

Robert Lum  
P.O Box 1389  
Davidson, NC 28036

August 5, 2013

Ryan Hostetter, Project Manager  
San Luis Obispo County  
Planning and Building Department  
976 Osos Street, Room 300  
San Luis Obispo, CA 93408-2040

Subject: Comments to Draft Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216)

Dear Ms. Hostetter:

As a former resident and native born Californian, I send this letter to you and the San Luis Obispo County, Planning and Building Department, in hopes that further review and consideration take place to preserve the California coastal lands

RL-1

Please accept these comments to the June 2013 Draft Environmental Impact Report ("D-EIR") for the Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216). The D-EIR was prepared in response to applicant Jack Loperena's ("Applicant") proposal to build a 3,097 square foot residence on a 3,445 square foot lot on Studio Drive in Cayucos California (the "Project"). As Cayucos property owners we have several issues and areas of concern that the D-EIR has not adequately addressed or provided adequate mitigation measures.

The following are some of our issues and concerns.

1. The proposed residence is designed with its structure up to the toe of the bluff with no setback and cantilevers part of the house and a covered deck 28 feet over the sand. Not only will this cause a major reduction in the view from Highway 1, it also impacts everyone who visits Morro Strand State Beach. If allowed to proceed as proposed it will set a detrimental precedent for future development throughout many areas of the California coast.

RL-2

2. The SLO County's D-EIR state that this property is not on a coastal bluff, but instead finds it is a fluvial bluff caused by the nearby Old Creek. Therefore the coastal bluff requirements are not being applied to this property. This includes the requirement for bluff setback, which is intended to protect the house on a bluff for 100 years of erosion, and the limitation on cantilever to three (3) feet beyond the setback line. We strongly disagree and believe the property is obviously part of the coastal bluff. The toe of the bluff is clearly within the property and is routinely subject to marine erosion.

RL-3

- |  |       |
|--|-------|
| <p>3. The concrete reinforced seaward facing basement wall is essentially a seawall or shoreline protective device that should not be permitted because it violates several County policies. If allowed, it will deflect waves toward the neighboring properties and adversely impact them. The D-EIR understates the impact and potential damage to the other properties.</p>   | RL-4  |
| <p>4. Although lateral access is discussed in the D-EIR, it seems that access is not being dedicated as required by the Estero Area Plan (CZLUO 23.04.420) and other policies. The lateral access is supposed to be available at all times of the year, and therefore would include periods of high tide. The project plans show the cantilevered deck encroaching 10 feet into the proposed lateral access area. The various rationalizations for allowing the access as proposed are not appropriate. The lateral access should be provided as required from the mean high tide to the toe of the bluff and be free of encroachment by the residence's cantilevered deck.</p>  | RL-5  |
| <p>5. The D-EIR states that the visual impact is not significant because it is similar to the existing residences along Studio Drive in Cayucos. However, the proposed development is not at all similar to the existing conditions. None of the existing houses are cantilevered over the beach. One nearby house, which was built in 1964, is built out to the edge of the bluff. It is wrong for the D-EIR to compare the proposed development to this old house built long before the California Coastal Commission was established and the associated rules to protect the coast were enacted. Additionally, none of the existing houses have 31 feet high structures visible from the public beach, as this proposed residence is designed. The proposed residence causes significant visual impact on scenic resources. The house should be reduced in size, not be allowed to cantilever over the sand, and should be setback an appropriate distance.</p> | RL-6  |
| <p>6. The 3,097 sf size of the proposed residence including the basement is not appropriate for a 3,445 sf lot and does not fit within the character of the community or the intent of Studio Drive small-scale neighborhood requirements. Since about half the lot is sandy beach, we believe the proposed house should be considered to be about 180% of the usable lot size and therefore is much too large.</p>  | RL-7  |
| <p>7. The D-EIR failed to propose adequate project alternatives as required by CEQA. There are several alternatives described, but we feel none of them offer sufficient mitigation. Another alternative should be developed to further mitigate all of the environmental impacts. Visualizations of all alternatives should be provided for comparison to the proposed project.</p>   | RL-8  |
| <p>8. The D-EIR applied outdated versions of the CZLUO and other County Policies for the basis for the land use analysis. It failed to apply the current versions of ordinances. The D-EIR should be amended to properly review the project using the current versions of all ordinances. Additionally, the D-EIR failed to address applicable sections of the County's General Plan Safety Element related to coastal bluffs. These sections should be addressed in an amended D-EIR.</p>   | RL-9  |
| <p>9. We are also upset about the lack of sufficient public outreach conducted related to this EIR. There was no scoping meeting held as required by the California Environmental Quality Act</p>  | RL-10 |

(CEQA), and the D-EIR falsely reported that a scoping meeting was held. This project, which proposes to evade the bluff top setback requirement, includes a seawall, cantilevers over the beach, and encroaches on the required lateral access is clearly a project of statewide, regional and area-wide significance. A scoping meeting should have been held. Written notification of the D-EIR was only sent to one property owner in the vicinity of the project who requested notification; none of the other nearby property owners or residents were notified. SLO County provided the notification to some, but not all interested organizations and agencies. A copy was not even provided to the local library. SLO County provided minimal information to the Cayucos Citizens Advisory Council (CCAC), and the Project Manager failed to attend a Land Use Committee (LUC) meeting to discuss the proposed development as requested by the CCAC.

**RL-10  
(continued)**

The D-EIR recommends the project as proposed. However, we recommend that the County Planning Commission and Board of Supervisors deny the Project as proposed because it is inconsistent with several provisions of the certified Local Coastal Plan related to bluff top setbacks, geologic hazards, alteration of natural landforms, protection of views from public vantage points and scenic areas, and public access. The bluff should be defined as a coastal bluff.

**RL-11**

If the Applicant desires to continue pursuing development of the property, the County should require development of a new "eco-friendly house" alternative that can meet the requirements necessary to build on this coastal bluff property. It is recommended that the new alternative be designed to provide adequate set-back (minimum 25 feet, and to withstand bluff erosion and wave action for a period of 100 years of erosion) from the bluff edge; limit cantilever to 3 feet beyond set-back line; forego inclusion of a basement and associated seawall; provide unobstructed 25-foot lateral access easement dedication from toe of bluff; and provide a visualization of the new alternative for consideration.

**RL-12**

Additionally, it is recommended that the County Planning Commission and Board of Supervisors require the County Planning Department staff to hold a well-advertised county-wide scoping meeting on the new alternative, and send written notices of an amended D-EIR and public hearings to all Cayucos property owners and residents.

**RL-13**

We appreciate your considered review and analysis of these comments.

Sincerely,



Robert Lum

### 9.4.19 Response to Letter from Robert Lum

| Comment No. | Response   |
|-------------|--|
| RL-1        | Please refer to specific responses to comments, as noted below.  |
| RL-2        | Please refer to response to comment SJ-2. No changes to the EIR are necessary.   |
| RL-3        | Please refer to detailed responses to comments CCC-4, HKA-1, and JJ-2. No changes to the EIR are necessary.                                  |
| RL-4        | Please refer to response to comment SJ-4. No changes to the EIR are necessary.   |
| RL-5        | Please refer to response to comment SJ-5. No changes to the EIR are necessary.   |
| RL-6        | Please refer to response to comment SJ-6. No changes to the EIR are necessary.   |
| RL-7        | Please refer to response to comment SJ-7. No changes to the EIR are necessary.   |
| RL-8        | Please refer to response to comment SJ-8. No changes to the EIR are necessary.   |
| RL-9        | Please refer to response to comment SJ-9. The additional clarification does not change the analysis or determinations presented in the EIR.  |
| RL-10       | Please refer to response to comment SJ-10. The additional clarification does not change the analysis or determinations presented in the EIR. |
| RL-11       | Please refer to response to comment SJ-11. No changes to the EIR are necessary.  |
| RL-12       | Please refer to response to comment SJ-12. No changes to the EIR are necessary.  |
| RL-13       | Please refer to response to comment SJ-13. The additional clarification does not change the analysis or determinations presented in the EIR. |

Grace Medina-Chow  
357 St. Martin Drive  
Redwood City, CA, 94065

August 5, 2013

Ryan Hostetter, Project Manager  
San Luis Obispo County  
Planning and Building Department  
976 Osos Street, Room 300  
San Luis Obispo, CA 93408-2040

Subject: Comments to Draft Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216)

Dear Ms. Hostetter:

Please accept these comments to the June 2013 Draft Environmental Impact Report ("D-EIR") for the Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216). The D-EIR was prepared in response to applicant Jack Loperena's ("Applicant") proposal to build a 3,097 square foot residence on a 3,445 square foot lot on Studio Drive in Cayucos California (the "Project"). As Cayucos property owners we have several issues and areas of concern that the D-EIR has not adequately addressed or provided adequate mitigation measures.

**GMC-1**

The following are some of our issues and concerns.

1. The proposed residence is designed with its structure up to the toe of the bluff with no setback and cantilevers part of the house and a covered deck 28 feet over the sand. Not only will this cause a major reduction in the view from Highway 1, it also impacts everyone who visits Morro Strand State Beach. If allowed to proceed as proposed it will set a detrimental precedent for future development throughout many areas of the California coast.

**GMC-2**

2. The SLO County's D-EIR state that this property is not on a coastal bluff, but instead finds it is a fluvial bluff caused by the nearby Old Creek. Therefore the coastal bluff requirements are not being applied to this property. This includes the requirement for bluff setback, which is intended to protect the house on a bluff for 100 years of erosion, and the limitation on cantilever to three (3) feet beyond the setback line. We strongly disagree and believe the property is obviously part of the coastal bluff. The toe of the bluff is clearly within the property and is routinely subject to marine erosion.

**GMC-3**

3. The concrete reinforced seaward facing basement wall is essentially a seawall or shoreline protective device that should not be permitted because it violates several County policies. If allowed, it will deflect waves toward the neighboring properties and adversely impact them. The D-EIR understates the impact and potential damage to the other properties.

**GMC-4**

4. Although lateral access is discussed in the D-EIR, it seems that access is not being dedicated as required by the Estero Area Plan (CZLUO 23.04.420) and other policies. The lateral access is supposed to be available at all times of the year, and therefore would include periods of high tide. The project plans show the cantilevered deck encroaching 10 feet into the proposed lateral access area. The various rationalizations for allowing the access as proposed are not appropriate. The lateral access should be provided as required from the mean high tide to the toe of the bluff and be free of encroachment by the residence’s cantilevered deck.

**GMC-5**

5. The D-EIR states that the visual impact is not significant because it is similar to the existing residences along Studio Drive in Cayucos. However, the proposed development is not at all similar to the existing conditions. None of the existing houses are cantilevered over the beach. One nearby house, which was built in 1964, is built out to the edge of the bluff. It is wrong for the D-EIR to compare the proposed development to this old house built long before the California Coastal Commission was established and the associated rules to protect the coast were enacted. Additionally, none of the existing houses have 31 feet high structures visible from the public beach, as this proposed residence is designed. The proposed residence causes significant visual impact on scenic resources. The house should be reduced in size, not be allowed to cantilever over the sand, and should be setback an appropriate distance.

**GMC-6**

6. The 3,097 sf size of the proposed residence including the basement is not appropriate for a 3,445 sf lot and does not fit within the character of the community or the intent of Studio Drive small-scale neighborhood requirements. Since about half the lot is sandy beach, we believe the proposed house should be considered to be about 180% of the usable lot size and therefore is much too large.

**GMC-7**

7. The D-EIR failed to propose adequate project alternatives as required by CEQA. There are several alternatives described, but we feel none of them offer sufficient mitigation. Another alternative should be developed to further mitigate all of the environmental impacts. Visualizations of all alternatives should be provided for comparison to the proposed project.

**GMC-8**

8. The D-EIR applied outdated versions of the CZLUO and other County Policies for the basis for the land use analysis. It failed to apply the current versions of ordinances. The D-EIR should be amended to properly review the project using the current versions of all ordinances. Additionally, the D-EIR failed to address applicable sections of the County’s General Plan Safety Element related to coastal bluffs. These sections should be addressed in an amended D-EIR.

**GMC-9**

9. We are also upset about the lack of sufficient public outreach conducted related to this EIR. There was no scoping meeting held as required by the California Environmental Quality Act (CEQA), and the D-EIR falsely reported that a scoping meeting was held. This project, which proposes to evade the bluff top setback requirement, includes a seawall, cantilevers over the beach, and encroaches on the required lateral access is clearly a project of statewide, regional and area-wide significance. A scoping meeting should have been held. Written notification of

**GMC-10**

the D-EIR was only sent to one property owner in the vicinity of the project who requested notification; none of the other nearby property owners or residents were notified. SLO County provided the notification to some, but not all interested organizations and agencies. A copy was not even provided to the local library. SLO County provided minimal information to the Cayucos Citizens Advisory Council (CCAC), and the Project Manager failed to attend a Land Use Committee (LUC) meeting to discuss the proposed development as requested by the CCAC.

**GMC-10  
(continued)**

The D-EIR recommends the project as proposed. However, we recommend that the County Planning Commission and Board of Supervisors deny the Project as proposed because it is inconsistent with several provisions of the certified Local Coastal Plan related to bluff top setbacks, geologic hazards, alteration of natural landforms, protection of views from public vantage points and scenic areas, and public access. The bluff should be defined as a coastal bluff.

**GMC-11**

If the Applicant desires to continue pursuing development of the property, the County should require development of a new "eco-friendly house" alternative that can meet the requirements necessary to build on this coastal bluff property. It is recommended that the new alternative be designed to provide adequate set-back (minimum 25 feet, and to withstand bluff erosion and wave action for a period of 100 years of erosion) from the bluff edge; limit cantilever to 3 feet beyond set-back line; forego inclusion of a basement and associated seawall; provide unobstructed 25-foot lateral access easement dedication from toe of bluff; and provide a visualization of the new alternative for consideration.

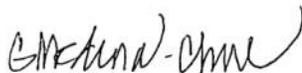
**GMC-12**

Additionally, it is recommended that the County Planning Commission and Board of Supervisors require the County Planning Department staff to hold a well-advertised county-wide scoping meeting on the new alternative, and send written notices of an amended D-EIR and public hearings to all Cayucos property owners and residents.

**GMC-13**

We appreciate your considered review and analysis of these comments.

Sincerely,



Grace Medina-Chow

### 9.4.20 Response to Letter from Grace Medina-Chow

| Comment No. | Response   |
|-------------|--|
| GMC-1       | Please refer to specific responses to comments, as noted below.  |
| GMC-2       | Please refer to response to comment SJ-2. No changes to the EIR are necessary.   |
| GMC-3       | Please refer to detailed responses to comments CCC-4, HKA-1, and JJ-2. No changes to the EIR are necessary.                                  |
| GMC-4       | Please refer to response to comment SJ-4. No changes to the EIR are necessary.   |
| GMC-5       | Please refer to response to comment SJ-5. No changes to the EIR are necessary.   |
| GMC-6       | Please refer to response to comment SJ-6. No changes to the EIR are necessary.   |
| GMC-7       | Please refer to response to comment SJ-7. No changes to the EIR are necessary.   |
| GMC-8       | Please refer to response to comment SJ-8. No changes to the EIR are necessary.   |
| GMC-9       | Please refer to response to comment SJ-9. The additional clarification does not change the analysis or determinations presented in the EIR.  |
| GMC-10      | Please refer to response to comment SJ-10. The additional clarification does not change the analysis or determinations presented in the EIR. |
| GMC-11      | Please refer to response to comment SJ-11. No changes to the EIR are necessary.  |
| GMC-12      | Please refer to response to comment SJ-12. No changes to the EIR are necessary.  |
| GMC-13      | Please refer to response to comment SJ-13. The additional clarification does not change the analysis or determinations presented in the EIR. |

Prof. James E. Moore, II  
USC Price School of Public Policy  
KER 204 MC 7725 USC  
734 West Adams Blvd.  
Los Angeles, CA 90089

August 5, 2013

Ms. Ryan Hostetter, Project Manager  
San Luis Obispo County  
Planning and Building Department  
976 Osos Street, Room 300  
San Luis Obispo, CA 93408-2040

Subject: Comments to Draft Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216)

Dear Ms. Hostetter:

Please accept these comments to the June 2013 Draft Environmental Impact Report ("D-EIR") for the Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216). The D-EIR was prepared in response to applicant Jack Loperena's ("Applicant") proposal to build a 3,097 square foot residence on a 3,445 square foot lot on Studio Drive in Cayucos California (the "Project"). As an urban planning academic, I have several issues and areas of concern that the D-EIR has not adequately addressed or provided adequate mitigation measures.

JEM-1

The following are some of our issues and concerns.

1. The proposed residence is designed with its structure up to the toe of the bluff with no setback and cantilevers part of the house and a covered deck 28 feet over the sand. Not only will this cause a major reduction in the view from Highway 1, it also impacts everyone who visits Morro Strand State Beach. If allowed to proceed as proposed it will set a detrimental precedent for future development throughout many areas of the California coast.
2. The SLO County's D-EIR state that this property is not on a coastal bluff, but instead finds it is a fluvial bluff caused by the nearby Old Creek. Therefore the coastal bluff requirements are not being applied to this property. This includes the requirement for bluff setback, which is intended to protect the house on a bluff for 100 years of erosion, and the limitation on cantilever to three (3) feet beyond the setback line. I strongly disagree and believe the property is obviously part of the coastal bluff. The toe of the bluff is clearly within the property and is routinely subject to marine erosion.

JEM-2

JEM-3

Ms. Ryan Hostetter  
 August 5 2013  
 Page 2

- 3. The concrete reinforced seaward facing basement wall is essentially a seawall or shoreline protective device that should not be permitted because it violates several County policies. If allowed, it will deflect waves toward the neighboring properties and adversely impact them. The D-EIR understates the impact and potential damage to the other properties. **JEM-4**
  
- 4. Although lateral access is discussed in the D-EIR, it seems that access is not being dedicated as required by the Estero Area Plan (CZLUO 23.04.420) and other policies. The lateral access is supposed to be available at all times of the year, and therefore would include periods of high tide. The project plans show the cantilevered deck encroaching 10 feet into the proposed lateral access area. The various rationalizations for allowing the access as proposed are not appropriate. Rather, the lateral access should be provided as required from the mean high tide to the toe of the bluff and be free of encroachment by the residence's cantilevered deck. **JEM-5**
  
- 5. The D-EIR states that the visual impact is not significant because it is similar to the existing residences along Studio Drive in Cayucos. However, the proposed development is not at all similar to the existing conditions. None of the existing houses are cantilevered over the beach. One nearby house, which was built in 1964, is built out to the edge of the bluff. It is strange and inconsistent for the D-EIR to compare the proposed development to this aging structure built long before the California Coastal Commission was established and the associated rules to protect the coast were enacted. Additionally, none of the existing houses have 31 feet high structures visible from the public beach, as this proposed residence is designed. The proposed residence causes significant visual impact on scenic resources. The house should be reduced in size, not be allowed to cantilever over the sand, and should be setback an appropriate distance. **JEM-6**
  
- 6. The 3,097 sf size of the proposed residence including the basement is not appropriate for a 3,445 sf lot and does not fit within the character of the community or the intent of Studio Drive small-scale neighborhood requirements. Since about half the lot is sandy beach, I estimate that the proposed house should be considered to be about 180% of the usable lot size and therefore is much too large. **JEM-7**
  
- 7. The D-EIR failed to propose adequate project alternatives as required by CEQA. There are several alternatives described, but I think none of them offer sufficient mitigation. Another alternative should be developed to further mitigate all of the environmental impacts. Visualizations of all alternatives should be provided for comparison to the proposed project. **JEM-8**
  
- 8. The D-EIR applied outdated versions of the CZLUO and other County Policies for the basis for the land use analysis. It failed to apply the current versions of ordinances. The D-EIR **JEM-9**

Ms. Ryan Hostetter  
August 5 2013  
Page 3

should be amended to properly review the project using the current versions of all ordinances. Additionally, the D-EIR failed to address applicable sections of the County's General Plan Safety Element related to coastal bluffs. These sections should be addressed in an amended D-EIR.

**JEM-9  
(continued)**

9. I am surprised by the lack of sufficient public outreach conducted related to this EIR. There was no scoping meeting held as required by the California Environmental Quality Act (CEQA), though the D-EIR incorrectly reports that a scoping meeting was held. This project, which proposes to evade the bluff top setback requirement, includes a seawall, cantilevers over the beach, and encroaches on the required lateral access is clearly a project of statewide, regional and area-wide significance. A scoping meeting should have been held. Written notification of the D-EIR was only sent to one property owner in the vicinity of the project who requested notification; none of the other nearby property owners or residents were notified. SLO County provided the notification to some, but not all interested organizations and agencies. A copy was not provided to the local library. SLO County provided minimal information to the Cayucos Citizens Advisory Council (CCAC), and the Project Manager failed to attend a Land Use Committee (LUC) meeting to discuss the proposed development as requested by the CCAC.

**JEM-10**

The D-EIR recommends the project as proposed. However, I recommend that the County Planning Commission and Board of Supervisors deny the Project as proposed because it is inconsistent with several provisions of the certified Local Coastal Plan related to bluff top setbacks, geologic hazards, alteration of natural landforms, protection of views from public vantage points and scenic areas, and public access. The bluff should be defined as a coastal bluff, which it is.

**JEM-11**

If the Applicant desires development of the property, the County should require development of an alternative that can meet the requirements necessary to build on this coastal bluff property. I recommend that the new alternative be designed to provide adequate set-back (minimum 25 feet, and to withstand bluff erosion and wave action for a period of 100 years of erosion) from the bluff edge; limit cantilever to 3 feet beyond set-back line; forego inclusion of a basement and associated seawall; provide unobstructed 25-foot lateral access easement dedication from toe of bluff; and provide a visualization of the new alternative for consideration.

**JEM-12**

Additionally, I recommend that the County Planning Commission and Board of Supervisors require the County Planning Department staff to hold a well-advertised county-wide scoping meeting on the new alternative, and send written notices of an amended D-EIR and public hearings to all Cayucos property owners and residents.

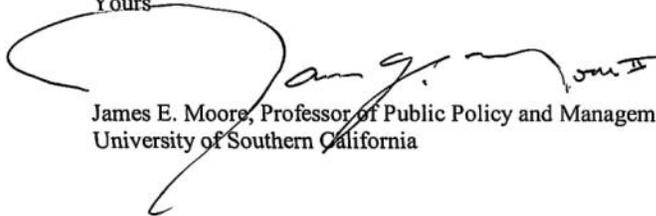
**JEM-13**

Ms. Ryan Hostetter  
August 5 2013  
Page 4

I appreciate your considered review and analysis of these comments.

**JEM-13**  
**(continued)**

Yours

A handwritten signature in black ink, appearing to read "James E. Moore". The signature is fluid and cursive, with a large loop at the beginning and a long tail extending downwards and to the left.

James E. Moore, Professor of Public Policy and Management  
University of Southern California

### 9.4.21 Response to Letter from Professor James E. Moore, II

| Comment No. | Response   |
|-------------|--|
| JEM-1       | Please refer to specific responses to comments, as noted below.  |
| JEM-2       | Please refer to response to comment SJ-2. No changes to the EIR are necessary.   |
| JEM-3       | Please refer to detailed responses to comments CCC-4, HKA-1, and JJ-2. No changes to the EIR are necessary.                                  |
| JEM-4       | Please refer to response to comment SJ-4. No changes to the EIR are necessary.   |
| JEM-5       | Please refer to response to comment SJ-5. No changes to the EIR are necessary.   |
| JEM-6       | Please refer to response to comment SJ-6. No changes to the EIR are necessary.   |
| JEM-7       | Please refer to response to comment SJ-7. No changes to the EIR are necessary.   |
| JEM-8       | Please refer to response to comment SJ-8. No changes to the EIR are necessary.   |
| JEM-9       | Please refer to response to comment SJ-9. The additional clarification does not change the analysis or determinations presented in the EIR.  |
| JEM-10      | Please refer to response to comment SJ-10. The additional clarification does not change the analysis or determinations presented in the EIR. |
| JEM-11      | Please refer to response to comment SJ-11. No changes to the EIR are necessary.  |
| JEM-12      | Please refer to response to comment SJ-12. No changes to the EIR are necessary.  |
| JEM-13      | Please refer to response to comment SJ-13. The additional clarification does not change the analysis or determinations presented in the EIR. |

Julie Pludow  
2327 Hickory Street  
San Diego, CA 92103

August 5, 2013

Ryan Hostetter, Project Manager  
San Luis Obispo County  
Planning and Building Department  
976 Osos Street, Room 300  
San Luis Obispo, CA 93408-2040

Subject: Comments to Draft Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216)

Dear Ms. Hostetter:

Please accept these comments to the June 2013 Draft Environmental Impact Report ("D-EIR") for the Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216). The D-EIR was prepared in response to applicant Jack Loperena's ("Applicant") proposal to build a 3,097 square foot residence on a 3,445 square foot lot on Studio Drive in Cayucos California (the "Project"). As a frequent visitor to Cayucos I have several issues and concerns that the D-EIR has not adequately addressed or provided adequate mitigation measures.

JP-1

They include the following:

1. The proposed residence is designed with its structure up to the toe of the bluff with no setback and cantilevers part of the house and a covered deck 28 feet over the sand. If allowed to proceed as it is currently proposed it will set a detrimental precedent for future development not only in Cayucos and San Luis Obispo County but throughout many areas of the California coast. The design will also impact everyone who visits Morro Strand State Beach. It looks as though a wall has been constructed on the side of the lot.
2. The SLO County's D-EIR state that this property is not on a coastal bluff, but instead finds it is a fluvial bluff caused by the nearby Old Creek. Therefore the coastal bluff requirements are not being applied to this property. This includes the requirement for bluff setback, which is intended to protect the house on a bluff for 100 years of erosion, and the limitation on cantilever to three (3) feet beyond the setback line. I believe the property is definitely part of the coastal bluff. The toe of the bluff is clearly within the property and is routinely subject to marine erosion.
3. My understanding is that the concrete reinforced seaward facing basement wall is essentially a seawall (shoreline protective device) that violates several County policies. If allowed, it will deflect waves toward the neighboring properties and adversely impact them. The D-EIR understates the impact and potential damage to the other properties.

JP-2

JP-3

JP-4

- |   |              |
|---|--------------|
| <p>4. Although lateral access is discussed in the D-EIR, it seems that access is not being dedicated as required by the Estero Area Plan (CZLUO 23.04.420) and other policies. The lateral access is supposed to be available at all times of the year, and therefore would include periods of high tide. The project plans show the cantilevered deck encroaching 10 feet into the proposed lateral access area. The arguments presented to support the access as proposed do not meet legal requirements. Lateral access is not available from the mean high tide to the toe of the bluff and be free of encroachment by the residence's cantilevered deck.</p>   | <b>JP-5</b>  |
| <p>5. The D-EIR states that the visual impact is not significant because it is similar to the existing residences along Studio Drive in Cayucos. This is simply not true. None of the existing houses are cantilevered over the beach. One nearby house, which was built in 1964, is built out to the <b>edge</b> of the bluff. I don't understand why the D-EIR would compare the proposed development to this one house built long before the California Coastal Commission was established and the associated rules to protect the coast were enacted. Walk along the beach one mile in either direction and you will see no homes cantilevered over the beach! Additionally, none of the existing houses have 31 feet high structures visible from the public beach, as this proposed residence is designed. The proposed residence causes significant visual impact on scenic resources. The house should be reduced in size, not allowed to cantilever over the sand, and should be setback an appropriate distance.</p>      | <b>JP-6</b>  |
| <p>6. The 3,097 sf size of the proposed residence including the basement is not appropriate for a 3,445 sf lot and does not fit within the character of the community or the intent of Studio Drive small-scale neighborhood requirements. Since about half the lot is sandy beach, the proposed house should be considered to be about 180% of the usable lot size and therefore is much too large.</p>  | <b>JP-7</b>  |
| <p>7. The D-EIR propose project alternatives but none of them are sufficient. An alternative must be developed to further mitigate all of the environmental impacts.</p>  | <b>JP-8</b>  |
| <p>8. The D-EIR applied outdated versions of the CZLUO and other County Policies for the basis for the land use analysis. It failed to apply the current versions of ordinances. The D-EIR should be amended to properly review the project using the current versions of all ordinances. Additionally, the D-EIR failed to address applicable sections of the County's General Plan Safety Element related to coastal bluffs. These sections should be addressed in an amended D-EIR.</p>  | <b>JP-9</b>  |
| <p>9. I am very upset about the lack of sufficient public outreach conducted related to this EIR. There was no scoping meeting held as required by the California Environmental Quality Act (CEQA). My understanding is that the D-EIR falsely claimed that a scoping meeting was held. What is going on here? This project, which proposes to evade the bluff top setback requirement, includes a seawall, cantilevers over the beach, and encroaches on the required lateral access is clearly a project of statewide, regional and area-wide significance and no scoping meeting. Written notification of the D-EIR was only sent to one property owner in the vicinity of the project who requested notification; none of the other nearby property owners or residents were notified. SLO County provided the notification to some, but not all interested organizations and agencies. A copy was not even provided to the local library. SLO County provided minimal information to the Cayucos Citizens Advisory Council</p> | <b>JP-10</b> |

(CCAC), and the Project Manager failed to attend a Land Use Committee (LUC) meeting to discuss the proposed development as requested by the CCAC.

**JP-10  
(continued)**

The D-EIR recommends the project as proposed. I recommend that the County Planning Commission and Board of Supervisors deny the Project as proposed because it is inconsistent with several provisions of the certified Local Coastal Plan related to bluff top setbacks, geologic hazards, alteration of natural landforms, protection of views from public vantage points and scenic areas, and public access. The bluff should be defined as a coastal bluff.

**JP-11**

If the Applicant desires to continue pursuing development of the property, the County should require development of a new “eco-friendly house” alternative that can meet the requirements necessary to build on this coastal bluff property. It is recommended that the new alternative be designed to provide adequate set-back (minimum 25 feet, and to withstand bluff erosion and wave action for a period of 100 years of erosion) from the bluff edge; limit cantilever to 3 feet beyond set-back line; forego inclusion of a basement and associated seawall; provide unobstructed 25-foot lateral access easement dedication from toe of bluff; and provide a visualization of the new alternative for consideration.

**JP-12**

Additionally, it is recommended that the County Planning Commission and Board of Supervisors require the County Planning Department staff to hold a well-advertised county-wide scoping meeting on the new alternative, and send written notices of an amended D-EIR and public hearings to all Cayucos property owners and residents.

**JP-13**

Thank you for your time and consideration,

  
Julie Pludow

### 9.4.22 Response to Letter from Julie Pludow

| Comment No. | Response  |
|-------------|---|
| JP-1        | Please refer to specific responses to comments, as noted below.   |
| JP-2        | Please refer to response to comment SJ-2. As noted in EIR Section 4.1 (Aesthetics), the design of the proposed residence is unique and modern, and due to its location as the last residence on the northern end of the row of houses, the north-facing wall is clearly visible; however, its construction would not significantly degrade the scenic landscape, which is the defined threshold of significance. No changes to the EIR are necessary. |
| JP-3        | Please refer to detailed responses to comments CCC-4, HKA-1, and JJ-2. No changes to the EIR are necessary.   |
| JP-4        | Please refer to response to comment SJ-4. No changes to the EIR are necessary.  |
| JP-5        | Please refer to response to comment SJ-5. No changes to the EIR are necessary.  |
| JP-6        | Please refer to response to comment SJ-6. No changes to the EIR are necessary.  |
| JP-7        | Please refer to response to comment SJ-7. No changes to the EIR are necessary.  |
| JP-8        | Please refer to response to comment SJ-8. No changes to the EIR are necessary.  |
| JP-9        | Please refer to response to comment SJ-9. The additional clarification does not change the analysis or determinations presented in the EIR.   |
| JP-10       | Please refer to response to comment SJ-10. The additional clarification does not change the analysis or determinations presented in the EIR.  |
| JP-11       | Please refer to response to comment SJ-11. No changes to the EIR are necessary.   |
| JP-12       | Please refer to response to comment SJ-12. No changes to the EIR are necessary.   |
| JP-13       | Please refer to response to comment SJ-13. The additional clarification does not change the analysis or determinations presented in the EIR.  |

Raymond Pludow D.V.M.  
35335 Hwy 41  
Coarsegold, CA 93614

August 5, 2013

Ryan Hostetter, Project Manager  
San Luis Obispo County  
Planning and Building Department  
976 Osos Street, Room 300  
San Luis Obispo, CA 93408-2040

Subject: Comments to Draft Environmental Impact Report for Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216)

Dear Ms. Hostetter:

Please accept these comments to the June 2013 Draft Environmental Impact Report ("D-EIR") for the Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216). The D-EIR was prepared in response to applicant Jack Loperena's ("Applicant") proposal to build a 3,097 square foot residence on a 3,445 square foot lot on Studio Drive in Cayucos California (the "Project"). As Cayucos property owners we have several issues and areas of concern that the D-EIR has not adequately addressed or provided adequate mitigation measures.

RP-1

The following are some of our issues and concerns.

- The proposed residence is designed with its structure up to the toe of the bluff with no setback and cantilevers part of the house and a covered deck 28 feet over the sand. Not only will this cause a major reduction in the view from Highway 1, it also impacts everyone who visits Morro Strand State Beach. If allowed to proceed as proposed it will set a detrimental precedent for future development throughout many areas of the California coast.
- The SLO County's D-EIR state that this property is not on a coastal bluff, but instead finds it is a fluvial bluff caused by the nearby Old Creek. Therefore the coastal bluff requirements are not being applied to this property. This includes the requirement for bluff setback, which is intended to protect the house on a bluff for 100 years of erosion, and the limitation on cantilever to three (3) feet beyond the setback line. We strongly disagree and believe the property is obviously part of the coastal bluff. The toe of the bluff is clearly within the property and is routinely subject to marine erosion.

RP-2

RP-3

- The concrete reinforced seaward facing basement wall is essentially a seawall or shoreline protective device that should not be permitted because it violates several County policies. If allowed, it will deflect waves toward the neighboring properties and adversely impact them. The D-EIR understates the impact and potential damage to the other properties.

**RP-4**
  
- Although lateral access is discussed in the D-EIR, it seems that access is not being dedicated as required by the Estero Area Plan (CZLUO 23.04.420) and other policies. The lateral access is supposed to be available at all times of the year, and therefore would include periods of high tide. The project plans show the cantilevered deck encroaching 10 feet into the proposed lateral access area. The various rationalizations for allowing the access as proposed are not appropriate. The lateral access should be provided as required from the mean high tide to the toe of the bluff and be free of encroachment by the residence's cantilevered deck.

**RP-5**
  
- The D-EIR states that the visual impact is not significant because it is similar to the existing residences along Studio Drive in Cayucos. However, the proposed development is not at all similar to the existing conditions. None of the existing houses are cantilevered over the beach. One nearby house, which was built in 1964, is built out to the edge of the bluff. It is wrong for the D-EIR to compare the proposed development to this old house built long before the California Coastal Commission was established and the associated rules to protect the coast were enacted. Additionally, none of the existing houses have 31 feet high structures visible from the public beach, as this proposed residence is designed. The proposed residence causes significant visual impact on scenic resources. The house should be reduced in size, not be allowed to cantilever over the sand, and should be setback an appropriate distance.

**RP-6**
  
- The 3,097 sf size of the proposed residence including the basement is not appropriate for a 3,445 sf lot and does not fit within the character of the community or the intent of Studio Drive small-scale neighborhood requirements. Since about half the lot is sandy beach, we believe the proposed house should be considered to be about 180% of the usable lot size and therefore is much too large.

**RP-7**
  
- The D-EIR failed to propose adequate project alternatives as required by CEQA. There are several alternatives described, but we feel none of them offer sufficient mitigation. Another alternative should be developed to further mitigate all of the environmental impacts. Visualizations of all alternatives should be provided for

**RP-8**

comparison to the proposed project.

**RP-8  
(continued)**

- The D-EIR applied outdated versions of the CZLUO and other County Policies for the basis for the land use analysis. It failed to apply the current versions of ordinances. The D-EIR should be amended to properly review the project using the current versions of all ordinances. Additionally, the D-EIR failed to address applicable sections of the County’s General Plan Safety Element related to coastal bluffs. These sections should be addressed in an amended D-EIR.

**RP-9**

- We are also upset about the lack of sufficient public outreach conducted related to this EIR.

**RP-10**

There was no scoping meeting held as required by the California Environmental Quality Act (CEQA), and the D-EIR falsely reported that a scoping meeting was held. This project, which proposes to evade the bluff top setback requirement, includes a seawall, cantilevers over the beach, and encroaches on the required lateral access is clearly a project of statewide, regional and area-wide significance. A scoping meeting should have been held. Written notification of the D-EIR was only sent to one property owner in the vicinity of the project who requested notification; none of the other nearby property owners or residents were notified. SLO County provided the notification to some, but not all interested organizations and agencies. A copy was not even provided to the local library. SLO County provided minimal information to the Cayucos Citizens Advisory Council (CCAC), and the Project Manager failed to attend a Land Use Committee (LUC) meeting to discuss the proposed development as requested by the CCAC.

The D-EIR recommends the project as proposed. However, we recommend that the County Planning Commission and Board of Supervisors deny the Project as proposed because it is inconsistent with several provisions of the certified Local Coastal Plan related to bluff top setbacks, geologic hazards, alteration of natural landforms, protection of views from public vantage points and scenic areas, and public access. The bluff should be defined as a coastal bluff.

**RP-11**

If the Applicant desires to continue pursuing development of the property, the County should require development of a new “eco-friendly house” alternative that can meet the requirements necessary to build on this coastal bluff property. It is recommended that the new alternative be designed to provide adequate set-back (minimum 25 feet, and to withstand bluff erosion and wave action for a period of 100 years of erosion) from the bluff edge; limit cantilever to 3 feet beyond set-back line; forego inclusion of a basement and associated seawall; provide unobstructed 25-foot lateral access easement dedication from toe of bluff; and provide a visualization of the new alternative for consideration.

**RP-12**

Additionally, it is recommended that the County Planning Commission and Board of Supervisors require the County Planning Department staff to hold a well-advertised county-wide scoping meeting on the new alternative, and send written notices of an amended D-EIR and public hearings to all Cayucos property owners and residents.

**RP-13**

We appreciate your considered review and analysis of these comments.

Sincerely,



RB Pludow DVM

### 9.4.23 Response to Letter from Raymond Pludow, D.V.M.

| Comment No. | Response   |
|-------------|--|
| RP-1        | Please refer to specific responses to comments, as noted below.  |
| RP-2        | Please refer to response to comment SJ-2. No changes to the EIR are necessary.   |
| RP-3        | Please refer to detailed responses to comments CCC-4, HKA-1, and JJ-2. No changes to the EIR are necessary.                                  |
| RP-4        | Please refer to response to comment SJ-4. No changes to the EIR are necessary.   |
| RP-5        | Please refer to response to comment SJ-5. No changes to the EIR are necessary.   |
| RP-6        | Please refer to response to comment SJ-6. No changes to the EIR are necessary.   |
| RP-7        | Please refer to response to comment SJ-7. No changes to the EIR are necessary.   |
| RP-8        | Please refer to response to comment SJ-8. No changes to the EIR are necessary.   |
| RP-9        | Please refer to response to comment SJ-9. The additional clarification does not change the analysis or determinations presented in the EIR.  |
| RP-10       | Please refer to response to comment SJ-10. The additional clarification does not change the analysis or determinations presented in the EIR. |
| RP-11       | Please refer to response to comment SJ-11. No changes to the EIR are necessary.  |
| RP-12       | Please refer to response to comment SJ-12. No changes to the EIR are necessary.  |
| RP-13       | Please refer to response to comment SJ-13. The additional clarification does not change the analysis or determinations presented in the EIR. |

WARREN A. SINSHEIMER III  
DAVID A. JUHNKE  
JUNE R. McIVOR  
HERBERT A. STROH  
DAVID S. HAMILTON  
KEVIN D. ELDER  
N. ELLEN DREWS



SINSHEIMER JUHNKE McIVOR & STROH, III  
ATTORNEYS AT LAW

*Of Counsel:*  
ROBERT K. SCHIEBELHUT  
K. ROBIN BAGGETT

*E-Mail:*  
KElder@sjmslaw.com

*Client:* 3203.003

August 5, 2013

Ryan Hostetter, Project Manager  
San Luis Obispo County  
Planning and Building Department  
976 Osos Street, Room 300  
San Luis Obispo, CA 93408-2040

Re: Comments to Draft Environmental Impact Report for Loperena Minor Use  
Permit/Coastal Development Permit (DRC2005-00216)

Dear Ms. Hostetter:

On behalf of Ethel Pludow and Cynthia R. Sugimoto, please accept these comments to the June 2013 Draft Environmental Impact Report ("D-EIR") for the Loperena Minor Use Permit/Coastal Development Permit (DRC2005-00216).

**SJMS-1**

Doreen Liberto-Blanck, AICP, MDR, of Earth Design, Inc. was engaged to assist in analyzing the D-EIR and preparing these comments. Ms. Liberto-Blanck has over 25 years of experience in a range of land use planning, environmental planning and public policy making.

John Kasunich G.E., and Mark Foxx, C.E.G., of Haro, Kasunich and Associates, Inc., ("HKA") were engaged to review and analyze the D-EIR in respect to the geology, soils, and geotechnical engineering issues. John Kasunich is a Professional Engineer in Civil Engineering and a Geotechnical Engineer with over 30 years of experience in coastal engineering. Mr. Foxx is a Certified Engineering Geologist with more than 30 years of experience in coastal geology. Mr. Kasunich and Mr. Foxx have worked on numerous projects requiring the interpretation of the California Coastal Act, as well as local coastal plans and ordinances. Mr. Kasunich and Mr. Foxx have worked extensively with government agencies, including the California Coastal Commission, and their work is known to both the Executive Director and Deputy Director of the California Coastal Commission.

The results of their analysis are set forth in their report dated August 1, 2013, and attached as Exhibit A (the "HKA Report").

The D-EIR was prepared in response to applicant Jack Loperena's ("Applicant") proposal to build a 3,097 square foot residence on a 3,445 square foot lot (the "Project").

The County's initial review of the Project resulted in the issuance of a Mitigated Negative

1010 Peach St., P.O. Box 31, San Luis Obispo, CA 93406 ph: 805.541.2800 fax: 805.541.2802 mail@sjmslaw.com www.sjmslaw.com

Ryan Hostetter, Project Manager  
 San Luis Obispo Planning  
 and Building Department  
 August 5, 2013  
 Page 2

Declaration (the "MND") dated April 9, 2007. A Request for Review was filed challenging aspects of the MND. The MND was amended in response to the 2007 Request for Review, and the Amended Mitigated Negative Declaration was issued on April 2, 2009 (the "Amended MND"). A request for review of the Amended MND was filed on April 16, 2009. In response, the Applicant voluntarily decided to prepare an Environmental Impact Report for the Project.

**SJMS-1  
 (continued)**

The D-EIR has not adequately addressed or provided mitigation measures for several issues raised in the prior requests for review, and has raised new areas of concern. The following are some of the issues and concerns that will be addressed in these comments.

**SJMS-2**

- The bluff upon which the Project would be constructed is a coastal bluff. The D-EIR incorrectly determines that the bluff is a fluvial bluff, with its associated lack of set-back from the bluff edge, and with no limitation (other than the property line) on how far the Project can cantilever over the sandy beach.

**SJMS-3**

- Although lateral access is discussed in the D-EIR, it seems that access is not being dedicated as required by the Estero Area Plan (CZLUO 23.04.420) and other policies. The lateral access should be provided as required and be free of encroachment by the Project's cantilevered deck.

**SJMS-4**

- The D-EIR failed to propose adequate project alternatives as required by the California Environmental Quality Act ("CEQA").

**SJMS-5**

- The reinforced concrete seaward facing basement wall is a seawall, and seawalls are not allowed. The San Luis Obispo LCP Hazard Policy 1 requires that new development shall be designed so any shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, not be needed for the life of a structure.

**SJMS-6**

- The D-EIR failed to apply current ordinances.

**SJMS-7**

- The visual impact of the Project will be significant, yet the D-EIR glosses over the issue, finding there will be little impact to the existing visual condition along Studio Drive.

**SJMS-8**

- The County failed to hold a scoping meeting as required by CEQA. In fact, the County's public outreach has been lackluster at best, in addition to failing to meet CEQA requirements.

**SJMS-9**

It is recommended that the County Planning Commission and Board of Supervisors deny the Project as proposed because it is inconsistent with several provisions of the certified Local Coastal

**SJMS-10**

Ryan Hostetter, Project Manager  
 San Luis Obispo Planning  
 and Building Department  
 August 5, 2013  
 Page 3

Plan related to bluff top setbacks, geologic hazards, alteration of natural landforms, protection of views from public vantage points and scenic areas, and public access and several of the environmental issues have not adequately been addressed. The bluff should be defined as a coastal bluff. Based on our analysis, there are significant adverse impacts that cannot be mitigated, and therefore, Statements of Overriding Consideration would be needed to approve the Project.

**SJMS-10  
 (continued)**

If the Applicant desires to continue pursuing development of the property, the County should require development of a new “eco-friendly house” alternative that will meet the requirements necessary to build on this coastal bluff property. It is recommended that an “eco-friendly house” development is necessary in order to: provide adequate set-back (minimum 25 feet, and to withstand bluff erosion and wave action for a period of 100 years of erosion) from the bluff edge; limit cantilever to 3 feet beyond set-back line; forego inclusion of a basement and associated seawall; provide unobstructed 25-foot lateral access easement dedication from toe of bluff; and provide a visualization of the new alternative project for consideration.

**SJMS-11**

Additionally, it is recommended that the County Planning Commission and Board of Supervisors require the County planning staff to hold a well-advertised county-wide scoping meeting on the new alternative, and send written notices of future drafts of an amended D-EIR and public hearings to all Cayucos property owners and residents.

**SJMS-12**

**1. Determination that the Property is not a Coastal Bluff and Related Geotechnical Issues.**

**SJMS-13**

HKA determined that the County's EIR consultants, Cotton Shires and Associates (the "EIR Consultants") incorrectly defined the bluff as a fluvial bluff.

In summary, the HKA Report (Exhibit A) finds that the EIR Consultants' use of an obscure determination of what constitutes a bluff edge led the EIR Consultants to incorrectly find that the bluff is a fluvial bluff rather than a coastal bluff. The HKA report describes how the bluff is subject to wave run-up, subject to marine erosion, and under applicable law should properly be defined as a coastal bluff. It includes several figures and photographs that clearly show the exposed bedrock coastal bluff on the property and the “active beach” at the base of the bluff.

The HKA Report identifies that the methodology used by the EIR Consultants to assess the termini of the bluff differs from California Coastal Commission (CCC) guidelines. It is requested that a revised bluff termini diagram be prepared on a surveyed map that follows the CCC guidelines.

**SJMS-14**

As part of their analysis, HKA notes that a story pole study was conducted for the Project. The D-EIR states that the locations of the story poles were used to prepare visual photo simulations of the Project, however, no pictures of the story poles are included in the D-EIR.

**SJMS-15**

Ryan Hostetter, Project Manager  
 San Luis Obispo Planning  
 and Building Department  
 August 5, 2013  
 Page 4

We obtained a photo from the story pole study, as well as other photos of the Project taken while the flags were in place. The visual impression created by these photos paints a clear picture of how the bluff edge is oriented toward the ocean. Further, while the D-EIR includes the methodology of how the story poles were used to create visual photo simulations, it doesn't describe or include the story poles study.

SJMS-16

The story poles study is an important tool in determining how the Project will be situated on the bluff, and how it will impact environmental conditions. Therefore, the entire story poles study should have been included in the D-EIR.

SJMS-17

The HKA Report also addresses the inconsistencies in the EIR Consultants' wave run-up calculations, and how the inconsistencies affect how wave run-up will affect the Project.

SJMS-18

The HKA Report also finds that the basement wall is a seawall, which is prohibited for this type of development. If allowed, it will deflect wave run-up towards the neighboring properties and adversely impact them. They also believe the impact related to beach sand scour and coastal erosion are under estimated in the D-EIR and will be significant.

SJMS-19

They also raise a concern about the potential for the borehole drilling and excavations for the shoring to encroach on the neighboring properties or damage those properties.

SJMS-20

The HKA Report's analysis concludes that the Project site should be considered a coastal bluff and appropriate set-backs required.

SJMS-21

**2. 25-Foot Lateral Beach Access Easement; Encroachment by Covered Deck.**

SJMS-22

**2.1 Required 25-Foot Lateral Beach Access Easement.**

The Coastal Zone Land Use Ordinance ("CZLUO") Section 23.04.420d(3) requires that all new development provide a lateral access dedication of at least 25 feet of dry sandy beach, as noted on page 3-14 of the D-EIR. The D-EIR should clearly show where the project will be sited on the property, and how the lateral access easement will be accommodated by the location of the project. There is no verifiable depiction (such as a survey) showing exactly where the structure will be located on the lot.

Therefore, it is impossible to confirm that the project as designed can be sited on the lot and still comply with the requirement to provide a lateral beach access easement of at least 25 feet of dry sandy beach.

The D-EIR should note in relation to the lateral access easement that wave run-up is expected to hit the basement. Therefore, there will be times when no dry sandy beach is available. Several

SJMS-23

Ryan Hostetter, Project Manager  
San Luis Obispo Planning  
and Building Department  
August 5, 2013  
Page 5

photos showing the coastal bluff and beach portion of the property during a typical high tide in 2007 are shown in Exhibit B.

**SJMS-23  
(continued)**

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

**SJMS-24**

Has the Applicant agreed to provide the 25-foot lateral access dedication in the location shown on the site plan in the D-EIR or anywhere else on the property? If the Project is approved, the requirement to dedicate the easement should be a mitigation measure, and included in the mitigation and monitoring report.

The D-EIR should have shown how the requirement of a 25-foot lateral beach access easement will be met.

**SJMS-25**

**2.2** Covered Deck Encroaches onto Lateral Beach Access Easement.

**SJMS-26**

The design of the project includes a 180 square foot covered deck. The deck will encroach on about 10 linear feet of the 25foot lateral easement, as noted on page 3-8 of the D-EIR. The County should not allow the Applicant to encroach upon the required lateral access easement.

To address the encroachment, the D-EIR rationalizes that the encroachment is acceptable because the public will have plenty of lateral access, as there is dry sandy beach between the project and the mean high tide line.

CZLUO Section 23.04.420d(3) requires that new development provide a 25-foot lateral access easement. The ordinance does not condition that requirement on whether other access is available or not. Therefore, it is inappropriate for the D-EIR to rationalize the encroachment of 40% of the lateral access easement by the deck with a statement that other access will be available.

The encroachment of the access easement by the deck is certain to chill if not eliminate the public's use of the easement, as almost everyone will think that the sand beneath the deck is private. If the Applicant puts out furniture or landscaping near or under the deck, no one will think they have beach access across the easement.

The problem of lateral beach access will be particularly acute during periods of wave run-up,

Ryan Hostetter, Project Manager  
 San Luis Obispo Planning  
 and Building Department  
 August 5, 2013  
 Page 6

where even now there are frequently times when there is no dry beach to access the beach laterally.

The D-EIR notes that wave run-up will occasionally hit the house. Therefore, the D-EIR confirms that at times there is no dry sandy beach, and therefore the requirements of CZLUO Section 23.04.420d(3) will not be met.

In fact, the second sentence of CZLUO Section 23.04.420d(3) states that where "topography limits the dry sandy beach to less than 25 feet, lateral access shall extend from the mean high tide to the toe of the bluff."

Therefore, the D-EIR should consider whether the lateral beach access easement should extend to the toe of the bluff, and not just 25 feet from the property line. At the very least, the deck should be removed from the project due to its encroachment of 40% of the easement area.

### **2.3** Failure to Address Estero Area Plan Lateral Access Requirements.

San Luis Obispo County Parks Department expressed concerns in its September 9, 2009, Memorandum from Shaun Cooper to Ryan Hostetter about the cantilevered design. The memo also states that State Parks should be notified about the design.

County Parks also requested plans showing the toe and top of the bluff. The D-EIR does not state whether any of County Parks' issues were addressed.

In particular, note that County Parks cites the Estero Area Plan, Land Use Element/Local Coastal Plan, San Luis Obispo County Plan, Chapter 8, page 8-11 (now page 8-6).

The section states:

New development located between the sea and the first public road shall be required to make an offer of dedication of lateral access extending from the toe of the bluff to mean high tide, or where applicable, to the inland boundary of the public beach. (Chapter 7: V., Cayucos Urban Area Standards, Combining Designations, B., LCP) (underline added).

The D-EIR should address why the Applicant is not required to dedicate access from the mean high tide line to the toe of the bluff, rather than just 25 feet from the property line. No exceptions to the requirement are provided, thus the unique nature of the site should not have any bearing on where and what type of easement should be required.

The County should use the standard set forth in the Estero Area Plan to determine the type and location of the lateral beach access easement.

**SJMS-26**  
**(continued)**

**SJMS-27**

**SJMS-28**

**SJMS-29**

Ryan Hostetter, Project Manager  
San Luis Obispo Planning  
and Building Department  
August 5, 2013  
Page 7

**3. Failure to Provide Required Project Alternatives.**

CEQA requires that an EIR provide alternative designs to the proposed project in order to determine whether alternatives would further mitigate any environmental impacts. The D-EIR should analyze such alternatives and determine which is the Environmentally Superior Alternative.

**SJMS-30**

In the D-EIR, the County determined that the Environmentally Superior Alternative is the Project. However, this determination does not have validity in the reality of the impacts. The proposal will impact the coastal beach, cause potential surface and subsurface drainage issues, impact scenic coastal views and is proposed to be built on a historic coastal bluff. The Environmentally Superior Alternative should be no project. A substantially reduced scale structure built on pilings and located with adequate set-back (a minimum of 25-feet, to withstand bluff erosion and wave action for a period of 100-years of erosion) from the edge of the bluff would still have impacts, but those impacts would be considerably reduced from those of the subject proposal.

CEQA states there should be a reasonable range of alternatives based on project objectives. The proposed alternatives proposed in the D-EIR are similar and do not provide sufficient variation. On page ES-4, the Applicant's project objectives are outlined, including: *reducing visual impacts by design, avoiding development on sandy beach and minimizing site grading and disruption of the natural contours and, incorporation of green building considerations into the design and maximize exposure for solar panels.*

**SJMS-31**

Based on these objectives, one of the alternatives should include an eco-friendly small house. The eco-friendly small house could possibly be placed to allow for a 100-year setback with no structures encroaching on the sandy beach. Additionally, the reduced size and scale of the project would provide a better transition with the open space nature of the adjacent Morro Strand State Beach.

Visualization of each alternative should be provided for comparison to the proposed project.

**4. Failure to Apply Current Ordinances.**

**SJMS-32**

The D-EIR, Section 8.1.4.11 cites the 2010 CZLUO, and the 2007 Coastal Plan Policies – Local Coastal Program Policy Document ("Policies"), as the ordinances used to analyze land use issues addressed in the D-EIR.

Both the CZLUO and the Policies were updated in 2011.

A permit applicant's rights to proceed under a MUP or CUP do not vest until the permit is issued, and the applicant has in good faith commenced construction on the site. Since the permit has not been issued, outdated versions of the CZLUO and the Policies were improperly used as a basis

Ryan Hostetter, Project Manager  
 San Luis Obispo Planning  
 and Building Department  
 August 5, 2013  
 Page 8

for land use analysis issues.

The D-EIR must review the project using the current versions of the ordinances.

**SJMS-32  
 (continued)**

**5. Safety Element of the General Plan**

**SJMS-33**

County Coastal Policy S-23 requires that development shall not be permitted near the top of eroding coastal bluffs.

County Coastal Program S-63 requires coastal bluff erosion studies to determine the rate of erosion and the resulting safe distance from the top of the bluff for development. The D-EIR should address how the policy and program are impacted by the Project.

**6. Scoping Meeting Required; Incorrect Claim Scoping Meeting Held**

**SJMS-34**

Executive Summary item F on page ES-14 and Section 1.2 of the D-EIR state that a scoping meeting was held at the Cayucos Veteran's Hall. This is incorrect. No scoping meeting was held.

Further, Section 1.3, page 1-1, states that the "scope of the EIR includes issues identified by the lead agency during the preparation of the NOP for the proposed project, *as well as environmental issues raised by agencies and the general public in response to the NOP and at the scoping meeting.*"

CEQA Guidelines Section 15082(c)(1) states that for "projects of statewide, regional or areawide significance pursuant to Section 15206, the lead agency shall conduct at least one scoping meeting." A D-EIR is mandated to be sent to the State Clearinghouse when the project meets the criteria for "statewide, regional or area wide significance." (PRC 21082.1; CCR 15205 and 15206).

CEQA Guidelines Section 15206(b)(4)(C) states that if an EIR is prepared for a project, the project is located in the California Coastal Zone, and the project would have a substantial impact on the environment, then the lead agency must determine that the project is of statewide, regional or areawide significance.

Here, an EIR has been prepared, and the project is located in the Coastal Zone. Further, the Loperena MUP/CUP was sent to the State Clearing House.

Therefore, based on the County's action of submitting the D-EIR to the State Clearinghouse and due to the project being located within the Coastal Zone, a scoping meeting should have been conducted.

We disagree with the County's determination that there will be no substantial environmental

**SJMS-35**

Ryan Hostetter, Project Manager  
San Luis Obispo Planning  
and Building Department  
August 5, 2013  
Page 9

impact.

This project, which proposes to redefine the term “coastal bluff,” in order to evade the bluff top setback requirement, includes a seawall, cantilevers over the beach, and encroaches on the required lateral access. If allowed to proceed, the Project will set a precedent for all future coastal development and is thereby a project of statewide, regional and area-wide significance.

Therefore, the project will have a substantial environmental impact, satisfying the third prong of the Guidelines and requiring a scoping meeting. The County failed to do so, despite its claim of a meeting in the D-EIR.

A scoping meeting must be held before the D-EIR review process goes any further, to avoid violation of CEQA.

7. **County's Limited Public Outreach Efforts**

The County's efforts to reach out to the public have fallen short. The County seemed to think that because the project is just a single family residence, there would be little public interest. This view is clearly wrong as shown by the important organizations interested in the project.

Thanks to groups such as the Cayucos Citizens Advisory Council ("CCAC"), the Sierra Club – Santa Lucia Chapter, the Surfrider Foundation – San Luis Obispo Chapter, ECOSLO and Coastkeeper, along with many individuals, word of the project has gotten out. Clearly the County underestimated public interest in the project.

The general public is very interested in the project due to the dangerous precedents it would set. The precedents include:

- (i) Building on a coastal bluff without adhering to coastal bluff setback requirements.
- (ii) Allowing a cantilevered structure over the beach.
- (iii) Allowing construction of a seawall (the basement wall is really a shoreline protection device).

One specific example of the County's failure to properly notify the public about the project and the availability of the D-EIR for public review is reflected in the June 2013 minutes of the CCAC. The June minutes show that the County liaison to the CCAC made no report to the CCAC informing them that the D-EIR was expected to be released soon. Further, the County's liaison's input at the July CCAC's Land Use Committee and CCAC meetings on July 8 and 10 respectively, was uninformed and minimal. Following release of the D-EIR, a CCAC request for a presentation or at least attendance by the SLO Project Manager to answer questions was ignored or dismissed.

**SJMS-35  
(continued)**

**SJMS-36**

Ryan Hostetter, Project Manager  
 San Luis Obispo Planning  
 and Building Department  
 August 5, 2013  
 Page 10

No copy of the D-EIR was provided to the Cayucos Library. Also, no property owners or residents from the project vicinity were notified of the availability of the D-EIR, except for one property owner that expressly asked to be notified.

**SJMS-36  
 (continued)**

It is unclear why the County would fail to provide those with a stated interest in the project with even informal notice of the pendency of the release of the D-EIR when such interest is widely known. The County seems to be happy meeting the minimum notice requirements, when in fact there is widespread interest in the project.

The County's unwillingness to provide outreach beyond the bare minimum required will certainly result in a significant number of people being left out of the process. We don't want this to become one of those projects where many people say they just didn't know, and therefore were prevented from participating in the review process.

**8. Visual and Scenic Resources, Policy 2**

**SJMS-37**

The D-EIR inadequately discusses the impact of the Project on views. None of the photos included in the D-EIR clearly illustrate the loss of view. Attached photo/graphic Exhibit C illustrates the estimated impact on public scenic coast views. The lot is on the edge of an expansive area of public scenic coastal view and adjacent to Morro Strand State Beach. The Project will further erode the public's view of sandy beach and ocean waves. The Project will hover over the sandy beach and obstruct views along the beach and from Highway 1 to the ocean. This is a significant adverse impact that has not been properly analyzed.

The D-EIR falsely states that the Project is consistent with the current conditions. Most of the residences are set-back on the bluff, and none are cantilevered over the sand. The nearby residence shown in Figure 4.1-14 and 4.1-15, which is built to the edge of the bluff, was built in 1964, prior to establishment of the CCC and associated rules protecting bluffs. It is not appropriate to compare the Project to it. None of the residences have a 31-foot high structure visible from the ocean side.

**SJMS-38**

The size of the Project should be reduced and not allowed to cantilever over the sandy beach. If it is not reduced in size and prohibited from cantilevering over the beach, the D-EIR should then identify the Project as having a significant adverse impact on the environment based on visual scenic resources and being inconsistent with the County Policy 2.

**SJMS-39**

Ryan Hostetter, Project Manager  
 San Luis Obispo Planning  
 and Building Department  
 August 5, 2013  
 Page 11

The project is in a prominent location, adjacent to a Morro Strand State Beach and open to Highway 1. On page 4.1-8, the EIR Consultant states:

SJMS-40

*"The project would result in a significant impact if it had substantial adverse effect on a scenic resource as seen from Highway 1. A scenic resource would be a specific feature or element with a high degree of memorability or landmark characteristics that contributed to the high visual quality of the corridor. From along Highway 1 in the project vicinity, Morro Rock, the Pacific Ocean, and the Cayucos Pier are considered Scenic Resources. The project would result in a significant impact if it were to have a substantial negative effect on views of any of those resources, from public vantage points."*

The Project will have "a substantial negative effect on views" as clearly shown in the photograph attached as Exhibit C. Therefore, the EIR Consultants should have concluded that the Project would result in a significant impact on visual scenic resources.

The structure is not consistent with Visual and Scenic Resources Policy 10: Development on Beaches and Sand Dunes. The Project appears to be two-stories from beach view and is inconsistent with the appearance of other houses.

SJMS-41

#### 9. Cayucos Small Scale Neighborhood Standards of the Estero Area Plan

SJMS-42

The Project does not meet the Cayucos Small Scale Neighborhood design standards and other communitywide standards, and is inconsistent with the character and intent of the Cayucos community small scale design neighborhood for some of the following reasons:

- 9.1 The 3,097 square foot modern structure gives the appearance of a massive box on a 3,445 square foot lot. The expansive building facades should be broken up by various elements to avoid the box appearance from the public. The structure is eighteen or nineteen feet (18'-19') wide and ninety-five feet (95') long. The elongated structure, with concrete walls does not present a small-scale project and is out of character with other structures in the area. The building mass as seen from streets and public recreational areas does not incorporate design features, such as variations in wall planes, roof lines, or materials that promote a small scale appearance, as required in the Estero Area Plan.

As correctly stated in the 2009 Draft Mitigated Negative Declaration and attached as Appendix A of the D-EIR, "... the design and style with the cantilevered deck area is different than neighboring residences as it proposes a much more modern design."

Ryan Hostetter, Project Manager  
 San Luis Obispo Planning  
 and Building Department  
 August 5, 2013  
 Page 12

9.2 The Community Small Scale Design Neighborhoods standards require, “The site design to incorporate landscaping materials that help reduce the scale of the proposed structure through proper selection and placement of trees, shrubs and other vegetation capable of screening portions of the structure from public viewpoints.” Only two-hundred and thirty-eight square feet (238’), or seven percent (7%) of the lot is proposed to be landscaped. This includes hardscape and private walkways along the northern side of the residence. The Applicant proposes potted plants along the walkways and front entry. (Reference page 2-5 of D-EIR.)

**SJMS-43**

The limited landscape, including hardscape, and potted plants will not reduce the scale and size of the modern structure from public viewpoints, as required by the Estero Area Plan.

9.3 The D-EIR Executive Summary (page ES-4) describes the Project as having one main floor and a basement. However, it also includes what is called a mezzanine. There is no definition in the Estero Area Plan for mezzanine, and it isn’t specifically excluded as a story in the definition for “story” in the Estero Area Plan. We question whether this “mezzanine” should actually be considered as a second story. If it was considered a second story, then the Gross Structural Area (GSA) requirements included in the Estero Area Plan (section 7.V.D.3.d(2) and Table 7-3 page 7-71) should apply. Table 7-3 requires that lots between 2,900-4,999 square feet have a maximum gross structural area of 55% of usable lot, not to exceed 2,500 square feet. Since a good portion of the 3,445 square foot lot is sandy beach and therefore not usable, the usable lot area is much smaller. The proposed 3,094 square foot residence is about 90% of the lot size, and an even higher percentage of the usable lot size. If the mezzanine is determined to be a second story, then the Project is too large and should be reduced in size to meet the Estero Area Plan GSA requirements.

**SJMS-44**

There also seems to be some uncertainty in the D-EIR regarding whether the Project sits atop the bluff or not. It is important that the location is clearly defined as it directly impacts the determination of the usable lot size, and therefore the allowable size of the residence.

**SJMS-45**

The architecture, materials and building mass are not consistent with the Residential Development Design Concepts found in the Cayucos Urban Design Standards of the Estero Area Plan. The structure does not provide articulated rooflines, small scale building mass, or meet the other standards illustrated in Figure 7.37.

**SJMS-46**

Ryan Hostetter, Project Manager  
San Luis Obispo Planning  
and Building Department  
August 5, 2013  
Page 13

In conclusion, for the reasons stated in this letter, the Project should not be approved.

**SJMS-47**

We appreciate your considered review and analysis of these comments.

Sincerely,

SINSHEIMER JUHNKE McIVOR & STROH, LLP



KEVIN D. ELDER

KDE:ggf  
K:\PludowE\003 Loperena\Ltr\17HostetterEIRComment-080513-2.doc

cc: Cynthia R. Sugimoto

Exhibit A

August 1, 2013 Haro, Kasunich and Associates Report

(see attached)