

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
 725 FRONT STREET, SUITE 300
 SANTA CRUZ, CA 95060
 (408) 4863

**RECORD PACKET COPY****Th12a**

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|--------------------|----------|
| Filed: | 09/20/99 |
| 49th day: | Waived |
| Opened and Con't.: | 11/3/99 |
| Staff: | SG |
| Staff Report: | 05/22/00 |
| Hearing Date: | 06/15/00 |

STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: San Luis Obispo County

LOCAL DECISION: Approved with conditions, 7/22/99

APPEAL NUMBER: A-3-SLO-99-068

APPLICANTS: BONITA HOMES

APPELLANTS: Commissioner Sara Wan, Commissioner Christine Desser

PROJECT LOCATION: 444 Pier Street, Oceano (San Luis Obispo County) APN 013-061-031 and 003.

PROJECT DESCRIPTION: Modification of coastal permit conditions to increase the maximum number of days per year that owners may occupy condominium hotel rooms from 84 to 127 and removal of two week limit on owner occupancy between Memorial Day and Labor Day.

FILE DOCUMENTS: Coastal Development Permit D940151; San Luis Obispo County certified Local Coastal Program.

STAFF RECOMMENDATION

Staff recommends that the Commission determine that **substantial issue exists** with respect to the grounds on which the appeal has been filed. Staff will then bring the appeal back to the Commission at a later date (most likely July 2000) for a de novo hearing on the merits of the project.



California Coastal Commission
June 15, 2000 Meeting in Santa Barbara

Staff: S. Guiney, Approved by: P.T. 5/25/00

In accordance with section 13112 of the Commission's Administrative Regulations, staff requested that the local government forward all relevant documents and materials regarding the subject permit within five working days of receipt of that notice. The final day for completion of staff reports for the November 1999 meeting was October 14, 1999. As of October 13, 1999, the material necessary for a complete analysis had not yet been received, so the staff report recommended that the Commission open and continue the hearing. On November 3, 1999, the Commission opened and continued the hearing. The applicant subsequently signed a waiver of the 49 day hearing requirement. The material from the County was received on October 29, 1999. Discussion with the applicant indicated that additional information would be supplied in support of the County's action. That information was received on May 10, 2000. Staff recommends that the Commission at this time find that substantial issue exists. Staff will bring the item back for a de novo hearing (probably in July) after having time to review and analyze the additional information supplied by the applicant.

STAFF NOTE

The condominium hotel project is partly in the Commission's jurisdiction and partly in the County's. Therefore coastal development permits for the project were required from and issued by both the Commission and the County. Both permits set limits on the yearly total and summer season total number of days an owner of one of the condominium units would be allowed to stay in the units. Specifically, both permits set an 84 day yearly total and a 14 day total between Memorial Day and Labor Day. This is consistent with the certified LCP. According to the applicant, after construction of a portion of the development, marketing the units became very difficult because potential buyers were concerned with the limits on the yearly and seasonal maximum number of days owners would be allowed to stay in the units. Prior to requesting the County to modify its permit, the applicant and Commission staff had discussed this issue and the kind of information that would be necessary to support any proposed change to the permits regarding the owner stay limit. Commission staff pointed out that the certified LCP was unambiguous on the limits. The applicant has now supplied staff with additional information (received May 10, 2000), although staff has not had sufficient time to analyze this information in light of other pending permit items. This information will be analyzed for a subsequent de novo hearing.



SUMMARY EVALUATION OF SUBSTANTIAL ISSUE

| ISSUE | APPLICABLE ZONING ORDINANCE SECTION | CONSISTENCY |
|--|-------------------------------------|--|
| Planning Commission to make finding that approval will not reduce availability of overnight or transient occupancy by the general public | Section 23.08.264d | Inconsistent. Required finding not made. <i>Substantial Issue is Raised</i> |
| Owner occupancy of condominium hotel rooms limited to max. of 84 days per year and max. of 14 days Between Memorial Day and Labor Day | Section 23.08.264g(2) | Inconsistent. County-approval increased owner occupancy to max of 127 days per year and eliminated max. stay between Memorial Day and Labor Day. <i>Substantial Issue is Raised</i> |

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EXHIBITS

1. Appeal

2. Final Local Action Notice

3. Maps

4. Relevant LCP Sections



I. SUMMARY OF APPELLANTS' CONTENTIONS

(See Exhibit 1 for the full text)

Appellants Commissioners Wan and Desser contend that the County violated the LCP in the following ways:

1. CZLUO Section 23.08.264d requires that in approving a Development Plan (a local coastal development permit) the Planning Commission must first find "that the proposal will not reduce the availability of accommodations for overnight or transient occupancy by the general public, tourists and visitors compared to a conventional hotel or motel." No such finding was made.
2. Coastal Zone Land Use Ordinance (CZLUO) Section 23.08.264g(2) limits owners to no more than 84 days of occupancy per year, including not more than a total of 14 days between Memorial Day and Labor Day. The County approval removes the 14 day limit between Memorial Day and Labor Day and increases the total yearly owner stay limit to 184 days.

II. LOCAL GOVERNMENT ACTION

On July 22, 1999, the San Luis Obispo County Planning Commission approved an amendment to Development Plan/Coastal Development Permit D940151D to change, among other things, the limit on restrictions on owner occupancy. The County's approval increased the limit on owner stays from 84 days per year to 127 days per year and eliminated the 14 day restriction on owner stays from Memorial Day to Labor Day. Please see Exhibit 2 for the complete text of the resolution and the County's findings and conditions.

III. STANDARD OF REVIEW FOR APPEALS

Coastal Act section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because it is between the sea and the first public road paralleling the sea and it is within 100 feet of a wetland (Oceano Lagoon).



The grounds for appeal under section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter Three of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is located between the nearest public road and the sea and thus, this additional finding must be made in a *de novo* review in this case.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

Staff recommends that the Commission find that substantial issue exists with respect to the grounds on which the appeal has been filed.

MOTION: *I move that the Commission determine that Appeal No. A-3-SLO-99-068 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a *de novo* hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-3-SLO-99-068 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.



V. RECOMMENDED FINDINGS

A. *Project Location and Description*

The site of the proposed project is a 1.9 acre triangular parcel located at the intersection of Pier Avenue and Air Park Drive in the unincorporated community of Oceano in southern San Luis Obispo County. The site is bordered on the east by the Oceano Lagoon and Oceano County Park and is situated across Pier Avenue from the Oceano Campground of Pismo State Beach.

The westerly one-third of the site is in the County's permit jurisdiction; the easterly two-thirds of the site remain in the Commission's permit jurisdiction (see Exhibit 3).

In 1995 the County and the Coastal Commission approved permits for the development of a 56 unit condominium hotel. Both the County and the Commission approvals contained conditions limiting the length of time condominium owners could stay in the rooms to 84 days per year and 14 days between Memorial Day and Labor Day, consistent with the certified LCP.

Now the County has approved an amendment to its coastal development permit that would increase the length of time condominium owners could stay in the rooms to 127 days per year, with no limit between Memorial Day and Labor Day.

B. *Substantial Issue Findings*

1. **Required Finding for Condominium Hotel Development Plan Approval**

a. Appellants' Contention: The appellants contend that the amendment is inconsistent with the LCP's requirement that a Development Plan (a local coastal development permit) for a condominium hotel may be approved only if the Planning Commission finds that the proposal will not reduce the availability of overnight or transient occupancy by the general public tourists, and visitors, because no such finding was made.

b. Local Government Action: On July 22, 1999, the Planning Commission approved a change in the number of days that condominium owners could stay in the hotel rooms, from 84 total to 127 total per year and eliminated the 14 day stay restriction between Memorial Day and Labor Day.

c. Applicable LCP Section:

Coastal Zone Land Use Ordinance (CZLUO) Section 23.08.264d.

Required Finding: A Development Plan may be approved only if the Planning Commission first finds that the proposal will not reduce the



availability of accommodations for overnight or transient occupancy by the general public, tourists and visitors compared to a conventional hotel or motel.

d. Analysis: The findings made by the Planning Commission are attached as Exhibit 2. There is no finding addressing section 23.08.264d. Although the County's action was to amend or modify existing Development Plan D940151D, and not approve an original Development Plan, the same finding is required. If it weren't, then the protection afforded visitor-serving development could be easily circumvented by first obtaining a Development Plan approval and then amending the Development Plan to weaken the protection for visitor-serving transient occupancy opportunities. **As approved by the County, this project is inconsistent with CZLUO Section 23.08.264d. Therefore a substantial issue is raised.**

2. Owner Occupancy Limits

a. Appellants' Contention: The appellants contend that the amendment is inconsistent with the LCP's limitation on owner occupancy limits that restrict the maximum yearly occupancy to 84 days and the maximum seasonal stay to 14 days between Memorial Day and Labor Day.

b. Local Government Action: On July 22, 1999, the Planning Commission approved a change in the number of days that condominium owners could stay in the hotel rooms, from 84 total to 127 total per year and eliminated the 14 day stay restriction between Memorial Day and Labor Day.

c. Applicable LCP Sections:

CZLUO Section 23.02.034c(4)(part).

The Review Authority shall not approve or conditionally approve a Development Plan unless it first finds that:

- (i) The proposed project or use is consistent with the Local Coastal Program and the Land Use Element of the general plan. . . .*

Coastal Zone Land Use Ordinance (CZLUO) Section 23.08.012b.

The standards of this chapter may be waived or modified through Development Plan approval, except where otherwise provided by this chapter and except for standards relating to residential density or limitations on the duration of a use (unless specific provisions of this chapter allow their modification). Waiver or modification of standards shall be granted through Development Plan approval (Section 23.02.034) only where the Planning Commission first makes findings that:



- (1) *Set forth the necessity for modification or waiver of standards by identifying the specific conditions of the site and/or vicinity which make standard (sic) unnecessary or ineffective.*
- (2) *Identify the specific standards of this chapter being waived or modified.*
- (3) *The project, including the proposed modifications to the standards of this chapter, will satisfy all mandatory findings required for Development Plan approval by Section 23.02.034c(4) of this title.*

In no case, however, shall any standard of this chapter be reduced beyond the minimum standards of the other chapters of this title, except through Variance (Section 23.01.045)

Coastal Zone Land Use Ordinance (CZLUO) Section 23.08.264g(2).

No owner or owners holding separate interest in a hotel or motel unit shall occupy that unit more than a total of 84 days per year, including not more than a total of 14 days during the period from Memorial Day to Labor Day.

d. Analysis: The county approval increases the maximum yearly stay allowed for owners from 84 days to 127 days and eliminates any restriction on the maximum seasonal stay between Memorial Day and Labor Day (See Exhibit 2). This is clearly inconsistent with the certified LCP's requirements, which are meant to maximize the visitor-serving occupancy opportunities.

First, CZLUO Section 23.02.034c(4) requires that a finding be made, prior to approval of a Development Plan, that "[t]he proposed project or use is consistent with the Local Coastal Program. . . ." While the condominium hotel use is consistent with the Local Coastal Program (LCP), the County approval altering the limitations on the length of owner stays is not consistent with CZLUO Section 23.08.264g(2), which specifically limits the length of owner stays.

Second, CZLUO Section 23.08.012b does not allow waiver or modification of the "standards relating to residential density or limitations on the duration of a use (unless specific provisions of this chapter allow their modification)." Here, the duration of the owner stays is specifically limited and there is no specific provision of the chapter allowing modification of this limitation.

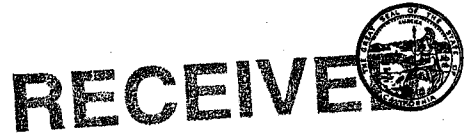
Finally, the limitation is to facilitate visitor use of the condominium units. The County action would have just the opposite effect.

As approved by the County, this project is inconsistent with CZLUO Section 23.08.264g(2). Therefore a substantial issue is raised.



CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
427-4863



SEP 20 1999

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Please review attached appeal information sheet prior to completing this form.

SECTION I. Appellant(s):

Name, mailing address and telephone number of appellant(s):

Commissioners Sara Wan and Christina Desser, California Coastal Commission
45 Fremont St. Suite 2000, San Francisco, CA 94105
(415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Modification of coastal permit conditions to increase the maximum number of days per year
that owners may occupy condominium hotel rooms from 84 to 127 and removal of two week
limit on owner-occupancy between Memorial Day and Labor Day.

3. Development's location (street address, assessor's parcel number, cross street, etc.):

444 Pier Avenue, Oceano, San Luis Obispo County, APN 013-061-031 and 003

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
- b. Approval with special conditions: XXX
- c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-99-068
DATE FILED: 9/20/99
DISTRICT: Central Coast

Ex 1
A-3-SLO-99-068
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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (PAGE 2)

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

- a. Planning Director/Zoning Administrator
- b. City Council/Board of Supervisors
- c. Planning Commission
- d. Other: _____

6. Date of local government's decision: July 22, 1999

7. Local government's file number: D940151D, Resolution 99-59

SECTION III Identification of Other Interested Persons

Give the names and addresses of the following parties: (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Bonita Homes
Jack Ghormley, President
PO Box 1540, Arroyo Grande, CA 93421-1540

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearings (s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Michael Hodge
Omni Design Group, Inc.
669 Pacific Street
San Luis Obispo, CA 93401

(2) _____

(3) _____

(4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section which continues on the next page.

Ex 1

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State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

(see attached)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

[Handwritten Signature]
Signature of Appellant(s) or Authorized Agent

Date September 20, 1999

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date _____

Ex 1
A-3-SLO-99-068
3-25

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

(see attached)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Christina L. Dam

Signature of Appellant(s) or Authorized Agent

Date September 20, 1999

NOTE: If signed by agent, appellant(s) must also sign below.

SECTION VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date _____

Ex 1
A-3-SLO-99-068
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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (PAGE 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

The Pacific Plaza Resort was approved by the County and the Coastal Commission as a condominium hotel in 1995. Coastal permit jurisdiction is split between the County and the Coastal Commission. In accordance with Section 23.08.264g(2) of the Coastal Zone Land Use Ordinance (CZLUO), both the County and Coastal Commission permits limited owner-occupancy to a maximum yearly total of 84 days, including not more than a total of 14 days during the period from Memorial Day to Labor Day.

The County Planning Commission has now approved a Development Plan (coastal development permit) allowing modifications to the owner-occupancy requirements to allow owner-occupancy for a maximum yearly total of 127 days instead of 84 days and, perhaps more critically, has removed the two week owner-occupancy limit for the period between Memorial Day and Labor Day. This will likely reduce and potentially eliminate summer-time use of the hotel rooms by members of the general public. The elimination of the summer-time limit on owner-occupancy is inconsistent with CZLUO Section 23.08.264g(2). Although the County's action references problems with the salability of the condominium units based on the existing owner-occupancy limits, there is no information to substantiate such problems.

Further, CZLUO Section 23.08.264d states that a Development Plan

may be approved only if the Planning Commission first finds that the proposal will not reduce the availability of accommodations for overnight or transient occupancy by the general public, tourists and visitors.

No such finding was made. Therefore, the Development Plan modifying the limits on owner-occupancy is inconsistent with the certified LCP.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Ex1
A-3-510-99-068
5 of 5

RECEIVED

SEP 03 1999

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

**FINAL LOCAL
ACTION NOTICE**

REFERENCE # 3-SLO-99-131
APPEAL PERIOD 07 Sept. - 20 Sept. 1999

July 28, 1999

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: July 22, 1999

SUBJECT: Development Plan/Coastal Development Permit D940151D

LOCATED WITHIN COASTAL ZONE: YES

The above-referenced applications were approved on the above-referenced date by the following hearing body:

x San Luis Obispo County Planning Commission

A copy of the findings and conditions are being sent to you, along with the Resolution of approval.

This action is appealable to the Board of Supervisors within 14 days of this action. If there are Coastal grounds for the appeal there will be no fee. If an appeal is filed with non coastal issues there is a fee of \$474. This action may also be appealable to the California Coastal Commission pursuant to Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The regulations provide the California Coastal Commission 10 working days following the expiration of the County appeal period to appeal the decision. This means that no construction permits can be issued until both the County appeal period and the additional Coastal Commission appeal period have expired without an appeal being filed.

Exhaustion of appeals at the county is required prior to appealing the matter to the California Coastal Commission. The appeal to the Board of Supervisors must be made to the Planning Commission Secretary, Department of Planning and Building, and the appeal to the California Coastal Commission must be made directly to the California Coastal Commission Office. Contact the Commission's Santa Cruz Office at (408) 427-4863 for further information on appeal procedures. If you have questions regarding your project, please contact your planner at (805) 781-5600.

Sincerely,

DIANE R. TINGLE, SECRETARY
COUNTY PLANNING COMMISSION

Ex 2 1/14
A-3-SLO-99-068

(Planning Department Use only)

Date NOFA original to applicant: July 29, 1999

Mailed Hand-delivered

Date NOFA copy mailed to Coastal Commission: Aug 6, 1999

- Enclosed:
- Staff Report
 - Resolution
 - Findings and Conditions

Ex 2 2/14
A-3-SLO-99-068

PLANNING COMMISSION
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Thursday, July 22, 1999

PRESENT: Commissioners Wayne Cooper, Diane Hull, Doreen Liberto-Blanck, Cliff Smith,
Chairman Pat Veasart

ABSENT: None

RESOLUTION NO. 99-59
RESOLUTION RELATIVE TO THE GRANTING OF A DEVELOPMENT PLAN TO
MODIFY CONDITIONS OF APPROVED DEVELOPMENT PLAN

WHEREAS, The County Planning Commission of the County of San Luis Obispo, State of California, did, on the 22nd day of July, 1999, grant a Development Plan to modify conditions of approved development plan to BONITA HOMES to allow construction and operation of a 6 building, 56 unit condominium hotel; 2) extended phasing schedule to allow additional time to complete the final 4 buildings; and 3) modify the length of stay restrictions to allow unit owners to stay in the units for no more than 127 days per year through a modification of special use standards, in the Commercial Retail Land Use Category. The property is located in the county on 444 Pier Street at the intersection of Pier Avenue and Air Park Drive in the community of Oceano, APN: 013-061-031 and 003, in the San Luis Bay Planning Area. County File Number: D940151D.

WHEREAS, The Planning Commission, after considering the facts relating to said application, approves this Permit subject to the Findings listed in Exhibit A.

WHEREAS, The Planning Commission, after considering the facts relating to said application, approves this permit subject to the Conditions listed in Exhibit B.

NOW, THEREFORE, BE IT RESOLVED, That the Planning Commission of the County of San Luis Obispo, State of California, in a regular meeting assembled on the 22nd day of July, 1999, does hereby grant the aforesaid Permit, No. D940151D.

Ex 2 3/14
A-3-510-99-068

If the use authorized by this Permit approval has not been established or if substantial work on the

property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated through conditions of approval of this Permit, this approval shall expire and become void unless an extension of time has been granted pursuant to the provisions of Section 22.02.050 of the Land Use Ordinance.

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

On motion of Commissioner Hull, seconded by Commissioner Smith, and on the following roll call vote, to-wit:

- AYES: Commissioners Hull, Smith, Cooper, Liberto-Blanck, Chairman Veasart
- NOES: None
- ABSENT: None

the foregoing resolution is hereby adopted.

/s/ Pat Veasart
Chairman of the Planning Commission

ATTEST:

/s/ Diane Tingle
Secretary, Planning Commission
1450L

Ex 2 4/14
A-3-SLO-99-068

FINDINGS OF APPROVAL
DEVELOPMENT PLAN D940151D (MODIFICATION)

1. The proposed project or use is consistent with the San Luis Obispo County General Plan/ Local Coastal Plan because the use is allowed in the community pursuant to Planning Area Standards.
2. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
3. The establishment and subsequent operation or conduct of the use will not because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use.
4. The proposed project or use will be inconsistent with the character of the immediate neighborhood or contrary to its orderly development.
5. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project.

Sensitive Resource Area Findings

6. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff.
7. Natural features and topography have been considered in the design and siting of all proposed physical improvements.
8. The proposed clearing of topsoil, trees, is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource.

Modification to Chapter 8 Special Use Standards

9. Set forth the necessity for modification or waiver of standards by identifying the specific conditions of the site and/or vicinity which make the standard unnecessary or ineffective because the modification will lead to the ultimate success of this visitor serving project; there is a lack of such facilities in the community; other similar uses in the state are not restricted to this degree.
10. Identify the specific standard of this chapter being waived or modified. The restriction on owner occupancy to no more than 84 days per year is being modified to 127 days/year and removing the restriction on unit owners staying no more than two weeks from Memorial Day to Labor Day.
11. The project, including the proposed modifications to the standards of this chapter, will satisfy all mandatory findings required for Development Plan approval by Section 23.02.034(c)4 of this Title.

Ex 2 5/14
A-3-SLO-99-068

CONDITIONS OF APPROVAL
DEVELOPMENT PLAN D940151D
(BONITA HOMES, INC.)

Status of Approval

1. The approval of this modification to Development Plan D940151D includes the following elements:
 - a. Approval of a third time extension of the Development Plan to May 26, 2000.
 - b. Approval of an extended phasing schedule that will allow four additional years for the Development Plan. All construction above grade must be commenced on all six phases (buildings) by May 28, 2004 after which time the Development Plan will lapse.

2. The owner occupancy restrictions of CZLUO are modified to allow unit owners to stay in their units for a total of 127 days/year instead of 84 days/year as required by CZLUO section 23.08.264g(2).

The owner occupancy restrictions of the CZLUO are modified to allow unit owners to stay in their units for more than two weeks during the time from Memorial Day to Labor Day as long as all other stay restrictions are in compliance with the original and the modified conditions of approval.

3. All other conditions of approval of the original Development Plan D940151D are still in full force and effect.

Ex 2 6/14
A-3-SLO-99-068

Staff Report

San Luis Obispo County Department of Planning and Building

AGENDA DATE: JULY 22, 1999

TO: PLANNING COMMISSION

FROM: JAMES CARUSO, SENIOR PLANNER

SUBJECT: HEARING TO CONSIDER AN AMENDMENT TO DEVELOPMENT PLAN D940151D (PACIFIC PLAZA RESORT) TO MODIFY CHAPTER 8 SPECIAL USE STANDARDS; CONSIDER A THIRD TIME EXTENSION; AND TO CONSIDER AN EXTENDED PHASING SCHEDULE

ENVIRONMENTAL DETERMINATION: NEGATIVE DECLARATION (Approved by Planning Commission on May 28, 1995)

Attachments

1. Exhibit A (Development Plan Findings)
2. Exhibit B (Development Plan Conditions)

SUMMARY

The applicant has submitted three requests for this project:

1. A third (last) time extension for Coastal Development Permit/Development Plan D94151D to May 28, 2000;
2. An extended phasing schedule to allow additional time to construct all buildings approved as part of the CDP/DP; and
3. Modification of Chapter 8 special use standards to allow condominium hotel unit owners to occupy their units for periods of time greater than allowed by the CZLUO Chapter 8.

RECOMMENDATION

Staff recommends:

1. Approval of the third time extension pursuant to CZLUO section 23.02.050(b);
2. Approval of an extended phasing schedule to allow completion of each of the next four phases over the four years subsequent to the expiration of the third time extension (all construction to be completed by May 26, 2004 or the permit shall lapse); and
3. Approval of a modification to the Chapter 8 special use standards to allow units owners to stay a total of 127 days/yr instead of 84 days/yr.

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DISCUSSION

Background

The subject project was originally approved by the Planning Commission on May 11, 1995. The site is located in an area of Original Permit Jurisdiction of the California Coastal Commission. This permit jurisdiction required the Coastal Commission to consider a Coastal Development Permit application after the County approved the Development Plan. The Coastal Commission approved the Coastal Development Permit on June 15, 1995.

The originally approved project proposed a 98 unit, three story condominium hotel project. This permit application was approved by the County; however, the Coastal Commission denied the tract map that would have created the condominium element of the project and approved the hotel. The Coastal Commission directed the County to process an Local Coastal Plan amendment that would specifically allow condominium ownership of a visitor serving facility. The County and the Coastal Commission subsequently approved an LCP amendment that allows condominium ownership of hotel rooms in the community of Oceano only. The development plan for the 150 unit condotel was modified to a 56 unit project and was approved under the provisions of the new CZLUO condotel ordinance.

The applicant, Bonita Homes, has constructed two of the six approved structures. The five year timeframe of development plan approval will lapse on May 26, 2000. The applicant now requests approval of a third and final one year time extension pursuant to CZLUO section 23.02.050. In addition, the CZLUO allows for approval of an extended phasing schedule that may extend the five year time limit. An extended phasing schedule must be approved as part of the Development Plan; therefore, that applicant has submitted, along with the request for a third time extension, a request to modify the original time frames of approval of the Development Plan.

The third element of the application requests a modification to the special use standards of Chapter 8 of the CZLUO that addresses condominium ownership of hotels. The Chapter 8 special use standards can be modified pursuant to CZLUO section 23.08.012(b0 - Exceptions to Special Use Standards with findings that include: 1) identifying the necessity for the modification by specifying the specific conditions of the site that make the standard unnecessary or ineffective; 2) identifying the specific standard being modified; and 3) the project will still satisfy all mandatory findings required for development plan approval.

Third Time Extension

A third time extension may be approved if the Planning Commission makes three mandatory findings:

1. That substantial site work could not be completed as set forth in Section 23.02.042 because of circumstances beyond the control of the applicant.

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Shortly after initial approval of the Development Plan/CDP, the applicant needed to amend the original permit to allow certain changes to the management structure of the hotel. These changes, that included the drafting, review and approval of CC&R's took almost one year. Since that time, the applicant has completed substantial site work on the first two of the six approved structures.

- 2. The findings specified in Sections 23.02.050(a)(1), (2) and (3):
 - There have been no changes to the provisions of the Land Use Element of Land Use Ordinance applicable to the project since the approval of the land use permit;
 - There have been no changes to the character of the site or its surroundings that affect how the standards of the Land Use Element or Land Use Ordinance apply to the project;
 - There have been no changes to the capacities of community resources, including but not limited to water supply, sewage treatment or disposal facilities, roads or schools such that there is no longer sufficient remaining capacity to serve the project.

No changes to the provisions of the LUE/LUO have occurred that would affect the project since the original land use permit was approved in 1995. The San Luis Bay Area Plan allows condominium hotels pursuant to the LCP amendment approved by the Coastal Commission in 1994. The CZLUO contains the applicable standards for development and operation of such a use.

- 3. The findings that were required by section 23.02.034c(4) to enable initial approval of the permit.

See Exhibit A - Findings of Approval.

Extended Phasing Schedule

CZLUO section 23.02.042 provides for approval of a project phasing schedule for a multi-structure project. A phasing schedule may provide for additional time, beyond the usual two years of initial approval and three one-year time extensions. The full five year time limit on the subject Development Plan will lapse on May 26, 2000 (if the Planning Commission approves the third and final time extension). At this time, only two of the approved six structures have been completed.

The California Coastal Commission's Coastal Development Permit (CDP) has already been "vested" with the construction of the first two structures. This means that the Coastal Commission's CDP will not lapse as is the case with the County Development Plan. Based on the status of the CDP, it is reasonable to extend the life of the Development Plan past the usual five year time limit.

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The extended phasing schedule for this multi-building project is proposed to reflect the orderly completion of the next four buildings. The phasing schedule identified in the recommended conditions of approval (Exhibit B) extend the life of the Development Plan one year for each of the uncompleted buildings (phases). Pursuant to the proposed phasing condition, construction must be completed on all buildings by May 26, 2004. This will allow one additional year for each of the four uncompleted phases.

Modification of CZLUO Section 23.08.264(g)

CZLUO section 23.08.264(g)(2) restricts unit owners of a condominium hotel to a maximum stay of 84 days per year. The applicant requests a modification of this standard to increase the length of stay for unit owners to 129 days per year. The reason for the request is to increase the salibility of the units by allowing unit owners additional time to stay in the units they purchase. The rest of the time, the special use standards require the project to operate like any other hotel.

The standards of Chapter 8 may be modified by the Planning Commission pursuant to CZLUO section 23.08.012(b) through development Plan approval. The findings required to approve a modification of special use standards are:

- a. Set forth the necessity for modification or waiver of standards by identifying the specific conditions of the site and/or vicinity which make the standard unnecessary or ineffective.
- b. Identify the specific standard of this chapter being waived or modified.
- c. The project, including the proposed modifications to the standards of this chapter, will satisfy all mandatory findings required for Development Plan approval by Section 23.02.034(c)4 of this Title.

The Coastal Commission's approval of the CDP was characterized by the Commission as an experiment in allowing unit owned hotels in the coastal zone. It was determined by both the County and Commission that the community of Oceano in general and this site in particular were well suited for visitor serving overnight accommodations. It was further determined that condominium ownership of a hotel on this site was consistent with the visitor serving policies of the coastal zone. The applicant has stated that marketing of the units has been severely hampered by the 84 day/year restriction on owner occupancy of CZLUO section 23.08.264g(2).

Modification of this specific standard of Chapter 8 will, according to the applicant, result in more saleable units and will lead to the ultimate success of this project.

Staff Report Prepared By: James Caruso, Senior Planner
and Reviewed By: Michael Drazo, Supervising Planner

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FINDINGS OF APPROVAL
DEVELOPMENT PLAN D940151D (MODIFICATION)

1. The proposed project or use is consistent with the San Luis Obispo County General Plan/ Local Coastal Plan because the use is allowed in the community pursuant to Planning Area Standards.
2. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
3. The establishment and subsequent operation or conduct of the use will not because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use.
4. The proposed project or use will be inconsistent with the character of the immediate neighborhood or contrary to its orderly development.
5. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project.

Sensitive Resource Area Findings

6. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff.
7. Natural features and topography have been considered in the design and siting of all proposed physical improvements.
8. The proposed clearing of topsoil, trees, is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource.

Modification to Chapter 8 Special Use Standards

9. Set forth the necessity for modification or waiver of standards by identifying the specific conditions of the site and/or vicinity which make the standard unnecessary or ineffective because the modification will lead to the ultimate success of this visitor serving project; there is a lack of such facilities in the community; other similar uses in the state are not restricted to this degree..

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10. Identify the specific standard of this chapter being waived or modified. The restriction on owner occupancy to no more than 84 days per year is being modified to 127 days/year.

11. The project, including the proposed modifications to the standards of this chapter, will satisfy all mandatory findings required for Development Plan approval by Section 23.02.034(c)4 of this Title.

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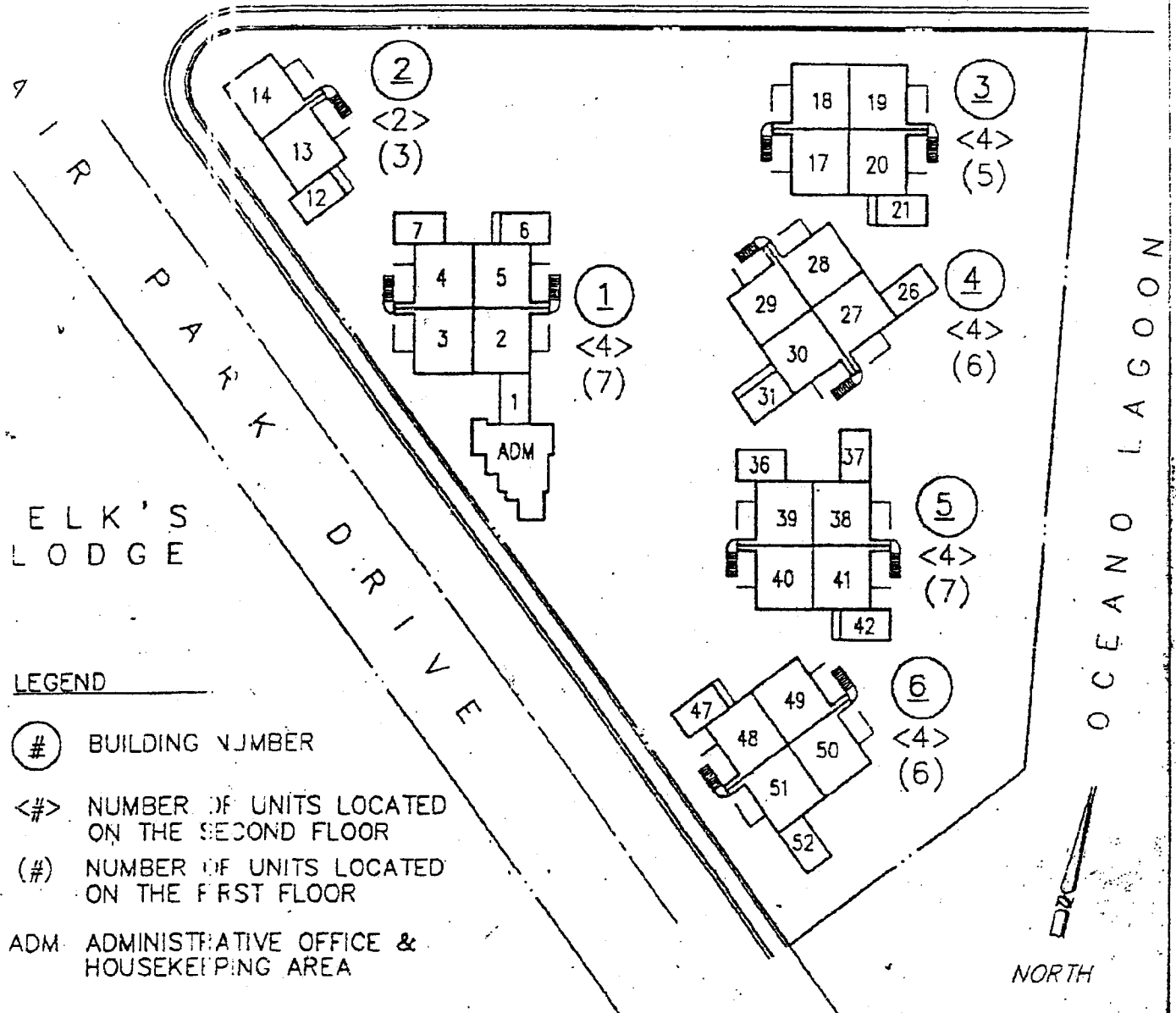
CONDITIONS OF APPROVAL
DEVELOPMENT PLAN D940151D
(BONITA HOMES, INC.)

Status of Approval

1. The approval of this modification to Development Plan D940151D includes the following elements:
 - a. Approval of a third time extension of the Development Plan to May 26, 2000.
 - b. Approval of an extended phasing schedule that will allow four additional years for the Development Plan. All construction must be completed on all six phases (buildings) by May 26, 2004 after which time the Development Plan will lapse if all construction is not completed.
2. The owner occupancy restrictions of CZLUO are modified to allow unit owners to stay in their units for a total of 127 days/year instead of 84 days/year as required by CZLUO section 23.08.265g(2).
3. All other conditions of approval of the original Development Plan D940151D are still in full force and effect.

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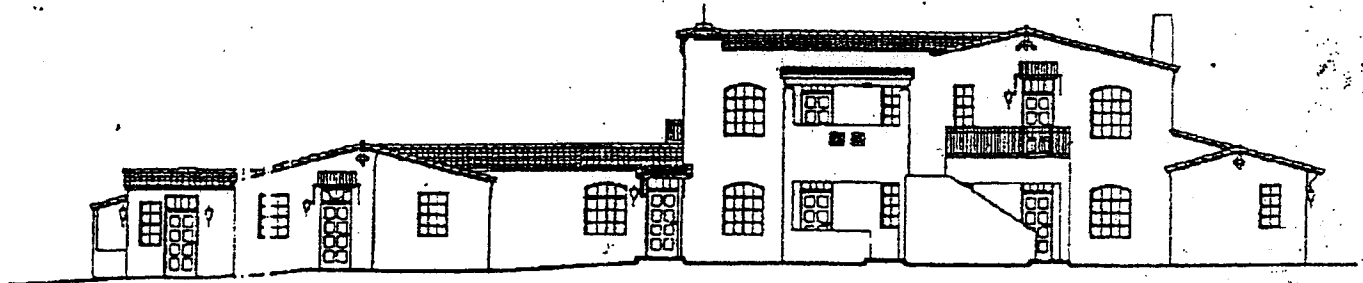
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LEGEND

- Ⓝ BUILDING NUMBER
- <#> NUMBER OF UNITS LOCATED ON THE SECOND FLOOR
- (#) NUMBER OF UNITS LOCATED ON THE FIRST FLOOR
- ADM: ADMINISTRATIVE OFFICE & HOUSEKEEPING AREA

SITE PLAN - FIRST FLOOR UNITS



PACIFIC PLAZA RESORT
444 PIER AVENUE

PROJECT

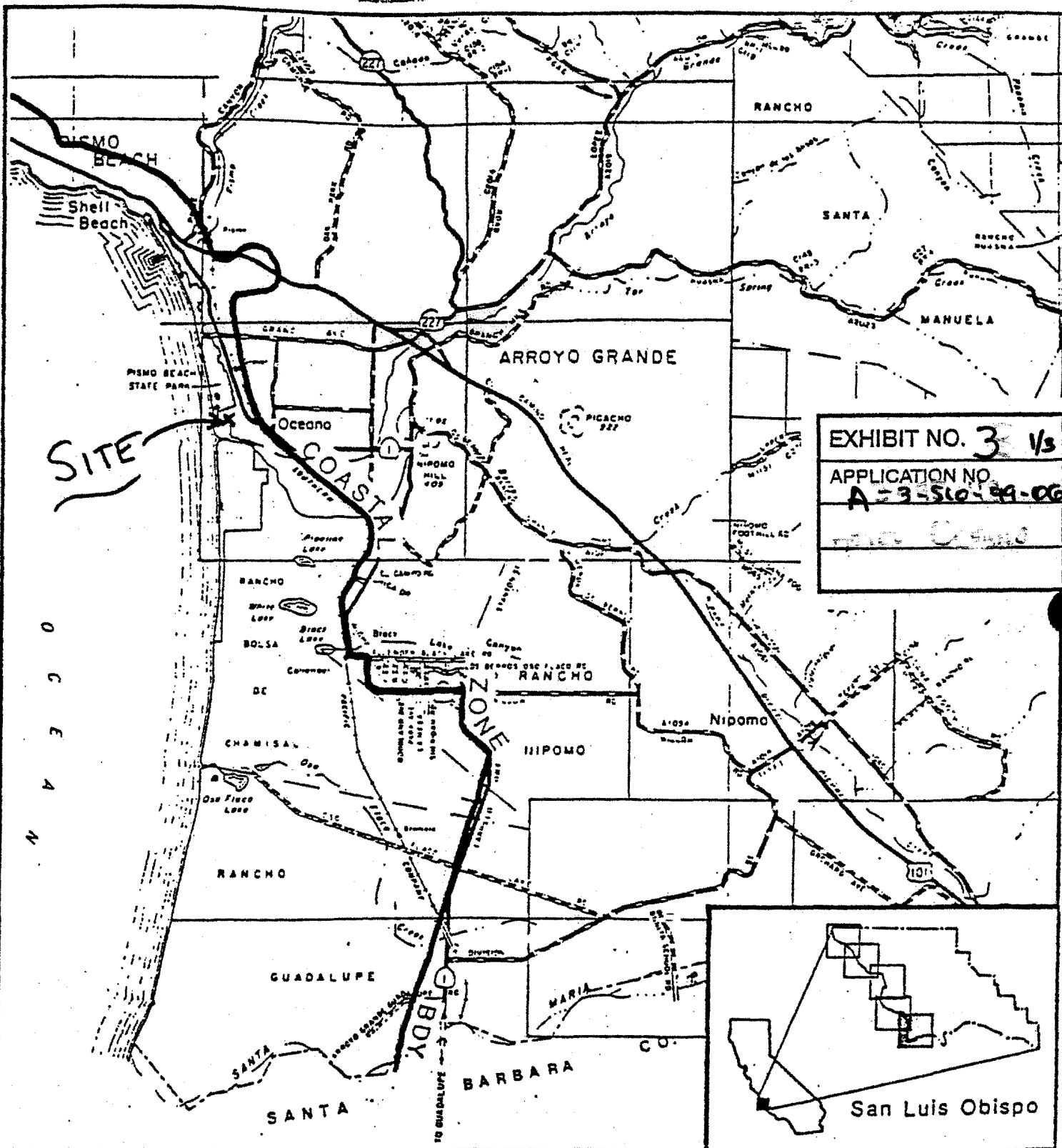
Pacific Plaza Resort
D940151D



EXHIBIT

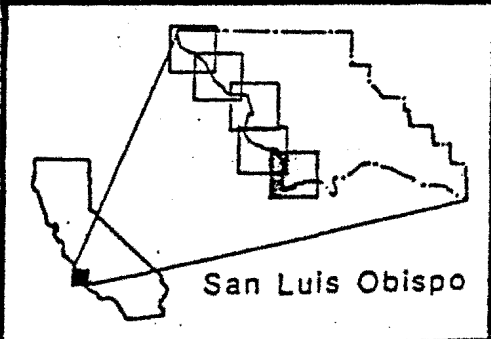
PHASING PLAN

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SITE

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|-------------------|
| EXHIBIT NO. 3 1/3 |
| APPLICATION NO |
| A-3-510-99-008 |
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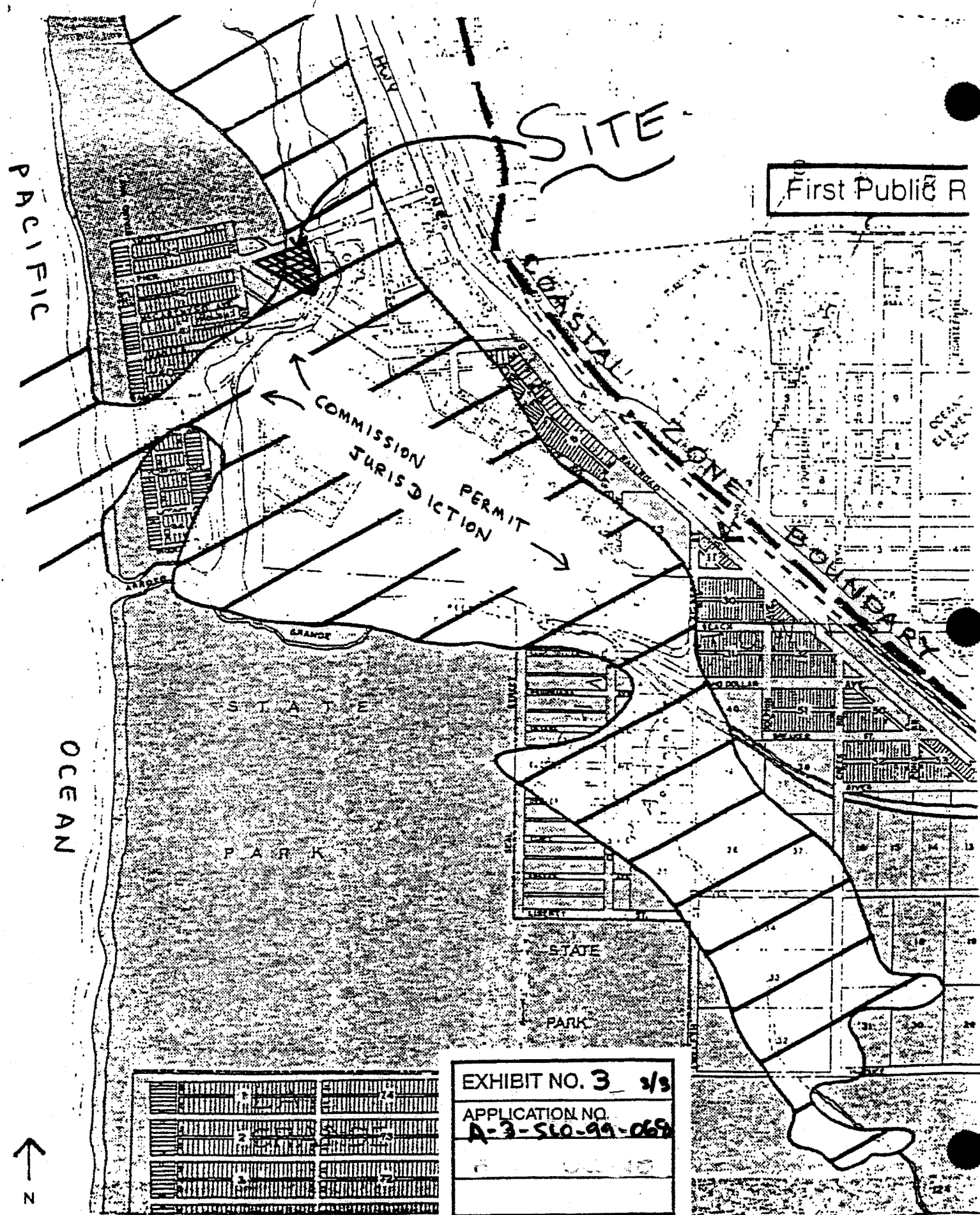


San Luis Obispo



LOCATION MAP





First Public R

SITE

COMMISSION PERMIT JURISDICTION

PACIFIC

OCEAN

STATE

PARK

STATE

PARK

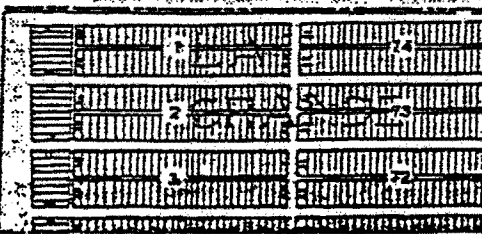


EXHIBIT NO. 3 1/3
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Inset Map: Oceano Area

- d. Parking.** Hotels and motels shall provide off-street parking as set forth in Section 23.04.166c(9) (Transient Lodgings). In the event that a hotel or motel includes any facilities in addition to overnight units (e.g., restaurant, bar, meeting rooms, etc.), all additional facilities shall be provided off-street parking as required by Section 23.04.166c of this title, in addition to the parking required for the hotel or motel.

[Amended 1995, Ord. 2715]

23.08.264 - Hotels, Motels - Condominium or Planned Development: The standards of this section apply to hotels, motels which are condominium or planned development projects as defined in Section 1351 of the California Civil Code.

- a. Location:** Allowed uses shall be located only where specifically authorized by Planning Area Standards for a particular planning area of the Land Use Element and Local Coastal Plan.
- b. Limitation on Use:** Uses shall be limited as provided in Section 23.08.262.
- c. Permit Requirement:** Development Plan approval.
- d. Required Finding:** A Development Plan may be approved only if the Planning Commission first finds that the proposal will not reduce the availability of accommodations for overnight or transient occupancy by the general public, tourists and visitors compared to a conventional hotel or motel.
- e. Density:** The density of hotel and motel units shall be as provided in Section 23.08.262.
- f. Design Standards:**
- (1) Required Hotel, Motel facilities:** Each hotel or motel shall include a lobby area, office space for administrative use, service areas and facilities for employees (such as a lounge, lockers and showers), and laundry facilities for use by the hotel or motel staff. This standard may be waived if the Planning Commission determines that provision of any or all of the required facilities is unnecessary due to the size or particular nature of the hotel or motel.

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- (2) **Other Facilities:** The size of the individual units, the number of kitchens and the amount of personal storage space shall be determined by the Planning Commission through Development Plan approval.
- (3) **Parking:** Parking shall be provided as stated in Section 23.08.262, provided that the required ratio of parking for hotel and motel units (excluding additional facilities) shall not be exceeded. The Planning Commission may approve additional parking spaces for the exclusive parking of recreational vehicles.

g. Occupancy:

- (1) No person or persons shall occupy a hotel or motel unit for more than 29 consecutive days except for employees of the hotel or motel.
- (2) No owner or owners holding separate interest in a hotel or motel unit shall occupy that unit more than a total of 84 days per year, including not more than a total of 14 days during the period from Memorial Day to Labor Day.
- (3) The occupancy standards in subsections g(1) and g(2) of this section shall be included in the declaration of conditions, covenants and restrictions and recorded against all individual property titles.

h. Administration: A management entity shall be formed to manage the operation of the hotel or motel. The management shall have sole responsibility for providing room accommodation services. No owner or owners holding separate interest in a hotel or motel unit shall rent or lease that unit or otherwise offer accommodations to any other person or persons. The provisions of this subsection shall be included in the declaration of conditions, covenants and restrictions and recorded against all individual property titles.

i. Reporting Requirement: A report shall be submitted periodically to the Department of Planning and Building by the hotel or motel management at intervals to be determined by the Planning Commission through Development Plan approval. The report shall state the total number of days that each unit was occupied in the preceding year, including occupancies by guests and the owner(s) of each unit.

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