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Appeal Filed:	5/6/2015
49th Day:	Waived
Staff:	Yair Chaver - SC
Staff Report:	3/25/2016
Hearing Date:	4/13/2016

APPEAL STAFF REPORT SUBSTANTIAL ISSUE DETERMINATION

Appeal Number:	A-3-PSB-15-0030
Applicants:	Ernie & Pam Rozo
Appellants:	Tarren Collins; Laurie D. Cummings
Local Government:	City of Pismo Beach
Local Decision:	Coastal development permit (CDP) application number 14-000080 approved by the Pismo Beach Planning Commission on July 8, 2014, and upheld on appeal by the Pismo Beach City Council on April 21, 2015.
Location:	388 Windward Ave, Pismo Beach, San Luis Obispo County (APN 010-371-012)
Project Description:	Demolition of an existing single-family residence and construction of a new two-story single-family residence with an attached two-car garage and an attached secondary dwelling unit.
Staff Recommendation:	No Substantial Issue

Important Hearing Procedure Note: This is a substantial issue only hearing. Testimony will be taken only on the question of whether the appeal raises a substantial issue. (*See generally* 14 CCR § 13115.) Generally and at the discretion of the Chair, testimony is limited to three minutes

total per side. Please plan your testimony accordingly. Only the Applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify. (*Id.* § 13117.) Others may submit comments in writing. (*Id.*) If the Commission determines that the appeal does raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which the Commission will take public testimony. (*Id.* § 13115(b).)

SUMMARY OF STAFF RECOMMENDATION

The City of Pismo Beach approved a coastal development permit (CDP) authorizing demolition of an existing 1,319 square-foot single-story single-family residence and, in its place, construction of a 3,575 square-foot, two-story, single-family residence with an attached secondary dwelling unit and an attached garage. The project parcel is located in the residential Shell Beach neighborhood and is zoned Single Family Residential (R-1), surrounded by existing residences on three sides (the fourth side fronting Windward Avenue).

The Appellants contend that the City-approved project is inconsistent with City of Pismo Beach Local Coastal Program (LCP) policies regarding the establishment of a public path to address and abate existing access connectivity deficiencies in this portion of the Shell Beach neighborhood, the protection of neighborhood character, and access to a City sewer easement that traverses the property.

After reviewing the local record, Commission staff has concluded that the approved project does not raise a substantial issue with respect to the project's conformance with the City of Pismo Beach LCP. The local action is factually and legally supported by the record, and the project complies with applicable LCP requirements. The City-approved project authorizes a residential structure located on an appropriately zoned parcel surrounded by existing, similarly-situated residential homes.

With respect to public access, the project site is located in an area identified in the LCP as having lateral bluff top public access connectivity deficiencies. The City extensively considered where the proper public access connections in this area should be, including whether or not a public access easement should be required on the Applicant's property. Ultimately, the City concluded that an access easement on the Applicant's property was not necessary at this time because it would not connect with any existing access easements or pathways and therefore would not provide or improve public access in the area. The City concluded that an easement on the Applicant's property did not comport with the City's vision and goals for the provision of public access in this area, and thus its decision to not require a public access easement on the Applicant's property was not inconsistent with the LCP's access goals and requirements in the project area.

In regards to community character, the City-approved project meets all applicable LCP requirements related to siting and design of residential structures in this urbanized community, including with respect to height, setbacks, second story step-backs and articulation, and floor area ratio.

Finally, with respect to City utility easements, the project parcel includes a ten-foot wide sewer easement. While the LCP contains no policy to explicitly address building on existing City utility easements, the City appropriately conditioned the residence to avoid it being built directly over the easement in order to ensure that the City will be able to repair and maintain the sewer. Thus, the City-approved project will not adversely impact the City's ability to access the sewer easement.

In short, the City-approved project on appeal does not raise substantial LCP conformance issues. As a result, staff recommends that the Commission determine that the appeal contentions do not raise a substantial LCP conformance issue, and that the Commission decline to take jurisdiction over the CDP for this project. The single motion necessary to implement this recommendation is found on page 4 below.

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EXHIBITS

Exhibit 1 – Project Location Map
Exhibit 2 – Project Site Photos
Exhibit 3 – Approved Project Plans
Exhibit 4 – Final Local Action Notice (FLAN)
Exhibit 5 – Appeal Text
Exhibit 6 – Existing Pedestrian Path and Existing Easement
Exhibit 7 – Figure PR-2 and Table PR-4
Exhibit 8 – Project Design with Bridge

I. MOTION AND RESOLUTION

Staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of no substantial issue would mean that the Commission will not hear the application de novo and that the local action will become final and effective. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by affirmative vote of a majority of the Commissioners present.

Motion: *I move that the Commission determine that Appeal Number A-3-PSB-15-0030 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603. I recommend a yes vote.*

Resolution to Find No Substantial Issue. *The Commission finds that Appeal Number A-3-PSB-15-0030 does not present 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.*

II. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. PROJECT DESCRIPTION AND LOCATION

The City-approved project authorizes the demolition of an existing 1,319 square-foot single-family residence and subsequent construction of a 3,575 square-foot single-family residence, consisting of a 2,470 square-foot primary residence with an attached 495 square-foot garage and a 610 square-foot attached secondary dwelling unit, on a 5,236 square-foot lot at 338 Windward Avenue (APN 010-371-012) in the Shell Beach neighborhood of the City of Pismo Beach. Shell Beach is an urbanized residential neighborhood located upcoast from downtown Pismo Beach, set between Highway 101 and large coastal bluffs. The subject parcel is surrounded by existing residences and is the second parcel inland from the coastal bluff. The parcel is zoned Single Family Residential (R-1), and the surrounding neighborhood contains a mix of one-, two-, and three-story houses, of varying sizes and architectural styles.

See Exhibit 1 for the project location map, Exhibit 2 for project site photos, and Exhibit 3 for the approved project plans.

B. CITY OF PISMO BEACH CDP APPROVAL

The City of Pismo Beach Planning Commission approved CDP 14-00080 by a 4-0 vote on July 8, 2014. The Planning Commission-approved project was subsequently appealed to the City Council, and on April 21, 2015, the Pismo Beach City Council denied the appeals and approved the project by a 4-1 vote¹. The City's notice of final local action was received in the Coastal

¹ A "no" vote was cast by Council Member Blake.

Commission's Central Coast District office on May 6, 2015 (Exhibit 4). The Coastal Commission's ten-working day appeal period for this action began on May 7, 2015 and concluded at 5pm on May 20, 2015. Two valid appeals of the City's CDP decision were received during the appeal period (see below and see Exhibit 5).

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* Pub. Res. Code § 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. (*Id.* § 30603(a)(5).) This project is appealable because it is located between the first public road and the sea, and because it is located within 300 feet of the mean high tide line and the 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. (*Id.* § 30603(b).) Section 30625(b) of the Coastal Act requires the Commission to consider a CDP for an appealed project de novo unless a majority of the Commission finds that "no substantial issue" is raised by such allegations.² (*Id.* § 30625(b)(2).) Under Section 30604(b), if the Commission conducts the de novo portion of an appeals hearing 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 (in addition to a finding that the proposed development is in conformity with the Pismo Beach certified LCP) if the Commission were to approve the project following a de novo hearing.

² 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 (by finding no substantial issue), 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. (*See* Pub. Res. Code § 30801.)

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons opposed to the project who made their views known before the local government (or their representatives), and the local government. (14 CCR §13117.) Testimony from other persons regarding substantial issue must be submitted in writing. (*Id.*) Any person may testify during the de novo CDP determination stage of an appeal, if there is one.

D. SUMMARY OF APPEAL CONTENTIONS

The Appellants contend that the City-approved project is inconsistent with a number of Pismo Beach Local Coastal Program (LCP) policies, including those that protect public access, those that regulate development size to protect community character, and those that protect City public utility easements. Specifically, with respect to public access, the Appellants contend the approved project is inconsistent with LCP Policy LU-H-8 because the approved project does not include a public access easement through the Applicant's property to allow for a pedestrian connection between Boeker Street and Windward Avenue. With respect to development size, the Appellants contend that the size and scale of the approved project are inconsistent with LCP Policy LU-H-4(a), which encourages new development to reflect the small scale image of the Shell Beach neighborhood. Finally, with respect to utility easements, the Appellants contend the City-approved project is not consistent with an informal City policy that prohibits construction over City easements, in this case a sewer easement.

See Exhibit 5 for the full appeal text.

E. SUBSTANTIAL ISSUE DETERMINATION

1. Public Access

Applicable Pismo Beach Local Coastal Program Policies

The applicable Pismo Beach LCP policies regarding lateral pedestrian pathways in the Shell Beach Planning Area read:

LCP Policy LU-H-8 Lateral Access at Boeker Street. *The City should pursue opportunities to create lateral pedestrian pathways connecting Booker[sic] Street to Placentia Avenue or Ocean Boulevard to the north and to Windward Avenue or Ocean Boulevard to the south. This requirement shall be implemented as part of project approval, private gifts or dedications or possibility[sic] through public acquisition. (See Parks and Recreation Element, Policy PR-5, Path System.)*

LCP Policy PR-5 Multi-Use Path System (Trails). *A system of public paths as delineated on Figure PR-2 shall be developed to connect the various parks, scenic aspects and open space of the city. Ideally the paths should be located within designated greenbelt areas. However, in areas of the community that have already been developed, the system can include sidewalks and right-of-way shoulders of less traveled streets. The system should be delineated with signs, uniform landscaping, and pavement. Every attempt shall be made to interconnect city trails with those being developed by adjacent cities and the county.*

LCP Figure PR-2 and Table PR-4(11)(b): (see Exhibit 7)

The Shell Beach neighborhood is bounded on its ocean side by Ocean Boulevard, which provides nearly continuous lateral pedestrian and vehicular access along the ocean bluff all the way from Vista Del Mar Avenue upcoast to Dinosaur Caves Park downcoast. However, Ocean Boulevard does not connect between the two blocks between Placentia Avenue and Windward Avenue. This two block segment fragments Ocean Boulevard, and results in a gap in Shell Beach's lateral bluff top public access (see Exhibit 6). To remedy this public access gap, LCP Policy LU-H-8 encourages the City to create a lateral pedestrian pathway between Placentia Avenue and Windward Avenue, including through publicly acquiring and building such a pathway, accepting private gifts or dedications, or through requiring a public access easement on private property as part of project approval. The policy does not state a timeframe for achieving the completion of the pathway, a preference for one method over others in its implementation, or a specific preferred alignment. Similarly, LUP Figure PR-2 and Table PR-4(11)(b) (Exhibit 7) show the need for access improvements in this area, envisioning a connection between Placentia Avenue and Windward Avenue to provide public access and fill in the access gap.

Consistent with these policies, the city, as a condition of approval for a CDP for the construction of a residence at 374 Boeker Street,³ required a public access easement/pedestrian path connecting Boeker Street with Ocean Boulevard, which has since been built (Exhibit 6), thereby solving half of this area's lateral access deficiencies. Furthermore, the City required, via condition of another CDP,⁴ an access easement at the property at 367 Boeker Street, which abuts the Applicant's western property line. However, this easement terminates at the property line and does not extend all the way to Windward Avenue. Thus, a full connection between Boeker Street and Windward Avenue is still lacking. Because of this, pedestrians need to walk one quarter-mile along Boeker Street to Shell Beach Road, and then continue one quarter-mile along Windward Avenue in order to reach Ocean Boulevard to continue along the bluff. A pedestrian path from Boeker Street to Windward Avenue passing through the Project site would shorten this half-mile (one way) journey to approximately 130 feet (Exhibit 6).

Appellants' Contentions

The Appellants contend that the City-approved project does not conform with LCP Policy LU-H-8 because the approved project does not require an easement through the property to connect Windward Avenue with Boeker Street. The Appellants go on to state that the redevelopment of 388 Windward presents an exceptional opportunity to enrich the community by "adhering to the General Plan mandate to obtain an access easement to complete a pedestrian path connecting the south end of Shell Beach with Ocean Boulevard"⁵ and that to allow the project without requiring a path as mandated by the General Plan/Land Use Plan would deprive the public of an opportunity to connect a missing coastal access link.

³ City of Pismo Beach CDP 01-0251, approved by the City in 2002, with the Commission finding No Substantial Issue in CDP Appeal No. A-3-PSB-02-076 in November 2002.

⁴ City of Pismo Beach CDP P12-000055, approved by the City in November 2012.

⁵ Pismo Beach has a joint General Plan/Land Use Plan.

Analysis

As described above, Policy LU-H-8 does not **require** the City to condition specific development projects to create this public access path, and it allows the City discretion as to when and where to create these connections. As discussed above, in implementing Policy LU-H-8, the City conditioned a public access easement at 367 Boeker Street to help fill in the remaining access gap on the block between Boeker Street and Windward Avenue. The City's vision is for this access easement to connect with a future easement at the property at 398 Windward Avenue, which is adjacent to, and seaward of, the Applicant's property at 388 Windward Avenue. Thus, the City would require an access easement on the property at 398 Windward Avenue when this property redevelops in the future. Securing an easement in this manner would create a linear public access pathway crossing both 367 Boeker Street and 398 Windward Avenue, and would connect Boeker Street with Windward Avenue, thereby achieving the goal outlined in Policy LU-H-8.

In its review of the Applicant's CDP application at 388 Windward Avenue, the City extensively considered where the proper public access connections in this area should be, including whether or not the City should require a public access easement on the Applicant's property. Ultimately, the City concluded that an access easement on the Applicant's property was unneeded because any easement segment would not actually provide ready public access without securing future access easement connections on neighboring property. The City found that the existing easement at 367 Boeker Street is offset by roughly 20 to 25 feet from the Applicant's western property line, and abuts the rear of the property at 398 Windward Avenue instead. Due to this 20 to 25-foot offset, any easement along the western property line at 388 Windward Avenue would not actually connect with the existing easement at 367 Boeker Street and would not create a public access path as envisioned in Policy LU-H-8 (Exhibit 6). Thus, a better approach to ensure continuous lateral access is provided in this area, and to meet the LCP's access objectives, would be to require an easement on the adjacent property at 398 Windward Avenue, thereby creating a linear access connection that would provide superior access utility, and would be easier to monitor and maintain. Because of all of these factors, the City concluded that an access easement was not necessary on the Applicant's property, that its decision to not require an easement was not inconsistent with the LCP, and that the best way to meet the LCP's access goals and policies is to pursue a public access easement on the property at 398 Windward Avenue when that property redevelops in the future.

In conclusion, the City extensively studied the access issues and preferred alignments of pathways and trails in the project area, and concluded that an easement on the Applicant's property did not comport with the City's vision and goals for the provision of public access in this area. Thus, the City's action does not raise a substantial issue with respect to the recommendation in LCP Policy LU-H-8 to create lateral pedestrian pathways connecting Boeker Street to Windward Avenue.

2. Community Character

Applicable LCP Policies and Standards

LCP Policy D-2 Building and Site Design Criteria. (a) Small Scale. New development should be designed to reflect the small-scale image of the city rather than create large monolithic buildings. Apartment, condominium and hotel buildings should preferably be contained in several smaller massed buildings rather than one large building. Building mass and building surfaces such as roofs and exterior walls shall be highly articulated to maintain a rich visual texture and an intimate building scale. Maximum height, setback, and site coverage standards to achieve the desired small-scale character will be regulated by City ordinance. Except where specified otherwise by this Plan or further limited by the implementing ordinance, the maximum height standard for new buildings shall not be more than 25 feet above existing natural grade in Neighborhood Planning Areas A through J, and Q; and not more than 35 feet above existing natural grade in the remaining portions of the Coastal Zone.

LCP Policy LU-H-1 Concept. Shell Beach Road is bordered by a narrow commercial strip backed by a narrow band of High Density Residential. Behind the High Density residential area to the Ocean, a medium density land use accommodates single family homes in the area. The focus of this area is a more traditional beach community with small single-family lots, street activity, and views of the ocean to the west, and the foothills to the east. The emphasis is on assuring that new and expanded homes are compatible with the scale, bulk, and character of existing neighborhood.

LCP Policy LU-H-4 Residential Guidelines. (a) Scale of structures. New development should be designed to reflect the small scale image of Shell Beach rather than large monolithic buildings. Buildings should be designed with vertical, horizontal and roof articulation of building faces. Where two-story buildings are proposed, the second story should normally be stepped back.

IP Policy 17.102.010(A). Building heights, Residential.

Except as provided in Chapter 17.081 or unless a variance has been granted pursuant to Chapter 17.121, no structures in the... R-1... zones shall exceed twenty-five feet in height as measured above the center of the building footprint at site grade, nor shall the vertical measurement of any portion of the structure exceed thirty-five feet in height above site grade....

IP Policy 17.102.020(4)(a). Minimum front yard requirements. Residential.

The minimum front yard setback required may be the lesser of the following situations: The average front yard setback of the nearest improved lots on each side of the subject property on the same side of the street, but in no case less than ten (10) feet, nor required to be more than twenty (20) feet.

IP Policy 17.102.030(A) Minimum side yard setback requirements. Residential.

In the ... R-1... zones ... interior lots shall have a side yard setback of not less than ten percent of the lot width, but in no case shall the setback be less than four feet nor required to be more than five feet.

IP Policy 17.102.040(A) Minimum rear yard setback requirements. Residential.

In the ... R-1... zones each corner and interior lot shall have a rear yard setback of not less than ten percent of the average lot depth, but in no case shall the setback be less than five feet nor be required to be more than ten feet.

IP Policy 17.102.060(B) Minimum lot size and/or area requirements for new lots.

R-1 ... Zones ... The minimum lot size for all lots created after the date of adoption of this ordinance shall be five thousand sq. ft.

IP Policy 17.102.080(B) Maximum allowable lot coverage for all structures. R-1 Zone.

Total maximum lot coverage for subdivided parcels: Fifty-five percent.

IP Policy 17.102.090(B) Maximum allowable total building floor area for all structures as a percentage of lot area. R-1 Zone

Eighty-six percent of the first two thousand seven hundred square feet of lot area plus sixty percent of any lot area in excess of two thousand seven hundred square feet.

IP Policy 17.105.135(A) Development and design standards applicable to single-family dwellings in certain zones.

The following additional development and design standards shall be applicable to the development, enlargement or alteration of single-family dwellings in the R-1... Zones ...: To avoid "boxy" structures that have unrelieved exterior wall planes extending in height for two or more stories and to promote vertical articulation of wall planes, the amount of gross floor area on any second floor shall not exceed eighty percent of the amount of gross floor area on the ground floor. Any "stepbacks" of the second-floor living area from the building footprint on the ground level shall be required to be provided at least in part on the street-side of the house unless infeasible.

....

Pismo Beach LCP Policies D-2, LU-H-1, and LU-H-4 are designed to maintain the nature and character of Pismo Beach as a small coastal town by avoiding very large buildings and excessive massing. The policies propose to achieve this through the use of articulated roofs and exterior walls, second stories that step back from the first story, and specific height and setback regulations. Specifically, regarding the residential area of Shell Beach, the intent of Policy LU-H-1 is to retain the traditional beach-town community feel of small single-family lots with views to the ocean to the west and the foothills to the east by making homes compatible with the character of the surrounding development. These policies are implemented by Implementation Plan (IP) Chapters 17.102 and 17.105, which describe detailed structural height, setback, and bulk requirements.

Appellant's Contentions

The Appellants contend that the approved project does not meet the LCP's neighborhood compatibility requirements, stating that the scale of the approved residence is too large, and inconsistent with LCP Policy LU-H-4.

Analysis

The City-approved project meets all applicable LCP policies and standards with respect to height, setback, and bulk, and is consistent with existing, similarly-situated residences in the surrounding area. First, with regard to IP Section 17.102.010(A), which limits structure height in the R-1 zoning district to 25 feet, the project's approved height is 24 feet-7 inches. In terms of lot size, IP Section 17.102.060(2) states that the minimum lot size must be 5,000 square feet. The existing lot is 5,236 square feet. With regard to IP Section 17.102.80(B), the maximum lot coverage allowable is 55%. The project's total lot coverage is 2,683 square feet, which is 51%. In regards to IP Section 17.105.135(A), to avoid a "boxy" look by way of step-backs, the second floor to lower floor ratio must be 80%. The approved project has a gross upper floor area of 1,590 square feet and a gross lower floor area of 1,985. The ratio is 80%, consistent with IP Section 17.105.135(A). In regards to setbacks, the approved project's front yard setback is 12.25 feet, its side yard setbacks are 5 feet, and the rear yard setback is 8.5 feet, all of which are consistent with IP standards. Therefore, the City-approved project meets all of the LCP's detailed site development standards.

Policy LU-H-1 requires new homes to be compatible with the scale, bulk, and character of the existing neighborhood. The houses within approximately 200 feet of the project site include ten single-story residences and eighteen two-story residences. The square footage of residences within the neighborhood varies greatly, mainly because lot size also varies greatly. The floor area ratio of the approved project is 68%, while the LCP allows a maximum floor area of 73%⁶. The floor area ratio of the last seven redevelopment projects on Windward Avenue ranged from 54% to 78%, with an average floor area ratio of 68%. Thus, in terms of number of stories (two) and floor area ratio, the approved project is compatible with the scale and bulk of the surrounding neighborhood.

In regards to design and massing, the design of the house includes articulated roofs and articulated exterior walls, stepping back of the second floor to break up the wall lines, and other design elements. These architectural and design elements will limit the project's mass and create a design that is compatible with the character of the neighborhood, consistent with LCP policies D-2, LU-H-1 and LU-H-4.

In short, the project represents construction of a residential structure in an existing, urbanized residential neighborhood, and meets all applicable LCP policies and standards with respect to siting and design. Thus, the City's approval does not raise a substantial LCP compliance issue with respect to neighborhood compatibility and community character.

3. Sewer Easement

Applicable LCP Policies and Standards

(None applicable.)

Appellant's Contentions

The Appellants contend that the City-approved project is inconsistent with City policy prohibiting construction over City easements, in this case a sewer easement.

⁶ As per IP Section 17.102.090(B).

Analysis

The existing residence at 388 Windward Avenue is built directly on top of a sewer easement and does not currently provide any type of access to the sewer line within the property boundaries (Exhibit 8). The City-approved project includes the demolition of the existing single-family dwelling and construction of a new single-family dwelling with an attached garage, which as designed, incorporates a second-floor “bridge” above the sewer easement, and thus does not build directly on the sewer easement. (Exhibit 8)

The City of Pismo Beach LCP does not have a policy that prohibits constructing buildings over utility easements. The policy cited by the Appellants prohibiting construction over City easements in new development is an informal policy of the City’s Department of Public Works. As such, there is no LCP requirement to avoid building over the sewer easement on the subject lot. Thus, building over the easement is not inconsistent with the LCP.

In any event, as approved, the project design includes a “bridge” that is eight feet above the easement, which is sufficient clearance for repair equipment and crews to access the City sewer line in case of needed repairs or maintenance. In addition, the project was approved with conditions (Utility Conditions 21(a)-(i) – see Exhibit 4) that protect the sewer line and allow the City to access the sewer line in the case of needed repairs. Condition 21(d) states that the first floor of the structure “may not be built over the existing ten-foot-wide sewer easement. The second floor may span over the easement.” The approved project’s Utility conditions act to fully protect the sewer easement, and require the Applicants to keep the easement accessible to the City of Pismo Beach should the sewer line need repairs. The City Engineer stated that, as designed, the project provides sufficient access for the City to work on the existing sewer line if repairs are needed in the future.

As a result of these conditions and the approved project’s design, the project does not raise a substantial issue in regard to building over the utility easement because the project provides sufficient space for the City to access the sewer line and is conditioned to ensure that the existing sewer line is not compromised by the project.

Thus, the City-approved project does not raise a substantial issue with respect to utility easements.

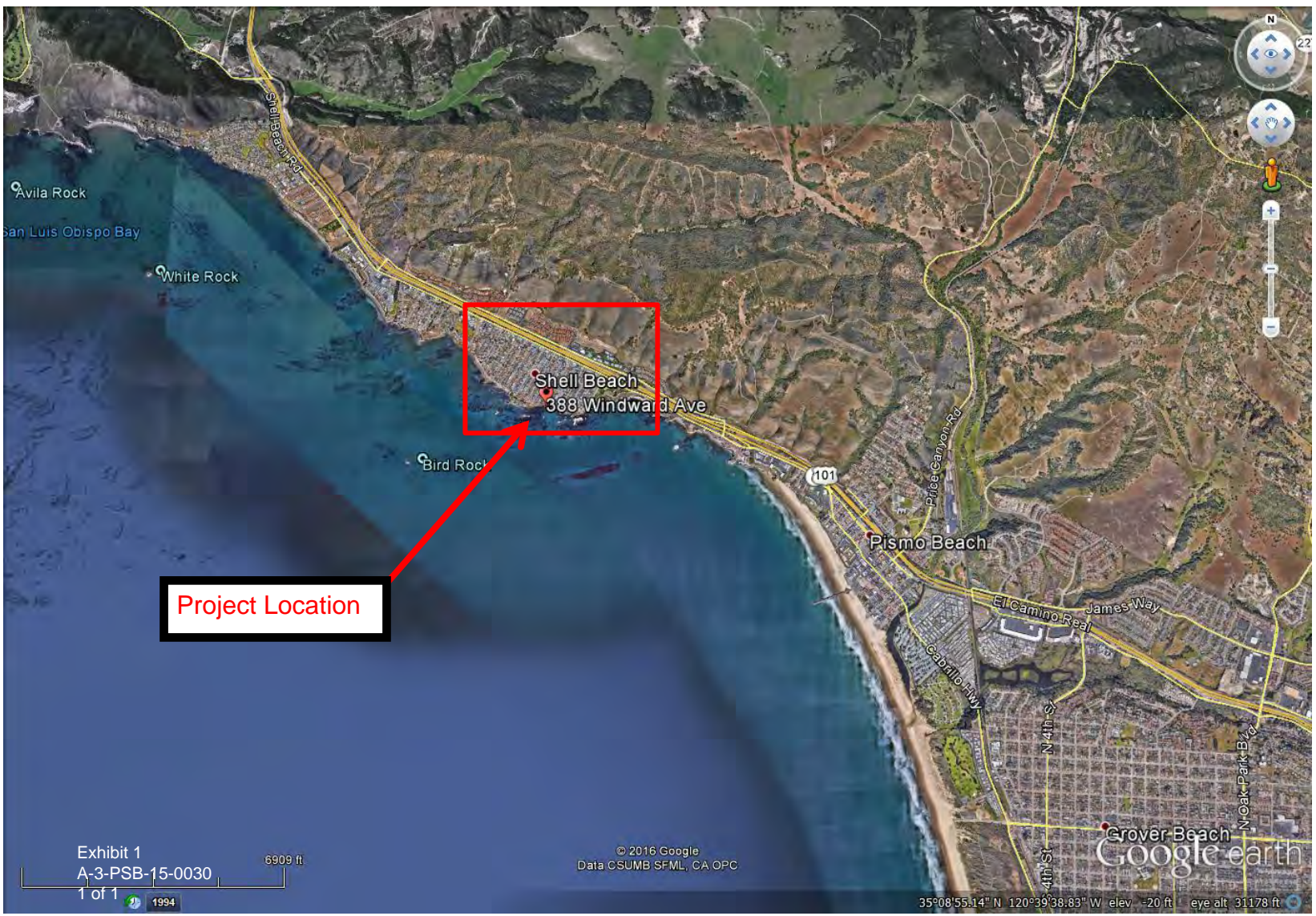
F. CONCLUSION

When considering a project that has been appealed to it, 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. At this stage, the Commission has the discretion to find that the project does not raise a substantial issue of LCP conformance. As explained above, the Commission is guided in its decision of whether the issues raised in a given appeal 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 County; the significance of the coastal resources affected by the decision; the precedential value of the County’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 not raise a substantial issue of LCP conformance. First, the City's conclusion that, as conditioned, the approved residence would not have significant adverse impacts to public access, community character, or to the City's sewer easement, is well supported by the record (as discussed extensively by staff in Section II.E of this staff report), weighing against finding a substantial issue. Second, the approved project is consistent with the purpose of the LCP's single-family residential zoning district and complies with the LCP's development standards, including with respect to building size and architectural attributes. Thus, the extent and scope of this project weigh in favor of a finding of no substantial issue. Third, the project is located within an existing residential community which is already substantially developed, and no significant coastal resources are expected to be adversely affected by this approval, so this factor also weighs against finding a substantial issue. The proposed project is consistent with all relevant LCP policies, so this project should not create an adverse precedent with respect to LCP interpretation, and thus this factor weighs against finding a substantial issue. Finally, the decisions made here are site- and LCP-specific and therefore do not raise issues of regional or statewide significance, also weighing against a finding that a substantial issue exists.

Therefore, all five factors weigh against a finding that the City's approval raises a substantial issue with respect to the LCP. Given that the record supports the City's action and the City's analysis did not result in the approval of a project with significant coastal resource impacts, and given that the approved project complies with applicable LCP provisions and raises no statewide issues, the Commission finds the appeal does not raise a substantial issue of conformance with the LCP and thus the Commission declines to take jurisdiction over the CDP for this project.

For the reasons stated above, the Commission finds that Appeal Number A-3-PSB-15-0030 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act and finds the project is consistent with the certified LCP and the public access policies of the Coastal Act.



Project Location

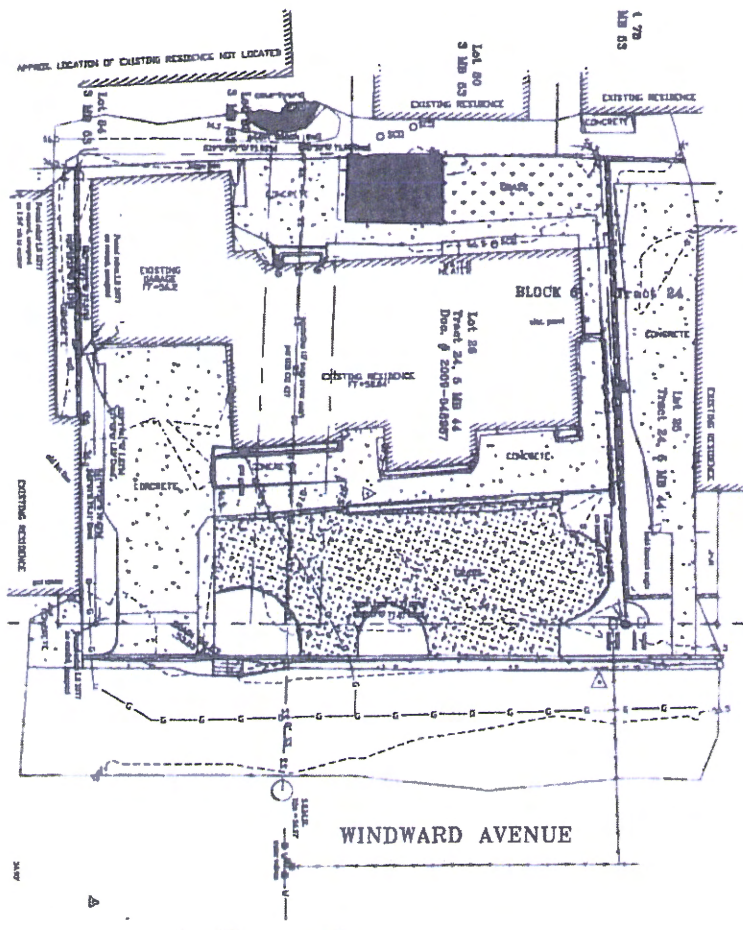


388 Windward Ave

Exhibit 2
A-3-PSB-15-0030
1 of 1



EXISTING SITE PLAN



City of Pismo Beach
Approved by City Council
Date: 4.21.2015

✓ as submitted
✗ with changes
Planner: John for Biggs



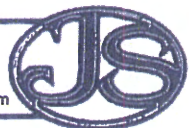
INDEX TO DRAWINGS
A-1 SITE PLAN
A-2 EXISTING RESIDENCE
A-3 EXISTING RESIDENCE
A-4 EXISTING RESIDENCE
A-5 EXISTING RESIDENCE
A-6 EXISTING RESIDENCE
A-7 EXISTING RESIDENCE
A-8 EXISTING RESIDENCE
A-9 EXISTING RESIDENCE
A-10 EXISTING RESIDENCE

Attachment 9

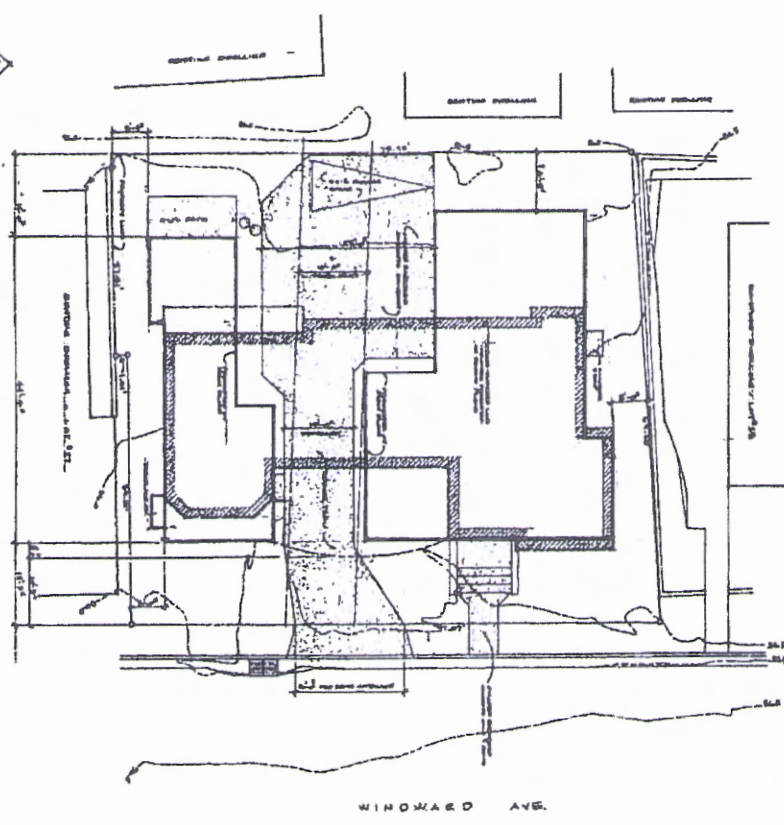
DATE / COMMENTS	SHEET
A-1	

A NEW CUSTOM RESIDENCE FOR:
ERNIE & PAMELA ROZO
388 WINDWARD AVE. PISMO BEACH, CA 93419

JERRY SHAW
Residential Design
(805) 481-0308
www.jerryshawdesign.com

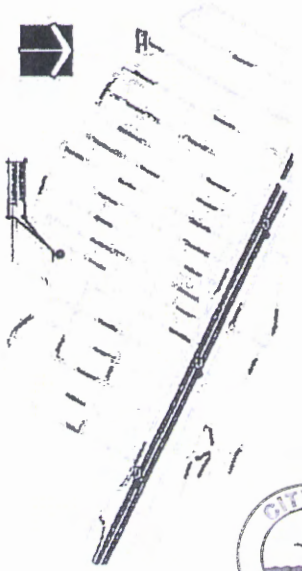


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City of Pismo Beach
 Approved by City Council
 Date: 4-21-2007
 with changes
 Planner: *[Signature]*

For Biggs



PROJECT TEAM

OWNER	ERNEST & PAMELA ROZO
DESIGNER	JERRY SHAW RESIDENTIAL DESIGN
DATE	4-21-2007

PROJECT DESCRIPTION

CONCEPT: PROPOSED TWO STORY RESIDENCE WITH ADJACENT POOL

SETBACKS

FRONT	10' 0" (MIN.)
REAR	10' 0" (MIN.)
SIDE	5' 0" (MIN.)

FLOOR AREAS

1ST FLOOR	1,200 SQ. FT.
2ND FLOOR	1,200 SQ. FT.
TOTAL	2,400 SQ. FT.

COVERAGE

LANDSCAPE	10% (MIN.)
PAVING	5% (MIN.)
TOTAL	15% (MIN.)

FLOOR AREA RATIO

MAXIMUM FLOOR AREA	2,400 SQ. FT.
MAXIMUM FLOOR AREA PER ACRE	1.0

SCULPTURE & HANDSCAPE

ARTIST: JERRY SHAW

UTILITIES

WATER: CITY OF PISMO BEACH

SEWER: CITY OF PISMO BEACH

TELEPHONE: CITY OF PISMO BEACH

MAXIMUM BUILDING HEIGHT

MAXIMUM BUILDING HEIGHT: 10' 0" (MIN.)

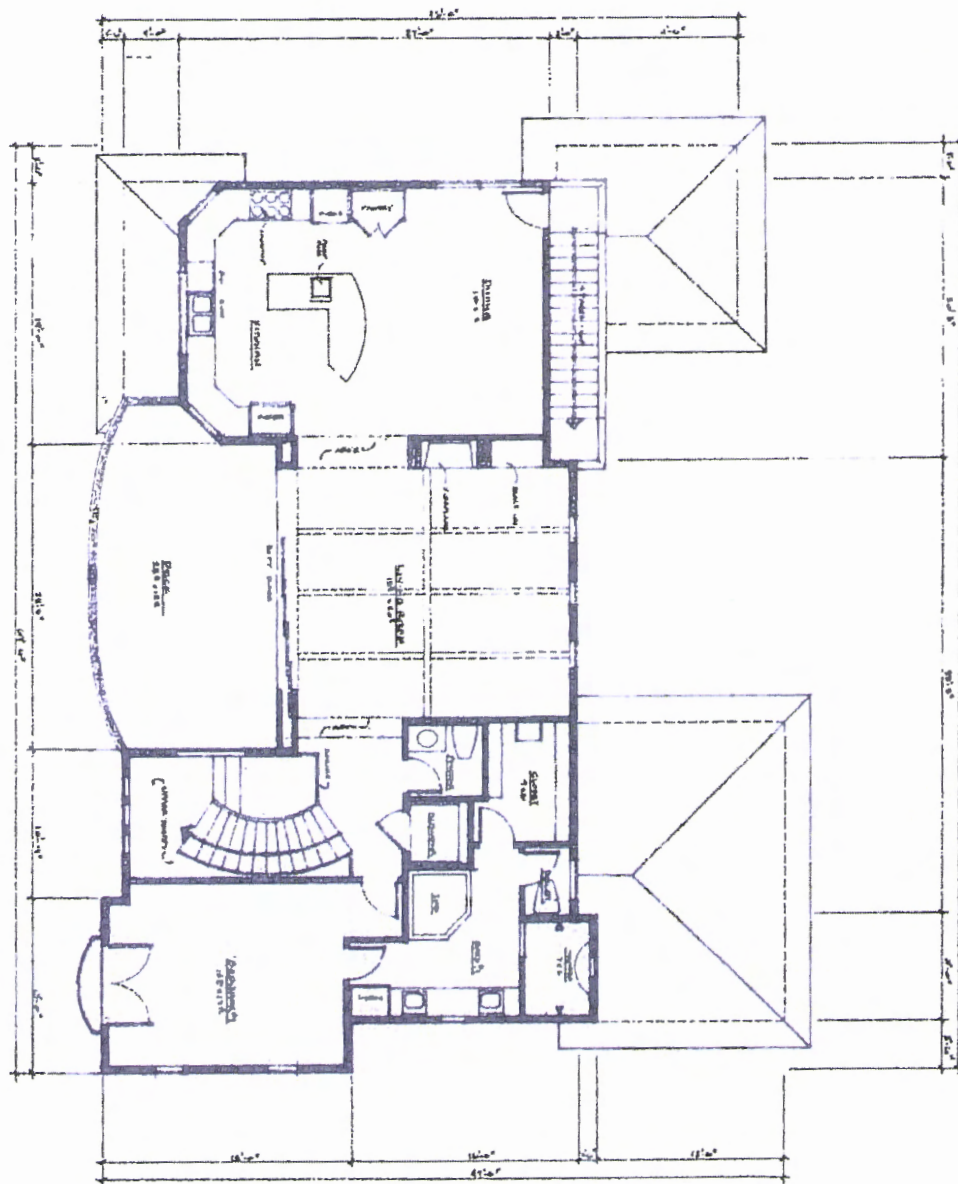


City of Pismo Beach
 Approved by City Council
 Date: _____
 as submitted
 with changes
 Planner: _____

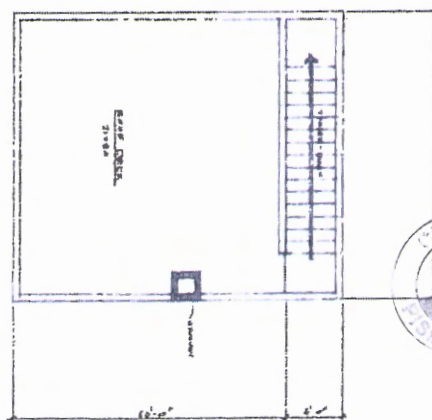
SHEET A-2	DATE / COMMENTS	A NEW CUSTOM RESIDENCE FOR: ERNEST & PAMELA ROZO 388 WINDWARD AVE. PISMO BEACH, CA 93449	JERRY SHAW Residential Design (805) 481-0308 www.jerryshawdesign.com	

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UPPER LEVEL FLOOR PLAN



ROOF DECK FLOOR PLAN



City of Pismo Beach
Approved by City Council
Date: 4-21-2015

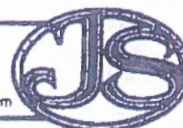
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with changes

Planner: *agaw for*
Jon Biggs

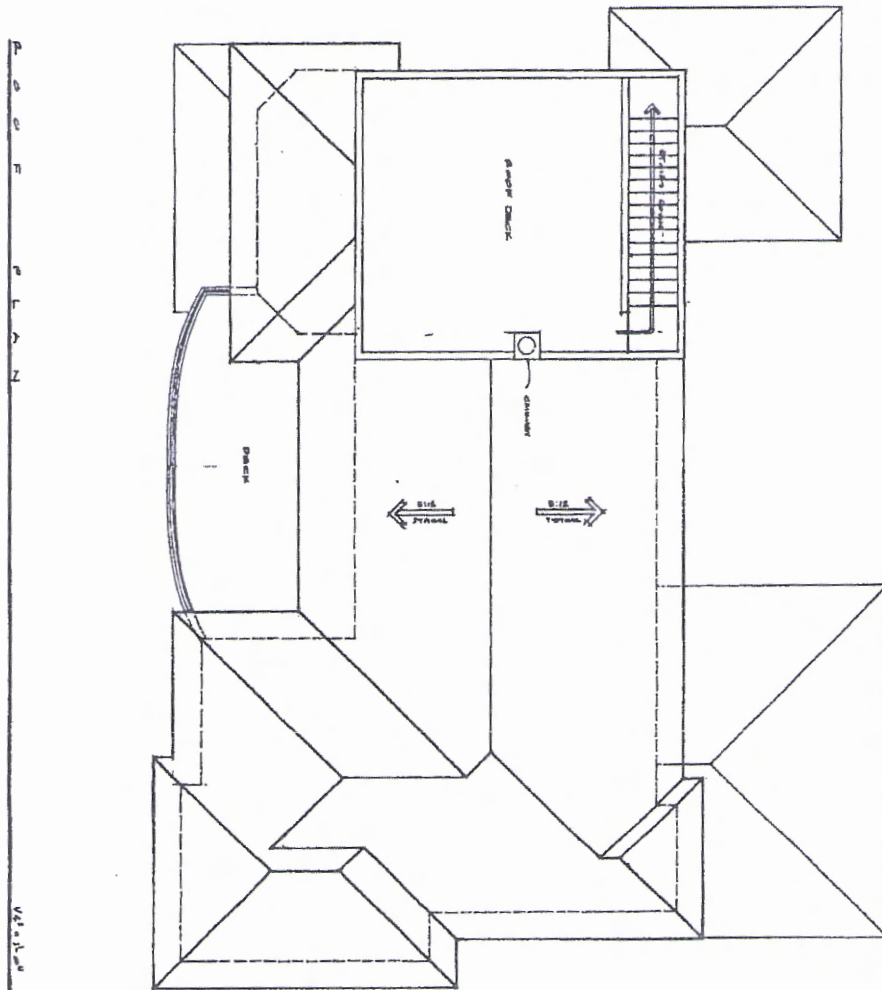
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A-4

A NEW CUSTOM RESIDENCE FOR:
ERNIE & PAMELA ROZO
322 WINDWARD AVE. PISMO BEACH, CA 93448

JERRY SHAW
Residential Design
(805) 481-0308
www.jerryshawdesign.com



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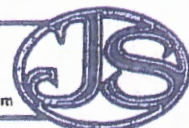
City of Pismo Beach
 Approved by City Council
 Date: 4-21-2015
 ✓ as submitted
 with changes

Planner: Cym for
Jon Biggs

A-5	DATE / COMMENTS
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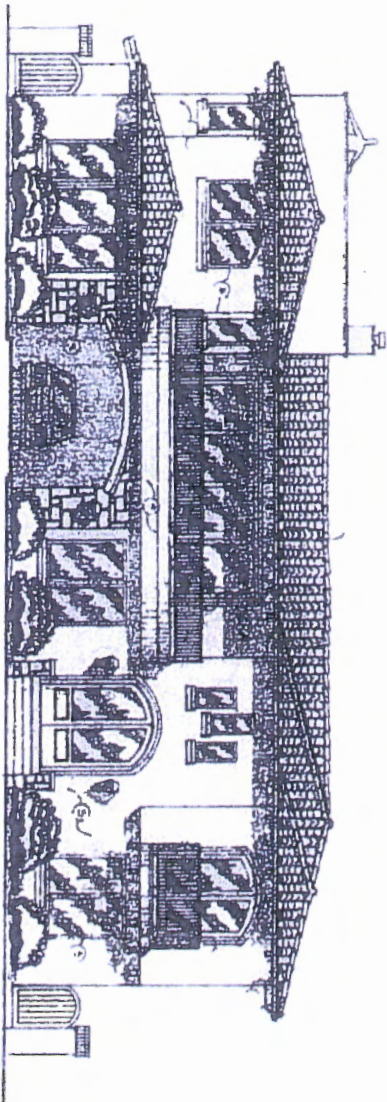
A NEW CUSTOM RESIDENCE FOR:
ERNIE & PAMELA ROZO
 388 WINDWARD AVE. PISMO BEACH, CA. 93449

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 Residential Design
 (805) 481-0308
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FRONT ELEVATION



EXTENSION FINISH KEYNOTES
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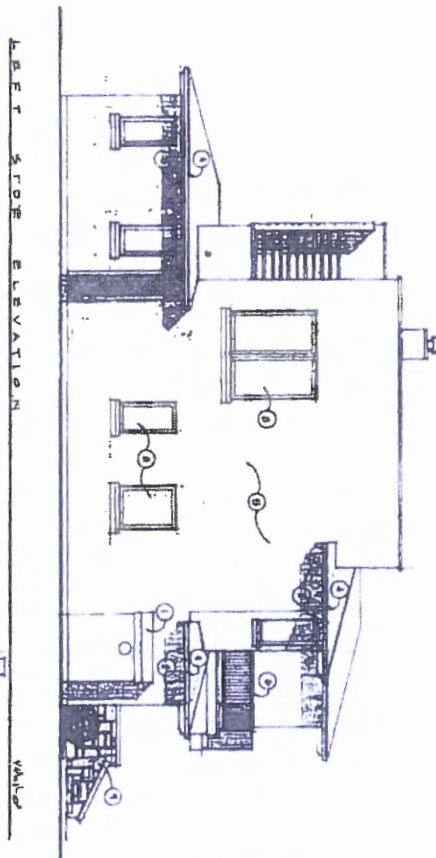
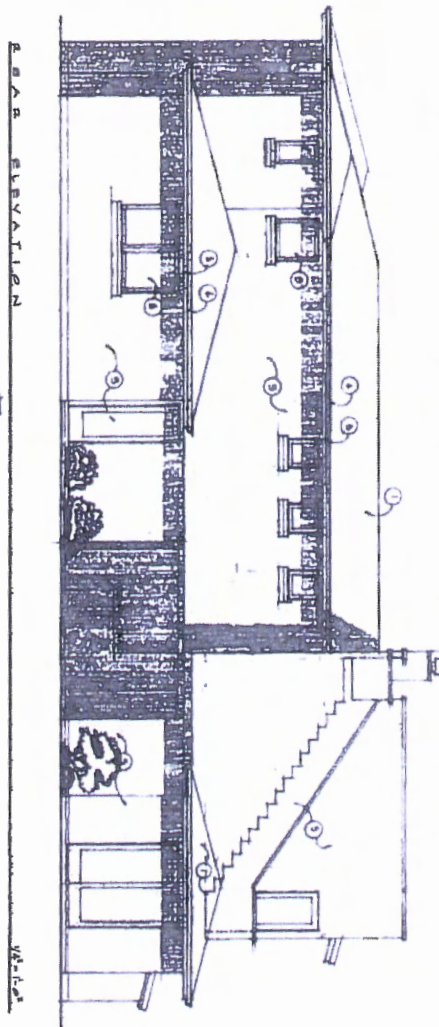
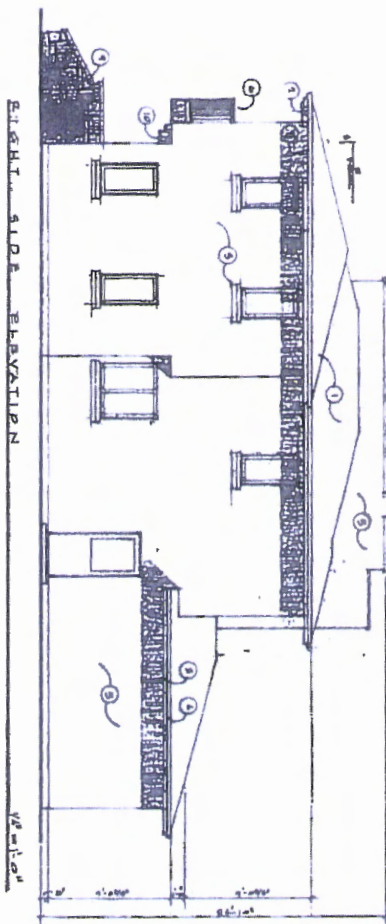
City of Pismo Beach
 Approved by City Council
 Date: 4-21-2015

✓ as submitted
 with changes

For Jon Biggs

A-6	DATE / COMMENTS	A NEW CUSTOM RESIDENCE FOR: ERNJE & PAMELA ROZO 388 WINDOWARD AVE. PISMO BEACH, CA 93649	JERRY SHAW Residential Design (805) 481-0308 www.jerryshawdesign.com	
	SHEET			

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- EXTERIOR FINISH KEYNOTES**
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City of Pismo Beach
Approved by City Council

Date: 4-21-2015

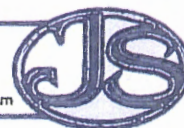
☒ as submitted
with changes

Planner: Jon Biggs

DATE / COMMENTS
A-7

A NEW CUSTOM RESIDENCE FOR:
ERNIE & PAMELA ROZO
322 WINDWARD AVE. PISMO BEACH, CA 93449


JERRY SHAW
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(805) 481-0308
www.jerryshawdesign.com



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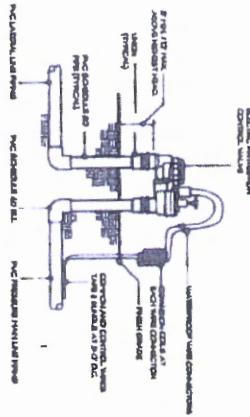


Jon
Biggs

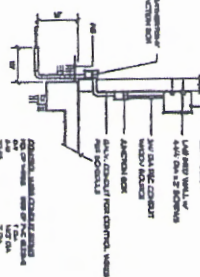


PLANTING & IRRIGATION NOTES

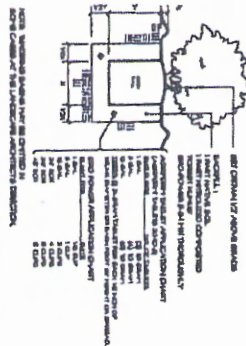
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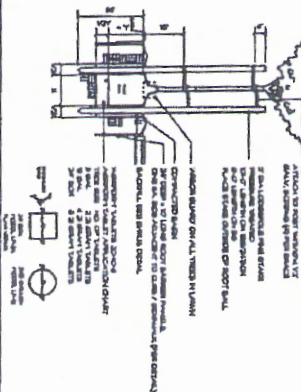
CONTROLLER



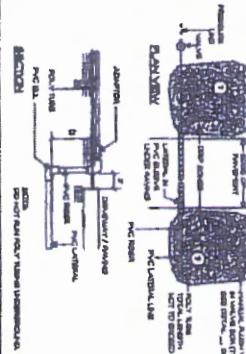
TREE, SHRUB & GROUND COVER PLANTING



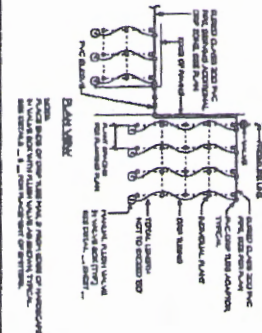
TREE PLANTING



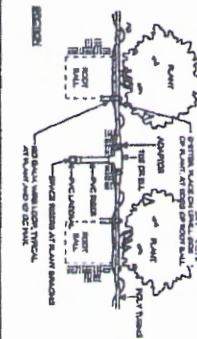
DRIP ZONE SCHEMATIC



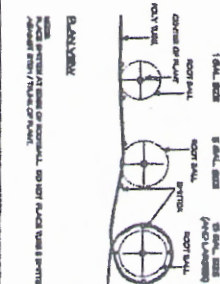
DRIP TUBING LAYOUT SCHEMATIC



DRIP ZONES & TUBING SCHEMATIC



DRIP EMITTER PLACEMENT



City of Pismo Beach
Approved by City Council
Date: 4-21-2015
as submitted
with changes
Planner: [Signature]
FOR [Signature]

DATE / COMMENTS
A-9

A NEW CUSTOM RESIDENCE FOR:
ERNIE & PAMELA ROZO
3333 WINDWARD AVE. PISMO BEACH, CA 93449

JERRY SHAW
Residential Design
(805) 481-0308
www.jerryshawdesign.com



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

April 29, 2015

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

ATTN: Daniel Robinson

RECEIVED

MAY - 6 2015

CALIFORNIA
COASTAL COMMISSION

**FINAL LOCAL
ACTION NOTICE**

REFERENCE #

3-PSB-15-0302

APPEAL PERIOD

5/7/15 - 5/20/15

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

Applicant Info:

Name: Ernie & Pam Rozo
Address: 823 Tanis Place, Nipomo, CA 93444
Project No: **Project No. P14-000080**
Site Address: 388 Windward Avenue, Pismo Beach
APN # 010-371-12

Project Summary: Coastal Development Permit for the demolition of an existing residence and construction of a new, two-story single-family residence with an attached secondary dwelling unit at 388 Windward Avenue. The project is located in the Single-Family Residential (R-1) Zone District of the Shell Beach Planning Area. The project is located in the Coastal Appeal Zone and is appealable to the California Coastal Commission.

Date of Action: 4/21/2015
Action: Approved
Attachments: City Council Resolution
Record of Minute Order
Public Hearing Notice
Staff Report
Approved Plans
Appeal Status: Appealable to the Coastal Commission

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

RESOLUTION NO. R-2015-029

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PISMO BEACH
UPHOLDING THE JULY 8, 2014, PLANNING COMMISSION APPROVAL OF A
COASTAL DEVELOPMENT PERMIT FOR DEMOLITION OF AN EXISTING
RESIDENCE AND CONSTRUCTION OF A NEW RESIDENCE (INCLUDING A
SECONDARY DWELLING UNIT AND GARAGE) AT 388 WINDWARD AVENUE.
PROJECT P14-000080**

WHEREAS, Ernie & Pam Rozo, Applicants, submitted an application to the City of Pismo Beach for a Coastal Development Permit at 388 Windward Avenue for demolition of an existing residence and construction of a two-story single-family dwelling with an attached two-car garage and secondary dwelling unit; and

WHEREAS, on July 8, 2014, the Pismo Beach Planning Commission held a duly noticed public hearing at which all interested persons were given the opportunity to be heard; and

WHEREAS, the Planning Commission reviewed and approved the subject project at its July 8, 2014 meeting; and

WHEREAS, four appeals were subsequently filed by Wayne and Julie Maire (July 18, 2014); David and Mary Stornetta, Albert and Gila Pomerantz (July 21, 2014); and Robert Warner (July 22, 2014); and

WHEREAS, on September 2, 2014, the City Council held a duly noticed public hearing to review the four appeals, at which all interested persons were given the opportunity to be heard; and

WHEREAS, on September 2, 2014, the City Council voted to table action on the item to allow a redesign to 1. prevent single-story portions of the house from being constructed over the existing sewer easement and 2. achieve a reduction in the size of the house; and

WHEREAS, the property owners submitted revised plans for the project; and

WHEREAS, on April 21, 2015, the City Council held a duly noticed public hearing to review the four appeals and revised project, and at which all interested persons were given the opportunity to be heard.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pismo Beach hereby upholds the July 8, 2014, Planning Commission decision and approves the Coastal Development Permit and Architectural Application at 388 Windward for demolition of an existing residence and construction of a new two-story single-family dwelling with an attached two-car garage and secondary dwelling unit, subject to the

conditions contained in **Attachment 'A'** of this resolution and makes the following findings:

A. FINDINGS REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

1. The project consists of the demolition of an existing residence and construction of a new two-story single-family dwelling with an attached two-car garage and secondary dwelling unit.
2. There are no site constraints or other factors that would create the potential for significant environmental impacts as a result of the construction of a two-story single-family dwelling with an attached two-car garage and secondary dwelling unit.
3. The demolition of the existing residence and subsequent construction of a new two-story single-family dwelling with an attached two-car garage and secondary dwelling unit at this location is exempt from further environmental review in accordance with section 15303 of the CEQA Guidelines, exempting construction of on single-family dwellings within a single-family zone district where all infrastructure is present.

B. FINDINGS FOR APPROVAL OF THE COASTAL DEVELOPMENT PERMIT AND ARCHITECTURAL REVIEW PERMIT:

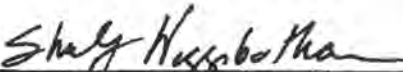
1. The project improvements comply with the public access and public recreation policies of Chapter 3 (commencing with Section 30220) of the California Coastal Act of 1976.
2. The construction of a two-story single-family dwelling with an attached two-car garage and secondary dwelling unit is appropriate in size so as to be compatible with the adjacent structures.
3. The architectural and general appearance of the two-story single-family dwelling with an attached two-car garage and secondary dwelling unit is in keeping with the character of the neighborhood.
4. The proposed structure is compatible with the visual quality and character of the surrounding area and is compatible with the immediate neighborhood.
5. The construction of a two-story single-family dwelling with an attached two-car garage and secondary dwelling unit is consistent with the General Plan, Local Coastal Plan and General Plan Land Use Plan category of Single-Family Low Density Residential.

6. The construction of a two-story single-family dwelling with an attached two-car garage and secondary dwelling unit is compatible with the nearby existing uses and will not be detrimental to the health, safety, morals, comfort and general welfare of persons residing or working in the surrounding area of the proposed project.
7. The construction of a two-story single-family dwelling with an attached two-car garage and secondary dwelling unit will not be detrimental to the orderly development of improvements in the surrounding area, and will not be detrimental to the orderly and harmonious development of the City.
8. The construction of a two-story single-family dwelling with an attached two-car garage and secondary dwelling unit will not impair the desirability of investment or occupation in the neighborhood.

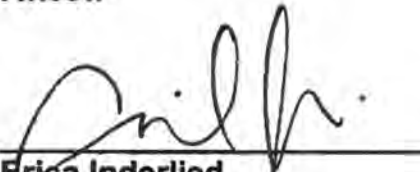
UPON MOTION OF Mayor Pro Tem Waage, seconded by Mayor Higginbotham, the foregoing resolution was adopted by the City Council of the City of Pismo Beach this 21st day of April 2015, by the following vote:

AYES:	5	Council Members Blake, Howell, Reiss, Waage, Higginbotham
NOES:	0	
ABSENT:	0	
ABSTAIN:	0	
RECUSED:	0	

Approved:


Shelly Higginbotham
Mayor

Attest:


Erica Inderlied
Interim City Clerk

ATTACHMENT 'A' TO CITY COUNCIL RESOLUTION No. R-2015-029

**PERMIT NO. P14-000080, CDP / ARP
CITY COUNCIL MEETING OF APRIL 21, 2015
388 Windward, APN: 010-371-012**

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

AUTHORIZATION: Subject to the conditions stated below, approval of Permit P14-000080 grants planning permits for the demolition of an existing residence and construction of a two-story single-family dwelling with an attached two-car garage and secondary dwelling unit. Approval is granted only for the construction and use as herein stated; any proposed changes shall require approval of amendments to these permits by the City of Pismo Beach.

Standard conditions, policies and selected code requirements applicable to new single-family residences, as adopted by the City Council are by this reference included as conditions of this permit. Such standard conditions will be attached to this permit when signed by the applicant. Special project conditions are listed on **Exhibit A** of this permit. The applicant agrees to comply with all City standard conditions and conditions specific to the project.

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

EXPIRATION DATE: The applicant is granted two years for inauguration (i.e. building permits issued and construction begun) of this permit. The permits will expire on April 21, 2017 unless inaugurated prior to that date. Time extensions are permitted pursuant to Zoning Code Section 17.121.160 (2).

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

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

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

Approved by the City Council on April 21, 2015.

Applicant

Date

Property Owner

Date

EXHIBIT 'A'

CONDITIONS, POLICIES AND SELECTED CODE REQUIREMENTS FOR PROJECT No. P14-000080 388 Windward Avenue, APN: 010-371-012

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

A. PRIOR TO ISSUANCE OF A BUILDING PERMIT:

BUILDING DIVISION:

1. Building permit plans shall be submitted by a California licensed architect or engineer when required by the Business & Professions Code, except when otherwise approved by the Chief Building Official.
2. The owner shall designate on the building permit application a registered design professional who shall act as the Registered Design Professional in Responsible Charge. The Registered Design Professional in Responsible Charge shall be responsible for reviewing and coordinating submittal documents prepared by others including phased and staggered submittal items, for compatibility with design of the building.
3. The owner shall comply with the City's Structural Observation Program. The owner shall employ the engineer or architect responsible for the structural design, or another engineer or architect designated by the engineer of record or architect responsible for the structural design, to perform structural observation as defined in Section 220. Observed deficiencies shall be reported in writing to the owner's representative, special inspector, contractor and the building official. The structural observer shall submit to the building official a written statement that the site visits have been made and identify any reported deficiencies that, to the best of the structural observer's knowledge, have not been resolved.
4. The owner shall comply with the City's Special Inspection Program. Special inspections will be required by Section 1704 of the California Building Code. All Special Inspectors shall first be approved by the Building Official to work in the jurisdiction. All field reports shall be provided to the City Building Inspector when requested at specified increments in order for the construction to proceed. All final reports from Special Inspectors shall be provided to the Building Official when they are complete and prior to final inspection.
5. Mitigation measures for natural occurring asbestos require approval from San Luis Obispo County Air Pollution Control District.

6. Projects shall comply with current City and State water conservation regulations.
7. Deferred submittals are not allowed, i.e. fire sprinkler plans and calculations, spiral staircases, and truss calculations.
8. A soils investigation performed by a qualified professional shall be required for this project. All cut and fill slopes shall be provided with subsurface drainage as necessary for stability; details shall be provided.
9. Site retaining walls require a separate building permit. Please provide a separate soils report and engineering calculations for the site walls at the time of permit application.
10. Fire sprinklers shall be required by City Codes.

PLANNING DIVISION

1. **COMPLIANCE WITH PLANNING COMMISSION APPROVAL.** Prior to the issuance of a building permit, the Project Planner shall confirm that the construction plot plan and building elevations are in compliance with the Planning Commission's approval and these conditions. Project shall comply with these standards:

Item	Approved
Lot area	5,236 sq. ft.
Maximum building height	24' - 7" or 81.50" elevation
Maximum building area ratio	3,575 sq. ft.
Lot Coverage	2,683 sq. ft.
Minimum front yard setback	12.25' to house 10.25' to edge of cantilevered deck
Minimum side yard setback	R = 5' L = 5'
Minimum rear yard setback	8' - 5"
Minimum parking spaces	2 within garage and 1 uncovered space for secondary dwelling unit
Minimum parking space size	2 – within a 21' x 22' clear area

2. **ARCHAEOLOGICAL MONITORING.** The applicant shall provide signed copies, to the Planning Division, of the contracts for both an archaeological and Native American monitor.

3. **LANDSCAPING, IRRIGATION.** The applicant shall provide landscaping and irrigation plans encompassing the entire site. The plans shall be submitted by the project applicant to the City for review and approval by the project planner. Detailed calculations shall be provided on the face of the plan indicating the provision of a minimum of 20% landscape area with no greater than 10% provided as lawn.

The landscape plan shall be designed in a manner consistent with Chapter 15.48 of the Municipal and include the following provisions:

- a. *Use of low-water-using irrigation systems. Drip irrigation shall be used where feasible.*
 - b. *Landscape Design Plan (including plant list)*
 - c. *Irrigation Design Plan*
 - d. *Separate calculation for landscaping and hardscape shall be provided.*
 - e. *Landscape plans shall not include any trees exceeding a mature height exceeding the roof line of the residence. All trees shall be maintained at a height not to exceed the height of the residence.*
4. Applicant shall comply with all municipal code requirements governing secondary dwelling units and shall record a deed restriction that outlines the rules governing secondary dwelling units.

ENGINEERING

- 1. Engineering standard conditions (notes): Shall be placed on the plans at time of submittal. A copy may be obtained through the Engineering Department.
- 2. Project improvements shall be designed and constructed in accordance with City standards and specifications and in accordance with all applicable City Ordinances. The decision of the City Engineer shall be final regarding the specific standards that shall apply.
- 3. Appropriate City standards shall be referred to on the plans and shall be included on a detail sheet within the plan set.
- 4. The applicant will be responsible for obtaining an encroachment permit for all work within a public right of way (City).
- 5. The City Engineering Division shall approve any landscaping or irrigation within a public right of way or otherwise to be maintained by the City.

6. The applicant shall provide a current title report to the Engineering Division.
7. Driveways and driveway approaches shall be located and constructed per City of Pismo Beach standards. Profiles shall be provided for all interior driveways.
8. If the existing City street adjacent to the frontage of the project is inadequate for the traffic generated by the project, or will be severely damaged by construction, the applicant shall excavate the entire section and replace it with a standard half-width street.

Grading and Drainage Plans

9. The following conditions shall be met during construction:
 - a. Owner and/or owner's contractor are to take precaution against damaging road surfaces. Note: The existing street sections adjacent the property may be substandard and may be subject to damage by heavy loading/equipment during construction. The owner is responsible for protection against and/or repair of, at owner's expense, any/all damage incurred during and/or due to construction.
 - b. Encroachment Permits are required prior to any/all work in the public right of way. City Streets are to remain open to through traffic at all times. A traffic control plan shall be submitted to the Engineering Division for approval prior to detours or rerouting of traffic. Excavation within the streets shall be covered or backfilled and paved prior to the end of work each day. No temporary or long term parking, storage, or disposal of construction equipment or materials within the right-of-way shall occur without prior issuance of an encroachment permit.
 - c. Erosion and Drainage control features are to be available to be placed in the event of rain or other erosive action to prevent any sediment or refuse from leaving the site. Erosion control devices shall be installed and in place following daily construction activities. The applicant shall notify the Engineering Division of any changes in construction which will require additional erosion control measures.
10. A Preliminary Soils and/or Geology Report providing technical specifications for grading of the site shall be prepared by a Geotechnical Engineer.
11. All grading and drainage improvements shall be designed and constructed in accordance with the City Grading Ordinance and subject to approval by the City Engineer.
12. The project shall conform to the City's Storm Water Discharge Ordinance.

13. In order for the proposed development to maintain conformance with the City's Regional Stormwater Permit, implementation of Low Impact Development (LID) source control, site design, and stormwater treatment onsite or at a joint stormwater treatment facility shall be required. The stormwater design shall be submitted for review and approval by the City Engineer and shall provide mitigation for post development runoff versus pre-development runoff.
14. Calculations and/or a drainage report must be submitted with the plans.
15. The applicant shall submit a composite utility plan.
16. Landscape and irrigation plans for the public right-of-way, if applicable, shall be incorporated into the improvement plans and shall require approval by the Streets Division Supervisor and the Community Development Department.
17. No Building Permits will be issued without prior approval of the Engineering Division and an approved erosion and sediment control plan and construction schedule. Erosion control measures shall be in place and approved by the Engineering Division prior to the start of construction.
18. An Erosion and Drainage Control Plan shall be submitted in accordance with the City Grading Ordinance. The plan shall reflect "Best Management Practices" as proposed in the California Regional Water Quality Control Board Erosion and Sediment Control Field Manual, and shall include both temporary measures (to be used during construction, and until permanent measures are completed/established) and permanent measures. Plan shall include both source control and perimeter containment measures. All Drainage and Erosion Control Measures shall be designed and/or sized by a qualified professional.

Utilities

19. The applicant shall install all utilities.
20. All utilities shall be extended to the boundaries of the project.
21. Sewer System Requirements:
 - a. Construction of permanent structures over a City sewer line and easement is against current City policy. Specifically, to allow the demolition of an existing home that has been built over the existing City sewer main and easement and construction of a new home over the sewer main and easement. This is not a preferable or even generally acceptable condition. However, due to the current site situation and per the request of the applicant, staff will allow such construction for your proposed project if the following conditions are met:

- b. The existing cast iron sewer pipe shall be protected in place.
 - c. All footings of the proposed residence that are adjacent to and parallel with the sewer line shall be designed to remain outside the existing 10' wide sewer easement and to extend below the depth of the existing sewer line using a concrete caisson and grade beam type system or other method as designed and approved by the applicants Geotechnical and Structural Engineer. The design shall be submitted for review and approval by the City Engineer and shall show that the zone of influence from the proposed structures falls completely below the sewer pipe.
 - d. The first floor of the structure may not be built over the existing 10' wide sewer easement. The second floor may span over the easement.
 - e. If the site is over excavated a depth of 1/3 or greater than the total depth of the sewer line, the sewer line shall be replaced to the satisfaction of the City Engineer. For example, if the sewer line is 9 feet deep, an over excavation of three or more feet shall require the replacement of the sewer line.
 - f. A video inspection of the existing sewer shall be required after the concrete forms have been put in place, prior to the placing of the concrete foundation. If at that time the sewer line shows signs of failure the applicant shall replace the sewer line, to the satisfaction of the City Engineer.
 - g. Prior to a final on the Building Permit for the proposed residence and after construction, the existing sewer shall be video inspected again to verify condition. If at that time the sewer line shows signs of failure the applicant shall replace the sewer line, to the satisfaction of the City Engineer.
 - h. An Encroachment Agreement for building over the sewer line and easement must be applied for through the Engineering Division. The Agreement must be reached with City Council, signed and recorded prior to issuance of Building Permit. Applicant shall understand that receiving the subject discretionary permits does not in any way guarantee that an agreement can, or will, be reached with the City Council for the encroachment into the existing sewer easement.
 - i. As an alternate to the conditions described above, the proposed residence may be designed to current City policy and commonly accepted engineering principles and remain completely outside of the existing 10' wide sewer easement.
22. Water System Requirements: Applicant is required to show the existing location of the Water Main in the street and location of the existing water lateral, if

existing, on the plans. The size of the proposed lateral and proposed water meter shall be shown on the plans. If existing lateral is inadequate for the proposed water meter, then applicant is responsible for all costs, materials and labor for the installation of a new water lateral. Show size and type of all water lines.

23. All existing overhead wire service utilities to the residence shall be relocated underground.

Public Improvement Plans

24. Public improvement plans shall be prepared by a registered Civil Engineer and approved by the Public Works Department, Engineering Division.
25. The applicant shall submit three sets of public improvement plans to the Engineering Division on the City of Pismo Beach title block as a separate submittal.
26. Upon approval of the improvement plans, the applicant shall provide a reproducible mylar set and 3 sets of prints of the improvements for inspection purposes.
27. The applicant shall provide an engineer's estimate for all work on public improvement plan.
28. Prior to any plan check, the applicant shall enter into an Engineering Plan Check and Inspection Services Agreement with the City based on 5% of the engineer's estimate for all work on public improvement plan.
29. Building plans will not be approved by the Engineering Department until Public Improvement Plans are approved; i.e. approved mylars signed by the City Engineer.
30. Prior to the final inspections and acceptance of the public improvements the applicant shall provide to the City Engineer record drawings, signed by the engineer of record:
 - a. 1 set of reproducible mylars
 - b. 3 sets of prints of the approved record drawings (as-builts)
31. An electronic AutoCAD drawing file registered to the City's benchmark system shall be provided.
32. The applicant shall pay any current and outstanding fees for Engineering Plan Checking and Construction Inspection services.

B. CONDITIONS TO BE MET DURING CONSTRUCTION:

BUILDING DIVISION:

1. **SITE MAINTENANCE.** During construction, the site shall be maintained so as to not infringe on neighboring property, such as debris and dust.
2. **ARCHAEOLOGICAL MATERIALS.** In the event unforeseen archaeological resources are unearthed during any construction activities, all grading and or excavation shall cease in the immediate area and the find left untouched. The Building Official shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, Native American, or paleontologist, whichever is appropriate. The qualified professional shall evaluate the find and make reservations related to the preservation or disposition of artifacts in accordance with applicable laws and ordinances. If discovered archaeological resources are found to include human remains, or in any other case when human remains are discovered during construction, the Building Official shall notify the county coroner. If human remains are found to be of ancient age and of archaeological and spiritual significance, the Building Official shall notify the Native American Heritage Commission. The developer shall be liable for costs associated with the professional investigation.
3. Certification of compliance with the soils report shall be submitted to the Building Division prior to foundation approvals. A final report certifying compliance with the soils report or grading plans shall be submitted to the Building Division prior to final approvals.
4. A licensed surveyor or engineer shall verify pad elevations, setbacks, prior to foundation inspection, and roof elevations, prior to roof sheeting inspection, when determined necessary by the Planning Department.

C. CONDITIONS TO BE MET PRIOR TO FINAL INSPECTION AND ISSUANCE OF CERTIFICATE OF OCCUPANCY:

BUILDING DIVISION:

1. Prior to building division final approval all required inspections from the other various divisions must have been completed and verified by a city inspector. All required final inspection approvals must be obtained from the various departments and documented on the permit card.

D. CONDITIONS SUBJECT TO ONGOING COMPLIANCE:

1. **ROOF-MOUNTED EQUIPMENT.** All roof-mounted air conditioning or heating equipment, vents or ducts shall be screened from view in a manner approved by the Project Planner.

2. **COMPLIANCE WITH APPLICABLE LAWS.** All applicable requirements of any law or agency of the State, City of Pismo Beach and any other governmental entity at the time of construction shall be met. The duty of inquiry as to such requirements shall be upon the applicant.



From the Office of the City Clerk

Erica Inderlied, Interim City Clerk

760 Mattie Road

Pismo Beach, CA 93449

(805) 773-7003

PISMO BEACH CITY COUNCIL—RECORD OF MINUTE ORDER

Date of Meeting: Tuesday, April 21, 2015 (Regular)

Council Members Present: Blake, Higginbotham, Howell, Reiss, Waage

Council Members Absent: None

Subject:

Continued Consideration of an Appeal of a Planning Commission Approval of a Coastal Development Permit for the Demolition of an Existing Residence and Construction of a New Two-Story Single-Family Residence with an attached Secondary Dwelling Unit at 388 Woodward Avenue, Ernie & Pam Roza, Applicant; Appellants, Wayne & Julie Maire, Albert & Gila Pomerantz, David & Mary Stornetta, and Robert Warner.

Staff Recommendation:

That Council refer the project back to the Planning Commission with direction to address the second-story roof and deck.

Public Comment:

The following spoke in support of upholding Planning Commission approval: Tony Ferrara, applicant representative; Cathy Dahl-Kunkel, resident; Dennis Kunkel, resident; Eric Schaefer, resident; Jean Power, resident; Mike McCarthy, resident; Don Day, resident.

The following spoke in opposition to upholding Planning Commission approval: Wayne Maire, appellant; Mary Stornetta, appellant; Joe Boysen, resident; Tarren Collins, resident; Susan Testa, resident.

The following made other comment: Eric Miller, resident; Paul Shiro, resident.

(continued)

Action:

Motion by Mayor Pro Tem Waage, seconded by Mayor Higginbotham, to adopt Resolution R-2015-029 upholding the Planning Commission's approval of a Coastal Development Permit and Architectural Application for the demolition of an existing residence and construction of a new residence at 388 Windward Avenue, Project P14-000080.

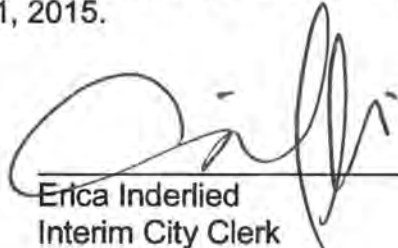
AYES: Councilmembers Waage, Higginbotham, Howell, Reiss
NOES: Councilmember Blake
ABSENT: None
ABSTAIN: None
RECUSED: None

Motion passed 4:1 by roll call vote.

CERTIFICATION

I, Erica Inderlied, Interim City Clerk for the City of Pismo Beach, California, do hereby certify that the foregoing is the true and exact motion made by the Pismo Beach City Council and passed at their regular meeting of April 21, 2015.

Dated: April 29, 2015


Erica Inderlied
Interim City Clerk
City of Pismo Beach



**CITY OF PISMO BEACH
PUBLIC HEARING NOTICE**

NOTICE IS HEREBY GIVEN that on **Tuesday, April 21, 2015**, at 6:30 p.m. or soon thereafter, the City Council of the City of Pismo Beach will hold a Public Hearing at **760 Mattie Road, Pismo Beach, California**, in the **City Hall Council Chamber** for the following purpose:

CONTINUED CONSIDERATION OF AN APPEAL OF A PLANNING COMMISSION APPROVAL OF A COASTAL DEVELOPMENT PERMIT FOR THE DEMOLITION OF AN EXISTING RESIDENCE AND CONSTRUCTION OF A NEW TWO-STORY SINGLE-FAMILY RESIDENCE WITH AN ATTACHED SECONDARY DWELLING UNIT AT 388 WINDWARD AVENUE, ERNIE & PAM ROZO, APPLICANT; APPELLANTS, WAYNE H. MAIRE, ALBERT & GILA POMERANTZ, DAVID & MARY STORNETTA, AND ROBERT WARNER.

PROJECT P14-000080

If you challenge the City Council's final action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City, either at or prior to the public hearing.

All interested persons are invited to appear at this time and place specified above to give oral or written testimony in regards to these matters. Written comments may be forwarded to the City Clerk at 760 Mattie Road, Pismo Beach, California, 93449 or by emailing ecano@pismo-beach.org prior to the meeting.

Agendas and staff reports will be available the Thursday before the meeting in the City Clerk's office and on the City's website at <http://www.pismo-beach.org>. The Council meeting will be televised live on Charter Cable Channel 20. For more information regarding City Council meetings, please contact the City Clerk's office at (805) 773-4657 or for more information regarding the above listed projects; please contact the Community Development Department at City Hall or by calling (805) 773-4658.

Elaina Cano, CMC
City of Pismo Beach City Clerk
April 11, 2015

1666083



PISMO BEACH COUNCIL AGENDA REPORT

SUBJECT/TITLE:

CONTINUED CONSIDERATION OF AN APPEAL OF A PLANNING COMMISSION APPROVAL OF A COASTAL DEVELOPMENT PERMIT FOR THE DEMOLITION OF AN EXISTING RESIDENCE AND CONSTRUCTION OF A NEW TWO-STORY SINGLE-FAMILY RESIDENCE WITH AN ATTACHED SECONDARY DWELLING UNIT AT 388 WINDWARD AVENUE, ERNIE & PAM ROZO, APPLICANT; APPELLANTS, WAYNE & JULIE MAIRE, ALBERT & GILA POMERANTZ, DAVID & MARY STORNETTA, AND ROBERT WARNER.

RECOMMENDATION:

Refer the project to the Planning Commission with direction to address the second-story and roof deck.

BACKGROUND:

The project site is located in an R-1 (single-family residential) coastal zone district and has a medium density residential General Plan Designation. The site is a 5,236 square foot interior lot that is about 77' in width. It is developed with a one-story single-family dwelling with an attached garage that will be demolished to make way for the proposed house. Surrounding properties contain a mix of one-story and two-story single-family dwellings.

AERIAL MAP INDICATING 388 WINDWARD LOCATION



EXISTING HOUSE



In September of 2014, the City Council considered four appeals of the Planning Commission's approval of a Coastal Development and Architectural permit for a two-story single-family dwelling. The four appeals were filed by Wayne and Julie Maire, David and Mary Stornetta, Albert and Gila Pomerantz, and Robert Warner. (Attachments 2-5)

Primary appeal points included:

1. Development over a sewer easement, (Warner, Pomerantz, Stornetta, & Maire)
2. Project is out of scale for the area, (Warner, Stornetta, & Maire)
3. A pedestrian access easement between Windward and Boeker should have been required. (Stornetta)

There is an easement for a City sewer line that crosses the property in a north/south direction. The house reviewed by the City Council in September of 2014 included two-floors of living space with an attached two-car garage located on the back side of the

house and construction of a portion of the house over the sewer easement. The home included an open deck that extended from the second floor living space at the front of the house and another deck within the roof form at the north eastern side of the house. The total floor area within the house and garage was 3,694 square feet.

HOUSE CONSIDERED BY CITY COUNCIL IN SEPTEMBER 2014



The project considered by the City Council in September of 2014, complied with all of the City's site development standards for the R-1 coastal zone and there were no requests for exceptions.

Following staff's presentation, testimony by the appellants, the applicants, and the public, the City Council had a lengthy discussion regarding construction of a house over an existing sewer easement and concerns were expressed regarding the size and scale of the house with support indicated for a redesign of the project that would accommodate both the appellants and applicants and achieve a reduction in the size of the house.

Following its deliberation, the City Council voted 4-1 to table consideration of this project for 90 days to allow staff time to work with the applicant regarding a redesign of the project to:

1. Prevent single-story portions of the house from being constructed over the sewer easement, but allowing second-story elements of the house to bridge the sewer easement.

2. Achieve a reduction in the size of the home.

Since the City Council meeting in September, there have been requests by staff and the applicants to table consideration beyond the 90 days approved by the City Council to allow time for the property owners to finalize a revised design.

REVISED PROJECT

The applicants have revised the project and submitted plans that reflect a two-story single-family dwelling with an attached two-car garage, which is located at the back of the house. The revised project complies with the site development standards of the R-1 zone district. The plans also include an attached secondary dwelling unit that is located on the lower level of the building at the west of the sewer easement. An uncovered parking space at the back of the site is proposed for the secondary dwelling unit. The parking space is within the rear yard setback, but the secondary dwelling unit regulations allow a parking space to be sited in this location. The proposed secondary unit complies with the City's zoning regulations and either the principal residence or secondary unit must be occupied by the property owners. They cannot both be rented out and neither can be used as a vacation rental unit. The municipal code requires the filing of a deed restriction regarding the allowable uses of the secondary unit and consistency with the City's 1983 Zoning Code.

In line with City Council direction, the revised project does not propose the construction of a first floor over the sewer easement, the second floor of the proposed house does bridge that easement. The distance the second floor spans is 13', which is wider than the 10' sewer easement. The clearance distance between the bottom of the second floor and finished slab of the driveway directly below it is about 8' at its highest point. The Engineering Division is recommending a number of conditions that provide for protection and repair of the existing sewer line should inspections following construction activities find that damage to the line has occurred. Conditions are also being recommended that will provide access to the sewer line should its repair or replacement be necessary in the future. Following is a street level illustration of the revised house:



The proposed house has approximately 3,080 square feet of living space and the attached garage contains about 495 square feet for a total floor area of 3,575 square feet. The following table provides a square footage comparison between the revised project and the house reviewed by the City Council in September of 2014:

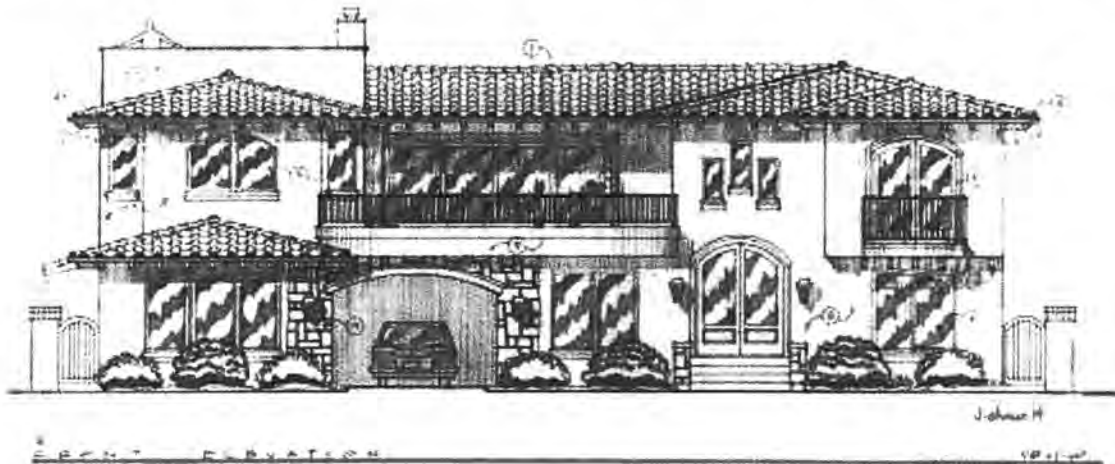
AREA	ORIGINAL	REVISED
Lower Floor	1,466	1,490
Upper Floor	1,642	1,590
Subtotal	3,108	3,080
Garage	586	495
Total	3,694	3,575
Deck	340	308
Roof Deck	363	420

ANALYSIS

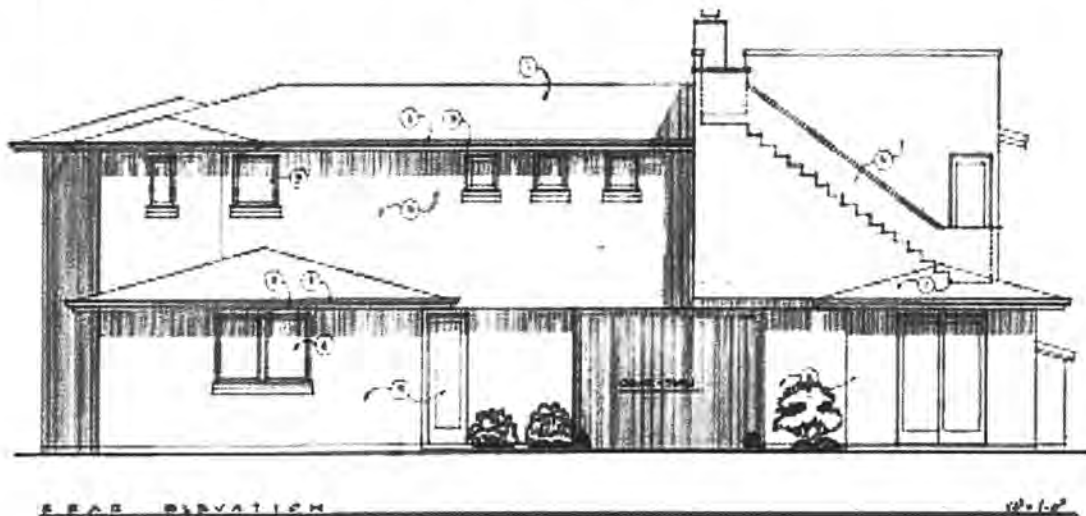
The proposed house reflects an architectural style that is similar to that reviewed by the City Council in September 2014. Exterior walls have a plaster finish, there is a second-story deck and a roof deck and some of the windows on the front of the second story are arched, which provides an architectural accent and interest at the front elevation as does the stone veneer that frames the opening through the building over the sewer easement. The roof forms are hipped, save for the roof deck at the western end, and the proposed tile compliments the stucco exterior, 4 x 6 shaped rafter tails, cast concrete window sills, and wrought iron railing. These exterior details are appropriate for

this style of architecture and the applicants have done a good job of linking these finishes to the overall design of the home

Although the floor space within the house has been reduced, the design of the house does present a full two stories to the street, which is depicted in the following elevation:

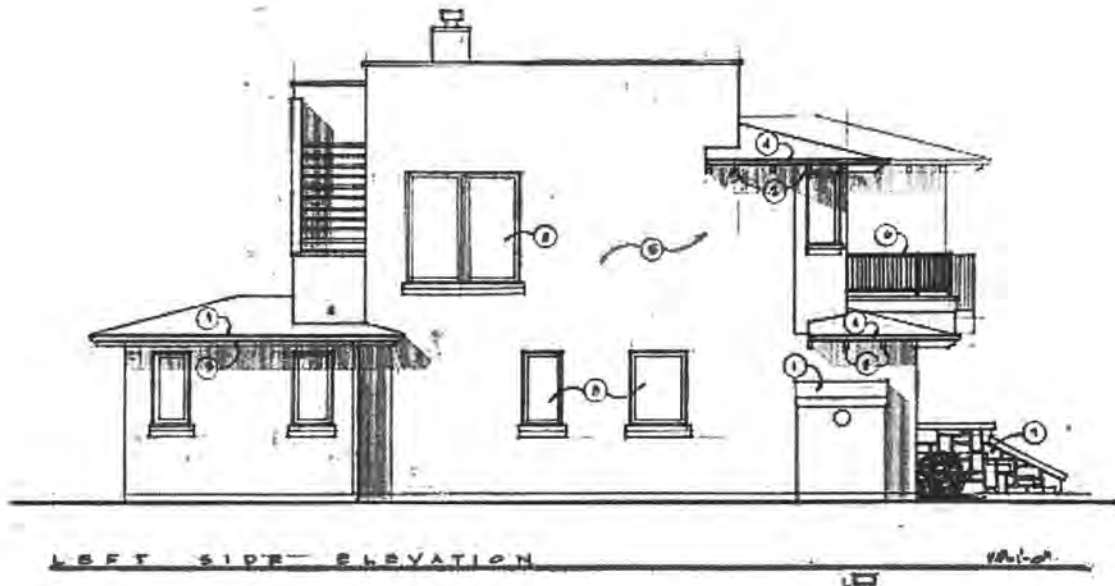


From the back, the revised house presents a full two stories across its width as well. The form of the house at the roof deck is a tall vertical wall; however, the second story is further away from the rear property line than the plans reviewed by the City Council in September 2014. As can be seen in the following elevation, the stucco walls that enclose the stairs and form the railings for the roof deck result in a two-story stucco element that interrupts the hipped roof forms over the other portions of the house and creates a disconnect in the continuity of the house's predominate style.

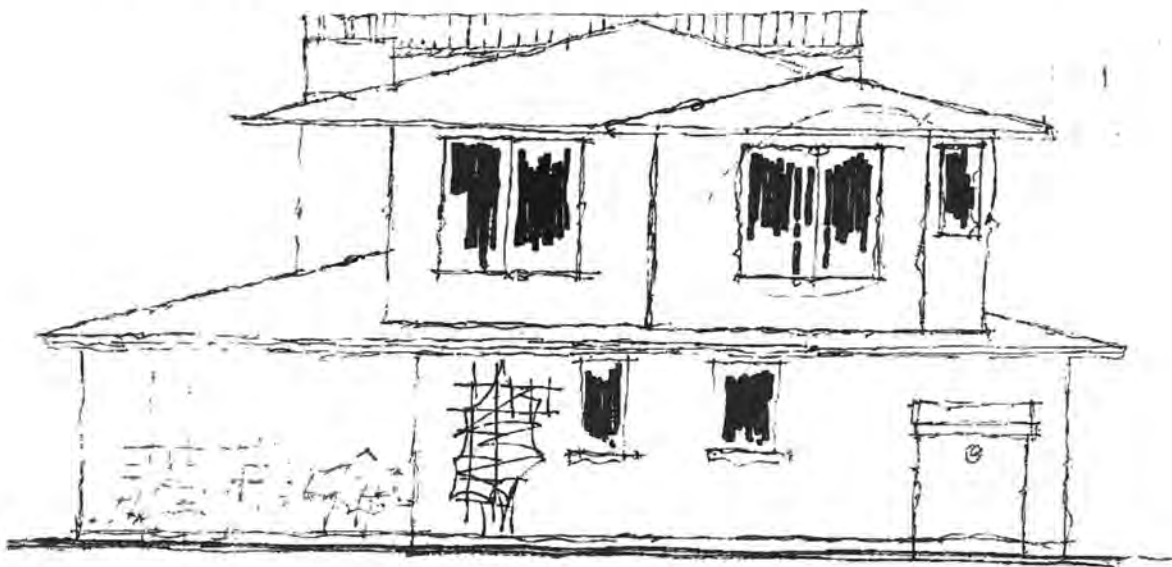


On the southwestern elevation of the proposed house, this form is carried around to the side with the upper portions of the two-story wall forming the railings for the roof deck

and they too diverge from the hipped roof forms over the rest of the house. The result is a tall vertical stucco wall that presents itself to the one-story neighboring property at the southwest.



The design of the revised house would benefit from having the walls of the second floor pulled in from the walls of the first floor at the sides of the building in order to minimize the buildings mass being carried across the width of the site. Developing a deck within the form of the hipped roof would also help maintain the continuity of the house's overall architectural style. To illustrate this, staff provides the following sketch of the southwestern elevation that depicts second story walls that are pulled in from those on the first floor, and a deck that has been incorporated into the hipped roof –



The above sketch is illustrative and is intended to show what is possible to address staff's reservations with the revised project. There are many other potential solutions to address staff's concerns, but it provides a starting point for discussion and serves as a tool to evaluate staff's stated reservations.

RECOMMENDATION

The applicants have developed a house that includes many components of a well designed structure and addresses the City Council's primary concern of keeping the first floor area over the sewer easement clear. The house size has also been reduced. However, staff believes the design of the structure and its integration into the neighborhood could benefit from two modifications, and recommends that the City Council refer this project to the Planning Commission to accomplish the following two specific items:

- Second floor walls at the sides of the building that are pulled in from those on the first floor.
- A roof deck that is integrated into the form of the hipped roof.

It is staff's opinion that with this direction to the applicants, the Planning Commission will be able to review and take appropriate action on the project. If the City Council seeks to approve the project, and thereby upholding the Planning Commission's earlier approval, a resolution is attached with this agenda report to support this action.

FISCAL IMPACT:

This project is appealable to the Coastal Commission and as such there is no fee to file an appeal of a Planning Commission decision to the City Council. The City does incur an expense in processing appeals. The cost for processing this appeal is now approaching \$5,000.

ALTERNATIVES:

1. Adopt the attached resolution of approval.
2. Deny the project
3. Refer the project back to the Applicants to address concerns raised by the City Council and continue to a future meeting.

ATTACHMENTS:

- | | |
|-------------------------------------|-----------------------------------|
| 1. Resolution Approving the Project | |
| 2. Appeal-Maire | 6. Planning Commission 7/08/2014 |
| 3. Appeal-Stornetta | Hearing Minutes Excerpt |
| 4. Appeal- Pomerantz | 7. PC Staff Report |
| 5. Appeal - Warner | 8. Planning Commission Resolution |
| | 9. Revised Project Plans |

Prepared by: Jon Biggs, Community Development Director **Meeting Date:** April 21, 2015

City Manager Approval:

A handwritten signature in black ink, appearing to read "Jon Biggs", written over the "City Manager Approval:" text.

RESOLUTION NO. R-2015-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PISMO BEACH UPHOLDING THE JULY 8, 2014, PLANNING COMMISSION APPROVAL OF A COASTAL DEVELOPMENT PERMIT FOR DEMOLITION OF AN EXISTING RESIDENCE AND CONSTRUCTION OF A NEW RESIDENCE (INCLUDING A SECONDARY DWELLING UNIT AND GARAGE) AT 388 WINDWARD AVENUE. PROJECT P14-000080

WHEREAS, Ernie & Pam Roza, Applicant's, submitted an application to the City of Pismo Beach for a Coastal Development Permit at 388 Windward Avenue for demolition of an existing residence and construction of a two-story single-family dwelling with an attached two-car garage and secondary dwelling unit; and

WHEREAS, on July 8, 2014, the Pismo Beach Planning Commission held a duly noticed public hearing at which all interested persons were given the opportunity to be heard; and

WHEREAS, the Planning Commission reviewed and approved the subject project at its July 8, 2014 meeting; and

WHEREAS, four appeals were subsequently filed by Wayne and Julie Maire (July 18, 2014); David and Mary Stornetta, Albert and Gila Pomerantz (July 21, 2014); and Robert Warner (July 22, 2014); and

WHEREAS, on September 2, 2014, the City Council held a duly noticed public hearing to review the four appeals at which all interested persons were given the opportunity to be heard; and

WHEREAS, on September 2, 2014, the City Council voted to table action on the item to allow a redesign to 1. prevent single-story portions of the house from being constructed over the existing sewer easement and 2. achieve a reduction in the size of the house; and

WHEREAS, the property owners submitted revised plans for the project; and

WHEREAS, on April 21, 2015, the City Council held a duly noticed public hearing to review the four appeals and revised project and at which all interested persons were given the opportunity to be heard.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pismo Beach hereby upholds the July 8, 2014, Planning Commission decision and approves the Coastal Development Permit and Architectural Application at 388 Windward for demolition of an existing residence and construction of a new two-story single-family dwelling with an attached two-car garage and secondary dwelling unit, subject to the

conditions contained in Attachment 'A' of this resolution and makes the following findings:

A. FINDINGS REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

1. The project consists of the demolition of an existing residence and construction of a new two-story single-family dwelling with an attached two-car garage and secondary dwelling unit.
2. There are no site constraints or other factors that would create the potential for significant environmental impacts as a result of the construction of a two-story single-family dwelling with an attached two-car garage and secondary dwelling unit.
3. The demolition of the existing residence and subsequent construction of a new two-story single-family dwelling with an attached two-car garage and secondary dwelling unit at this location is exempt from further environmental review in accordance with section 15303 of the CEQA Guidelines, exempting construction of on single-family dwellings within a single-family zone district where all infrastructure is present.

B. FINDINGS FOR APPROVAL OF THE COASTAL DEVELOPMENT PERMIT AND ARCHITECTURAL REVIEW PERMIT:

1. The project improvements comply with the public access and public recreation policies of Chapter 3 (commencing with Section 30220) of the California Coastal Act of 1976.
2. The construction of a two-story single-family dwelling with an attached two-car garage and secondary dwelling unit is appropriate in size so as to be compatible with the adjacent structures.
3. The architectural and general appearance of the two-story single-family dwelling with an attached two-car garage and secondary dwelling unit is in keeping with the character of the neighborhood.
4. The proposed structure is compatible with the visual quality and character of the surrounding area and is compatible with the immediate neighborhood.
5. The construction of a two-story single-family dwelling with an attached two-car garage and secondary dwelling unit is consistent with the General Plan, Local Coastal Plan and General Plan Land Use Plan category of Single-Family Low Density Residential.
6. The construction of a two-story single-family dwelling with an attached two-car garage and secondary dwelling unit is compatible with the nearby existing uses and will not be detrimental to the health, safety, morals, comfort and general welfare of persons residing or working in the surrounding area of the proposed project.

7. The construction of a two-story single-family dwelling with an attached two-car garage and secondary dwelling unit will not be detrimental to the orderly development of improvements in the surrounding area, and will not be detrimental to the orderly and harmonious development of the City.

8. The construction of a two-story single-family dwelling with an attached two-car garage and secondary dwelling unit will not impair the desirability of investment or occupation in the neighborhood.

UPON MOTION OF Council Member _____ **seconded by** Council Member _____ **the**
foregoing resolution was adopted by the City Council of the City of Pismo Beach this
21st day of April 2015, by the following roll call vote:

AYES:	Council Members:
NOES:	Council Members:
ABSENT:	Council Members:
ABSTAIN:	Council Members:

Approved:

Attest:

Shelly Higginbotham
Mayor

City Clerk

ATTACHMENT 'A' TO CITY COUNCIL RESOLUTION No. R-2015-__

**PERMIT NO. P14-000080, CDP / ARP
CITY COUNCIL MEETING OF APRIL 21, 2015
388 Windward, APN: 010-371-012**

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

AUTHORIZATION: Subject to the conditions stated below, approval of Permit P14-000080 grants planning permits for the demolition of an existing residence and construction of a two-story single-family dwelling with an attached two-car garage and secondary dwelling unit. Approval is granted only for the construction and use as herein stated; any proposed changes shall require approval of amendments to these permits by the City of Pismo Beach.

Standard conditions, policies and selected code requirements applicable to new single-family residences, as adopted by the City Council are by this reference included as conditions of this permit. Such standard conditions will be attached to this permit when signed by the applicant. Special project conditions are listed on Exhibit A of this permit. The applicant agrees to comply with all City standard conditions and conditions specific to the project.

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

EXPIRATION DATE: The applicant is granted two years for inauguration (i.e. building permits issued and construction begun) of this permit. The permits will expire on April 21, 2017 unless inaugurated prior to that date. Time extensions are permitted pursuant to Zoning Code Section 17.121.160 (2).

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

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

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

Approved by the City Council on April 21, 2015.

Applicant

Date

Property Owner

Date

EXHIBIT 'A'

CONDITIONS, POLICIES AND SELECTED CODE REQUIREMENTS FOR PROJECT No. P14-000080 388 Windward, APN: 010-371-012

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

A. PRIOR TO ISSUANCE OF A BUILDING PERMIT:

BUILDING DIVISION:

1. Building permit plans shall be submitted by a California licensed architect or engineer when required by the Business & Professions Code, except when otherwise approved by the Chief Building Official.
2. The owner shall designate on the building permit application a registered design professional who shall act as the Registered Design Professional in Responsible Charge. The Registered Design Professional in Responsible Charge shall be responsible for reviewing and coordinating submittal documents prepared by others including phased and staggered submittal items, for compatibility with design of the building.
3. The owner shall comply with the City's Structural Observation Program. The owner shall employ the engineer or architect responsible for the structural design, or another engineer or architect designated by the engineer of record or architect responsible for the structural design, to perform structural observation as defined in Section 220. Observed deficiencies shall be reported in writing to the owner's representative, special inspector, contractor and the building official. The structural observer shall submit to the building official a written statement that the site visits have been made and identify any reported deficiencies that, to the best of the structural observer's knowledge, have not been resolved.
4. The owner shall comply with the City's Special Inspection Program. Special inspections will be required by Section 1704 of the California Building Code. All Special Inspectors shall first be approved by the Building Official to work in the jurisdiction. All field reports shall be provided to the City Building Inspector when requested at specified increments in order for the construction to proceed. All final reports from Special Inspectors shall be provided to the Building Official when they are complete and prior to final inspection.
5. Mitigation measures for natural occurring asbestos require approval from San Luis Obispo County Air Pollution Control District.
6. Projects shall comply with current City and State water conservation regulations.

7. Deferred submittals are not allowed, i.e. fire sprinkler plans and calculations, spiral staircases, and truss calculations.
8. A soils investigation performed by a qualified professional shall be required for this project. All cut and fill slopes shall be provided with subsurface drainage as necessary for stability; details shall be provided
9. Site retaining walls require a separate building permit. Please provide a separate soils report and engineering calculations for the site walls at the time of permit application.
10. Fire sprinklers, shall be required by City Codes.

PLANNING DIVISION

1. COMPLIANCE WITH PLANNING COMMISSION APPROVAL. Prior to the issuance of a building permit, the Project Planner shall confirm that the construction plot plan and building elevations are in compliance with the Planning Commission's approval and these conditions. Project shall comply with these standards:

Item	Approved
Lot area	5,236 sq. ft.
Maximum building height	24' - 7" or 81.50' elevation
Maximum building area ratio	3,575 sq. ft.
Lot Coverage	2,683 sq. ft.
Minimum front yard setback	12.25' to house 10.25' to edge of cantilevered deck
Minimum side yard setback	R = 5' L = 5'
Minimum rear yard setback	8' - 5"
Minimum parking spaces	2 within garage and 1 uncovered space for secondary dwelling unit
Minimum parking space size	2 – within a 21' x 22' clear area

2. ARCHAEOLOGICAL MONITORING. The applicant shall provide signed copies, to the Planning Division, of the contracts for both an archaeological and Native American monitor.
3. LANDSCAPING, IRRIGATION. The applicant shall provide Landscaping and irrigation plans encompassing the entire site. The plans shall be submitted by the project applicant to the City for review and approval by the project planner. Detailed calculations shall be provided on the face of the plan indicating the

provision of a minimum of 20% landscape area with no greater than 10% provided as lawn.

The landscape plan shall be designed in a manner consistent with Chapter 15.48 of the Municipal and include the following provisions:

- a. *Use of low-water-using irrigation systems. Drip irrigation shall be used where feasible.*
 - b. *Landscape Design Plan (including plant list)*
 - c. *Irrigation Design Plan*
 - d. *Separate calculation for landscaping and hardscape shall be provided.*
 - e. *Landscape plans shall not include any trees exceeding a mature height exceeding the roof line of the residence. All trees shall be maintained at a height not to exceed the height of the residence.*
4. Applicant shall comply with all municipal code requirements governing secondary dwelling units and shall record a deed restriction that outlines the rules governing secondary dwelling units.

ENGINEERING

1. Engineering standard conditions (notes): Shall be placed on the plans at time of submittal. A copy may be obtained through the Engineering Department.
2. Project improvements shall be designed and constructed in accordance with City standards and specifications and in accordance with all applicable City Ordinances. The decision of the City Engineer shall be final regarding the specific standards that shall apply.
3. Appropriate City standards shall be referred to on the plans and shall be included on a detail sheet within the plan set.
4. The applicant will be responsible for obtaining an encroachment permit for all work within a public right of way (City).
5. The City Engineering Division shall approve any landscaping or irrigation within a public right of way or otherwise to be maintained by the City.
6. The applicant shall provide a current title report to the Engineering Division.
7. Driveways and driveway approaches shall be located and constructed per City of Pismo Beach standards. Profiles shall be provided for all interior driveways.
8. If the existing City street adjacent to the frontage of the project is inadequate for the traffic generated by the project, or will be severely damaged by construction, the applicant shall excavate the entire section and replace it with a standard half – width street.

Grading and Drainage Plans

9. The following conditions shall be met during construction:
 - a. Owner and/or owner's contractor are to take precaution against damaging road surfaces. Note: The existing street sections adjacent the property may be substandard and may be subject to damage by heavy loading/equipment during construction. The owner is responsible for protection against and/or repair of, at owner's expense, any/all damage incurred during and/or due to construction.
 - b. Encroachment Permits are required prior to any/all work in the public right of way. City Streets are to remain open to through traffic at all times. A traffic control plan shall be submitted to the Engineering Division for approval prior to detours or rerouting of traffic. Excavation within the streets shall be covered or backfilled and paved prior to the end of work each day. No temporary or long term parking, storage, or disposal of construction equipment or materials within the right-of-way shall occur without prior issuance of an encroachment permit.
 - c. Erosion and Drainage control features are to be available to be placed in the event of rain or other erosive action to prevent any sediment or refuse from leaving the site. Erosion control devices shall be installed and in place following daily construction activities. The applicant shall notify the Engineering Division of any changes in construction which will require additional erosion control measures.
10. A Preliminary Soils and/or Geology Report providing technical specifications for grading of the site shall be prepared by a Geotechnical Engineer.
11. All grading and drainage improvements shall be designed and constructed in accordance with the City Grading Ordinance and subject to approval by the City Engineer.
12. The project shall conform to the City's Storm Water Discharge Ordinance.
13. In order for the proposed development to maintain conformance with the City's Regional Stormwater Permit, implementation of Low Impact Development (LID) source control, site design, and stormwater treatment onsite or at a joint stormwater treatment facility shall be required. The stormwater design shall be submitted for review and approval by the City Engineer and shall provide mitigation for post development runoff versus pre-development runoff.
14. Calculations and/or a drainage report must be submitted with the plans.
15. The applicant shall submit a composite utility plan.

16. Landscape and irrigation plans for the public right-of-way, if applicable, shall be incorporated into the improvement plans and shall require approval by the Streets Division Supervisor and the Community Development Department.
17. No Building Permits will be issued without prior approval of the Engineering Division and an approved erosion and sediment control plan and construction schedule. Erosion control measures shall be in place and approved by the Engineering Division prior to the start of construction.
18. An Erosion and Drainage Control Plan shall be submitted in accordance with the City Grading Ordinance. The plan shall reflect "Best Management Practices" as proposed in the California Regional Water Quality Control Board Erosion and Sediment Control Field Manual, and shall include both temporary measures (to be used during construction, and until permanent measures are completed/established) and permanent measures. Plan shall include both source control and perimeter containment measures. All Drainage and Erosion Control Measures shall be designed and/or sized by a qualified professional.

Utilities

19. The applicant shall install all utilities.
20. All utilities shall be extended to the boundaries of the project.
21. Sewer System Requirements:
 - a. Construction of permanent structures over a City sewer line and easement is against current City policy. Specifically, to allow the demolition of an existing home that has been built over the existing City sewer main and easement and construction of a new home over the sewer main and easement. This is not a preferable or even generally acceptable condition. However, due to the current site situation and per the request of the applicant, staff will allow such construction for your proposed project if the following conditions are met:
 - b. The existing cast iron sewer pipe shall be protected in place.
 - c. All footings of the proposed residence that are adjacent to and parallel with the sewer line shall be designed to remain outside the existing 10' wide sewer easement and to extend below the depth of the existing sewer line using a concrete caisson and grade beam type system or other method as designed and approved by the applicants Geotechnical and Structural Engineer. The design shall be submitted for review and approval by the City Engineer and shall show that the zone of influence from the proposed structures falls completely below the sewer pipe.

- d. The first floor of the structure may not be built over the existing 10' wide sewer easement. The second floor may span over the easement.
 - e. If the site is over excavated a depth of 1/3 or greater than the total depth of the sewer line, the sewer line shall be replaced to the satisfaction of the City Engineer. For example if the Sewer line is 9 feet deep, an over excavation of three or more feet shall require the replacement of the sewer line.
 - f. A video inspection of the existing sewer shall be required after the concrete forms have been put in place, prior to the placing of the concrete foundation. If at that time the sewer line shows signs of failure the applicant shall replace the sewer line, to the satisfaction of the City Engineer.
 - g. Prior to a final on the Building Permit for the proposed residence and after construction, the existing sewer shall be video inspected again to verify condition. If at that time the sewer line shows signs of failure the applicant shall replace the sewer line, to the satisfaction of the City Engineer.
 - h. An Encroachment Agreement for building over the sewer line and easement must be applied for through the Engineering Division. The Agreement must be reached with City Council, signed and recorded prior to issuance of Building Permit. Applicant shall understand that receiving the subject discretionary permits does not in any way guarantee that an agreement can, or will, be reached with the City Council for the encroachment into the existing sewer easement.
 - i. As an alternate to the conditions described above, the proposed residence may be designed to current City policy and commonly accepted engineering principles and remain completely outside of the existing 10' wide sewer easement.
22. Water System Requirements - Applicant is required to show the existing location of the Water Main in the street and location of the existing water lateral, if existing, on the plans. The size of the proposed lateral and proposed water meter shall be shown on the plans. If existing lateral is inadequate for the proposed water meter, then applicant is responsible for all costs, materials and labor for the installation of a new water lateral. Show size and type of all water lines.

23. All existing overhead wire service utilities to the residence shall be relocated underground.

Public Improvement Plans

24. Public improvement plans shall be prepared by a registered Civil Engineer and approved by the Public Works Department, Engineering Division.
25. The applicant shall submit three sets of public improvement plans to the Engineering Division on the City of Pismo Beach title block as a separate submittal.
26. Upon approval of the improvement plans, the applicant shall provide a reproducible mylar set and 3 sets of prints of the improvements for inspection purposes.
27. The applicant shall provide an engineer's estimate for all work on public improvement plan.
28. Prior to any plan check, the applicant shall enter into an Engineering Plan Check and Inspection Services Agreement with the City based on 5% of the engineer's estimate for all work on public improvement plan.
29. Building plans will not be approved by the Engineering Department until Public Improvement Plans are approved; i.e. approved mylars signed by the City Engineer.
30. Prior to the final inspections and acceptance of the public improvements the applicant shall provide to the City Engineer record drawings, signed by the engineer of record:
- a. 1 set of reproducible mylars
 - b. sets of print of the approved record drawings (as-built)
31. An electronic AutoCAD drawing file registered to the City's benchmark system shall be provided.
32. The applicant shall pay any current and outstanding fees for Engineering Plan Checking and Construction Inspection services.

B. CONDITIONS TO BE MET DURING CONSTRUCTION:

BUILDING DIVISION:

1. **SITE MAINTENANCE.** During construction, the site shall be maintained so as to not infringe on neighboring property, such as debris and dust.

2. **ARCHAEOLOGICAL MATERIALS.** In the event unforeseen archaeological resources are unearthed during any construction activities, all grading and or excavation shall cease in the immediate area and the find left untouched. The Building Official shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, Native American, or paleontologist, whichever is appropriate. The qualified professional shall evaluate the find and make reservations related to the preservation or disposition of artifacts in accordance with applicable laws and ordinances. If discovered archaeological resources are found to include human remains, or in any other case when human remains are discovered during construction, the Building Official shall notify to county coroner. If human remains are found to be of ancient age and of archaeological and spiritual significance, the Building Official shall notify the Native American Heritage Commission. The developer shall be liable for costs associated with the professional investigation.

3. Certification of compliance with the soils report shall be submitted to the Building Division prior to foundation approvals. A final report certifying compliance with the soils report or grading plans shall be submitted to the Building Division prior to final approvals.

4. A licensed surveyor or engineer shall verify pad elevations, setbacks, prior to foundation inspection, and roof elevations, prior to roof sheeting inspection, when determined necessary by the Planning Department.

C. CONDITIONS TO BE MET PRIOR TO FINAL INSPECTION AND ISSUANCE OF CERTIFICATE OF OCCUPANCY:

BUILDING DIVISION:

1. Prior to building division final approval all required inspections from the other various divisions must have been completed and verified by a city inspector. All required final inspection approvals must be obtained from the various departments and documented on the permit card.

D. CONDITIONS SUBJECT TO ONGOING COMPLIANCE:

1. **ROOF-MOUNTED EQUIPMENT.** All roof-mounted air conditioning or heating equipment, vents or ducts shall be screened from view in a manner approved by the Project Planner.

2. **COMPLIANCE WITH APPLICABLE LAWS.** All applicable requirements of any law or agency of the State, City of Pismo Beach and any other governmental entity at the time of construction shall be met. The duty of inquiry as to such requirements shall be upon the applicant.

-END-

Maire Appeal

CITY OF PISMO BEACH
CITY CLERK'S OFFICE

JUL 18 2014

July 18, 2014

RECEIVED

To Whom It May Concern:

Re: appeal of decision regarding 388 Windward

Attached is our appeal to the City Council of a Planning Commission decision regarding 388 Windward which was heard on July 8, 2014. In discussing this with staff, it is our understanding that City Council meets on the first and 3rd Tuesday of every month. It is also our understanding that the agenda for the City Council for the month of August is already full and it is likely that the appeal in this matter would be heard sometime thereafter. We are also informed that the city Council meeting scheduled for September 2, 2014 may be canceled.

We are unavailable to attend the City Council meeting on September 16, 2014. We would respectfully request, therefore, that if possible this matter be placed on the city council's agenda for either October 7, 2014 or October 21, 2014. Thank you for your consideration of this request.



Wayne H Maire



CITY OF PISMO BEACH
CITY CLERK'S OFFICE

JUL 18 2014

RECEIVED

City of Pismo Beach
Attention: City Clerk
760 Mattie Road
Pismo Beach, CA 93449
805-773-4657 Fax: 805-773-7006

APPEAL OF A PLANNING COMMISSION DECISION

An appeal of the City of Pismo Beach Planning Commission decision may be filed by paying a fee set by the Pismo Beach City Council. Appeals must be filed in the Office of the City Clerk within 10 working days of the Planning Commission decision. Coastal Development permit appeals can be made at no charge. Appeals of all permits for projects within the Coastal Appeal Zone can be made at no charge. See Section 17.124.130-180 for Coastal Permit Appeal information.

Person Filing Appeal:

WAYNE & Julie Maire

Print Name local address - 347 Becker

2889 El Viento

Address

Phone (H) 530-222-0420

(W) 530-246-6050

Redding, Ca. 96002

City/State/Zip Code

388 WINDWARD APN 010-371-012

Project Address/Parcel Number

APPLICATION of ERNIE & Pam Rozo

Project Name

*What permits are being appealed:

COASTAL Development Permit

*List all applicable case numbers(s):

Date Heard at Planning Commission: 7/8/14

Date Appeal Filed: 7/18/14

Cause for Appeal: (Please be specific; attach additional sheets if necessary, reference any inconsistency with specific city statutes; the General Plan/Local Coastal Plan and Zoning Ordinance is available for review):

(see attached)

William H. Maire
Signature(s)
Julie Maire

ATTEST:

Date: 7/18/14 20__

City Clerk

Received By: _____ Date: _____ 20__

Fee Paid: \$ _____ Date: _____ Receipt Number: _____

July 1, 2013 fee schedule: \$788 outside the Coastal Zone and No Fee for Appeals Within the Coastal Appeal Zone.

NOTICE OF APPEAL

Re: 388 Windward Ave., Pismo Beach, CA
Ernie and Pam Rozo, Applicants

On July 8, 2014, the Pismo Beach Planning Commission held its hearing with regard to the approval of the proposed new residence at 388 Windward Avenue, Pismo Beach, California, regarding the demolition of an existing residence and construction of a new, approximately 3,700 sq. ft. residence. Attached for the council's convenience is the formal objection which we filed with the planning department prior to that hearing. That objection is marked herein as Exhibit "1".

The basis of this appeal is three fold. One, as pointed out by the planning department and the city engineering department, this project clearly violates the City of Pismo Beach longstanding prohibition of building over sewer easements. Two, as confirmed by representatives of the planning department at the July 8, 2014 hearing, the residences immediately behind this proposed project were informed by the City during their due diligence prior to the purchase of their residences that a two story home of the size and magnitude of the type here proposed could not be built at 388 Windward due to the easement restrictions on that lot. As noted below, the residences at 345 Boeker, 347 Boeker and 349 Boeker, had the right to rely on the representations of the representatives of the City of Pismo Beach during their due diligence of the purchase of their homes and had the right to expect that the City of Pismo Beach would in fact force its own municipal codes and regulations in the approval of any project at 388 Windward. Three, it is clear that the size and magnitude of the home that is being proposed at 388 Windward is, in fact, not consistent with the size and characters of the homes in the surrounding neighborhood. For the council's convenience, I will address each of these issues separately below:

I.

THE PROJECT HERE INVOLVED CLEARLY VIOLATES CITY OF PISMO BEACH BUILDING STANDARDS

One need only review the staff report itself with regard to the clear violation of this project of longstanding City of Pismo Beach building standards. The staff report at paragraph 22 provides in pertinent part as follows:

"Construction of permanent structures over a city sewer line and easement is against current city policy. Specifically, to allow the demolition of an existing home that has been built over the existing city sewer easement and construction of a new home over the city main and easement. This is not a preferable or even generally accepted condition." (Emphasis added)

During the planning commission hearing on this matter, Mr. Scott Graham, the representative of the planning department who presented this proposal stated as follows, "Previous city engineer, Dennis Delzeit, was adamantly opposed to the placement of any additional structures over the sewer easement in this location." (We have had a transcript prepared of the entire hearing on this matter and will make said transcript available to the council should it so desire.)

During his statements to the commission, Mr. Graham also confirmed that the residences on Boeker were informed by the planning department of Mr. Delzeit's position in this regard, his reaffirmation of enforcing the prohibition of building over a sewer easement and that this was in fact communicated to the now current owners on Boeker Street. We were very surprised to learn for the first time during the hearing on July 8, 2014 that the planning department had issued a letter in September of 2008 and there were apparently discussions with the planning department on enforcement of the restrictions regarding building on 388 Windward. We were informed during the meeting that Mr. Delzeit had left the City of Pismo Beach in 2008 and a Dwayne Chisholm had assumed his position. Based upon the testimony by representatives of the City at the planning commission, Mr. Chisholm apparently held an opinion different than his predecessor and the current city engineer with regard to building over the sewer easement. Mr. Chisholm apparently authorized an "interim associate engineer", Jeff Eikhot, to author a letter to a John F. Mack on September 11, 2008. I was able to see that letter for the first time on July 16, 2014. That letter is attached for the council's convenience as Exhibit "2". Apparently, the City of Pismo Beach engineering division had received a letter on September 2, 2008 from Mr. Mack requesting permission to construct a "new home that would bridge the sewer easement". In Mr. Eikhot's response he accurately noted that, "construction of permanent structures over a city sewer easement is against current city policy". His letter goes on to state a variety of conditions that must be completed if the city were to consider a project to be built over the city sewer line. As confirmed by staff in response to a commission member's question, neither the adjoining property owners (including myself and my neighbors on Boeker) were provided notice of this dramatic potential change in the city's position nor does it appear was the city attorney consulted prior to this letter being issued by an interim associate engineer.

The testimony of the City of Pismo Beach engineering division at the commission hearing on July 8, 2014 was clear that this proposal would not have been accepted by Mr. Delzeit and would not be acceptable under the current city engineer's interpretation of the applicable limitations created by the easement and city policy. Staff felt, however, that they should honor the letter written by interim associate engineer Eikhot in 2008. In that regard, the representative of the engineering division, Mr. Eric Eldridge, stated, "Although it is not the position of the current city engineer or staff, we'll honor that letter due to it was a -- we believe the Applicant was doing everything they could do and they were doing their research before they made quite an investment. So we'll honor that letter." It appears, therefore, that the only reason that the staff is willing to recommend a course of action which is against the clear public policy of the City of Pismo Beach, is to honor a letter written by an interim associate engineer which in the body of the letter itself notes that, "construction of permanent structures

over a city sewer easement is against current city policy." This is despite the fact that this position is not one shared by the current city engineer and a position that was not shared by the prior city engineer, Mr. Delzeit.

In reviewing the documentation and testimony obtained to date, there is absolutely no information that has been presented which would establish that the residents of the City of Pismo Beach are in any way benefited by a project which clearly violates longstanding city policy. It remains unclear why the City of Pismo Beach would even consider violating this policy and making an exception for this one project when it has consistently prevented development of numerous other projects which would infringe upon a city easement on other projects. I would hope the fact that the architect for this project, Mr. Cody McLaughlin, in no way affected any of the decision-making process at any stage of these proceedings. As I'm sure the Council is aware, Mr. McLaughlin is a member of the planning commission. It certainly does not appear appropriate, however, that the City would deviate so clearly from its prior stated positions and choose to approve a project which is admittedly against current city policy when the designer of that project is a current member of its own planning commission. We were certainly concerned about this issue when Ms. Roza advised the planning commission on July 8, 2014 that Mr. McLaughlin was their representative for this project and best person to answer any questions about the project. Appropriately Mr. McLaughlin recused himself from voting on the project.

II.

THE RESIDENTS SURROUNDING 388 WINDWARD HAVE THE RIGHT TO RELY UPON REPRESENTATIONS MADE BY CITY OF PISMO BEACH STAFF THAT A PROJECT OF THIS MAGNITUDE COULD NOT BE BUILT

As established at the hearing on July 8, 2014, both my wife and I, along with our neighbors at 345 Boeker, Bob and Gloria Warner, were specifically informed by staff prior to the purchase of our homes that due to the easement restrictions on 388 Windward, a two story residence could not be built at that location, except over the garage area. Mr. Scott Graham confirmed in his testimony before the commission that in fact those representations were made by staff when both the Warners and my wife and I were doing our diligence in 2005 prior to the purchasing of our residences. As Mr. Graham noted, the city engineer at that point in time, Mr. Dennis Delzeit, was "adamant" that a project like this cannot be built over the city sewer easement. During the hearing one commissioner in fact asked why staff was willing to honor the representations made in a letter drafted by an interim associate engineer in September of 2008 and not honor the representations made to other property owners who were doing their due diligence and relied upon the information in the purchase of their homes. As noted by Vice Chairman Hamrick,

"I've dealt with hundreds of these easements in my lifetime, and I've never been able to build on top of one like this but if they have a letter from the

Public Works department, does that give them the legal authority to do that, I don't know. I'm just not equipped to make that decision. So with regard to the home, its presence in the neighborhood, I think that's all we really have to look at."

As noted by Mr. Graham at that point, "If somebody is unhappy with the decision rendered by the planning commission, they can just simply come down to the administration office downstairs and file that appeal with the city clerk's office."

It was very clear during the hearing on July 8, 2014 that the planning commission was unprepared to deal with the legal issues related to approval of project where there is a clear violation of City policies and the inconsistent representations made to the residents here involved. The Commission felt that these issues were more appropriately decided by the City Council. The testimony during the hearing was also clear that staff was and is under the mistaken understanding that a letter by an interim associate engineer, apparently without input from legal counsel, carries more weight than the multiple verbal representations made by the planning department and engineering department to the surrounding neighbors of 388 Windward. In fact we, along with our neighbors, had the right to rely on the representations made by the City of Pismo Beach that it would enforce its own policies, procedures and regulations and not allow a project of this size and scope to be built on 388 Windward.

From a purely legal standpoint, the representations to the residents of 345 Boeker, 347 Boeker and 349 Boeker, have more legal weight than a letter drafted by an interim associate engineer without involvement of the city's legal counsel. We along with our neighbors relied on those representations and from a legal standpoint the city of Pismo Beach is facing the possibility of multiple damage claims resulting from the failure to honor those representations. Each of those adjoining landowners who justifiably relied on the representations made by the City of Pismo Beach and made significant financial investments based on the representations and assurances that the City would follow and enforce its own policies, regulations and laws, have a potential claim for the City's failure to honor its commitment in this regard. If, in fact, the City of Pismo Beach allows the project as designed at 388 Windward to move forward despite its violation of the clear policies of the City of Pismo Beach, the neighbors affected by that project will unquestionably incur and suffer significant losses and damages regarding the diminution in value of their homes. In that regard, I would note that my wife and I paid more for our residence at 347 Boeker than Pam and Ernie Roza paid for the property located at 388 Windward. A significant amount of the purchase price was based upon the value of the views from our residence which we were assured by representatives of the City of Pismo Beach could not be infringed upon by the development of 388 Windward as a result of the city policy prohibiting the building of a residence of this type over the dedicated sewer easement.

III.

THIS PROJECT IS NOT COMPATABLE WITH THE ESTABLISHED PHYSICAL SCALE OF THE AREA

Pursuant to section 17.124.140(A)(3), one of the grounds for appeal is that, "The development is not compatible with the established physical scale of the area or is not consistent with the level and scale of development provided for in the city's certified local program." Even a casual review of the homes in the area around 388 Windward establishes that it is not remotely close to the established physical scale of those homes. Almost every home in the general area surrounding 388 Windward is in the 1,300 to 2,000 sq. ft. range. There are no homes remotely approaching the scale of this 3,700 sq. ft. residence which one of our neighbors has described as a "mansion". In short, this home is completely out of character and scale with those of the surrounding residents. It replaces an approximately 1,350 sq. ft. one story single family residence. The proposed home is almost three times the size of the existing home and can in no way be stated or argued to be "compatible with the established physical scale of the area."

IV. CONCLUSION

As noted above, the undisputed facts before the city council are that this proposed project at 388 Windward clearly violates established city of Pismo Beach policy. We were informed prior to the purchase of our home that the city of Pismo Beach policy precluded the building of this type of residence at 388 Windward. Based upon the assurances of representatives of the city of Pismo Beach in that regard along with our own review of the applicable limitations that the city sewer easement placed upon 388 Windward, we made a significant financial investment in the purchase of our home at 347 Boeker. If this project is approved there is no question that our home will incur a significant diminution in value as a result of the almost total loss of the views from our home. Finally, this project should be denied as it is completely inconsistent with the size and scale of the surrounding neighborhood. For the grounds outlined above, we would respectfully request that the City of Pismo Beach reject the application for the construction of a 3,700 sq. ft. multi-story residence at 388 Windward.

Finally, I think it is important to note that Julie and I are in no way opposed to either redevelopment or the construction of a new home at 388 Windward. We are more than willing to work with Mr. and Mrs. Roza in that regard. Our primary concern, however, is the magnitude, scale and height of their proposed project is completely inconsistent with what we were assured would occur on that lot and with the neighborhood generally.

Respectfully submitted.

Dated: 7/18/14


Wayne H. Maire

Julie Maire



Maire Burgess & Deedon

A Law Corporation

2851 PARK MARINA DRIVE, SUITE 800
REDDING, CALIFORNIA 96001

P.O. DRAWER 994607
REDDING, CALIFORNIA 96088-4607

EMAIL: INFO@MAIRE-LAW.COM
WEBSITE: WWW.MAIRE-LAW.COM

TEL: (530) 246-6050
FAX: (530) 246-6060

FTZPATRICK LAW OFFICES
ASSOCIATED COUNSEL

WAYNE E. MAIRE

July 3, 2014

VIA FEDERAL EXPRESS

VIA E-MAIL TO eperez@pismo-beach.org

VIA FAX TO (805) 773-4684

Planning Division
CITY OF PISMO BEACH
760 Mattie Road
Pismo Beach, CA 93449

Re: Project No. : P14-000080
Project Location : 388 Windward
Hearing Date : July 8, 2014

To Whom It May Concern:

Please be advised that I have received the notice that on July 8, 2014, the Planning Department will hold a public hearing with regard to a proposed project at 388 Windward Ave., Pismo Beach, California, with regard to the demolition of an existing residence and construction of a new 3,693 sq. ft. residence. Please be advised that my wife, Julie, and I own the residence at 347 Boeker, directly behind 388 Windward. Notice of this project was provided to us as we are obviously a property owner affected by this project.

Please consider this correspondence a formal objection to this matter proceeding to hearing on July 8, 2014. Initially, I would note that we have received the absolute minimum amount of notice pursuant to Pismo Beach Municipal Code Section 17.124.090 with regard to this project. It is my understanding that the application of this project was filed on April 29, 2014. Pursuant to Section 17.124.090, notice of appealable developments, which this clearly is, is to be provided, "within 10 calendar days of accepting an application for an appealable coastal development permit or at least 10 calendar days prior to the first public hearing on a development proposal, the city shall provide notice by first class mail of pending application for appealable development". Notice of this hearing was mailed on June 27, 2014 and not received by the undersigned until late on June 30, 2014, just eight days prior to the hearing itself. Given the magnitude of this project and the number of residences affected by this project, eight calendar days is insufficient notice to determine the effect of this project on our community. I would note that my office contacted the Planning Department

EXHIBIT "1"

immediately on July 1, 2014 and was advised that staff recommendation to this project would not even be available until late on the afternoon of July 3, 2014. Given that Julie and I, along with most of the other owners affected by this project do not have our primary residences in Pismo Beach, we do not have the opportunity to personally come to the Planning Department on three days' notice to review this project and determine the impact of this project on our surrounding community. This is of course, further exacerbated by the fact that notice was received the week of the July 4th holiday which further hinders our ability to receive sufficient notice to evaluate the impact of this project on our community. Please consider this, therefore, a formal request on behalf of the residents affected by this project that the Planning Commission continue hearing of this matter until those residents have had an opportunity to have sufficient time to review and evaluate this project and provide their input as to whether or not it detrimentally affects those affected by this project and the surrounding community.

Should the Planning Commission deny our request to continue the hearing of this matter, please consider the following as our formal objections to the project based upon the very limited information known about it to date. Those objections include:

1. The magnitude of this project appears to be completely out of scale with the level and scale of development in the immediate area surrounding this home. It is our understanding that this project proposes to replace a home of approximately 1,400 to 1,500 sq. ft. with a home almost two and half times that size, approximately 3,700 sq. ft. Almost all of the homes in the immediate vicinity of 388 Windward range in size from approximately 1,300 to 2,300 sq. ft. Pursuant to Section 17.124.140 (A) (3) it would therefore appear that this development, "is not compatible with the established physical scale of the area".
2. Given that we have not yet been provided an opportunity to actually review the plans and specifications of the project, there are significant concerns with regard to whether or not this project does, in fact, adequately protect public views from any public road that may be affected by this project as per Section 17.124.140 (A) (2).
3. Prior to our purchase of our residence at 347 Boeker in 2005, we performed a significant amount of due diligence with regard to potential development at 388 Windward to determine the possible impact that development could have on our residence. We consulted with the Planning Department at that point in time and were advised that due to city easements running underneath 388 Windward, it would not be possible for future development of that address to include a two story residence at 388 Windward, except for the area directly above the garage. We also consulted with our neighbors, Bob and Gloria Warner, who live immediately

adjacent to our property who informed us that they had performed similar due diligence and were advised by the Planning Department of those same facts. Finally, we also consulted with the builder of our residence, Mr. Mark Daniels, who was also the prior owner of 388 Windward, who also confirmed that it was the Planning Department's position that future development at this address would be limited to a one story residence with the exception that two stories would be allowed over the garage. Based upon our reliance on the position of the Planning Department in 2005, we proceeded forward with the purchase of our home. Given that we have not yet received staff's recommendation on this project, it is unknown whether or not staff has changed its position in this regard. If staff has, in fact, changed its position in this regard, I believe we are entitled to a full and complete explanation as to why that position has been changed and this may provide an additional basis of objection and potential appeal.

4. While I am cognizant that pursuant to Section 17.124.090 future challenges to this project MAY be limited to those issues raised in this written correspondence, I must respectfully reserve my right to assert further and future challenges once we have had an opportunity to actually review the project itself. As noted above, given that our primary residence is in Redding, California, we have in reality been provided only three days' notice to prepare a written response for the Planning Commission to consider on this project. I must respectfully reserve, therefore, my right to provide further and additional objections that may exist once we have had an opportunity to adequately evaluate the project itself.

Finally, I think it is important for the Commission to be aware that Julie and I, and I believe the other residents affected by this project do not oppose redevelopment of 388 Windward and the construction of a new home. Our objection is primarily that we have been deprived of an opportunity to provide any reasonable opportunity to evaluate the project, determine its impact on the surrounding community, and provide any input thereto. I would therefore request that the Planning Commission continue this matter for at least thirty (30) days for the residents and community effected by this project to provide that input.

Respectfully submitted,



WAYNE H. MAIRE

WHM/th



City of Pismo Beach,
Engineering Department
760 Mattie Road
Pismo Beach, CA 93449
(805) 773-4656 • Fax: (805) 773-4684

September 11, 2008

John F. Mack
Accurate Architecture and Construction
1141 Highland Way
Grover Beach, CA 93433

RE: 388 Windward, Shell Beach

Dear Mr. Mack:

The City of Pismo Beach Engineering Division has received your letter dated September 2, 2008 regarding the above address. The letter requests consideration to allow the demolition of an existing home that has been built over a sewer easement, and construction of a new home that would bridge the sewer easement.

After site review and consideration of your request, Staff has come to the following conclusions:

- The site is currently developed with a single-family residence that spans an existing sewer easement.
- Construction of permanent structures over a City sewer easement is against current City policy.
- The proposed removal of the existing residence and construction of a residence with a bridge spanning the sewer easement will improve the existing conditions.

Due to the current site conditions, Staff recommends that the current prohibition of construction over a City sewer easement be removed, if the following conditions are met:

- The existing sewer line must be removed and replaced with a sleeved sewer line that extends at least 5' outside the footprint of the proposed house. The sleeved system will allow the sewer line to be removed and replaced if necessary without adversely affecting the proposed residence.
- All footings of the proposed residence that are adjacent to and parallel with the sewer line must be designed to extend below the depth of the existing sewer line.
- The "bridge" must be high enough to provide clearance for a standard size backhoe or similar piece of construction equipment to access the rear of the property.

If you have any questions regarding this matter, please call me at 805-779-1201.

Respectfully,


Jeff van Een Ekhof, PE
Interim Associate Engineer

\\A:\Engineering\Development\Exhibit 2\Family\Corrmer\388 Windward\388 Windward - Sewer Easement Response.doc

Stornetta appeal

CITY OF PISMO BEACH
CITY CLERK'S OFFICE

JUL 21 2014

RECEIVED

City of Pismo Beach
Attention: City Clerk
760 Mattie Road
Pismo Beach, CA 93449
805-773-4657 Fax: 805-773-7006

APPEAL OF A PLANNING COMMISSION DECISION

An appeal of the City of Pismo Beach Planning Commission decision may be filed by paying a fee set by the Pismo Beach City Council. Appeals must be filed in the Office of the City Clerk within 10 working days of the Planning Commission decision. Coastal Development permit appeals can be made at no charge. Appeals of all permits for projects within the Coastal Appeal Zone can be made at no charge. See Section 17.124.130-180 for Coastal Permit Appeal information.

Person Filing Appeal:

DAVID & MARY STORNETTA
Print Name

349 Becker Avenue, Shell Beach Phone M-805-440-5652
Address - Mailing H-805-481-1105
1675 Bee Canyon Road
ARROYO GRANDE, CA - 93420
City/State/Zip Code

388 Windward / APN 010-371-012
Project Address/Parcel Number

Application of Ernie & Pam Ro20
Project Name

*What permits are being appealed:

Coastal Development Permit

*List all applicable case numbers(s): _____

Date Heard at Planning Commission: 7/8/14 Date Appeal Filed: 7/21/14

Cause for Appeal: (Please be specific; attach additional sheets if necessary, reference any inconsistency with specific city statutes; the General Plan/Local Coastal Plan and Zoning Ordinance is available for review):

(See Attached)
Attachment to Notice of Appeal

Signature (s)

Date: 7/20/14 20

ATTEST:

Debbie DeBianco for L. Carr
City Clerk

Received By: _____ Date: _____ 20__

Fee Paid: \$ _____ Date: _____ Receipt Number: _____

July 1, 2013 fee schedule: \$788 outside the Coastal Zone and No Fee for Appeals Within the Coastal Appeal Zone.

On July 8, 2014, I appeared and spoke at the Pismo Beach City Planning Commission hearing with regard to the proposed project at 388 Windward. I objected to the project at 388 Windward on several grounds.

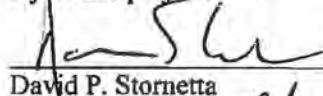
Objection 1: When we purchased the residence at 349 Boeker, which is immediately behind 388 Windward, we were led to believe by your planning department that there were severe restrictions regarding the size, scope and height potential that the residents could build at 388 Windward. The major restriction relates to the sewer easement which runs directly through 388 Windward and passes along the property line of our residence. We were led to believe that a two story structure could not be built over the sewer easement. At the planning commission hearing on July 8, 2014, that belief was confirmed when representatives of the Planning Department and Engineer's Office stated that it is against city policy to allow building over a sewer easement.

There does not appear to be any legitimate reason why the city would waive this policy for this one project, particularly when the city is aware that the owners of the houses immediately behind 388 Windward were told this would not happen. I do not know whether the fact that this project was designed by one of the members of the planning commission has anything to do with this commission approving this project. At the subject hearing I specifically stated that this matter didn't feel right and most certainly didn't smell right based on what I was hearing. My instincts and judgment have only heightened after acquiring more facts since the hearing.

Objection 2: I think the city council should consider, in rejecting this project, that there does not appear to be adequate efforts taken to ensure the creation of a pedestrian walkway between Boeker and Windward like the one which was created at the end of Boeker and connects to Placentia Street. Having lived in the area since 1963 I have seen what forward thinking officials have done to make a positive difference such as the acquisition of the Dinosaur Caves Park property and requiring a pedestrian easement between Boeker and Placentia Street.

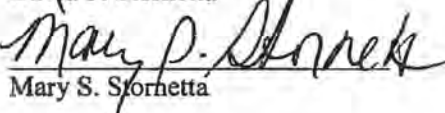
Objection 3: I believe the city council should consider in rejecting this proposal is the fact that this house is significantly larger than any home in the area. Most of the homes in the neighborhood are in the 1,300 to 2,000 sq. ft. range. The proposed house is almost twice that size nearly 3,700 sq. ft. Frankly, this house does not fit in our neighborhood. I think you would agree if you were to stand at the end of Seaview Avenue by the gazebo and look west over to Windward your reaction would be "Wow what's with that big, huge house over there!"

For all of the above outlined reasons, we respectfully and strongly request that the city council reject this project.



David P. Stornetta

Dated: 7-20-14



Mary S. Stornetta

Dated: 7-20-14

July 20, 2014

To Whom It May Concern:

Re: Appeal of decision regarding 388 Windward

Attached is our appeal to the City Council of a Planning Commission decision regarding 388 Windward which was heard on July 8, 2014.

While discussing the issue with my neighbor Wayne Maire he shared that the City Council meets on the 1st and 3rd Tuesday of each month. Additionally he mentioned that the subject appeal could potentially be heard by the City Council in September when I have prior commitments in Florida.

I am hoping and asking that the appeal could be put on the City Council's agenda in October which would be October 7th or the 21st.

Thanks for your consideration of this important request. It would be appreciated.


David P. Stornetta

7-20-14
Date

Pomerantz Appeal
CITY OF PISMO BEACH
CITY CLERK'S OFFICE

JUL 21 2014

RECEIVED

City of Pismo Beach
Attention: City Clerk
760 Mattie Road
Pismo Beach, CA 93449
805-773-4657 Fax: 805-773-7006

APPEAL OF A PLANNING COMMISSION DECISION

An appeal of this City of Pismo Beach Planning Commission decision may be filed by paying a fee set by the Pismo Beach City Council. Appeals must be filed in the Office of the City Clerk within 10 working days of the Planning Commission decision. Coastal Development permit appeals can be made at no charge. Appeals of all permits for projects within the Coastal Appeal Zone can be made at no charge. See Section 17.124.130-180 for Coastal Permit Appeal Information.

Person Filing Appeal:

Albert & Gila Pomerantz
Print Name / Local address: 344 Boelter
6555 N. Dolores Ave. Phone 559-281-8417
Address
Fresno, Ca, 93711
City/State/Zip Code
388 Windward APN 010-371-012
Project Address/Parcel Number
Application of Ernest & Pam Rozo
Project Name

***What permits are being appealed:**

Coastal development permit

***List all applicable case numbers(s):**

Date Heard at Planning Commission: 7/18/14 Date Appeal Filed: 7/19/14

Cause for Appeal: (Please be specific; attach additional sheets if necessary, reference any inconsistency with specific city statutes; the General Plan/Local Coastal Plan and Zoning Ordinance is available for review):

See attached - Above project violates
City of Pismo Beach prohibition of building
over sewer easements.

Alat Ponce
Signature (s)
Gila Pong

ATTEST:

Date: 7/19/14 2014

City Clerk

Received By: _____ Date: _____ 20____

Fee Paid: \$ _____ Date: _____ Receipt Number: _____

July 1, 2013 fee schedule: \$788 outside the Coastal Zone and No Fee for Appeals Within the Coastal Appeal Zone.

Warner appeal

Attachment Re: Notice of Appeal of a Planning Commission Decision
388 Windward Ave., Pismo Beach, Ca.
Ernie and Pam Rozo, Applicants

CITY OF PISMO BEACH
CITY CLERK'S OFFICE

JUL 22 2014

RECEIVED

City of Pismo Beach
Attention: City Clerk-Elaina Cano
760 Mattie Road
Pismo Beach Ca. 93449

To Whom It May Concern:

I own two properties behind and just west of proposed 388 Windward project located at 345 and 340 Boeker and we will be directly affected by the development of this property. Specifically our property located at 345 Boeker Pismo Beach Ca.

The basis for Cause for Appeal is three fold as noted below in items 1 through 3.

1) In February 2005 prior to purchasing our home located at 345 Boeker my wife and I both had a concern with 388 Windward if there would ever be a possibility that it could be developed and changed from a single story to a two story as it would dramatically affect our view of the ocean and future property value. Prior to considering the purchase of 345 Boeker property we did our due diligence and spoke in detail with the City of Pismo Beach Planning Department and we were told that there was a sewer easement under or near 388 Windward and that it would be very difficult and expensive to mitigate this sewer easement and we were assured that even if the sewer easement was mitigated there could only be a two story above the garage area and the remaining would be required to be a single story. Without that assurance from the Planning Department we would have never purchased 345 Boeker.

2) Based on the size of this project being almost 3700 sq. ft. it does not seem compatible with surrounding homes which are approximately 1300-2300 sq. ft. and I believe the current single story residence at 388 Windward is approximately 1500 sq. ft

3) This project is a clear violation of the longstanding City of Pismo Beach building standards regarding construction of permanent structures over a city sewer line and easement is against current city policy.

Thank you for your consideration,


Robert Warner

Contact numbers: Cell..559-970-5317 or Office: 559-298-6000



City of Pismo Beach
Attention: City Clerk
760 Mattie Road
Pismo Beach, CA 93449
805-773-4657 Fax: 805-773-7006

APPEAL OF A PLANNING COMMISSION DECISION

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Person Filing Appeal:

ROBERT J. WARNER
Print Name
PRIMARY - 7819 N. FANCHER RD. CLOVIS CA. 93619 559-970-5317 cell
SECONDARY - 345 BOEKER PISMO BEACH CA 93449 559-298-6000 office
Address 559-299-3377 PRIMARY RES.

City/State/Zip Code

388 WINDWARD AVE PISMO BEACH CA.
Project Address/Parcel Number

ERNE AND PAT ROZO - PROJECT NO. P14-000080
Project Name

*What permits are being appealed:

PROJECT NO P14-000080

*List all applicable case numbers(s):

Date Heard at Planning Commission: 7/8/2014 Date Appeal Filed: 7/22/14

Cause for Appeal: (Please be specific; attach additional sheets if necessary, reference any inconsistency with specific city statutes; the General Plan/Local Coastal Plan and Zoning Ordinance is available for review):

(SEE ATTACHMENT)

Signature (s)

ATTEST:

Date: JULY 22, 2014

City Clerk

Received By: _____ Date: _____ 20__

Fee Paid: \$ _____ Date: _____ Receipt Number: _____

July 1, 2013 fee schedule: \$788 outside the Coastal Zone and No Fee for Appeals Within the Coastal Appeal Zone.

July 8, 2014 Planning Commission Minutes Excerpt

5. Public Hearing Agenda:

5.A. 388 Windward; Ernie & Pam Rozo, Applicants: Project No. 14-000080

A Coastal Development Permit for demolition of an existing residence and construction of a new 3,693 sq. ft. residence (including garage). The project is located in the R-1 (Single-Family) zone of the Shell Beach Planning Area. APN: 010-371-012. The project is appealable to the California Coastal Commission.

Commissioner McLaughlin recused himself from this item.

Senior Planner Graham gave the staff report and answered questions from the Planning Commission.

Vice Chairman Hamrick opened the public hearing.

Speakers in support of the project: Pam Rozo, applicant

Speakers against the project: David Stornetta

Vice Chairman Hamrick closed the public hearing.

Associate Engineer Eldridge answered questions from the Planning Commission.

Commissioner Woodhouse moved to adopt the resolution approving Project No. P14-000080 as conditioned. Commissioner Jewell seconded the motion. The motion was approved by roll call vote. The motion passed 4-0. Voting Yes: Vice Chairman Hamrick, Commissioner Jewell, Commissioner Overland, Commissioner Woodhouse; Voting No: None; Recused: Commissioner McLaughlin

PLANNING COMMISSION AGENDA REPORT



PISMO BEACH PLANNING COMMISSION REPORT

SUBJECT/TITLE: 388 Windward, Ernie & Pam Rozo, Applicant's; Project P14-000080

A Coastal Development Permit for demolition of an existing residence and construction of a new 3,693 square foot residence (including garage). The project is located in the R-1 (single Family) zone of the Shell Beach Planning Area. APN: 010-371-012. The project is appealable to the California Coastal Commission.

RECOMMENDATION: Adopt the attached resolution approving the Coastal Development Permit subject to the attached conditions.

EXECUTIVE SUMMARY: The proposal includes demolition of an existing residence and construction of a new 3,693 square foot residence.



The project complies with all applicable General Plan/Local Coastal Program policies and all 1983 Zoning Code requirements.

Prepared by: Scot Graham, Senior Planner
2014

Meeting Date: July 8,

Reviewed by: Carolyn Johnson, Planning Manager

Approved by: Jon Biggs, Community Development Director

Exhibits

1. GP/LCP, Overlay & Development Standards
2. Resolution
3. Plans

Exhibit 1**GP/LCP, Overlay Zoning Issues, Development Standards Chart****Project No. P14-000080, Address: 388 Windward****APNS: 010-371-012, Planning Area: Shell Beach****General Plan and Zoning Code Consistency Issues Charts**

A. GENERAL PLAN/LOCAL COASTAL PLAN POLICIES			
Number	General Plan Policy	Related Condition	Issue
LU-H-4	<p>a. Scale of structure New development should be designed to reflect the small scale image of Shell Beach rather than large monolithic buildings. Buildings should be designed with vertical, horizontal and roof articulation of building faces. Where two story buildings are proposed the second story should normally be stepped back.</p> <p>b. Orientation of doors windows and balconies to street Generally the street frontage should consist of residential units with windows, doors, balconies and porches facing and in reasonably close proximity to the street, both in terms of height (ie units at street level, rather than raised) and in distance from the street (minimum setback). This type of orientation reinforces the traditional beach and street active environment and also increases street safety with "eyes" on the street.</p>	None.	None. Project is a two story home. Design includes windows, balconies and a door facing the street. Project also includes variation in roof height.
LU-H-5	Minimum bluff setback is 25' and all bluff top projects are required to be accompanied by a geologic bluff study.	None	None. Project is not a bluff top lot.
LU-H-8	<p>Lateral Access at Boeker Street: The City should pursue opportunities to create lateral pedestrian pathways connecting Booker Street to Placentia Avenue or Ocean Boulevard to the north and to Windward Avenue or Ocean Boulevard to the south. This requirement shall be implemented as part of project approval, private gifts or dedications or possibility through public acquisition. (See Parks and Recreation Element, Policy PR-5, Path System.)</p>	None	None. The property does not align with the recently acquired pedestrian easement at 367 Boeker. The lateral access would more likely be acquired/achieved when the adjacent property at 398 Windward redevelops.

D-2	b. Entrances To residential buildings, to individual dwelling units within the building and to commercial structures should be readily identifiable from the street, parking area, or semipublic areas and designed to be of a pedestrian scale.	None	None. Door faces street and is readily identifiable.
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B. OVERLAY ZONES			
Number	Overlay Zone	Related Conditions	Issue
17.072	Coastal Appeal (CA) Project approvals in this zone can be appealed to the Coastal Commission in limited circumstances. All projects within the zone require review by the Planning Commission.	None	Project is being reviewed by Planning Commission and any decision rendered is subject to appeal.
17.063	Archaeology and Historic Sites (A) Requires archaeological surface survey for all sites in this zone; additional study or mitigation may be required depending on results of survey	Planning A-2	None. Both a Historical analysis and Cultural Resources Assessment were performed by Rebecca Anastasio in November 2013. The Historical Assessment finds the residence lacking historical significance. The Cultural Resources Assessment recommends monitoring of all demolition activities, utility trenching and foundation excavation due to the proximity of the project to a known archaeological site.
17.069	Architectural Review (AR) Architectural review is required of certain types of projects and of all projects in zones other than R-1 and R-2.	None	None. Planning Commission conducts architectural review.

C. Single-Family Dwelling Design Standards consistency (Resolution 06-0048) ¹	
Title/Criteria	Complies?
A. Second floor massing To avoid "boxy" structures that have unrelieved exterior wall plans extending in height for two or more stories, and to promote vertical articulation of wall planes, the second floor	Yes. The front elevation exterior wall is broken by a covered balcony and a roof overhang extending from the first story. The

¹ note: the figures related to these guidelines can be found in the Resolution 06-0048.

living area shall be set back from the ground floor building footprint on the street sides of the house as much as determined by the review authority to be feasible.	second floor also steps back along a portion of the upper floor.
B. Neighborhood character. In order to attain compatibility with the existing scale and character of the surrounding neighborhood, the development of new single-family dwellings and the alteration of existing dwellings shall include design features or elements that are similar or complementary to nearby homes, including building form and mass, exterior materials, roof form and style, and window shape and style.	Yes. The proposed single-family home makes use of similar colors and materials as those found in surrounding homes. Materials include a stucco exterior finish, tile roof, with stone veneer accents.
C. Design features. 1. Garages. Required parking for single-family dwellings shall be enclosed within a garage; carports shall be prohibited. Roll-up or similar types of garage doors shall be required to maximize parking area on the driveway apron and to avoid the obstruction of sidewalks by parked vehicles.	Yes. A two-car garage is proposed. The garage is located at the rear of the home providing ample onsite parking.
2. Façade articulation. Long expanses of uninterrupted exterior wall plans should be avoided. Exterior wall planes should be relieved by: the provision of off-sets in wall plans; placement of windows; incorporation of porches, balconies, trellises, or decks; incorporation of trim, ornamentation or architectural detailing appropriate to the building style; use of varied textures and colors; and the use of other design accents to soften the architecture.	Yes. The design incorporates elements that include off sets in the wall planes, inclusion of windows, eaves and deck features to help break up the building elevations.
3. Roof articulation. Long expanses of uninterrupted roof plans should be avoided. Roof heights, plans, and lines should be varied. Traditional roof forms, especially gable and hip designs, should be used unless infeasible. Roof features including dormers and clerestories are encouraged. If flat or low-slope roof forms are proposed, special care should be taken to ensure compatibility with, and minimize shading of, adjacent structures.	Yes. The roof is broken up through the use of various pitches on the second floor, including a significant step down of the garage area from the main roof.

D. DEVELOPMENT STANDARDS CONSISTENCY CHART:
388 Windward, R-1 Zone, Shell Beach Planning Area

Item	Permitted/ Required	Code Section	Proposed	Complies?
Lot area	5,000 sq. ft. min.	17.102.060	5,236 sq. ft.	Yes
Max bldg height	25' above natural grade at center of building footprint. 56.50' + 25 = 81.5' max elevation	17.102.010	24' – 7" Or 81.0' elevation	Yes
Max lot coverage	55% Allowed: 2,879 sq. ft. max	17.102.080	2,770 sq. ft. (53%)	Yes
Max Building	86% of the first 2700 sq. ft. of lot area, 60% of the	17.105.135	3,693 sq. ft.	Yes

Area Ratio	remainder= 3,843 sq. ft. max.			
Planting Area	20% of lot size 1,047 sq. ft. minimum,	17.102.095	1,447 sq. ft. (27.6%)	Yes
2nd/1st floor ratio	2nd floor not to exceed 80% of 1 st floor. 1 st = 2,052 sq.ft. x .80 = 1,641.6 sf max	17.102.080	1,641 sq. ft. or 79.9%	Yes
Minimum front yard setback	20% of lot depth or the avg. of the front setbacks of the nearest improved lots on either side of the subject lot, no less than 10', no more than 20' required. Using the avg. setback for the lots on either side = 4.57' (398 Windward) + 19.58' (376 Windward) = 24.33/2 = 12.165'	17.102.020	12.25'	Yes
Front Setback Encroachment	Cantilevered balconies can extend into the required front yard setback up to 20% into the required setback. 12.25' x .20 = 2.45' - 12.25' = 9.8'	17.102.150	9' - 9"	Yes
Minimum side yard setback	10% lot width; min. 4'; max. 5 req'd., in this case: 5'	17.102.030.1	R = 5' L = 5' - 5"	Yes
Garage Setback	20'	GP LU-D-2	46' side loading at rear of residence	Yes
Minimum parking spaces	2 spaces within a garage for lot	17.108.020, 17.108.030 b	2 spaces within a garage.	Yes
Minimum Rear Setback	10% of lot depth or 6' - 11.4"	17.102.040	6' - 11"	Yes
Minimum parking space size	10' x 20'	17.108.030	2 spaces measuring 24' x 22'	Yes

Planning Commission Resolution

RESOLUTION NO: PC-R-2014-023

**A Resolution of the Planning Commission of the City of Pismo Beach
Approving Project No. 14-000080 For
Construction of a New 3,693 Square Foot Single-Family Residence
at 388 Windward; APN: 010-371-012**

WHEREAS, Ernie & Pam Roza ("Applicant's") have submitted an application to the City of Pismo Beach for a Coastal Development and Architectural Review Permit for the demolition of an existing residence and construction of a new two story 3,693 square foot single-family residence; and

WHEREAS, the Planning Commission held a duly-noticed public hearings on July 8, 2014, at which all interested persons were given the opportunity to be heard; and

WHEREAS, the Planning Commission determines that under the provisions of the California Environmental Quality Act (CEQA), the construction of a new single-family residence is exempted per section 15303 of the guidelines.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Pismo Beach, California as follows:

A. FINDINGS REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

1. The project consists of the demolition of an existing residence and construction of a new 3,693 square foot single-family residence.
2. There are no site constraints or other factors that would create the potential for significant environmental impacts as a result of the construction of a new single-family residence.
3. The demolition of the existing residence and subsequent construction of a new 3,693 square foot single-family residence is exempt from CEQA in accordance with section 15303 of the CEQA Guidelines, exempting construction of on single family residence within a single family zone where all infrastructures is present.

B. FINDINGS FOR APPROVAL OF THE COASTAL DEVELOPMENT PERMIT AND ARCHITECTURAL REVIEW PERMIT:

1. The project improvements comply with the public access and public recreation policies of Chapter 3 (commencing with Section 30220) of the California Coastal Act of 1976.
2. The construction of a new 3,693 square foot single-family residence is appropriate in size so as to be compatible with the adjacent structures.
3. The architectural and general appearance of the new single-family residence is in keeping with the character of the neighborhood.

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4. The proposed new residence is compatible with the visual quality and character of the surrounding area and is compatible with the immediate neighborhood.

5. The construction of a new 3,693 square foot single-family residence is consistent with the General Plan, Local Coastal Plan and General Plan Land Use Plan category of Single-Family Low Density Residential.

6. The construction of a new 3,693 square foot single-family residence is compatible with the nearby existing uses and will not be detrimental to the health, safety, morals, comfort and general welfare of persons residing or working in the surrounding area of the proposed project.

7. The construction of a new 3,693 square foot single-family residence will not be detrimental to the orderly development of improvements in the surrounding area, and will not be detrimental to the orderly and harmonious development of the City.

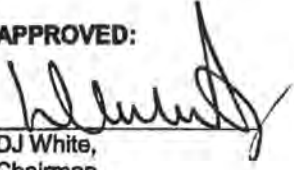
8. The construction of a new 3,693 square foot single-family residence will not impair the desirability of investment or occupation in the neighborhood.

The Planning Commission does hereby approve the Coastal Development Permit subject to the Conditions attached as Exhibit A.

UPON MOTION of Commissioner Woodhouse seconded by Commissioner Jewell the foregoing Resolution is hereby approved and adopted the 8th of July, 2014, by the following roll call vote, to wit:

AYES: COMMISSIONERS: Hamrick, Jewell, Overland, Woodhouse.
NOES: COMMISSIONERS: None.
ABSTAIN: COMMISSIONERS: McLaughlin
ABSENT: COMMISSIONERS: None

APPROVED:


DJ White,
Chairman

ATTEST:


Elsa Perez, CMC
Secretary to the Planning Commission

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EXHIBIT A
PERMIT NO. P14-000080, CDP / ARP
PLANNING COMMISSION MEETING OF July 8, 2014
388 Windward, APN: 010-371-012

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

AUTHORIZATION: Subject to the conditions stated below, approval of Permit P14-000080 grants planning permits for the demolition of an existing residence and construction of a new 3,693 square foot residence, as shown on the approved plans with City of Pismo Beach stamp of July 08, 2014. Approval is granted only for the construction and use as herein stated; any proposed changes shall require approval of amendments to these permits by the City of Pismo Beach.

Standard conditions, policies and selected code requirements applicable to new single-family residences, as adopted by the Planning Commission are by this reference included as conditions of this permit. Such standard conditions will be attached to this permit when signed by the applicant. Special project conditions are listed on Exhibit A of this permit. The applicant agrees to comply with all City standard conditions and conditions specific to the project.

EFFECTIVE DATE: This permit shall become effective upon the passage of 20 days following the receipt of notice of this action by the California Coastal Commission, provided that an appeal has not been filed to the City Council within 10 working days or that an appeal has not been filed to the Coastal Commission within the above 20 days. The filing of an appeal shall stay the effective date until an action is taken on the appeal.

EXPIRATION DATE: The applicant is granted two years for inauguration (i.e. building permits issued and construction begun) of this permit. The permits will expire on July 8, 2016 unless inaugurated prior to that date. Time extensions are permitted pursuant to Zoning Code Section 17.121.160 (2).

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

COMPLIANCE AGREEMENT: I have read and understood, and I will comply with all applicable requirements of any law or agency of the State, City of Pismo Beach and any other governmental entity at the time of construction. The duty of inquiry as to such requirements shall be my responsibility. I agree to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of

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the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the project; or my failure to comply with conditions of approval. This agreement shall be binding on all successors and assigns.

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

Approved by the Planning Commission on July 8, 2014.

Applicant

Date

Property Owner

Date

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**CONDITIONS, POLICIES AND SELECTED CODE REQUIREMENTS FOR
PROJECT No. P14-000080
388 Windward, APN: 010-371-012**

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

A. PRIOR TO ISSUANCE OF A BUILDING PERMIT:

BUILDING DIVISION:

1. Building permit plans shall be submitted by a California licensed architect or engineer when required by the Business & Professions Code, except when otherwise approved by the Chief Building Official.
2. The owner shall designate on the building permit application a registered design professional who shall act as the Registered Design Professional in Responsible Charge. The Registered Design Professional in Responsible Charge shall be responsible for reviewing and coordinating submittal documents prepared by others including phased and staggered submittal items, for compatibility with design of the building.
3. The owner shall comply with the City's Structural Observation Program. The owner shall employ the engineer or architect responsible for the structural design, or another engineer or architect designated by the engineer of record or architect responsible for the structural design, to perform structural observation as defined in Section 220. Observed deficiencies shall be reported in writing to the owner's representative, special inspector, contractor and the building official. The structural observer shall submit to the building official a written statement that the site visits have been made and identify any reported deficiencies that, to the best of the structural observer's knowledge, have not been resolved.
4. The owner shall comply with the City's Special Inspection Program. Special inspections will be required by Section 1704 of the California Building Code. All Special Inspectors shall first be approved by the Building Official to work in the jurisdiction. All field reports shall be provided to the City Building Inspector when requested at specified increments in order for the construction to proceed. All final reports from Special Inspectors shall be provided to the Building Official when they are complete and prior to final inspection.
5. Mitigation measures for natural occurring asbestos require approval from San Luis Obispo County Air Pollution Control District.
6. Projects shall comply with current City and State water conservation regulations.
7. Deferred submittals are not allowed, i.e. fire sprinkler plans and calculations, spiral staircases, and truss calculations.

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8. A soils investigation performed by a qualified professional shall be required for this project. All cut and fill slopes shall be provided with subsurface drainage as necessary for stability; details shall be provided
9. Site retaining walls require a separate building permit. Please provide a separate soils report and engineering calculations for the site walls at the time of permit application.
10. Fire sprinklers, shall be required by City Codes.

PLANNING DIVISION

1. COMPLIANCE WITH PLANNING COMMISSION APPROVAL. Prior to the issuance of a building permit, the Project Planner shall confirm that the construction plot plan and building elevations are in compliance with the Planning Commission's approval and these conditions. Project shall comply with these standards:

Item	Approved
Lot area	5,236 sq. ft.
Maximum building height	24' – 7" or 81.0" elevation
Maximum building area ratio	3,693 sq. ft.
Planting area	1,447 sq. ft.
Lot Coverage	2,770 sq. ft.
Minimum front yard setback	12.25' to house 9' – 9" to edge of cantilevered deck
Minimum side yard setback	R = 5' L = 5' – 5"
Minimum rear yard setback	6' – 11"
Minimum parking spaces	2 within garage
Minimum parking space size	2 at 24' x 22' clear

2. ARCHAEOLOGICAL MONITORING. The applicant shall provide signed copies, to the Planning Division, of the contracts for both an archaeological and Native American monitor.
3. LANDSCAPING, IRRIGATION. The applicant shall provide Landscaping and irrigation plans encompassing the entire site. The plans shall be submitted by the project applicant to the City for review and approval by the project planner. Detailed calculations shall be provided on the face of the plan indicating the provision of a minimum of 20% landscape area with no greater than 10% provided as lawn. The landscape plan shall be designed in a manner consistent with Chapter 15.48 of the Municipal and include the following provisions:
 - a. *Use of low-water-using irrigation systems. Drip irrigation shall be used where feasible.*

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- b. *Landscape Design Plan (including plant list)*
- c. *Irrigation Design Plan*
- d. *Separate calculation for landscaping and hardscape shall be provided.*
- e. *Landscape plans shall not include any trees exceeding a mature height exceeding the roof line of the residence. All trees shall be maintained at a height not to exceed the height of the residence.*

ENGINEERING

1. Engineering standard conditions (notes): Shall be placed on the plans at time of submittal. A copy may be obtained through the Engineering Department.
2. Project improvements shall be designed and constructed in accordance with City standards and specifications and in accordance with all applicable City Ordinances. The decision of the City Engineer shall be final regarding the specific standards that shall apply.
3. Appropriate City standards shall be referred to on the plans and shall be included on a detail sheet within the plan set.
4. The applicant will be responsible for obtaining an encroachment permit for all work within a public right of way (City).
5. The City Engineering Division shall approve any landscaping or irrigation within a public right of way or otherwise to be maintained by the City.
6. The applicant shall provide a current title report to the Engineering Division.
7. Driveways and driveway approaches shall be located and constructed per City of Pismo Beach standards. Profiles shall be provided for all interior driveways.
8. If the existing City street adjacent to the frontage of the project is inadequate for the traffic generated by the project, or will be severely damaged by construction, the applicant shall excavate the entire section and replace it with a standard half – width street.
9. A lot Merger shall be applied for and completed prior to issuance of a building permit.

Grading and Drainage Plans

10. The following conditions shall be met during construction:
 - a. Owner and/or owner's contractor are to take precaution against damaging road surfaces. Note: The existing street sections adjacent the property may be substandard and may be subject to damage by heavy loading/equipment during construction. The owner is responsible for protection against and/or repair of, at owner's expense, any/all damage incurred during and/or due to construction.

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- a. Encroachment Permits are required prior to any/all work in the public right of way. City Streets are to remain open to through traffic at all times. A traffic control plan shall be submitted to the Engineering Division for approval prior to detours or rerouting of traffic. Excavation within the streets shall be covered or backfilled and paved prior to the end of work each day. No temporary or long term parking, storage, or disposal of construction equipment or materials within the right-of-way shall occur without prior issuance of an encroachment permit.
 - b. Erosion and Drainage control features are to be available to be placed in the event of rain or other erosive action to prevent any sediment or refuse from leaving the site. Erosion control devices shall be installed and in place following daily construction activities. The applicant shall notify the Engineering Division of any changes in construction which will require additional erosion control measures.
- 11. A Preliminary Soils and/or Geology Report providing technical specifications for grading of the site shall be prepared by a Geotechnical Engineer.
 - 12. All grading and drainage improvements shall be designed and constructed in accordance with the City Grading Ordinance and subject to approval by the City Engineer.
 - 13. The project shall conform to the City's Storm Water Discharge Ordinance.
 - 14. In order for the proposed development to maintain conformance with the City's Regional Stormwater Permit, implementation of Low Impact Development (LID) source control, site design, and stormwater treatment onsite or at a joint stormwater treatment facility shall be required. The stormwater design shall be submitted for review and approval by the City Engineer and shall provide mitigation for post development runoff versus pre-development runoff.
 - 15. Calculations and/or a drainage report must be submitted with the plans.
 - 16. The applicant shall submit a composite utility plan.
 - 17. Landscape and irrigation plans for the public right-of-way shall be incorporated into the improvement plans and shall require approval by the Streets Division Supervisor and the Community Development Department.
 - 18. No Building Permits will be issued without prior approval of the Engineering Division and an approved erosion and sediment control plan and construction schedule. Erosion control measures shall be in place and approved by the Engineering Division prior to the start of construction.
 - 19. An Erosion and Drainage Control Plan shall be submitted in accordance with the City Grading Ordinance. The plan shall reflect "Best Management Practices" as proposed in the California Regional Water Quality Control Board Erosion and Sediment Control Field Manual, and shall include both temporary measures (to be used during construction, and until permanent measures are completed/established) and permanent measures. Plan shall

include both source control and perimeter containment measures. All Drainage and Erosion Control Measures shall be designed and/or sized by a qualified professional.

Utilities

- 20. The applicant shall install all utilities.
- 21. All utilities shall be extended to the boundaries of the project.
- 22. Sewer System Requirements

Construction of permanent structures over a City sewer line and easement is against current City policy. Specifically, to allow the demolition of an existing home that has been built over the existing City sewer main and easement and construction of a new home over the sewer main and easement. This is not a preferable or even generally acceptable condition. However, due to the current site situation and per the request of the applicant, staff will allow such construction for your proposed project if the following conditions are met:

- A. The existing cast iron sewer pipe shall be removed and replaced with PVC pipe that extends a minimum of 10' beyond the footprint of the proposed house. The pipe shall be backfilled with 2-sack concrete slurry.
- B. All footings of the proposed residence that are adjacent to and parallel with the sewer line must be designed to remain outside the existing 10' wide sewer easement and to extend below the depth of the existing sewer line using a concrete caisson and grade beam type system or other method as designed and approved by the applicants Geotechnical and Structural Engineer. The design shall be submitted for review and approval by the City Engineer.
- C. Prior to final of the proposed residence the newly installed PVC sewer shall be video inspected to verify condition.
- D. An Encroachment Agreement for building over the sewer line and easement must be applied for through the Engineering Division. The Agreement must be reached with City Council, signed and recorded prior to issuance of Building Permit. Applicant shall understand that receiving a Conditional Use Permit does not in any way guarantee that an agreement can, or will, be reached with the City Council for the encroachment into the existing sewer easement.
- E. As an alternate to the conditions described above, the proposed residence may be designed to current City policy and commonly accepted engineering principles and remain completely outside of the existing 10' wide sewer easement.

23. Water System Requirements

Applicant is required to show the existing location of the Water Main in the street and location of the existing water lateral, if existing, on the plans. The size of the proposed lateral and proposed water meter shall be shown on the plans. If existing lateral is inadequate for the

proposed water meter, then applicant is responsible for all costs, materials and labor for the installation of a new water lateral. Show size and type of all water lines.

24. All existing overhead wire service utilities to the residence shall be relocated underground.

Public Improvement Plans

25. Public improvement plans shall be prepared by a registered Civil Engineer and approved by the Public Works Department, Engineering Division and include the following:

A. Existing Sewer Main replacement

26. The applicant shall submit three sets of public improvement plans to the engineering department on the City of Pismo Beach title block as a separate submittal.

27. Upon approval of the improvement plans, the applicant shall provide a reproducible mylar set and 3 sets of prints of the improvements for inspection purposes.

28. The applicant shall provide an engineer's estimate for all work on public improvement plan.

29. Prior to any plan check, the applicant shall enter into an Engineering Plan Check and Inspection Services Agreement with the City based on 5% of the engineer's estimate for all work on public improvement plan.

30. Building plans will not be approved by the Engineering Department until Public Improvement Plans are approved; i.e approved mylars signed by the City Engineer.

31. Prior to the final inspections and acceptance of the public improvements the applicant shall provide to the City Engineer record drawings, signed by the engineer of record:

1 set of reproducible mylars

3 sets of print of the approved record drawings (as built)

32. An electronic AutoCAD drawing file registered to the City's benchmark system shall be provided.

33. The applicant shall pay any current and outstanding fees for Engineering Plan Checking and Construction Inspection services.

B. CONDITIONS TO BE MET DURING CONSTRUCTION:

BUILDING DIVISION:

1. SITE MAINTENANCE. During construction, the site shall be maintained so as to not infringe on neighboring property, such as debris and dust.

2. ARCHAEOLOGICAL MATERIALS. In the event unforeseen archaeological resources are unearthed during any construction activities, all grading and or excavation shall cease in the immediate area and the find left untouched. The Building Official shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist,

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Native American, or paleontologist, whichever is appropriate. The qualified professional shall evaluate the find and make reservations related to the preservation or disposition of artifacts in accordance with applicable laws and ordinances. If discovered archaeological resources are found to include human remains, or in any other case when human remains are discovered during construction, the Building Official shall notify to county coroner. If human remains are found to be of ancient age and of archaeological and spiritual significance, the Building Official shall notify the Native American Heritage Commission. The developer shall be liable for costs associated with the professional investigation.

3. Certification of compliance with the soils report shall be submitted to the Building Division prior to foundation approvals. A final report certifying compliance with the soils report or grading plans shall be submitted to the Building Division prior to final approvals.

4. A licensed surveyor or engineer shall verify pad elevations, setbacks, prior to foundation inspection, and roof elevations, prior to roof sheeting inspection, when determined necessary by the Planning Department.

C. CONDITIONS TO BE MET PRIOR TO FINAL INSPECTION AND ISSUANCE OF CERTIFICATE OF OCCUPANCY:

BUILDING DIVISION:

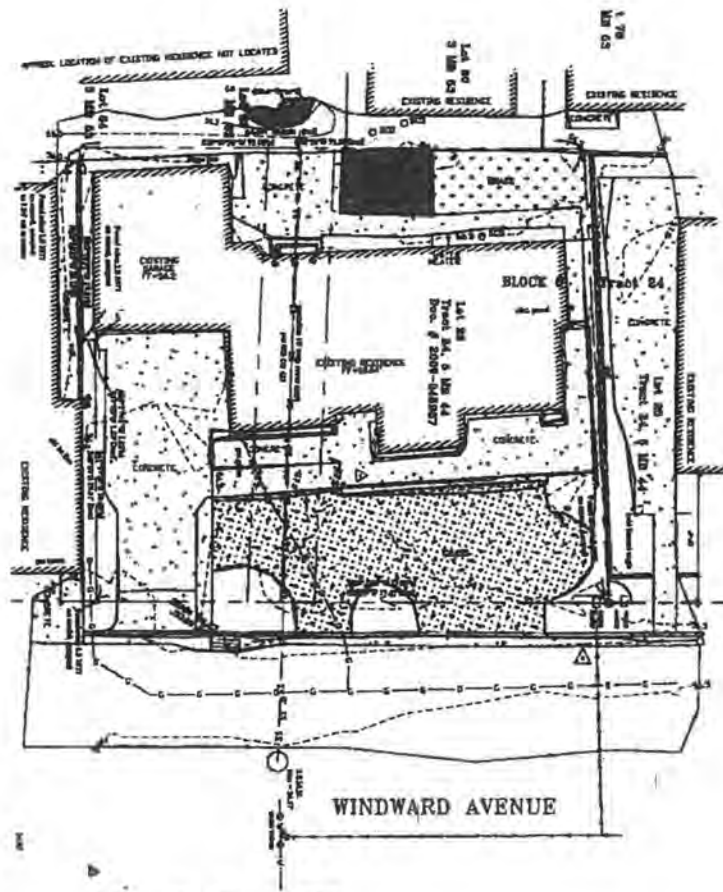
1. Prior to building division final approval all required inspections from the other various divisions must have been completed and verified by a city inspector. All required final inspection approvals must be obtained from the various departments and documented on the permit card.

D. CONDITIONS SUBJECT TO ONGOING COMPLIANCE:

1. ROOF-MOUNTED EQUIPMENT. All roof-mounted air conditioning or heating equipment, vents or ducts shall be screened from view in a manner approved by the Project Planner.

2. COMPLIANCE WITH APPLICABLE LAWS. All applicable requirements of any law or agency of the State, City of Pismo Beach and any other governmental entity at the time of construction shall be met. The duty of inquiry as to such requirements shall be upon the applicant.

-END-



INDEX TO DRAWINGS
SHEET 1 OF 1
DATE: 04/21/15
DRAWN BY: JERRY SHAW
CHECKED BY: JERRY SHAW
APPROVED BY: JERRY SHAW
PROJECT: A NEW CUSTOM RESIDENCE FOR ERNIE & PAMELA ROZO
LOCATION: 388 WINDWARD AVE., POINCIPE BEACH, FL 33440

Attachment 9

A-1	DATE / COMMENTS	A NEW CUSTOM RESIDENCE FOR: ERNIE & PAMELA ROZO 388 WINDWARD AVE. POINCIPE BEACH, FL 33440	JERRY SHAW Residential Design (805) 481-0308 www.jerryshawdesign.com	
	SHEET			

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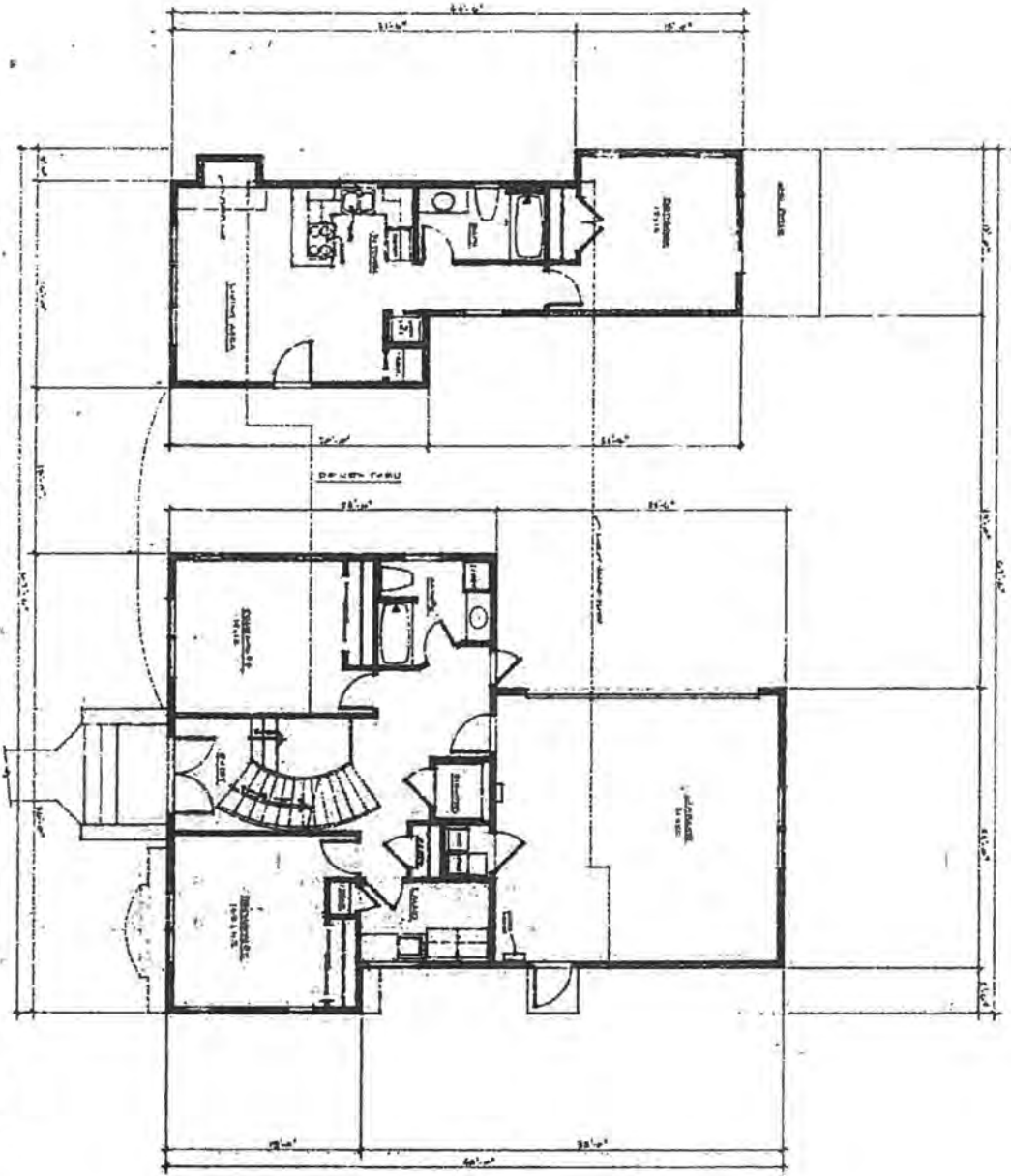
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CITY OF BIRMINGHAM
 OFFICE OF THE COMPTROLLER
 200 NORTH AVENUE
 BIRMINGHAM, ALABAMA 35203
 TEL: 205/263-1000
 FAX: 205/263-1001

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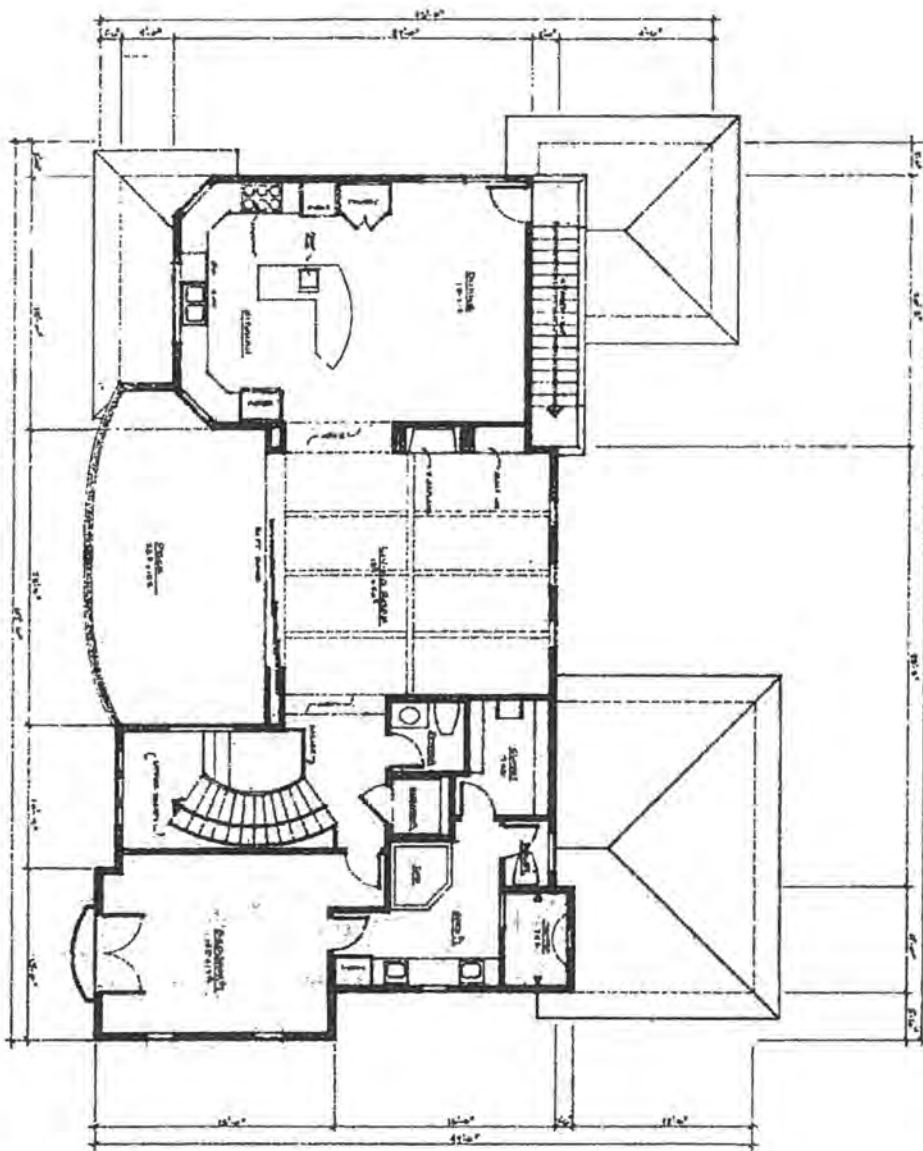
CLIENT: ERNIE & PAMELA ROZO
 PROJECT: NEW CUSTOM RESIDENCE
 ADDRESS: 333 WINDWARD AVE., PISMO BEACH, CA 93449
 DATE: 04/21/2015
 DRAWN BY: JERRY SHAW
 CHECKED BY: JERRY SHAW
 SCALE: 1/8" = 1'-0"



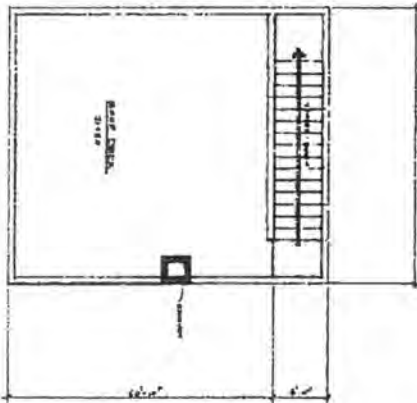
A-3	DATE / COMMENTS	A NEW CUSTOM RESIDENCE FOR: ERNIE & PAMELA ROZO 333 WINDWARD AVE. PISMO BEACH, CA 93449	JERRY SHAW Residential Design (805) 481-0308 www.jerryshawdesign.com	
	SHEET			

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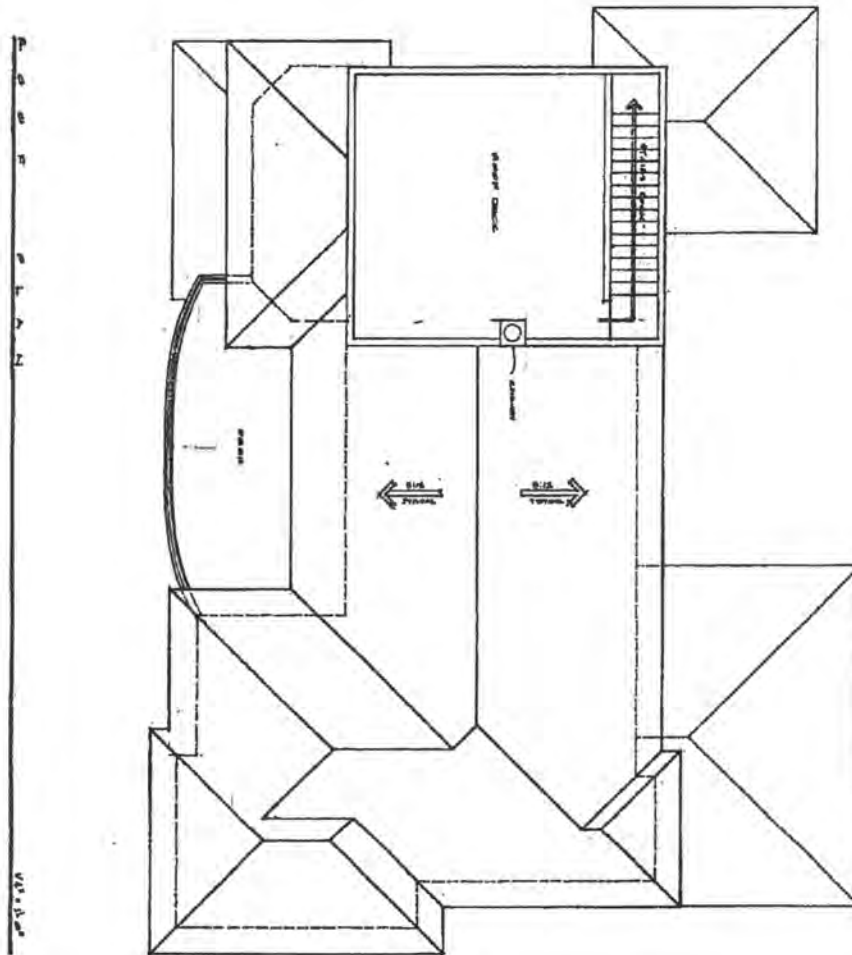
USEFUL LEVEL - FLOOR PLAN



ROOF DECK FLOOR PLAN



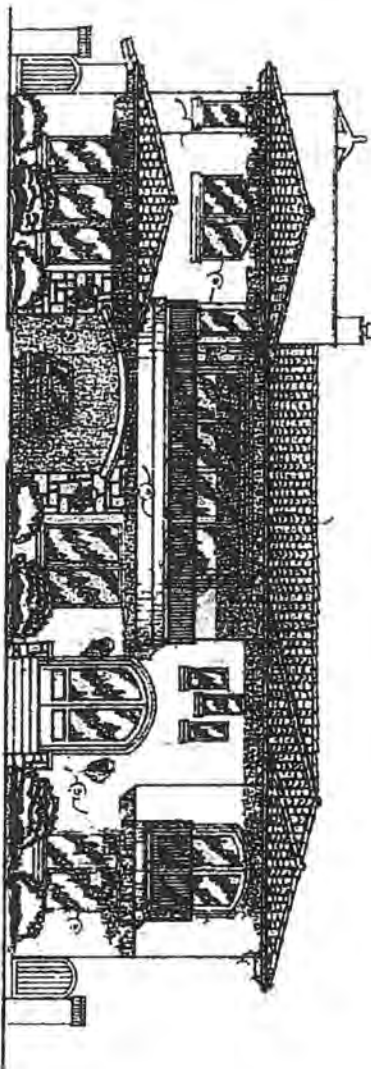
A-4	DATE / COMMENTS	A NEW CUSTOM RESIDENCE FOR: ERNIE & PAMELA ROZO 300 WINDWARD AVE. POMONA BEACH, CA 93448	JERRY SHAW Residential Design (805) 481-0308 www.jerryshawdesign.com	
	SHEET			



A-5	DATE / COMMENTS	A NEW CUSTOM RESIDENCE FOR: ERNIE & PAMELA ROZO 328 WINDWARD AVE. PISMO BEACH, CA 93449	JERRY SHAW Residential Design (805) 481-0308 www.jerryshawdesign.com	
	SHEET			

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VP: 1.6.2



EXTERNAL FRASH KEYNOTES

1. COMMENTS BY FRASH
2. BY FRASH TEAM LEAD
3. BY FRASH
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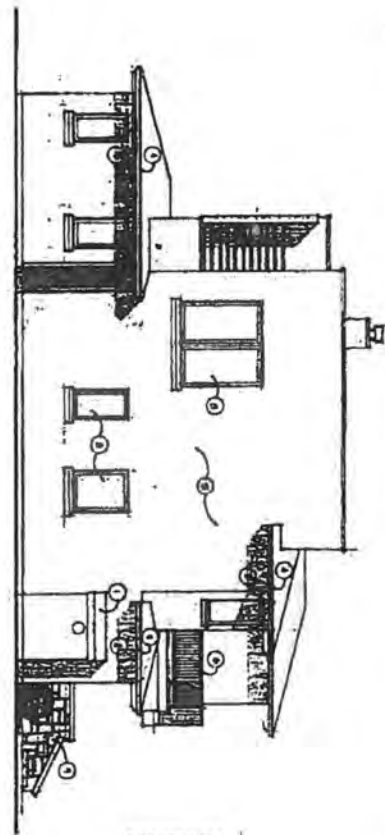
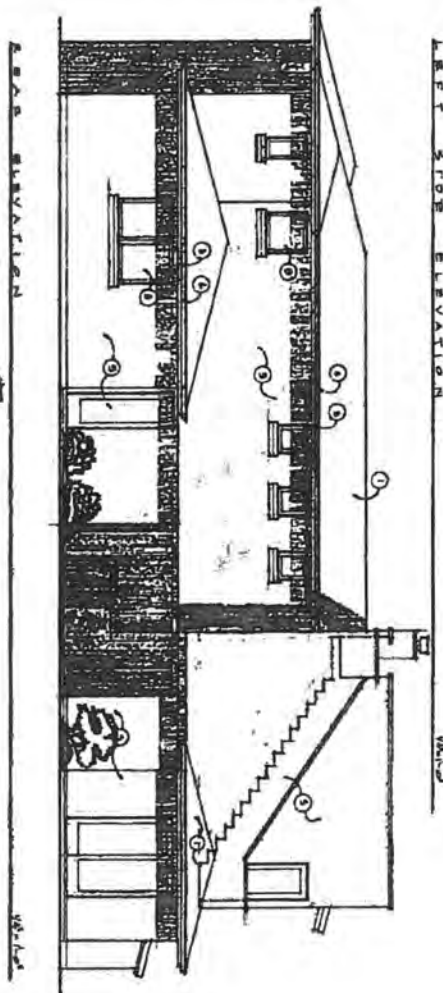
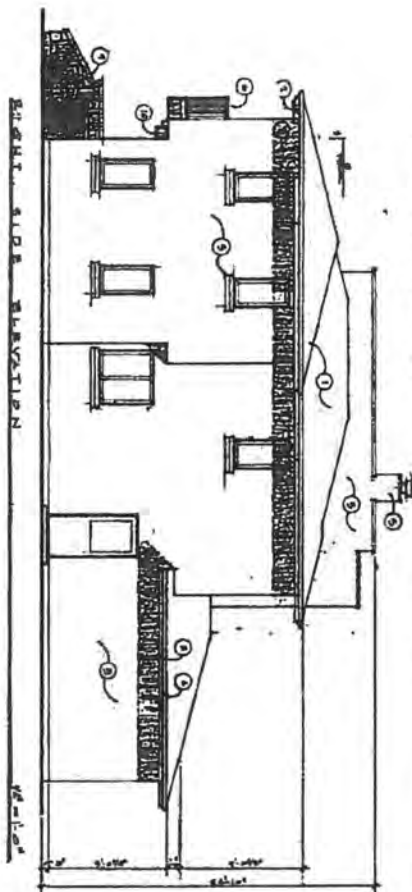
A-6	DATE / COMMENTS

**A NEW CUSTOM RESIDENCE FOR:
ERNIE & PAMELA ROZO**
582 WINDWARD AVE. PISMO BEACH, CA 93449

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EXTERIOR FINISH NOTES

- 1. EXTERIOR WALLS: STUCCO
- 2. ROOF: ASPH/FLT SHINGLES
- 3. FLOORS: CERAMIC TILE
- 4. CEILING: POP
- 5. PAINT: EXTERIOR - WHITE, INTERIOR - WHITE
- 6. DOORS: 6'0" X 2'0" SLIP DOOR
- 7. WINDOWS: 6'0" X 4'0" DOUBLE HUNG
- 8. STAIRS: 8'0" X 6'0" WOOD
- 9. PORCH: 6'0" X 6'0" WOOD
- 10. FENCE: 6'0" X 6'0" WOOD
- 11. DRIVEWAY: 12'0" X 24'0" ASPHALT
- 12. LANDSCAPE: SEE LANDSCAPE ARCHITECT

A-7	DATE / COMMENTS

A NEW CUSTOM RESIDENCE FOR:
ERNIE & PAMELA ROZO
 282 WINDWARD AVE. PISMO BEACH, CA. 93448

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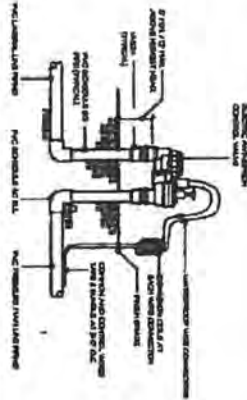


Agenda 6.A
Page 68

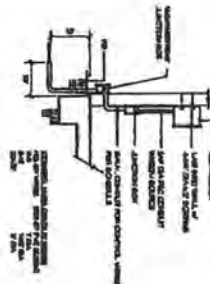
Exhibit 4
A-3-PSB-15-0030
90 of 110

PLANTING & IRRIGATION NOTES

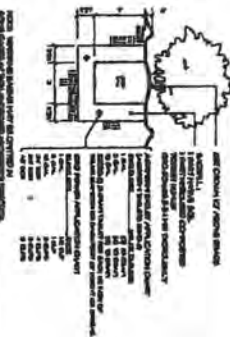
AIR-DRIP VALVE



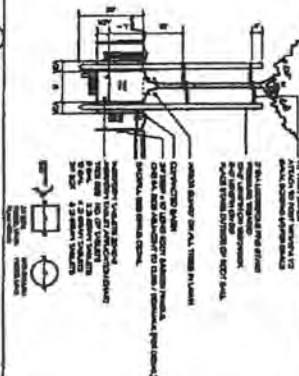
CONTROLLING LINE



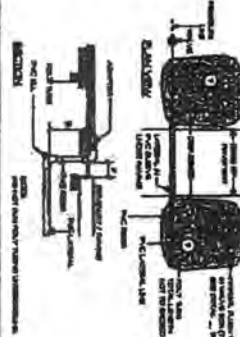
TREE, SHRUB & GROUND COVER PLANTING



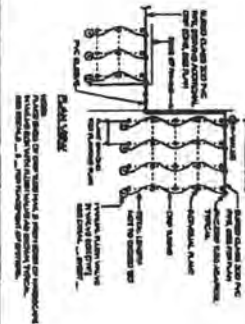
TREE PLANTING



DRIP ZONE SCHEMATIC



DRIP TUBING LAYOUT SCHEMATIC



DRIP TUBING & TUBING SCHEMATIC



DRIP LAYOUT PLACEMENT



A-9

SHEET

DATE / COMMENTS

A NEW CUSTOM RESIDENCE FOR:
ERNIE & PAMELA ROZO
338 WINDWARD AVE. PISMO BEACH, CA 93448

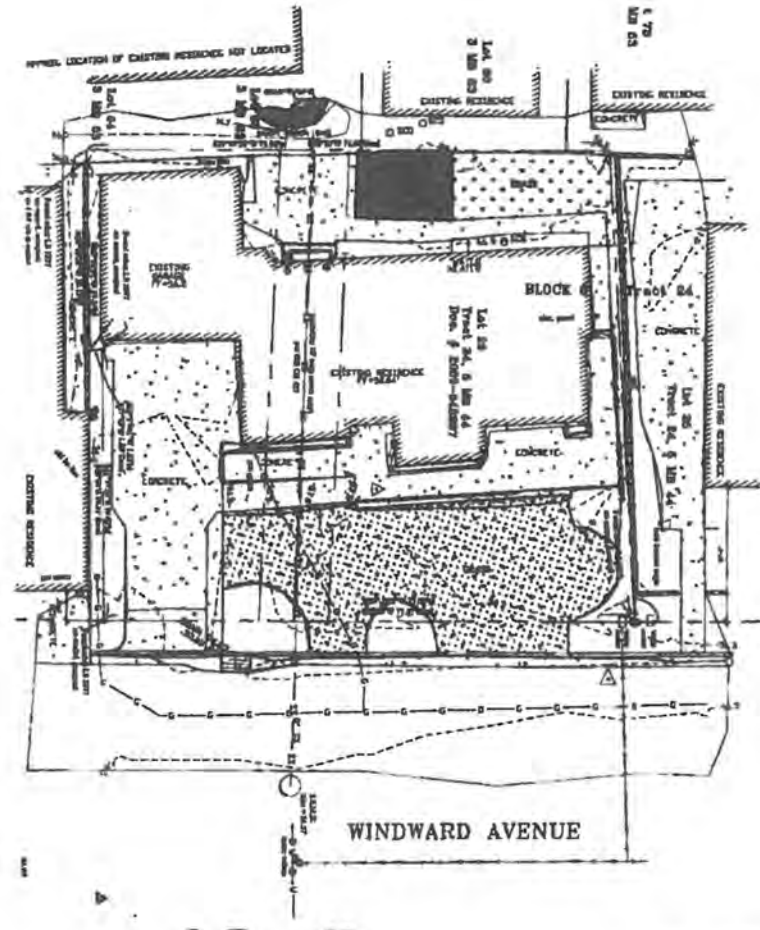
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SHEET



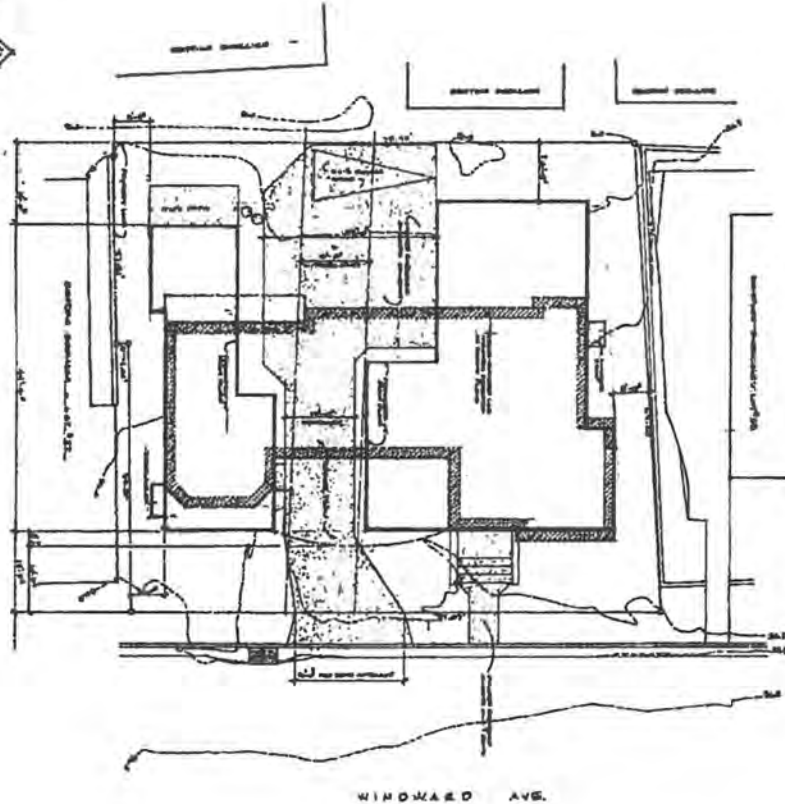
City of Pismo Beach
 Approved by City Council
 Date: 4-21-2015
 ✓ as submitted
 ✗ with changes
 Planner: [Signature]
[Signature] Biggs

INDEX TO DRAWINGS
 1. SITE PLAN
 2. FLOOR PLAN
 3. ELEVATIONS
 4. SECTION
 5. DETAIL

Attachment 9

A-1	DATE / COMMENTS	A NEW CUSTOM RESIDENCE FOR: ERNIE & PAMELA ROZO <small>380 WINDWARD AVE. PISMO BEACH, CA 93449</small>	JERRY SHAW Residential Design <small>(805) 481-0308</small> www.jerryshawdesign.com	
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WINDWARD AVE.



City of Pismo Beach
Approved by City Council

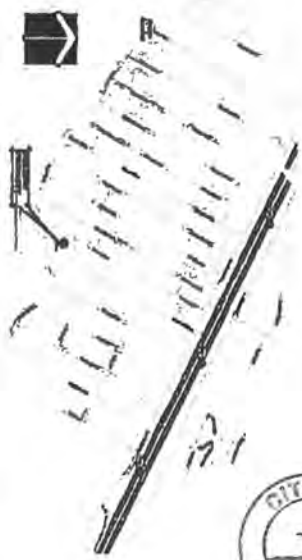
Date: 4-21-2015

as submitted
with changes

Planner:

*for
for
Biggs*

PLANNING MAP



PROJECT TEAM

Owner: Mr. & Mrs. Ernest & Pamela Roza
Architect: Jerry Shaw
City of Pismo Beach, CA 93426
City Engineer: [Signature]
City Clerk: [Signature]
City Council: [Signature]
City Manager: [Signature]

PROJECT DESCRIPTION

Project Name: A New Custom Residence for Ernest & Pamela Roza
Project Address: 385 Windward Ave., Pismo Beach, CA 93426
Project Type: Single-Family Residential
Project Status: Approved by City Council

SETBACKS

Side	Front	Side	Back
Minimum	10' 0"	10' 0"	10' 0"
Actual	10' 0"	10' 0"	10' 0"

FLOOR AREAS

Room	Area (sq. ft.)
Living Room	1,200
Kitchen	800
Bedroom	1,000
Bathroom	600
Garage	1,500
Porch	400
Staircase	200
Other	100
Total	6,700

COVERAGE

Room	Coverage (sq. ft.)
Living Room	1,200
Kitchen	800
Bedroom	1,000
Bathroom	600
Garage	1,500
Porch	400
Staircase	200
Other	100
Total	6,700

FLOOR AREA RATIO

Room	Ratio (sq. ft. / sq. ft. lot)
Living Room	1.20
Kitchen	0.80
Bedroom	1.00
Bathroom	0.60
Garage	1.50
Porch	0.40
Staircase	0.20
Other	0.10
Total	6.70

SOFTWARE & HARDWARE

Software: AutoCAD 2012, Revit 2012
Hardware: Dell XPS 8940, 16GB RAM, 1TB SSD

PAINTING

Painting: Interior walls, exterior walls, roof, gutters, downspouts, driveway, garage floor, porch, stairs, deck, railing, fence, landscaping, irrigation, lighting, etc.

LIMITATIONS

Limitations: This plan is based on the information provided by the owner and is not intended to be a final construction document. It is subject to change without notice.

MAXIMUM BUILDING HEIGHT

Maximum Building Height: 10' 0" (3.05m)

City of Pismo Beach
Approved by City Council
Date: _____

as submitted
with changes

Planner:



A NEW CUSTOM RESIDENCE FOR:
ERNIE & PAMELA ROZO
385 WINDWARD AVE. PISMO BEACH, CA 93426

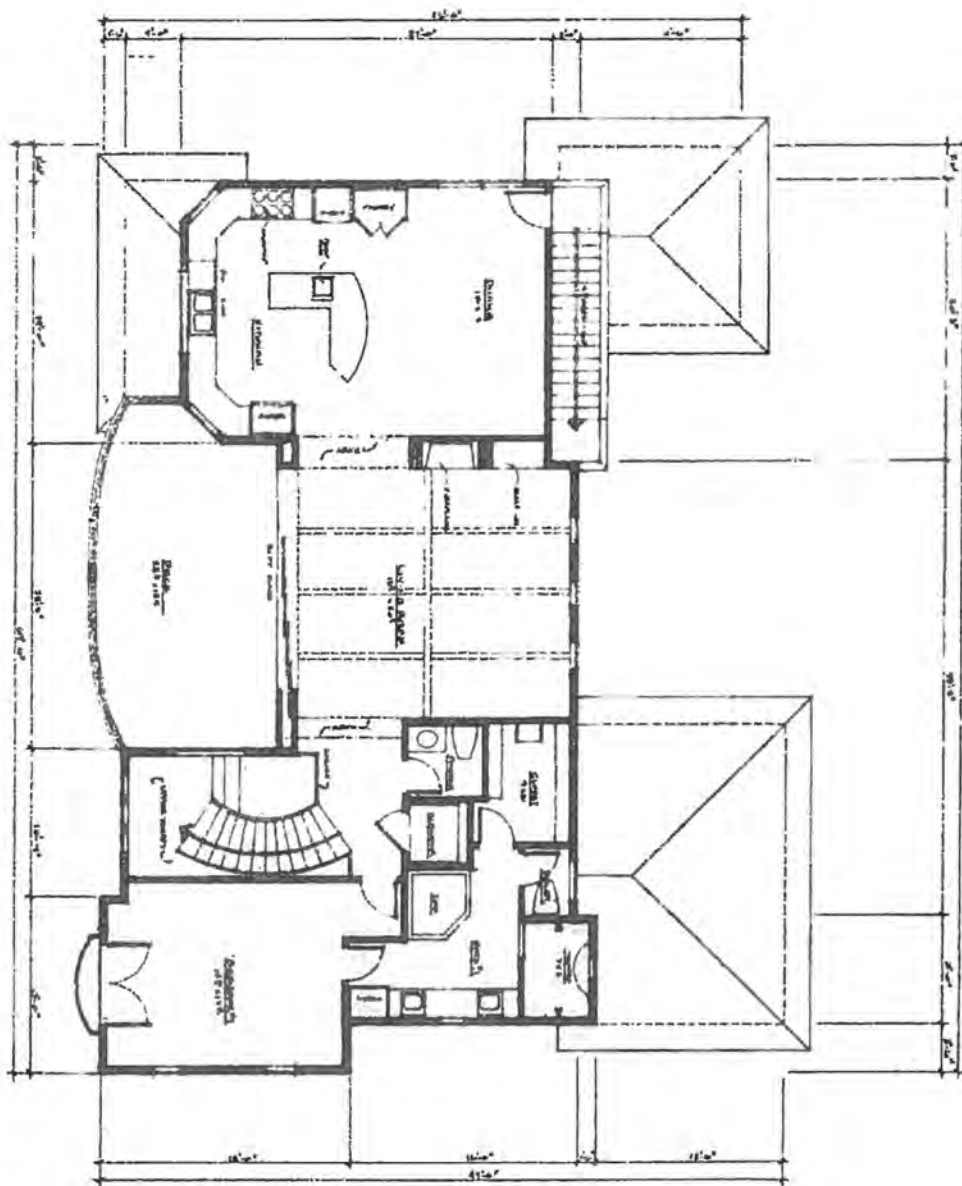
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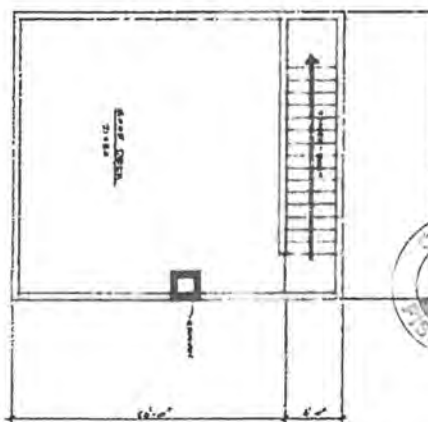
DATE / COMMENTS	SHEET
	A-2

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UPPER LEVEL FLOOR PLAN



LOWER LEVEL FLOOR PLAN



City of Pismo Beach
Approved by City Council

Date: 4-21-2015

✓ as submitted
with changes

Owner: *Jon Biagg*



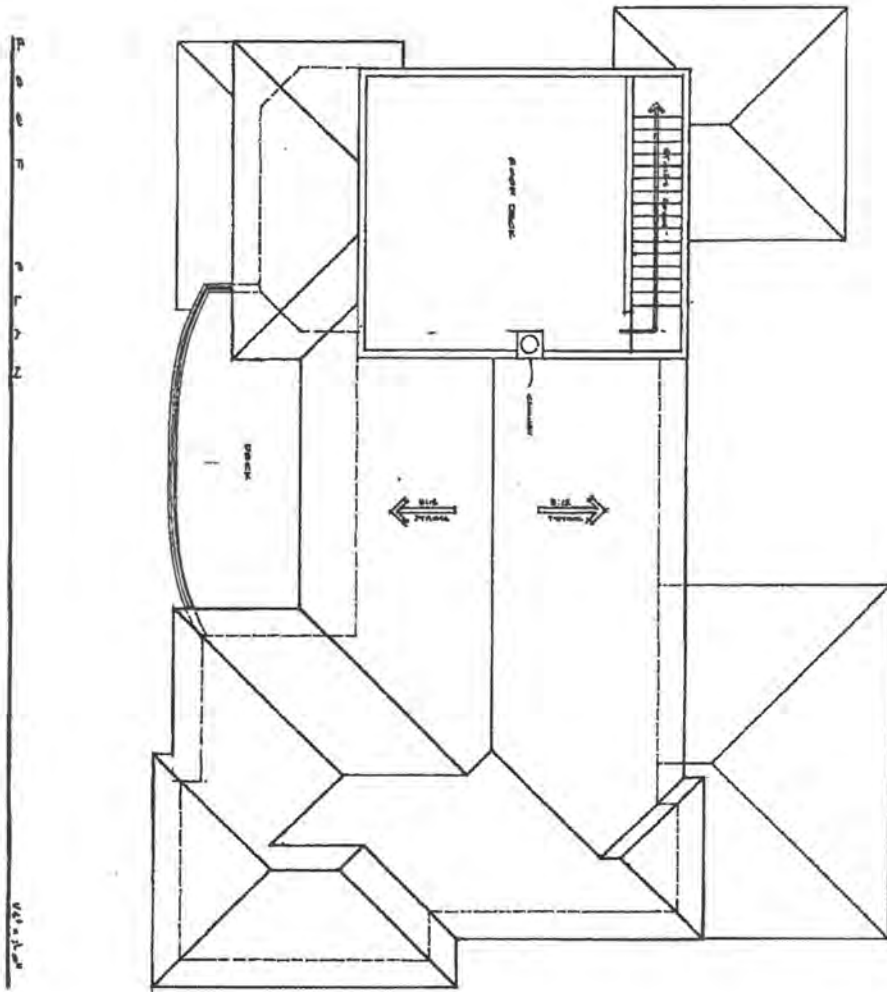
DATE / COMMENTS
A-4

A NEW CUSTOM RESIDENCE FOR:
ERNIE & PAMELA ROZO
388 WYOMING AVE. PISMO BEACH, CA 93448

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City of Pismo Beach
 Approved by City Council
 Date: 4-21-2015
 as submitted
 with changes

Planner: Cym for
Jon Biggs

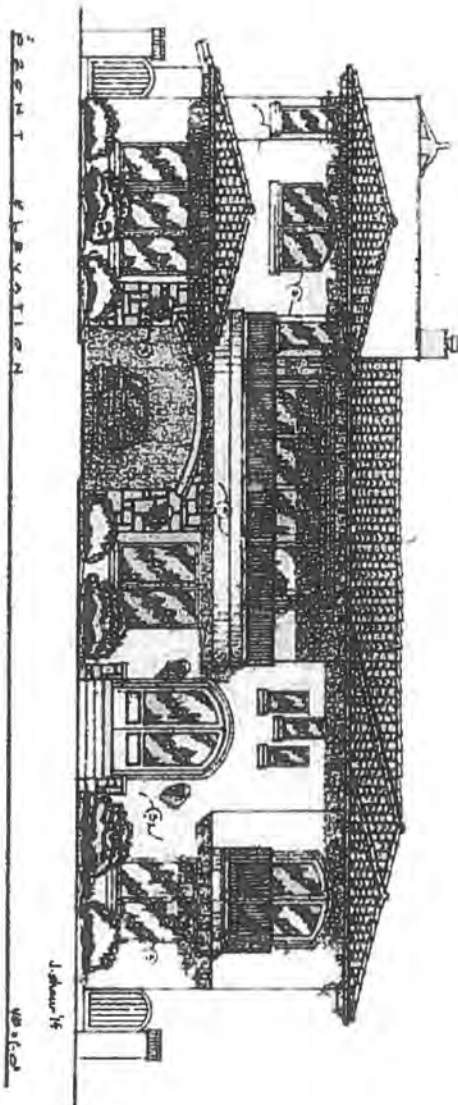
A-5	DATE / COMMENTS

A NEW CUSTOM RESIDENCE FOR:
ERNIE & PAMELA ROZO
 322 WINDWARD AVE. PISMO BEACH, CA 93448

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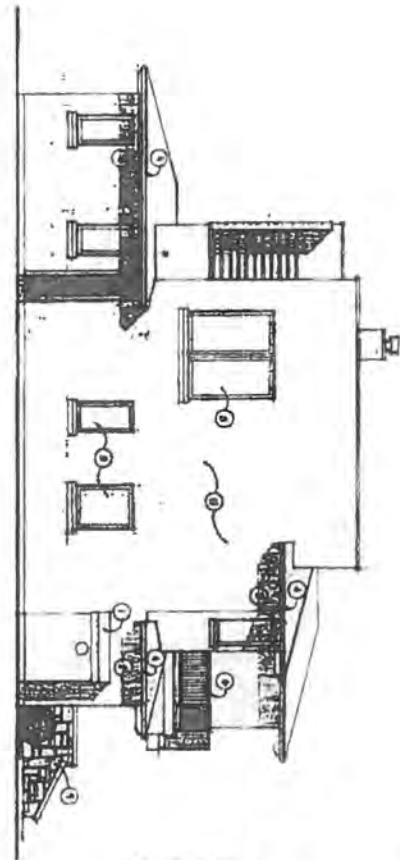
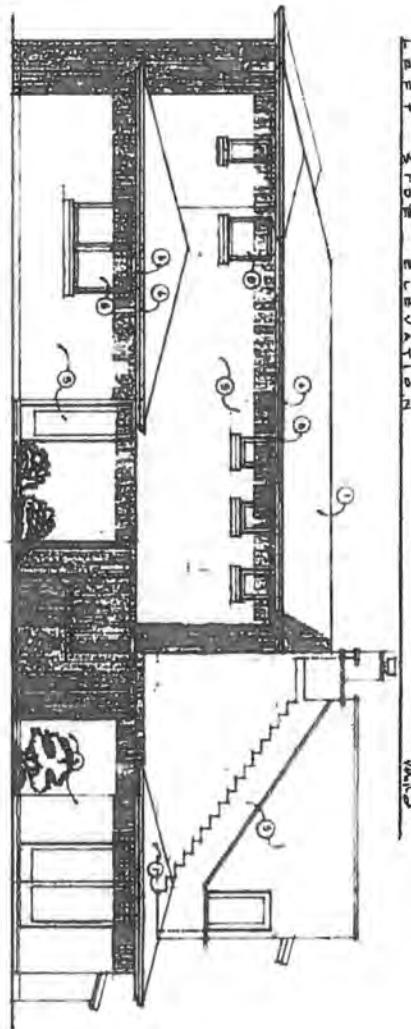
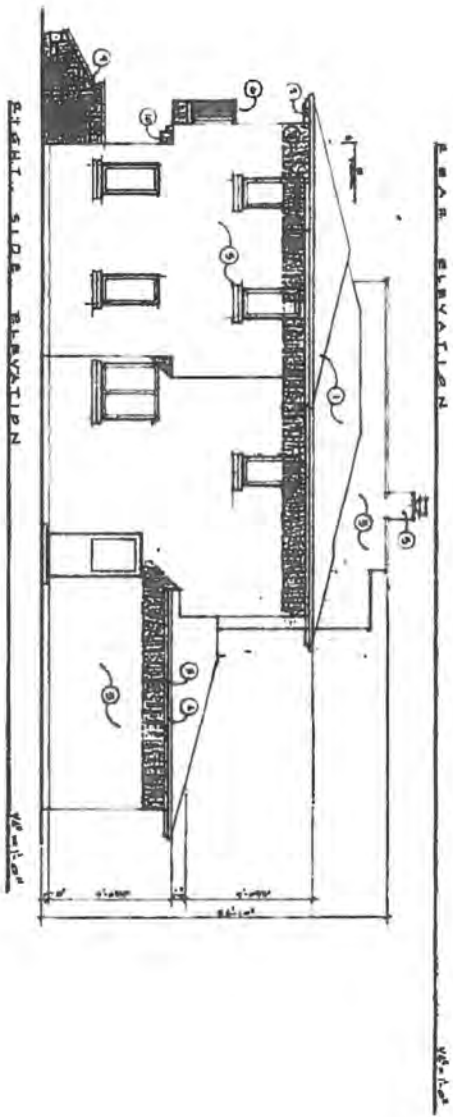
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FRONT ELEVATION

J. Shaw '15

EXTENSION FRONTS ELEVATIONS
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City of Pismo Beach
 Approved by City Council
 Date: 4-21-2015

✓ as submitted
 with changes
 Planner: Jon For
Biggs

A-7	DATE / COMMENTS

A NEW CUSTOM RESIDENCE FOR:
ERNIE & PAMELA ROZO
 382 WINDWARD AVE. PISMO BEACH, CA. 93449

JERRY SHAW
 Residential Design
 (805) 481-0308
 www.jerryshawdesign.com



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✓ as submitted
with changes

Wagon: Cover for

Jon
Biggs

A-8	DATE / COMMENTS

**A NEW CUSTOM RESIDENCE FOR:
ERNIE & PAMELA ROZO**
388 WINEWARD AVE. PISMO BEACH, CA 93448

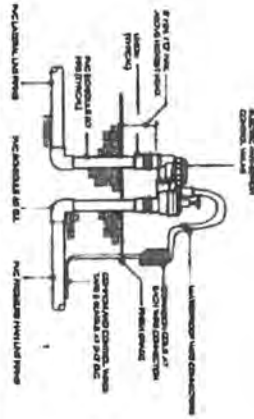
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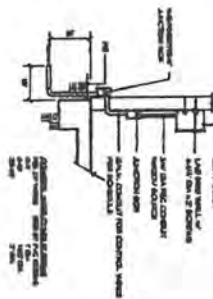
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PLANTING & IRRIGATION NOTES

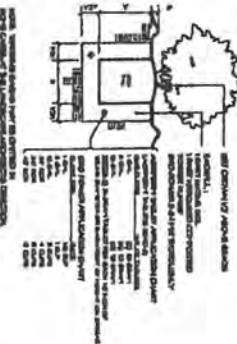
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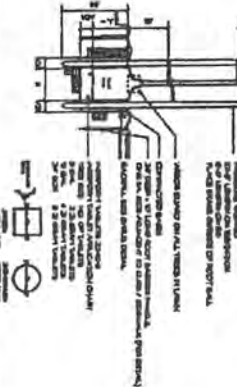
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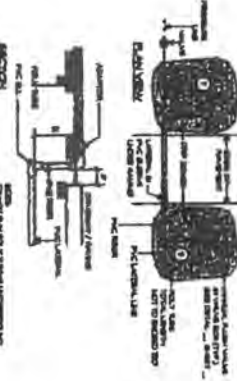
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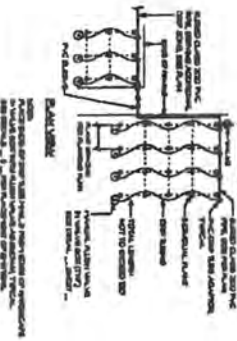
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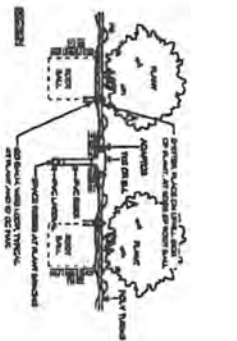
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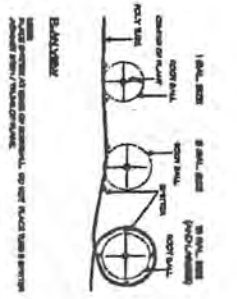
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GRASS PLANTING



GRASS PLANTING



City of Pismo Beach
 Approved by City Council
 Date: 4-21-2015
 as submitted
 with changes
 For Jon Biggs

A-9

SHEET

DATE / COMMENTS

A NEW CUSTOM RESIDENCE FOR:

ERNIE & PAMELA ROZO

328 WINDWARD AVE. PISMO BEACH, CA 93448

JERRY SHAW

Residential Design

(805) 481-0308

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CALIFORNIA COASTAL COMMISSION

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

APR 28 2015

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Tarren Collins

Mailing Address: PO Box 3063

City: Shell Beach

Zip Code: 93448

Phone: (805)773-0233

SECTION II. Decision Being Appealed

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

2. Brief description of development being appealed:

Approval of a Coastal Development Permit for the Demolition of an Existing Residence and Construction of a New Two-Story Single-Family Residence with an attached Secondary Dwelling Unit at 388 Windward Avenue, Pismo Beach. Ernie & Pam Rozo, Applicant; item 6.A on City Council Agenda for April 21, 2015.

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

388 Windward Avenue, Pismo Beach, CA 93449

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

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

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A-3-PSB-15-0030

DATE FILED:

5-6-15

DISTRICT:

Central Coast

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

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

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

6. Date of local government's decision: April 21, 2015

7. Local government's file number (if any): Item 6 A on City Council Agenda for 4-21-15

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:

Ernie & Pam Rozo
388 Windward Ave.
Pismo Beach, CA 93449

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) David & Mary Stornetta
349 Boeker Ave.
Shell Beach, CA 93449

Mailing address:
1675 Bee Canyon Rd
Arroyo Grande, CA 93420

(2) Wayne & Julie Maire
2389 El Vista
Redding, CA 96002

(3) Albert & Gila Pomerantz
6555 N. Dolores Ave.
Fresno, CA 93711

(4) Robert Warner
345 Boeker Ave.
Pismo Beach, CA 93449

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.

This project development is not in conformity with, and therefore violates, the requirements if the LCP and General Plan, and the public access policies of the Coastal Act .

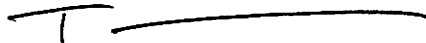
The most important violation of the LCP and the public access policies of the Coastal Act arises because a public access easement creating a pedestrian path through 388 Windward Avenue to connect Windward Ave with Boeker Avenue was not required as a condition of approval.

Additionally, the overall size of the home does not meet the Neighborhood Compatibility requirement per the General Plan. The total building area needs to be further reduced to meet the requirement.

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: April 24, 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: _____

Submitted
Prior to
hearing on
4-21-15

LAW OFFICE OF TARREN COLLINS

P.O. Box 3063
Shell Beach, CA 93448
Tel: (805) 773-0233
Fax: (805) 773-0403

RECEIVED

APR 28 2015

April 21, 2015

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

City of Pismo Beach Council Members
Sent via email to Elaina Cano <ecano@pismobeach.org>

Re: Item 6A on 4/21/15 Council Agenda - 388 Windward Ave

Honorable Pismo Beach City Council Members:

I have lived in Shell Beach Village since 2001. I also lived here in the early 1980's when I was in college. I came to love this community when I was growing up in San Luis Obispo. I am an attorney whose practice includes land use and planning issues.

I am opposed to this project because it does not include an essential pedestrian access easement, as required by our General Plan LU-H-8. The general plan is the Holy Grail and is required to be adhered to by anyone developing in the city. I also oppose this development on the grounds that the overall size of the development does not meet the Neighborhood Compatibility requirement per the General Plan. Additionally, I am opposed to building over the sewer line.

One of the major purposes of the General Plan is to assure that development in the City of Pismo Beach maintains, and if possible enhances, the community experience for the current residents. We have an exceptional opportunity to enrich our community by adhering to the General Plan mandate to obtain access easements to complete a pedestrian path connecting the south end of Shell Beach with Ocean Boulevard. To allow this development to be approved without requiring the pedestrian access easement, as mandated by our General Plan, would be a travesty negatively impacting the community for generations to come.

Prior developments in this area of Shell Beach were required to include the pedestrian access easements mandated by LU-H-8. The community development director required a pedestrian access path over the front of the project at 374 Boeker, and this development was completed per those requirements. When the property at 367 Boeker was redeveloped, a pedestrian access easement pursuant to LU-H-8 was also required at the east end of the property.

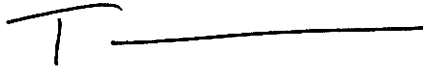
A finding that the easement on 388 Windward, does not align would be inconsistent with the finding for requiring the easement over 374 Boeker. The easement over 374 Boeker also does not align, but these easements can be connected in the future. The city is required to acquire these easement at 388 Windward per LU-H-8.

The request to build over a sewer line is inconsistent with city policy. Why would the city jeopardize the whole of south Shell Beach Village for the benefit of one property owner? The city engineer would not allow any building over the sewer line that traversed the property at 374 Boeker. The property at 388 Windward can be developed without building over the sewer line, and this council should reject the project until plans are submitted which do not have any buildings placed over the sewer line.

The revised plan has reduced the total building area by only 119 square feet, with 91 square feet if this reduction in the garage. This is less than 3%. The overall size still does not meet the Neighborhood (1) Compatibility requirement per the General Plan. The total building area needs to be further reduced to meet the requirement. Staff's recommendations should be incorporated in the overall design.

After all these years it would be ideal to walk along Ocean Blvd from Dinosaur Caves to Vista Del Mar. This is the purpose of General Plan section LU-H-8. Please require the pedestrian access easement over 388 Windward as a condition of approval. And please require the reduction in size of the building area to comply with the Neighborhood Compatibility requirement of the General Plan. And please do not allow any buildings to be placed over the sewer line.

Thank you,

A handwritten signature consisting of a stylized 'T' followed by a horizontal line.

Tarren Collins

CALIFORNIA COASTAL COMMISSION

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

RECEIVED

MAY - 6 2015

CALIFORNIA
COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Laurie D. Cummings

Mailing Address: 305 Windward Avenue

City: Shell Beach

Zip Code: 93449

Phone: (805)440-1567

SECTION II. Decision Being Appealed

1. Name of local/port government: Pismo Beach City Council
2. Brief description of development being appealed:
Approval of a Coastal Development Permit for the Demolition of an Existing Residence and Construction of a New Two-Story Single-Family Residence with an attached Secondary Dwelling Unit at 388 Windward Avenue, Pismo Beach. Ernie & Pam Roza, Applicant; item 6.A on City Council Agenda for April 21, 2015.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
388 Windward Avenue, Pismo Beach, CA 93449 at Ocean Boulevard
4. Description of decision being appealed (check one.):
☒ Approval; no special conditions
☐ Approval with special conditions:
☐ Denial

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A-3-PSB-15-0030

DATE FILED:

5-6-15

DISTRICT:

Central-Coast

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

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

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

6. Date of local government's decision: April 21, 2015

7. Local government's file number (if any): Item 6 A on City Council Agenda for 4-21-15

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:

Ernie & Pam Roza
388 Windward Ave.
Pismo Beach, CA 93449

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.

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Mailing address:
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(2) Wayne & Julie Maire
2389 El Vista
Redding, CA 96002

(3) Albert & Gila Pomerantz
6555 N. Dolores Ave.
Fresno, CA 93711

(4) Robert Warner
345 Boeker Ave.
Pismo Beach, CA 93449

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.

-This project development is inconsistent with the City of Pismo Beach General Plan/Local Coastal Plan (LCP) Land Use Element:

LU- Lateral Access at Boeker Street

H-9

The City should pursue opportunities to create lateral pedestrian pathways connecting Boeker Street to Windward Avenue or Ocean Boulevard.. This requirement shall be implemented as part of project approval, private gifts or dedications or possibility through public acquisition. (See Parks and Recreation Element, Policy PR-5, Path System.)

Creating a pedestrian path through 388 Windward Avenue to connect Windward Avenue with Boeker Street was not required as a condition of the approval in violation of the LCP and with the public access policies of the California Coastal Act.

-The overall size of the structure is inconsistent with the Neighborhood Compatibility requirement and Residential Guidelines of the General Plan/LCP:

LU- Residential Guidelines

H-4a

a. Scale of Structures.

New residential development should be designed to reflect the small scale image of Shell Beach rather than large monolithic buildings. Buildings should be designed with vertical, horizontal and roof articulation of building faces.

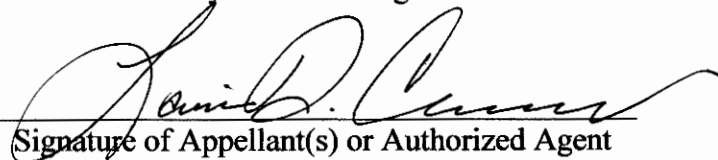
The revised development plan has only reduced the house size by 28 SF, and the garage by 91 SF. The total building area needs to be further reduced to meet the requirement.

-Additionally, the project is still proposing to build over a public utility/sewer line which is inconsistent with city policy.

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: May 1, 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: _____





20 to 25 foot offset

Existing Easement

388 Windward Ave

374 Boeker Street

City Preferred Path Alignment

367 Boeker Street

398 Windward Ave

Existing Pedestrian Path

Table PR-4 Physical and Visual Ocean Access/California Coastal Trail (See Figure PR-3 for map locations)												X - Existing # - Proposed
Planning Area	Access Points	Public Beach Access Stairs	Walking Path and/or Walking with View Access	Direct Beach Access No Stairs	View Points	Lateral Open Space Top of Bluff	Barranca	Parking On-Street	Parking Off-Street	Signage &/or Amenities	Open to Public	Comments
A. Sunset Palisades	1a: The Bluffs trail.		X		X	X			X	X	X	Improved public trail with access at the north end connecting to SLO County trail. On-street section of the California Coastal Trail with ocean overlooks.
	1b: Indio Drive		X		X			X		X	X	
	2. Encanto		X		X			X		#		No improvements
	3. Topaz St.		X		X			X		#		No improvements
B. South Palisades	4. Florin St.		X		X			X		#		Improvements complete.
	5. Beachcomber stairs	X	X		X	X		X		X	X	Located at lateral bluff top park 80% improved with park/open space amenities (benches, picnic tables) and >150 On-street parking spaces available.
	6. Sunset Beach Estates stairs	#	#		#	#		#		#	#	North side of Barranca with access to South Palisades Park areas adjacent to Ebb Tide. Approved subdivision with linear park and beach access.
C. North Spyglass	7a. Cliffs Hotel stairs	X	X		X	X	X		X	X	X	Trash receptacles available.
	7b. Bluff top trail		X		X	X	X		X	X	X	Improved public access bluff top trail at the rear of the Cliff's Hotel, Dolphin Bay Resort, and Spyglass Inn.
D. Spyglass	8. Spyglass Park	#	X		X	X	X		X	#	X	Steep dirt trail at the edge of Barranca provides beach access but should be improved. Benches and trash receptacles available along bluff top.

Table PR-4 Physical and Visual Ocean Access/California Coastal Trail (See Figure PR-3 for map locations)												X - Existing # - Proposed
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E. St. Andrews Tract	9a. Memory Park	#			X	X		X		X	X	Benches, tables, trash receptacles available. A beach access stairway to St. Andrews Beach shall be installed in this area.
	9b. Seaciff Access path		X							#		Walking path between 182 and 188 Seaciff; public access easement between St. Andrews Tract subdivision and Spyglass Park. Ongoing bluff erosion may affect the functionality of this access easement in the future.
F. Spindrift	10. Linear Bluff top park	#	#		#	#			#	#	X	Area for lateral park to be dedicated with future development of the estates pursuant to Policy LU-F-3 and LU-F-4. Pedestrian access to the area is from Naomi and Park Place. Pedestrian access easement over the park shall be no closer than 25' from the top of the bluff.
H. Shell Beach	11a. Eldwayen Ocean Park	X	X		X	X		X		X	X	Beach access at Vista Del Mar and Cuyama. Cuyama stairs require improvements.
	11b. Boeker overlook		X		X	X		X		X	X	Access path from Placentia to Boeker along oceanfront. Future public bluff top access through to Ocean Blvd. to the south if/when development occurs directly to the southwest of Boeker.

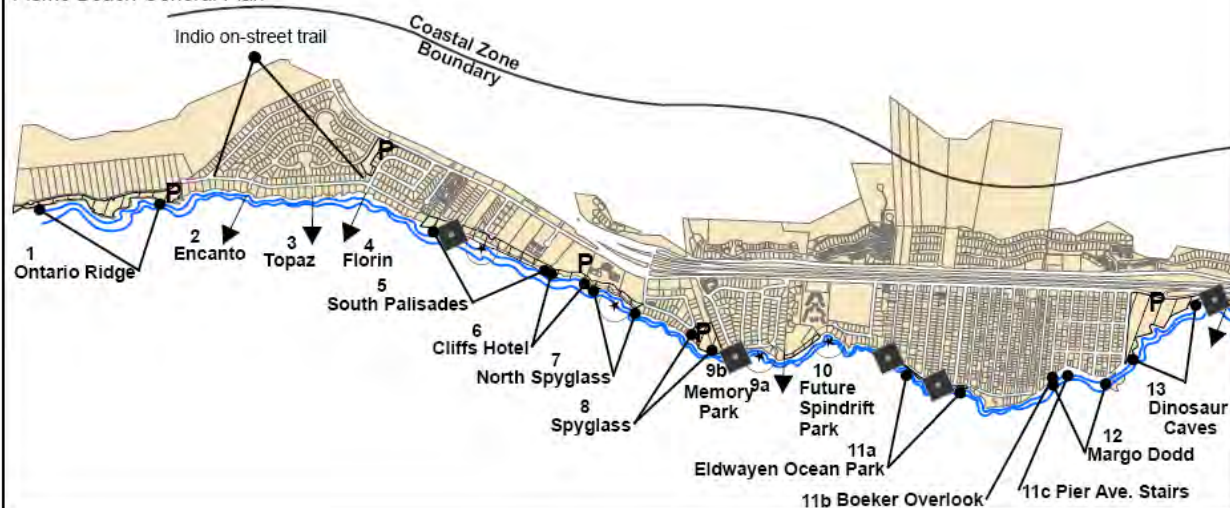
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H. Shell Beach continued	11c. Pier Avenue stairs	X	X		X	X		X		X	X	Bench and trash facilities available.
	12. Margo Dodd Park	X			X	X		X		#	X	Gazebo, picnicking, trash facilities available.
I. Dinosaur Caves	13. Dinosaur Caves Jarowicz Path		#		#	#			#	#	#	An improved park for four ocean overlooks, bluff top trail, and multiple park amenities.
J. Motel District	14. Shelter Cove	#	X		X	X			X	X	X	Public parking at the Shelter Cove Hotel.
	15. Shorecliffs/Elmer Ross	X			X	X			X	X	X	Signage needs improvement, 3 gazebo/viewing platforms
	16. Whalers Inn				X	X	X	X		X	#	
	17. Knights Rest	X			X			X				Stairs need repair
	PISMO STATE BEACH											
	18. Tides Hotel	X						X		X	#	
	19. Wilmar Ave.	X			X			X		X	X	Volleyball on beach, portable restrooms
	20. Trader Nicks						X			#		

Table PR-4 Physical and Visual Ocean Access/California Coastal Trail (See Figure PR-3 for map locations)												X - Existing # - Proposed * - Existing & Proposed
Planning Area	Access Points	Public Beach Access Stairs	Walking Path and/or Walking with View Access	Direct Beach Access No Stairs	View Points	Lateral Open Space Top of Bluff	Barranca	Parking On-Street	Parking Off-Street	Signage &/or Amenities	Open to Public	Comments
K. Commercial Core	21. Cypress Street (North)				X			X		#	X	Volleyball on beach
	22. Wadsworth Steps	X	X					X			X	Volleyball on beach, play equip. seasonal
	23. Main Street		X					X		#	X	Connected by proposed esplanade
	24. Pomeroy Ave.	X						X	X	X	X	Connected by proposed esplanade
	25. Pier	X		X	X	X		X	X	X	X	Restrooms available
	26. Hinds St.	#	X	X	X			X	X	X	X	Connected by proposed esplanade
	27. Stimson Ave.		X		X			X		#	X	Connected by proposed esplanade
	28. Ocean View Ave.			X	X			X		#		Connected by proposed esplanade
	29. Park Ave.			X				X		#		Connected by proposed esplanade
	30. Addie Street		X					X	X	#		Connected by proposed esplanade
	31. Pismo Creek		*						X	#	#	Restroom to be remodeled, trails to be added both sides
L. Pismo Creek	32. North		X	X		X			X	X	X	Needs better access to beach, day use facilities, signage.

California Coastal Trail and Pismo Beach Beach Access

Figure PR-3

Pismo Beach General Plan



PR-17

KEY

PATHS IN CITY



BEACH PATHS



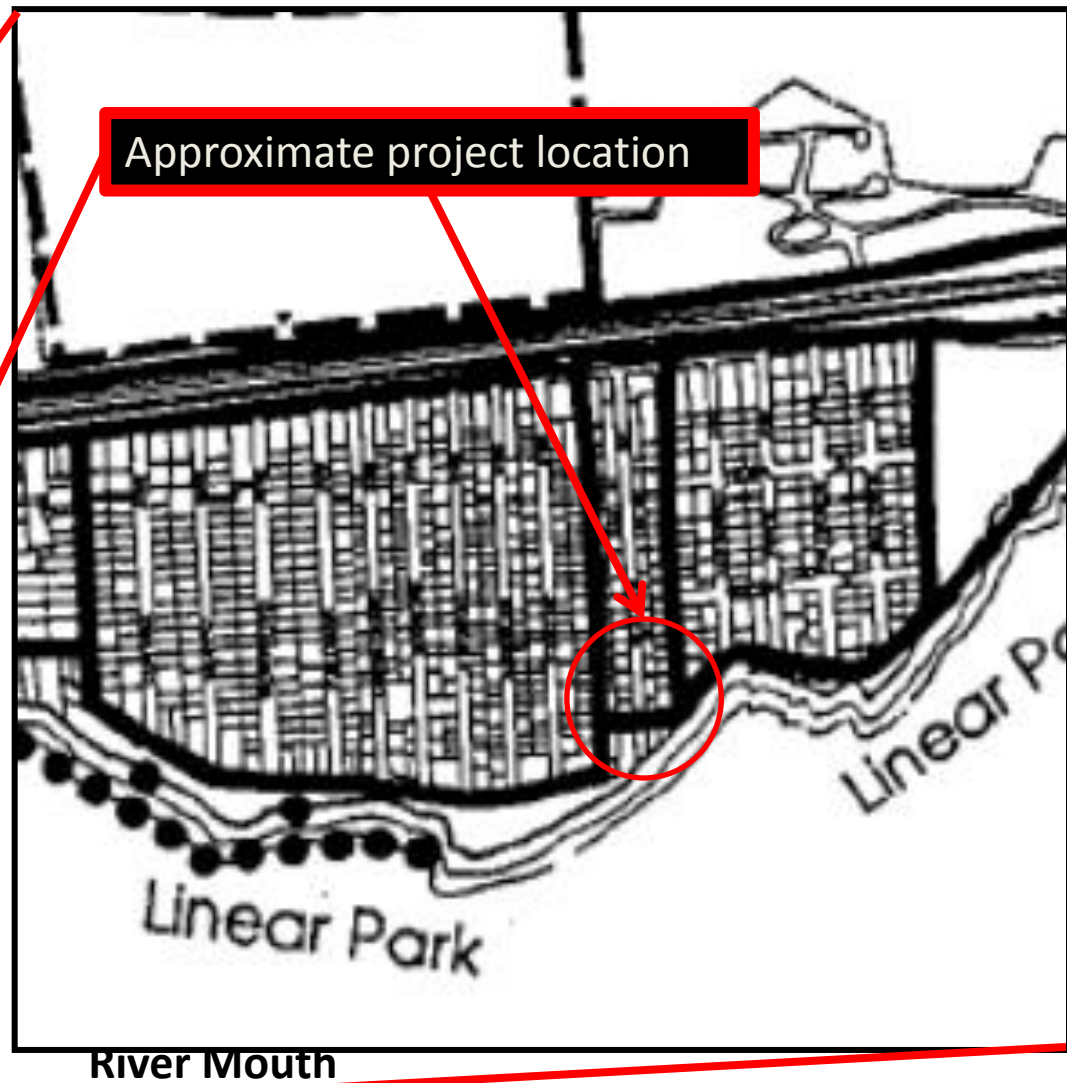
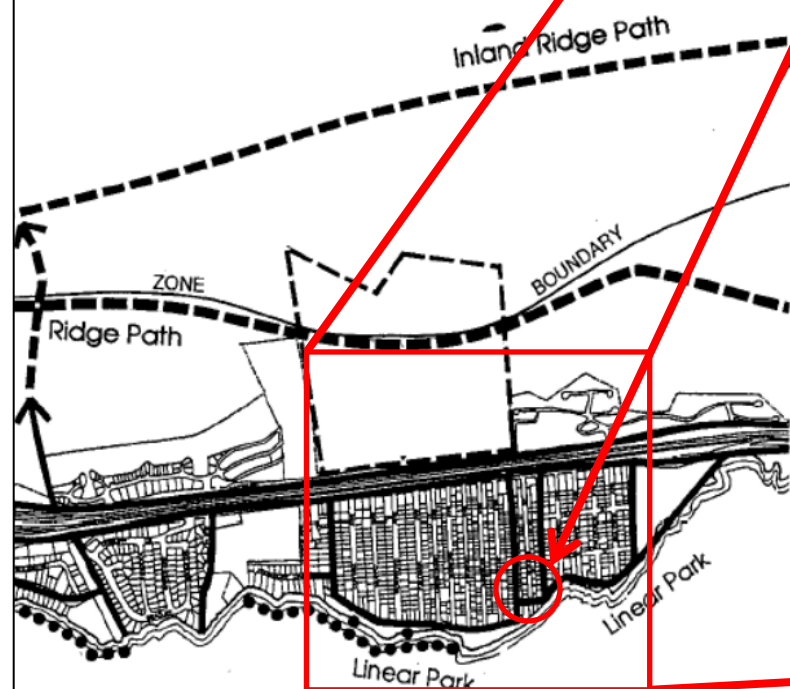
PATHS IN SPHERE



BOARDWALK



Figure PR-2



Current Residence



Approved Bridge Design
Over Sewer Easement



RECEIVED
Exhibit 8
A-3-PSB-15-0030
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