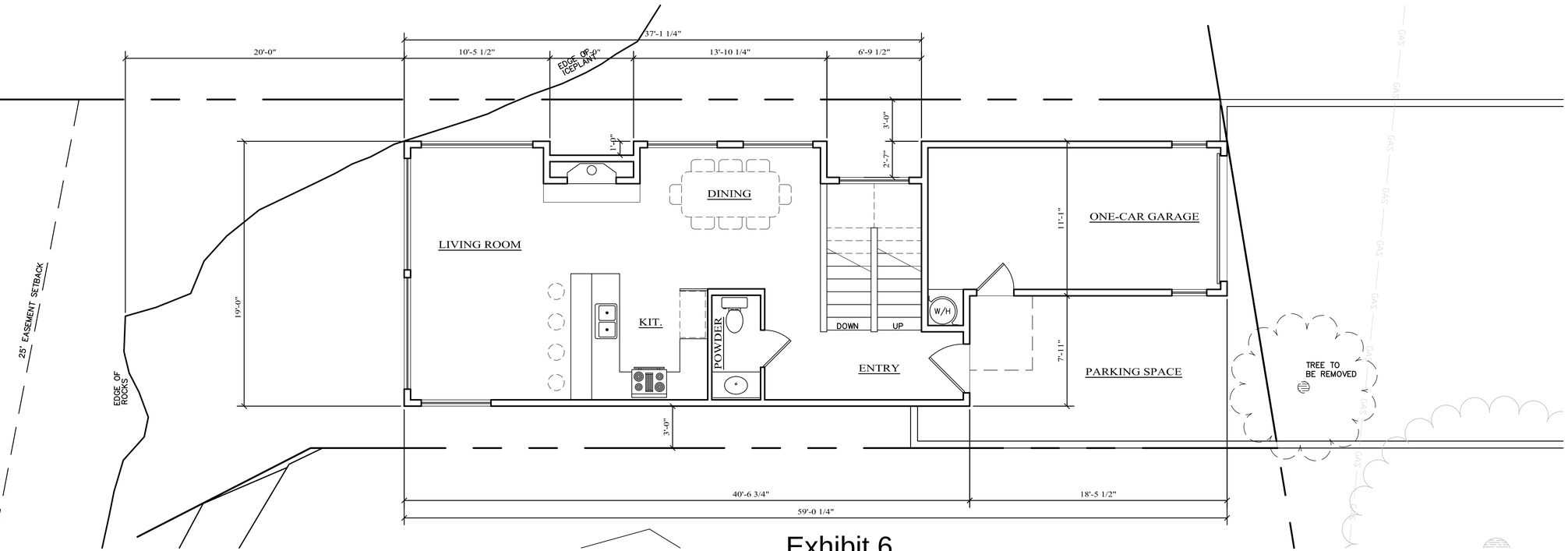
Exhibit 6
A-3-SLO-15-0001
2 of 4

Exhibit 6
A-3-SLO-15-0001
2 of 4



MEZZANINE

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



MAIN FLOOR PLAN

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

Exhibit 6
A-3-SLO-15-0001
3 of 4

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JACK LOPERENA RESIDENCE

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CAYUCOS, CALIF.
APN: 064-253-007

DRAWING PHASE

DESIGN DEVELOPMENT

-

Project No.	11-117
Drawn By	CPP
Dwg. Date	02/25/16
Updated	-
Scale	AS NOTED

REVISIONS

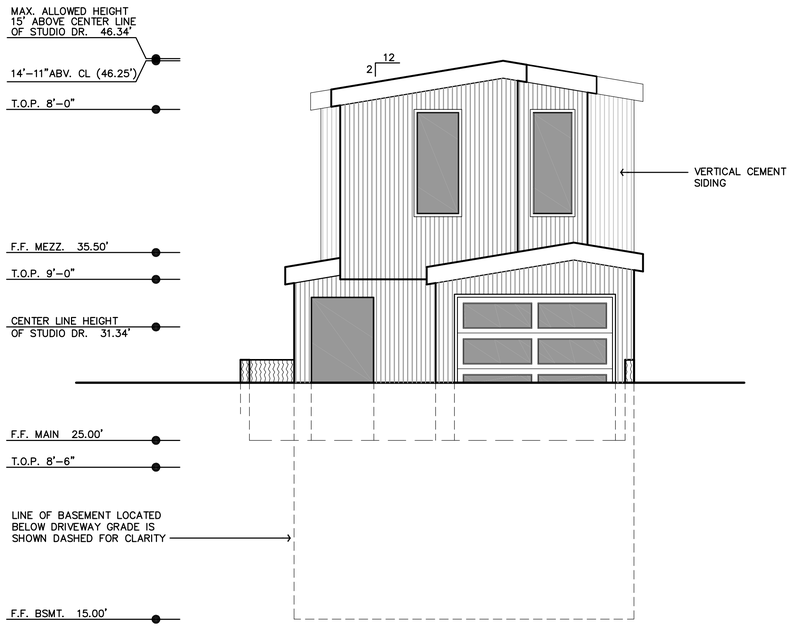
SHEET TITLE

MAIN FLOOR PLAN

SHEET NO.

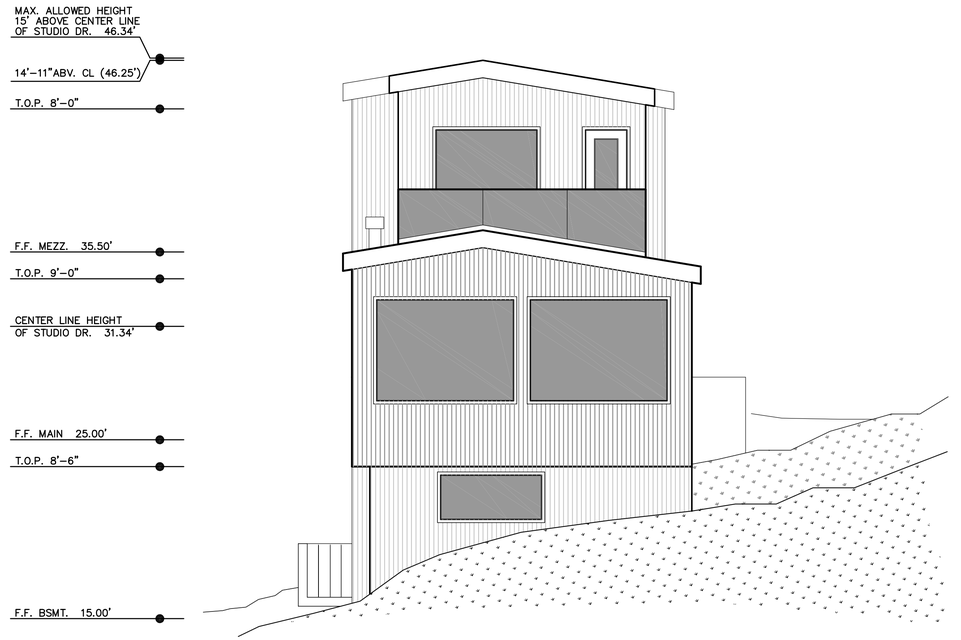
A2.2

Exhibit 6
A-3-SLO-15-0001
3 of 4



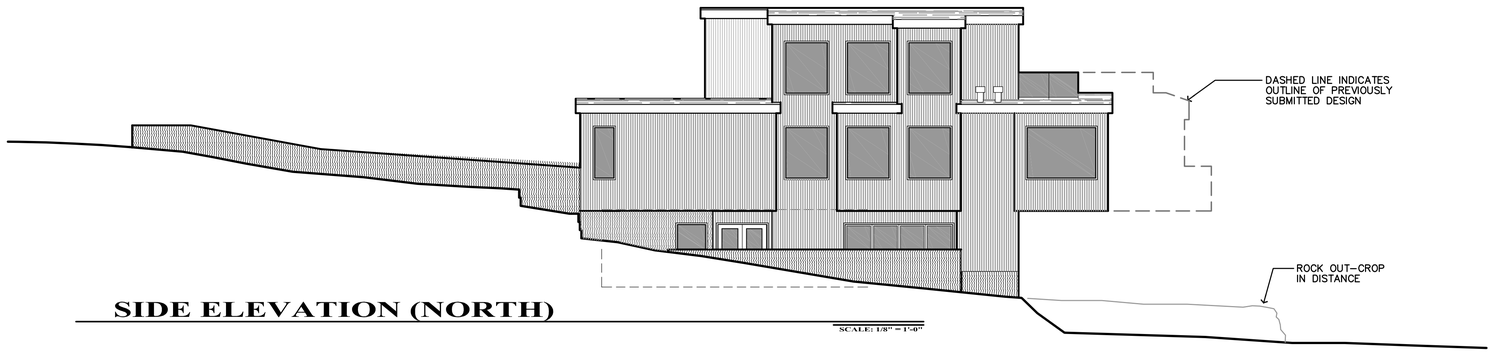
FRONT ELEVATION (EAST)

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



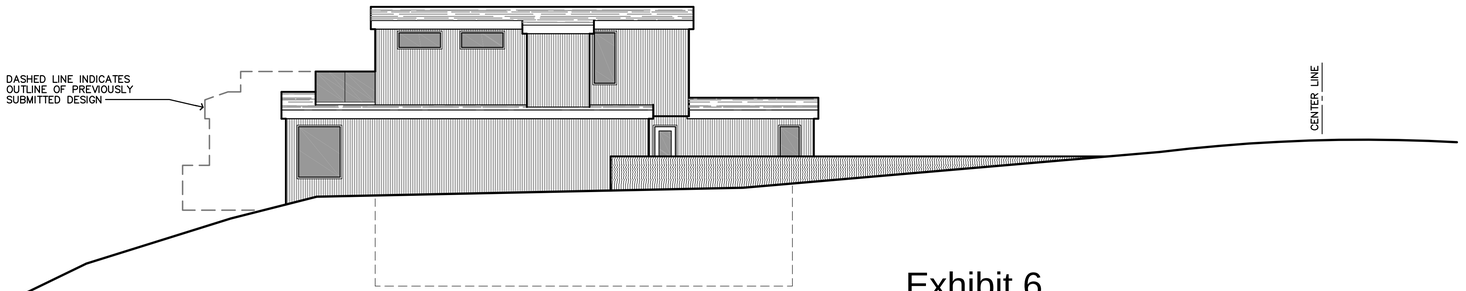
REAR ELEVATION (WEST)

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



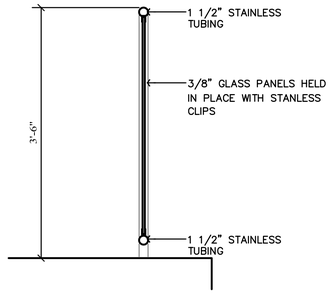
SIDE ELEVATION (NORTH)

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



SIDE ELEVATION (SOUTH)

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



DECK RAILINGS

SCALE: 1" = 1'-0"

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DRAWING PHASE

DESIGN DEVELOPMENT

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Dwg. Date	02/25/16
Updated	-
Scale	AS NOTED

REVISIONS

SHEET TITLE

ELEVATIONS

SHEET NO.

A3.1

Exhibit 6
A-3-SLO-15-0001
4 of 4

Applicant's visual simulation of Applicant's proposed project on de novo review.

Exhibit 7
A-3-SLO-15-0001
1 of 1

Exhibit 7
A-3-SLO-15-0001
1 of 1

Small Scale Design Neighborhood Standards – Studio Drive

Front Setbacks. *The ground level floor shall have setbacks as provided in Cayucos Communitywide Standard G. and at no point shall a lower story wall exceed 12 feet in height including its above ground foundation. The second floor of proposed two-story construction shall have an additional front setback of at least three feet from the front of the lower wall, except open rail, uncovered decks are excluded from this additional setback and may extend to the lower front wall.*

Side Setbacks. *Single story dwellings shall have setbacks as provided in Cayucos Communitywide Standard G. Proposed two-story construction (including decks) shall have a lower floor setback on each side of not less than four feet, nor less than the required corner side setback if applicable. An upper story wall setback on each side yard of a minimum of two-and-one-half (2 1/2) feet greater than the lower story wall shall also be required. At no point shall a lower story wall exceed 12 feet in height including its above ground foundation. Thirty percent of the upper story side wall may align with the lower floor wall provided it is within the rear two-thirds of the structure.*

Building Height Limitations. *Heights shall be measured from the center line of the fronting street (narrowest side for corner lots) at a point midway between the two side property lines projected to the street center line, to the highest point of the roof. In the community small scale design neighborhood area defined in Standard 1, upslope lots shall use average natural grade. All proposed development including remodeling and building replacement is subject to the following limitations:*

(1) Ocean Front Lots. 15 feet maximum.

Gross Structural Area (GSA). *(1) One-story development, and all development on bluff top sites, is limited to a maximum gross structural area, including the area of all garages, of 3,500 square feet. (2) Other new development or additions, exceeding one story or 15 feet in height, shall not exceed GSA's as provided in Table 7-3. In addition, the second story square footage shall be no greater than 60 percent of the first floor square footage.*

Table 7-3: Maximum Gross Structural Area, Non-Bluff-Top Sites Greater Than One Story or 15 feet:

Lot Size	*Maximum Gross Structural Area Shall Be:*
Up to 2899 square feet	*60% of usable lot, not to exceed 1595 square feet*
2900 – 4999 square feet	*55% of usable lot, not to exceed 2500 square feet*
5000 + square feet	*50% of usable lot, not to exceed 3500 square feet*

Deck Rail Height. *Rail heights for decks above the ground floor shall not exceed 36 inches. A maximum additional height of 36 inches of untinted, transparent material with minimal support members is allowable except as restricted in 3a above.*

Parking. *New development parking spaces shall comply with the CZLUO for required parking spaces except as follows (see Figure 7-36):*

(1) At least one off-street parking space shall be enclosed with an interior space a minimum size of 10 feet by 20 feet.

(2) A maximum of one required off-street parking space may be located in the driveway within the required front yard setback area. However, the minimum front yard setback from the property line to the garage is 20 feet if this design is used.

Driveway Widths. *Driveway widths for proposed development may not exceed 18 feet.*

…

Guidelines. The following are guidelines that should be considered when designing any proposed project within the subject areas. A project subject to a Minor Use Permit approval will consider how the design complies with the following objectives:

a. Site Layout. Locate the structure so that it minimizes its impact on adjacent residential structures (such as significantly reducing access to light and air).

b. Building Design. The design should incorporate architectural details and varied materials to reduce the apparent mass of structures. Such scale reducing design devices include porches, covered entries, dormer windows, oriel and bay windows, multi-pane windows, varying roof profiles, moldings, masonry, stone, brickwork, and wood siding materials. Expansive building facades should be broken up by varied rooflines, offsets, and building elements in order to avoid a box-like appearance. Variations in wall planes, roof lines, detailing, materials and siding should be utilized to create interest and promote a small scale appearance. Roof styles and roof lines for first and second stories should match (see Figure 7-37).

c. Landscaping and Fencing. The site design should incorporate landscaping materials that help reduce the scale of the proposed structure. This can be done by proper selection and placement of trees, shrubs and other vegetation capable of screening portions of the structure from public viewpoints. The design should consider the use of decorative paving materials, such as aggregate concrete, stamped and/or colored concrete. The site design should consider effective use of small scale fencing materials in the front yard area to help soften the massing of the building. Fences which present a solid barrier should be avoided except where privacy is desired.

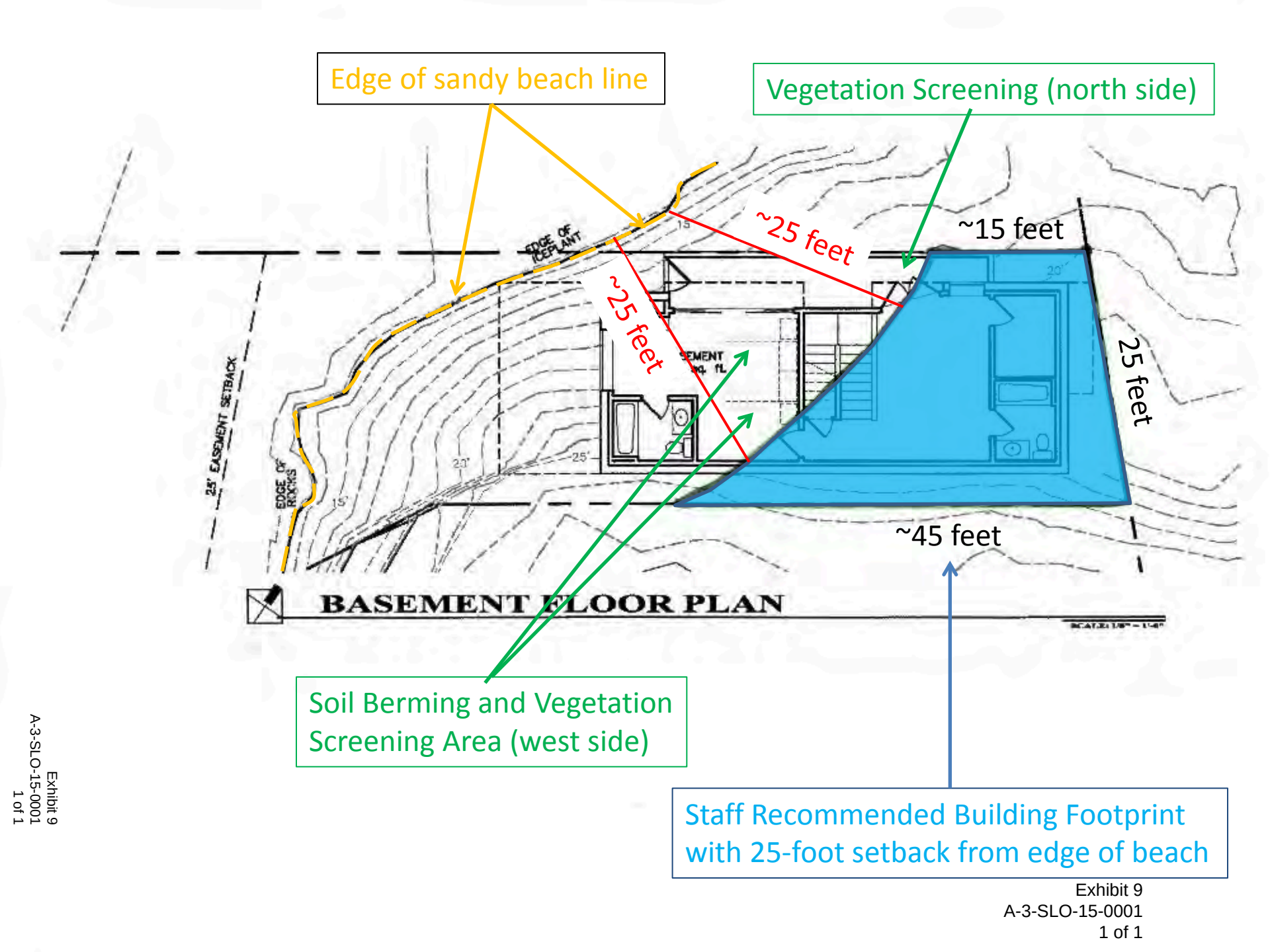

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Exhibit 9
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CALIFORNIA COASTAL COMMISSION
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105- 2219
VOICE (415) 904- 5200
FAX (415) 904- 5400
TDD (415) 597-5885

26 January 2016

GEOTECHNICAL REVIEW MEMORANDUM

To: Daniel Robinson, Coastal Program Analyst
From: Mark Johnsson, Staff Geologist
Re: Loperena Appeal (A-3-SLO-15-0001)

In connection with the above-referenced permit, I have reviewed the following documents:

1) Haro Kasunich and Associates, 2007, "Review of residential development on coastal bluff and supporting geologic and geotechnical reports prepared for development, Loperena property, APN 064-253-07, Lot 41, Studio Drive, Cayucos, San Luis Obispo County, California", 5 p. letter report dated 12 November 2007 and signed by J. E. Kasunich (GE 455).

2) GeoSoils, 2011, "Discussion of coastal hazards and wave runup, northwest and immediately adjacent to 2612 Studio Drive (APN 064-253-07), Cayucos, San Luis Obispo County, California", 12 p. report dated 14 March 2011 and signed by D. W. Skelly (RCE 47857).

3) Cotton Shires and Associates, 2011, "Technical Report, geotechnical and coastal hazards review, Loperena Minor Use Permit/Coastal Development Permit, APN 064-253-07), Studio Drive, Cayucos, San Luis Obispo County, California", 34 p. report dated 31 May 2011 and signed by M. B. Phipps (CEG 1832) and P. O. Shires (GE 770).

4) GeoSoils, 2011, "Updated geotechnical investigation, Proposed residence, Lot 41, Studio Drive, Cayucos, California", 18 p. geotechnical report dated 27 December 2011 and signed by R. Church (GE 2184).

5) Shoreline Engineering, 2012, "Engineering evaluation, Studio Drive residence, Cayucos, APN 064-253-007", 38 p. report dated January 2012 and signed by B. S. Elster (CE 32981).

6) Haro Kasunich and Associates, 2012, "Review of additional documents, residential development on coastal bluff, Loperena property, APN 064-253-07, Lot 41, Studio Drive, Cayucos, San Luis Obispo County, California", 6 p. letter report dated 13 March 2012 and signed by J. E. Kasunich (GE 455) and M. Foxx (CEG 1493).

7) Cleath-Harris Geologists, 2012, "Updates to engineering geology reports for the proposed Loperena residence, Lot 41, Studio Drive, Cayucos, California", 3 p. letter report dated 25 June 2012 and signed by D. R. Williams and T. S. Cleath (CEG 1102).

8) Cotton Shires and Associates, 2012, "Supplemental geotechnical peer review for Environmental Impact Report preparation, Loperena Minor Use Permit/Coastal Development Permit, Studio Drive, Cayucos, San Luis Obispo County, California", 4 p. letter report dated 21 August 2012 and signed by M. B. Phipps (CEG 1832) and D. T. Schrier (GE 2334).

9) Cleath-Harris Geologists, 2012, "Update #2 to engineering geology reports for the proposed Loperena residence, Lot 41, Studio Drive, Cayucos, California", 3 p. letter report dated 19 September 2012 and signed by D. R. Williams and T. S. Cleath (CEG 1102).

10) Shoreline Engineering, 2012, "Loperena, County of San Luis Obispo, Response to supplemental geotechnical peer review for EIR preparation, 8/21/12", 1 p. report dated 20 September 2012 and signed by B. S. Elster (CE 32981).

11) GeoSoils, 2012, "Response to supplemental geotechnical peer review, Loperena residence, Lot 41, Studio Drive, Cayucos, California", 2 p. letter report dated 1 October 2012 and signed by R. Church (GE 2184).

12) Cotton Shires and Associates, 2012, "Second supplemental geotechnical peer review for Environmental Impact Report preparation, Loperena Minor Use Permit/Coastal Development Permit, Studio Drive, Cayucos, San Luis Obispo County, California", 2 p. letter report dated 31 October 2012 and signed by M. B. Phipps (CEG 1832) and D. T. Schrier (GE 2334).

13) GeoSoils, 2013, "Supplemental discussion of coastal hazards and wave runup, APN 064-253-07, Cayucos, San Luis Obispo County, California", 7 p. report dated 10 April 2013 and signed by D. W. Skelly (RCE 47857).

14) Cotton Shires and Associates, 2013, "Additional geotechnical and coastal engineering review and response to technical comments, Loperena Minor Use Permit/Coastal Development Permit, Studio Drive, Cayucos, San Luis Obispo County, California", 5 p. letter report dated 17 May 2013 and signed by M. B. Phipps (CEG 1832) and P. O. Shires (GE 770).

15) Haro Kasunich and Associates, 2013, "Loperena Minor Use Permit, Coastal Development Permit DRC 2005-00216, SCH No. 2007081044", 8 p. letter report dated 1 August 2013 and signed by J. E. Kasunich (GE 455) and M. Foxx (CEG 1493).

16) GeoSoils, 2014, "Sea level rise and coastal hazard discussion, northwest and immediately adjacent to 2612 Studio Drive (APN 064-253-07) Cayucos, San Luis Obispo County, California", 6 p. report dated 12 March 2014 and signed by D. W. Skelly (RCE 47857).

17) Haro Kasunich and Associates, 2014, "Mark Foxx, CEG 1493, John E. Kasunich, GE 455 comments on March 12, 2014 sea level rise and coastal hazard letter from GeoSoils and the revised plans for the Loperena residence by C.P. Parker dated 3/14/2014, Loperena Minor Use Permit/Coastal Development Permit DRC 2005-00216, SCH No. 2007081044", 10 p. letter report dated 31 March 2014 and signed by J. E. Kasunich (GE 455) and M. Foxx (CEG 1493).

18) GeoSoils, 2014, "Response to Haro, Kasunich, and Associates, Inc. Comments on GeoSoils Inc. March 12, 2014 report dated 31 March 2014", 8 p. report dated 4 April 2014 and signed by D. W. Skelly (RCE 47857).

19) Shoreline Engineering, 2014, "Current and historic mapping of Loperena property", 4 p. letter report dated 24 August 2014 and signed by B. S. Elster (CE 32981).

20) Shoreline Engineering, 2014, "Evaluation of bluff geometry adjacent to Loperena property, Minor Use Permit/Coastal Development Permit DCR2005-00216", 14 p. report dated 28 September 2014 (revised 6 December 2014) and signed by B. S. Elster (CE 32981).

21) Haro Kasunich and Associates, 2014, "Review of 'Evaluation of Bluff Geometry Adjacent to Loperena Property' prepared by Shoreline Engineering dated 9/28/14", 6 p. review letter dated 2 December 2014 and signed by J. E. Kasunich (GE 455) and M. Foxx (CEG 1493).

22) Central Coast Aerial Mapping, 2015, "Loperena Mapping Procedures and Estimated Accuracies", 2 p. letter dated 14 July 2015 and signed by R. Lafica (CP).

23) ATGeoSystems, 2015, "Loperena Survey Control", 1 p. letter dated 14 July 2015 and signed by A. L. Volbrecht (PLS).

To summarize, with respect to the geotechnical review for the proposed project, the applicant has retained Shoreline Engineering, Cleath-Harris Geologists, AT GeoSystems, Central Coast Aerial Mapping, and GeoSoils for services over the years. The appellants have retained Haro, Kasunich Associates. The County has retained Cotton Shires and Associates for help in preparing the Environmental Impact Report (to my knowledge, the only EIR yet prepared for a single family home in coastal California).

In addition, I have reviewed the EIR, the "Geology and Soils" section of which was derived from materials provided by the applicant and reviewed by Cotton Shires and Associates. I have had numerous in-person and telephone meetings with representatives of both the applicant and appellants, County planners, County Supervisor Bruce Gibson, and interested third parties over the past eight years. I have visited the proposed project site numerous times, most recently on 2 February 2015. It is fair to say that I am intimately familiar with the project site, its geologic conditions, and the issues related to this appeal.

The most important geologic issues associated with the site involve: the definition of the bluff at the site (i.e., whether or not it is a coastal bluff as defined by the LCP and Coastal Act regulations), determining the location of the bluff edge, the geologic stability of the site, and determining the appropriate setback from the bluff edge necessary to address coastal hazard issues and to meet the requirements of the LCP. I previously summarized many of these issues in an email to staff from a review of references 20, 22 and 23 by analyst Joe Street. These comments are repeated (slightly modified) and formalized here:

1) The Shoreline Engineering report [reference 20] made use of orthophotorectified aerial photographs obtained from Caltrans and flown in 1953, in conjunction with an aerial survey flown in 2014, to define the ground surface on and adjacent to the subject parcel in 1953 and 2014. The former approximates the natural topography, before the addition of large amounts of fill during the relocation of Highway 1 and Studio Drive in the early 1960s, that obscured the natural bluff edge throughout much of the area. I concur that the methodologies employed in the Shoreline Engineering report [references 20, 22, and 23] were appropriate.

2) Coastal Commission staff made several recommendations for obtaining information regarding obtaining the natural topography beneath the artificial fill during a meeting with County staff on 31 July 2014. Using historic orthophoteorectified aerial photographs, as was done in reference 20, was one method staff recommended at that time. Staff also identified other methods that might have provided helpful information on the State Park parcel to the northwest, but such information has thus far not been provided by the applicant.

3) Although the edge of both the "coastal bluff" and the "fluvial bluff" are only broadly identified on the cross sections that are provided in reference 20, the plan views show the natural bluff edge to lie landward of the entire Loperena parcel. Thus, the natural topography and ground surface of the entire parcel is either on the natural bluff face or beach.

4) For reasons indicated repeatedly in previous Coastal Commission staff letters to the County, and at the 31 July 2014 meeting, staff, including myself, believes that the bluff definitely meets the definition of a Coastal Bluff in Section 13577 (h) of the Coastal Act regulations (CCR Title 14, Division 5.5). That is, the bluff clearly has been subject to marine erosion in the recent past. Although parts of the bluff are now covered by fill, it is reasonable to believe that the portions labeled "fluvial bluff" by the applicant's consultants were subject to marine erosion before placement of the fill.

5) The Shoreline Engineering report [reference 20] reaches the following conclusions, without commenting on their significance:

a. The Loperena property is not located on a coastal bluff.
b. The bluffs (both coastal and fluvial) landforms have been altered by development adjacent to the Loperena property.
c. No portion of the pre-development coastal bluff or the fluvial bluff is more than ten feet in height.

With regard to (a), no evidence is provided that the property is not located on a coastal bluff. As described above in (3) and (4), and previously, I continue to believe that the property is located on a coastal bluff face or beach, entirely seaward of the bluff edge.

With regard to (b), it is not clear why the author of the report believes that the landforms have been altered by development adjacent to the property. If the author is referring to the addition of fill, I concur that much of the natural bluff edge, bluff top, and bluff face has been buried beneath artificial fill.

With regard to (c), I disagree that the bluff, as a whole, is less than ten feet in height. Although some parts of the bluff may dip slightly below the ten-foot metric, most of the bluff exceeds ten feet in height and thus meets the definition of a "bluff" per the LCP. Further, as observed by Coastal Commission analyst Joseph Street upon examining the two sets of geologic/topographic cross sections provided in reference 20:

2014: Bluff appears to exceed 10 feet in relief in all cross sections (N-S 0+30, 0+40, 0+50, 0+60).

1953: In several cases it is difficult to tell based on the cross-section alone where the toe of the bluff is, and without the photos themselves it is impossible to evaluate the accuracy of the cross-sections.

- The 0+60 section was greater than 10 feet from toe to bluff top *if* the "hump" between 10-40 feet on the horizontal axis represents the bluff toe; if this feature is just the winter beach profile, then the bluff was less than 10 feet in relief in this cross-section.

- 0+50 cross section: Same issue (bluff relief depends on whether platform/hump at bottom of profile is bluff or beach)

- 0+40 cross section: Again, whether or not the bluff exceeds 10 feet in relief along this cross-section depends on where the bluff toe actually occurs – in this section, there are two inflection points in the profile that could represent the bluff toe.

- 0+30 cross section: Assuming the lower inflection point (at ~9.5 feet on vertical axis) is the bluff toe, the bluff appears to exceed 10 feet in relief along this cross-section.

The Shoreline Engineering report [reference 20] is incomplete in that it does not examine or attempt to reconstruct cross-sections for the portions of the slope in between the N-S (coastal) and "Fluvial Bluff" cross sections. However, this portion of the bluff was examined by Cleath-Harris (see cross section C-C', figure 1 in the 19 September 2012 Cleath-Harris Report [reference 9]). The estimated bedrock profile (i.e., the profile beneath the fill material) along this cross section would appear to exceed 10 feet in relief (~11 feet to 22 feet).

In summary, the information available in the Shoreline Engineering report [reference 20] and in previous geologic reports (In particular, the 19 September 2012 Cleath-Harris report [reference 9]) does not support the conclusion that the bluff at the Loperena property is less than 10 feet in relief, either in its present state or prior to the fill deposition. While it may be the case that the bluff is less than 10 feet in relief along certain cross sections, there also are cross sections along which the relief exceeds 10 ft.

I concur with Dr. Street's analysis.

Thus, as shown on the figure below (labeled figure 3-2, taken from the Planning Commission approved project plans) the entire parcel lies seaward of the bluff edge, whether the bluff is a coastal bluff or an [undefined] "fluvial bluff." I note that although this figure has been provided by the appellant, the location of the bluff edge is consistent with the location of the bluff edge provided by the applicant (reference 20). The change in orientation of the bluff that the applicant uses to delineate a coastal bluff from a fluvial bluff does not, in my opinion, constitute a change in the bluff from a "coastal bluff" as defined in the Coastal Act regulations (13577 (h)), particularly because it is reasonable to assume that the "fluvial bluff" was subject to marine erosion (its toe is at the same elevation as the "coastal bluff") prior to the addition of fill. Thus, as mentioned before in staff's previous letters and comments, this project must comply with the coastal bluff setback requirements of the LCP at this location.

Clearly, the LCP-required minimum 25-foot setback from the bluff edge, which lies landward of the entire parcel, does not allow for a developable building envelope. The figure below (labeled figure 3-2) has been annotated with a line labeled “edge of rocks” and “edge of ice plant.” This essentially marks the intersection of the beach sand with the exposed coastal bluff and with ice plant covering fill at the site. The level of the beach sand has, in my experience over the past eight years, been fairly stable. Indeed, ice plant grows out onto the beach from the bluff consisting of fill. The County used a 25-foot setback from this line to establish a possible building envelope for the site. Although this line has little geologic significance, I concur that it is useful in establishing an allowable building envelope as it is recognizable in most of the aerial photographs available for the site, and seems to be relatively stable in position through time. This line approximates the visual toe of the bluff (i.e., where it generally intersects the beach sand), and it generally also conforms to the orientation of the shoreline at this location, making it an appropriate feature from which to address potential development on this site.

In my opinion, development 25 feet landward of this line should be relatively stable in the future although, as indicated in reference (2) and in the EIR, it may be subject to wave runup in extreme events. Development so sited would not be consistent with the coastal bluff setback requirements of the LCP, however. If approval is being considered notwithstanding this LCP inconsistency (e.g., to avoid a potential takings), then development should not be sited any further seaward than a 25-foot setback line as measured from the identified “edge of rocks/edge of ice plant.”

Finally, in order to assure stability, it is necessary to show that building envelop will be safe from flooding under the most extreme conditions anticipated during its 100-year design life. These conditions correspond to a highest (King) tide, coupled with a 100-year wave event, taking into account the expected rise in sea level over the design life of the structure (see the Commission’s Sea Level Rise Guidance Document, adopted 12 August 2015) Such an analysis is provided in reference (2), that found a maximum wave runup on an infinite slope to be to elevation 15 feet MSL, well below the top of the bedrock outcrop on the coastal bluff (elevation 17 MSL). This study was supplemented by a more rigorous assumption of sea level rise (5.5 feet by the year 2100, per the “high” estimate in the Commission’s Sea Level Rise Guidance Document) in reference 16, and found that wave runup would reach elevations of 21.1 to 22.9 feet MSL (using datum NAVD88). This was cited as evidence that the basement wall, founded as low as 15 feet MSL would function as a de facto seawall (see reference 17). However, as explained reference (18):

> The slope that the wave runs up terminates at the top of the rock outcropping at about elevation +17 feet NAVD88. When the runup reaches that height, 17 feet NAVD88, it becomes an overtopping wave bore with a finite height. As shown in our March 14 [sic], 2014 analysis [reference 16], for 5.5 feet of future SLR, the height of the bore is 1.06 feet. Therefore, the total wave runup height is 18.06 feet NAVD88 at the seaward top of the outcropping.

This means that, under extreme wave conditions and under the highest sea level rise assumption provided in the Commission Sea Level Rise Guidance document, the development would be

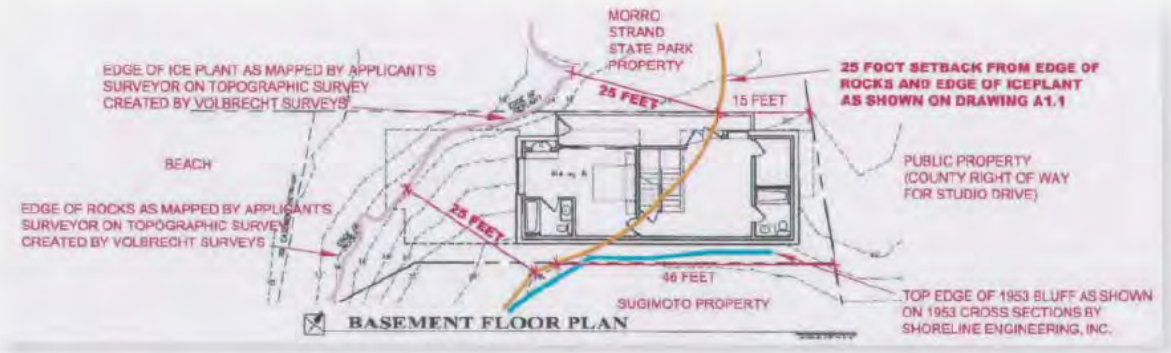
subject to some splash. In my opinion, the wall will not function as a seawall, and can easily be designed to assure stability under such runup conditions.

I hope that this review is helpful. Please do not hesitate to contact me with any further questions.

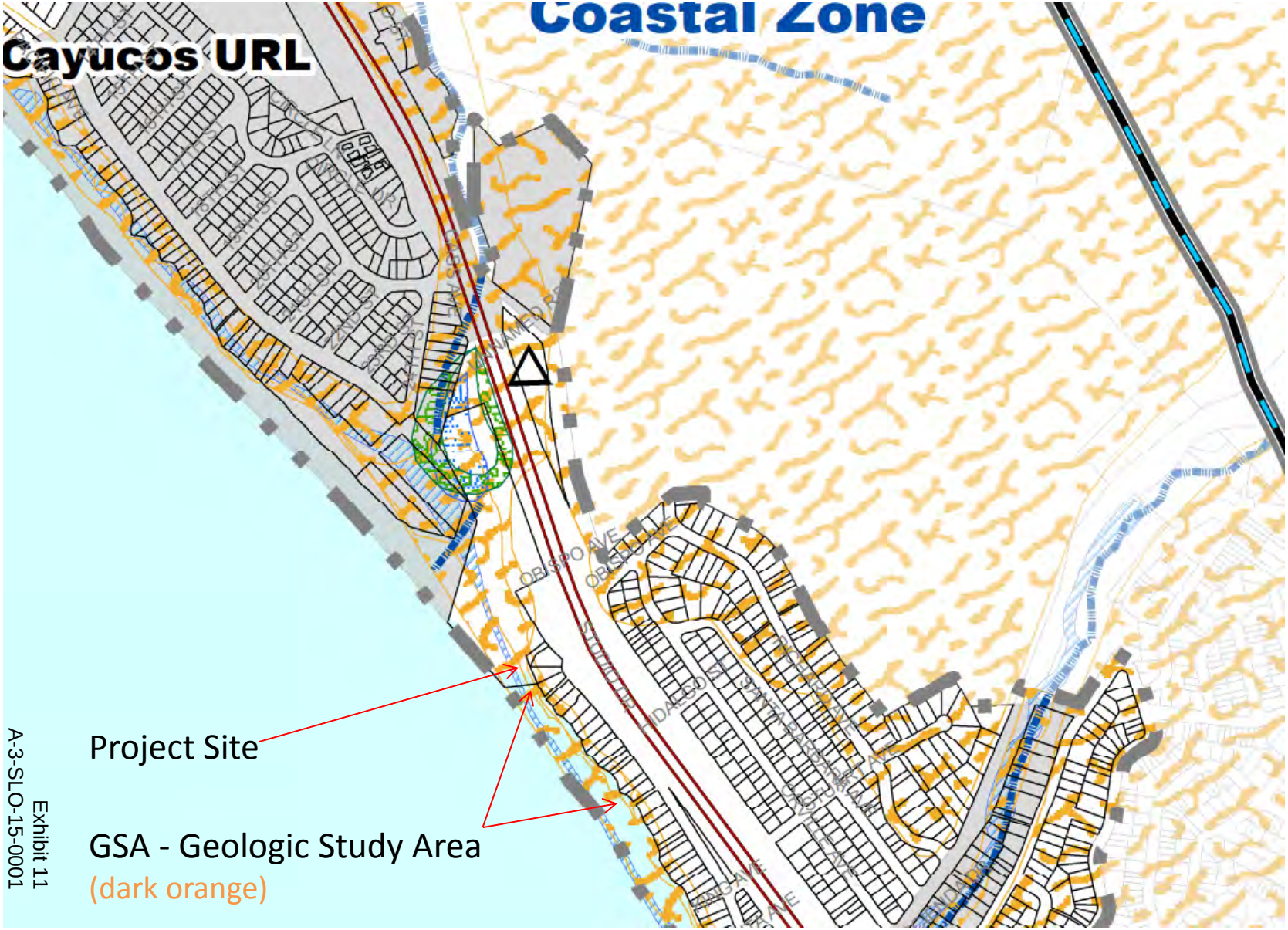
Sincerely,

Mark Johnsson, Ph.D., CEG, CHG
Staff Geologist

Figure 3-2 Planning Commission Approved Project Basement and Main Floor Plans with Board Approved 25 foot Setback from Edge of Rocks and Ice Plant



CAYUCOS URBAN RESERVE LINE COMBINING DESIGNATIONS MAP



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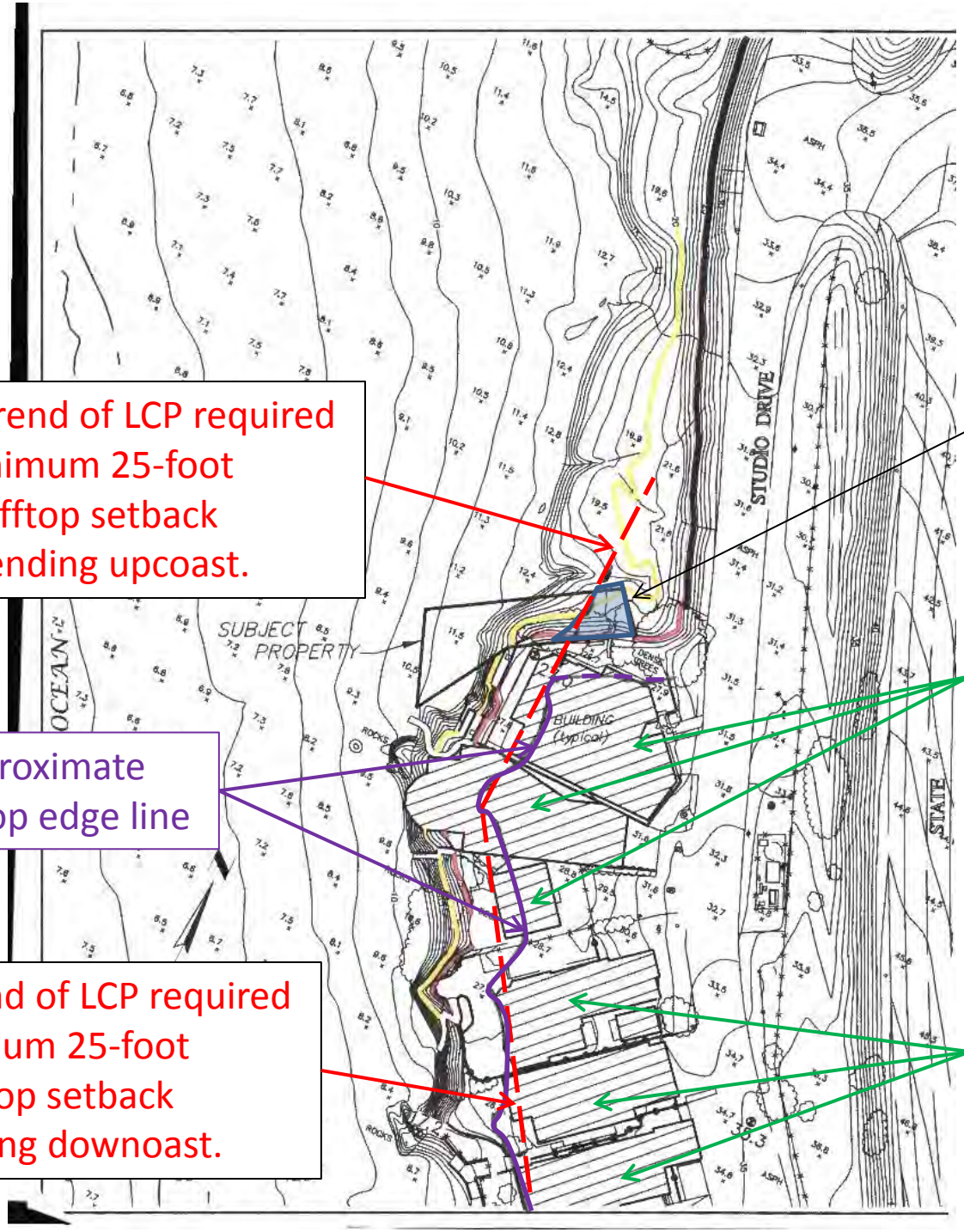

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Exhibit 12
A-3-SLO-15-0001
1 of 2

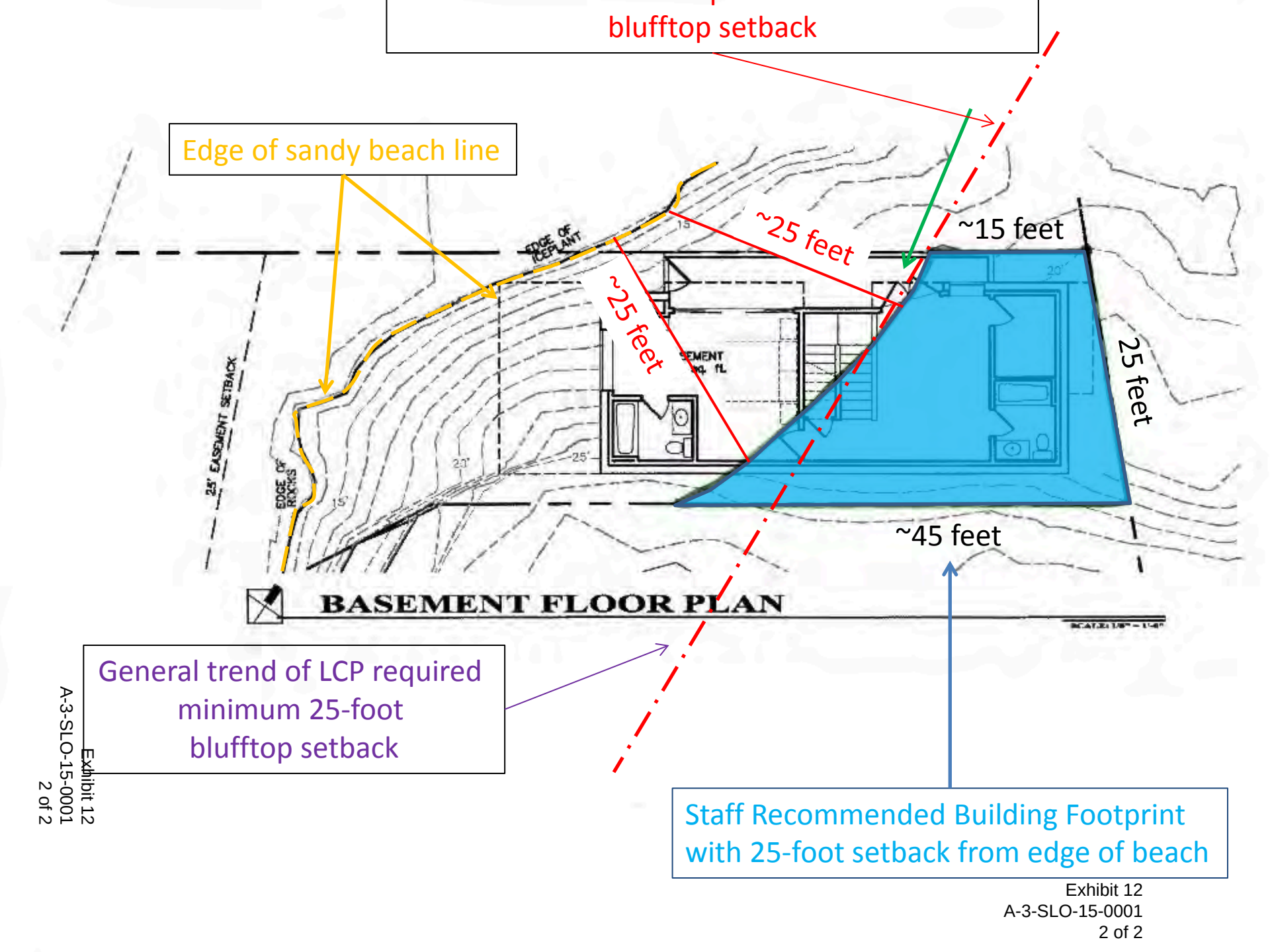

Exhibit 12
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Exhibit 13
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FIGURE 6 - 1953 CALTRANS AERIAL PHOTOGRAPH (APPROXIMATE SCALE: 1 INCH = 50 FEET)

(PROPERTY BOUNDARIES ARE APPROXIMATE)

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FIGURE 7 - 2013 GOOGLE EARTH IMAGE (APPROXIMATE SCALE: 1 INCH = 200 FEET)

(PROPERTY BOUNDARIES ARE APPROXIMATE)

Exhibit 13
A-3-SLO-15-0001
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FIGURE 4 - 2013 GOOGLE EARTH IMAGE (APPROXIMATE SCALE: 1 INCH = 50 FEET)

(PROPERTY BOUNDARIES ARE APPROXIMATE)

Exhibit 13
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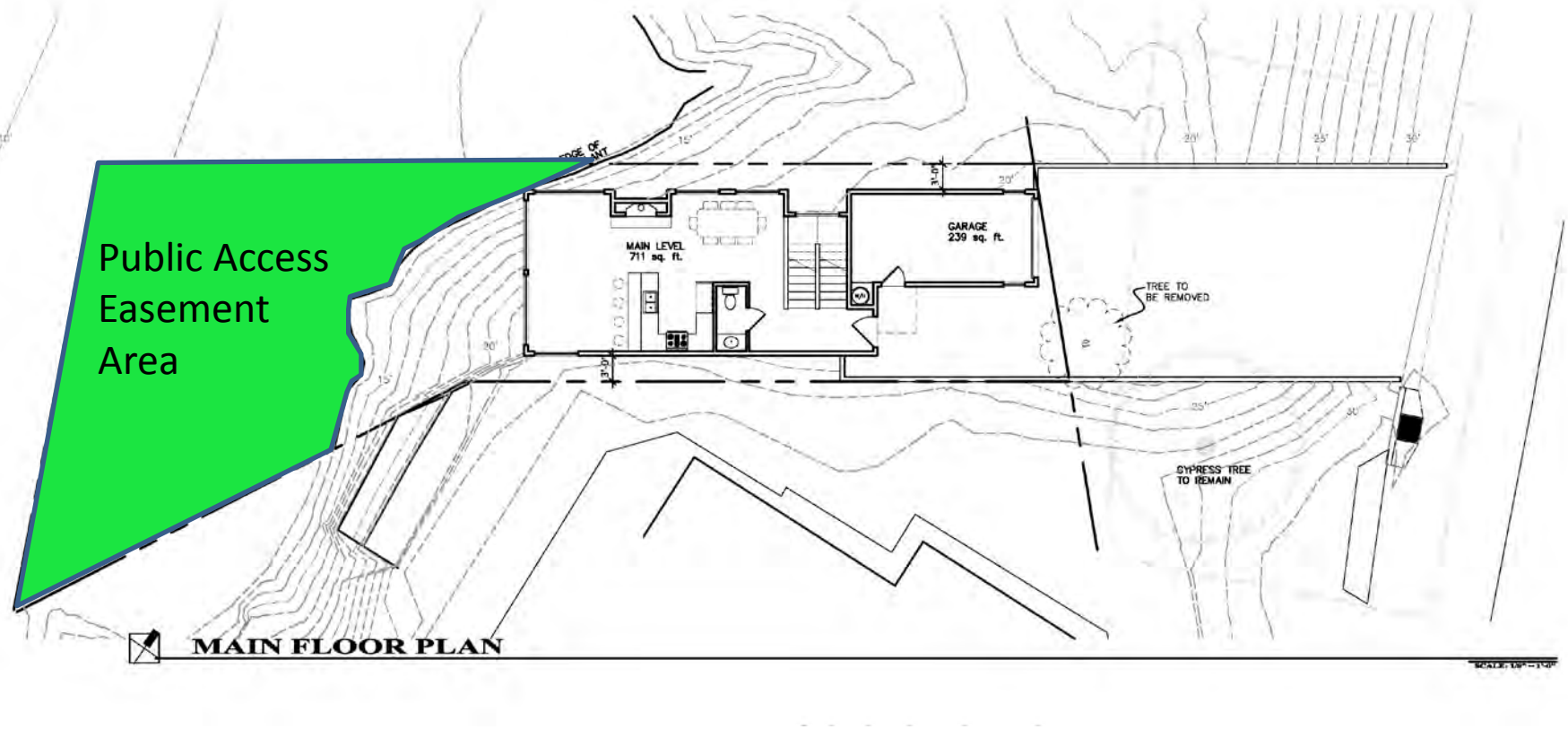

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Exhibit 14
A-3-SLO-15-0001
1 of 1

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Erik Howell

1) Name or description of project: A-3-SLO-15-0001/Loperena

2) Date and time of receipt of communication: January 20, 2016

3) Location of communication: Pismo Beach by telephone

(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

4) Identity of person(s) initiating communication: Mark Massara

5) Identity of person(s) on whose behalf communication was made: Cynthia Sugimoto

6) Identity of persons(s) receiving communication: Erik Howell

7) Identity of all person(s) present during the communication: Erik Howell

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

Mark Massara shared that he feels the studio drive property is best suited for a smaller home placed at least twenty-five feet from the bluff.

01/27/16
Date

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.

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Carole Groom

1) Name or description of project: Th24a - Appeal No. A-3-SLO-15-0001 (Loperena)

2) Date and time of receipt of communication: 2/1/16 at 2:00 p.m.

3) Location of communication: Redwood City, CA

(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

4) Identity of person(s) initiating communication: Mark Massara

5) Identity of person(s) on whose behalf communication was made: Mark Massara, representing the neighbors of project applicant

6) Identity of persons(s) receiving communication: Carole Groom

7) Identity of all person(s) present during the communication: Mark Massara, Carole Groom

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

The representative indicated that neighbors of project applicant have concerns over the project because the proposal would encroach upon the neighbors' views and would impact the bluff face. The representative maintained that the crux of the issue is that, while it is a legal lot, it is not a buildable lot, and that staff has asked for revised findings to show that a 25 foot setback is essential and only 532 square foot lot is available to build. He indicated that in the past the applicant has refused to revise drawings to make the project consistent with the ecological and geologic realities of the property. All materials presented have been provided to staff.

Feb 4 2016
Date

carole groom
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.

From: **Mark Massara**
Date: 19 January 2016 at 15:50
Subject: Feb. CCC Meeting
To: mluevanocoastal@gmail.com
A-3-SLO-15-0001 (Loperena)

Dear Coastal Commissioner Luevano

I would like to schedule an appointment to speak with you in the next couple of weeks regarding a matter coming to the CCC Agenda in February 2016 - Loperena. The project involves a proposal for a single family residence on the beach in Cayucos, San Luis Obispo County.

Could you let me know what would work best for your schedule?

Attached for your review are the appeals of both Commissioners Shallenberger and Howell and my clients Pludow/Sugimoto.

Thank you for your consideration and I look forward to speaking with you.

Thank you.
Mark Massara
Attorney at Law
1642 Great Hwy
SF CA 94122
Ph: 805 895 0963
markmassara@coastaladvocates.com

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Kevin Elder on behalf of Ethel M. Pludow and Cynthia R. Sugimoto

Mailing Address: 1010 Peach Street

City: San Luis Obispo, CA Zip Code: 93401 Phone: 805-541-2800

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of San Luis Obsipo

2. Brief description of development being appealed:

The Board Approved Project is an undefined residence "setback a minimum of 25 feet from edge of the rocks and ice plant" on a never before developed 3,445 square foot lot, that contains a coastal bluff face, and is otherwise largely sandy beach. Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216)

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

The project site is located in the unincorporated community of Cayucos, in San Luis Obispo County, California. The site is on the northern end of Studio Drive, approximately 250 feet south of the intersection of Studio Drive and Highway 1, and is adjacent to Morro Strand State Beach. A.P.N. 064-253-007.

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: _____

DATE FILED: _____

DISTRICT: _____

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

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

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

6. Date of local government's decision: December 9, 2014

7. Local government's file number (if any): DRC2005-00216

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:

Jack Loperena
c/o Cathy Novak
Post Office Box 296
Morro Bay, CA 93443

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) See Attachment 1

(2)

(3)

(4)

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

See attached letter dated January 15, 2015, from Kevin Elder on behalf of Ethel M. Pludow and Cynthia R. Sugimoto.

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: 1-15-15

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

Section VI. Agent Authorization

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

Cynthia R. Sugimoto
Cynthia R. Sugimoto, by Power of Attorney for Ethel Pludow
Signature of Appellant(s)

Date: 1/15/15

Attachment 1 – 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. Doreen Liberto-Blanck, AICP, MDR
Earth Design, Inc.
P.O. Box 99
Cambria, CA 93428

2. John Kasunich, P.E. and G.E.
Haro, Kasunich and Associates, Inc.
116 East Lake Avenue
Watsonville, California 95076

3. Mark Foxx, C.E.G.
Haro, Kasunich and Associates, Inc.
116 East Lake Avenue
Watsonville, California 95076

4. Daniel Robinson, Coastal Planner
California Coastal Commission, Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

5. Mark Johnsson, Staff Geologist
California Coastal Commission, Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

6. Don Funk, CPESC, QSD/QSP
Santa Lucia Group, LLC
115 Glencrest Lane
Paso Robles, CA 93446

7. Chip Tamagni
A&T Arborists
P.O. Box 1311
Templeton, CA 93465

8. Andrew Christie, Director
Santa Lucia Chapter of the Sierra Club
P.O. Box 15755
San Luis Obispo, CA 93406

9. Gordon Hensley
San Luis Obispo Coastkeeper
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San Luis Obispo, CA 93401

10. Jennifer Jozwiak, Co-Chair
San Luis Obispo Surfrider Foundation
P.O. Box 13222
San Luis Obispo, CA 93406

11. Adria Arko, Program Coordinator
EcoSLO
P.O. Box 1014
San Luis Obispo, CA 93406

12. John Carsel, President
Cayucos Citizens Advisory Council
P.O. Box 781
Cayucos, CA 93430

13. Tracy and Richard Hermann
1153 Las Tunas Street
Morro Bay, CA 93442

14. Eric Huth
560 N Crestview Circle
Porterville, CA 93257
(Property Owner: 2614 Studio Drive, Cayucos)

15. Janet and Gary Arnold
2698 Studio Drive
Cayucos, CA 93430

16. Julie I. Pludow
2327 Hickory St
San Diego, CA 92103
(Property Owner: Studio Dr. Cayucos)

17. Raymond B. Pludow, D.V.M.
35335 Hwy 41
Coarsegold, CA 93614
(Property Owner: Studio Dr. Cayucos)

18. Sandy Jensen
16339 Tenaya Rd.
Apple Valley, CA 92307
(Property Owner: Studio Dr. Cayucos)

19. State of California Office of Planning and Research State Clearinghouse and Planning Unit
1400 10th Street
Sacramento, CA 95812

20. Federal Emergency Management Agency
FEMA Region IX
1111 Broadway, Suite 1200
Oakland, CA 94607-4052
Attn: Blackburn, CFM, Branch Chief, Floodplain Management and Insurance Branch

21. Jacob Johnson
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22. Hailey Leurck
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Morro Bay, CA 93442

23. Greg and Susan Wilson
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Morro Bay, CA 93442

24. Zen Raynor
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Los Osos, CA 93402

25. Alice Hermann
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26. Tania Rivera
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27. Shannon Rising
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30. Victoria Diaz
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31. Scott Garman
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San Pedro, CA 90732-3742

32. John E. (Jack) Joy
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33. Jenny Larios
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Santa Ana, CA 92705
(Executive Director of Mobility 21)

34. Dr. Shelly Long and Steve Huth
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(Property Owner: 2614 Studio Dr. Cayucos)

35. Robert Lum
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Davidson, NC 28036

36. Grace Medina-Chow
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Professor Public Policy and Management
USC Price School of Public Policy)

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San Francisco, CA 94122

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January 15, 2015

Client: 3203.003

California Coastal Commission
Central Coast District
725 Front Street, No. 300
Santa Cruz, California 95060

GOLDEN STATE OVERNIGHT
526654599

Re: Appeal of San Luis Obispo County's Approval of Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216)

Dear Chair Kinsey and Honorable Members of the Commission:

On behalf of Ethel M. Pludow and Cynthia R. Sugimoto, (collectively, "Appellant") we respectfully submit this letter and enclosed materials to appeal the December 9, 2014, decision of the San Luis Obispo County Board of Supervisors (the "Board") to approve the Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216) ("MUP/CDP"). For the Commission's reference, copies of the Appellant's past correspondence and hearing presentations to San Luis Obispo County regarding this project are provided as Exhibits 1-15. We may submit additional information to staff and the Commission to support this appeal request.

Presence of Substantial Issue

The decision of the Board is inconsistent with the County's Local Coastal Plan ("LCP"), certified Coastal Zone Land Use Ordinance ("CZLUO"), and the Coastal Act in several ways as detailed below, and therefore the project should not have been approved and the Final Environmental Impact Report ("F-EIR") should not have been certified. We therefore respectfully request that the California Coastal Commission ("CCC") find that a substantial issue exists and review the project *de novo* for consistency with the LCP, the CZLUO and the Coastal Act.

Project Description

The project site is located in the unincorporated community of Cayucos, in San Luis Obispo County. The site is on the northern end of Studio Drive, approximately 250 feet south of the intersection of Studio Drive and Highway 1, and is adjacent to Morro Strand State Beach. The County Planning Commission (the "Planning Commission") at its April 10, 2014, hearing, approved Jack Loperena's ("Applicant") proposal to construct a 2,374 square foot residence, with a basement and a mezzanine, on a never before developed, 3,445 square foot lot (the "Planning Commission Approved Project"). A large portion of the lot is sandy beach. The main floor of the Planning Commission Approved Project would have cantilevered 21 feet beyond the seaward edge of the basement, including 11 feet over the sandy beach, and included a seaward facing

basement wall that would act as and was deliberately designed to function as a prohibited shoreline protective device, as well as a north facing seawall. The Planning Commission Approved Project was 33 feet high and would have had a jarring visual impact upon visitors to the adjacent Morro Strand State Beach. The EIR and Planning Commission's fundamental conclusion was that the site was not on a coastal bluff, but contended it is a fluvial bluff created by Old Creek and therefore determined that no coastal bluff related requirements applied to the project.[1]

Appellant appealed the Planning Commission Approved Project to the Board. At its hearing on December 9, 2014, the Board approved the Planning Commission Approved Project, but included significantly modified Findings, Revised Conditions of Approval, and Revised CEQA Required Findings for the Loperena Minor Use Permit/Coastal Development Permit Environmental Impact Report (Revised CEQA Findings). For example, Findings item J acknowledged that the project site contains a coastal bluff. Condition 1 provides the basic requirements for the Board Approved Project ("BAP"):

> "1. This approval authorizes a request by Jack Loperena for a Minor Use Permit/Coastal Development Permit to allow for the construction of a single family residence. The applicant shall submit revised plans at the time of construction permits detailing the following:
>
> a. The revised single family residence shall comply with the Cayucos small scale neighborhood standards (height, setbacks, upper floor setbacks, gross structural area requirements).
>
> b. The maximum height of the structure shall be 15 feet above the centerline elevation of Studio Drive.
>
> c. The house (including all projections such as decks and cantilevers) shall be setback a minimum of 25 feet from the edge of the rocks and ice plant along the western side of the property as noted on the basement floor plan (as outlined in the December 9, 2014 staff report Attachment 3)
>
> d. The design shall remain in the nautical style with natural appearing siding as illustrated in the Planning Commission approved project."

It is our understanding that there was a typographical error in Condition 1.c. and it was intended to be as depicted in photo-graphic Attachment 4 of the staff report for the December 9th hearing (the "Board Approved Project Setback Line") shown in Tab 1.

Unfortunately there are no written plans depicting the BAP. There is nothing to indicate how the BAP will be sited on Applicant's lot, its proposed size, or even the number of levels.

The BAP and the Planning Commission Approved Project are sometimes collectively referred to as the "Project," as the context may require. See illustrations of the Project see Tab 1.

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1 Inexplicably, the Planning Commission Approved Project incorporated no fluvial or creek setbacks either.

Standard for Appeal

Appellant has exhausted all possible local appeals as required by CZLUO Section 23.01.043.b, pursuant to CZLUO Section 23.01.043.c.

Coastal Act Section 30603 provides for appeals to the CCC of certain actions taken by local government.

Coastal Act Section 30603(a)(1) provides that developments "*approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance*" are appealable.

Section 30603(a)(2) provides that developments not included in Section 30603(a)(1) that are located "*within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff*" may also be appealed to the CCC.

The Project is located between the sea and the first public road paralleling the sea, is adjacent to a beach, is within 100 feet of a stream, and is within 300 feet of the seaward face of a coastal bluff. Therefore, the Project is properly appealable to the CCC pursuant to both Coastal Act subsections 30603(a)(1) and (a)(2).

Grounds for Appeal

Without any project plans analyzing whether the BAP is consistent with the LCP, the CZLUO, and the Coastal Act is challenging in relation to certain applications of the laws and regulations. However, several grounds for appeal clearly exist:

1) BAP Improperly Allowed on Bluff Face
2) BAP Setback Improperly Applied to Bluff Toe Instead of the Top of the Bluff
3) BAP Improperly Allows Shoreline Protective Devices
4) BAP is Inconsistent with LCP Visual Resources Policies
5) BAP Underestimates Coastal Hazards and Project Allows House in Hazardous Area
6) BAP Fails to Include or Analyze Creek Setbacks
7) BAP is Inconsistent with Policy 3 Stringline Method
8) BAP is Inconsistent with Cayucos Small Scale Neighborhood Standards
9) Onsite Cypress Tree Inadequately Protected in Violation of LCP
10) BAP Fails to Adequately Consider Alternatives
11) BAP Conspicuously Ignores Proposed Retaining Walls on County ROW; Existing Public Access; and Planned Drainage onto Morro Strand State Beach
12) BAP Includes Incorrect and Conflicting Findings and Conditions of Approval

The resulting Project is not just vague and ambiguous but blatantly inconsistent with the LCP's and the CZLUO's coastal bluff related protections and numerous other important LCP and planning issues. These items are discussed briefly below and additional supporting detail is provided in the associated tabs.

1) BAP Improperly Allowed on Bluff Face

After the Final EIR was published, the Applicant again sought to dispute the fact that the site contains a coastal bluff, by commissioning Shoreline Engineering, Inc. to prepare a study using 1953 and 2014 photographic evidence. The result was Shoreline's "Evaluation of Bluff Geometry Adjacent to Loperena Property," dated September 28, 2014 (the "Shoreline 2014 Study"). This study approximates the natural topography before the addition of fill that obscured the natural bluff top edge.

Dr. Johnsson, CCC Staff Geologist, reviewed the Shoreline 2014 Study and summarized his conclusions in a December 8, 2014 email, which was forwarded to SLO County by Daniel Robinson, CCC Planner. Dr. Johnsson concluded that the Shoreline 2014 Study is incomplete in its analysis and its conclusions flawed. He made several key conclusions, two of which are:

a) "The plan views show the natural bluff edge to lie landward of the entire Loperena parcel. Thus, the natural topography and ground surface of the entire parcel is either on the natural bluff face or beach."
b) "Thus, it appears that the entire parcel is seaward of the bluff edge, whether the bluff is a coastal bluff or an [undefined] 'fluvial bluff.'"

Haro Kasunich and Associates, Inc. (HKA) also reviewed and analyzed the Shoreline 2014 Study, and reported their conclusions in a December 2, 2014 letter, attached as part of Exhibit 13. HKA also came to the conclusion that the Shoreline 2014 Study was incomplete, its conclusions were flawed, and that it did not refute HKA's earlier findings that the site is a coastal bluff. They also determined that based on the study that the project is located on a bluff face.

Development on a bluff face is in violation of SLO County Coastal Plan Policy 11: Development on Coastal Bluff. Policy 11 limits new development on bluff faces to public access stairways and shoreline protection structures. Therefore, the Project is in violation of the Local Coastal Program, portion of Land Use Element of SLO County General Plan. For more detail see Tab 2.

2) BAP Setback Improperly Applied to Toe of the Bluff

The Planning Commission Approved Project did not apply any setbacks to the seaward facing side of the project, rather, it allowed the deck to cantilever 11 feet over the lateral public access easement area and the public beach. While the setback amount is increased in the BAP, it is still inconsistent with the setback requirements in the CZLUO Section 23.04.118 and Estero Area Plan, Cayucos section, Sensitive Resource Area.

Pursuant to CZLUO Section 23.04.118, Estero Area Plan Section V.F.1 and Section III.1.4, and Policy S-23 Safety Element of County General Plan, the coastal bluff setback should be measured from the top of the bluff, and not the toe of the bluff. The setback must be a sufficient distance to withstand erosion for a period of 75 years or 100 years (depending on policy), and a minimum of 25 feet.

Appellant's Letter (by SJMS) dated December 8, 2014, Exhibit 14, raised the Appellant's concern that draft Project Findings and Conditions of Approval were in conflict regarding the location of the required setback. This issue was reiterated in the Appellant's presentation at the December 9th Board Hearing. Unfortunately, the issue was not corrected in the Board Approved Findings and Conditions. BAP Findings item F states "The revised design which includes a 25 foot buffer from the edge of the rocks on the property which is illustrated as the "bluff' on Attachment 4 of the Board staff report." BAP Findings item J states "The project is conditioned to require a 25 foot setback from the bluff which complies with the Coastal Zone Land Use Ordinance bluff setback requirements (23.04.118 Blufftop Setbacks)." The BAP Condition 1.c sets a "25 foot setback from the edge of the rocks and ice plant", which is approximately or nearly the toe of the bluff. Based on Condition 1.c, the western wall of the Project could be located seaward of the bluff top edge with zero setback from the bluff edge.

Additionally, in the Appellant's Letter (SJMS) dated December 8, 2014, Exhibit 14, it was recommended that Figures using Applicant's Drawing A1.1 be used to replace Staff Report Attachment 4, Bluff Setback Line, because a topographic surveyed drawing is more accurate and easier to verify than Attachment 4 photo-graphic. The HKA Letter attached to Exhibit 14 provides a figure based on the setback being applied to the toe of the bluff similar to County staff's Attachment 4. The figure indicates the edge of the rocks and ice plant, the 25 foot setback line from the toe of the bluff, and the top of the bluff as shown in the Shoreline 2014 Study. It was recommended that the Board either use this figure, or preferably a similar figure based on setback from the top of the bluff, so the diagram is consistent with the Board of Supervisors' intent. Unfortunately, the revised figure was not included as part of the BAP.

For information, at the Board's June 3rd hearing the Board directed Applicant to "explore modifications to the project that could potentially involve a property exchange and/or County property (right of way) purchase in an effort to move the project closer to Studio Drive and to allow an appropriate setback from the top of the bluff and sufficient space for the residence. During the Board's December 9th hearing, County Staff reported that the Applicant refused to pursue a property exchange or purchase of County right of way.

For more detail see Tab 3.

3) Shoreline Protective Devices Improperly Allowed

Per the Revised CEQA Findings, the "maximum wave runup would be 26 feet NAVD88". The BAP is allowed to remain within the wave run-up zone. The County Staff

Report for the December 9, 2014 Board hearing described County staff's meeting with CCC staff on July 31, 2014 and acknowledged that "Construction of any structure within the potential wave run-up area would be considered a shoreline structure or a seawall." Therefore the Planning Commission Approved Project reinforced concrete seaward facing basement wall would be considered a seawall.

Seawalls are prohibited for use in new development by the following policies:

- Estero Area Plan, Chapter 7, Areawide standards Section I.5, states that "*shoreline and bluff protection structures shall not be permitted to protect new development.*"
- LCP Hazard Policy 1 provides similar prohibition against shoreline protective devices.
- LCP Hazard Policy 4 provides similar prohibition against shoreline protective devices.

Similar to the Planning Commission Approved Project, the BAP could still include a traditional seawall on the north side, and the basement wall acting as another seawall built into the Project itself on the west side. For more detail see Tab 4.

4) Inconsistent with Visual Resources Policies

Since the design of the BAP is undefined, the impact on visual resources has not been properly assessed. It is possible that the BAP may be similar to the Planning Commission Approved Project in number of levels and resulting height. In that case, the view from Morro Strand State Beach will be greatly affected due to the height of the Project, which will be visible from various public venues and vantages for miles around. The BAP could be inconsistent with Coastal Act Section 30251 and with the LCP Visual and Scenic Resources Policies 1, 2, 5, 6 and 11. For more detail see Tab 5.

5) Coastal Hazards Underestimated and Project Allowed in Hazardous Area

The HKA Letter dated August 1, 2013 (HKA Report) attached as part of Exhibit 6 describes how the bluff is subject to wave run-up and marine erosion. The HKA Report also finds that coastal hazards are underestimated in the F-EIR. The HKA Report identifies inconsistencies in the EIR Consultants' wave run-up calculations supporting HKA's finding that hazards are underestimated. It includes several photographs that graphically and clearly show the exposed bedrock coastal bluff on the property and the "active beach" at the base of the bluff. When read in concert with CCC Staff Correspondence, it defies logic that the County would ignore such obvious constraints. The HKA Report also concludes and raises concerns that the basement wall, which acts as a seawall, will deflect wave run-up towards the neighboring properties and adversely impact them and the public beach.

The HKA March 31, 2014 Letter attached as part of Exhibit 9 finds that the results of the

Applicant's GeoSoils 2014 Letter wave run-up analyses reflect a continuing and gross underestimation of the hazards at the site, particularly in the oceanfront portion of the property where bedrock is not present to higher elevations and erodible fill soils exist. The HKA March 2014 Letter finds that the Planning Commission Approved Project still hangs over the beach, is inadequately set back and is located in a hazardous area that can safely be expected to be impacted by sea-level rise and routine wave run-up in the future. The effect of wave run-up on the BAP will be reduced, but has not been analyzed. If there is a basement, it will still be located within the wave run-up zone. However, since there are no site plans showing the BAP, it is impossible to know if these issues will be properly addressed.

HKA also identify in the Planning Commission Approved Project a door and window on the basement level that are located *lower* than the Applicant's GeoSoils wave run-up analysis and acknowledges a serious analytical error. Further, HKA finds that the Planning Commission Approved Project was not setback a sufficient distance to assure stability and structural integrity, or to withstand bluff erosion and wave action for a period of 75 and/or 100 years without construction of shoreline protection devices. The HKA March 2014 Letter describes several flaws in the GeoSoils analysis, including: that maximum breaking wave heights and wind velocities are underestimated, slope roughness is overestimated, and the worst case profile was not utilized. It goes on to recommend that critical items that are not depicted on the plans should be added to show: (i) the location of the landward edge of the beach, (ii) the location of the toe of the bluff and the top edge of the bluff, (iii) the location of the required setback from the top edge of the bluff required to withstand erosion and wave action for 75 years as required by Section 23.04.118.a of the CZLUO, and (iv) the location of the required setback from the top edge of the bluff required to withstand erosion and wave action for 100 years, as required by the Estero Area Plan and County Engineering Geology Report Guidelines. The BAP cannot be properly located on the site until the effects of coastal hazards on the site are correctly determined. However, what is obvious from the footprint of the BAP is that the location is not consistent with the LCP or CZLUO. For more detail see Tab 6.

6) Creek Setback Not Applied

The Planning Commission Approved Project was based on a determination that the site was not a coastal bluff and was instead on a fluvial (creek) bluff. Notably, and ironically, even if the Project area were a fluvial bluff, the Planning Commission Approved Project was still inconsistent with the setback requirements for fluvial bluffs.

While the BAP finally acknowledged that the western portion of the bluff edge was a coastal bluff, it ignored the northern portion of the bluff edge that was considered a fluvial bluff.

The CCC Staff email dated December 8th stated that the entire bluff edge was subject to marine erosion and therefore is a coastal bluff and that coastal bluff setbacks should be applied. However, if for any reason the northern portion of the bluff is considered a fluvial bluff, then the Project must be setback a minimum of 50 feet in accordance with Estero Area Plan, Cayucos section, Sensitive Resource Area Table 7-2 (coastal stream setbacks – Old Creek).

In addition to riparian (creek) setbacks, the HKA December 2, 2014 Letter, attached as part of Exhibit 13, explains that in this case the minimum coastal development setbacks should be determined and applied based on the inland extent of wave run-up that may occur during the expected life of the development. Based on the March 12, 2014 wave run-up study by the Applicant's consultant (GeoSoils Inc.) using 5.5 feet of sea level rise, this indicates that development must be located inland from the 25 foot contour line on the property. Per the Revised CEQA Findings, the "maximum wave runup would be 26 feet NAVD88". Therefore to keep the residence out of the wave run-up zone, it is recommended that another condition be added to restrict the bottom of the Project structure to the 25 or 26 foot elevation. This additional restriction would likely cause the deletion of the basement.

The lack of a riparian setback will establish a precedent for other properties adjacent to creeks statewide. For more detail see Tab 7.

7) Inconsistent with Policy 3 Stringline Method

The Planning Commission Approved Project was inconsistent with Coastal Plan Policy for Visual and Scenic Resources, Policy 3 Stringline Method for Siting New Development, because the Planning Commission Approved Project clearly extended significantly (approximately 35 feet) seaward of the adjacent house. The County incorrectly determined that the Planning Commission Approved Project complied with Policy 3.

In accordance with Policy 3 Stringline Method, if there are substantial variations in landform between adjacent lots, then the average setback of the adjoining lots should be used, which in this case is 25 feet from the bluff top.

As discussed in Grounds for Appeal #2 above, there is conflict regarding where the BAP setback is to be applied. The BAP's Condition 1.c setback should be revised to at least meet Policy 3 requirements. For more detail see Tab 8.

8) Inconsistent with Estero Area Plan - Cayucos Small Scale Neighborhood Standards

The Planning Commission Approved Project was inconsistent with the Cayucos Small Scale Neighborhood design standards and other communitywide standards. It was dissimilar and unlike existing residences along Studio Drive, especially when viewed from the public beach due to its imposing 33 foot height, and because the main floor was cantilevered 21 feet, including the highly unusual and novel proposal to stretch 11 feet over the sand. Obviously, while unprecedented in design, it was also blatantly inconsistent with the character and intent of the Cayucos community small scale design neighborhood.

While the design of the BAP is unknown, it could still have a similar 33 foot height from the north side and beach views, and be inconsistent with the character and intent of the Cayucos community small scale design neighborhood standards.

9) Cypress Tree Inadequately Protected

There is a Monterey Cypress tree located in the County right of way adjacent to the Project. BAP Conditions of Approval item 3 BR/mm-3 requires "grading plans shall clearly show the location of … protection fencing surrounding the Monterey cypress tree …". Condition of Approval item 33, requires "Prior to issuance of grading permits, the applicant shall retain a certified arborist to conduct any site preparation activities requiring cuts or impacts to the root zone of the existing mature cypress tree. The certified arborist shall monitor work within the root zone, including grading and excavation for the retaining wall, and utility work. The certified arborist shall verify that tree protection fencing shown on the plans and approved by the County is installed prior to ground disturbance within 25 feet of the trunk of the tree. The applicant shall comply with methods identified by the certified arborist to avoid unnecessary damage to the root zone, including use of hand tools within 25 feet of the trunk of the tree, protection and treatment of exposed roots during construction, and use of tunneling under shallow roots for utility installation in lieu of standard trenching."

The County's Biological Resources Section of the Conservation and Open Space Element of the General Plan, Policy BR 3.1, Native Tree Protection, requires that native and biologically valuable trees be protected to the maximum extent feasible. Policy BR 3.2 of the Biological Resources Section, Protection of Native Trees in New Development, requires that *"proposed discretionary development and land divisions to avoid damages to native trees (e.g. Monterey pines, oaks) through setbacks or… other appropriate measures."*

Condition 33 is inadequate to protect the tree and does not indicate an understanding that a portion of the basement and southern driveway wall are within the 25 foot radius of the tree trunk. The Appellant's consultant, Mr. Tamagni, a certified arborist of A&T Arborists, evaluated the Planning Commission Approved Project's likely effect on the tree and proposed conditions. In its letter dated June 2, 2014 attached as part of Exhibit 11, found that if the Project was built as proposed, it would most likely be a death sentence for the tree, and that the mitigation measures approved by the Planning Commission were insufficient to protect the tree. Their letter recommended additional mitigation measures necessary to protect the tree. Unfortunately, the Board Approved Condition 33 was not revised as recommended. The Board's failure to require mitigation measures adequate to protect the tree is inconsistent with the County's General Plan. For more detail see Tab 9.

10) Project Alternatives Inadequate

The F-EIR fails to propose adequate alternatives as required by the California Environmental Quality Act ("CEQA"). CEQA requires that an EIR provide alternative designs to a proposed project in order to determine whether alternatives would further mitigate any

environmental impacts. The County failed to consider alternatives to the Planning Commission Approved Project or BAP that may have resulted in a project that is consistent with the bluff (coastal and/or fluvial) setbacks or bluff face limitation as required by the LCP, CZLUO and the Coastal Act. The alternatives proposed in the F-EIR are all similar to Applicant's original project and do not provide sufficient variation. For example, no alternative is described or evaluated that would comply or be consistent with the LCP. For more detail see Tab 10.

11) Retaining Walls on County ROW; Public Access; and Drainage onto Morro Strand State Beach

The Planning Commission Approved Project plans included a design feature that would add fill and two retaining walls on County right of way (ROW) adjoining the north side of the site. It is believed this design element is part of the Planning Commission Approved Project's drainage plan that directs drainage onto the Morro Strand State Beach. This feature was included in the plans for the Planning Commission Approved Project, but were not clearly identified or addressed in the EIR.

Although the design for the BAP is unknown, the Conditions for Approval do not restrict this type of drainage system and retaining walls on County property, therefore it could be included in the BAP.

The location of this feature is inconsistent with Coastal Act Section 30211, which bars any development that interferes with the public's right of access to the sea. Coastal Act Section 30211 states that "*development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*" The BAP should have prohibited any retaining walls that will interfere with the public's right to access the beach, because the walls are in violation of Section 30211.

Further, it would be inappropriate to place retaining walls on public property that will block physical or visual access to the coastal resources in order to facilitate a private development. It is also inappropriate to divert drainage onto public property (Morro Strand State Beach) in order to facilitate a private development.

12) Incorrect and Conflicting Findings and Conditions of Approval

The Findings and Conditions of Approval adopted by the Board were incorrect and conflicting, and in some cases, inconsistent with applicable law.

As previously discussed, there is a conflict between Findings F and J and Condition 1.c on where the setback should be applied, and Findings F and Condition 1.c are inconsistent with various policies.

Additionally, Revised CEQA Findings do not appear to have been appropriately revised to reflect the latest information. Review and revision is especially recommended for the following sections: Section 5.F Geology and Soils (Class III), Section 6.9 Geology and Soils, and Section 7.0 Findings for Impacts Identified as Significant and Unavoidable. While there has been an attempt to revise the CEQA findings, the rest of the EIR has not been updated to reflect the Boards determination that the project is on a coastal bluff. Finally, it is concerning that the Board's Resolution, Findings, and Conditions of Approval make reference to the Staff Report Attachment 3 or 4 graphic, which shows the Board Approved "Setback Line" (see Tab 1 Figure 1-7), but this critical figure is not officially included in the EIR documents.

The EIR analyzed the site as a non-coastal bluff property. However, the BAP Findings and Conditions of Approval finally acknowledge that the site includes a coastal bluff. Therefore the EIR should have been amended to analyze the site as a coastal bluff and make the EIR consistent with the project site determination.

The BAP design is currently unknown. The BAP allows a new project to be designed and submitted with construction permit plans. This new project will differ significantly from the Original Project assessed by the EIR. There would be no public review or hearing of the proposed revised plans. This is not acceptable given the significant revisions to the current plans.

In conclusion, for the reasons stated in this appeal, the Appellants respectfully request that the CCC finds that a substantial issue exists and review the Project *de novo* for consistency with the LCP, CZLUO and the Coastal Act.

We appreciate your considered review and analysis of this appeal.

Sincerely,

SINSHEIMER JUHNKE McIVOR & STROH, LLP

KEVIN D. ELDER

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Tabs – Supporting Detailed Information

Tab 1 Project Description

Tab 2 Project Improperly Allowed on Bluff Face

Tab 3 Setback Improperly Applied to Toe of the Bluff

Tab 4 Shoreline Protective Devices Improperly Allowed

Tab 5 Inconsistent with Visual Resources Policies

Tab 6 Coastal Hazards Underestimated and Project Allowed in Hazardous Area

Tab 7 Creek Setback Not Applied

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Tab 9 Cypress Tree Inadequately Protected

Tab 10 Project Alternatives Inadequate

TAB 1 Project Description

Figures 1-1, 1-2, and 1-3 are the Original Project illustration and main floor plan upon which the EIR was based, and a flag pole study of the Original Project conducted for the EIR.

Figure 1-1 Original Project Illustration

Figure 1-2 Original Project Main Floor Plan

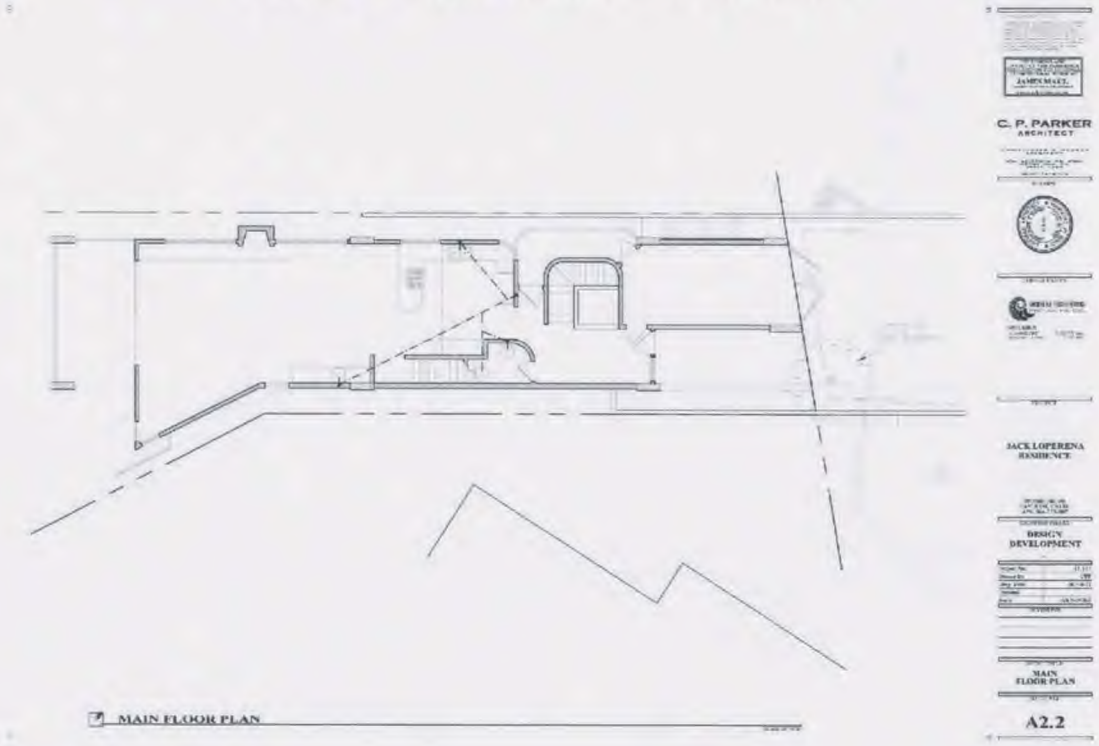


Figure 1-3 Original Project Flag Pole Study

Figures 1-4, 1-5, and 1-6 are the Planning Commission Approved Project Illustration, Floor Plans, and Comparison to Original Project.

Figure 1-4 Planning Commission Approved Project Illustration

Figure 1-5 Planning Commission Approved Project Floor Plans

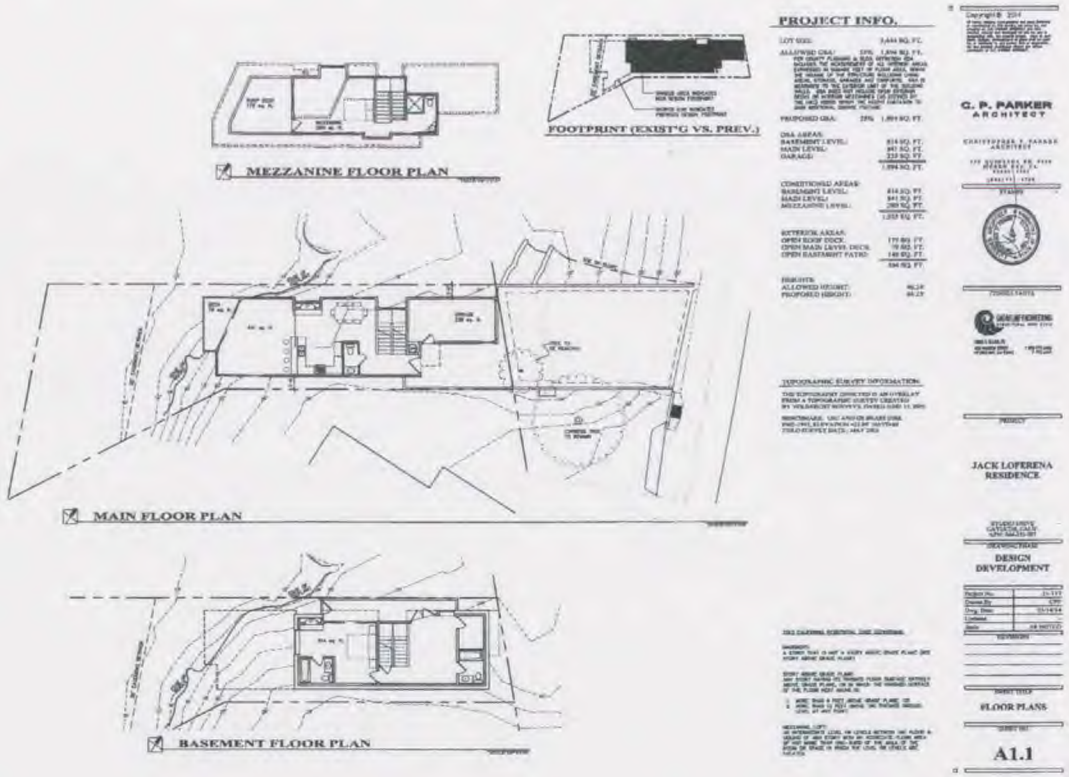


Figure 1-6 Planning Commission Approved Project with Comparison to Original

Figure 1-7 is the BAP Setback line from the December 9, 2014 Board Hearing Staff Report Attachment 4.

Figure 1-7 Board Approved Project Setback Line

Tab 2 Project Improperly Allowed on Bluff Face

a. Coastal Bluff

The Project is located on a coastal bluff as defined in CCR §13577(h)(1). The Planning Commission Approved Project does not comply with the setback requirements associated with a coastal bluff and is therefore inconsistent with the LCP, the CZLUO and the Coastal Act.

Although there is abundant scientific evidence (including the CCC's own geologic experts) to support the unequivocal conclusion that the Project site is a coastal bluff, and despite the untenable position of the County staff and Applicant that it isn't, Appellant contends that even an uncredentialed lay person, or an average visitor to Morro Strand State Park, could easily see and correctly determine the existence of the coastal bluff by simply looking at it. In fact, to view the coastal bluff and conclude it does not exist defies reality and flies in the face of common sense. See aerial photograph at www.cacoast.org/201316752.

Despite County Staff's and the Applicant's claims to the contrary, the BAP, finding J, finally acknowledges the existence of a coastal bluff.

Coastal Bluff Definition. CCR §13577(h)(1) defines coastal bluffs as "*1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion.*"

Therefore, by the definition set forth in CCR §13577 the site must be a coastal bluff, because the toe of the bluff is undoubtedly subject to marine erosion. The CCC 2013 and CCC 2014 Correspondence, report that the CCC staff geologist, Dr. Johnsson, determined that the Project site is comprised of a coastal bluff.

The HKA Report, attached as part of Exhibit 6, found that the lot is impacted by marine erosion. The report includes several figures and photographs that clearly show the exposed bedrock coastal bluff on the property, which indicates marine erosion, and the "active beach" at the base of the bluff. The HKA Report describes how the bluff is subject to wave run-up and marine erosion. Several photos showing the coastal bluff and beach portion of the property during a typical high tide in 2007 are included in the Report. Figure 2-1 is an example photograph showing the Pacific Ocean impacting the rock outcropping on the Project site.

HKA also determined that the Applicant's consultants, with peer review by the County's EIR consultants Cotton Shires and Associates (the "EIR Consultants"), incorrectly defined the bluff as a fluvial bluff.

Figure 2-1 Photograph of Wave Impact on Project Site (12-26-07)

The HKA Report and the CCC 2014 Correspondence make it clear that the Project site should be defined as a coastal bluff. Since the Planning Commission Approved Project was sited in a manner that is inconsistent with the Coastal Act, the CZLUO and the LCP, with respect to coastal bluff setbacks, and it's unlikely that the BAP can be sited any better, then neither the Planning Commission Approved Project nor the BAP should have been approved.

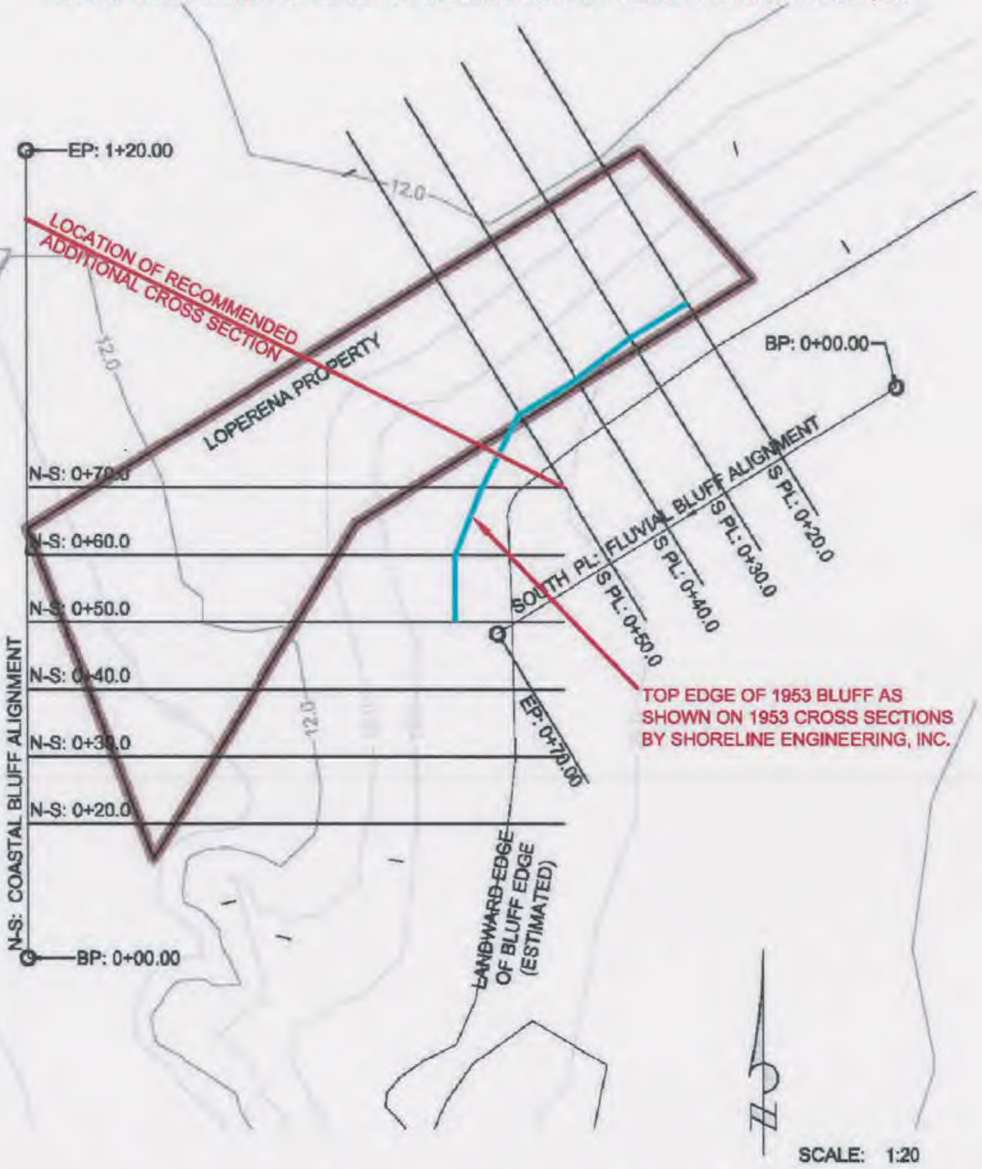
b. Bluff Face

Finally, in yet another effort to overcome the well supported conclusions of CCC expert geologic staff and HKA that the site is comprised of a coastal bluff, the Shoreline 2014 Study uses historical photographs from 1953 and 2014 to create surveys purporting to show that the site is not a coastal bluff.

HKA reviewed the Shoreline 2014 Study. In HKA's letter to County Planner, Ryan Hostetter, dated December 2, 2014, attached as part of Exhibit 13 HKA refutes Shoreline's conclusion, and in fact finds that the surveys produced by Shoreline support the position that the site is comprised of a coastal bluff and the Project is on a Bluff Face. Figure 2-2 is the 1953 Topographic Map by Shoreline Engineering, Inc., with the addition of the 1953 Top Edge of the Bluff. The 1953 Top Edge of the Bluff is shown in blue was added by HKA based on Shoreline Engineering cross section data.

Figure 2-2 1953 Topographic Map with 1953 Top Edge of Bluff

FIGURE 3: 1953 TOPOGRAPHIC MAP BY SHORELINE ENGINEERING, INC. SHOWING
1953 TOP EDGE OF BLUFF AS DEPICTED ON CROSS SECTIONS BY SHORELINE ENGINEERING, INC.



Loperena: Studio Drive, Cayucos

1953 Topographic Survey

NOTE: TOP EDGE OF 1953 BLUFF AND LOCATION OF RECOMMENDED ADDITIONAL CROSS SECTION BY HARO KASUNICH & ASSOCIATES, INC. 11/25/2014

Dr. Johnsson's December 8, 2014 email also analyzes the Shoreline 2014 Study conclusions and discusses that Shoreline's analysis is incomplete, the conclusion is flawed, and the Project is on a bluff face. He made several key conclusions:

i. That "the bluff definitely meets the definition of a Coastal Bluff in Section 13577 (h) (2) of the Coastal Act regulations. That is, it clearly has been subject to marine erosion in the recent past."
ii. "The plan views show the natural bluff edge to lie landward of the entire Loperena parcel. Thus, the natural topography and ground surface of the entire parcel is either on the natural bluff face or beach."
iii. "… it is unclear of what the significance would be of the bluff being less than ten feet in height. Nowhere in the Coastal Act regulations nor in the LCP is a figure of ten feet specified for the definition of a Coastal Bluff. The report makes reference to the Commissions outdated Statewide Interpretive Guidelines, but these are not regulatory in nature." Even if 10 feet is part of the bluff definition, "While it may be the case that the bluff is less than 10 ft. in relief along certain cross sections, there appear to be cross sections along which the relief exceeds 10 ft."
iv. "Thus, it appears that the entire parcel is seaward of the bluff edge, whether the bluff is a coastal bluff or an [undefined] "fluvial bluff."
v. That the "project triggers the coastal bluff setback requirements of the LCP at this location."

c. Termini of Bluff Diagrams Not Applicable

The EIR Consultants prepared several diagrams regarding determination of the termini of the bluff to support their claim that the property is not a coastal bluff. However, the location of the bluff termini is not applicable to this site.

Based on CCR §13577(h)(2) the bluff termini methodology is only applicable to sites that are not subject to marine erosion. CCR §13577(h)(2) states "*Coastal bluff shall mean: … (2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2),*" followed by a description of the bluff termini determination methodology. Since the toe of the bluff is clearly subject to marine erosion, CCR §13577(h)(2) is not applicable and siting the house pursuant to CCR §13577(h)(2) is inconsistent with applicable law.

If for any reason these diagrams are considered, it should be noted that the diagrams included in the EIR were based on a 300 foot distance, instead of the required 500 foot distance. Therefore the location of the termini of the bluff determined by the diagrams is inaccurate.

Tab 3 Setback Improperly Applied to Toe of the Bluff

The Planning Commission Approved Project is inconsistent with the LCP because it was not setback from the coastal bluff top in accordance with the LCP. The HKA Report and HKA December 2, 2014 letter, attached as part of Exhibit 13, and the CCC 2013 and 2014 Correspondence, all conclude that the Project site should be considered a coastal bluff and appropriate setbacks required.

Despite the Planning Commission Approved Project's reduction in size from the original design, and the 10 foot shift landward of the basement wall, the changes do not adequately mitigate the fact that the Project is proposed for construction on a coastal bluff, and therefore even as reduced and conditioned, the Project cannot comply with applicable setback requirements. Therefore, the Project cannot be constructed as proposed because it does not comply with coastal bluff setback requirements. Figure 3-1 depicts the main floor of the Planning Commission Approved Project. The green dotted line shows the approximate location of the bluff top edge. The building clearly extends seaward of the bluff top, with no setback. The graphic illustrates the inconsistency with applicable setback requirements, and how it seems unlikely that any project complying with the setback requirements can by constructed.

Figure 3-1 Planning Commission Approved Project
Main Floor with Added Graphics

CZLUO Section 23.04.118 states that new development shall be setback from the bluff edge a distance sufficient to withstand bluff erosion and wave action for a period of 75 years.

Additionally, Estero Area Plan Section III, I. Shoreline Development, Bluff Setbacks, page 7-10 and 7-11, states that new development to *"be located on or adjacent to a beach or coastal bluff are subject to the following standards: "4. Bluff Setbacks. The bluff setback is to be determined by the engineering geology analysis required in I.1.a above adequate to withstand bluff erosion and wave action for a period of 100 years. In no case shall bluff setbacks be less than 25 feet."* (underline added). The site is on a bluff, and is "on or adjacent to a beach" and therefore the setback must be at least 25 feet in order to comply with the Estero Area Plan.

The Estero Area Plan, Section V.F.1, states that bluff setbacks shall be in accordance with the CZLUO, "*except that the minimum setback shall be 25 feet in any case.*" Table 7-1 modifies that requirement, under the first column of the table, entitled "Area." A portion of Table 7-1, Cayucos Urban Area Special Setbacks—Communitywide is represented below:

LOCATION						MINIMUM SETBACKS (FT)[1]					
AREA	AREA-WIDE	SUB. NO.	BLOCK	LOTS	OTHER	BLUFF	FRONT	SIDE	STREET SIDE	REAR	REMARKS
BLUFF -TOP LOTS	X					25					Larger setbacks required where necessary to withstand 100 years of erosion (see Standard G1)

The Planning Commission Approved Project was inconsistent with these standards, because it was not setback from the bluff-top at all, and was certainly not setback a distance sufficient to withstand 100 years or 75 years of bluff erosion or even the minimum 25 feet.

Further, the BAP 25 foot setback requirement does not clearly require that the BAP comply with these standards, because of the conflict between the Board Approved Findings and Conditions. SJMS Letter dated December 8, 2014, Exhibit 14, raised the Appellant's concern that draft Project Findings and Conditions were in conflict regarding the location of the required setback. This issue was reiterated in the Appellant's presentation at the December 9th Board Hearing. Unfortunately, the issue was not corrected in the Board Approved Findings and Conditions. BAP Findings item F states "The revised design which includes a 25 foot buffer from the edge of the rocks on the property which is illustrated as the "bluff' on Attachment 4 of the Board staff report." BAP Findings item J states "The project is conditioned to require a 25 foot setback from the bluff which complies with the Coastal Zone Land Use Ordinance bluff setback requirements (23.04.118 Blufftop Setbacks)." However, the BAP Condition 1.c sets a "25 foot setback from the edge of the rocks and ice plant", which is approximately or nearly the toe of the bluff.

As CCC Geologist, Dr. Johnsson, stated in the July 31st meeting with County staff, the natural bluff top edge is undetermined. The added fill on the site complicates the determination of the natural bluff top edge. Therefore even the minimum 25 foot setback line had not yet been located.

Dr. Johnsson suggested that the EIR Consultant should determine the location of the top of the bluff by preparing three (3) dimensional mapping with a surveyor's support. However, the Applicant declined to conduct this analysis. Instead the Applicant prepared a photo analysis documented by Shoreline 2014 Study, which was previously discussed in Tab 2. The top of the bluff based on the Shoreline 2014 Study and shown in the graphic prepared by HKA attached as part of Exhibit 13 is indicated by the blue line. This figure is previously provided as Figure 2-2.

a. Safety Element of the General Plan

The Project is inconsistent with Policy S-23 of the Safety Element of the County General Plan. Safety Element Policy S-23 states that development shall not be permitted near the top of eroding coastal bluffs. Over the years wave run-up *at this site* has contributed to bluff erosion. Specifically, the HKA Report, pages 1, 3, and 4, describe *how this* bluff is subject to marine erosion. Therefore, allowing development to proceed on this eroding coastal bluff will violate the basic precept of Safety Element Policy S-23. The Project should not be approved unless it can be revised in a manner that is consistent with Policy S-23, due to the effect of marine erosion on the site's coastal bluff.

b. Replace Staff Report Attachment 4

Appellant's December 8, 2014 Letter commented on the Board Hearing staff report. It was recommended that Figures using Applicant's Drawing A1.1, be used to replace Staff Report Attachment 4, since a topographic surveyed drawing is more accurate and easier to verify than Attachment 4 photo-graphic. The HKA December 8th Letter provided Figure 1 (shown below as Figure 3-2) based on the setback being applied to the toe of the bluff similar to Attachment 4. The purple line indicates the edge of the rocks and ice plant. The orange line represents the 25 foot setback from the toe of the bluff. The light blue line indicates the top of the bluff as shown in the Shoreline 2014 Study. It was recommend that the Board either use these Figures, or preferably similar figures based on setback from the top of the bluff, so the diagram is consistent with the Board of Supervisors intent. Unfortunately, the BAP did not include a revised drawing.

Figure 3-2 Planning Commission Approved Project Basement and Main Floor Plans with Board Approved 25 foot Setback from Edge of Rocks and Ice Plant

c. Limitation on Cantilevered Structures Beyond Setback

The Planning Commission Approved Project was inconsistent with CZLUO Section 23.04.118.c(3) limiting the distance structures may encroach or cantilever over setback lines. The Planning Commission Approved Project had a cantilevered main floor living space and deck extending 21 feet beyond the proposed basement wall, beyond the bluff top edge (whether coastal or fluvial), and extending beyond the required setback line.

The Planning Commission Approved Project was inconsistent with the limited exception in Section 23.04.118.c(3) allowing certain aesthetic design features to extend beyond the applicable setback line. CZLUO Section 23.04.118.c(3), Exceptions to bluff setback requirements, states that the minimum setback requirements of CZLUO Section 23.04.118.a don't apply to "*Roof and wall projections including cantilevered and projecting architectural features including chimneys, bay windows, balconies, cornices, eaves and rain gutters may project into the required setback a maximum of 30 inches.*"

The exception to encroaching beyond a setback line pursuant to CZLUO Section 23.04.118.c(3) does not allow building floors to extend beyond the setback line, only roof and

wall projections and architectural features such as eaves or bay windows are accepted. Therefore, the living space and deck should not extend beyond the basement wall. The Planning Commission Approved Project was inconsistent with all applicable setback requirements, and was inconsistent with the exception to encroachment provided in Section 23.04.118.c(3). Thus, if the setback were appropriately applied to the Planning Commission Approved Project, at least 15 feet of the basement itself, and the *entire* cantilevered portion of the house are impermissible, and violate the LCP and Coastal Act.

Based on the Conditions of Approval for the BAP stating that *all* projections, including decks and cantilevers, shall be setback at least 25 feet from the edge of the rocks it seems that the BAP would prohibit any part of the project from extending over the setback line, but since it is unclear if the setback line is in the correct location, and there are no plans showing compliance with the BAP anyway, it is impossible to know if the BAP correctly applies LCP and other applicable laws and ordinances.

Tab 4 Shoreline Protective Devices Improperly Allowed

The HKA Report finds that the basement wall of the Planning Commission Approved Project acts as a seawall, which is prohibited for use in new development. The CCC 2013 and 2014 Correspondence state that the basement wall will act as a prohibited seawall. Even the BAP, as conditioned by the County with a 25 foot setback from the "bluff", it seems that the basement wall is likely to remain, and will be subject to wave run-up. As a basic Coastal Act planning principal, new development should not be facilitated by construction of seawalls. If allowed, not only will this basement seawall inspire construction of an otherwise inappropriate development, but it will also serve to deflect wave run-up toward neighboring public and private property and reverberate and adversely impact those adjacent landforms.

The Estero Area Plan (Chapter 7, Areawide standards Section I.5) states that "*shoreline and bluff protection structures shall not be permitted to protect new development.*" Shoreline Protection is defined as "*Structures or sand placed at or on the shore to reduce or eliminate upland damage from wave action or flooding during storm.*"

LCP Hazard Policy 1 requires that new development shall be designed so any shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, not be needed for the life of a structure.

In this case, the Planning Commission Approved Project includes a traditional seawall on the north side, and the basement wall is another seawall built into the Planning Commission Approved Project itself on the west side! See Figure 4-1 Planning Commission Approved Project basement floor plan with seawalls highlighted in red. Without plans for the BAP, it is impossible to know whether it too will include an impermissible seawall.

Figure 4-1 Planning Commission Approved Project Seawalls

Based on the GeoSoils 2014 Letter, the basement wall is designed to act as a prohibited seawall, as more particularly described in the HKA Report. The County and the Applicant claim that the basement wall is not a seawall because it is structurally necessary to support the cantilevered portion of the Planning Commission Approved Project. If so, one unpermitted designed element boot straps another, since neither the basement seawall or the cantilevered house are allowable under the LCP and Coastal Act.

Moreover, the logic employed by the County and Applicant cannot withstand even minimal scrutiny. Consider the precedent. If the Planning Commission Approved Project or the BAP with a similar basement wall was allowed to stand, every structure along the coast could be designed to include concrete reinforced basement seawalls, thereby avoiding the longstanding prohibition.

To claim the basement is not a seawall is both disingenuous and self-serving. The basement wall is purposely designed to act as a prohibited shoreline protective device, and is therefore inconsistent with the CZLUO Section 23.05.090, the Estero Area Plan and the LCP.

The lack of plans showing the BAP makes it difficult to know if a basement seawall or other seawall will be included. However, due to expected sea-level rise and wave run-up height, it seems likely that if the BAP has a basement wall, it will act as a prohibited seawall.

Tab 5 Inconsistent with Visual Resources Policies

The Planning Commission Approved Project (and likely any house built in compliance with the BAP) is inconsistent with LCP Chapter 10, Visual and Scenic Resources, Policies 1, 2, 5, 6 and 11, and Coastal Act Section 30251.

The property is adjacent to and on the edge of a very significant public scenic coastal vista and recreational resource area; Morro Strand State Beach. At 33 feet high and cantilevering 21 feet out and over the sand, the Planning Commission Approved Project's massing will significantly alter and affect public views and enjoyment of the coast. Even with a house that complies with the BAP requirements by reducing or removing the cantilevered portion of the house, at 33 feet high, it will still erode the public's view and enjoyment of the sandy beach, southerly views and ocean waves. The visual impact will be especially jolting from the beach and as viewed travelling south on Highway 1 and Studio Drive, where it will create a view blocking wall effect.

LCP Policy 1. LCP Policy 1, Protection of Visual and Scenic Resources, requires that "*attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved [and] protected ... where feasible.*" Siting the Project in compliance with coastal bluff setback requirements would likely reduce the impact on the visual features of the site and might be consistent with LCP Policy 1.

LCP Policy 2 and Policy 6.

LCP Policy 2, Site Selection for New Development, requires that development "*be sited so as to protect views to and along the ocean and scenic coastal areas*" to "*emphasize locations not visible from major public view corridors.*"

LCP Policy 6 requires that homes in small-scale neighborhoods "*be designed and sited to complement and be visually compatible with existing characteristics of the community which may include concerns for the scale of new structures, compatibility with unique or distinguished architectural historical style, or natural features that add to the overall attractiveness of the community.*"

Contrary to the EIR findings, the Planning Commission Approved Project is not consistent with current neighborhood conditions. Most of the residences are set-back from the bluff top 25 feet, and none are cantilevered over the sand. The nearby residence that is built to the edge of the bluff was built in 1964, prior to establishment of the Coastal Act and associated rules protecting bluffs. Figure 5-1 shows a photograph of the 1964 residence used by EIR to justify the EIR finding that Project is similar to existing neighborhood and therefore meets visual resource policies. It is not appropriate to compare the Project to it, because new residences must meet the current ordinances.

The Project is inconsistent with Policies 2 and 6, because it is not sited to protect views of the coast, ***and will in fact block views of the coast,*** and as such is radically out of character for the surrounding neighborhood.

Figure 5-1 1964 Residence

LCP Policy 5 and Policy 11.

The Planning Commission Approved Project would result in significant grading of the coastal bluff face including the removal of part of the historic rock face of the bluff that is proposed to be excavated in order to build the basement and protective subsurface walls which is inconsistent with Policy 5, Landform Alterations. Policy 5 states: "*Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. Where feasible, contours of the finished surface are to blend with adjacent natural terrain to achieve a consistent grade and natural appearance.*"

Policy 11, Development on Coastal Bluffs, requires that "*New development on bluff faces be limited to public access stairways and shoreline protection structures. Permitted development shall be sited and designed to be compatible with the natural features of the landform as much as feasible. New development on bluff tops shall be designed and sited to minimize visual intrusion on adjacent sandy beaches*".

The BAP is inconsistent with Policies 5 and 11 because it will destroy most of the bluff, it is on a bluff face, it is not sited to be compatible with the natural features of the bluff, and will be visually intrusive on the adjacent sandy beach.

The BAP, will destroy natural land forms and block coastal views, and is located on a bluff face, and it is therefore inconsistent with LCP Visual and Scenic Resource Policies 1, 2, 5, 6 and 11, as well as Coastal Act Section 30251.

Tab 6 Coastal Hazards Underestimated and Project Allowed in Hazardous Area

The Project is inconsistent with Coastal Act Section 30253(a) and (b), which states that new development shall: "*(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard*", and "*(b) 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*". Flaws in the coastal hazards analysis prepared by the County's EIR Consultants resulted in approval of a project that is inconsistent with the Coastal Act, the CZLUO and LCP.

The potential for future damage from wave run-up, coastal flooding and wave impact is substantial in light of accelerating sea level rise. Additionally, a basement wall, which will be close to the sandy beach, will act as a prohibited seawall, deflecting wave run-up towards the neighboring properties and adversely impact them.

a. Overtopping of Rock Outcropping

The County presented analysis regarding the impact of wave run-up and seawater overtopping the rock outcropping by nearly 1 foot. The analysis was updated by GeoSoils and reported in the GeoSoils 2014 Letter.

The HKA March 2014 Letter attached as part of Exhibit 9, finds that the results of the GeoSoils wave run-up and overtopping analyses underestimate the gross hazards at the site, particularly in the oceanfront portion of the property where bedrock is not present to higher elevations and erodible fill soils exists. The HKA Letter describes several flaws in the GeoSoils analysis, which are summarized below:

- Maximum breaking wave heights underestimated.
- Worst case profile was not utilized.
- Slope roughness overestimated.
- Wind velocities underestimated.

Reliance on the faulty GeoSoils analysis has, in part, led to approval of a project that is inconsistent with the LCP, CZLUO and the Coastal Act because of the failure to properly estimate the hazards.

See the HKA March 2014 Letter attached to Exhibit 9 for a detailed analysis of this issue.

The HKA Report and the HKA 2014 Letter clearly show that in the County's analysis the impact related to beach sand scour and coastal erosion were under estimated.

Attached as part of Exhibit 10 is a photograph prepared by Shoreline Engineering of the Project site showing the rock outcropping and the extent of past wave run-up. The picture also shows a person standing at a point near where a basement wall would have been located in the Planning Commission Approved Project. The picture clearly puts into context the close proximity between the northerly basement wall of the Planning Commission Approved Project and the beach, and shows that any basement in the BAP will be quite susceptible to the effects of wave run-up.

Testimony and visual presentations by the EIR Consultants at the April 10, 2014 Planning Commission hearing included discussion of how the worst case geologic conditions at the site were determined. At the June 3, 2014 Board of Supervisors hearing, HKA provided the following analysis regarding flaws in the EIR Consultants' analysis, in particular regarding what location on the site should have been used to determine the worst case scenario.

Cross-sections of the site show that much of the coastal rock face and a part of the historic coastal bluff has been covered with imported earth fill material. The analysis by Cotton Shires and Associates and GeoSoils Inc. did not utilize the worst case geologic conditions at the site. Both Cotton Shires Cross Sections 1-1' and 2-2' show beach sand under the proposed home in analyzing the potential for future coastal erosion and bluff recession. This beach sand deposit is likely connected to the exposed sand on the beach about 5 feet from the northwest corner of the home. The worst case geologic conditions at the site occur near the northwest corner of the proposed home, where it is located closest to the beach, and where the earth materials consist of fill and beach sand that that will continue to be exposed to marine erosion (coastal erosion) after the home is constructed. The F-EIR and the supporting documents from Cotton Shires and Associates and GeoSoils Inc. did not present a geologic cross section aligned through the worst case conditions which is a due west alignment through Boring HA-5 as located on F-EIR Figure 4.3-3, the Cotton Shires Engineering Geologic Map. As mapped by Cotton Shires, no bedrock is exposed in the coastal bluff face along this alignment. We disagree with Cotton Shires Geologist Michael Phipps statement to the Planning Commission that his Cross Section 1-1' represents worst case conditions. It is not the worst case condition for future coastal erosion, and is not the worst case condition for calculation of wave runup.

The Project is located on a cascading coastal bluff face and within a few feet of the sandy beach. At the northwest corner of the Planning Commission Approved Project basement, the basements walls are above grade, and contain doors and windows. Applicant concedes that ocean wave run-up will impact these exposed walls.

Clearly the County's analysis of the coastal hazards affecting the site resulted in approval of a project that is inconsistent with the CZLUO and the LCP.

b. Sea Level Rise

The effect of sea-level rise on the Project was not properly analyzed in the F-EIR or in the GeoSoils 2014 Letter. The HKA March 2014 Letter attached as part of Exhibit 9 finds that the GeoSoils 2014 Letter underestimates the gross hazards at the site. The HKA March 2014 Letter points out that wave action and water levels could in fact be much higher, due to the extremely conservative assumptions made in the GeoSoils 2014 Letter, some of which contradict the assumptions used in the F-EIR. One sample issue is that the sea-level rise was based on year 2100 estimates, but should have been extrapolated to the expected sea level rise in year 2114. Further, because the analysis didn't use the standards for sea-level rise set forth in the County's Energy Wise Plan, adopted as a part of the County's Conservation and Open Space Element of the General Plan, the analysis is inconsistent with the County's General Plan.

The sea-level rise analysis in the GeoSoils 2014 letter uses standards that are inconsistent with the standards used in the County's General Plan. This inconsistency ultimately leads to the Project being sited where it will require a shoreline protective device to avoid water damage to the house, because the sea-level rise is underestimated.

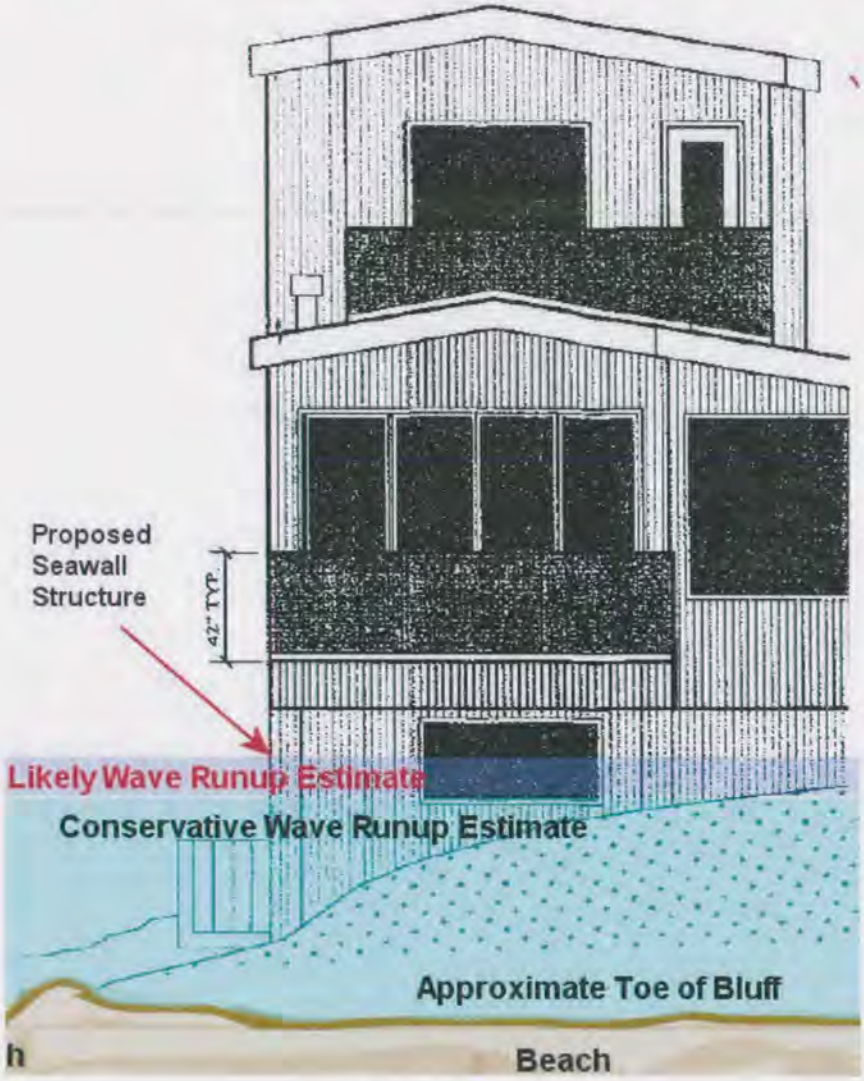
c. Wave Run-up

Note that even the Revised CEQA Findings (Board Hearing 12/9/14 Staff Report Attachment 2) states that based on the Supplemental Analysis water will over top the rock outcropping by one foot and hit the basement wall. The staff report concludes, however, that because the water will reach the house at a low velocity, it is not expected to structurally damage the house.

One foot of water will always cause damage to a house – but not to a seawall or shoreline protective device. Any basement wall constructed in such a manner that seawater won't cause damage is clearly a prohibited shoreline protective device. Figures 6-1 and 6-2 show the Planning Commission Approved Project with Wave Run-up Height graphics added, which illustrate just how high water will reach on the house. The light blue shows the conservative wave run-up height based on original EIR estimates, and the dark blue shows a more likely estimate for the wave run-up height.

Figure 6-1 Planning Commission Approved Project
Wave Run-up Height Northern Side

Figure 6-2 Planning Commission Approved Project
Wave Run-up Western Side



Tab 7 Creek Setback Not Applied

Projects located on the Old Creek Coastal Stream bluff must be set back a minimum of 50 feet in accordance with Estero Area Plan Cayucos section, Sensitive Resource Area, Table 7-2.

Table 7.2 states "*1. Setbacks – Coastal Streams. Development shall be setback from coastal streams as shown in Table 7-2. Riparian setbacks shall be measured from the upland edge of riparian vegetation or the top of stream bank where no riparian vegetation exists.*" Table 7-2 provides that the Old Creek coastal stream setback must be a minimum of 50 feet.

If the Project is determined to include a fluvial bluff, the coastal stream setback requirements must be applied to the Project.

Tab 8 Inconsistent with Policy 3 Stringline Method

The Planning Commission Approved Project was inconsistent with the County's Coastal Plan Policies regarding siting of new structures fronting a beach because it extended significantly (36 feet) beyond the adjacent existing residences. The BAP is still inconsistent with Policy 3, because it is not setback 25 feet from the top of the bluff, as are the neighboring houses.

County Coastal Plan Policies, Chapter 10, Visual and Scenic Resources, Policy 3, Stringline Method for Siting New Development states: "*In a developed area where new construction is generally infilling and is otherwise consistent with Local Coastal Plan policies, no part of a proposed new structure, including decks, shall be built farther onto a beachfront than a line drawn between the most seaward portions of the adjoining structures; except where the shoreline has substantial variations in landform between adjacent lots in which case the average setback of the adjoining lots shall be used.*"

Except for a few properties built prior to the enactment of the Coastal Act and creation of the California Coastal Commission, the average setback along Studio Drive is at least 25 feet. The BAP is inconsistent with Coastal Plan Policy 3 Stringline Method for Siting New Development, and therefore the Project should be revised appropriately or denied.

Tab 9 Cypress Tree Inadequately Protected

The Project is inconsistent with the Biological Resources Section of the County's Conservation and Open Space Element of the General Plan, Policy BR 3.1, Native Tree Protection, and Policy BR 3.2, Protection of Native Trees in New Development. Policy BR 3.1 requires that native and biologically valuable trees be protected to the maximum extent feasible. Policy BR 3.2 requires that *"proposed discretionary development and land divisions to avoid damages to native trees (e.g. Monterey pines, oaks) through setbacks or... other appropriate measures."*

The F-EIR identifies a significant mature cypress tree located in the County right-of-way very near the Project. The tree was evaluated in a report prepared by Chip Tamagni, Certified Arborist, A & T Arborists and Vegetation Management, Inc. and dated March 7, 2014, attached as part of Exhibit 9. In his professional opinion, it is "physically impossible" to save the tree given the design of the Planning Commission Approved Project, including impacts from the building foundations and utilities. According to the arborist, the tree, which has a trunk diameter of approximately 76 inches, has a shallow root system that extends into the area of the proposed construction site. The arborist's March 2014 report states: "In conclusion, we are quite certain the current design will negatively affect the Monterey cypress tree to the point of death. At a minimum, we feel the safe distance to remove the roots is located approximately 25 feet from the trunk of a tree this size to minimize long term impacts. We feel the EIR did not correctly identify mitigation measures to protect the tree. Although there is mention of an environmental monitor requirement in the EIR, there are no specific mitigations mentioned to protect the tree other than the misguided mention of tree fencing. The site, if developed according to plan will most likely be a death sentence for the cypress tree."

The BAP is inconsistent with the County's Biological Resources policies 3.1 and 3.2 as set forth in the Conservation and Open Space Element of the General Plan because the proposed mitigation measures are not sufficient to protect the cypress tree from destruction. To protect the tree and be consistent with County Biological Resource policies, a minimum construction clearance of at least 25 feet from the trunk of the cypress tree, which requires rerouting of the gas line, and redesign of the drainage system. The clearance area should be shown on all revised plans.

Additionally, Mr. Tamagni reviewed proposed Condition of Approval #33 that was revised in response to his March 7th letter, and found the mitigation measures lacking. By letter dated June 2, 2014, and attached as part of Exhibit 11, Mr. Tamagni recommended specific measures necessary to preserve the tree. Mr. Tamagni's recommendations should be incorporated into Condition of Approval #33.

The Board Approved Condition #33 is open ended, unrealistic, will likely be unsuccessful in protecting the tree, and ***did not include any specific measurable setback requirements*** through which it could be determined whether the tree would survive construction of the Project. Therefore, development of the Project would be inconsistent with the County's Biological Resources Policies 3.1 and 3.2.

Tab 10 Project Alternatives Inadequate

In its approval of the Project, the County did not analyze adequate alternatives that might be consistent with applicable bluff-top setback requirements. Title 14 of the California Code of Regulations, Section 15126.6 requires that an EIR provide a range of alternative designs to a proposed project in order to determine whether alternatives would further mitigate any environmental impacts. The alternatives included in the F-EIR were just slight alterations of the original design for the Project, and did not offer true alternatives for use in determining an environmentally superior alternative in light of the Project's location on a coastal bluff.

For example, an eco-friendly small-scale house could possibly be placed to allow for setbacks complying with coastal bluff requirements, the requirements of the BAP, and meet the standard to withstand 100 years of erosion. The reduced size and scale of such a project would provide a better transition with the open space nature of the adjacent Morro Strand State Beach. Such an option may be feasible. Yet, no such alternative was offered by the County.

The Project will impact the coastal beach, cause potential surface and subsurface drainage issues, impact scenic coastal views and is proposed to be built on a coastal bluff face. Based on the alternatives proposed in the F-EIR, the environmentally superior alternative should have been no project.

CEQA states there should be a reasonable range of alternatives based on project objectives. The alternatives proposed in the F-EIR are similar and do not provide sufficient variation. The F-EIR should not have been certified because it did not offer a reasonable range of alternatives, nor did it include an alternative that might comply with the setback requirements of the BAP.

STATE OF CALIFORNIA – THE RESOURCES AGENCY EDMUND G. BROWN JR., *Governor*

CALIFORNIA COASTAL COMMISSION

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: CA Coastal Commission; Commissioners Shallenberger and Howell

Mailing Address: 45 Fremont Street, Suite 200

City: San Francisco Zip Code: 94105 Phone: (415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of San Luis Obispo

2. Brief description of development being appealed:

Construction of a new single-family residence

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

West side of Studio Drive, just south of the intersection of Highway 1 and Studio Drive adjacent to the beach in the community of Cayucos (San Luis Obispo County) APN 064-253-007

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

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-15-0001

DATE FILED: 1/8/2015

DISTRICT: Central Coast

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

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

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

6. Date of local government's decision: 12/9/2014

7. Local government's file number (if any): DRC2005-00216

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:

Jack Loperena
2764 W. Athens Avenue
Fresno, CA 93711

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) San Luis Obispo Coastkeeper, attn: Gordon Hensley, 1030 Monterey St., Ste 202, San Luis Obispo, CA 93401

(2) Ethel Pludow and Cynthia Sugimoto, c/o Kevin Elder, Sinsheimer, Juhnke, McIvor & Stroh, P.O. Box 31, San Luis Obispo, CA 93406

(3) Andrew Christie, Director, Sierra Club, Santa Lucia Chapter, 974 Santa Rosa St., San Luis Obispo, CA 93401

(4) Ryan Hostetter, San Luis Obispo County Planning Department, 976 Osos St., Room 300, San Luis Obispo, CA 93408

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

See attached.

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.)

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: Mary K Shallenberg
Appellant or Agent

Date: 1/21/2015

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

Signed: _____

Date: _____

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: January 21, 2015

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

Section VI. Agent Authorization

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

_____
Signature of Appellant(s)

Date: _____

Reasons for Appeal: San Luis Obispo County Coastal Development Permit Application DRC2005-00216 (Loperena SFD)

On December 9, 2014 San Luis Obispo County approved a coastal development permit (CDP) for a single-family residence located seaward, and at the far northern edge, of Studio Drive, approximately 250 feet south of the intersection of Studio Drive and Highway 1 in Cayucos, along Morro Strand State Beach. The County-approved project raises San Luis Obispo County Local Coastal Program (LCP) conformance issues and questions as follows:

The County-approved project is located in an area along the shoreline that is subject to coastal hazards, including in terms of overall geologic instability (including due to wave run-up, unconsolidated soils, erosion, tsunamis, etc.). The LCP requires such development to be sited and designed to withstand bluff erosion and wave action for at least a period of 100 years (with a minimum required bluff setback of at least 25 feet); requires that new development ensure structural stability while not creating or contributing to erosion or geological instability; and prohibits shoreline protective devices as part of new development projects (including LCP Estero Area Plan (EAP) Areawide Standard I-4, Hazards Policies 1, 2, and 6, and LCP Coastal Zone Land Use Ordinance (CZLUO) Sections 23.04.118 and 23.07.086). The County appears to have approved a project that is located seaward of the coastal bluff edge with a concrete caisson and wall foundation system that appears to act as a shoreline protective device, all of which would be inconsistent with the LCP.

The County-approved project is also located in a significant public view area adjacent to Morro Strand State Beach and Highway 1, which is designated as a State Scenic Highway and a National Scenic Byway at this location. Per the LCP, new development at this location must be sited and designed to: protect public views; minimize visibility in public view corridors; minimize grading and earthmoving; minimize visual intrusion on adjacent sandy beaches; and prevent impacts that would significantly degrade the state beach area (including LCP Visual and Scenic Resources Policies 1, 2, 5, and 11, LCP Environmentally Sensitive Habitat Area Policy 29, and CZLUO Section 23.04.210). The project would block portions of the public view from Highway 1 toward the beach and ocean in one of the few areas along this stretch of coast where there is an unobstructed (by houses) view corridor, and otherwise introduce a substantial structure and massing that would adversely impact significant public views, which would appear to be inconsistent with LCP public view protection requirements.

In addition, the approved project is located within the LCP's Cayucos Community Small Scale Design Neighborhood (Studio Drive Neighborhood), where the LCP requires new development to be sited and designed to complement and be visually compatible with the existing characteristics of the community, and for the scale and architecture of new structures to add to the overall attractiveness of the community and be compatible with natural features (including LCP Visual and Scenic Resources Policy 6 and Estero Area Plan Section V: Cayucos Urban Area Standards, Residential Single-family Standard D). The County required a redesign of the residence, but the parameters of the redesign are not clear, and it is unclear whether the project can meet these LCP requirements in this case.

Finally, the approved project may be located on or adjacent to habitat for sensitive species that require protection under the LCP. The County's record indicates that the site includes an area that provides foraging habitat for a variety of birds, including western snowy plover, California black rail, California brown pelican and California least tern, and the County's conditions include a series of requirements related to sensitive species protection. The County's analysis, however, does not evaluate whether the presence of these species (or others that may be present associated with on-site trees that would be removed or impacted) means that the site includes or is adjacent to an ESHA per the LCP, which would

require further protection (including ESHA Policies 1, 2, 3, 29, and 30 and CZLUO Section 23.07.170). As such, the County-approved project may also raise LCP ESHA protection issues.

In short, it does not appear that the County-approved project is consistent with the LCP's coastal hazard, public view, and ESHA protection policies and related requirements, and the County-approved project warrants further Commission review and deliberations regarding these issues.