

CALIFORNIA COASTAL COMMISSION

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W10d

Prepared November 20, 2008 (for December 10, 2008 Hearing)

To: Coastal Commissioners and Interested Persons

From: Dan Carl, District Manager
Mike Watson, Coastal Planner

**Subject: De Minimis Amendment Determination for City of Pismo Beach Local Coastal Program
Amendment Number 1-08 (Pismo Heights Density)**

City of Pismo Beach Proposed Amendment

The City of Pismo Beach is proposing to amend its certified Local Coastal Program (LCP) Land Use and Implementation Plans to allow subdivision of land within the medium and high density areas of the Pismo Heights planning district, and to rezone seven residential lots from medium density (R-2) to high density (R-3) (see Exhibit A for the proposed changes and Exhibit B for a map of these locations).

De Minimis LCP Amendment Determination

Pursuant to Coastal Act Section 30514(d), the Executive Director may determine that a proposed LCP amendment is “de minimis”. In order to qualify as a de minimis amendment, the amendment must meet the following three criteria:

1. The Executive Director determines that the proposed amendment would have no impact, either individually or cumulatively, on coastal resources, and that it is consistent with the policies of Chapter 3;
2. The local government provides public notice of the proposed amendment at least 21 days prior to submitting the amendment to the Commission, by one of the following methods: posting on-site and off-site in the affected area, newspaper publication, or direct mailing to owners and occupants of contiguous property; and
3. The amendment does not propose any change in use of land or water or allowable use of property.

If the Executive Director determines that an amendment is de minimis, that determination must be reported to the Commission. If three or more commissioners object to the de minimis LCP amendment determination, then the amendment shall be set for a future public hearing; if three or more commissioners do not object to the de minimis determination, then the amendment is deemed approved, and it becomes a certified part of the LCP 10 days after the date of the Commission meeting (in this case, on December 20, 2008).

The purpose of this notice is to advise interested parties of the Executive Director’s determination that the proposed LCP amendment is de minimis.



Each of the de minimis criteria is discussed briefly below:

1. No impact to coastal resources and consistency with Chapter 3 of the Coastal Act

The LCP allows for subdivision of residential property by minimum lot size and by residential density. In the first instance, an existing residential parcel may be subdivided if the newly created parcels meet the LCP's minimum lot size criteria (and any other applicable LCP and Coastal Act requirements).¹ If a parcel meets the LCP's minimum lot size criteria, then it can be further subdivided in terms of airspace condominiums only, provided that such airspace areas are consistent with the maximum residential density allowed (expressed in terms of a required minimum lot area per family unit). In other words, the parcel itself is not further subdivided, rather airspace condominiums can be created within the area associated with it. In either case, multi-family properties, such as those in the R-2 and R-3 area affected by the amendment, can be developed up to the maximum residential densities.

The LCP's Pismo Heights planning area is located inland of State Highway 101 near downtown Pismo Beach (see Exhibit B). Currently, subdivision is prohibited in the entire Pismo Heights planning area. The proposed amendment would lift the prohibition on subdivisions within the medium density (R-2) and high density (R-3) zone districts, potentially facilitating both forms of subdivision identified above (see proposed amendment in Exhibit A).²

The R-2 and R-3 area directly affected by the amendment is located on the lower reaches of the planning district immediately east of Highway 101 in an area that is developed with multi-family apartment housing. This area is already developed to near the LCP's allowed maximum residential density, so the proposed amendment is not expected to result in the creation of significant additional residential density beyond that already allowed (and constructed) under the current LCP. In other words, these areas can develop to the same LCP prescribed density under both the existing LCP and with the proposed amendment. The difference is that the proposed amendment would allow the units to be owned separately (as condominiums) while under the current LCP they are owned by a single entity (as multi-family apartments).

The primary potential for increased density under the amendment is in relation to the seven lots proposed for redesignation from R-2 to R-3 (see Exhibit B); six of the lots are 5,500 square feet and one lot is 12,675 square feet. The minimum lot area per family unit in the R-2 district is 2,000 square feet, and it is 1,450 square feet in the R-3 district. Thus, the amendment would result in a slight increase in allowed density for these seven lots. According to information provided by the City, four of the seven properties are currently non-conforming because they are already developed at the higher density. Thus,

¹ The Coastal Act's access and recreation policies are applicable for such development seaward of the first public road.

² By virtue of the way the amendment is structured, the prohibition on subdivision of public and semi-public lands would also be lifted. The public and semi-public lands are located in the southeast corner of the planning area in larger parcels (see Exhibit B). However, these lands could not be subdivided for residential purposes without an LCP amendment to redesignate the lands. Accordingly, the effect of the proposed amendment on these properties in this regard is negligible. Subdivision would continue to be prohibited for the low density and open space zone districts in Pismo Heights.



the redesignation would not facilitate additional density beyond that existing now on these four lots, rather it would allow such density to become conforming. The remaining three lots, if developed to the maximum density allowed under the proposed R-3 zoning, could potentially result in 4 additional units total. The redesignation would also allow for a greater building height (25 feet to 35 feet) and floor area (80% to 125%), and thus allow for a slightly greater overall development intensity for the seven lots.

However, as indicated, the subject area is already densely developed. Visibility of the affected properties from Highway 101 is also limited due to existing vegetation and topography, and the limited additional residential density and increased intensity facilitated by the amendment is unlikely to significantly affect the public viewshed. Furthermore, the slight increase in density is not expected to have significant impacts on traffic, public services, and other coastal resources. There also appears to be adequate public services to serve such potential additional residential density, and the potential for other impacts on coastal resources or public access to the beach and shoreline in Pismo Beach is less than significant.

Thus, the proposal will not have an adverse impact, either individually or cumulatively, on coastal resources, and it is consistent with the policies of Chapter 3 of the Coastal Act.

2. Provision of public notice

The City provided public notice in advance of both the Planning Commission hearing (held on December 11, 2007) and the City Council hearings (held on February 5, 2008 and February 19, 2008). For the Planning Commission hearing, notices were mailed to interested parties and newspaper advertisement notice was printed on December 1, 2007. For the City Council hearings, notices were mailed to interested parties and newspaper advertisement notices were printed on January 26, 2008 and February 9, 2008. In addition, the proposed text was made available in advance at the Planning Department front counter and the text was also made available on the City's website in advance of the Council hearings. The amendment submittal was subsequently received by Commission staff on March 21, 2008 thus satisfying the 21 day requirement.

3. No change in use of land or allowable use of property

No change in use or allowable use of property is proposed by this amendment.

Coastal Commission Concurrence

The Executive Director will report this de minimis LCP amendment determination, and any comments received on it, to the Coastal Commission at its December 10, 2008 meeting at the San Francisco City Hall Legislative Chamber (Room 250) at 1 Dr. Carlton Goodlett Place in San Francisco. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact Mike Watson at the Central Coast District Office in Santa Cruz. If you wish to comment on and/or object to the proposed de minimis LCP amendment determination, please do so by December 5, 2008.



Procedural Note

The Coastal Act: (1) requires the Commission to act on IP amendments within 60 days of their file date, and on LUP amendments or combined LUP/IP amendments within 90 days of their file date; (2) deems amendments approved and certified by the Commission if such action deadlines are not met; and (3) allows the Commission to extend, for good cause, such action deadlines for up to one year (Sections 30512, 30513, and 30517).

This proposed LCP amendment was filed as complete on September 17, 2008. It is a combined LUP/IP amendment and the 90-day action deadline is December 16, 2008. If three or more commissioners object to the de minimis LCP amendment determination, and this item is to be held over for a subsequent public hearing, then the Commission will need to extend the deadline for Commission action or have the amendment be approved and certified as submitted. Thus, in such event, Staff recommends that the Commission extend the deadline for Commission action by one year (i.e., to December 16, 2009). The following motion is provided only for this contingency (and is not applicable otherwise):

Motion. I move that the Commission extend the time limit to act on City of Pismo Beach Local Coastal Program Amendment Number 1-08 to December 16, 2009.

Staff Recommendation. Staff recommends a **YES** vote. Passage of the motion will result in a new deadline for Commission action on this proposed LCP amendment of December 16, 2009. An affirmative vote of a majority of the Commissioners present is needed to pass the motion.

Exhibits:

Exhibit A: Proposed Changes to LCP

Exhibit B: Pismo Heights Planning Area



RESOLUTION NO. R-2008-006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PISMO BEACH
APPROVING AN AMENDMENT TO GENERAL PLAN/LOCAL COASTAL PLAN
POLICY LU-P-5 (C) WHICH PROHIBITS THE CREATION OF
NEW RESIDENTIAL LOTS IN PISMO HEIGHTS

WHEREAS, on December 11, 2007, The Planning Commission and on February 5, 2008, the City Council held noticed public hearings on an amendment to the General Plan/Local Coastal Plan policy LU-P-5(c) which prohibits the creation of new residential lots in Pismo Heights (the project) as follows, with the additional language noted in bold:

- 1) "No new residential lots shall be permitted to be created by subdivision of lands within the low density and open space sections of the Pismo Heights planning area, as shown on General Plan/Local Coastal Plan Figure LU-23 including adjacent land area "E" as shown on Figure GM-10, in the event that area is added to the City in the future."

WHEREAS, the project is exempt pursuant to CEQA section 15305 (Class 5) as the medium and high density areas of the project have average slopes of less than 20% and do not result in a change of land use or density; and

WHEREAS, the City has complied with the State of California requirements for consultation with local tribes to consider whether a proposed general plan amendments will have an impact on native resources.

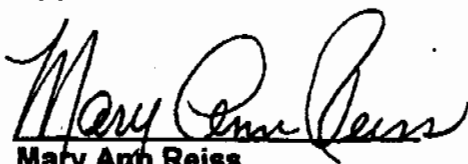
NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pismo Beach hereby approves the project.

UPON MOTION OF Councilmember Ehrling seconded by Mayor Pro Tem Higginbotham the foregoing resolution was passed, approved and adopted by the City Council of the City of Pismo Beach this 5th day of February 2008, by the following roll call vote:

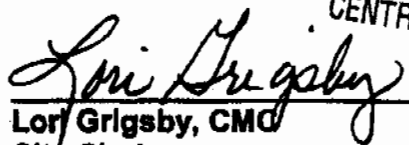
AYES: 5 Councilmembers: Ehrling, Higginbotham, Rabenaldt, Vardas,
Reiss

NOES: 0
ABSENT: 0
ABSTAIN: 0

Approved:


Mary Ann Reiss
Mayor

Attest:


Lori Grigsby, CMC
City Clerk

RECEIVED

MAR 21 2008

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RESOLUTION NO. R-2008-010

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PISMO BEACH
AMENDING THE 1992 GENERAL PLAN/LOCAL COASTAL PLAN LAND USE
DESIGNATION FROM MEDIUM DENSITY RESIDENTIAL TO HIGH DENSITY
RESIDENTIAL FOR SEVEN (7) RESIDENTIAL LOTS IN THE PISMO HEIGHTS
PLANNING AREA**

WHEREAS, the City of Pismo Beach ("Applicant") initiated a General Plan/Local Coastal Plan amendment for a land use designation change for seven residential lots for seven residential lots from Medium Density Residential to High Density Residential ("the project"); and

WHEREAS, Planning Commission October 9, 2007, and City Council February 19, 2008 held noticed public hearings were held, at which all interested persons were given the opportunity to be heard on the project; and

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby amends the 1992 General Plan/Local Plan Land Use Designation from Medium Density Residential to High Density Residential for seven (7) residential lots in the Pismo Height Planning Area from 521-581 Wadsworth Street. The amendments to the Local Coastal Program are intended to be carried out in a manner fully in compliance with Division 20 of the Public Resources Code, otherwise known as the Coastal Act with the following findings:

1. There are no site constraints or other factors that would create the potential for significant environmental impacts as a result of the project.
2. An environmental initial study and Negative Declaration was adopted for the project by Resolution No. R-2008-009 on February 19, 2008 and the City Council finds that no further study is needed.
3. The amendments are consistent with the Coastal Act.

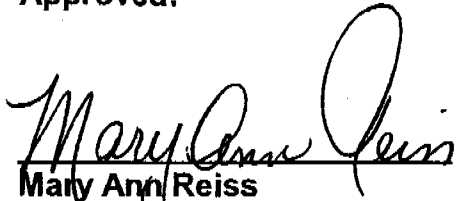
THE CITY COUNCIL HEREBY:

- 1) Approves the Project (attached Exhibit 1)
- 2) Directs staff to forward the amendments to the Local Coastal Program (LCP) to the California Coastal Commission for certification following approval of the second reading. The LCP amendments shall take effect immediately upon Coastal Commission certification, consistent with Public Resources Code Sections 30512, 30513, and 30519.

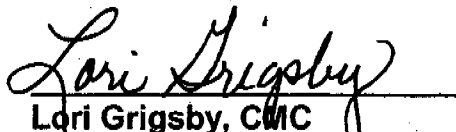
UPON MOTION OF Councilmember Vardas seconded by Councilmember Rabenaldt the foregoing resolution was passed, approved and adopted by the City Council of the City of Pismo Beach this 19th day of February 2008, by the following roll call vote:

AYES:	3	Councilmembers: Vardas, Higginbotham, Reiss
NOES:	2	Councilmembers: Ehring, Rabenaldt
ABSENT:	0	
ABSTAIN:	0	

Approved:

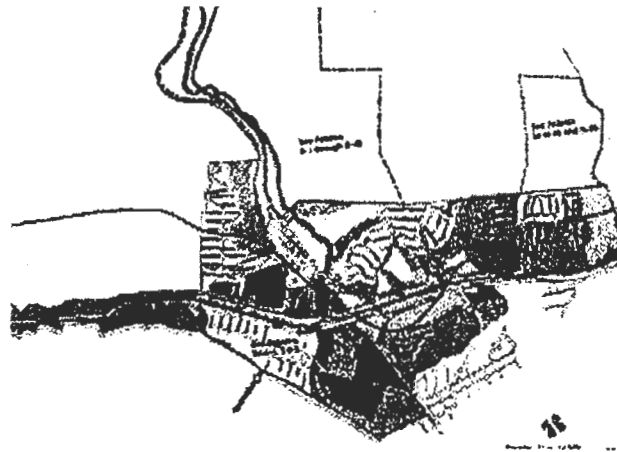
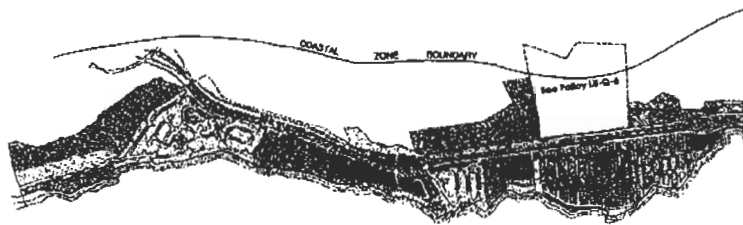
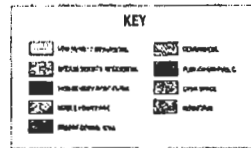

Mary Ann Reiss
Mayor

Attest:


Lori Grigsby, CMC
City Clerk

1992 GP/LCP Land Use Map Changes, Figures LU-2 and LU-23

Land Use Figure LU-2
PISMO BEACH GENERAL PLAN



ORDINANCE NO. O-2008-003

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PISMO BEACH
AMENDING THE 1983 ZONING MAP TO CHANGE FROM A R-2 ZONING DISTRICT
TO R-3 ZONING AND THE 1998 ZONING MAP TO CHANGE FROM A RR-L ZONING
DISTRICT TO RR-H ZONING FOR SEVEN (7) RESIDENTIAL LOTS IN THE PISMO
HEIGHT PLANNING AREA**

WHEREAS, the City of Pismo Beach ("Applicant") initiated amendments to the 1983 Zoning Map to change from a R-2 Zoning District to R-3 Zoning and the 1998 Zoning Map to change from a RR-L Zoning District to RR-H Zoning for seven (7) residential lots ("the project"); and

WHEREAS, the Planning Commission October 9, 2007 and City Council on February 19, 2008 held noticed public hearings, at which all interested persons were given the opportunity to be heard on the project; and

NOW, THEREFORE, BE IT RESOLVED the City Council hereby amends the 1983 Zoning Map to change from a R-2 Zoning District to R-3 Zoning and the 1998 Zoning Map to change from a RR-L Zoning District to RR-H Zoning for seven (7) residential lots in the Pismo Height Planning Area from 521-581 Wadsworth Street. The amendments to the Local Coastal Program are intended to be carried out in a manner fully in compliance with Division 20 of the Public Resources Code, otherwise known as the Coastal Act with the following findings:

1. There are no site constraints or other factors that would create the potential for significant environmental impacts as a result of the project.
2. An environmental initial study and Negative Declaration was adopted for the project by Resolution No. R-2008-009 on February 19, 2008 and the City Council finds that no further study is needed.
3. The amendments are consistent with the Coastal Act.

THE CITY COUNCIL HEREBY:

- 1) Approves the project. (attached Exhibit 1)
- 2) Directs staff to forward the amendments to the Local Coastal Program (LCP) to the California Coastal Commission for certification following approval of the second reading. The LCP amendments shall take effect immediately upon Coastal Commission certification, consistent with Public Resources Code Sections 30512, 30513, and 30519.

INTRODUCED at a regular meeting of the City Council held this 19th day of February, 2008, on motion of Councilmember Vardas, seconded by Mayor Pro Tem Higginbotham, and on the following roll call vote, to wit:

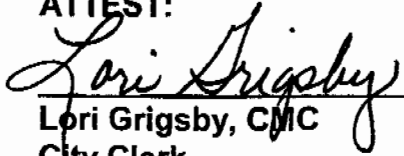
AYES:

NOES:

ABSENT:

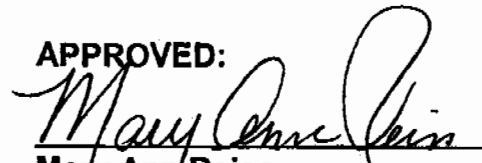
ABSTAIN:

ATTEST:



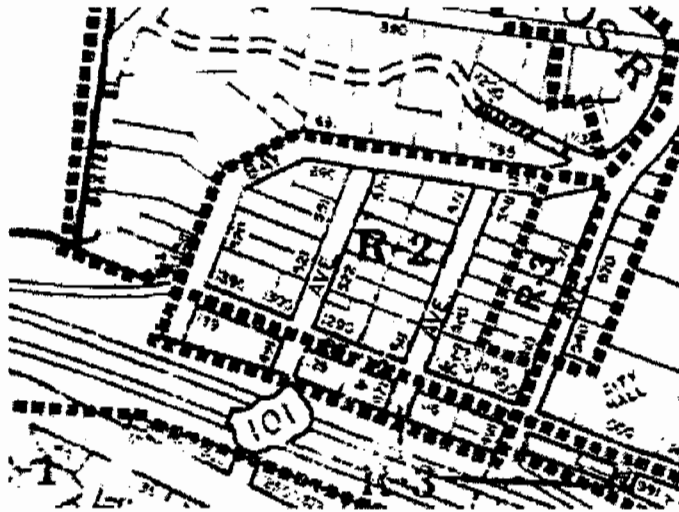
Lori Grigsby, CMC
City Clerk

APPROVED:



Mary Ann Reiss
Mayor

1983 Zoning Ordinance Map Amendment



1998 Zoning Ordinance Map Amendment

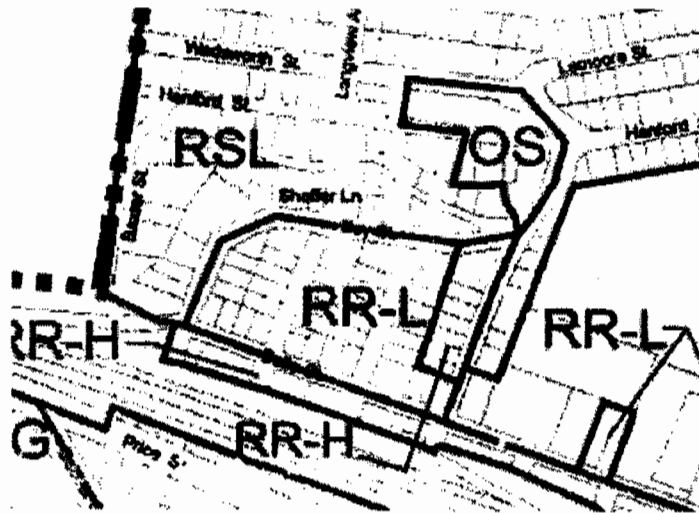
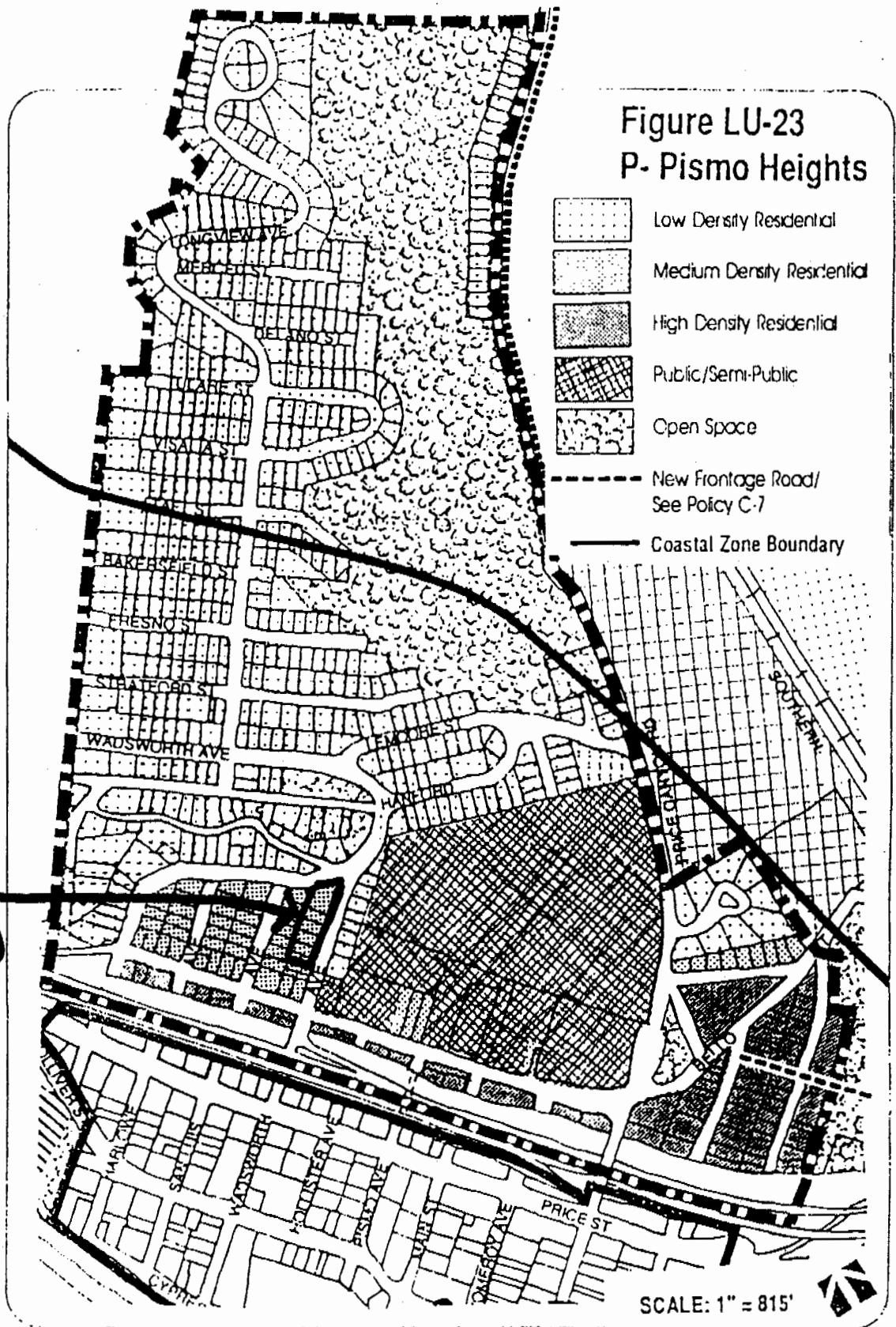


Figure LU-23
P- Pismo Heights



LU-59