

CALIFORNIA COASTAL COMMISSION

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F4a

Appeal Filed:	12/02/98
49th Day:	1/20/99
Staff:	DSL/CL-SC
Staff Report:	11/14/99
Hearing Date:	12/10/99
Commission Action:	
Open and Continue:	1/13/99
Substantial Issue:	3/11/99
Jurisdiction:	9/15/99
Revised Findings:	11/17/99

**STAFF REPORT: REGULAR CALENDAR
 REVISED FINDINGS: APPELLATE JURISDICTION**

APPLICATION: A-3-SLO-98-108, TRACT 1646

APPLICANT: NOEL RODMAN AND RON HOLLAND

PROJECT DESCRIPTION: Establishment of Commission appellate jurisdiction over the extension of the coastal development permit for Tract 1646 for a period of five years; and revisions to conditions imposed on the original permit relative to the provision of sewer and water to the 100-lot subdivision at the time the final map is presented for filing.

PROJECT LOCATION: Northerly side of Los Osos Valley Road, (19 acre site between Pecho Road and Monarch Lane), Los Osos, San Luis Obispo County.

LOCAL APPROVALS: Board of Supervisors Resolution to grant a five-year extension for the Tentative Map and coastal development permit for Tract 1646 and Board Minutes of 8/25 and 9/22/98 documenting the action to amend conditions attached to the original project.

FILE DOCUMENTS: San Luis Obispo Certified LCP, San Luis Obispo Board Resolution No. 98-336, Minutes of the Board of Supervisors hearing on the project on 9/22 and 8/25/98, Coastal Commission Appeal File A-4-SLO-91-2, San Luis Obispo County file on Tract 1031 and Tract 1646. Database entry items for San Luis Obispo and San Mateo County Notices of Final Local Action on Coastal development permits, Monterey County Certified LCP, Title 20, County Zoning Code, and Los Osos Sewer Appeal, A-3-SLO-97-40. Transcript of 9/15/99 Commission Hearing on A-3-SLO-98-108.

COMMISSIONERS ON PREVAILING SIDE: Wan, Desser, Dettloff, Allgood, Flemming, Kruer, Potter, Orr, Reilly, Daniels

PROCEDURAL NOTE

On March 11, 1999, the Coastal Commission determined that an appeal of the San Luis Obispo Board of Supervisors action to extend and amend the tentative map/coastal development permit for Tract 1646 raised a substantial issue with respect to the action's conformance with the County's certified Local Coastal Program. When the applicant objected at the March 11, 1999 hearing that the Commission had no jurisdiction under Public Resources Code section 30603, the Commission indicated that it would consider the applicant's jurisdictional argument at the time of the de novo hearing. On August 25, 1999 the Superior Court of San Luis Obispo County directed the Commission to consider the applicant's jurisdictional argument prior to its de novo review of the applicant's project. On September 15, 1999 the Commission conducted a public hearing on the issue of jurisdiction. At the conclusion of the hearing, the Commission, based on the staff recommendation and testimony taken at the hearing, found that it had jurisdiction over the County's action on this project.

SUMMARY OF STAFF RECOMMENDATION

Jurisdiction. The Commission has jurisdiction over this appeal under Public Resources Code section 30603. Section 30603 provides that the Commission has jurisdiction over "an action taken by a local government on a coastal development permit application" that fits into one of the categories enumerated in section 30603. The County's decision to extend the permit and amend permit conditions constitute "an action" under section 30603. Further, the Commission has jurisdiction over the County's action under subsection (a)(4) of section 30603 because the County's action involves a development (i.e., a subdivision) that is not listed as a principal permitted use in the County's LCP.

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I. STAFF RECOMMENDATION

A. REVISED FINDINGS: APPELLATE JURISDICTION

Staff recommends that the Commission adopt the revised findings in support of its appellate jurisdiction to review the County's action on the request to extend and amend permit A-3-SLO-98-108.

Motion on the revised findings:

I move that the Commission adopt the following revised findings regarding jurisdiction over appeal A-3-SLO-98-108 under Public Resources Code section 30603.

Staff recommends a **YES** vote on the motion. The effect of a yes vote on the motion will be to adopt the revised findings. A majority of the Commissioners prevailing on the jurisdiction issue is required to approve the motion. Commissioners eligible to vote on the revised findings are Commissioners Wan, Desser, Dettloff, Allgood, Flemming, Kruer, Potter, Orr, Reilly and Daniels.

Resolution:

The Commission hereby finds that it has jurisdiction of this appeal under Public Resources Code section 30603(a)(4) and adopts revised findings to support its jurisdiction that are set forth in the staff report.

II. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION, HISTORY OF LOCAL AND COASTAL COMMISSION ACTIONS

The project amended by the County in their September 22, 1998 action is a 100-lot subdivision of three parcels (APN 74-430-01,16 and 74-022-22) totaling 19.4 acres. The proposed lots range in size from 6,000 square feet to 11,600 square feet. Various subdivision improvements (roads, utilities and limited grading) are also part of the approved project. The project does not include the construction of any homes on the parcels and it is unknown if the developer will sell the lots to individuals or seek permits to construct homes himself after the final map for the subdivision is filed. The final map cannot be filed until a number of conditions attached to approval of the tentative map have been satisfied.

1. Site Information

The site is in Los Osos-Baywood Park, an unincorporated area of San Luis Obispo County located along the lower reaches of Morro Bay that is partly developed with residential uses. (Please see Exhibit 1, Location Map.) Land uses surrounding the site include residential uses on lots of varying size to the east, west and south. The Sea Pines Golf Course is nearby to the northwest. Vacant land lies between the site and Morro Bay, some 1,500 feet to the north. (Please see Exhibit 2, Land Use

Map.) The three parcels that make up the site are zoned for single family residential use. The Certified LCP allows minimum parcel sizes of 6,000 square feet for this site if consistent with other plan policies. Currently the nearly flat site contains an older residence and a couple of outbuildings. Recent site inspections also revealed the presence of a golf driving range on the westerly half of the site, although the history of this development is as yet unclear.

Constraints on the site include its location within the "Prohibition Area" designated by the Regional Water Quality Control Board to prohibit the addition of any more septic systems into the area. A permit for a sewer plant to serve this area is currently under consideration by the Commission (Los Osos Wastewater Treatment Project, A-3-SLO-97-40). A Community Service District has been recently formed to carry through on development of a sewer project which will alleviate the impacts of the current method of sewage disposal and allow additional infill development in Los Osos.

2. History of the Project

This project has a very lengthy history that began several years before the San Luis Obispo LCP was certified. The present project was finally approved by operation of law on January 5, 1991 even though it was the subject of a hearing and action before the Subdivision Review Board in November and a hearing before the Board of Supervisors in December 1990. At the December 1990 hearing, the Board agreed not to act on the project, which had been recommended for denial by the Subdivision Review Board, if the applicant would revise the project description to include various "project features" that addressed particular concerns of the Board. These "features" became what are now referred to as project conditions. A history of this project follows.

Tract 1091: Tract 1091 was the predecessor project to Tract 1646, which is the subject of this appeal. It is important to understand the history of Tract 1091 because the applicant's position is that Tract 1646 is an identical project.

Tract 1091 was submitted for county review in 1983 and proposed subdividing the 19.4 acre parcel into 76, 6,000 square foot lots for 38 duplexes and one 4.4 acre parcel to be developed as a small shopping center. Wastewater treatment was to be provided by an on-site "package plant." In November 1983, a Draft EIR was released for this project and noted that "the proposed method of effluent disposal will have significant deleterious effects on local ground water." In their response to the DEIR, the Regional Water Quality Control Board noted a number of concerns with the proposed wastewater treatment system and concluded "that seepage pits as designed may pose a health hazard."

After the DEIR was released, the project was revised to replace the commercial development and the duplex lots with a 100-lot subdivision for single family home development. Staff has not discovered any addendum or supplement to the 1983 DEIR that addresses the revised project. The 1983 DEIR did, however, include a brief discussion of use of the site for 57 single-family lots in the section on alternatives to the proposed project. The DEIR noted that this less intensive use of the site would have fewer impacts than the 76 duplex lot and commercial subdivision proposed by the applicant.

Tract 1091 was approved by the county in December 1985 as a 100-lot subdivision which would be served by an on-site wastewater "package plant" and would be provided water by the local water company. The applicant submitted the project to the Coastal Commission for review as the San Luis Obispo County LCP was not yet fully certified. Commission staff prepared a recommendation

for denial of the subdivision citing wastewater treatment and potable water service as major issues. The applicant withdrew the application before the Commission could act on it. At the same time, the applicant was attempting to get Regional Board and County Health Department approval for a wastewater treatment system to serve the subdivision. By mid-1987, approval had still not been obtained, and the Regional Board stated that it could not prepare the wastewater discharge requirements until the applicant demonstrated that "the development is legally limited to 42 dwelling units" and that a public district had been formed to run the plant.

The record for Tract 1091 seems to end in mid-1987; however, a county staff report, prepared in November 1990 for Tract 1646, stated that the tentative map for Tract 1091 was still valid pursuant to Government Code Section 66452.6 (development moratorium).

Tract 1646: On March 31 1988, San Luis Obispo County assumed the authority to issue local CDPs under their now fully certified LCP. In September 1988, the applicant submitted an application for a vesting tentative map and a CDP for Tract 1646, a 100-lot subdivision substantially the same as Tract 1091. The application states that the project will rely on a community system for wastewater disposal and for water service. The proposed subdivision map, prepared by Westland Engineering, dated March 1989, shows a "package plant" on lot 95. An undated revision to this map shows 16 seepage pits/septic system on lots 45 and 46. It can thus be surmised that the applicant's interpretation of "community system" for waste water disposal did not encompass any greater area than their 19 acres. The County accepted the application for processing on June 25, 1989.

The record reflects that the County staff believed that circumstances in the Baywood Park- Los Osos area had changed since the EIR for Tract 1091 had been prepared and that a supplement to that EIR was required to address wastewater, water and traffic concerns. The applicant balked at this requirement and instead offered to submit additional information on these issues, particularly traffic. Activity on processing the application slowed pending receipt of the desired information and it appears the project languished for over a year. The traffic information, promised by the applicant , was finally received in November 1990, after notice by the project proponents that they would seek approval of the map and CDP by operation of law. Information regarding water and wastewater disposal was never received and a supplement to the old EIR was never prepared.

On November 5, 1990, the applicant provided the county with the appropriate notice under the Permit Streamlining Act (PSA) that Tract 1646 would be approved by operation of law unless the County acted on the proposal within 60 days (i.e, by January 4, 1991). The County prepared a staff report, recommending denial based on various inconsistencies with County planning and zoning standards and because the significant impacts of sewage disposal, traffic and water supply were unmitigated. The item was heard by the Subdivision Review Board at their November 30, 1990 meeting and was unanimously denied. The Subdivision Committee then referred the item to the Board of Supervisors with its recommendation that the Board deny it as well. The project was set for hearing before the Board of Supervisors on December 11, 1990.

Project Revisions: During the period between the filing of the PSA notice and the Board of Supervisors hearing, the applicant made a number of changes to the project in an attempt to avoid denial of the tentative map and coastal development permit. These revisions are documented in the following paragraphs:

- **Letter, November 30, 1990, John Belsher to Terry Wahler:** This letter was from John Belsher, the applicant's legal representative to Terry Wahler, the planner handling the item for the County. In the letter, Mr. Belsher refers to an earlier conversation with Mr. Wahler regarding "clarifications" to features of the project. The letter then goes on to memorialize these "clarifications." Of most interest to the Commission are those which deal with sewer and water infrastructure. Regarding sewage disposal, Mr. Belsher clarifies that although the tract map shows certain lots "as set aside as sewage disposal pits . . . by this letter, the project contains only such sewer system as may be approved by the Regional Water Quality Control Board Accordingly, there is no need for designation of sewage disposal pits and the designations should be dropped from the map." Regarding the water service issue, Mr. Belsher states, "The applicant also agrees to abide by County requirements for water supply in effect at the time approval of the final map is sought."

Mr. Belsher also attached draft recommended Findings and Conditions to this letter for the County's use. His suggested Condition 1 states "This project shall connect to a sewer system approved by the RWQCB for the State of California, such that the present RWQCB moratorium on new construction is lifted." Suggested Condition 2 states "The applicant will be required to demonstrate an adequate water supply consistent with the County policy in effect at the time the final map is filed."

- **Letter, November 30, 1990, John Belsher to Terry Wahler:** The contents of this letter are virtually identical to that of November 27, 1990 discussed above. In this letter, Mr. Belsher, wants the county to understand the exact status of the "clarifications" and proposed conditions contained in the November 27, 1990 letter. He therefore states "The following clarifications [described in the Nov. 27 letter] are intended to be incorporated into the project, in addition to having independent status as conditions. This approach is intended to address the concern that certain conditions may not be imposed as part of a vesting tentative map approval." The letter goes on to repeat the various clarifications and proposed conditions.
- **Letter, December 7, 1990, John Belsher to Evelyn Delany, Chair, and Members of the Board of Supervisors:** In this letter to the Board, Mr. Belsher explains that the "applicant has offered clarifications to his project and conditions to final map approval which alleviate central concerns expressed in the staff report". He goes on to say that these clarifications and conditions are set forth in his November 30, 1990 letter to Terry Wahler, a copy of which "is supposed to appear in your packets."
- **Letter, December 3, 1990, John Belsher to Nancy French:** This letter, to a Deputy County Counsel, was written in response to the concern that the County could not approve the project as modified by the applicant in the recent letters to Terry Wahler because of perceived inconsistencies with Map Act provisions regarding vesting tentative maps. Mr. Belsher notes that the County seems particularly concerned with the modifications relevant to sewage disposal, traffic and water supply. As a preface to this lengthy letter, he states "The purpose of this letter is to demonstrate the legal authority of the Board to approve the application with said Modifications. Moreover, this letter will demonstrate that even if the project is approved by operation of law, the applicant will be bound by the Modifications."

SRB Meeting: The Subdivision Review Board met on November 30, 1990 to hear the project and make a recommendation to the Board of Supervisors on it. The minutes of that meeting state that Mr. Belsher "submits a letter dated November 30, 1990 that contains modifications and conditions and would like the statement to reflect the changes in the project". Staff suggested that the applicant was proposing a revised project "since the applicant . . . desires to pursue hooking up to a community sewer system approved by the Regional Water Quality Control Board instead of the seepage pits shown on the map." At the conclusion of the hearing, the SRB voted 4-0 to deny the project.

1990 Board of Supervisors Hearing: The project was then scheduled for a hearing before the Board of Supervisors. The staff report prepared for the SRB hearing was provided to the Board along with the SRB recommendation that the project be denied. This staff report, dated November 14, 1990, was prepared before the applicant offered his modifications and conditions to the project and thus it does not discuss the revisions. The report was up-dated by a cover letter to the Board that stated that "the applicant's representative has indicated a desire to propose a substantially different method of waste water disposal." A copy of John Belsher's letter laying out the various revisions was also provided to the Board.

The staff report was presented and a number of representatives from County agencies and members of the public spoke in support of the recommendation. Major issues were wastewater disposal, water service, traffic and the need for supplemental CEQA information to address these and other issues. The applicant's team, including his legal advisor, Mr. Belsher, presented the revisions to the project outlined in his November 30, 1990 letter to Terry Wahler and asked that the Board accept these "clarifications." After hearing from opponents and proponents, Supervisor Coy made a motion that Tract 1646 be "deemed approved" and that the applicant voluntarily incorporate a somewhat revised version of the "clarifications" or "proposed conditions" offered by Mr. Belsher in his November 30, 1990 letter. County Counsel advised that, before the Board acted, the revisions should be memorialized in writing. The item was then trailed to allow this to be accomplished. Later in the day, the hearing on Tract 1646 was resumed. Mr. Belsher brought back a document reflecting the Board's suggestions for revisions to the "clarifications" and "proposed conditions" outlined in the November 30th letter. Mr. Belsher proposed that the conditions of approval be retitled as "Additional Project Description." The Board then voted to recognize the project description as described by the applicant. In a subsequent vote, the Board voted to take no further action on the item. The project was approved by operation of law 25 days later on January 5, 1991, the termination of the 60 day notice period outlined in the Permit Streamlining Act. Relevant documents related to this action include the minutes of the December 11, 1990 Board meeting and the final revised "project description" containing 31 modifications submitted at that hearing.

1991 Commission Appeal: The project was appealed to the Coastal Commission on January 11, 1991 by local appellants. The Commission did not appeal the item separately. A staff report was prepared recommending denial and was distributed to interested parties. One week before the item was scheduled for hearing by the Commission, the local appellants withdrew their appeal and the approval by operation of law stood. The County considers that the Tentative Map and CDP became effective on June 14, 1991 (the date the withdrawal of the appeal was apparently reported to the Commission).

1993 Extension of Tract 1646: On September 1, 1992, the applicant's representative wrote to the County requesting that the County concur with his opinion that provisions in the Subdivision Map Act provided for an automatic extension of up to five years for his map and CDP because there was a development moratorium in effect in Los Osos. (Government Code Section 66452.6(b)(1)). In the body of the letter, the applicant's representatives reiterated that Tract 1646 was bound by the conditions of approval to connect to a sewer system to be approved by the RWQCB. (Letter to Alex Hinds from Carol Florence.) In his November 2, 1991 response to Ms. Florence's letter, Mr. Hinds stated that the County position was that the cited section of the Map Act was not applicable to Tract 1646 because it extended only to those maps that were approved before a moratorium was established. The RWQCB moratorium was established on January 8, 1988, long before an application for Tract 1646 was submitted for county review and three years before Tract 1646 was approved. The letter went on to advise the applicant to apply for a time extension under County ordinance and noted that such an extension request could trigger the need for additional environmental work to comply with CEQA. The applicant (Jerry Holland to Alex Hinds, November 16, 1992) responded with a request for an appeal of the Planning Director's decision on the five-year automatic extension, and a promise to work on an EIR update for the project. Mr. Holland also implied that an application for an extension under County ordinances, as suggested in Mr. Hinds' letter, might be forthcoming. On December 18, 1992, this request for an extension was made for both Tract 1091 and Tract 1646. (Letter, Terence Orton to Pat Beck, SLO Planner.)

The initial hearing on the appeal of the Planning Director's determination was set for January 26, 1993. A staff report was prepared recommending denial of the appeal based on a detailed analysis of the pertinent Map Act sections. Finding #1 of this 1993 County staff report states that "connection to a community-wide system was included as part of the project description provided by the applicant." The hearing was continued to February 9, 1993, largely due to receipt of a lengthy analysis of the applicability of the Map Act provisions for extension prepared by the applicant's legal representative, Roger Lyon. This analysis concluded that the five-year extension was applicable to Tract 1646, not because of the RWQCB moratorium but because the County had failed to issue the bonds needed to fund the community sewer plant. This failure prevented recordation of the final map thus triggering the provisions of Government Code 66452.6(f) that allow for a five-year extension.

The Board considered the appeal again on February 9, 1993. The staff recommendation was revised to recommend approval based on Mr. Lyon's January 25th letter. In order to make the required CEQA Finding, the Board concluded that the 1984 EIR prepared for Tract 1091 was adequate to support the 1990 approval by law. The Finding identifying the project described it as a tract map/coastal development permit that included the conditions submitted in December 1990. Finding #18 advised the applicant that "If in the future, the project requires further discretionary action, the project shall comply with all applicable laws, including the laws pertaining to further environmental review in effect at the time of the discretionary action." The approval extended Tract 1646/CDP until June 13, 1996 (unless sewer bonds were sold before that date, which they weren't). The findings then noted that the day after the development moratorium ends, the two-year period of time normally granted as part of Map/CDP approval will begin. Thus the project was valid through at least June 13, 1998.

1998 Extension and Amendment of Tract 1646: In November 1997, Ron Holland, the current applicant, requested a five-year time extension for Tract 1091/1646. (Letter, Ron Holland to Pat

Beck.) At some point during this period, the applicant also requested a staff "interpretation" of some of the project conditions attached to the 1990 permit relevant to sewage disposal, water service and other issues. The Planning Commission heard the extension request and gave the applicant a three-year extension. The Planning Commission also upheld the staff interpretation of the project conditions that required the applicant to comply with water policies in effect at the time the final map was presented for recording and precluded recording of the final map until community-wide sewage treatment facilities were available for connections. Both of these Planning Commission decisions were appealed to the Board of Supervisors by the applicant.

A staff report was prepared for the August 25, 1998 Board hearing on the appeal of the staff interpretation of five project features and the extension of the tentative map and the CDP. The Board held a hearing on the appeals on August 25, 1998 and, by a series of "tentative" motions, directed staff to return with language generally supportive of the applicant's request. The hearing was continued to September 22, 1998 at which time the Board affirmed its earlier decision to approve a five-year extension and most of the applicant's "interpretations" of project features.

Local residents and two Commissioners have appealed the Board's decision to grant the five-year extension and to allow amendments to the permit conditions.

B. THE COMMISSION'S APPELLATE JURISDICTION

On March 11, 1999 the Commission determined that the County's action on Tract 1646 raised a substantial issue regarding conformity with the Certified San Luis Obispo LCP. It deferred consideration of the applicant's challenge to the Commission's jurisdiction under PRC section 30603 until the de novo hearing. The applicant has since filed suit, challenging the Commission's jurisdiction over this appeal. At a hearing on August 25, 1999 the San Luis Obispo County superior court did not address the applicant's argument that the Commission lacked jurisdiction under PRC section 30603. Instead, the Court directed the Commission to address the matter of its jurisdiction under section 30603 before conducting its de novo review of the project. The Commission now addresses the jurisdictional issues under section 30603.

1. Jurisdiction Under Public Resources Code Section 30603

The staff report for the March 11, 1999 meeting contained proposed findings that were prepared in the event the Coastal Commission wanted to vote on the substantial issue question. The proposed findings were not adopted because the Commission did not formally vote on the issue. The Coastal Act, in section 30625(b)(2), does not require a formal hearing and vote on the question of substantial issue. Indeed the statute says that the Commission "shall hear an appeal unless it determines that no substantial issue exists". Thus, the statute favors appeals. Once a matter within the Commission's appellate jurisdiction has been appealed to the Commission, the Commission must hear the matter de novo unless the Commission affirmatively finds that the matter does not raise a substantial issue and declines to hear the appeal.

The Commission's consideration of an appeal is conducted in the following manner. It is the practice of the Chairperson to inquire if any commissioners would like to discuss whether the appeal presents a substantial issue. If fewer than three commissioners raise a substantial issue

question, the Commission proceeds to a hearing on the merits of the appeal without a formal hearing and vote on the substantial issue question. Any findings needed to support the Commission's appellate jurisdiction are then included in the findings on the merits of the Commission's de novo permit action.

Challenges to the Commission's jurisdiction under section 30603 are unusual and the Commission's regulations do not address when the Commission must address such a jurisdictional challenge. When the applicant at the March 11, 1999 hearing raised the question whether the Commission had jurisdiction under section 30603, the Commission deferred consideration of the applicant's argument until the de novo hearing. Consequently, even had the superior court not issued its order, the Commission would have considered the applicant's jurisdictional challenge before undertaking its de novo review of the matter under appeal.

Section 30603 provides in pertinent part:

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

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

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

(3) Developments approved by the local government not included within paragraph (1) or (2) that are located in a sensitive coastal resource area.

(4) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500).

(5) Any development which constitutes a major public works project or a major energy facility.

In this case, the issue of the Commission's jurisdiction raises two questions: (1) Is the decision of a local government to amend or extend a permit an appealable action under section 30603 and (2) if so, does the County's action to extend and amend the applicant's coastal permit for a subdivision fall within one of the categories of appealable development contained in section 30603? (i.e. are subdivisions appealable?)

The Decision of a Local Government To Amend or Extend a Permit Is An Action of Local Government That May Be Appealed Under Section 30603. At the court hearing on August 25, 1999, the trial court raised an issue that the applicant had not raised before the Commission--whether the extension or amendment of a permit is the type of local government action that may be appealed under section 30603. The language, administrative practice and policy supporting the Coastal Act require that this question be answered in the affirmative.

First, as explained by Chief Counsel Faust at the hearing¹, the language of section 30603 includes the decision of a local government to amend or extend a permit. Please see Ex. 3, transcript of Mr. Faust's remarks pg. 20-24, the reasoning of which the Commission adopts as its own. Section 30603 refers broadly to "an action taken by a local government on a coastal development permit application." A decision taken by a local government in response to an application to amend or extend a coastal development permit therefore readily meets the definition of "an action taken" by a local government (see also, LCP Ordinance 23.01.043(c) which also provides broadly for appeal of "decisions by the County on a permit application . . .").

Second, the Commission's longstanding administrative practice has treated appeals from decisions of local government to amend coastal development permits as appealable under section 30603. Examples of such appeals include A-3-MCO-98-109 (Leslie) and A-3-SCO-90-101 (City of Watsonville). This appears to be the first time that a local government decision to extend a permit has been appealed to the Commission, so there is no similar administrative practice with regard to permit extensions.

Third, there are strong policy considerations to support the Commission's conclusion that permit amendments or extensions are appealable, because any other construction of section 30603 would defeat the intent of the Coastal Act to secure Commission oversight of certain types of development. For example, assume that a County approved a CDP on the condition that the applicant mitigate project impacts by creating wetland habitat. Further assume that this action was consistent with the LCP, and therefore no appeal to the Commission was filed and the ten working day appeal period passed. Later, the County approved an amendment to the CDP deleting the mitigation program. If the Commission had no appeal jurisdiction over local government decisions to amend a permit, a local government could defeat the purpose of the LCP policies and implementing ordinances by simply approving an amendment to delete the condition originally needed for LCP consistency and consequently avoid an appeal. Similar reasons support appellate review of local government decisions to extend a permit in a situation where changed circumstances demand a reexamination of whether a previously issued permit still meets the policies of the LCP.

The Commission therefore finds that of local government actions to amend or extend a coastal development permit are within the scope of section 30603.

The Commission has appellate jurisdiction under section 30603(a)(4). The staff report for the March 11, 1999 hearing stated that the project was appealable for two reasons : (1) under Public Resources Code Section 30603(a)(1) because the site was located between the first public road and the sea and (2) under Section 30603(a)(4) because the project being extended and amended (a 100-lot subdivision) was not listed as the principal permitted use for the zone district in which it is located.

The applicant and the County have submitted letters and graphics in support of their argument that the project site is no longer located between the first public road and the sea. (Please see Exhibits 4 and 5.) Commission staff has carefully reviewed these materials and determined that the adopted post-certification map for the project site is in error. Due to new road construction of Skyline Drive, the Holland site land is no longer within the geographic appeal area described in PRC

¹ Chief Counsel Faust comments on jurisdiction are found in the transcript attached as Exhibit 3 and are, by reference, incorporated into these findings.

Section 30603(A)(1). In 1991, Skyline Drive, pursuant to a valid CDP, was improved and accepted into the county road system. The geographic appeal area based on section 30603(a)(1) is now as shown on Exhibit 4 for the land in the immediate vicinity of the Holland parcel.

The County's action is appealable, however, under PRC Section 30603(a)(4). This subsection confers appellate jurisdiction over an action taken by a local government regarding:

(4) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or the zoning district map approved pursuant to Chapter 6 (commencing with Section 30500).

The land use activity that is the subject of the County's action is a subdivision. A subdivision is "development" according to the definition of development found in Section 30106 of the Coastal Act. The question of whether a subdivision is the principal permitted use in a particular LCP is determined by the specific provisions in that LCP that define the LCP's principal permitted uses. Section 23.01.043(c)(4) of Title 23, Coastal Land Use Ordinance of the Certified San Luis Obispo LCP provides the regulations for the appeal of locally issued coastal development permits to the Coastal Commission. This section directly addresses the issue of appeals based on PRC Section 30603 (a) (4) by stating that "any approved development not listed in Coastal Table "O", Part I of the Land Use Element as a Principal Permitted (PP) Use" may be appealed to the Coastal Commission. (Emphasis added; Please see Exhibit 6, Table "O.")

Turning to Table "O", single family homes are listed as the principal permitted use for this site. The listing on Table "O" which describes the principal permitted and conditional uses allowed in this zone district does not include subdivisions of land as a principal permitted use. This matter is therefore within the Commission's appellate jurisdiction because it involves an action taken by a local government regarding a subdivision, which is development that has been approved by a County that is not listed as the principal permitted use in the County's LCP.

To attempt to "bootstrap" the initial subdivision of land, even if it is for ultimate residential use, into the category of a principal permitted use is an impermissible extension of the plain language of Table "O" and with PRC Section 30603(a) (4) which specifically provides for the appeal of all development that is not the principal permitted use in coastal counties, but not in cities. It is noteworthy that the statute extends greater appeal authority over coastal development permits issued by counties. The simple reason for this heightened level of oversight is because county coastal zones are much more likely to be rural or only partially developed in urban uses. Thus, in the counties, there are also more intact coastal natural resources to consider and, often, as the case here, less or inadequate infrastructure to support new development. Consistent with this policy to ensure a greater level of oversight over development which can significantly affect resources, it is not surprising that subdivisions are not listed as the principal permitted use on Table "O" because of the impacts on coastal resources that may attend their creation.

A review of the Final Local Action Notices from 1988 and 1992 to the present for San Luis Obispo County reveals that all subdivisions, including this one, have been identified as appealable to the Coastal Commission by the County. Staff provided three examples of subdivisions in San Luis Obispo that were identified as appealable by the County and could only have been so based on PRC 30603(a)(4) (Please see Ex. 3 transcript, comments of Charles Lester, page 24, lines 23-25). Staff has also researched how subdivisions are handled in Mendocino, Monterey and San Mateo Counties

for the purposes of PRC Section 30603(a)(4). The certified Implementation Plan for Mendocino County specifically states that "any approved division of land" is appealable to the Coastal Commission (Section 20.544.020B(3), County Zoning Code). In San Mateo County, all subdivisions have been treated as appealable. In Monterey County, they are also all appealable and listed specifically as "conditional" uses in each of the zone districts included in the LCP. (Title 20, Monterey County Code, Sections 20.10.050 Y, 20.12. 050 X, 20.14. 050 AA, 20.16.050 LL, 20.17.050 II, 20.18.060 NN, 20.21.060 D, 20.22.060 Y, 20.24.060 GG, 20.26.060 LL, 20.28.060 LL, 20.30.060 BB, 20.32.060 FF, 20.36.060 H, 20.38.060 I and 20.40.060 F.)

The Commission finds that it has jurisdiction under section 30603(a)(4) because the County's action involved a development that is not listed as one of the principal permitted uses in the County's LCP.

2. Substantial Issue

Finally, the appeal raises substantial issues regarding the consistency of the County action with a number of LCP procedures and policies including the length and propriety of extending the coastal development permit for the subdivision and the consistency of the amendments with Public Works Policy 1. The Commission's findings, set forth in the staff recommendation dated November 17, 1999 for the de novo hearing portion of this appeal, explain how the county action conflicted with these important LCP policies and procedures and demonstrate the need for Commission review.

Conclusion

Based on the preceding discussions of Public Resources Code 30603 and the fact that substantial issues are raised concerning the project's consistency with the LCP, the Commission finds that it has appellate jurisdiction over the applicant's request to extend and amend his CDP for the subdivision.

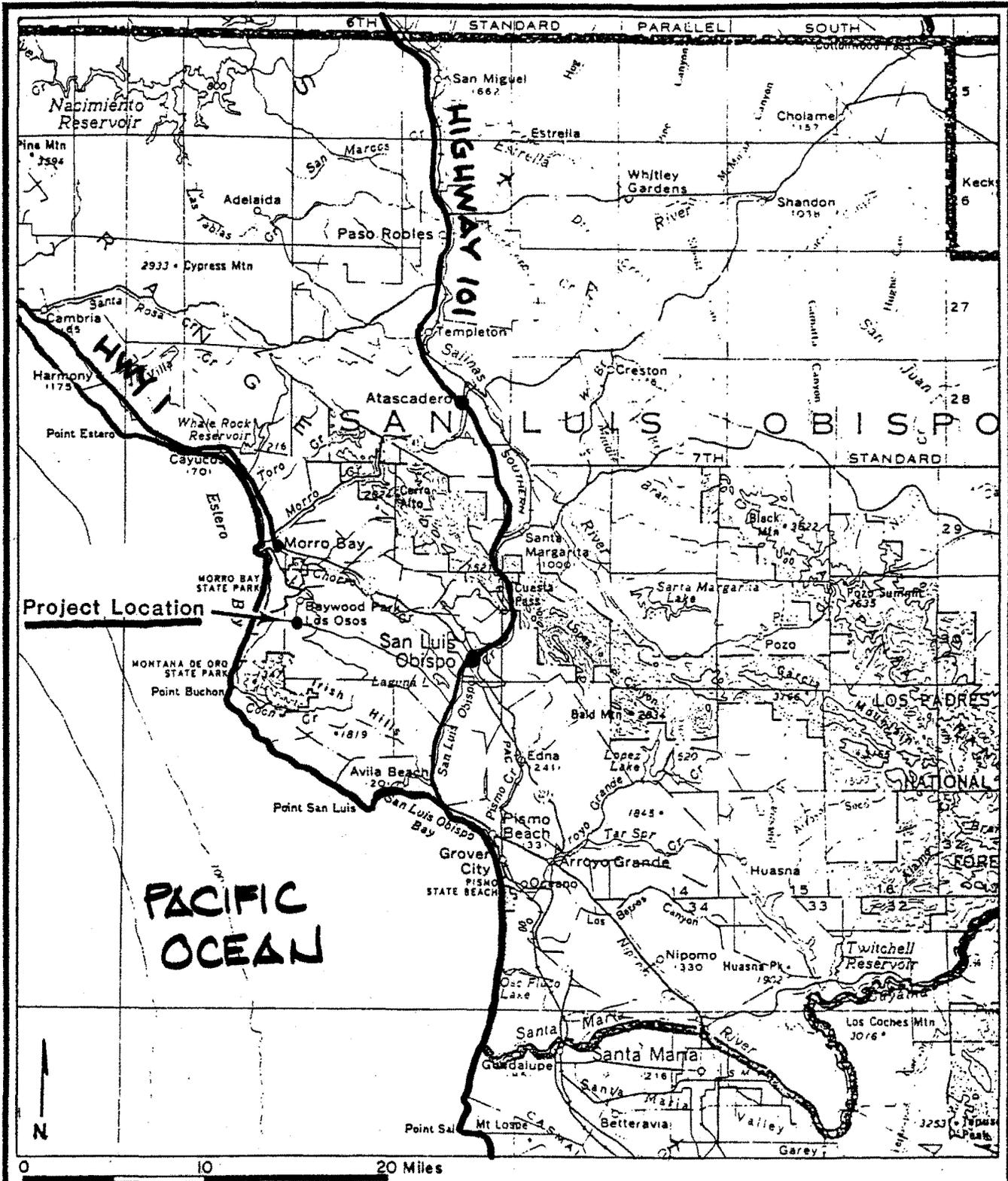


EXHIBIT NO. ONE
APPLICATION NO.
A. 3. 90. 98. 108
LOCATION

REGIONAL SETTING

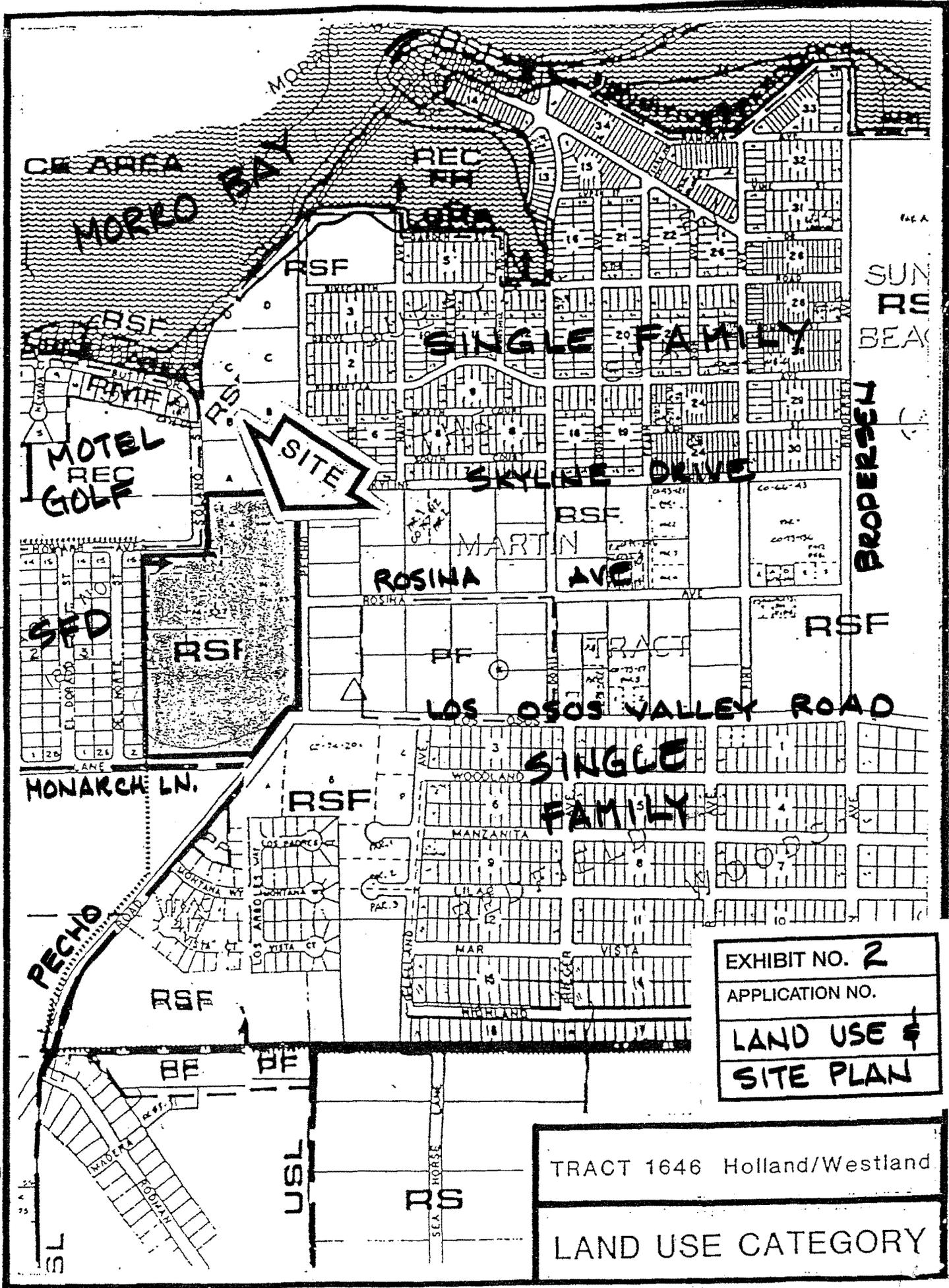


EXHIBIT NO. 2
 APPLICATION NO.
 LAND USE &
 SITE PLAN

TRACT 1646 Holland/Westland
 LAND USE CATEGORY

OCT 07 1999

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

STATE OF CALIFORNIA
COASTAL COMMISSION

COPY

NOEL RODMAN & RON HOLLAND)
COMMUNITY OF LOS OSOS,)
COUNTY OF SAN LUIS OBISPO)

Appeal No. A-3-98-108

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Wednesday
September 15, 1999
Agenda Item No. 6.b.

Eureka Inn
Seventh & F Streets
Eureka, California

EXHIBIT NO. 3
APPLICATION NO.
A.3.98-108
TRANSCRIPT

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STAFF

Chuck Damm, Deputy Director
Ralph Faust, Chief Counsel
Charles Lester, District Director
Jamee Jordan Patterson, Deputy Attorney General

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STAFF

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-000-

1 California Coastal Commission

2 September 15, 1999

3 Noel Rodman & Ron Holland -- Appeal No. A-3-98-108

4 * * * * *

5 CHAIR WAN: Staff, that brings us to, what? 6.b?

6 DISTRICT DIRECTOR LESTER: Item 6.b. is Holland,
7 and before I begin I would like to pass the microphone to
8 Ralph Faust, for a moment.

9 CHIEF COUNSEL FAUST: Madam Chair, I just want to
10 make a few preliminary remarks, with regards to the procedure
11 in this Rodman and Holland matter.

12 There is -- as the Commission is aware, because we
13 discussed it briefly yesterday in closed session -- pending
14 litigation with regard to the Rodman and Holland matter, and
15 the litigation has to do, in part, with the issue of the
16 Commission's jurisdiction over this appeal.

17 The proponents of the project went to court and
18 sought an order from the judge directing this Commission to
19 hold a separate hearing on jurisdiction. The judge
20 indicated, from the bench, that he was going to issue a writ
21 requiring the Commission to do this. So far, however, no
22 judgment has issued from the court.

23 Staff has prepared a staff report that is unlike
24 the usual staff report you get in matters such as this, in
25 that it deals with jurisdiction as an entirely separate

1 issue, with a separate vote from the substance of the appeal.

2 As you are well aware, normally this Commission
3 has, in the past, dealt with jurisdiction, as well as the
4 substance, all in one proceeding, and this is a matter that
5 has been litigated, and the Commission's position on this has
6 been upheld, for example, in the *Coronado Yacht Club* case, in
7 a court of appeal decision.

8 Nonetheless, this judge has indicated that he
9 would like the Commission to have a separate hearing on
10 jurisdiction. This Commission, yesterday, authorized the
11 Attorney General to appeal that ruling. No appeal, of
12 course, can be filed until there is a final judgment, so
13 there is neither a final judgment directing this Commission
14 to have a separate hearing, nor has there an appeal been
15 filed challenging that judgment.

16 Nonetheless, the staff has prepared the staff
17 report in a bifurcated manner, and our recommendation to you
18 is that you go ahead -- as a courtesy to the judge in this
19 matter -- go ahead and hold a bifurcated hearing. Hold a
20 hearing first on the question of jurisdiction, and then
21 assuming that the Commission accepts the staff report on
22 jurisdiction, and finds jurisdiction, then go ahead and hold
23 the hearing on the substance.

24 With that, Madam Chair, I will pass it on to Mr.
25 Lester.

1 DISTRICT DIRECTOR LESTER: Thank you, Madam Chair,
2 and Commissioners.

3 Item 6.b. is the de novo hearing of an appeal of
4 the San Luis Obispo County Board of Supervisors' action to
5 extend and amend the Tentative Map and Coastal Development
6 Permit for Tract 1646, which is a 100-lot subdivision on
7 approximately 20 acres in the community of Los Osos.

8 As with the amended project by the county, the
9 conditions of the original Coastal Development Permit
10 concerning the adequacy of water and sewer were in such a way
11 as to raise doubts about the amended project's compliance
12 with the LCP. As may be discussed later today, the county's
13 extension of the CDP raises concern about the project's
14 compliance with the LCP's ESHA policies, in light of changed
15 circumstances concerning the endangered Morro shoulder ban
16 snail.

17 In any case, as Mr. Faust indicated, the Coastal
18 Commission determined that the project raised a substantial
19 issue, with respect to the actions' conformance with the
20 county's certified LCP in March. At that time, the applicant
21 did object, but the Commission had no objection, and the
22 Commission indicated that it would consider the applicant's
23 jurisdictional argument at the time of the de novo hearing.

24 In terms of the jurisdiction portion of the staff
25 report, there are three essential points to make:

PRISCILLA PIKE

Court Reporting Services

1 First, the Commission has jurisdiction over this
2 appeal under *Public Resources Code Section 30603*, which
3 provides that the Commission has jurisdiction over, quote,
4 "an action taken by a local government on a Coastal
5 Development Permit application," unquote. If the development
6 fits into one of the categories enumerated in Section 30603,
7 that is what is required.

8 On its face, the county's decision to extend the
9 permit, and amend the permit conditions, constitutes an
10 action under Section 30603. Moreover, it has long been the
11 Commission's practice to treat Local Coastal Development
12 Permit amendments as appealable, and although we believe that
13 this is the first time that a Coastal Development Permit
14 extension has been appealed, a similar administrative logic
15 would apply. If it didn't, it would mean that, for example,
16 if a CDP was not appealed by the Commission on the basis of
17 an action at the local level, and then that local action was
18 amended, which changed essential points, which were the basis
19 for not appealing it, then the Commission would not have any
20 opportunity to review those substantive points.

21 Finally, there are strong *Coastal Act* policy
22 considerations that support a finding that amendment and
23 extensions are appealable; again, if it were otherwise,
24 significant issues of compliance with coastal resource
25 protection policies of LCPs could be sidestepped, simply by

1 amending a CDP, or by ignoring important changed resource
2 circumstances over time.

3 A second point to make about jurisdiction, is that
4 the Commission has jurisdiction over the county's action
5 under Subsection (A)(4) of Section 30603. Because the
6 county's action involves a development, i.e. a subdivision
7 that is not listed as a principally permitted use in the
8 county's LCP.

9 More specifically, subdivision are defined as
10 development in the LCP. Further, under the LCP, developments
11 that are not listed in Table O of the LCP -- which is
12 provided in your staff report -- if they are not listed as
13 principally permitted uses, they are appealable under Section
14 A(4), which is the case here.

15 Finally, as discussed in the staff report for the
16 March hearing, and as detailed in this month's staff report,
17 the appeal raises a number of substantial issues, with
18 respect to LCP compliance, including the propriety of the
19 extension, itself. Most significant, though, the amendments
20 raise substantial issues, with respect to the adequacy of
21 water and sewer, and as you know, in this case the question
22 of whether there is adequate sewage treatment capacity is one
23 that raises water quality issues for Morro Bay, which is --
24 currently there is a development moratorium in Los Osos
25 concerning this issue.

1 Also, there are questions raised about the
2 adequacy of water for this project.

3 That concludes the presentation on jurisdiction.
4 If there are no questions at this time, we would recommend
5 that the Commission hear from the public on this question,
6 prior to making its decision.

7 CHAIR WAN: All right.

8 With that, I'll call for ex-parte communications.
9 Any?

10 [No Response]

11 Seeing none, I will call the applicant, Greg
12 Sanders, representing the applicant. Our time limits, as
13 printed on the back of the speaker slips, are 3 minutes per
14 side for substantial issue; however, I will give you longer
15 than that. What will you need?

16 MR. SANDERS: I am not sure, Madam Chair. This is
17 not a simple issue. This is very arcane, and I think --

18 CHAIR WAN: Well, the most I would give you would
19 be 15 minutes.

20 MR. SANDERS: I don't think it will take longer
21 than --

22 CHAIR WAN: Okay --

23 MR. SANDERS: -- 15 minutes.

24 CHAIR WAN: -- thank you.

25 MR. SANDERS: You bet.

1 Madam Chair, members of the Commission, my name is
2 Greg Sanders. I am here representing the applicant. And, I
3 am reminded somewhat of an old story about lawyers, as I
4 stand before you, which has to do with whether or not
5 anything preceded the creation of the universe, the earth,
6 the stars and so forth, by God. And, the answer must be that
7 lawyers must have been around, because God created the
8 heavens and the earth out of chaos, and who do you think
9 created chaos?

10 And, that is a bit of a short way of getting to
11 the point that this is a very technical and somewhat arcane
12 area of the law, and it requires a very careful analysis, and
13 certain findings by your Commission, before you can
14 legitimately assert jurisdiction over this matter. So, if
15 you will bear with me, I will walk through that arcane
16 analysis.

17 I think, with all due respect to your staff, I
18 think the staff has misadvised you on how to determine
19 whether or not you have jurisdiction. You don't have two
20 bites of the apple here. It is 30603, is all part of one
21 analysis. It is a two-step process, but you have to go
22 through that two-step process to find out if you have
23 jurisdiction. You cannot take Section 30603(A) stand alone,
24 and determine that you have jurisdiction. You have to take
25 30603(A) and one of its sub-parts 1 through 4, or 1 through 5

1 -- excuse me -- to determine whether you have jurisdiction.

2 So, to begin, Section 30603(A) confers
3 jurisdiction, if an action has been taken on a Coastal
4 Development Permit. And to determine, again, whether you
5 have jurisdiction, you have to look to the definition in the
6 Coastal Act of Coastal Development Permit.

7 A Coastal Development Permit is a permit for
8 development within the coastal zone -- sounds simple until
9 you look to the definition of development in the Coastal Act.
10 And the definition of development, among other things, says
11 that subdivisions can constitute development, but only if
12 they result in a change in the density, or intensity, of use
13 -- a very, very important point that I think you have to
14 consider this morning.

15 Now, the original approval of this subdivision map
16 in 1991 may have constituted development, as development is
17 defined in the Coastal Act. But, that approval occurred
18 seven year ago, eight year ago, and the statute of
19 limitations for appealing that decision has long since run.

20 What you have before you today is simply an action
21 taken by the board of supervisors in San Luis Obispo County
22 to extend the tract map. And, that extension did not result
23 in a change in the density, or intensity of use of land.
24 That decision was made eight years ago.

25 So, you cannot even get past 30603(A), and onto

1 30603(A)(4) because the action taken by the board of
2 supervisors did not constitute an action on a Coastal
3 Development Permit as defined in the Coastal Act.

4 Okay, assuming that you get past 30603(A), and
5 onto 30603(A)(4) you have to find that the development --
6 that is the subdivision -- is not a principal permitted use
7 under the applicable zoning regulations that govern
8 development of this property. A subdivision map is not a
9 use. In fact, you need only look to the *Subdivision Map Act*
10 itself, and the *Subdivision Map Act* makes the distinction
11 between development -- or excuse me -- between uses and
12 subdivision of property.

13 The *Map Act* says that development constitutes the
14 uses to which the land, which is the subject of a map, shall
15 be put, the buildings to be constructed on it, and all of the
16 alterations of the land and construction incident thereto.
17 So, the *Map Act*, itself, says a subdivision is a separate and
18 distinct approval from development, and it is not a use.

19 Okay, to reinforce that, I think you need to look
20 only to the practice that is followed by virtually every
21 jurisdiction that has regulatory authority over subdivisions
22 in California. And, we can look, for example, to the
23 subdivision map applications, and the application form that
24 is used by the County of San Luis Obispo. You should have
25 before you our letter to you dated September 13, and if you

1 will turn to Exhibit A, you see that we have a copy of the
2 subdivision application for this project, and if you look
3 down about two-thirds of the way down on the application, you
4 will see a heading entitled project information.

5 Number one, under project information, asks
6 questions about the proposed division of the property.

7 Number two asks about proposed uses of the
8 property, and in fact, it asks the question, what will the
9 property be used for after division? So, you see
10 subdivisions are separate and distinct from uses. This is
11 not a use within the ambit of Section 30603(A)(4) of the
12 Coastal Act.

13 I would like to have you next take a look at Table
14 O of the LCP, found in the San Luis Obispo County Local
15 Coastal Program -- and you will find that at Exhibit B of our
16 letter to you. The list of uses permitted within the coastal
17 zone is exhaustive. I could sit here and burn up my time
18 reading them, you can see for yourself. They cover
19 everything from the proverbial soups to nuts. Nowhere, but
20 nowhere in Table O, will you find subdivisions, and that is
21 because a subdivision of property is not a use.

22 And, if you took the staff report logic to its
23 illogical conclusion, you would have to conclude that
24 subdivisions would not be allowed anywhere in the coastal
25 zone of San Luis Obispo County, and that is simply not the

1 case.

2 Subdivisions are not listed anywhere in the table
3 of uses, whether they be special uses, principally permitted
4 uses, or accessory uses. Again, I feel like I am kicking a
5 dead horse here, but a subdivision is not a use, and the
6 illogical conclusion of the staff's analysis is that because
7 it is not listed as a use, because a subdivision is not
8 listed as a use, you could not subdivide any property within
9 the coastal zone in San Luis Obispo County, it is not
10 authorized -- and, that is just not the case.

11 Okay, the San Luis Obispo County LCP further
12 clarifies the distinction between subdivisions and uses. At
13 Section 23.01.030(A) the LCP talks about the uses that are
14 permitted within the coastal zone. Subsection C of that same
15 section talks about divisions of land, and what it says is if
16 you want to subdivide property, and be consistent with the
17 LCP, you have to look to *Title 21* of the San Luis Obispo
18 County Code, and in *Title 21* you will find the process for
19 subdividing property -- and this is important -- including
20 compliance with Coastal Development Permit requirements.

21 And, what *Title 21* says is that when the San Luis
22 Obispo County Board of Supervisors approves a tentative tract
23 map, it is also approving a Coastal Development Permit. They
24 are in fact one in the same. There is no distinction.

25 Before I finish, I want to include in the record

1 the LCPs from 11 coastal counties in California. I would
2 like to give this to the clerk, have it included in the
3 record, and I will explain what it is all about after she
4 receives it.

5 CHAIR WAN: That is fine, go ahead.

6 MR. SANDERS: What you find, when you look at the
7 LCPs of coastal counties in California is that, except for
8 one county -- and that is Monterey County -- except for one
9 county subdivisions are not listed as uses anywhere, because
10 they are not uses.

11 In Monterey County, the sole exception in
12 California, subdivisions are listed as conditional uses
13 because the Monterey County Board of Supervisors wanted to
14 have additional review over subdivisions that would not
15 otherwise be the case. And, so they have simply added
16 subdivisions to the list of uses, but that does not make
17 subdivisions a use in San Luis Obispo County, nor does it
18 make subdivisions a use anywhere else in California.
19 Monterey is the sole exception, and in order to bring
20 subdivisions within the ambit of their LCP, as far as uses is
21 concerned, Monterey was required to list subdivisions as
22 uses. A subdivision is not a use.

23 Finally, the staff report says that final local
24 action notices have been issued by the County of San Luis
25 Obispo for virtually all subdivisions within the coastal

1 zone, and that therefore you somehow have jurisdiction over
2 this matter.

3 This is not an original approval of a subdivision
4 that we are dealing with here. It is possible that a sub-
5 division may be within the ambit of 30603(A)(4) or 30603(A)
6 of the Coastal Act when it is originally approved, because it
7 can result in a change in the density or intensity of use of
8 land. But, this is nothing more than an extension of a
9 previously approved tract map, and the extension action did
10 nothing to change the density or intensity of use of land.

11 Thank you, Madam Chair.

12 CHAIR WAN: Thank you.

13 I'll give the applicants, basically -- well, they
14 won't get quite 15 minutes. Gordon Hensley, you are
15 representing the appellants, and I'll give you five minutes.

16 MR. HENSLEY: That should be sufficient. We were
17 not anticipating, in those that you have, that there would be
18 two separate hearings. Is that what we are going to do?

19 CHAIR WAN: We are doing two separate hearings, so
20 you need to confine this discussion to the question --

21 MR. HENSLEY: Correct.

22 CHAIR WAN: -- of our jurisdiction.

23 MR. HENSLEY: But, the slips and time that we were
24 anticipating there was for the -- not for this portion.

25 CHAIR WAN: Right.

1 MR. HENSLEY: Okay.

2 CHAIR WAN: And, since I was overly generous with
3 the applicant --

4 MR. HENSLEY: That is fine.

5 CHAIR WAN: -- I am extending you the same
6 courtesy, and the same amount of time. I'll give you five
7 minutes, and the other individuals, we have three of them,
8 will get three minutes apiece, and that comes up to about 13
9 or 14 minutes, so that --

10 MR. HENSLEY: I appreciate that. Five minutes
11 should be satisfactory.

12 Good morning Commissioners, Gordon Hensley --

13 CHAIR WAN: And, if they don't want to -- if
14 somebody does not want to testify on jurisdiction, that is
15 fine. They do not have to testify on jurisdiction, but that
16 is what we are talking about.

17 Okay.

18 MR. HENSLEY: Gordon Hensley, Los Osos, I am
19 representing the appellants in this case.

20 This has been portrayed to you as merely an
21 extension, and that is not correct. On September 22, 1998
22 changes, significant changes were made to this project.

23 While the issue of -- excuse me -- while the issue
24 of the map extension was a fully noticed, a properly noticed
25 issue before our board of supervisors, the interpretation, or

1 the changes that resulted was not. And, what the applicant
2 has done is changed some conditions that he agreed to, and
3 actually wrote in 1990.

4 It is the applicant's contention that his map was
5 vested in 1990. It is our opinion that, therefore, he must
6 live by the conditions which he wrote himself, which he
7 agreed to in 1990. And then in 1998, he has come back and
8 asked the board of supervisors to change those conditions.
9 We don't believe that that is appropriate, and that is why we
10 have appealed this to you.

11 Our appeal contends that the action of the board
12 of supervisors on September 22 constitutes amendments to the
13 approved map, and a change in the project description without
14 adequate findings or public notice, that should require
15 Coastal Commission notification, as per *Title 21.06.060* of
16 the county General Plan.

17 Specifically, we are concerned that substantial
18 changes were made that conflict with the LCP framework for
19 planning, the coastal zone general goals, the scope and
20 purpose statement 6, Section (A)(3)(B) and (E), Sections
21 (A)(5)(C), Sections (A)(9), Sections (A)(15) of the county
22 General Plan, as well as the certified Land Use Ordinance
23 Section 23.02.038, Section 23.04.430, Section 23.06.102.

24 Specifically, the board has allowed the owners the
25 option to install a privately operated, stand-alone sewer

1 treatment facility to serve a 100-lot subdivison. No plans
2 were provided for that change. It was not properly handled.

3 The board also granted, against the advice of city
4 council, holding the applicant responsible -- to excuse the
5 applicant from paying approximately \$500,000 worth of
6 development impact fees, thus depriving the community of much
7 needed funds for community infrastructure, specifically our
8 sewer plan, and coastal access improvements.

9 We also believe that this tentative tract 1646
10 that is before you today has not been properly extended, and
11 therefore the Coastal Development Permit on it that they are
12 seeking an extension for has already expired.

13 Thank you.

14 CHAIR WAN: Thank you.

15 Elsie Dietz.

16 MS. DIETZ: I donated my time to Mr. Hensley.

17 CHAIR WAN: Okay.

18 Jerome Dietz.

19 MR. DIETZ: Same thing.

20 CHAIR WAN: Mark Massara.

21 MR. MASSARA: I donate my time to Gordon Hensley.

22 CHAIR WAN: Okay, he has already made his
23 statement, so that is fine.

24 I will go back to the applicant for a two-minute
25 rebuttal.

1 MR. SANDER: Madam Chair, members of the
2 Commission, the opponents of the project have done nothing to
3 put forward any kind of evidence that this project is a use.
4 It is not a use, and therefore is not within the ambit of
5 *Section 30603(A)(4)* of the *Coastal Act*, and therefore you
6 cannot assert jurisdiction over it.

7 And, further, as we contend, you can't even get to
8 *Section 30603(A)(4)* because you cannot get past the
9 definition of development in the *Coastal Act*.

10 When the board of supervisors took an action to
11 extend this map, they extended a map that was approved in
12 1991, and the action that they took had no impact on the
13 density or intensity of use.

14 See, it is not a development. It is not a use.
15 And, therefore, you cannot assert jurisdiction over this
16 appeal.

17 Thank you.

18 CHAIR WAN: I am going to return to staff.

19 I see our legal counsel, do you want to speak
20 first?

21 CHIEF COUNSEL FAUST: Yes, Madam Chair. I think
22 that I will make a few remarks, and then Mr. Lester may make
23 one additional remark. I am not sure.

24 I must admit that, as astounded as the attorney
25 for the applicant is at the interpretation that he is facing,

1 I am astounded at the interpretation that he is propounding.

2 It seems to me that while we agree that the
3 language of Section 30603 of the Coastal Act is controlling,
4 we simply disagree on what that language actually says. So,
5 let's go through it, as well. I agree with him that 30603(A)
6 and sub-4 are the controlling sections of the statute, and
7 the question is, what do we have there? Do we have an
8 action? He seems to agree that we have an action, and
9 certainly the local government, the county, took steps to
10 apparently amend the provisions with respect to the sewer,
11 for example, with respect to the water supply, and that this
12 would qualify as an action.

13 His first disagreement is that this action does
14 not constitute development, that there is no development
15 under the Coastal Act, as proposed in this matter, but, what
16 the statute actually says is action on a Coastal Development
17 Permit, permit application. What they have here is an
18 application -- or they treated it as an application -- to
19 amend the permit.

20 I guess he is arguing that amendments to Coastal
21 Development Permits are not appealable under the Coastal Act.
22 This is certainly the first time we have heard this argument,
23 and we just don't agree with it.

24 If an applicant can amend the Coastal Development
25 Permit without that matter being able to be appealed to the

1 Commission, then all of your actions on permits in the first
2 instance are simply futile acts, because any conditions that
3 you might impose, any actions you might take to insure that
4 the matter is consistent with the Coastal Act can simply be
5 undone, and you never get a chance to look at them.

6 This is the case that staff asserts is the
7 situation here, and when and if you get to the substantive
8 hearing, you will review that matter. But, staff is
9 asserting that commitments were made with regard to the
10 initial approval, with respect to the sewer, and with respect
11 to the water, that are here being undone. That is exactly
12 the sort of thing that you need jurisdiction over, in order
13 to insure that this matter is consistent with the Coastal
14 Act.

15 It is not a question of whether this is a use, or
16 whether something fits within the definition of development.
17 I guess he maybe is arguing that water quality matters, or
18 water supply matters somehow aren't properly under the
19 purview of the Coastal Act. It is a little bit of a mystery
20 to us exactly what he is arguing in that respect, but we
21 don't agree with it. What we see here is an action that was
22 taken by the local government on a Coastal Development Permit
23 application.

24 The second thing that one looks at in the statute
25 is whether this is a development approved by a coastal county

1 that is not designated as a principal permitted use. And, he
2 makes a lengthy argument here that this is not a use, because
3 a subdivision map is not a use, but that is not the way that
4 we read that language, either.

5 The language of the statute, read in its clearest
6 form, is that the Commission has action over a development
7 approved by a coastal county that is not designated as a
8 principal permitted use.

9 A subdivision is development. There is no
10 question of the fact that a subdivision is a development. It
11 is a land division, apart from whether it is a change in the
12 density or intensity of use, it is a land division. It is
13 development, and then you simply look to whether or not the
14 county has listed this as a principal permitted use. San
15 Luis Obispo County has not done so. It is a development that
16 is not listed as a principal permitted use; therefore, it is
17 appealable.

18 He seems to think that the reading of the San Luis
19 Obispo County LCP is that no subdivision is appealable to the
20 Commission. To the contrary, we think that the proper
21 reading of the LCP is that all subdivisions are appealable to
22 the Coastal Commission, because they are not designated as
23 principal permitted uses, but they are development. It seems
24 fairly simply and straightforward, looking at the language.

25 We think, probably, that what he is arguing is

1 that this development really, as a subdivision, wasn't
2 appealable to the Coastal Commission in the first place. He
3 makes arguments under the *Subdivision Map Act* and seems to
4 suggest that maybe the *Coastal Act* doesn't apply to sub-
5 divisions. But, this is not the way we read the law. It has
6 not been the Commission's practice. It has not been the
7 court's interpretation of the law.

8 For those reasons, we think the Commission has
9 jurisdiction.

10 CHAIR WAN: Staff.

11 DISTRICT DIRECTOR LESTER: Just two quick
12 comments.

13 From a planning perspective, staff can't imagine
14 how subdivisions aren't under the purview of the *Coastal Act*,
15 given their fundamental character in relation to land use
16 planning.

17 Second, we have done some additional follow-up
18 yesterday on subdivisions that were indicated as appealable
19 by San Luis Obispo County, and have at least three citations,
20 and there are multiple subdivisions that were appealable only
21 because they were subdivisions, or designated as appealable
22 only on that basis.

23 Just for the record, Rossi 3-SLO-93-033; Windsor,
24 3-SLO-94-007; and Great House 3-SLO-94-047, were all
25 indicated as appealable subdivisions by the county, and we

1 cannot find any other basis under 30603 which they would be
2 appealable.

3 CHAIR WAN: With that, because the Commission is
4 obviously facing the possibility of litigation on this matter
5 -- I believe we are already in court on it -- we are going to
6 have a close session, an executive session, and so I am going
7 to ask the public to leave the room at this time.

8 [Closed Session Held]

9 CHAIR WAN: Mr. Faust.

10 CHIEF COUNSEL FAUST: Yes, Madam Chair, in closed
11 session the Commission discussed the matter of *Holand and*
12 *Rodman v. California Coastal Commission* received advice from
13 its counsel, and took no action.

14 Madam Chair, that concludes my report on closed
15 session.

16 CHAIR WAN: Thank you.

17 And, with that, I will go to Commissioners. I see
18 Commissioner Trent Orr wants to make a comment.

19 COMMISSIONER ORR: Thank you, Chairman Sara.

20 Well, I have read through these materials, and
21 have looked at the various matters put before us, both by the
22 appellants and the applicant, and listened to our counsel,
23 and as a lawyer with some familiarity with these issues, I
24 find the interpretation of 30603 that our staff is putting
25 forward to be compelling as far as I am concerned, and I

1 would suggest that the staff adopt the -- I mean, that the
2 Commission adopt the position of our staff as our position,
3 and for that reason that we should assert jurisdiction over
4 this matter, and I would make a motion to that affect.

5 CHAIR WAN: You have already spoken, so I am going
6 to go to Commissioner Reilly for the motion.

7 COMMISSIONER ORR: Oh.

8 [MOTION]

9 COMMISSIONER REILLY: All right, thank you, Madam
10 Chair.

11 I move that the Commission find that it has
12 jurisdiction of this appeal under Public Resources Code
13 Section 30603, and that it adopt findings to support its
14 jurisdiction that are set forth in the staff report.

15 COMMISSIONER ORR: Second.

16 COMMISSIONER REILLY: And, I recommend a "Yes"
17 vote.

18 CHAIR WAN: Moved by Commissioner Reilly, seconded
19 by Commissioner Orr.

20 Do you wish to speak?

21 COMMISSIONER REILLY: Just briefly, Madam Chair,
22 and I would say that in addition to the staff report findings
23 that are referenced in the motion, that I would also
24 incorporate into the findings the verbal explanation that our
25 counsel has made on the record as, you know, additional

1 comments supporting the findings of the Commission.

2 CHAIR WAN: Commissioner Allgood.

3 COMMISSIONER ALLGOOD: I was just seconding the
4 motion.

5 CHAIR WAN: And, I would agree with that. I have
6 listened to both the applicant and the staff and our legal
7 counsel, and find that the staff's interpretation of the
8 Coastal Act and the law is consistent with my interpretation,
9 and I therefore support the staff's recommendation.

10 And, with that, would you call the roll, please.

11 SECRETARY GOEHLER: Commissioner Desser?

12 COMMISSIONER DESSER: Yes.

13 SECRETARY GOEHLER: Commissioner Dettloff?

14 COMMISSIONER DETTLOFF: Yes.

15 SECRETARY GOEHLER: Commissioner Allgood?

16 COMMISSIONER ALLGOOD: Yes.

17 SECRETARY GOEHLER: Commissioner Flemming?

18 COMMISSIONER FLEMMING: Yes.

19 SECRETARY GOEHLER: Commissioner Kruer?

20 COMMISSIONER KRUER: Yes.

21 SECRETARY GOEHLER: Commissioner McClain-Hill?

22 [No Response]

23 Commissioner Orr?

24 COMMISSIONER ORR: Yes.

25 SECRETARY GOEHLER: Commissioner Potter?

1 COMMISSIONER POTTER: Aye.

2 SECRETARY GOEHLER: Commissioner Reilly?

3 COMMISSIONER REILLY: Yes.

4 SECRETARY GOEHLER: Commissioner Daniels?

5 COMMISSIONER DANIELS: Yes.

6 SECRETARY GOEHLER: Chairman Wan?

7 CHAIR WAN: Yes.

8 SECRETARY GOEHLER: Ten, zero.

9 CHAIR WAN: With that, the Commission has found
10 that it does have jurisdiction over this, and I will go to
11 the de novo hearing part.

12 [De Novo Hearing]

13 Staff.

14 DISTRICT DIRECTOR LESTER: Thank you, Madam Chair.

15 Having found that the Commission has jurisdiction
16 over this action, I will move to the de novo review of the
17 county's action.

18 The county extended and amended a Coastal
19 Development Permit for a 100-lot subdivision in the community
20 of Los Osos. Overall, staff is recommending that the
21 Commission deny the extension of the Coastal Development
22 Permit; however, if the Commission does extend the permit,
23 then staff is recommending the denial of the proposed
24 amendments to the Coastal Development Permit on the grounds
25 that they are inconsistent with the San Luis Obispo County

1 certified LCP.

2 [Slide Presentation]

3 First, a little bit of project background. I have
4 a few slides to show here.

5 The site is approximately 20 acres, and it is
6 located, as I said in the community of Los Osos.

7 CHAIR WAN: I have had a request by a Commissioner
8 to find out if the applicant is prepared to move forward at
9 this point, with this hearing?

10 MR. SANDERS: Well, Madam Chair --

11 CHAIR WAN: Could you turn -- is the microphone
12 on?

13 MR. SANDERS: It is on. I am sorry.

14 Madam Chair, members of the Commission, Gregory W.
15 Sanders, again. We would actually prefer not to go ahead at
16 this point, because the matter of jurisdiction is still
17 pending before the San Luis Obispo County Superior Court, on
18 a return of the writ that was issued to require that you hold
19 the jurisdictional hearing. And, we think it would be
20 patently unfair to put the applicant through the time and the
21 expense of this additional hearing, when the court may decide
22 that you don't have jurisdiction.

23 So, if this matter can continue to be bifurcated,
24 and the hearing on the substantive issues be continued to a
25 later date, I think that would make for a much better

1 proceeding.

2 CHAIR WAN: Let me go to staff, and find out.

3 If we are going to continue this, he is talking
4 about, in essence, an indefinite continuance until court
5 resolution.

6 Ms. Patterson.

7 DEPUTY ATTORNEY GENERAL PATTERSON: Commissioners,
8 if I may.

9 We would recommend that the Commission grant a
10 continuance, however, I would not urge that it be unlimited.
11 I would like to have an opportunity to have the attorney that
12 is working on this case, Joe Barbieri, work with Mr. Sanders,
13 perhaps to come to some sort of accommodation.

14 If they are not able to, I would recommend that we
15 bring it back in a month, or two months, or whenever staff is
16 comfortable with bringing it back.

17 CHAIR WAN: Yes, that is what I want to know, is
18 what we are looking at in time? Because I think if we are
19 going to continue this, we are going to continue this to a
20 time certain.

21 MR. SANDERS: That is satisfactory, Madam Chair,
22 and we would be happy to work with Deputy Attorney General
23 Barbarri in coming to some sort of a resolution of the time,
24 place, and so forth, at which the continued hearing should be
25 held.

1 CHAIR WAN: Staff, do you have any comment?

2 DEPUTY DIRECTOR DAMM: Madam Chair, I think, from
3 the staff's prospective, December makes the most sense. That
4 is back in San Francisco. It would give enough time for the
5 Deputy Attorney General to discuss the matter with the
6 applicant's representative, and frankly give staff enough
7 time to work on its report.

8 [MOTION TO CONTINUE]

9 COMMISSIONER REILLY: Move to continue to the
10 December meeting.

11 COMMISSIONER POTTER: Second.

12 COMMISSIONER FLEMMING: Second.

13 CHAIR WAN: Move to continue to December by
14 Commissioner Reilly, seconded by Commissioner Flemming.

15 Any objection?

16 [No Response]

17 Seeing none, the item is continued to December.

18 *

19 *

20 [Whereupon the hearing was concluded.]

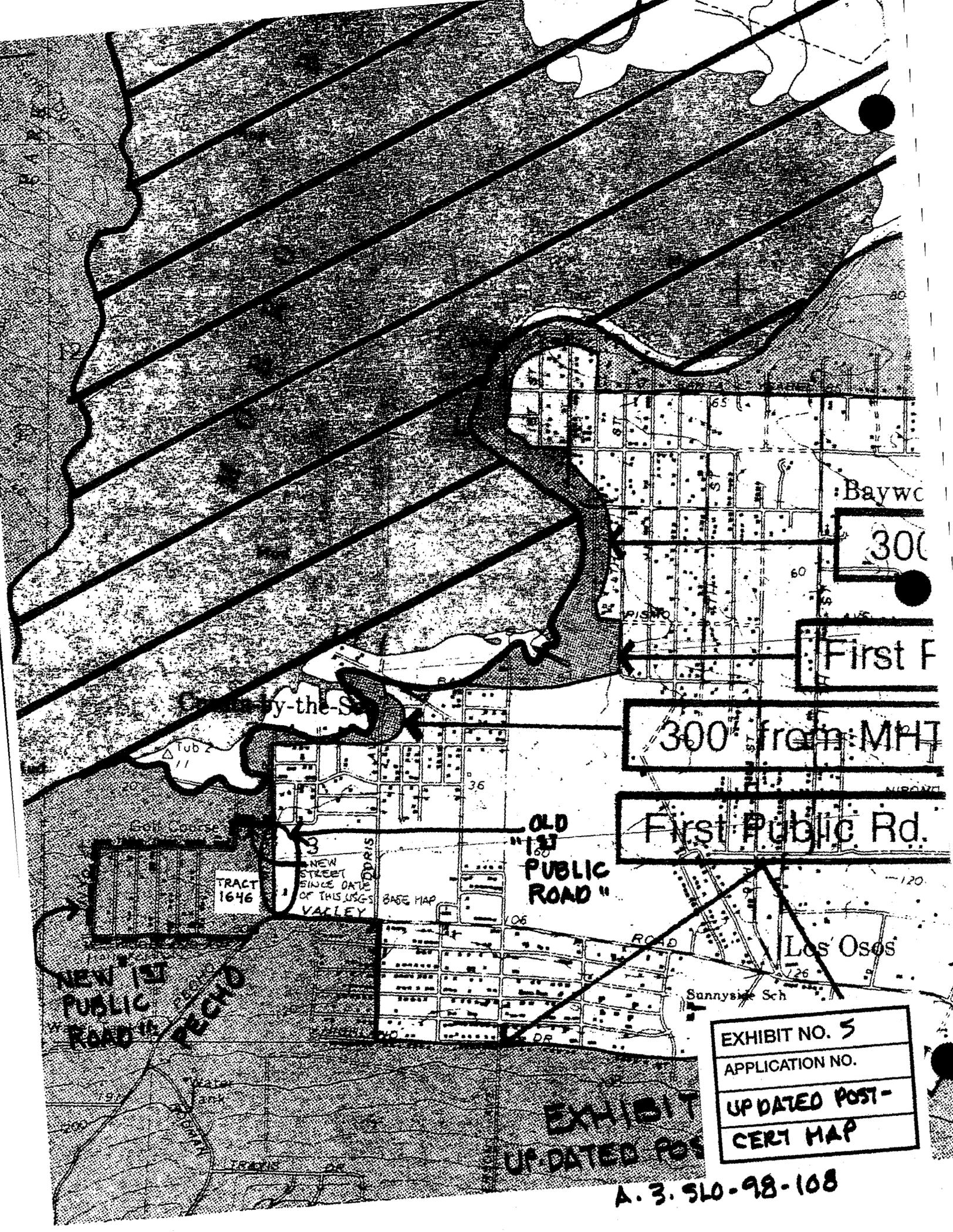
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Baywc

300

First F

300' from MHT

First Public Rd.

TRACT 1646

NEW STREET SINCE DATE OF THIS USGS VALLEY

OLD "1ST PUBLIC ROAD"

NEW "1ST PUBLIC ROAD"

TRACT 1646

EXHIBIT NO. 5
APPLICATION NO.
UPDATED POST-CERT MAP

EXHIBIT
UPDATED POS

A. 3. 510-98-108

C. ALLOWABLE LAND USES IN THE COASTAL ZONE

The following charts (Coastal Table O) list uses of land that may be established in the land use categories shown by the LUE area plans in the coastal zone. After determining what land use category and combining designation applies to a particular property, the chart can be used to find what uses are allowable. The chart will also show where to look in the Coastal Zone Land Use Ordinance to find the standards that apply to the planning and development of such land uses, as well as what permit is needed before a use can be established.

IMPORTANT: When determining the land use category and combining designation (if any) applicable to a particular property, also check the planning area standards and any policies from the Coastal Plan Policies Document that may apply to the property. (Planning area standards can be found in the LUE area plan that covers the part of the county containing the property in question. The LCP Policy Document may include additional requirements or standards affecting the type of development proposed.) Those standards may limit the uses allowed by the following charts, or set special permit requirements for a particular land use category, community or area of the county.

The column headings at the top of the charts are the land use categories, and the left column lists land uses, grouped under general headings. When the proposed land use is known, reading across the columns will show where the use is allowable. If a proposed use doesn't seem to fit the general land use headings, the definitions of uses in Section D of this chapter can help determine the proper group of uses to look for. A particular use of land need not be listed in the use definitions to be allowable. If a proposed use is not specifically mentioned, the planning director will, upon request, review a proposed use and identify the listed use it is equivalent to, as described in Chapter 2 of this document.

The letter "A" on the chart means that the corresponding use in the left column is "Allowed" in that land use category, if consistent with the LUE, LCP and other applicable regulations. Though some uses with an "A" in various categories (such as crop production) are identified in the Coastal Zone Land Use Ordinance as requiring no permit, in most cases the "A" means a use can be established with a plot plan approval as part of a building permit (or more intensive permit process if required by the CZLUO based on the size of the use), subject to the Coastal Zone Land Use Ordinance standards that must be considered in planning and developing a use.

The letter "S" means that a use is allowable in a particular land use category only when special standards or permit procedures are followed. The number after the "S" refers to the key following the charts, which explains where to look in the Coastal Zone Land Use Ordinance to find the special standards. A "P" means that the use is principally permitted and encouraged over non-principally permitted uses. A "PP" means the same as a "P" where found in the text. A blank space in a land use category column means the corresponding use on the left side of the chart is not allowable in that land use category.

EXHIBIT NO. 6
APPLICATION NO. A. 3. SLO. 98. 108
TABLE "O"
SLO LCP

KEY TO COASTAL TABLE O

USE STATUS

DEFINITION

- A Allowed use, unless otherwise limited by a specific planning area standard. Coastal Zone Land Use Ordinance Chapter 23.03 ("Required Level of Processing") determines the permit necessary to establish an "A" use, and Chapters 23.04 through 23.06 determine the site design, site development, and operational standards that affect the use. See also the "Planning Area Standards" sections of the Land Use Element Area Plans and the LCP Policy Document to find any standards that may apply to a project in a particular community or area.

- S Special use, allowable subject to special standards and/or processing requirements, unless otherwise limited by a specific planning area standard. The following list shows where in the Coastal Zone Land Use Ordinance to find the special standards that apply to particular uses.

- P Principally permitted use, a use to be encouraged and that has priority over non-principally permitted uses, but not over agriculture or coastal dependent uses.

"S" NUMBER

APPLICABLE COASTAL ZONE LAND USE ORDINANCE SECTION AND/OR LAND USE ELEMENT REQUIREMENT

- | | | |
|----|-------------|---|
| 1 | 23.08.120 b | MISCELLANEOUS USES |
| 2 | 23.08.120 a | MISCELLANEOUS USES |
| 3 | 23.08.040 | AGRICULTURAL USES |
| 4 | 23.08.060 | CULTURAL, EDUCATIONAL & RECREATIONAL USES |
| 5 | 23.08.080 | INDUSTRIAL USES are allowable subject to the special standards found in Section 23.08.080. For new or expanded uses within the Petroleum Refining and Related Industries and Marine Terminals and Piers use groups, a specific plan is required prior to acceptance of land use permit(s) subject to the standards as set forth in Section 23.08.094. |
| 6 | 23.08.100 | MEDICAL & SOCIAL CARE FACILITIES |
| 7 | 23.08.140 | OUTDOOR COMMERCIAL USES |
| 8 | 23.08.160 | RESIDENTIAL USES |
| 9 | 23.08.170 | RESOURCE EXTRACTION |
| 10 | 23.08.200 | RETAIL TRADE |
| 11 | 23.08.220 | SERVICES |
| 12 | 23.08.260 | TRANSIENT LODGINGS |
| 13 | 23.08.280 | TRANSPORTATION, UTILITIES & COMMUNICATION |

- 14 Uses are allowable in the Open Space land use category on privately-owned land subject to Coastal Zone Land Use Ordinance Section 23.08.120a in addition to the special standards in Chapter 23.08, only when authorized by a recorded open space agreement executed between the property owner and the county. On public lands, uses designated are allowable subject to Coastal Zone Land Use Ordinance Section 23.08.120b, in addition to the special standards found in Chapter 23.08.
- 15 Listed processing activities are allowable in the Rural Lands and Agriculture land use categories only when they use materials extracted on-site pursuant to Coastal Zone Land Use Ordinance Section 23.08.120a, or when applicable, the Coastal Zone Land Use Ordinance Surface Mining Standards, Section 23.08.180 et. seq.
- 16 23.08.020 ACCESSORY USES
- 17 23.08.240 TEMPORARY USES
- 18 23.08.050 INTERIM AGRICULTURAL USES
- 19 23.08.400 WHOLESALE TRADE
- 20 23.08.300 ELECTRIC GENERATING PLANTS

ALLOWABLE USES

LAND USE CATEGORY

Open Space	Public Facilities	Industrial	Commercial Service	Commercial Retail	Office & Professional	Residential Multi-Family	Residential Single-Family	Residential Suburban	Residential Rural	Recreation	Rural Lands	Agriculture - Non-Prime Soils	Agriculture - Prime Soils
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PAGE NUMBER
OF USE DEFINITION

USE GROUP

A) AGRICULTURE	
Ag Accessory Structures	1
Ag Processing	2
Animal Raising & Keeping	3
Aquaculture	4
Crop Production & Grazing	5
Farm Equipment & Supplies	6
Nursery Specialties - Soil Dependent	8
Nursery Specialties - Non-Soil Dependent	9
Specialized Animal Facilities	10

B) COMMUNICATIONS	
Broadcasting Studios	1
Communications Facilities	2

6-39	S-3-P	S-3-P	S-3-P	S-3	S-3	S-3					S-3	S-3	S-3	S-14
6-39	S-3	S-3	S-3		S-3						S-3	A		
6-40	S-3	S-3	S-3	S-3	S-3	S-3	S-3	S-3	S-3	S-3	S-3	S-3	S-3	S-3
6-40		S-3	S-3		S-3						S-3-P	S-3-P		
6-44	P	P	P	A	A	S-18	S-18	S-18	S-18	S-18	S-18	A	A	A
6-45		S-3	S-3		S-3						A	A		
6-51	S-3-P	S-3-P	S-3		S-3	S-3				S-3	S-3	S-3		
6-52		S-3	S-3		S-3	S-3				S-3	S-3	S-3		
6-58	S-3	S-3-P	S-3	S-3	S-3	S-3	S-3			S-3	S-3	S-3	S-3	S-3

6-41										P	A	P	A	A
6-43		S-13	S-13	S-13	S-13						S-13	S-13-P	P	P
														S-14

LAND USE CATEGORY

Open Space	Public Utilities	Industrial	Chemical Parks	Chemical Plant	Office & Professional	Residential Medium Density	Residential Single-Family	Residential Suburban	Residential Rural	Residential Rural	Rural Lands	Agriculture - Non-Farm Lands	Agriculture - Prime Soils
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PAGE NUMBER
OF USE DEFINITION

USE GROUP

D) MANUFACTURING & PROCESSING (CONTINUED)	
Small Scale Manufacturing	21
Stone & Cut Stone Products	22
Structural Clay & Pottery - Related Production	23
Textile Products	24

											P	P		
	S-15	S-15									P	P		
		S-15										P		
												P		

E) RESIDENTIAL USES	
Caretaker Residence	1
Farm Support Quarters	2
Home Occupations	3
Mobilehome Parks	4
Mobilehomes	5
Multi-Family Dwellings	6
Nursing & Personal Care	7
Organizational Houses	8
Residential Accessory Uses	9
Residential Care	10
Secondary Dwelling	11
Single-Family Dwellings	12
Temporary Dwelling	13

S-8	S-8	S-8-P	S-8-P	S-8-P	S-8-P			S-8	S-8	S-8	S-8	S-8	S-8	S-14
S-16	S-16-P	S-16-P												
S-16-P	S-16-P	S-16-P	S-16	S-16-P	S-16-P	S-16-P	S-16-P	S-16	S-16	S-16	S-16	S-16	S-16	
			S-8	S-8	S-8	S-8-P	S-8-P							
S-8	S-8-P	S-8	S-8				S-8							
			S-8				P	S-8	S-8					
					S-6		S-6	P	S-6-P				A	
		S-8		S-8	S-8		S-8	S-8	S-8	S-8				
S-16-P	S-14													
		S-6		S-6	S-6	S-6	S-6	S-6					S-6	
				S-8	S-8	S-8								
S-16	S-16-P	P	S-2-P	P	P	P	P	S-8	S-8					
S-17-P														

LAND USE CATEGORY

Open Space	Public Facilities	Industrial	Commercial Service	Commercial Retail	Office & Professional	Residential Multi-Family	Residential Single-Family	Residential Suburban	Residential Rural	Recreation	Rural Lands	Agriculture - Non-Prime Soils	Agriculture - Prime Soils
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PAGE NUMBER
OF USE DEFINITION

USE GROUP

F) RESOURCE EXTRACTION	
Fisheries & Game Preserves	1
Forestry	2
Mining	3
Petroleum Extraction	4
Water Wells & Impoundments	5

6-46
6-46
6-51
6-54
6-61

	A	A	A	A										S-14
	A	A	A	A	A									
	S-9	S-9											S-9	S-14
	S-9	S-9		S-9	S-9							S-9	S-9	S-9
S-9-P														

G) RETAIL TRADE	
Auto, Mobilehome & Vehicle Dealers & Supplies	1
Building Materials & Hardware	2
Eating & Drinking Places	3
Food & Beverage Retail Sales	4
Fuel & Ice Dealers	5
Furniture, Home Furnishings & Equipment	6
General Merchandise Stores	7
Mail Order & Vending	8
Outdoor Retail Sales	9
Roadside Stands	10
Service Stations	11

6-40
6-41
6-44
6-46
6-46
6-47
6-47
6-50
6-53
6-56
6-57

										S-10	S-7	S-7		
										S-10-P	P	A		
	S-10		S-10-P	S-10	S-10				A	P	A	S-2		
			S-10-P	S-10	S-10	S-10	S-10	S-10				S-2		
											S-5	S-5-P		
										P	A			
			S-1-P							P	A			
										P	P	A		
	S-7	S-7	S-7	S-7					S-7	S-7	S-7	S-7	S-7	S-7
	S-3	S-3	S-3	S-3	S-3									
			S-10							S-10-P	S-10-P	S-10		

LAND USE CATEGORY

Open Space
Public Facilities
Industrial
Commercial Service
Commercial Retail
Office & Professional
Residential Multi-Family
Residential Single-Family
Residential Suburban
Residential Rural
Recreation
Rural Lands
Agriculture - Non-Prime Soils
Agriculture - Prime Soils

PAGE NUMBER
OF USE DEFINITION

USE GROUP

H) SERVICES	
Auto & Vehicle Repair & Service	1
Business Support Services	2
Construction Contractors	3
Consumer Repair Services	4
Correctional Institutions	5
Financial Services	6
Health Care Services	7
Laundries & Dry Cleaning Plants	8
Offices	9
Offices, Temporary	10
Personal Services	11
Public Safety Facilities	12
Storage, Accessory	13
Storage Yards & Sales Lots	14
Temporary Construction Yards	15
Waste Disposal Sites	16

										S-11-P	S-11			
										P	A			
										P	A			
										S-11	P	A		
													S-1-P	
					S-2				P	P				
					S-1				P	A			A	
											P	P		
									P	A	A	A	A	
					S-17	S-17	S-17	S-17	S-17-P	S-17	S-17	S-17	S-17	
					S-1			S-11	S-11	A	P	P		
		S-2	P	P	P	P								
		A	S-16	S-16	S-16	S-16	S-16	S-14						
											S-7	S-7	S-7	
		S-17	S-17	S-17	S-17	S-17								
		S-1	S-1									S-1	S-1-P	

LAND USE CATEGORY

Open Space	Public Facilities	Industrial	Commercial Service	Commercial Retail	Office & Professional	Residential Multi-Family	Residential Single-Family	Residential Suburban	Residential Rural	Recreation	Rural Lands	Agriculture - Non-Prime Soils	Agriculture - Prime Soils
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PAGE NUMBER
OF USE DEFINITION

USE GROUP

I) TRANSIENT LODGINGS	
Bed & Breakfast Facilities	1
Homestays	5
Hotels, Motels	2
Recreational Vehicle Parks	3
Temporary Const. Trailer Park	4

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	S-12	S-12-P	S-12-P	S-12-P	S-12-P		S-12	S-12	S-12-P	S-12		S-12	
					S-12	S-12							
			S-12-P					S-12	S-12-P	S-12		S-12	
			S-12-P						S-12	S-12		S-1	
	S-12	S-12		S-12							S-12		

J) TRANSPORTATION	
Airfields & Landing Strips	1
Harbors	2
Marine Terminals & Piers	3
Pipelines & Transmission Lines	4
Public Utility Facilities	5
Transit Stations & Terminals	6
Truck Stops	7
Vehicle & Freight Terminals	8
Vehicle Storage	9

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S-13	S-13	S-13	S-13	S-13				S-13		S-13	S-13	S-13-P	
												S-1-P	
			S-5							S-5	S-5	S-5-P	
S-13	S-14												
S-13	S-13	S-13		S-13	P								
			S-2					S-2	S-2	S-2	A	A	
										A	A		
										A	A		
			S-13					S-13	S-13	P	A	A	

K) WHOLESALE TRADE	
Warehousing	1
Wholesaling & Distribution	2

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6-61

	S-19	S-19					S-19			P	A	A	
	S-19	S-19								P	A		