CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV

W16b

Appeal filed:	8/20/07
Substantial issue found:	10/8/07
Staff report prepared:	9/25/08
Staff report prepared by:	J. Bishop
Staff report approved by:	D. Carl
Hearing date:	10/15/08

APPEAL STAFF REPORT - DE NOVO HEARING

Appeal number.....**A-3-SLO-07-041, Richissin SFD**

Applicant.....Brent Richissin

Appellant.....George Taylor

Local government .....San Luis Obispo County

Local decision .....Coastal Development Permit (CDP) D000480P/D010107V approved with conditions on July 24, 2007.

Project location .....Austin Court, Los Osos, Estero Planning Area, San Luis Obispo County.

Project description.....Construct a 4,534 square foot single-family residence with an attached garage on an undeveloped residential property.

File documents.....San Luis Obispo County Certified Local Coastal Program; San Luis Obispo County Final Local Action Notice for CDP D000480P/D010107V; San Luis Obispo County Mitigated Negative Declaration and Notice of Determination No. ED06-036.

Staff recommendation ...**Approve with Conditions**

A. Staff Recommendation

1. Summary of Staff Recommendation

The Applicant proposes to construct a 4,534 square foot single-family residence with attached garage on an undeveloped residential property located in the Cabrillo Estates neighborhood of Los Osos in San Luis Obispo County. The site is sloping, including slopes in excess of 30 percent, and is partially wooded with eucalyptus trees. To accommodate residential development, the project includes removal of the site's eucalyptus trees (59 trees) and includes other site improvements to address sloped development, including drainage and landscaping. The Commission previously found that the County's original CDP action raised a substantial issue and took jurisdiction over the CDP for the proposed project on October 8, 2007. The standard of review for the proposed project is the San Luis Obispo County certified Local Coastal Program (LCP).

The primary LCP issue raised by the project is whether there is water available to serve it. In Los Osos, there is a lack of available public water supply, and there is considerable uncertainty as to how such water supply issues will be resolved in the future. Current estimates show that urban water demand exceeds safe yield of the Los Osos groundwater basin and is resulting in seawater intrusion. Through the LCP's Resource Management System (RMS), the County Board of Supervisors recently certified a Level of Severity III (the highest level under the RMS) for water supply in the Los Osos groundwater basin.

Two recent events have occurred since this appeal was filed that make substantial progress towards addressing the issue of adequate water supply in Los Osos. First, the County recently adopted a retrofitting ordinance under Title 19 of the LCP that is designed to address the water supply problem, including in relation to seawater intrusion in the Basin. The ordinance requires both new and existing development to retrofit older, less water efficient fixtures (such as toilets and showerheads) with those that are water efficient. Per the new ordinance, all new development in Los Osos must retrofit enough existing homes and businesses to save twice the amount of water that the new development would use. In other words, any new development must offset its water use at a 2:1 ratio, thus reducing demand over time. The retrofit program is administered and enforced by the County. Second, the Coastal Commission recently adopted amendments to the Estero Area Plan of the LCP also requiring water offsets to ensure a no net increase position for new development using water from the Los Osos groundwater basin.

Staff believes that the Title 19 LCP changes and the Estero Area Plan LCP changes form the basis for addressing the water supply issue in this case consistent with the certified LCP. Specifically, Staff recommends that the Commission approve the project subject to a special condition requiring retrofitting in accordance with parameters identified in the new Title 19 ordinance. Such retrofits will offset new water use associated with the project, and result in a net water demand reduction overall, thus helping, albeit on a very small scale, to alleviate overdraft issues in the Basin.

The other issues raised by the project relate to the protection of coastal watersheds and water quality in terms of vegetation removal and development on steep slopes. Although the site is located in an existing developed neighborhood, and constitutes infill residential development in that sense, the site is also steeply sloped and includes significant (eucalyptus) tree cover. Given the lack of available space otherwise, the development on slopes exceeding 30% can be approved consistent with the LCP, and the eucalyptus tress are non-native and are not known to provide any significant habitat function (such as special status or listed species habitat) that would require them to be protected as environmentally sensitive habitat area (ESHA) or otherwise under the LCP. Thus, relatively standard residential development parameters can be applied to address drainage, landscaping, and slope stability concerns, and to also ensure that any sensitive bird species (e.g. nesting raptors, etc.) are protected from construction (including biological surveys prior to the commencement of construction activities, where such activities cannot occur if sensitive bird species are present).

In sum, the proposed project's water supply and site constraint issues can be addressed by conditions of approval, and Staff believes that the project, as conditioned, can be found consistent with the LCP. Staff recommends that the Commission **approve** the CDP for the proposed project.

2. Staff Recommendation on CDP Application

Staff recommends that the Commission, after public hearing, **approve** the CDP for the proposed development subject to the standard and special conditions below.

Motion. I move that the Commission approve coastal development permit number A-3-SLO-07-041 pursuant to the staff recommendation.

Staff Recommendation of Approval. Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve a Coastal Development Permit. The Commission hereby approves the coastal development permit on the ground that the development as conditioned will be in conformity with the policies of the San Luis Obispo County Local Coastal Program and the public access and recreation policies of the Coastal Act. Approval of the coastal development permit complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment; or (2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the amended development on the environment.

Report Contents

page

B.Findings and Declarations

The Commission finds and declares as follows:

1. Project Location

The proposed development site is located in the Cabrillo Estates neighborhood at the western end of Austin Court, approximately 220 feet west of Crocket Circle, in the community of Los Osos in the Estero Planning Area of San Luis Obispo County. The site is sloping (including slopes in excess of 30 percent), undeveloped, and partially wooded with eucalyptus trees. It is located in the LCP's Residential Single-Family (RSF) land use category, and it is surrounded by parcels that are developed with single-family residences. See Exhibit A for a location map and for an aerial photo of the site and the surrounding neighborhood.

2. Project Description

The project includes construction of a 4,534 square foot single-family residence with an attached garage. The project also includes the removal of the eucalyptus trees on the site (59 trees) and associated site improvements such as drainage and landscaping. See Exhibit B for proposed residential site plans and elevations.

3. Coastal Development Permit Determination

The standard of review for this application is the San Luis Obispo County certified LCP and, because it is located seaward of the first public through road, the public access and recreation policies of Chapter 3 of the Coastal Act.

A. Water Supply

1. Applicable Policies

Public Works Policy 1: Availability of Service Capacity. *New development (including divisions of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development. Priority shall be given to infilling within existing subdivided areas. Prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line for which services will be needed consistent with the Resource Management System where applicable. …*

CZLUO Section 23.04.430 - Availability of Water Supply and Sewage Disposal Services. *A land use permit for new development that requires water or disposal of sewage shall not be approved unless the applicable approval body determines that there is adequate water and sewage disposal capacity available to serve the proposed development, as provided by this*

section. Subsections a. and b. of this section give priority to infilling development within the urban service line over development proposed between the USL and URL. In communities with limited water and sewage disposal service capacities as defined by Resource Management System alert levels II or III:

a. A land use permit for development to be located between an urban services line and urban reserve line shall not be approved unless the approval body first finds that the capacities of available water supply and sewage disposal services are sufficient to accommodate both existing development, and allowed development on presently-vacant parcels within the urban services line.

b. Development outside the urban services line shall be approved only if it can be served by adequate on-site water and sewage disposal systems, except that development of a single-family dwelling on an existing parcel may connect to a community water system if such service exists adjacent to the subject parcel and lateral connection can be accomplished without trunk line extension.

2. Consistency Analysis

LCP Public Works Policy 1 requires that new development demonstrate that adequate public service capacities are available to serve the proposed development. Policy 1 further directs that new development only be approved if it is environmentally-sustainable by requiring a finding be made that "there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban services line" prior to permitting all new development. This finding is also required by Section 23.04.430 of the LCP's Coastal Zone Land Use Ordinance (CZLUO) with a focus on communities where water and sewer capacities are limited. Together, these LCP standards establish rigorous findings for approving new development in areas that are facing critical resource shortages.

<u>The Resource Management System</u>

To facilitate implementation of Public Works Policy 1 and its corresponding ordinances, the LCP requires the use of a Resource Management System (RMS). The RMS is an annual evaluation of available essential resources throughout the County including water supply, sewage disposal, roads, schools, and air quality. The RMS identifies where resources exist or are deficient to support growth. The RMS is designed to be a growth management tool to assess information and identify management measures or necessary capitol improvements to support existing and new development. In theory, it is also an important mechanism for assuring that coastal resources, particularly groundwater basins and creeks, are not overly impacted by development.

The RMS uses three levels of alert (called levels of severity, or LOS) to identify potential and progressively more immediate resource deficiencies. The alert levels are meant to provide sufficient time for avoiding or correcting a shortage before crisis develops. Level I is defined as the state when sufficient lead time exists either to expand the capacity of the resource or to decrease the rate at which

the resource is being depleted. Level II identifies the crucial point at which some moderation of the rate of resource use must occur to prevent exceeding the resource capacity. Level III occurs when the demand for the resource equals or exceeds its supply.

As described in the LCP, the Planning Department notifies the Board of Supervisors when RMS monitoring indicates that a particular resource level of severity in a community appears to have been reached. If the Board concurs in the recommended LOS, a more detailed resource capacity study is completed, followed by public hearings and review by the Planning Commission. Based on this review, the Planning Commission recommends a LOS to the Board. The RMS outlines specific measures that must be implemented for each LOS if the Board formally certifies the recommended level. These measures include such things as identifying and funding new capitol improvements, imposing conservation measures, or even enacting development moratoriums.

Water Supply Background in Los Osos

The RMS has long supported a LOS of either II or III for water supply and distribution in Los Osos. As presented in the February 2007 Resource Capacity Study, there have been numerous studies focused on Los Osos Valley groundwater basins and related water supply issues:

1. Brown and Caldwell (1974): Safe yield estimated at 1,300-1,800 acre feet per year (AFY). This is questioned in the Cleath report, July 2005, where 1,800 AFY is said to be consumptive use and not gross water production. The correct number, according to Cleath, should be closer to 3,750 AFY.
2. Department of Water Resources (DWR) (1989): Safe yield estimated at 2,200 AFY through the use of a USGS model. Cleath (2005) suggests adjusting this to 3,140 AFY.
3. URS Corporation (2000): Uses 3,150 AFY as safe yield. URS used and updated DWR's USGS (1989) model.
4. Cleath and Associates (2002): Cleath used multiple methods to estimate safe yield at 3,560 AFY in the Los Osos Community Services District (LOCSD) Master Water Plan.
5. Cleath and Associates (2005): This newer Cleath report includes a discussion of seawater intrusion. This issue has caused Cleath to reduce safe yield estimates to 3,250 AFY to keep seawater intrusion at bay.

Based on these studies used to determine safe yield, coupled with estimates of the amount of water pumped by all types of groundwater users (including purveyors, private domestic wells, and agricultural uses) the County's 2007 Resource Capacity Study (see Exhibit D) concludes the following on page 9:

> *Total water production from all portions of the groundwater basin totaled 3,400 AFY. This 2001 number is 150 AFY more than the calculated safe yield from the basin. These figures indicate the basin was in overdraft in 2001. Overdraft continues today as shown by the continued seawater intrusion problem in the lower aquifer.*

Analysis

Current estimates show that water demand exceeds safe yield of the Los Osos groundwater basin and is resulting in seawater intrusion. As described above, there is a lack of sustainable and available public water supply, and there is considerable uncertainty as to how such water supply issues will be resolved in the long term for the community of Los Osos. The County Board of Supervisors recent certification of a Level of Severity III (the highest level) for the Los Osos groundwater basin through the LCP's RMS (see Exhibit D) recognizes this problem and highlights its severity in an LCP sense. The County initially attempted to address the water supply issue for the proposed project through applying a retrofit condition before this project was appealed to the Commission. Such an approach was a good first step, however, such a condition was problematic because there was no formal program in place to implement the retrofitting, nor was there a formal entity such as a water purveyor or community services district to manage or oversee the retrofitting. Instead, the County placed the burden on the Applicant to seek out and initiate private retrofits. In other words, the retrofits were not to be done pursuant to a formal retrofit program that could account for them, rather they were to be done on an informal basis between private parties. Without a formalized retrofit program in place, questions were raised as to the effectiveness, the ability to monitor, and the enforceability of such a condition, particularly as these concerns relate to the availability of a public water supply for existing and new development; this was the primary reason that the Commission found that the appeal raised a substantial issue.

In the time since the Commission took over jurisdiction of the coastal permit on appeal, two events have occurred that substantially modify the playing field with respect to the issue of water supplies and retrofitting. First, the County recently adopted a retrofitting ordinance under Title 19 of the LCP. This ordinance provides a regulatory framework for retrofitting; including identifying a programmatic and enforceable set of water conservation measures that can be applied to address water supply and seawater intrusion issues. The ordinance requires both new and existing development to retrofit older, less water efficient fixtures (such as toilets and showerheads) with those that are water efficient. Per the new ordinance, all new development in Los Osos must retrofit enough existing homes and businesses to save twice the amount of water that the new development would use. Development credits are then issued based on the amount of water savings achieved per household. Retrofits must be completed and recorded with the County before development credits are issued. In other words, any new development must offset its water use at a 2:1 ratio, thus reducing demand over time, and the retrofit program is administered and enforced by the County (see Exhibit E for the complete text of the Title 19 retrofit ordinance).

Second, the Commission recently adopted the Estero Area Plan LCP amendment, which also requires water offsets to ensure a no net increase position for new development using water from the Los Osos groundwater basin.

The pending (i.e., the Title 19 LCP changes have yet to be sent to the Commission for certification) and adopted (Estero Area Plan) LCP changes form the basis for addressing the water supply issue in this case consistent with the certified LCP. Specifically, the project can be conditioned to require retrofitting in accordance with parameters identified in the new Title 19 ordinance. Such retrofits will offset new water use associated with the project, and result in a net water demand reduction overall, thus helping, albeit on a very small scale, to alleviate overdraft issues in the Basin. See Special Condition 1 requiring

the applicant to submit evidence that retrofitting has occurred in accordance with the parameters of the Title 19 Los Osos Basin Retrofit Ordinance and requiring that the minimum performance standards be met prior to issuance of the coastal development permit.

The Commission notes that retrofitting plumbing fixtures within the urban service line represents an acceptable response in this case. Here, the issue is related to infill residential development on a lot of record in an existing developed residential neighborhood area served by public utilities. However, this response should only be used for new development on such existing legal lots of record. Such a retrofit condition should not be construed as an acceptable response in support of new subdivisions or other developments that induce growth beyond the outstanding commitments to existing lots within the urban services line.

As conditioned, the project can be found consistent with the water supply policies and standards of the LCP.

B. Coastal Watersheds

1. Applicable Policies

Policy 7: Siting of New Development*. Grading for the purpose of creating a site for a structure or other development shall be limited to slopes of less than 20 percent except:*

Existing lots of record in the Residential Single-Family category and where a residence cannot be feasibly sited on a slope less than 20 percent;

When grading of an access road or driveway is necessary to provide access to an area of less than 20 percent slope where development is intended to occur, and where there is no less environmentally damaging alternative;

The county may approve grading and siting of development on slopes between 20 percent and 30 percent through Minor Use Permit, or Development Plan approval, if otherwise required by the Coastal Zone Land Use Ordinance. Also in review of proposed land divisions, each new parcel shall locate the building envelope and access road on slopes of less than 20 percent. In allowing grading on slopes between 20 percent and 30 percent the county shall consider the specific characteristics of the site and surrounding area that include but are not limited to: the proximity of nearby streams or wetlands, the erosion potential and slope stability of the site, the amount of grading necessary, neighborhood drainage characteristics and measures proposed by the applicant to reduce potential erosion and sedimentation. The county may also consider approving grading on slopes between 20 percent and 30 percent where it has been demonstrated that there is no other feasible method of establishing an allowable use on the site without grading. Grading and erosion control plans shall be prepared by a registered civil engineer and accompany any request to allow grading on slopes between 20 percent and 30 percent. It shall also be demonstrated that the proposed grading is sensitive to the natural landform of the site and surrounding area.

23.05.034 - Grading Standards: *All excavations and fills, whether or not subject to the permit requirements of this title, shall be conducted in accordance with the provisions of Sections 7009 through 7013 of the Uniform Building Code, and the following standards:*

a. Area of cuts and fills: Cuts and fills shall be limited to the minimum amount necessary to provide stable embankments for required parking areas or street rights-of-way, structural foundations, and adequate residential yard area or outdoor storage or sales area incidental to a non-residential use.

b. Grading for siting of new development. Grading for the purpose of creating a site for a structure or other development shall be limited to slopes less than 20% except:

(1) Existing lots in the Residential Single-Family category, if a residence cannot feasibly be sited on a slope less than 20%; and

(2) When grading of an access road or driveway is necessary to provide access to building site with less than 20% slope, and where there is no less environmentally damaging alternative; and

(3) Grading adjustment. Grading on slopes between 20% and 30% may occur by Minor Use Permit or Development Plan approval subject to the following:

(i) The applicable review body has considered the specific characteristics of the site and surrounding area including: the proximity of nearby streams or wetlands, erosion potential, slope stability, amount of grading necessary, neighborhood drainage characteristics, and measures proposed by the applicant to reduce potential erosion and sedimentation.

(ii) Grading and erosion control plans have been prepared by a registered civil engineer and accompany the request to allow the grading adjustment.

(iii) It has been demonstrated that the proposed grading is sensitive to the natural landform of the site and surrounding area.

(iv) It has been found that there is no other feasible method of establishing an allowable use on the site without grading on slopes between 20% and 30%.

23.01.045(d): Action on a variance. *The Planning Commission shall approve, approve subject to conditions, or disapprove a variance as set forth in this subsection. Such decision may be appealed to the Board of Supervisors as set forth in Section 23.01.042 (Appeal).*

(1) Findings*. Approval or conditional approval may be granted only when the Planning Commission first determines that the variance satisfies the criteria set forth in Government Code Section 65906 by finding that:*

(i) The variance authorized does not constitute a grant of special privileges inconsistent

with the limitations upon other properties in the vicinity and land use category in which such property is situation; and

(ii) There are special circumstances applicable to the property, related only to size, shape, topography, location, or surroundings, and because of these circumstances, the strict application of this title would deprive the property of privileges enjoyed by other property in the vicinity that is in the same land use category; and

(iii) The variance does not authorize a use that is not otherwise authorized in the land use category; and

(iv) The variance is consistent with the provisions of the Local Coastal Program; and

(v) The granting of such application does not, under the circumstances and conditions applied in the particular case, adversely affect public health or safety, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements.

2. Consistency Analysis

To control erosion and sedimentation and to protect coastal watersheds otherwise, the LCP limits grading associated with development based on the slope and timing of work. For grading or vegetation removal on steep slopes, a grading and erosion control plan is required. The LCP requires that "appropriate control measures" be used to minimize erosion and sedimentation. To protect groundwater basins, the LCP encourages on-site retention of runoff when feasible.

Although the site is located in an existing developed neighborhood, and constitutes infill residential development in that sense, the site is also steeply sloped and includes significant (eucalyptus) tree cover. The proposed residence is located on steep slopes, primarily between twenty and thirty percent, with some parts of the project proposed on slopes exceeding thirty percent. Sedimentation and erosion impacts caused by downslope drainage and surface runoff are likely to be exacerbated by the removal slopeside vegetation, including removal of up to 59 eucalyptus trees.

<u>Steep Slopes</u>

The LCP limits residential and other development to slopes of less than 20%, but allows certain development on slopes exceeding 20%, including for residential development for existing lots of record in the Residential Single-Family category where a residence cannot be feasibly sited on a slope less than 20%, and requires certain findings be made for grading on slopes between 20% and 30% (LCP Policy 7 and CZLUO Section 23.05.034). For proposed development over 30%, the County has historically required variances and certain findings, as they did in this case in their local approval (LCP Policy 23.01.045(d)).

In this case, the site appears to be almost entirely sloped in excess of 30%. Although there is a small "bench" with relatively flat topography directly adjacent to the fronting street, it is not nearly large enough to accommodate development of a single-family residence even if the proposed house were

significantly reduced in size. In sum, if development is to be allowed on this existing infill lot, it cannot feasibly be accommodated on less than 30% slopes. As a result, the Section 23.01.045(d) variance findings can be made because: the project is infill residential development similar to its neighbors and it is not inconsistent with the limitations placed on surrounding residential properties; a strict reading of the LCP in relation to the sloping nature of the property would preclude residential development of a type enjoyed by surrounding residences (which have similarly been allowed to develop on such slopes); the project would not be expected to adversely affect public health/safety or the public welfare, and it would not be expected to result in injury to nearby development, including because of the conditions of approval associated with this action; and the LCP allows for such variances.

Such infill residential development will require precautions related to the sloping terrain to ensure that grading and related site preparation and development activities do not create problems on the site or for neighboring sites. This can be accomplished through some relatively straightforward construction precautions designed to protect site stability. Primarily, these issues can be addressed by requiring a final drainage and erosion control plan (see Special Condition 2). The plan is required to ensure that pre- and post-construction BMPs are implemented and that stormwater is conveyed to appropriate offsite drainage facilities. In this case, a drainage inlet exists in both Austin Court and Bowie Drive at roughly the same horizontal alignment as the north property line, and the project is conditioned to collect site runoff and convey it to the community drainage system (maintained by the Los Osos Community Services District). In addition, the septic system must be designed by a licensed professional in a manner that avoids destabilizing the slope (see Special Condition 5). Special Condition 5 incorporates similar County conditions related to final inspection of the wastewater system. These conditions require that the system be in compliance with the Central Coast Basin Plan and that a Certified Engineering Geologist design and approve the system. To further ensure surface slope stability, Special Condition 3 requires submittal of a final landscaping and irrigation plan using drought tolerant native vegetation, and including maintenance of such features in perpetuity.

Tree Removal

The project will remove all of the eucalyptus trees from the sloping project site to accommodate the residential development, some 59 trees. Such removal could exacerbate the slope stability issues described above. However, the special conditions described above are adequate to address this possibility. In addition to slope issues, though, there is the potential for nesting birds, including potentially raptors, to inhabit the trees proposed to be removed. There is nothing in the record to indicate that the trees provide any significant habitat function (such as Monarch butterfly habitat or listed species habitat) that would require them to be protected as environmentally sensitive habitat area (ESHA) or otherwise under the LCP. The eucalyptus trees are non-native, and extend off the project site. Their removal would not appear to raise habitat issues in this respect. However, to err on the conservative side, Special Condition 4 requires a biological survey for sensitive bird species (e.g. nesting raptors, etc.) before any construction activity or tree removal can commence. If sensitive bird species are present, a contingency plan is required to avoid impacting such species until nesting has completed and/or the birds are no longer present and tree removal can recommence (see Special Condition 4).

In addition, the final landscaping and site irrigation plan required above (Special Condition 3) requires the use of drought tolerant native plants appropriate to the site and prohibits the planting of non-native invasives, and requires such landscaping to be maintained in perpetuity. In terms of vegetation and tree removal, these conditions will have dual purposes. First, the bird surveys will ensure that nesting birds are not adversely impacted by the development, and second, the landscaping will restore native habitat on the site and stabilize the slope at the same time. Of course, although all of the eucalyptus trees on the project site would be removed, there would still be a scattered few eucalyptus trees adjacent to the site on neighboring properties. As these neighboring sites redevelop, it may be appropriate to consider replacement trees/vegetation that will foster the native revegetation that is to take place on the subject site to the extent that such removal/replacement does not adversely affect habitat present there. That said, it is outside the parameters of the subject application to address the adjacent properties in this coastal permit action.

Water Quality

The project would include increased impervious surface coverage, and new vehicular access areas across which runoff would flow. Runoff from the site would be expected to contain typical runoff elements associated with urban residential development, including vehicular use areas. Urban runoff is known to carry a wide range of pollutants including nutrients, sediments, trash and debris, heavy metals, pathogens, petroleum hydrocarbons, and synthetic organics (such as pesticides and herbicides). Urban runoff can also alter the physical, chemical, and biological characteristics of water bodies to the detriment of aquatic and terrestrial organisms.

Fortunately, the project can easily incorporate fairly standard water quality BMPs designed to filter and treat runoff from the site prior to its use for irrigation and/or discharge from the site (see Special Condition 2).

3. Coastal Watersheds Conclusion

Although the site is located in an existing developed neighborhood, and constitutes infill residential development in that sense, the site is also steeply sloped and includes significant (eucalyptus) tree cover. Given the lack of available space otherwise, the development on 30% slopes can be approved consistent with the LCP, and the eucalyptus tress are non-native and are not known to provide any significant habitat function (such as Monarch butterfly habitat or listed species habitat) that would require them to be protected as environmentally sensitive habitat area (ESHA) or otherwise under the LCP. Thus, relatively standard residential development parameters can be applied to address drainage, landscaping, and slope stability concerns, and to also ensure that any sensitive nesting birds are protected from construction. As conditioned, the project can be found consistent with the LCP policies listed above.

C. Visual Resources and Community Character

1. Applicable Policies

Policy 1: Protection of Visual and Scenic Resources*. Unique and attractive features of the*

landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved and protected, and in visually degraded areas restored where feasible.

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

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

2. Consistency Analysis

The LCP aims to preserve unique and attractive landscapes that serve as an attraction for both local residents and visitors alike. In this respect, the LCP emphasizes the protection of public views rather than private views. Construction of a new home sited on the higher elevations of a steep sloping lot could cause the project to appear visually prominent or "stand out" in the neighborhood. However, the proposed single family residence is fairly average in terms of its overall square footage in relation to surrounding development within Cabrillo Estates. A cursory review of recent projects in Cabrillo Estates show that a 4,534 square-foot residence as not out of the ordinary and is close in size to many in the neighborhood. The project is not substantially different in terms of height, massing, and style than other development in the vicinity. The incremental impact of this structure on the viewshed would be negligible because it is development located between existing houses in a neighborhood already impacted by residential development. Although the addition of a 4,534 square-foot residence will incrementally add to the amount of development in the neighborhood, its impact would be less than significant within the scope of the existing development in the area.

In terms of protecting public views, it appears that the primary public view of the site would be the view from Pecho Road (an extension of Los Osos Valley Road - the first through public road between the project and the shoreline). From Pecho Road the project is likely only to be seen by looking inland and above the roofline of the already developed residential neighborhood. As a result, it will blend into the view of the built environment as opposed to introducing an unnatural development into an open space environment, and it should not significantly alter this view. Moreover, the project does not appear to "silhouette" above the ridgeline or look "out of place" given the surrounding scale of development. As such, public views would not be adversely impacted by the project.

In sum, the residential project will not diminish the unique and attractive landscapes of the neighborhood and will not adversely impact scenic public views. Infill development of a new residence of this size, scale, and design is substantially consistent with neighboring development in the area. Thus, the project can also be found consistent with the visual resource and community character standards of the LCP.

E. Public Access and Recreation

1. Applicable Policies

Coastal Act Sections 30210 through 30224 specifically protect public access and recreation. In particular:

> ***30210.*** *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*
>
> ***30211.*** *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*
>
> ***30212(a).*** *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...*
>
> ***30233.*** *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

2. Consistency Analysis

The proposed project is located seaward of the first through public road (Los Osos Valley/Pecho Road). Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." While the proposed project is located seaward of the first through public road, the site is within a residential neighborhood over one-half mile from the beach. The site is surrounded by residential development, and no public access exists or is appropriate for the site. Thus, the proposed project raises no public recreational access issues in relation to the Coastal Act, and thus, the project is consistent with the public access and recreation policies of Chapter 3 of the Coastal Act.

4. Coastal Development Permit Conditions of Approval

A. Standard Conditions

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

office.

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

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

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

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

B. Special Conditions

1. **Water Fixture Retrofitting.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit for Executive Director review and approval written evidence from San Luis Obispo County that retrofitting has been completed in accordance with the provisions of the Title 19 Los Osos Groundwater Basin Retrofit Ordinance as depicted and further described in Exhibit E (pages 4 through 7).

2. **Final Drainage, Erosion, and Sedimentation Control Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two copies of Final Drainage, Erosion, and Sedimentation Control Plans to the Executive Director for review and approval. The Final Plans shall include the following:

   (a) Implementation of Best Management Practices During Construction. The Drainage, Erosion and Sedimentation Control Plans shall identify the type and location of the measures that will be implemented during construction to prevent erosion, sedimentation, and the discharge of pollutants during construction. These measures shall be selected and designed in accordance with the California Storm Water Best Management Practices Handbook and the criteria established by the San Luis Obispo County Resource Conservation District. Among these measures, the plans shall limit the extent of land disturbance to the minimum amount necessary to construct the project; designate areas for the staging of construction equipment and materials, including receptacles and temporary stockpiles of graded materials, which shall be covered on a daily basis; provide for the installation of silt fences, straw wattles, temporary detention basins, and/or other controls to intercept, filter, and remove sediments contained in the runoff from construction, staging, and storage/stockpile areas; and provide for the hydro-seeding (with native plants) of disturbed areas immediately upon conclusion of construction activities in that area. The plans shall also incorporate good construction housekeeping measures, including the use of dry cleanup measures whenever possible; collecting and filtering cleanup water when dry

cleanup methods are not feasible; cleaning and refueling construction equipment at designated off site maintenance areas; and the immediate clean-up of any leaks or spills.

The plans shall indicate that PRIOR TO THE COMMENCEMENT OF GRADING, the Permittee shall delineate that the approved construction areas with fencing and markers to prevent land-disturbing activities from taking place outside of these areas.

(b) Permanent Drainage and Erosion Control Plan. The plans shall include a permanent drainage and erosion control plan that shall clearly identify all permanent measures to be taken to control and direct all site runoff, and that shall clearly identify a drainage system designed to collect all on-site drainage (in gutters, pipes, drainage ditches, swales, etc.) for use in on-site irrigation, and/or to be directed to off-site storm drain systems. The plan shall be prepared by a licensed engineer with experience in low impact development techniques and water quality protection systems, and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater and other runoff associated with the property. The plan shall include all supporting calculations and documentation for all BMPs clearly demonstrating compliance with this condition. Such drainage and erosion control plan shall at a minimum provide for:

1. The drainage system shall be designed to filter and treat (i.e., to remove typical urban runoff pollutants) the volume of runoff produced from irrigation and from each and every storm and/or precipitation event up to and including the 85th percentile 24-hour runoff event for volume-based BMPs and/or the 85th percentile, 1-hour runoff event (with an appropriate safety factor) for flow-based BMPs, prior to its use for on-site infiltration, landscape irrigation, habitat enhancement, and/or discharge offsite. All filtering and treating mechanisms shall be clearly identified, and supporting technical information (e.g., brochures, technical specifications, etc.) shall be provided.

2. Runoff from the roofs, driveways, parking lots, and other impervious surfaces shall be collected and directed into pervious areas on the site for infiltration to the maximum extent practicable in a non-erosive manner, prior to being conveyed off-site.

3. Post-development peak runoff rates and volumes shall be maintained at levels similar to, or less than, pre-development conditions.

4. All drainage system elements shall be permanently operated and maintained.

The Permittee shall undertake development in accordance with the approved Final Drainage, Erosion, and Sedimentation Control Plans.

3. Final Landscape and Irrigation Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two copies of a Final Landscape and Irrigation Plan to the Executive Director for review and approval. The Final Landscape and Irrigation Plan shall be prepared by qualified professional, and at a minimum shall identify all plant

materials (size, species, and quantity), all irrigation systems, and all proposed maintenance. All plants used on site shall be native species from local stock appropriate to the Los Osos area. Non-native and invasive plant species shall not be allowed to persist on the site. The planting of non-native invasive species, such as those listed on the California Invasive Plant Council's Inventory of Invasive Plants, is prohibited. All plant materials shall be selected to be complimentary with the mix of native habitats in the project vicinity, prevent the spread of exotic invasive plant species, and avoid contamination of the local native plant community gene pool. The landscape plans shall also be designed to protect and enhance native plant communities on and adjacent to the site. All landscaped areas on the project site shall be continuously maintained in a healthy growing condition by the Permittee.

The Permittee shall undertake development in accordance with the approved Final Landscape and Irrigation Plan.

4. **Tree Removal Plan.** PRIOR TO CONSTRUCTION AND PRIOR TO REMOVAL OF EUCALYPTUS TREES, a qualified biologist shall conduct a survey of the eucalyptus trees on the property to determine whether nesting sensitive bird species (e.g., certain raptors, etc.) are present. This survey must be immediately submitted to the Executive Director for review and approval and before commencement of construction and/or tree removal activities. In the event that the survey identifies the presence of nesting sensitive bird species, the trees being used for nesting must not be removed and the Executive Director must be immediately notified. Construction activities and/or tree removal can not recommence until a qualified biologist determines that sensitive bird species are no longer nesting and/or are no longer present and the Executive Director has re-authorized construction and/or tree removal activities.

The Permittee shall undertake development in accordance with the approved Tree Removal Plan

5. **Incorporation of County Conditions.** San Luis Obispo County Conditions 1, 2, 3, 4, 5, 6, 8, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27 are incorporated as conditions of this approval. All other County conditions imposed pursuant to land use authorities other than the Coastal Act remain unaffected by this action (see Exhibit C for the full text of all County conditions). Any of the incorporated County conditions requiring materials to be submitted to the County and/or otherwise requiring County approval (such as Planning Director approval), shall also require the same materials to be submitted to, and/or the same approvals granted by, the Executive Director under the same review and approval criteria as specified in the County conditions. For future condition compliance tracking purposes, such incorporated County conditions shall be considered subsections of this Special Condition 5. To the extent any such subsections of Special Condition 5 conflict with Special Conditions 1 through 4 above, such conflicts shall be resolved in favor of Special Conditions 1 through 4 above.

5. California Environmental Quality Act (CEQA)

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

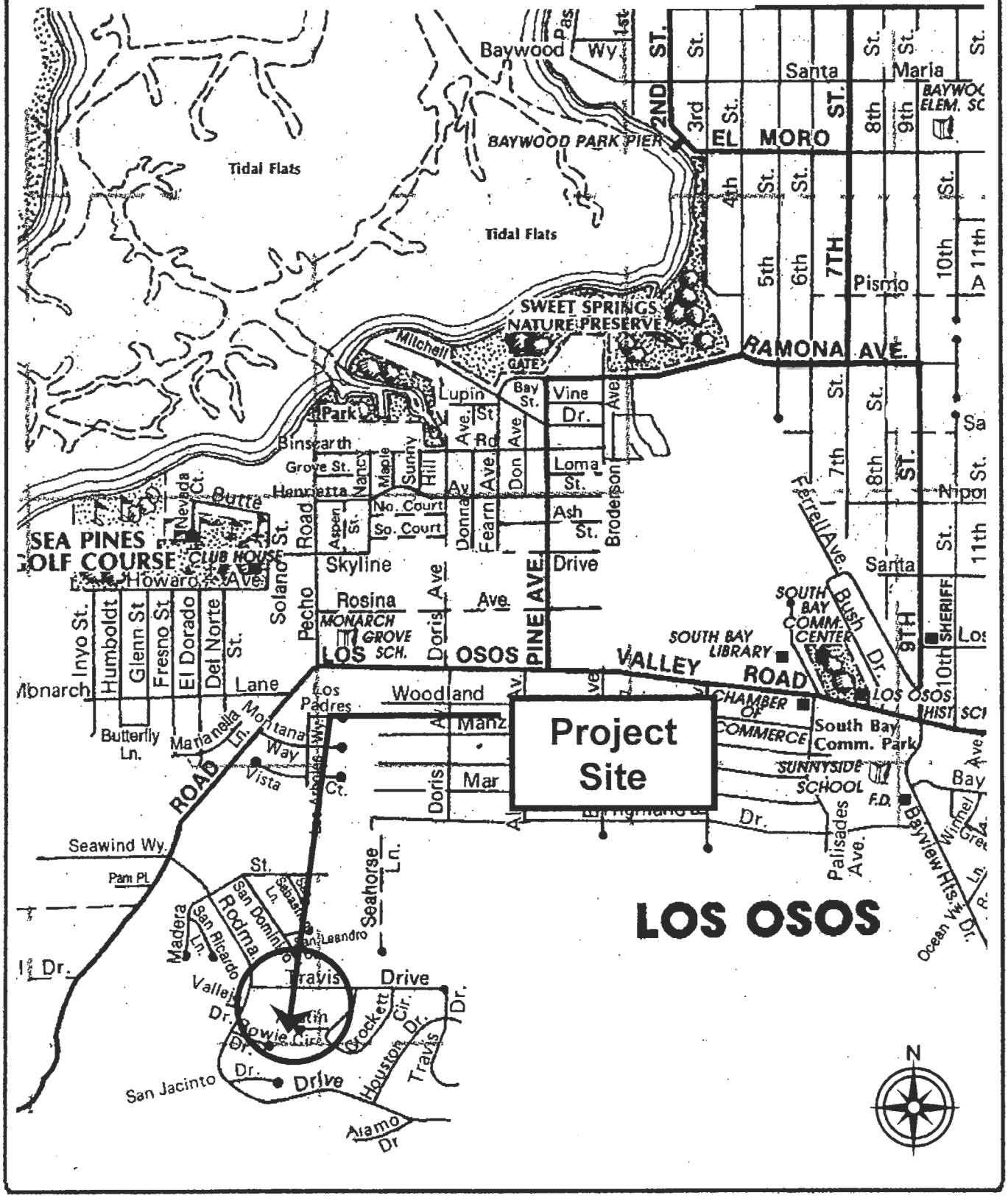
The County, acting as the lead CEQA agency, found that there was no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report was not necessary. Therefore, a Mitigated Negative Declaration was prepared pursuant to Public Resources Code Section 21000 et seq. and California Code of Regulations Section 15000 et seq., and approved by the County on July 4, 2007.

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

The Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA. As such, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects that approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. If so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

7-13

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

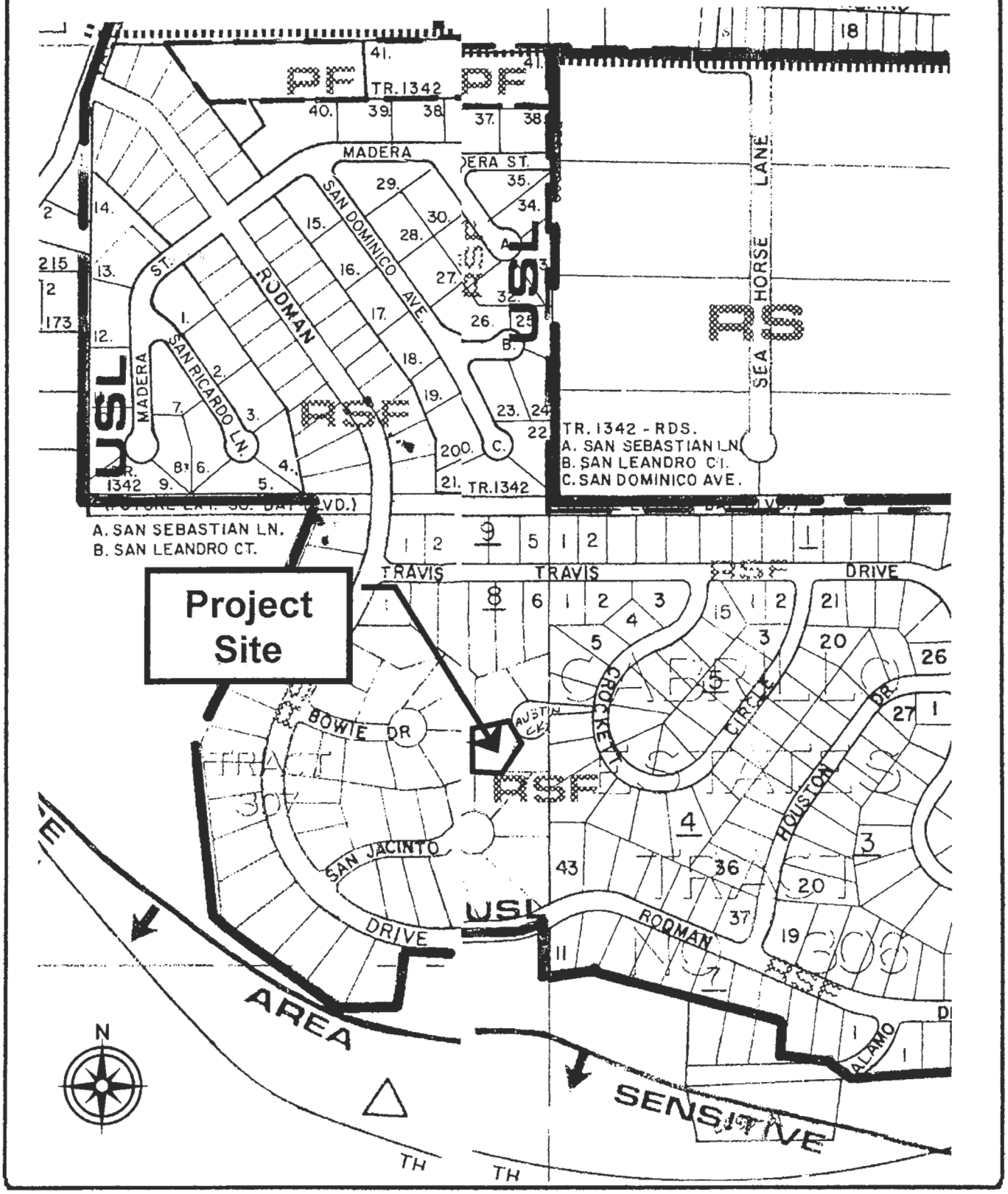
Minor Use Permit / Variance
Richissin – D000480 / D010107

EXHIBIT

Los Osos Vicinity

CCC Exhibit A
(page 1 of 3 pages)

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Variance
Richissin – D000480 / D010107

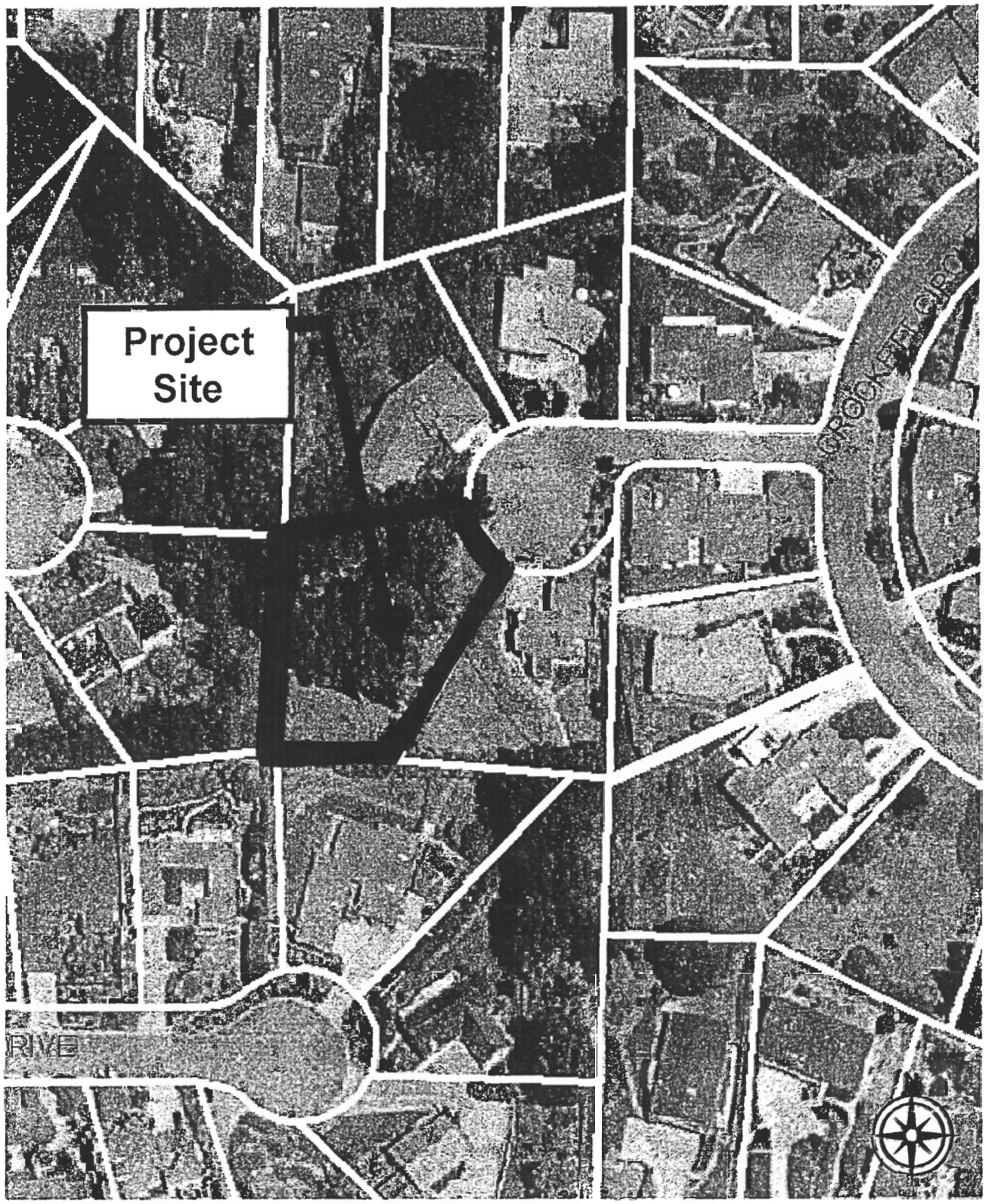
EXHIBIT

Land Use Category Map

CCC Exhibit A
(page 2 of 3 pages)

7-14

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Variance
Richissin – D000480 / D010107

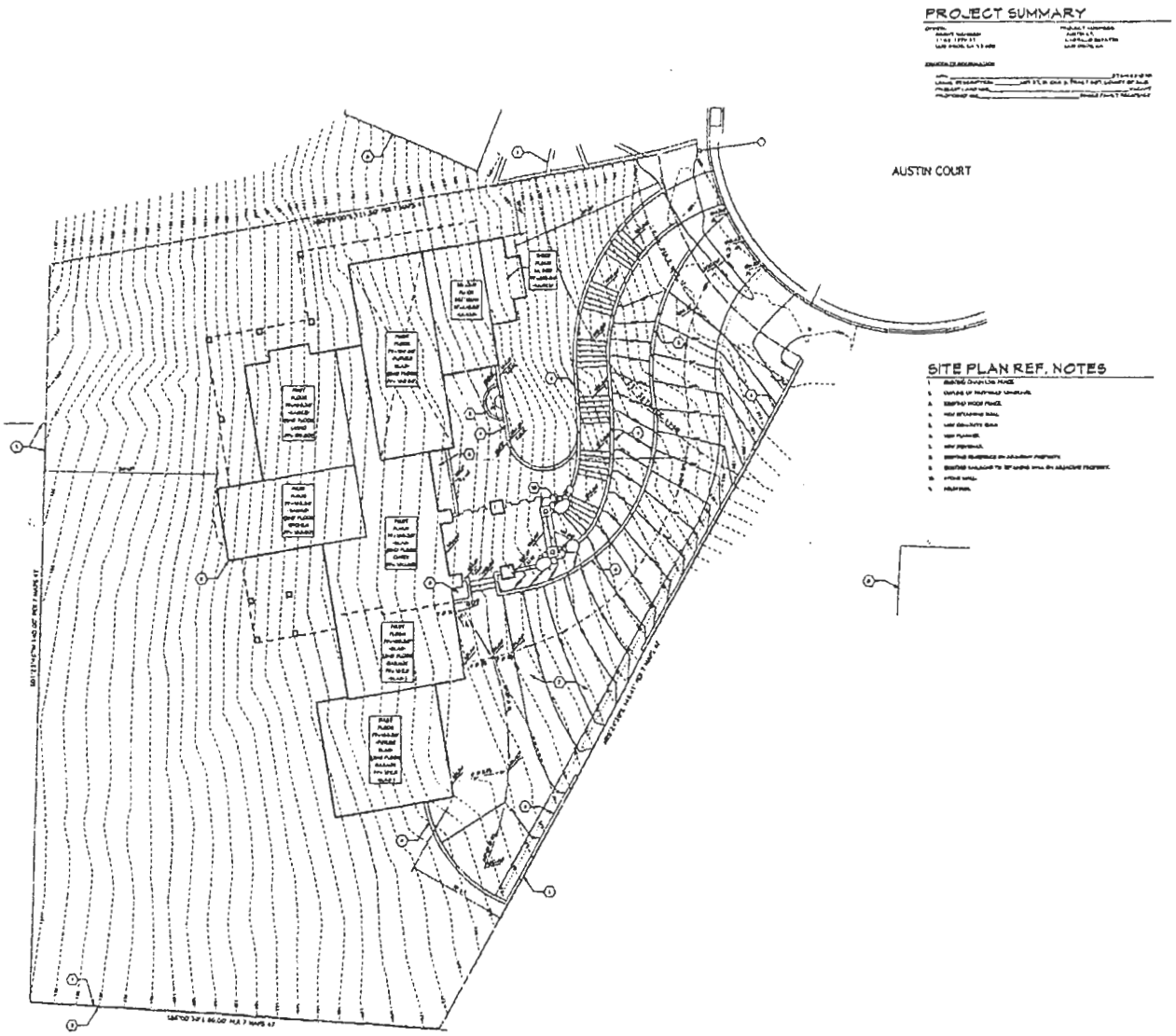
EXHIBIT

Aerial Photograph

CCC Exhibit A
(page 3 of 3 pages)

7-16

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Variance
Richissin – D000480 / D010107

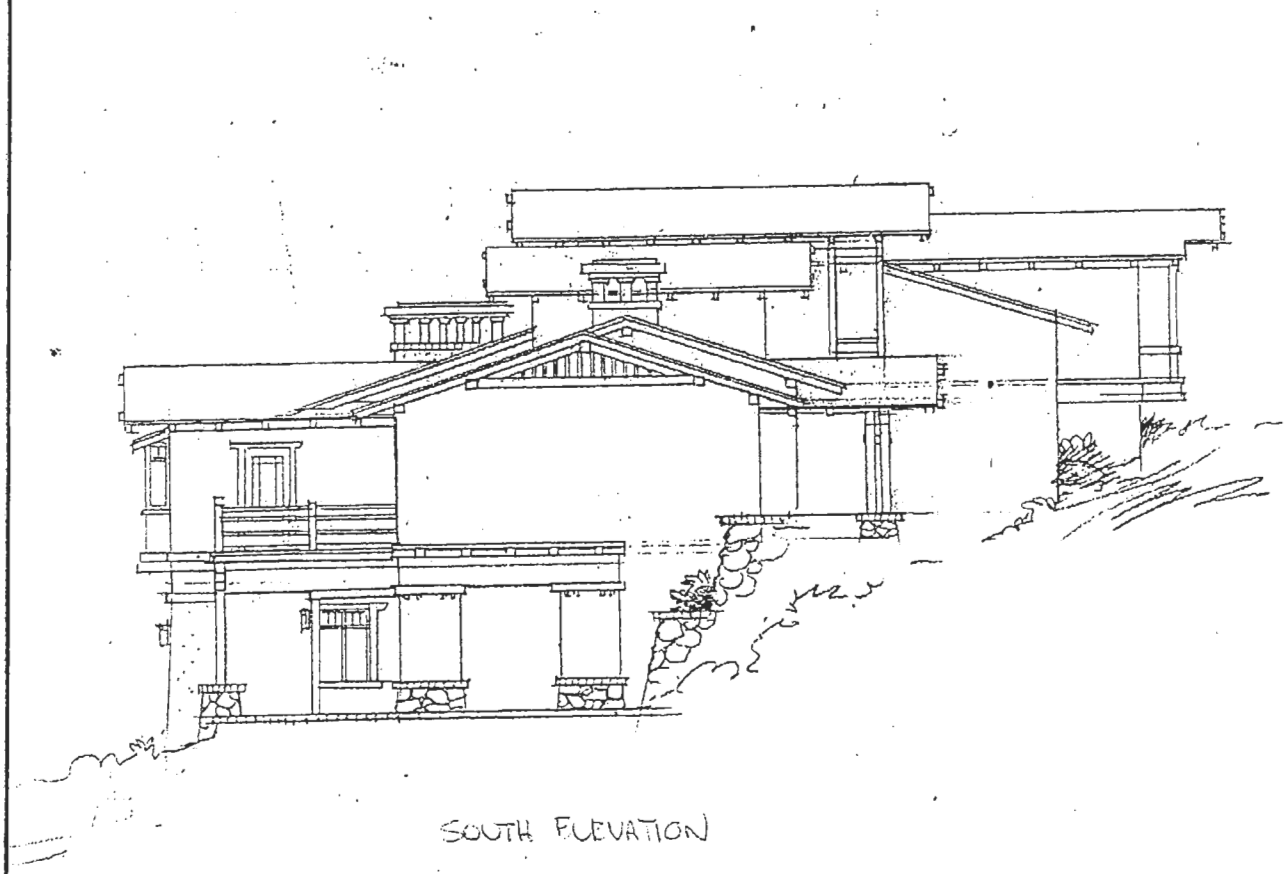
EXHIBIT

Site Plan

CCC Exhibit B
(page 1 of 6 pages)

7-22

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

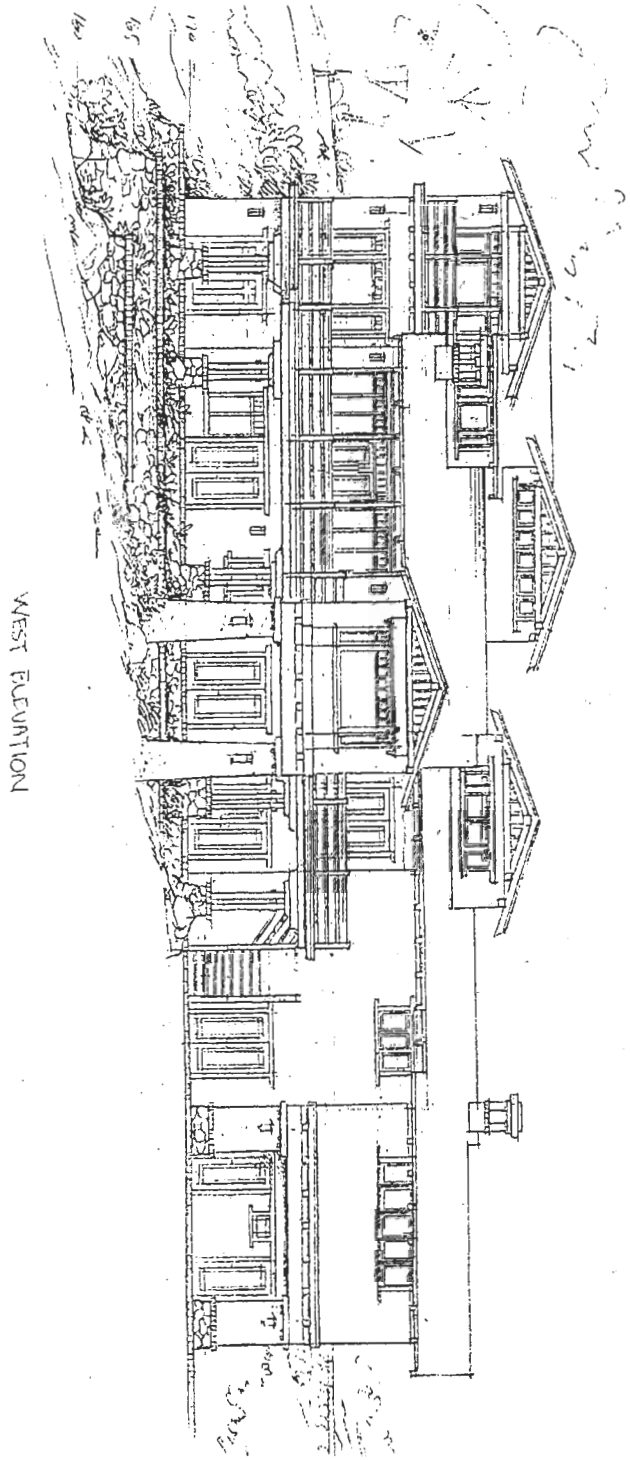
Minor Use Permit / Variance
Richissin – D000480 / D010107

EXHIBIT

North Elevation

CCC Exhibit B
(page 2 of 6 pages)

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

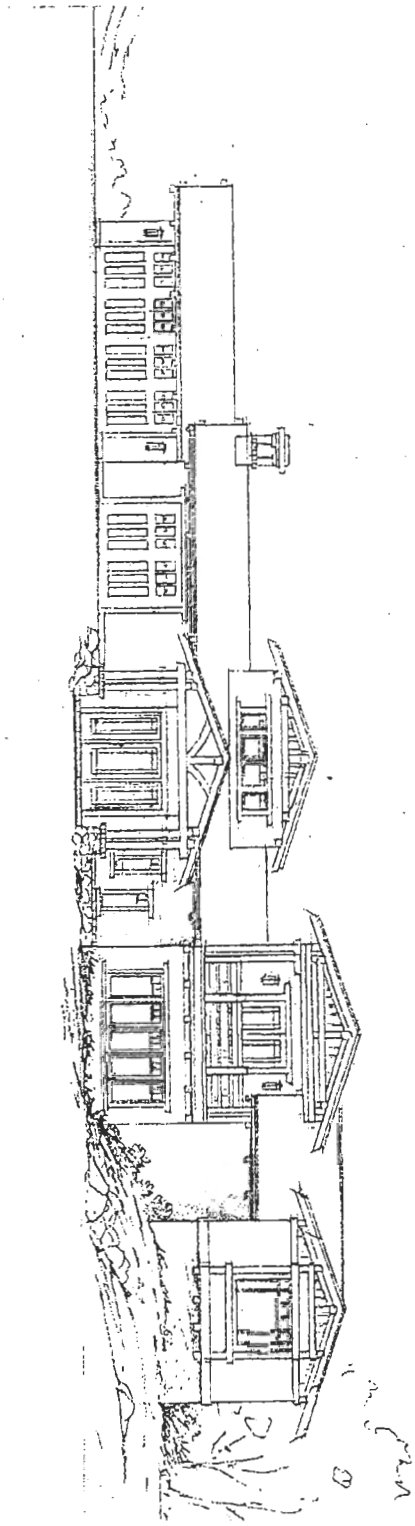
Minor Use Permit / Variance
Richissin – D000480 / D010107

EXHIBIT

West Elevation

7-24

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Variance
Richissin – D000480 / D010107

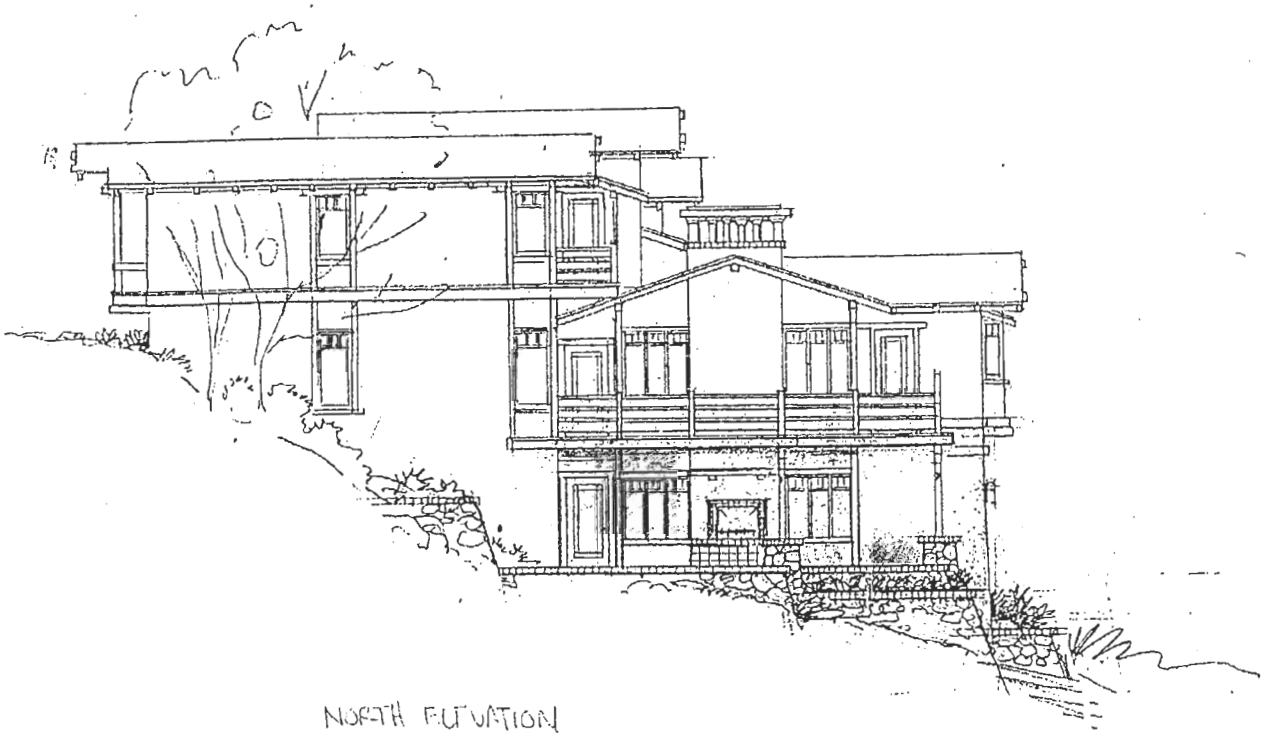
EXHIBIT

East Elevation

CCC Exhibit B
(page 4 of 6 pages)

7-25

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Variance
Richissin – D000480 / D010107

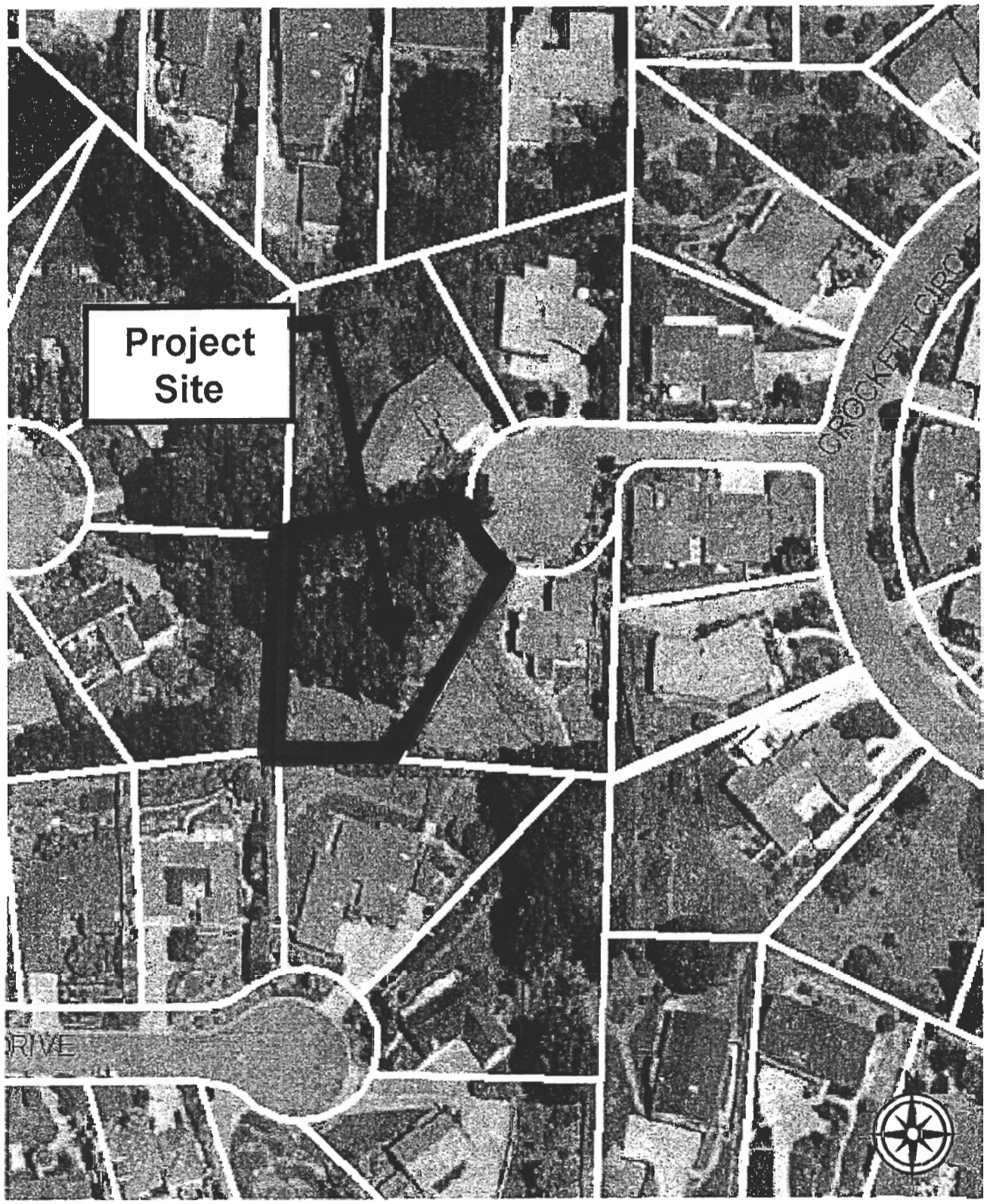
EXHIBIT

South Elevation

CCC Exhibit B
(page 5 of 6 pages)

7-14

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Variance
Richissin – D000480 / D010107

EXHIBIT

Aerial Photograph

CCC Exhibit B
(page 6 of 6 pages)

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING
VICTOR HOLANDA, AICP
DIRECTOR

FINAL LOCAL
ACTION NOTICE

REFERENCE # 3-SLO-07-269
APPEAL PERIOD 8/7-8/20/07

RECEIVED
AUG 06 2007
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

August 2, 2007

Brent Richissin
1135 15th Street
Los Osos, CA 93402

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: July 24, 2007

SUBJECT: County File No. – Brent Richissin - D000480P / D010107V
Minor Use Permit / Variance / Coastal Development Permit

LOCATED WITHIN COASTAL ZONE: YES

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

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

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

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

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

CCC Exhibit C
(page 1 of 15 pages)

If you have questions regarding your project, please contact me at (805) 781-5713.
Sincerely,

Kerry Brown

Kerry Brown
Coastal Planning and Permitting

CC: George Taylor

(Planning Department Use Only)

Date NOFA copy mailed to Coastal Commission: August 2, 2007

Enclosed: X Staff Report
X Findings and Conditions

BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tuesday, July 24, 2007

PRESENT: Supervisors Harry L. Ovitt, Bruce S. Gibson, K.H. 'Katcho' Achadjian, James R. Patterson and Chairperson Jerry Lenthall

ABSENT: None

In the matter of an appeal by G. Taylor and **RESOLUTION NO. 2007-287:**

This is the time set for hearing to consider an appeal by George Taylor of the Planning Commission's decision to approve the application of Brent Richissin for Variance/Minor Use Permit/Coastal Development Permit (D000480/ D010107V) that would allow a 4,534 square foot single family residence with an attached garage on slopes exceeding 30 percent and the removal of 59 eucalyptus trees, located at the western end of Austin Court, approximately 200 feet west of Crockett Circle, in the community of Los Osos in the Estero planning area; 2nd District.

Ms. Kerry Brown: Planning, presents the staff report; comments on the eucalyptus trees in the area; highlights the issues of appeal; presents letters of support from neighbors of Mr. Richissin's permit; presents the staff recommendation.

Mr. George Taylor: Appellant, presents his report; addresses his areas of concern and issues of appeal; speaks on the water use of this project; urges the Board to uphold his appeal.

Mr. Brent Richissin: Applicant, presents his report; addresses the concerns of the Appellant.

Mr. David Duggan: questions how under the Water Basin Plan, the Applicant can install a septic system with less than one acre of land; expresses his support for the appeal.

Mr. Keith Swanson: Los Osos Community Advisory Council (LOCAC) representative, expresses their support of this appeal and urges the Board to uphold the appeal.

Mr. Jeff Edwards: urges the Board to deny this appeal; addresses the Appellant's concerns regarding this permit.

Ms. Julie Tacker: expresses her support for the project; suggests including the condition that the Applicant install water conserving landscaping; urges the Board to deny this appeal.

Mr. Eric Greening: echoes the comments and concerns of Mr. Taylor; urges the Board to uphold the appeal.

Mr. Richard Margetson: addresses his concern that this project would not fall under the "no net increase in water use" for Los Osos and urges the Board to uphold the appeal.

Mr. Joey Racano: outlines his reasons for supporting this appeal.

Mr. Richissin: responds to public comment; urges the Board to deny the appeal.

Mr. Taylor: makes his closing comments; reads a letter from Dr. Thomas Ruehr regarding this project into the record.

Mr. Matt Janssen: Environmental Specialist, responds to public comment and outlines their reasons for supporting the issuance of this permit.

Supervisor Achadjian: questions the groundwater impact with the removal of the trees, with Mr. Janssen responding.

Supervisor Gibson: questions if the conditions address the slope stability, drainage of the site and the use of a septic system, with Ms. Brown responding; highlights the calculation process for water use as outlined in today's Item C-2; expresses his concerns with the language of Condition 7 and suggests alternative language.

Supervisor Patterson: echoes the comments of Supervisor Gibson.

A motion by Supervisor Bruce S. Gibson, to deny the appeal and conditionally approve the application by Brent Richissin; amend Condition Number 7 to read: "The applicant shall provide evidence to the Planning and Building Department of the retrofit of 23 homes in the Los Osos groundwater basin by installing low flow toilets and showerheads. Retrofit installation shall be executed by a license plumber.", with Supervisor James R. Patterson seconding the motion and said motion is discussed.

Mr Janssen: asks the Board to amend the language in Condition Number 1, with the motion maker and second agreeing to the language change presented by staff.

Thereafter, on motion of Supervisor Bruce S. Gibson, seconded by Supervisor James R. Patterson, and on the following roll call vote:

AYES: Supervisors: Bruce S. Gibson, James R. Patterson, Harry L. Ovitt, K.H. 'Katcho' Achadjian, Chairperson Jerry Lenthall
NOES: None
ABSENT: None

the Board denies the appeal; amends Condition Number 1, adding the following sentence: "The project also includes the removal of up to 59 eucalyptus trees."; the language in Condition Number 7 language is replaced as follows: "The applicant shall provide evidence to the Planning and Building Department of the retrofit of 23 homes in the Los Osos groundwater basin by installing low flow toilets and showerheads. Retrofit installation shall be executed by a license plumber."; and, RESOLUTION NO. 2007-287, resolution affirming the decision of the Planning Commission and conditionally approving the application of Brent Richissin for Variance D010107V and for Minor Use Permit D000480P, adopted as amended.

cc: Planning (2)
7/30/07 cmc

STATE OF CALIFORNIA)
) ss.
County of San Luis Obispo)

I, **JULIE L. RODEWALD**, County Clerk and Ex-Officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of the said Board of Supervisors, affixed this 30th day of July, 2007.

JULIE L. RODEWALD
(SEAL) County Clerk and Ex-Officio Clerk of the Board of Supervisors

By CMChristensen
Deputy Clerk

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tues day July 24 ,2007

PRESENT: Supervisors Harry L. Ovitt, Bruce S. Gibson, K.H. 'Katcho' Achadjian, James R. Patterson, and Chairperson Jerry Lenthall

ABSENT: None

RESOLUTION NO. 2007-287

RESOLUTION AFFIRMING THE DECISION OF THE PLANNING COMMISSION AND CONDITIONALLY APPROVING THE APPLICATION OF BRENT RICHISSIN FOR VARIANCE D010107V AND FOR MINOR USE PERMIT D000480P

The following resolution is now offered and read:

WHEREAS, on March 22, 2007, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the "Planning Commission") duly considered and conditionally approved the application of the Brent Richissin for Variance D010107V and for Minor Use Permit D000480P; and

WHEREAS, George Taylor has appealed the Planning Commission's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on July 23, 2007, and a determination and decision was made on July 23, 2007; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeals; and

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be denied and the decision of the Planning Commission should be affirmed and that the application should be approved based upon the findings and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct and valid.

2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibits A and B attached hereto and incorporated by reference herein as though set forth in full.

CCC Exhibit C
(page 5 of 15 pages)

3. That the negative declaration prepared for this project is hereby approved as complete and adequate and as having been prepared in accordance with the provisions of the California Environmental Quality Act.

4. That the Board of Supervisors has reviewed and considered the information contained in the negative declaration together with all comments received during the public review process prior to approving the project.

5. That the appeal filed by George Taylor is hereby denied and the decision of the Planning Commission is affirmed that the application of the Brent Richissin for Variance D010107V and for Minor Use Permit D000480P is hereby approved subject to the conditions of approval set forth in Exhibit C attached hereto and incorporated by reference herein as though set forth in full.

Upon motion of Supervisor Gibson, seconded by Supervisor Patterson, and on the following roll call vote, to wit:

AYES: Supervisors Gibson, Patterson, Ovitt, Achadjian, Chairperson Lenthall

NOES: None

ABSENT: None

ABSTAINING: None

the foregoing resolution is hereby adopted.

JERRY LENTHALL
Chairman of the Board of Supervisors

ATTEST:

JULIE L. RODEWALD
Clerk of the Board of Supervisors
By: C.M. CHRISTENSEN Deputy Clerk

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: Deputy County Counsel

Dated: July 11, 2007

STATE OF CALIFORNIA,)
) ss
County of San Luis Obispo)

I, JULIE L. RODEWALD, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this 30th day of July, 2007.

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk of the
Board of Supervisors

(SEAL)

By: CMChristensen
Deputy Clerk

EXHIBIT A - MINOR USE PERMIT FINDINGS

Environmental Determination

A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on January 4, 2007 for this project. Mitigation measures are proposed to address geology, public services, transportation, wastewater, and water and are included as conditions of approval.

Minor Use Permit

B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.

C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.

D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the proposed residence does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.

E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the proposed residence is similar to, and will not conflict with, the surrounding lands and uses.

F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on Austin Court, a local road constructed to a level able to handle any additional traffic associated with the project.

Coastal Access

G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is not adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

EXHIBIT B - VARIANCE FINDINGS

Variance

A. The Variance authorized does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and land use category in which it is situated because single family dwellings are principally permitted uses; the project and other sites within the area with steep slopes are similarly developed.

B. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, and because of the absence of these circumstances, the strict application of this title would deprive the property of privileges enjoyed by other property in the vicinity and in the same land use category because the project is located on a site that is almost entirely on slopes in excess of thirty (30) percent and the site would not accommodate development without disturbing steep slopes.

C. The Variance does not authorize a use that is not otherwise authorized in the land use category because single family residences are allowed in the Residential Single Family land use category.

D. The granting of such application does not, under the circumstances and conditions applied in the particular case, adversely affect the health or safety of persons, is not materially detrimental to the public welfare, and is not injurious to nearby property or improvements, because the site is geologically suitable for the development proposed.

E. The Variance is consistent with the provisions of the San Luis Obispo Local Coastal Program.

EXHIBIT C - CONDITIONS OF APPROVAL

Approved Development

1. This approval authorizes a 4534 square foot single family residence with an attached garage on slopes exceeding 30 percent. The project also includes the removal of 59 eucalyptus trees.

Conditions required to be completed at the time of application for construction permits

Site Development

2. **At the time of application for construction permits** plans submitted shall show all development consistent with the approved site plan, floor plan, architectural elevations and landscape plan.

3. **At the time of application for construction permits,** the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp or the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

Fire Safety

4. **At the time of application for construction permits,** all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code.

Services

5. **At the time of application for construction permits**, the applicant shall submit evidence that there is adequate water to serve the proposed project.

6. **At the time of application for construction permits**, the applicant shall submit evidence that a septic system, adequate to serve the proposal, is feasible on the site.

7. The applicant shall provide evidence to the Department of Planning and Building of the retrofit of 23 homes in the Los Osos groundwater basin, to install low flow toilets and showerheads. The retrofitting is to be executed by a licensed plumber.

Conditions to be completed prior to issuance of a construction permit

Environmental Mitigation

Site Specific and Cumulative Geologic Impacts

8. **Prior to any site disturbance or issuance of grading permits or building permits,** the following conditions shall be included on all building plans and grading plans:

a. The project soil engineer shall review and approve construction plans, including all plans for building foundations, excavation, and cut slopes steeper than a 1:1 (45o) slope angle. The Certified Engineering Geologist and soil engineer shall submit written verification to the Department of Planning and Building that the plans within the area of their expertise were reviewed and approved.

b. The project soil engineer shall inspect work on-site and verify that all foundation, grading, and drainage work has been performed in a manner consistent with the intent of the plan review and engineering geology report.

c. The project Certified Engineering Geologist shall issue a final engineering geology compliance report as required by the Uniform Building Code which identifies changes observed during construction, recommendations offered for mitigation, and confirmation that construction was completed in compliance with the intent of the engineering geology report.

d. Should the services of the project Certified Engineering Geologist be terminated prior to final inspection and/or issuance of occupancy permits, the applicant shall submit a transfer of responsibility statement to the County Planning Department from the new Certified Engineering Geologist as per the Uniform Building Code.

e. A final report prepared by the project soil engineer shall be submitted to the County's field inspector stating that all work performed is suitable to support the intended structure. Such report shall include any field reports, compaction data, etc.

f. The applicant shall implement all recommendations in Observation and Testing Programs prepared by project Civil Engineer(s) (CE), Geotechnical Engineer(s) (RGE), and /or Certified Engineering Geologist(s) (CEG). The Observation and Testing Program may include, but not be limited to any of the following tasks:

- Review of Final Project Plans - CEG/RGE/CE
- Review of stripping and clearing of vegetation - CE/RGE
- Review of cut and fill slopes - cut slopes: CEG; fill slopes: CE/RGE
- Review of preparation of soil to receive fill - CE/RGE
- Review of fill placement and compaction - CE/RGE
- Review of subsurface drainage control - CEG/CE/RGE
- Review of footing excavations - CE/RGE
- Review of premoistening of subslab soils - CE/RGE
- Review of erosion control measures - CE/RGE

9. **Prior to any site disturbance or issuance of grading permits or building permits,** the applicant shall submit a Sedimentation and Erosion Control Plan, prepared and signed by a Registered Civil Engineer, that addresses both temporary and long-term sedimentation and erosion control measures. The plan shall include but not be limited to the following measures:

a. Slope surface stabilization: Temporary mulching, seeding or other suitable stabilization measures approved by the County Engineer shall be used to protect exposed erodible areas during construction. Earth or paved interceptors and diversions shall be installed at the top of cut or fill slopes where there is a potential for erosive surface runoff.

b. Erosion and sedimentation control devices: In order to prevent sedimentation discharges, erosion and sediment control devices shall be installed as necessary for all grading and filling. Control devices and measures may include, but are not limited to, energy absorbing structures or devices to reduce the velocity of runoff water.

c. Final erosion control measures: All surfaces disturbed by vegetation removal, grading, or other construction activity are to be revegetated to control erosion within 30 days after completion of grading, unless the graded areas are covered with impervious or other improved surfaces authorized by approved plans.

Control of off-site effects: All grading activity shall be conducted to prevent damaging effects of erosion, sediment production and dust on the site and on adjoining properties.

10. **Prior to any site disturbance,** the applicant shall submit to the County a Drainage Plan, prepared by a Registered Civil Engineer, that evaluates: 1) the effects of the project's projected runoff on adjacent properties and existing drainage facilities and systems; and 2) estimates of existing and increased runoff resulting from the proposed improvements.

Wastewater

11. **Prior to building permit issuance and/or final inspection of the wastewater system**, the applicant will need to show to the county compliance with the Central Coast Basin Plan.

12. **Prior to issuance of building permits,** the applicant show provide the County with a letter verifying that a Certified Engineering Geologist has review the layout of the septic system design, and ensure that it is in conformance with their recommendations.

13. The project soil engineer must observe seepage pit drilling to ensure required depth is obtained.

14. Percolation tests shall be performed by a soils engineer for the design of the disposal system.

15. The siting of a septic system shall be such that the setback minimums not be exceeded.

16. The design of the septic system shall be designed by a civil engineer to conform with conditions (12-14).

Water

17. The applicant shall submit landscape, irrigation, landscape maintenance plans and specifications to the Environmental Coordinator. The landscape plan shall be prepared as provided in Section 23.04.186 of the San Luis Obispo County Coastal Zone Land Use Ordinance. All plants utilized shall be drought tolerant.

Fees

18. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.

Architectural Control Committee

19. **Prior to issuance of a construction permit**, the applicant has shall provide evidence to the Planning Department certifying that the Architectural Control Committee for Cabrillo Estates has reviewed and approved plans and specifications.

Conditions to be completed during project construction

Building Height

20. The maximum height of the project is 15 feet (as measured from the highest point of the lot).

    a. **Prior to any site disturbance**, a licensed surveyor or civil engineer shall establish the highest point of the lot and set a reference point (benchmark).

    b. **Prior to approval of the foundation inspection,** the benchmark shall be inspected by a building inspector prior to pouring footings or retaining walls, as an added precaution.

    c. **Prior to approval of the roof nailing inspection**, the applicant shall provide the building inspector with documentation that gives the height reference, the allowable height and the actual height of the structure. This certification shall be prepared by a licensed surveyor or civil engineer.

Geologic Requirements

21. **During project construction/ground disturbing activities**, the applicant shall retain a soil engineer and Certified Engineering Geologist of record and shall provide a written certification of adequacy of the proposed site development for its intended use to the Department of Planning and Building.

Conditions to be completed prior to occupancy or final building inspection /establishment of the use

Geologic Requirements

22. **Prior to occupancy or final inspection**, whichever occurs first, the engineering geologist of record shall verify that construction is in compliance with the intent of the Geologic Assessment. The engineering geologist shall verify that the Reports' recommendations have been incorporated into the final design and construction. This verification shall be submitted in writing to the Department of Planning and Building for review and approval.

23. **Prior to occupancy or final inspection**, whichever occurs first, the Registered Civil Engineer shall verify that the recommendations of the Drainage Plan and the Sedimentation and Erosion Control Plan have been incorporated into the final design and construction. This verification shall be submitted in writing to the Department of Planning and Building for review and approval. If required by the County Engineer, the applicant shall execute a plan check and inspection agreement with the County, so the drainage, sedimentation and erosion control facilities can be inspected and approved before a certificate of occupancy is issued.

24. Landscaping in accordance with the approved landscaping plan shall be installed or bonded for before final building inspection / establishment of the use. If bonded for, landscaping shall be installed within 60 days after final building inspection. All landscaping shall be maintained in a viable condition in perpetuity.

25. **Prior to occupancy or final inspection**, which ever occurs first, the applicant shall obtain final inspection and approval from CDF of all required fire/life safety measures.

26. **Prior to occupancy of any structure associated with this approval**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

Driveway

27. **Prior to issuance of occupancy permit,** a minimum 9 foot wide, 3 and ½ inch thick concrete driveway approach apron shall be constructed as required by Planning Area Standard number 16.

Miscellaneous

28. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.

29. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.

Indemnification

30. The applicant shall as a condition of approval of this variance and minor use permit defend, at his sole expense, any action brought against the County of San

Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this variance and minor use permit or the manner in which the County is interpreting or enforcing the conditions of this variance and minor use permit, or any other action by a third party relating to approval or implementation of this variance and minor use permit. The applicant shall reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition.

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

DATE: MARCH 27, 2007

TO: BOARD OF SUPERVISORS

FROM: JAMES CARUSO, SENIOR PLANNER

VIA: CHUCK STEVENSON, MANAGER LONG RANGE PLANNING CHS

SUBJECT: RESOURCE CAPACITY STUDY FOR LOS OSOS WATER SUPPLY

SUMMARY

This Resource Capacity Study (RCS) is an analysis of water supply and demand in the Los Osos groundwater basin as was ordered by your Board. It is based on information contained in reports commissioned by the Los Osos Community Services District and prepared by the local hydrogeology firm of Cleath and Associates; water supply data from the RMS Annual Summary Reports and from recommendations made by the Planning Commission.

According to the County General Plan, a Resource Capacity Study should: 1) inventory existing water resources available to the agency operating the system; 2) document existing demand for water by all area user groups; and 3) explore any conservation measures that could reasonably be imposed by the water agency.

RECOMMENDATION

The Planning Commission reviewed this RCS on February 22, 2007 and recommends your Board certify a Level of Severity III for water supply in the Los Osos basin and that the following revisions be made to the Resource Capacity Study:

1. The County of San Luis Obispo become the lead agency to implement the following recommendations.
2. All water purveyors should adopt mandatory retrofit measures that will reduce water demand by 30% by the year 2010 compared to 2001 usage.

C-4
2

976 OSOS STREET, ROOM 300 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

EMAIL: planning@co.slo.ca.us • FAX: (805) 781-1242 • WEBSITE: http//www.sloplanning.org

3. Best management practices for agricultural water use shall be encouraged.
4. A temporary moratorium be instituted for all new development that results in a net increase in water use from the basin until overall basin water use is reduced by at least 600 AFY over 2001 data.

DISCUSSION

In December 2005, your Board directed the Department to prepare a Resource Capacity Study (RCS) for the Los Osos groundwater basin. Your Board also recommended a Level of Severity III be set for water supply in the Los Osos area.

This RCS, using existing information developed in hydrogeology studies commissioned by the Los Osos Community Services District, has determined that a Level of Severity III for water supply is appropriate. The RCS has found that:

- the groundwater basin is currently in overdraft;
- sea water intrusion is occurring and has already progressed to the point where community wells need to be relocated;
- aggressive conservation measures must be put into place;
- Golden State Water Co and the Los Osos Community Services District have responded to sea water intrusion by changing well locations;
- S&T Mutual water Co does not meter water use;
- Golden State Water Co and Los Osos CSD customers use a relatively small amount of water per connection;
- Supplemental water supply will eventually be required to attain buildout.

Planning Commission Action

The Commission considered the staff recommendations, took extensive testimony on the issue and discussed each of the staff recommendations. In general, the Commission determined that the existing over draft condition and the sea water intrusion issue should be the focus of actions. The Following recommendations were adopted by the Commission for your Board's consideration (Commission changes in underline/strikeout format):

1. Recommend to the Board of Supervisors that Level of Severity III be certified for water supply in the Los Osos groundwater basin
2. <u>The County of San Luis Obispo become the lead agency to implement the following recommendations</u>.
3. That water purveyors continue to immediately implement the measures to address sea water intrusion.

4. S&T Mutual Water Co. should install meters and adopt an ascending water rate structure as described above.
5. All water purveyors should immediately adopt an ascending water rate structure as described in the RCS.
6. All water purveyors should adopt mandatory retrofit measures that will reduce water demand by ~~15%~~ 30% by the year 2010 compared to 2001 usage.
7. Best management practices for agricultural water use shall be encouraged.
8. Secure supplemental water supplies in sufficient quantity, when combined with conservation measures, to meet demand at projected buildout.
9. The County adopt an ordinance that prohibits new subdivisions that result in the net increase in water usage from the basin.
10. Adopt an ordinance to institute water conservation requirements for parcels outside of water purveyor service areas that mirror the efforts undertaken by purveyors within their service areas.
11. Adopt an ordinance requiring all water purveyors with 5 or more connections to meter individual connection water use.
12. Reduce the build out figure for Los Osos in the Estero Area plan from 28,000 to 19,713.
13. A temporary moratorium be instituted for all new development that results in a net increase in water use from the basin until overall basin water use is reduced by at least 600 AFY over 2001 data.

The primary changes to the RCS adopted by the Commission were:

1. In response to the apparent lack of a "lead agency" in the basin that could drive a water conservation program, the Commission recommended that the County try to take a lead role in the basin-wide response to this water problem. The fact that the County is not a water purveyor in the basin was discussed by the Commission; however, the Commission determined that the ultimate success of a water conservation program must start with a strong initial effort.

2. A temporary moratorium be instituted for all new development that results in a net increase in water use from the basin until overall basin water use is reduced by at least 600 AFY over 2001 data. The 600 acre-feet is approximately the amount of water that is over-drafted from the basin.

3. The Commission heard extensive testimony that the community could conserve an additional 30% over 2001 rates. The original RCS recommended a more conservative 15% reduction in water usage. The Commission raised the goal from 15 % to 30%.

Proposed Program

The water issues in the Los Osos basin are complex. It is expected that the measures developed to address these issues will also be complex. Staff has determined that, at the Board's direction, a program should be developed that will address implementation of these RCS recommendations. The proposed approach is a cooperative one that would bring the parties into a "task force" to implement the measures adopted by the Board. Such a program could include:

1. Amendments to Title 19 to address water use of new development and remodels of existing uses.

2. Establish time frames for rate structure implementation.

3. Development of the water conservation program for all basin users and purveyors.

4. Address new subdivision requirements to save more water than they will use.

5. Potential structure of a temporary moratorium within the Los Osos groundwater basin for new development requiring additional water use.

Many of these recommendations will require a cooperative approach as the County is not a water purveyor in the basin. The water purveyors have no land use authority for the lands they serve. It's only by working together that the agencies can fully air and address these issues. The Department can report back to your Board with the outline of a cooperative program. The purveyors would be invited to take part in this effort.

OTHER AGENCY INVOLVEMENT

County Public Works Dept reviewed the Resource Capacity Study. The Water Resource Advisory Committee reviewed the report and the Planning Commission action and recommends the following (changes in strike-out/underline):

1. The County of San Luis Obispo ~~become the lead agency to implement~~ shall lead in facilitating the following recommendations.
2. The County adopt an ordinance that prohibits new subdivisions that result in the net increase in <u>non-agricultural</u> water usage from the basin
2. A temporary moratorium be instituted for all new development that results in a net increase in <u>non-agricultural</u> water use from the basin until overall basin water use is reduced by at least 600 AFY over 2001 data.

FINANCIAL CONSIDERATIONS

This Resource Capacity Study was prepared within the current Department budget.

RESULTS

Adoption of the recommendations will start the process to address water issues in Los Osos.

ATTACHMENTS

1. Water Resource Advisory Committee recommendation
2. Planning Commission recommendation
3. Letters received by the Planning Commission
4. Resource Capacity Study

5-3

Resource Capacity Study

Water Supply in the Los Osos Area

February 2007

San Luis Obispo County
Dept of Planning and Building

CCC Exhibit D
(page 6 of 21 pages)

5-4

Executive Summary

This Resource Capacity Study (RCS) is an analysis of water supply and demand in the Los Osos groundwater basin. It is based on reports commissioned by the Los Osos Community Services District and prepared by the local hydrogeology firm of Cleath and Associates. According to the County General Plan, a Resource Capacity Study should: 1) inventory existing water resources available to the agency operating the system; 2) document existing demand for water by all area user groups; and 3) explore any conservation measures that could reasonably be imposed by the water agency.

A Resource Capacity Study results in a determination of a Level of Severity (LOS) of the resource. Levels are set at I, II or III:

Level I	Resource Capacity Problem
Level II	Diminishing Resource Capacity
Level III	Resource Capacity Met or Exceeded

The response to these established levels of severity can range from capital project funding requirements to restrictions on development.

This Resource Capacity Study has determined that there is a Level of Severity III for water supply in the Los Osos area. Recommended actions include implementation of aggressive water conservation measures, prohibition of subdivisions, and requirements that all water purveyors meter water use and adopt an ascending rate structure.

This RCS will be reviewed by the Planning Commission at a public hearing. The Commission shall hear testimony on the subject and will make a recommendation to the Board of Supervisors. The Board will then conduct a second public hearing on the matter. The Board may choose to "certify" the Level of Severity and adopt measures to bring the resource into balance. Alternatively, the Board may chose to certify a different level of severity and take some different action.

1.) Introduction/Background

This Resource Capacity Study was ordered by the Board of Supervisors in December 2005. The Board unanimously set a Level of Severity III for water supply and directed that a Resource Capacity Study (RCS) be prepared.

The Los Osos ground water basin is the only source for local municipal, private domestic and agricultural water supply in the Los Osos area. The onshore

portion of the Los Osos Valley ground water basin covers approximately 10 square miles, of which approximately 3.3 square miles underlie the bay and sand spit, and 6.7 square miles underlie Los Osos, Baywood Park, and the Los Osos Creek valley. When groundwater is pumped out of the lower aquifer, four potential sources of recharge are available for replenishment. These sources are the Los Osos Creek valley, the upper aquifer, bedrock, and sea water.

The Los Osos Valley ground water basin has a limited amount of sustainable water available for use, known as the basin safe yield. The basin safe yield is the amount of naturally occurring ground water that can be withdrawn from an aquifer on a sustained basis, economically and legally, without impairing the native ground-water quality or creating undesirable effects, such water supply problems or water quality degradation.

In 2002, the Los Osos CSD conducted a safe yield analysis for the Los Osos Valley ground water basin in its Water Master Plan. Indications showed that there is an imbalance between the upper and lower aquifer production, with too much production in the lower aquifer and too little production in the upper aquifer. The imbalance has caused sea water intrusion in the lower aquifer. Sea water intrusion is the movement of salt water into a fresh-water aquifer. It not only has an affect on the water quality of the aquifers, but the soil can be damaged as a result of sea water intrusion. Salt build-up is left behind when water evaporates and makes in difficult or impossible to grow crops.

A relatively low percentage of sea water in fresh (less than 5%) can have a significant adverse impact on the potential beneficial uses of the water. Sea water intrusion was first documented in deep basin sediments in 1977 and has been affecting water purveyor wells since the mid 1990's. At present, sea water intrusion is occurring in the western end of the ground water basin. Sea water intrusion is active in the lower aquifer due to basin overdraft. An overdraft is the condition of a groundwater basin or sub basin in which the amount of water withdrawn by pumping exceeds the amount of water that recharges the basin over a period of years. Sea water intrusion is taking place in areas of the Los Osos Valley groundwater basin but to what extent is unknown.

The Resource Management System. The county's Resource Management System (RMS) is a mechanism for ensuring a balance between land development and the resources necessary to sustain such development. When a resource deficiency becomes apparent, efforts are made to determine how the resource capacity might be expanded, whether conservation measures could be introduced to extend the availability of unused capacity, or whether development should be limited or redirected to areas with remaining resource capacity. The RMS is designed to avoid adverse impacts from depletion of a resource.

The RMS describes a resource in terms of its "level of severity", based on the rate of depletion and an estimate of the remaining capacity, if any. In response to a resource issue or recommended level of severity, the Board of Supervisors may direct that a Resource Capacity Study be conducted. The RCS provides additional details that would allow the Board to certify a level of severity and adopt whatever measures are needed to eliminate or reduce the potential for undesirable consequences. The Board of Supervisors directed the preparation of this RCS in December 2005.

This document is the Resource Capacity Study for water supply in the Los Osos Valley groundwater basin. It is organized in the following manner:

1. **Introduction/background**
2. **Summary of studies done**
3. **Discussion**
   - a **Methods for estimating safe yield**
   - b. **Safe yield/overdraft**
4. **Estimate of projected growth**
   - a. **Subdivisions**
   - b. **Vacant lots**
5. **Summary of water supply and demand**
   - a. **Purveyors**
   - b. **Private wells**
   - c. **Agricultural use**
6. **Measures to increase supply**
7. **Measures to extend resource capacity**
8. **Recommended level of severity**
9. **Recommended actions**

2. Completed studies

In 2003, the Los Osos Community Services District (Los Osos CSD) obtained a grant form the California Department of Water Resources (DWR) for a project consisting of two separate studies; an assessment of sea water intrusion in the Los Osos Valley ground water basin, and an investigation into the source of the lower aquifer recharge. These studies address issues that affect ground water resource management and planning for a sustainable community water supply.

Sea Water Intrusion Assessment

The purpose of the sea water intrusion assessment was to document the historical rate of advance of the sea water wedge and the transition zone, and to establish the current position of these elements. The lower aquifer system in the Los Osos Valley groundwater basin is currently experiencing sea water intrusion. Most of the community water supply is generated from the lower aquifer system;

5-1

therefore, understanding the extent and rate of sea water intrusion is critical to protecting the community water supply.

According to the Sea Water Intrusion Assessment, six aquifer zones have been identified in previously published reports. They include the alluvial aquifer in the Los Osos Creek valley, the perched aquifer (Zone A), the transitional aquifer (Zone B), the upper aquifer (Zone C), and the lower aquifer (Zones D and E). A regional clay aquitard averaging 50 feet in thickness separates the upper aquifer from the lower aquifer. Basin-wide ground water production averaged 3,480 acre-feet per year (afy) between 1985 and 2001, with 2,510 afy being drawn from the lower aquifer.

The Assessment describes the problem of seawater intrusion. Less than five percent sea water in a fresh water aquifer can have a significant adverse impact on the potential beneficial uses of the water. There are certain criteria for evaluating sea water intrusion. The criteria consist of water levels and water quality. The sea water border will move in response to changes in aquifer pore pressure and will move toward an approximate equilibrium based on the Ghyben-Herzberg relation.

The Ghyben-Herzberg relation is comprised of analytical solutions to approximate the intrusion behavior. These solutions are based on a number of assumptions that do not hold in all field cases. The Ghyben-Herzberg relation states, for every foot of fresh water in an unconfined aquifer above sea level, there will be forty feet of fresh water in the aquifer below sea level. According to the Ghyben-Herzberg relation, a fresh water head of approximately 5 feet would be needed to prevent the sea water interface from moving onshore within the upper aquifer. A fresh water head of approximately 9 feet would be required to prevent the sea water interface in the lower aquifer from moving inland. Currently, only upper aquifer water levels are sufficiently high enough to prevent sea water intrusion.

Regarding the sea water assessment for the Los Osos Valley groundwater basin, the Los Osos CSD concluded that:

1. The upper aquifer freshwater/ sea water interface is relatively stable beneath the Morro Bay sand spit, with a potential for active intrusion during extended drought periods.

2. Sea water intrusion in the lower aquifer (zone D) has advanced at an average rate of 60 feet per year between 1985 and 2005, and is currently between Pecho Road and Doris Avenue.

3. Sea water intrusion in the lower aquifer (zone E) has advanced at an average rate of 54 feet per year between 1977 and 2005, and is currently between Broderson Avenue and Palisades Avenue.

Lower Aquifer Recharge Assessment

The Sea Water Intrusion report also included an assessment of lower aquifer recharge. When ground water is pumped out of the lower aquifer, four potential sources of recharge are available for replenishment. These sources are the Los Osos Creek valley, the upper aquifer, bedrock, and sea water. It was concluded that the upper aquifer is the primary source of fresh water recharge to the lower aquifer. The assessment also concluded that lower aquifer production west of the Los Osos Creek valley is currently close to 600 acre-feet per year more than the average fresh water inflow. This is confirmed by the evidence of sea water intrusion. The Los Osos Valley ground water basin is currently in an overdraft condition.

3. Discussion

What is the "safe yield" of a groundwater basin?

Safe yield is the amount of naturally occurring ground water that can be withdrawn from an aquifer on a sustained basis, economically and legally, without impairing the native ground-water quality or creating an undesirable effect such as environmental damage (C. W. Fetter, Applied Hydrogeology, Third Edition, 1994). "Undesirable effects" frequently cited as consequences of exceeding safe yield include:

- Reductions in streamflow; reductions in lake levels
- Drying of wetlands
- Subsidence of the land surface
- Degradation of water quality
- In coastal locations, seawater intrusion into the aquifer's fresh water in storage
- Lowering water levels leading to increase in pumping cost

What methods are used to estimate the safe yield of a groundwater basin?

Water level analysis. Groundwater levels in wells fluctuate over time representing the continuous adjustment of groundwater in storage to changes in recharge and discharge. Fluctuation of water levels is caused by several factors, including pumpage, recharge from direct precipitation and streamflow, infiltration of applied water and subsurface inflows and outflows. Water level analysis is based on empirical measurement of water levels in both production wells and monitoring wells. Levels in individual wells are compared to levels in other wells

throughout an aquifer to create a contour map showing elevations of the groundwater surface. Contour maps are useful for estimating the direction and rate of flow of groundwater within an aquifer. They are also used for estimating the amount of groundwater in storage. Observation of water levels over time can illuminate trends with implications about the long-term prospects for the basin.

Because annual recharge from precipitation is highly variable, long-term analysis of water level trends must include representative periods of above average and below average rainfall. Determination of trends is based on a period of observation that is not biased by an unusually dry or wet year or series of years.

Water budget analysis. Compilation of a water budget provides an estimate of each source of recharge and discharge to and from an aquifer. Estimates are based on a combination of empirical observation (rainfall data, stream flows, core samples, chemical analysis, well levels) and inference using logical assumptions. Water budgets are prepared to enable an understanding of the ways in which the groundwater basin adjusts to changes in recharge and discharge.

Since natural recharge from precipitation cannot be increased, an increase in discharge (pumping) can only be offset by an equivalent decrease in other forms of discharge (i.e., outflow to the ocean, to streamflow, to evapotranspiration, transfer from storage) and/or by supplemental recharge (imported water, control of recharge by dams). "Dynamic equilibrium" is the process by which an aquifer adjusts to a change in recharge or discharge.

The most common change to deal with is increased pumping. Depending on the transmissivity and storativity of the aquifer, achievement of a new equilibrium may not take place for decades following an increase in pumping. Equilibrium is achieved when the water removed by pumping is replaced by water that would otherwise have been discharged via ocean outflow or other sub-surface outflow such as outflow to a local stream or lake or to evapotranspiration. The cause and effect relationship between pumping and changes in various forms of discharge is not always appreciated, because pumping happens at the turn of a switch while the discharge adjustments take place over a very long time.

During the lengthy period of adjustment, a year or two of above average rainfall can temporarily reduce the size of pumping cones of depression and raise water levels in wells, giving a false impression that additional pumping can take place without a significant impact on the aquifer.

4. Estimate of Population Growth

The current population of the Los Osos Valley is approximately 14,500 persons. Build out has been estimated in the revised Estero Plan at 19, 713. Water management documents and studies have used this figure. However, the Los

Osos portion of the Estero Plan has been "taken off the table" by the County and will not be considered by the California Coastal Commission. The previous version of the Estero Plan is now being put back into place. This document has a build out population of approximately 28,000. This build out population figure is not accurate and this report recommends the figure be reduced as part of a future plan amendment.

These figures all probably overestimate the short term increase in population of the Los Osos area. A survey of potential subdivisions and vacant parcels yields a much lower figure. The sites known as Holland, Morro Shores, the "Farm" and other possible subdivision sites have the potential to support approximately 500 new housing units. In addition, a survey of the community indicates that there are approximately 450 - 500 vacant parcels that could be developed in the future. A total of 1000 units could support a population of approximately 2200 – 2500 additional persons. Another 2500 persons could be added over the long term.

5. Summary of Water Supply and Demand

The water supply of the Los Osos Valley is primarily based in the lower aquifer of the valley's groundwater basin. There have been several studies focused on Los Osos Valley ground water issues:

1. Brown and Caldwell (1974): Safe yield at 1300-1800 acre feet year (AFY). This is questioned in Cleath, July 2005, where the 1800 AFY is said to be consumptive use and not gross water production. The correct number, according to Cleath, should be closer to 3750 AFY.

2. Dept of Water Resources (1989): The DWR report determined a safe yield of 2200 AFY thru the use of a USGS model. Cleath adjusts this number to 3140 AFY.

3. URS Corporation (2000): Uses 3150 AFY as safe yield. URS used an updated USGS model.

4. Cleath and Associates (2002): Cleath used multiple methods to estimate safe yield at 3560 AFY in the LOCSD Master Water Plan.

5. Cleath and Associates (2005): This newer Cleath report includes a discussion of sea water intrusion. This issue has caused Cleath to reduce safe yield estimates to 3250 AFY to keep sea water intrusion at bay.

The studies have established a safe yield from each of the sub-groundwater sources. The safe yield (3250 AFY) used in the latest report for the CSD (Cleath and Associates July 2005) will be used in this RCS.

Table 1
Safe Yield Estimate
(from Cleath 2005)

Storage Area	Current Conditions	
	LOCSD Master Plan	2005 Water Management Plan
Upper Aquifer	**1150**	**1150**
Lower Aquifer	**1610**	**1300**
Creek Valley	**800**	**800**
TOTALS	**3560**	**3250**

The safe yield figure in Table of 3250 AFY will be used for this RCS. This safe yield includes provisions for reductions in sea water intrusion.

The safe yield from the basin is one side of the supply and demand equation. The demand side can be estimated by adding the amount of water pumped by all types of groundwater users including purveyors, private domestic wells and agricultural use. The following table from Cleath 2005 uses data from the period 1985-2001:

Table 2
Ground Water Production
1985-2001

Aquifer Zone	Purveyors			Private Domestic	Agricultural Irrigation*	1985-2001 average	2001 prod.
	Golden State	LOCSD	S&T				
A, B	0	0	0	40	0	40	40
C, alluvium	250	230	50	120	330	980	810
D	820	630	60	40	400	1950	2170
E	0	280	0	0	220	500	380
Total	1070	1140	110	200	950	3470	3400

Total water production from all portions of the groundwater basin totaled 3400 AFY. This 2001 number is 150 AFY more than the calculated safe yield from the basin. These figures indicate the basin was in overdraft in 2001. Overdraft continues today is shown by the continued sea water intrusion problem in the lower aquifer.

Water Demand In the Los Osos Valley

The population of the Los Osos Valley has stayed roughly the same or has trended slightly upward since 1990. Water use is also expected to trend upward as new development occurs outside the prohibition zone and existing dwellings are remodeled or demolished and replaced with larger more modern structures. Water demand in the CSD and Golden State Water Company service areas for the year 2006 is as follows:

Table 3
Water Usage by Purveyor

	LO CSD	Golden State	S and T Mutual
# of connections	2750	2681	175
Acre-feet/year	947 AFY	908 AFY	96.1 AFY
Use per connection	**0.34 AF**	**0.34 AF**	**0.55 AF**

The water use figures for the LOCSD and Golden State service areas are relatively low. The water use figures for the S&T Mutual Co are especially high. The difference in water usage per connection may be attributable to S&T's billing method. The company does not meter water usage; instead everyone is charged a flat rate. This type of billing does not encourage water conservation.

Staff has reviewed other variables to check this assumption. The lot sizes in the Sunset Terrace area (S&T's service area) are a uniform 6,000 – 6,500 sq ft. No unusually large parcels exist in the area that would cause per connection water usage to be higher than other suburban areas. An explanation can be sought through an analysis of community water demand. A survey of other communities' water usage per connection is as follows:

Table 4
Water Use In Other Communities

	San Luis Obispo	Templeton	Morro Bay	Pismo Beach	Nipomo	Golden State (Nipomo)
# of connections	14425	2490	5449	4776	3968	1480
Acre-feet/yr	6001 AFY	1395 AFY	1211 AFY	1927 AFY	2674 AFY	1164 AFY
Use/Connection	**0.41 AFY**	**0.56 AFY**	**0.22 AFY**	**0.40 AFY**	**0.67 AFY**	**0.78 AFY**

The examples of water use in other communities show a wide range of demand per connection. According to the Dept of Water Resources, water demand can be affected by several factors:

1. Size of lot
2. Size of dwelling
3. Climate
4. Soils
5. Rate structure
6. Land use
7. Household income

The range of demand per connection shown in Table 4 can be explained by several of these factors. The relatively low water demand numbers in Morro Bay and Los Osos are probably attributable to the smaller lot sizes that are found in all of our coastal communities; the marine influenced climate, and in the case of Morro Bay, the high percentage of second or vacation homes that are not occupied on a full time basis.

Other factors to be considered include land use patterns and population. The Cities of Pismo Beach and San Luis Obispo have relatively higher per connection water demand than the South Bay communities. Pismo Beach has many vacation homes that arte not occupied full time; however, their demand figure of 0.67 AFY per connection is relatively high. Similarly, the City of San Luis Obispo's demand figure is higher than expected. The water demand in these cities is probably due to 1) the number of hotels and visitors that put a higher demand on water resources; and 2) the substantial difference between the "night time" and "day time" populations of San Luis Obispo. Other communities in the county have become bedroom communities for the commercial center of the county.

Other factors that can explain the wide range in water demand include climate and lot size. According to the Dept of Water resources, 65% of water usage occurs outside the home. The communities of Templeton and Nipomo contain lots that are much larger than other areas of the County. Larger parcels use more water. North County communities can expect to use more water than coastal or south county communities due to the hotter summer climate.

The only figure that cannot seem to be explained by these factors is S&T Mutual Water Company. The S&T service area includes 175 connections in a small area of Los Osos near the Sea Pines Golf Course. The lot sizes, as mentioned above, are small (6,000 – 6,500 sq ft) and all connections are uniformly residential. The climate is marine influenced and soil conditions are similar to the rest of Los Osos. Of all factors that affect water demand in the list above, the only one that seems germane to S&T is rate structure. This mutual water

company is the only purveyor in the community that does not meter water use. All users are charged a flat rate independent of water usage. Metering of water usage at each connection is necessary in Los Osos in order to address the overdraft condition.

Conclusions Regarding Water Supply and Demand

The groundwater basin is currently in overdraft by at least 150 AFY. Sea water intrusion, which is fatal to a fresh water aquifer, is occurring in the Los Osos groundwater basin. Therefore, it is absolutely imperative that all measures are brought to bear to correct this problem. Lowering demand for water is generally the least expensive method to bring the basin back into equilibrium and to halt sea water intrusion. Therefore, while a RCS should look at measures to increase supply, this report shall focus on measures to reduce demand.

6. Measure to Increase Supply

A supplemental water source will eventually be needed for the area. The community is relatively isolated on the coast and is some distance from large surface water projects that could deliver supplemental water.

The few feasible options include:

1. Water wheeling through the City of Morro Bay (State water/desal)
2. Reclaimed water from the future wastewater treatment plant
3. Local Desalination facility
4. Conservation
5. Agricultural water

The water purveyors should review these options for supplemental water. Water wheeling through Morro Bay could include use of State Water or use of water produced by the existing desal plant. A pipeline connection from the City to Los Osos would be required. The pipeline route would probably be along South Bay Blvd and would experience coastal permitting and environmental difficulties. Water from a desal plant would probably cost upwards of $4000 per acre foot/year (Nipomo RCS – 2006). State water costs could run in the range of $1000- $2500 per acre foot per year.

Agricultural water users are located primarily on the east, southeast and northeast sides of the community. A GIS review of acreage in irrigated crops shows approximately 480 acres in irrigated agriculture. Crops in the area require between 1 to 3 acre feet of water per acre. A middle estimate of 2 acre feet per acre results in a water demand of 960 acre feet per year. This is similar to the estimate of agriculture water use by Cleath. Purchase of the water rights from these agricultural users will have serious general plan policy implications.

The use of reclaimed water from the future wastewater treatment plant should be considered. However, as a system design has not yet been completed and the areas of potential use of reclaimed water remain unclear, this option requires additional study. Also, tapping the upper aquifer to augment water supply is possible.

These are the acknowledged difficulties in securing a supply of supplemental water for the community. However, the existing information reviewed for this RCS clearly indicates a need for such a supplemental water supply. It appears that supplemental water is needed in the future even with a scenario of 0% growth and an aggressive water conservation program in place.

7. Measures to Extend Resource Capacity

Generally, the least expensive method to gain "new" water supply is through water conservation. According to the Pacific Institute (The Potential for Water Conservation in California, 2003):

> "Even without improvements in technology, we estimate that indoor residential use could be reduced by approximately 890,000 AF/yr – almost 40 percent – by replacing remaining inefficient toilets, washing machines, showerheads, and dishwashers, and by reducing the level of leaks. All of these savings are cost-effective and have important co-benefits like saving energy and decreasing the amount of waste water created."

It is questionable whether such a water savings figure is attainable in a single community. The Los Osos CSD's Water Management Plan assumes a 200 acre foot/year savings from water conservation by the year 2010. The Nipomo Water Management Plan assumes a 15% savings from water conservation measures. With water demand in Los Osos at 3400 AFY, a reasonable savings through conservation could be as high as, say 10% or 340 AFY. Even this amount of water savings is not enough to balance the demands on the aquifer and supplemental water will eventually be needed.

An aggressive water conservation program is required immediately due to the overdraft condition. A conservation program should require:

1. Mandatory retrofitting of all indoor plumbing fixtures including toilets, shower heads, sinks, washing machines.
2. A steeply tiered water rate structure that heavily penalizes excessive water use.
3. Prohibition of subdivisions that result in a net increase in water use.

4. Outdoor water use restrictions.
5. Metering of all water connections.

The Pacific Institute suggests the following rate structure:

Table 5. Recommended Tiered Rate Structure
Pacific Institute

Tier	Water Use (as percent of base allocation)	Price per Unit Used in Each Tier
Low Volume Discount	0-40%	Base Rate
Conservation Base Rate	41-100%	Base Rate
Inefficient	101-150%	2x Base Rate
Excessive	151-200%	4x Base Rate
Wasteful	201% and above	8x Base Rate

The CSD and Golden State Water Co have commenced changes in well production to decrease the amount of water taken from the lower aquifer. This is the first recommendation from the Sea Water Intrusion Assessment. The purveyors should continue these efforts.

The Los Osos groundwater basin is currently undergoing a process known as adjudication. The CSD filed the case for adjudication in February 2004. The water purveyors (LOCSD, Golden State Water Co, S&T Mutual Water Co and the County) are involved in this court case. In an adjudication case, the parties overlying the groundwater basin turned to the courts to settle disputes over how much groundwater can rightfully be extracted by each party.

Currently, the parties involved in the adjudication case are in discussion of a proposed interim stipulated agreement. The proposed agreement is not yet final and is not a public document. It is not known at this time what effect the stipulated agreement will have on the water resource in the Los Osos groundwater basin.

8. RECOMMENDED LEVEL OF SEVERITY

The county General Plan's *Framework for Planning* contains a discussion of the objectives, procedures and criteria for levels of severity of the Resource Management System. Regarding water resources, the RMS indicates that *"Level of Severity III exists when water demand equals the available resource; the amount of consumption has reached the dependable supply of the resource. A*

Level III may also exist if the time required to correct the problem is longer than the time available before the dependable supply is reached."

Table 6 RESOURCE DEFICIENCY CRITERIA FOR LEVELS OF SEVERITY		
Level I	**Level II**	**Level III**
Projected consumption estimated to exceed dependable supply within 9 years	7 year lead time to develop supplementary water for delivery to users	Resource is being used at or beyond its estimated dependable supply or will deplete dependable supply before new supplies can be developed

This Resource Capacity Study confirms that for the Los Osos community, water demand presently exceeds the dependable yield. Therefore, Level of Severity III is recommended for the water resources in Los Osos.

9. Recommended Actions

The Resource Management System includes three "action requirements" that accompany a Level of Severity III determination:

If Level III is found to exist, the board shall make formal findings to that effect, citing the basis for the findings, and shall:

1. *Institute appropriate measures (including capital programs) to correct the critical resource deficiency, or at least restore Level II so that severe restrictions will be unnecessary.*
2. *Adopt growth management or other urgency measures to initiate whatever restrictions are necessary to minimize or halt further resource depletion.*
3. *Enact a moratorium on land development, or other appropriate measures, in the area that is affected by the resource problem until such time that the project provides additional resource capacity to support such development.*

The following measures are recommended for implementation:

1. <u>Measures to correct the resource deficiency.</u>

The county can initiate measures that involve the land use and building permitting process. However, since the county is not a water purveyor in Los Osos, some of these measures will need to be undertaken by the LOCSD, Golden State Water Company and S&T, acting separately or as part of a coordinated effort.

Measures to be undertaken by water purveyors:

a. Continue to immediately implement the measures recommended in the Sea Water Intrusion Assessment.
b. S&T Mutual Water Co. should install meters and adopt an ascending water rate structure as described above.
c. All water purveyors should immediately adopt an ascending water rate structure as described above.
d. All water purveyors should adopt mandatory retrofit measures that will reduce water demand by 15% by the year 2010 compared to 2001 usage.
e. Secure supplemental water supplies in sufficient quantity, when combined with conservation measures, to meet demand at projected buildout.

2. Land development measures:

Measures to be undertaken by the County:

f. Prohibit new subdivisions that result in the net increase in water usage from the basin.
g. Institute water conservation requirements for parcels outside of water purveyor service areas that mirror the efforts undertaken by purveyors within their service areas.
h. Adopt an ordinance requiring all water purveyors with 5 or more connections to meter individual connection water use.
i. Reduce the build out figure for Los Osos in the Estero Area plan. From the present 28,000 to 19,713.

References:

Los Osos Community Services District. *Sea Water Intrusion Assessment and Low Aquifer Source Investigation of the Los Osos Valley Ground Water Basin San Luis Obispo County, California.* October, 2005.

Los Osos Community Services District. *Water Management Plan for the Los Osos Valley Ground Water Basin.* July 2005

San Luis Obispo County Department of Planning and Building. *Resource Capacity Study: Water Supply in the Nipomo Mesa Area.* October, 2004.

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING
VICTOR HOLANDA, AICP
DIRECTOR

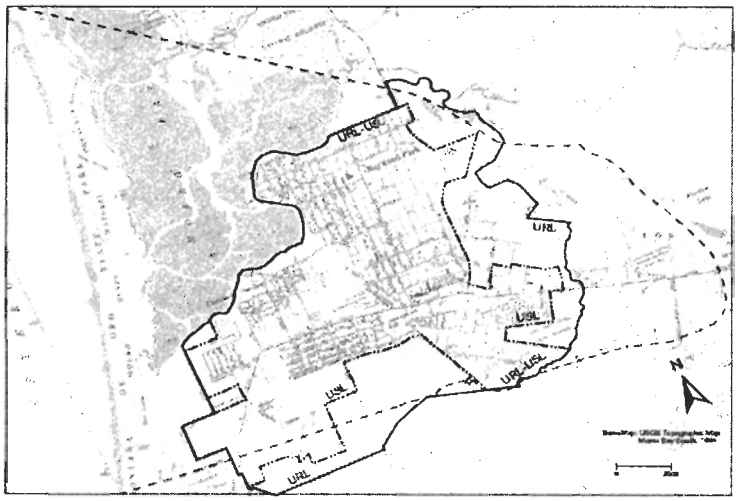
LOS OSOS RETROFIT PROGRAM

Building a house, an addition or a remodel in Los Osos? A plumbing (toilet and showerhead) retrofit program has been enacted in Los Osos effective **MAY 22, 2008**.

You must retrofit enough exiting homes and businesses to offset the amount of water to be used by the new development. A retrofit credit table has been developed so that every builder can see how many credits are available:

Remodels and additions require the structure to be retrofitted with new toilets and showerheads. High Efficiency Toilets (HET) rated at no more than 1.28 gpf and 2.5 gpm showerheads are required to be installed in retrofitted structures. A licensed plumber or contractor must complete and sign the Retrofit Verification Form. That completed form must be submitted to the Building Dept prior to issuance of a building permit for new structures.

Please see the Department website: www.sloplanning.org and go to What's New? There is information regarding this and the Title 8 Retrofit ordinance that requires properties to be retrofitted prior to sale.



Questions? Contact James Caruso (781-5702 or jcaruso@co.slo.ca.us) for more information.

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600
EMAIL: planning @co.slo.ca.us • FAX: (805) 781-1242 • WEBSITE: http://www.sloplanning.org

CCC Exhibit E
(page 1 of 10 pages)

EXHIBIT LRP: 2007-0003:B

ORDINANCE NO._____

AN ORDINANCE AMENDING TITLE 19 OF THE SAN LUIS OBISPO COUNTY CODE, THE BUILDING AND CONSTRUCTION ORDINANCE, BY AMENDING SECTION 19.07.042 RELATING TO WATER CONSERVATION IN THE LOS OSOS GROUNDWATER BASIN AND ADOPT FINDINGS OF FACTS TO SUPPORT THE IMPOSITION OF REQUIREMENTS GREATER THAN ESTABLISHED BY OR PURSUANT TO THE CALIFORNIA BUILDING STANDARDS CODE

WHEREAS, California Health and Safety Code, Sections 18941.5 and 17958.5 authorizes the Board of Supervisors to make modifications or changes to the California Building Standards Code, including adopting more restrictive building standards, as it determines are reasonably necessary because of local climatic, geological, or topographical conditions;

WHEREAS, California Health and Safety Code Section 17958.7 requires the Board of Supervisors to make an express finding that such modifications or changes are reasonably necessary because of local climatic, geological, or topographical conditions;

WHEREAS, the Board of Supervisors finds that each of the changes or modifications to measures referred to herein are reasonably necessary because of local climatic, geological, or topographical conditions in the area encompassed by the boundaries of the County of San Luis Obispo, and the Board of Supervisors further finds that the following findings support the local necessity for the changes or modifications:

FINDING 1

Geological: The County of San Luis Obispo is in an area of high seismic risk. Four active faults are within the county, each capable of generating large, damaging earthquakes. These faults are: the San Andreas Fault, which trends northwest-southeast near the eastern boundary of San Luis Obispo County; the San Simeon Fault, which is part of the larger Hosgri Fault Zone and parallels the coastline in the northern part of San Luis Obispo County; the Los Osos Fault, which parallels the Los Osos Valley a few miles southwest of the city of San Luis Obispo; and the Oceanic Fault, which runs from the city of San Luis Obispo northwest toward the community of Cambria, and was the fault responsible for the Magnitude 6.5 San Simeon earthquake that affected the region in December 2003. In addition, there are several potentially active faults within the county, including the Rinconada Fault, the Huasna Fault, and the Nacimiento Fault Zone. These faults could also produce large earthquakes.

Earthquakes from these faults could produce primary effects such as strong ground shaking or ground rupture, and secondary effects such as liquefaction and landslides. These primary and secondary effects pose a significant hazard to the county's building stock and infrastructure, and to public health and safety. These hazards include strong shaking causing collapse of vulnerable buildings and bridges, ground rupture affecting roads and highways, and liquefaction damaging buildings, pipelines (water, gas, sewage), marine facilities (docks, jetties), railroads, and airports. Fire from broken gas lines and the lack of water from broken water lines could result in major damage. Landslides caused by strong shaking, possibly in combination with wet weather conditions, could block highways and railroads, thereby isolating parts of the county and affecting emergency response. Earthquake-induced landslides could also produce rockfalls that could strike and damage buildings and vehicles. Tsunamis could inundate the coastline. The protection of human life and the preservation of property in the event of such an occurrence support the imposition of fire protection requirements greater than set forth in Sections 903.2, 1505.1.5, and 1505.1.6 of the 2007 California Building Code and Section 230.70 of the 2007 California Electrical Code.

FINDING 2

Topographical: The County of San Luis Obispo has rural areas that are in very high fire hazard areas. Due to varied topography, access to structures in rural areas increases response time and delays fire suppression efforts. An extended response time will allow fires to grow beyond the control of initial attack fire suppression resources. Large structure fires in the hillside areas will have a greater likelihood of starting a wildland fire, which may expose additional structures to fire. The above described problems support the imposition of built-in fire protection requirements greater than those set forth in Sections 903.2, 1505.1.5, and 1505.1.6 of the 2007 California Building Code and Section 230.70 of the 2007 California Electrical Code.

FINDING 3

Climatic: The hot, dry weather in combination with Santa Ana winds frequently results in wildland fires in areas of the County of San Luis Obispo. These conditions create an environment where the entirety of local fire department personnel is required to control, monitor, fight and protect against such fire situations in an effort to protect life and preserve property. The same climatic conditions may result in the concurrent occurrence of one or more fires in the more populated areas of the County without adequate fire department personnel to protect against and control such a situation. Climatic conditions in this jurisdiction have led to groundwater basin overdraft conditions that must be addressed through installation of lower water using fixtures such as toilets. During such periods, limited fire-fighting resources support the imposition of greater fire-protection requirements than set forth in Sections 903.2, 1505.1.5, and 1505.1.6 of the 2007 California Building Code and Section 230.70 of the 2007 California Electrical Code.

WHEREAS, the Board of Supervisors determines that the provisions of the State Building Standards Code are hereby modified, changed and amended, as provided for in this ordinance, and as previously provided in ordinance number 3139 (Chapters 19.01, 19.04, 19.40, and 19.80 and Sections 19.20.002 through 19.20.090, 19.20.150 through 19.20.380, 19.20.126 and 19.90.010 of the San Luis Obispo County Code are hereby repealed and replaced by new Chapters 19.01, 19.02, 19.03, 19.04, 19.05, 19.06, 19.07, 19.40, 19.80, and 19.85 and new Sections 19.20.126 and 19.90.010) based upon the foregoing findings and that said Board takes said action because of the public interest in protecting life and preserving public safety and property.

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1: Section 19.07.042 of the Construction Ordinance, Title 19 of the San Luis Obispo County Code, is hereby amended by revising subsection b as follows:

b. **Existing Structures**. In existing buildings, replacement water fixtures shall conform to the above requirements. In addition, all fixtures in an existing building shall be brought into conformance with these requirements when an alteration of that building meets either of the following criteria, <u>except in the Los Osos Groundwater Basin as described in Subsection e.</u>

(1) A bathroom is added;

(2) The floor areas is increased by twenty per cent (20%) or more

SECTION 2. Section 19.07.042 of the Construction Ordinance, Title 19 of the San Luis Obispo County Code, is hereby amended by adding new subsection e as follows:

d. **Nipomo Mesa Water Conservation Area**. In addition to the requirements in Section 19.07.042, all new installations in the Nipomo Mesa Water Conservation Area shown in Figure 20-1 shall include faucets in all bathrooms and kitchens equipped with automatic shut-off devices. In-lieu of faucets with automatic shut-off devices, a minimum of two high efficiency toilets (1.28 gallons maximum per flush) shall be installed.

*

<u>**e.** **Los Osos Groundwater Basin**: In addition to the requirements in sections a, b and c above, the requirements in paragraphs (1) through (9) below shall apply to all new development that uses water from the Los Osos Groundwater Basin shown in Figure 20-2.</u>

Los Osos Groundwater Basin Boundary

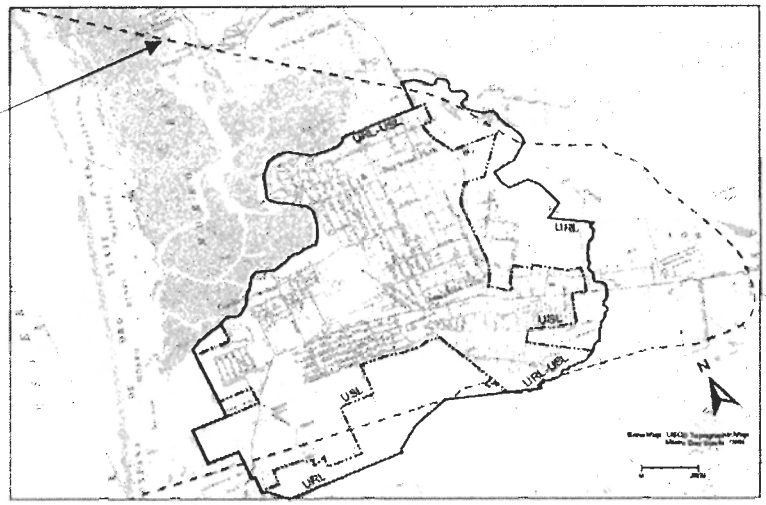


Figure 20-2: Los Osos Groundwater Basin: not to scale

(1) The developer of any new structure that uses water from the Los Osos Groundwater Basin shall install plumbing fixtures that meet the following requirements:

i. Toilets rated at no more than 1.28 gallons per flush (HET);
ii. Showerheads rated at no more than 2.5 gallons per minute;
iii Bathroom sink aerators with a volume of no more than 1.0 gallons per minute;
iv. Hot water circulation systems for master bathrooms and kitchens if the furthest plumbing fixture unit in these rooms is greater than twenty (20) pipe - feet from the hot water heater;
v. Commercial structures shall use waterless urinals;
vi. New residences shall be plumbed for grey-water systems pursuant to Chapter 16 of the Uniform Plumbing Code.

(2) Prior to issuance of a construction permit for a new structure with plumbing fixtures that uses water from the Los Osos Groundwater Basin, the developer of such new structure shall retrofit plumbing fixtures in existing structures within the Los Osos Groundwater Basin. The number and type of plumbing fixtures to be installed shall be as required in the equivalency table as adopted and codified in Appendix A. The equivalency table indicates the point values of existing fixtures which may be retrofitted and the corresponding point requirements for each newly constructed or remodeled structure. A package of proposed retrofits and water conservation requirements must add up to no less than the minimum requirements established in Appendix A.

(3) Any addition of 120 square feet or more to an existing structure that uses water from the Los Osos Groundwater Basin shall require the

replacement of plumbing fixtures in the entire structure with the following types of plumbing fixtures:

i. Toilets rated at no more than 1.28 gallons per flush (HET);
ii. Showerheads rated at no more than 2.5 gallons per minute;
iii Bathroom sink aerators with a volume of no more than 1.0 gallons per minute;
iv. All urinals in commercial structures shall be replaced with waterless urinals.

(4) Any remodel of an existing structure that uses water from the Los Osos Groundwater Basin that requires a construction permit pursuant to this Title, and that includes replacement of plumbing fixtures in the kitchen or any bathroom, shall require the replacement of plumbing fixtures in the entire structure with the following types of plumbing fixtures:

i. Toilets rated at no more than 1.28 gallons per flush (HET);
ii. Showerheads rated at no more than 2.5 gallons per minute;
iii Bathroom sink aerators with a volume of no more than 1.0 gallons per minute;
iv. All urinals in commercial structures shall be replaced with waterless urinals.

(5) The Planning Director (or designee) is authorized to make determinations for fixtures or projects not specifically designated in the equivalency table in Appendix A.

(6) The equivalency table in Appendix A may be amended by the Planning Director from time to time to reflect changes in water use and/or water savings.

(7) Owners of existing structures that are retrofitted under this program shall agree to allow their water purveyors to release water use figures to the Department of Planning and Building in order to gauge the effectiveness of the program to the extent allowed by California Law.

(8) Upon retrofitting of the required number of fixtures, the developer shall submit evidence of the completed retrofits to the Department of Planning and Building. This evidence shall consist of a Retrofit Verification Declaration completed and executed by a licensed plumber and/or contractor. The Retrofit Verification Declaration shall be used for development of a specific property or properties and shall not be transferred to another parcel.

(9) Upon submittal to the San Luis Obispo County Department of Planning and Building of a completed and executed Retrofit

Verification Declaration accompanied by the required fee, the developer shall be issued a Water Conservation Certificate from the Department of Planning and Building. Once the Water Conservation Certificate is issued, the new structure may receive final occupancy approval.

SECTION 3.. The project qualifies for a Categorical Exemption (Class 7) pursuant to CEQA Guidelines Section 15307 because the actions proposed will assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.

SECTION 4. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 5. This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

INTRODUCED at a regular meeting of the Board of Supervisors held on the ____ day of _____, 2008, and PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the_____ day of _____, 2008, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

_____
Chairman of the Board of Supervisors,

County of San Luis Obispo,
State of California

ATTEST:

_____
County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California

[SEAL]

ORDINANCE CODE PROVISIONS APPROVED
AS TO FORM AND CODIFICATION:

R. WYATT CASH
Acting County Counsel

By:_____
Deputy County Counsel

Dated: _____

TITLE 19: RETROFIT VERIFICATION FORM

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING
976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

Promoting the Wise Use of Land • Helping to Build Great Communities

1. Project Address / APN:_____
2. Installation performed by:_____
3. License / Certification #:_____

4. Applicant / Agent:_____
telephone:_____
5. Required Credits:_____
6. Total Credits:_____

Off-site Retrofit Locations:

Address / APN	Use of Structure	Toilet Removed	Showerhead Removed	Toilet Installed	Showerhead Installed	Description / Notes	Credits
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							

LOS OSOS RETROFIT CREDIT TABLE

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING
976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

Promoting the Wise Use of Land • Helping to Build Great Communities

Los Osos Plumbing Retrofit Program

Existing Toilet	Replacement Toilet	Gallons Saved	Gallons Saved Per Day
6.0 gallons per flush	1.28 gpf	4.72	55
6.0 gpf	1.1 gpf	4.90	57
3.5 gpf	1.28 gpf	2.22	44
3.5 gpf	1.1 gpf	2.40	48
1.6 gpf	1.28 gpf	0.32	14
1.6 gpf	1.1 gpf	0.50	22

Existing Shower	Replacement Shower	Gallons Saved	Gallons Saved Per Day
5 gpm	2.5 gpm	2.5	19
5 gpm	1.5 gpm	3.5	27
2.5 gpm	1.5 gpm	1.0	8

	Gallons Saved Per Day
Installation of a Hot Water Recirculation System	17

Total retrofit credits needed for a new single family home is 900 gallons

1. All structures on a parcel must be retrofitted at the same time.
2. A third bathroom in a house does not have to be retrofitted.
3. Replacement toilets must be rated at no more than 1.28 gpf.