CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
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Th8d

Filed:	10/29/02
49th day:	12/17/02
49-Day Waiver:	11/15/02
Staff:	JB-SC
Staff report:	11/21/02
Hearing date:	12/12/02

STAFF REPORT: APPEAL

SUBSTANTIAL ISSUE DETERMINATION/ DE NOVO FINDINGS

Local government.....City of Grover Beach

Local Decision.....Application No. 01-018, Approved with conditions (see Exhibit E).

Appeal Number.....A-3-GRB-02-086

Applicant.....Horizon Seabright L.L.C.

Agent.....Chris Skiff

Appellants.....Commissioners Sara Wan and Pedro Nava; Jon and Rosanna Seitz.

Project location.....1003 Front Street, Grover Beach, APN# 060-491-029, (see Exhibits A and B)

Project description.....Subdivide a .98-acre parcel with an existing residence into two parcels of 15,701.85 s.f. (Parcel 1) and 26,765.69 s.f. (Parcel 2).The project also includes the construction of a new 2,200 s.f. single-family residence on parcel 1.

File documents.....City coastal permit Application No. 01-018; City of Grover Beach Certified LCP; Biological Resources Assessment (Morro Group, august 22, 2001); Soils Engineering Report (Earth Systems Pacific, June 20, 2001); Cultural Resource Survey (Singer and Associates, August 5, 2001); Arborist Report (Carolyn Leach Consulting, November 30, 2001).

Staff recommendation ...Project raises a Substantial Issue; denial of *de novo* permit application.

Summary of Staff Recommendation:

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal has been filed, and that the subsequent permit be **denied** for the project as described herein.

The applicant proposes to subdivide an existing parcel of 42,467.54 square feet into two parcels of 15,701.85 square feet (Parcel 1) and 26,765.69 square feet (Parcel 2). The project also involves the construction of a new 2,200 square foot single-family residence on Parcel 1, including development of a sediment retention basin, new driveway, and associated drainage improvements. The project site

contains an existing 2,788 residence and is located on the upper banks of Pismo Lake. Pismo Lake and the sensitive wetland and riparian woodland habitat areas that surround it are part of the Pismo Lake State Ecological Reserve.

The project is not consistent with the resource protection policies of the City of Grover Beach Local Coastal Program, which requires that new development be sited and designed to prevent adverse impacts to Pismo Lake, and be compatible with the continuance of the habitat area. Specifically, the project is inconsistent with LCP standards prohibiting the encroachment of new development within 50-feet of the dripline of a solid canopy oak woodland, as well as with standards that prohibit removal of Coast Live Oak trees.

Moreover, the project does not provide adequate protection of the oak woodland habitat and the adjacent environmentally sensitive habitat area of Pismo Lake State Ecological Reserve because the proposed development will encroach within these habitat areas and will diminish their biological productivity. Because of these fundamental LCP inconsistencies, and the fact that there does not appear to be a way to bring a subdivision of the site into LCP conformance, staff is recommending denial of the project in a *de novo* hearing.

Staff Report Contents

C. Site Plan
D. Photographs of Site
E. City Final Local Action Notice
F. Appellants' Contentions

I. Local Government Action

The Grover Beach City Council, in local permit #01-018, approved a coastal development permit for a subdivision; the construction of a new 2,200 square foot single-family residence; and construction of a driveway, retaining wall, sediment retention basin, and associated drainage elements. The action is subject to 52 Conditions of Approval (See Exhibit E for details).

II. Summary of Appellants' Contentions

The appellants, Jon and Rosanne Seitz, and Commissioners Wan and Nava, have appealed the final action taken by the Grover Beach City Council (local permit #01-018), on the basis that approval of the project is inconsistent with policies of the City of Grover Beach Local Coastal Program with respect to environmentally sensitive habitat areas. Specifically, they contend that the approved project encroaches within the required oak woodland buffer area required by the LCP, and will have adverse impacts to the adjacent Pismo Lake State Ecological Reserve. The appellants' contentions can be found in Exhibit F.

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 within 100 feet of a wetland.

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 in order to approve a coastal development permit for the project. 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 first public road and the sea, which is not the case with this project.

IV. Staff Recommendation on Substantial Issue

The staff recommends that the Commission determine that **a substantial issue** exists with respect to the grounds on which the appeals were filed pursuant to Coastal Act Section 30603.

MOTION:

"I move that the Commission determine that Appeal No. A-3-GRB-02-086 raises **no** substantial issue with respect to the grounds on which the appeal has been filed under Section 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 ADOPT SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-3-GRB-02-086 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 Program and/or the public access and recreation policies of the Coastal Act.

V. Staff Recommendation on De Novo Permit

The staff recommends that the Commission, after public hearing **deny** the Horizon Seabright L.L.C. coastal development permit.

MOTION:

"I move that the Commission **APPROVE** coastal development permit A-3-GRB-02-086, for the development proposed by the applicant."

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION:

The Commission hereby **denies** a permit for the proposed development as conditioned below, on the grounds that the development will not conform with the standards of the City of Grover Beach certified Local Coastal Program. Approval of the permit will not comply with the California Environmental Quality Act (CEQA) because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

VI. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Description and Location

The project site is located at 1003 Front Street in the City of Grover Beach, APN 060-491-029. The existing 42,467.54 square foot (.98-acre) parcel is located on the upper banks of Pismo Lake (see Exhibits A & B). The parcel is situated immediately adjacent to the Pismo Lake State Ecological Reserve. There is an existing house and driveway on the southernmost portion the parcel. The site slopes gradually to lower elevations near the northern property line, dropping off dramatically in the form of a steep bank meeting the waters edge of Pismo Lake.

As approved by the City of Grover Beach, the proposed project includes a subdivision of the existing .98-acre parcel that will result in two parcels. Parcel 1 is proposed to be 15,701.85 square feet and Parcel 2 is proposed to be 26,765.69 square feet. The project also includes the construction of one new singe-family residence on Parcel 1, approximately 2,200 square feet in size. There is an existing 2,788 square foot residence on Parcel 2 (see Exhibit C).

In addition to the new home on Parcel 1, the applicant proposes to construct a sediment retention basin, a new driveway, retaining wall, and improved drainage features to support the new development. The retention basin is located at the top of the bank of Pismo Lake and is near the dripline of a 42" Coast Live Oak tree. A low retaining wall is proposed where the new driveway would split apart from the existing driveway. The proposed home and retaining wall would be located in close proximity to a large 84" Coast Live Oak tree situated near the center of the existing lot. There is an existing drainage easement that runs through the property extending from 2nd street to Front Street on the westerly side of the property. The current drainage easement is designed to convey surface drainage from offsite properties and settle on the site. The project includes modifications to the drainage easement so that the easement will be located outside of the building envelope of the newly proposed residence.

Commission staff conducted a field visit to the site November 6, 2002, to observe the site and its relative location to the oak woodlands and wetland habitat of Pismo Lake (See Exhibits B & D for photos). The property contains an abundance of willow and native Coast Live Oak trees. The unique grandeur of the 84" Oak is the predominant natural feature on the site. The entire northern property boundary contains

riparian/wetland vegetation intermixed with larger Coast Live Oak trees. Together they form a rich mosaic of vegetation best described as environmentally sensitive Riparian Oak Woodlands.

B. Substantial Issue Analysis

1. Environmentally Sensitive Habitat Areas

1.1 Appellant's Contentions

Appellants Wan and Nava contend in part that:

⇒ *The proposed development is located on the upper banks of the Pismo Lake State Ecological Reserve, which supports a variety of sensitive plants and animals and is protected by the LCP. The close proximity of the proposed lot and residence to the sensitive Oak Woodland, intermixed Riparian Woodland, and Pismo Lake is incompatible with the protection and continuance of these habitats, inconsistent with the LCP.*

⇒ *The property and adjacent Riparian Oak Woodland area supports numerous native oak trees and willows. According to the plans, the new house and sediment retention basin will be located less than 50 feet from the dripline of the solid oak canopy, inconsistent with Policy 9(d) of the LCP.*

⇒ *In addition, the proposed project is inconsistent with Policy 9(a) of the LCP prohibiting the removal of Coast Live Oaks except for emergency situation, as it will result in the removal of one oak tree adjacent to the existing driveway.*

Appellants Jon and Rosanne Seitz have appealed the project based on a number of issues. However, some of their contentions are not directly related to the projects consistency with the certified LCP. Therefore, some of their contentions are not applicable here. Only those contentions directly related to the certified LCP will be analyzed for consistency in this report. Generally, their contentions are the same as those of Commissioners Wan and Nava with the addition of one appeal contention. The following contention is included in their appeal:

⇒ *Development will occur below the sixty (60) foot contour in violation of Section 9(d) of the City's Local Coastal Program.*

1.2 Local Coastal Program Provisions

The following polices of the City of Grover Beach LCP address the environmentally sensitive habitat areas of Pismo Lake and Meadow Creek:

Inland Resource Area - Pismo Lake and Meadow Creek (Northeastern Branch)

> **Action Standard 3.** *A natural buffer area shall be established between the riparian habitat area of Meadow Creek and the adjacent upland areas to the south. This buffer zone shall be of sufficient width to provide essential open space between the environmentally sensitive habitat area and any development. The actual width of this buffer shall be determined by precise ecological studies which define and measure the functional capacity of the Meadow Creek ecosystem. Development upland of the environmentally sensitive habitat area and its adjacent buffer shall be sited and designed to prevent impacts which would significantly degrade the Meadow Creek and downstream Pismo Lake environs, and shall be compatible with the continuance of those habitat areas.*
>
> **Inland Resource Policy 9(a).** *The removal of Coast Live Oaks and of Shagbark Manzanita from the developable as well as undevelopable land in the vicinity of Pismo Lake shall be prohibited except for emergency situations. Removal of vegetation, grading and other earth-moving activities in developable areas shall be minimized. Impacts of such activities shall be shown in site and grading plans and shall meet with the approval of the City. Landscaping in developable areas here shall be compromised primarily of native vegetation and shall be compatible with surrounding native vegetation.*
>
> **Inland Resource Policy 9(b).** *No development shall occur within 50 feet of the dripline of a solid canopy oak woodland.*

In addition, appellants John and Rosanne Seitz contends the project is also inconsistent with Inland Resource Policy 9(d), which states:

> **Inland Resource Policy 9(d).** *As a condition of development approval lands below the 60-foot contour at a minimum in the Meadow Creek uplands areas shall be dedicated to the City of State Department of Fish and Game as public open space as an integral portion of the Pismo Lake Ecological Reserve.*

1.3 Local Government Action

The City's action grants a coastal development permit for a subdivision, construction of a new 2,200 square foot single-family residence, construction of a sediment retention basin, construction of a retaining wall, and construction of a driveway to serve the newly created parcel. The City approved development is subject to 52 Conditions of Approval. Among other things, the City's conditions of approval require that development be performed in accordance with the City of Grover Beach Zoning Ordinance. Additional conditions to protect resources included submittal of an engineered grading plan, the use of temporary drainage control measures during site preparation, the use of natural colors, submittal of landscape plans, maximum building height of 18.5 feet measured from average natural grade, use of water trucks and/or sprinkler systems to minimize airborne dust, requirements to maintain the sediment retention basin, and include splash boxes under rain gutter downspouts, to name a few.

The complete text of the City's findings and conditions of approval can be found in Exhibit E.

1.4 Substantial Issue Analysis and Conclusion

The issue before the Commission is whether the project as approved by the City raises a substantial is of consistency with the above cited land use policies. The above cited land use policies require that new development, such as the proposed house, driveway, retaining wall, and sediment retention basin, must be compatible with the environmentally sensitive habitat areas of Pismo Lake Ecological Reserve. Any development adjacent to environmentally sensitive habitat areas must be compatible with the protection and long-term continuance of these areas (Action Standard 3). More specifically, the policies in the LCP contain strict protections to avoid adverse impacts to native Coast Live Oak trees (Inland Resource Policy 9a).

The appellants' contentions raise valid concerns given the location of the subject site. The oak woodland protection Policy 9(b) requires a buffer area of 50-feet from the dripline of a solid canopy oak woodland. According to the plans submitted by the applicant, the new house and sediment retention basin will be located less than 50-feet from the dripline of the solid oak canopy.

As noted by the appellants, the approved project fails to meet the required minimum oak woodland setback of 50 feet and intrudes to within only a few feet of the environmentally sensitive oak woodland canopy dripline. The project location is a sensitive area where a greater than 50-foot buffer may be needed to carry out LCP Action Standard 3, given the site's close proximity to the State Ecological Reserve. Aside from two small grassy areas on the northwest and southeast property corners, the site is abundantly vegetated with riparian willows and mature oak trees. According to the Biological Assessment submitted by the applicant, the riparian community of Pismo Lake is classified as Central Coast Arroyo Willow Riparian Forest habitat. This habitat type is considered sensitive by the California Department of Fish and Game (R. Holland 1986). The Pismo Lake State Ecological Reserve is located directly to the north and in close proximity of the property.

In the report to the City Council, City staff concluded that the 84-inch oak is not a "solid canopy of an oak woodland", but is a single tree with poor canopy. While the City made this finding to support the proposal to build, further assessments reveal that this finding is not on point. The following was written by V.L. Holland (Cal Poly State University):

> *"The term "woodland" is used instead of "forest" because woodlands tend to be more open and sunlit, their canopies sometimes touching, but rarely overlapping. Woodlands are typically found below 5000 feet in soils too dry to support a forest. They are found within a 50-mile radius of the coast, out of the influence of salt spray. Fog is common in these areas. Soils are typically well drained. Although certainly not limited to these areas, coastal live oak woodlands are quite common in the ravines and moister drainages between grassy hillsides. These woodlands are also common on north-facing slopes."*

Based on the site visit from staff and an evaluation from a Coastal Commission biologist, both the 84" oak on the property and the 42" oak located on the north-facing slope of the Preserve, fall into this category. These oak trees, especially the large 84' oak, must be considered part of the solid canopy oak woodland described in the LCP.

In addition, Policy 9(a) prohibits the removal of Coast Live Oaks. According to the Initial Study prepared by the County one smaller 3' oak tree is to be removed. While the applicant has subsequently agreed verbally not to remove these trees, the conditional approval by the City of Grover Beach does not specifically contain this condition.

Finally, Appellants Jon and Rosanne Seitz contend that the project is inconsistent with Policy 9(d) of the City's LCP. The Policy states that as a condition of approval for development on lands below the 60-foot contour at a minimum in the Meadow Creek uplands area shall be dedicated to the City of State Department of Fish and Game as public open space as portion of the Pismo Lake Ecological Reserve. Presumably this Policy is intended to protect the Ecological Reserve and provide for the maximum amount of open space surrounding its sensitive habitat areas.

At the Planning Commission meeting, the applicant and City staff took the position that because the project is not located within the Meadow Creek uplands, Policy 9(d) does not apply. Part of the problem here is that the LCP does not clearly define the exact location of the "Meadow Creek" upland area. However, it is clear that the project site is upland and in close proximity to Meadow Creek (this creek drains directly into Pismo Lake). Even more problematic and fundamental to this consistency analysis, is the fact that many of the existing homes in this area are currently situated well below the 60-foot contour. In fact, the existing house on the subject property shows a finished floor elevation of 54 feet. Based on a recent site visit, it is clear that this is also the case with the majority of existing homes in the neighborhood. To apply this policy here would mean that a large part of the existing neighborhood, as well as the entire subject parcel, would have to be given to the City or State as dedicated open space. In this case, especially given the topographic location of the development, staff does not feel that this contention should be applied here. Therefore, staff recommends that no substantial issue be found with respect to the projects conformance with Policy 9(d)

In conclusion, the City approval does not provide the required protective buffer for oak woodlands as required by Action Standard 3 and Policy 9(b). Nor does the lo0cal approval protect the Coast Live Oaks on the site, as required by Policy 9(a). **Therefore, a substantial issue is raised by these appeal contentions.**

C. De Novo Coastal Permit Findings

1. Environmentally Sensitive Habitat Areas

1.1 LCP ESHA Protection Standards

Please see the Action Standard 3 and Policies 9(a), and 9(b) cited on page 7 of this report.

1.2 De Novo Analysis

As described in the Substantial Issue findings, incorporated herein, the project is in conflict with the provisions of Policies 9(a) and 9(b) protecting sensitive Coast Live Oak woodland habitats in the following ways:

- The proposed development would encroach with the minimum 50-foot buffer which can adversely impact the oak woodlands onsite; and
- There are no assurances in the local approval that Coast Live Oak trees won't be removed

Inconsistent with Policies 9(a) and 9(b), the project will degrade riparian oak woodland and wetland habitats through the construction of a new house, sediment retention basin, retaining wall, and driveway. These development activities, which will occur within and adjacent to sensitive habitat areas, will adversely impact oak trees, alter natural drainage patterns, and contribute sediments and pollutants to coastal waters (e.g., Pismo Lake).

The project is further inconsistent with Action Standard 3 because precise ecological studies, to define and measure the functional capacity of the Meadow Creek ecosystem, have not been performed as required by the LCP to ensure the protection of wetland/riparian and oak woodland resources. As stated in the introduction of the submitted Biological Assessment (Morro Group Inc., 2001), "a formal wetland delineation was not performed, however a wetland assessment based on U.S Army Corps of Engineers (ACOE) methodology found no potential wetland areas within the property boundary." ACOE standards require positive evidence of all three wetland "parameters"- hydrology, wetland vegetation, and hydric soils. This does not provide adequate information to assess the project's consistency with LCP wetland protection standards, since the LCP, like the Coastal Act, provides a definition for wetlands that is based on the presence of a single parameter. In addition, the submitted Biological Assessment does not satisfy the LCP requirement for a precise ecological study, because it does not contain an assessment of the buffer width needed to protect the functional capacity of the Meadow Creek ecosystem.

The locally approved project includes residential development within (or at a minimum directly adjacent to) ESHA, including wetland and riparian oak woodland habitats, and is thereby further inconsistent with LCP Action Standard 3. In addition to removing existing habitat areas, the development will disrupt adjacent habitat by introducing noise and light to the natural areas, and potentially result in the invasion of exotic vegetation. Moreover, by developing within and adjacent to the oak woodland habitat, the project will remove and degrade areas that contain Coast Live Oak saplings and other resources that support the biological productivity and regeneration of the woodland. The proposed development will also have on-going impacts on the functional capacity of the Pismo Lake wetland and oak woodland areas associated with the coverage and fragmentation of habitat, the alteration of natural hydrological dynamics, shading of woodland and wetland plants, and an increase in the intensity of residential use. As a result, the project is not compatible with the continuance of ESHA, in conflict with LCP Action Standard 3.

Furthermore, construction activities can adversely impact coastal water quality by discharging debris and pollutants into watercourses, and by causing erosion and sedimentation through the removal of vegetation and the movement of dirt. The increase in impervious surfaces that will result from the project will also impact coastal water quality by altering natural drainage patterns and providing areas where the accumulation of pollutants will eventually be carried into Pismo Lake by storm water.

Additionally, as discussed earlier, the proposed subdivision and residential development is located on upper banks of an area of high ecological importance. The applicant has not demonstrated that the proposed increase in intensity of residential development can be accomplished without compromising the continuance of this sensitive habitat area, as the application has not be accompanied by the scientific and biological analyses required by LCP Action Standard 3. Moreover, it is not likely that such additional studies will be able to guarantee that such development can be accommodated without adverse environmental impacts given the site's habitat constraints and close proximity to the Pismo Lake Ecological Preserve. Therefore, the fundamental aspects of this development proposal are inconsistent with LCP policies described, and consequently must be denied.

Alternatives

There are potentially other siting and design alternatives available on this parcel, such as an addition to the existing residence. If this alternative, or other possible re-designs are pursued, they must be done without the amount of habitat disturbance expected from the proposed project. As such, any development (at a minimum) must respect the 50-foot oak buffer area and not remove any Coast Live oak trees as required by the LCP. Additionally, an alternative project must be designed to be reduce impacts and prevent additional disturbance to the steep slopes and riparian woodland habitat of Pismo Lake Ecological Reserve. Any such project, especially one that includes creating new lots and building a new home, is well beyond the scope of this analysis and, more importantly, would be difficult to achieve consistent with the LCP. Therefore, the project as proposed must be denied

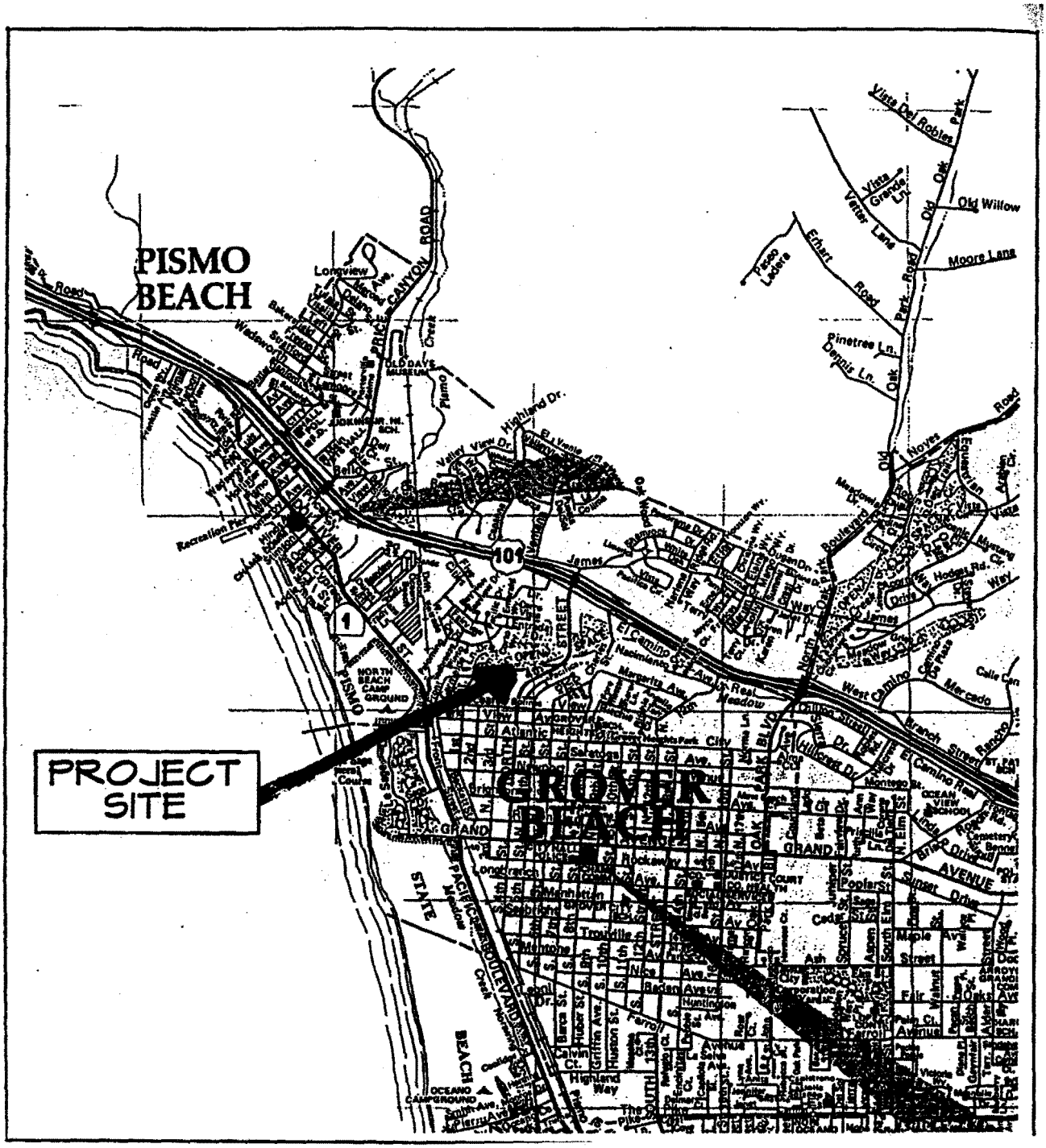
1.3 De Novo Conclusion

This analysis has revealed fundamental inconsistencies with City of Grover Beach LCP, as well as significant issues that were not satisfactorily addressed by the City's analysis. The project as presented does not adequately address the LCP standards protecting the sensitive habitat areas of Pismo Lake Ecological Reserve. Therefore, because the project as approved by the City does not avoid development in areas of high ecological value and will have impacts on adjacent oak woodlands, it is inconsistent with LCP policies designed to protect the resources found at the project site. Any modifications to the project or conditions that could be used to rectify the inconsistencies would result in an entirely new and fundamentally different project. Thus, this project as proposed must be denied.

D. California Environmental Quality Act (CEQA)

Section 13096 of the Commission's administrative Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA.

Section 15042 of the CEQA Guidelines provides that "a public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment if the project were approved as proposed." The CEQA provides that its requirements do not apply to an exercise of a governmental body's regulatory authority in the manner described by section 15042. Public Resources Code Section 21080 outlines the application of CEQA to discretionary approvals of projects. Section 21080(b)(5) of the CEQA states that the requirements of the CEQA shall not apply to "projects which a public agency rejects or disapproves." Therefore in this instance CEQA requirements do not apply.



Horizon Seabright LLC.
A-3-GRB-02-086

EXHIBIT NO. A
APPLICATION NO. A-3-GRB-02-086
Vicinity Map
1 of 1

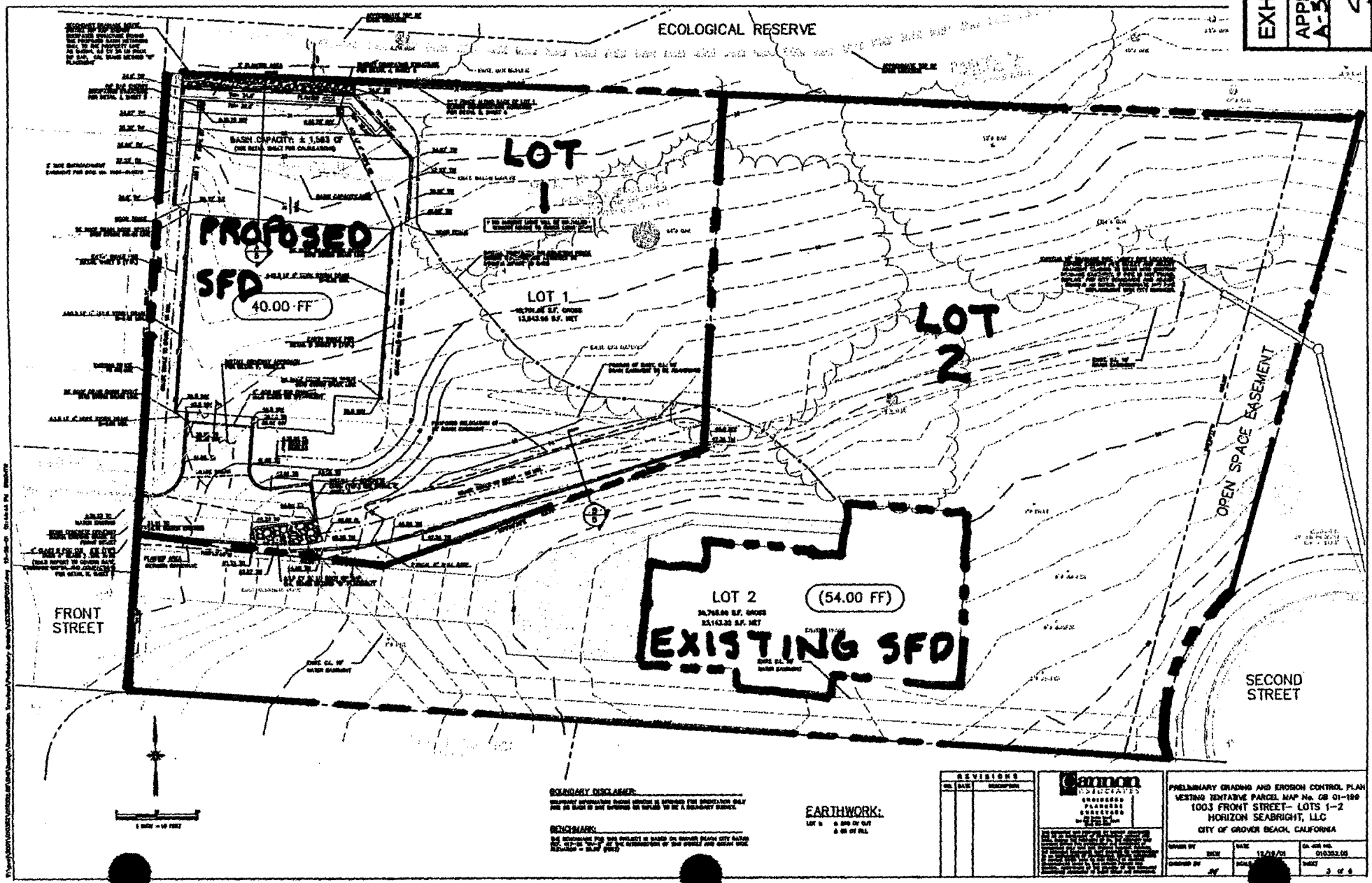
EXHIBIT NO. B

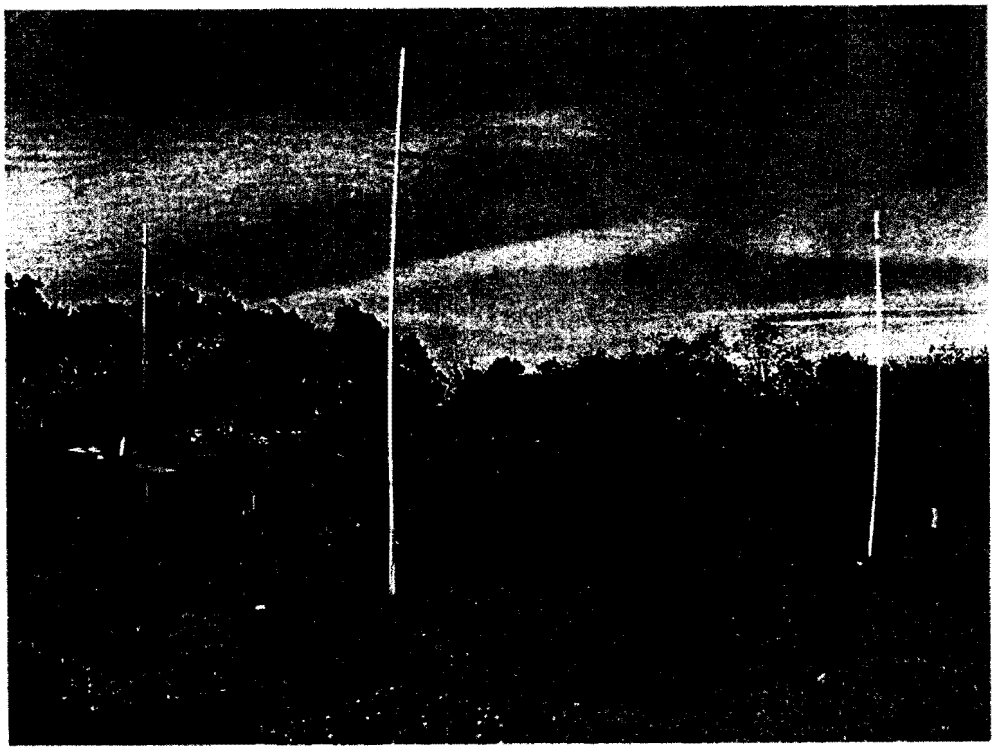
APPLICATION NO. A-3-GRB-02-066

Aerial Photo

1 of 1

EXHIBIT NO. C
APPLICATION NO. A-3-GRB-02-
Site Pl
1 of 1





Horizon Seabright LLC.
A-3-GRB-02-086

EXHIBIT NO. D
APPLICATION NO. A-3-GRB-02-086
Site Photos
1 of 2

Horizon Seabright LLC.
A-3-GRB-02-086

EXHIBIT NO. D
APPLICATION NO. A-3-GRB-02-08
Site Photos
2 of 2

FINAL LOCAL ACTION NOTICE

REFERENCE # 3-GRB-02-507

APPEAL PERIOD 10/16-10/29/02

COMMUNITY DEVELOPMENT DEPARTMENT

NOTICE OF FINAL ACTION ON COASTAL DEVELOPMENT PERMIT

NOTICE OF FINAL CITY ACTION on a Coastal Development Permit for: Application No. 01-018, General Development Plan, Environmental Determination, Tentative Parcel Map and Architectural Approval

The following project is located in the City of Grover Beach Coastal Zone and a Coastal Permit Application has been acted on by the City:

Applicant: Horizon Seabright, LLC

Address: 475 Marsh Street, San Luis Obispo, Ca 93401

Project Description: To subdivide a .98 acre parcel into two single family residential lots and construct one single family residence

Project Location: 1003 Front Street, Grover Beach, CA 93433

APN No.: 060-491-029 Lot Area: .98 acres (42,467 square feet)

Zoning: Coastal Planned Single Family Residential District (C-P-R-1 Zone)

LCP/General Plan: Low Density Residential

Filing Date: May 27, 2001 Action Date: August 19, 2002

Action by: City Council Action Taken: Approval

☐ THIS SITE IS OUTSIDE OF THE COASTAL COMMISSION APPEAL JURISDICTION

☐ This City decision is appealable to the California Coastal Commission pursuant to the California Public Resource Code, Section 30603. Any person may appeal this decision to the Coastal Commission within TEN (10) working days following Commission receipt of this notice. Appeals must be in writing and should be addressed to: California Coastal Commission, 725 Front Street, Suite 300 Santa Cruz, CA 95060, Phone: 415-427-4863

RECEIVED

OCT 15 2002

CALIFORNIA COASTAL COMMISSION CENTRAL COAST AREA

Attachments: Permit, Findings, if any, and Conditions of Approval
x - Original to be place in project file
x - Copy by certified mail to: Lee Otter, District Chief Planner, Coastal Commission

CCC Exhibit E
(page 1 of 13 pages)

COPY

RESOLUTION NO. 02-62

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF GROVER BEACH
GRANTING A VESTING TENTATIVE PARCEL MAP No. 2437, ARCHITECTURAL APPROVAL AND COASTAL DEVELOPMENT PERMIT APPROVAL FOR APPLICATION NO. 01-018

The City Council of the City of Grover Beach finds that the request for Vesting Tentative Parcel Map No. 2437, Architectural Approval, and Coastal Development Permit for Application No. 01-018 applied for by Horizon Seabright, LLC., to divide property at 1003 Front Street (APN 060-491-029), in the Coastal Planned Single Family Residential District (C-P-R-1) Zoning District, into two parcels and to construct one single family residence, is GRANTED subject to the following findings and Conditions of Approval:

FINDINGS:

1. The proposed project is consistent with the goals, policies, and maps in the Grover Beach General Plan, specifically the Northwest Grover Beach Neighborhood Plan. The proposed project is consistent with the density requirements of the Land Use Element for the Low Density Residential Land Use Designation.

2. This project satisfies all applicable provisions of the Planning and Zoning regulations of the City of Grover Beach, including the requirements for density, lot coverage, parking, landscaping, setbacks, height, and other development standards for the C-P-R-1 Zoning District.

3. The proposed project is consistent with the Local Coastal Plan policies since it will not significantly impact sensitive environmental resources in the Pismo Lake Ecological Area and surrounding habitat, visual resources, or cause erosion or sedimentation.

4. Architectural and general appearance of these structures is appropriate for the proposed site and uses, and is in keeping with the residential character of the surrounding area. As conditioned, the architectural design of the project is consistent with other residential developments in the area.

5. The proposed project design will not be detrimental to the orderly and harmonious development of the City. The proposed project will not impair the desirability of investment or occupation in the neighborhood.

CONDITIONS OF APPROVAL

GENERAL CONDITIONS:

1. The applications for Vesting Tentative Parcel Map, Architectural Approval and Coastal Development Permit shall expire if not used within twenty four (24) months of the date of City Council approval of the Vesting Tentative Parcel Map. "Used" shall mean that the final Parcel map has been recorded. If the final Parcel map will not be recorded within this time, the applicant is advised to apply for an extension of time a minimum of thirty (30) days prior to the expiration of the map. Said extension of time shall be reviewed by the Planning Commission.

2. Approval of the Vesting Tentative Parcel Map, Architectural Approval, and Coastal Development Permit is not valid until the Applicant and property owner sign this Resolution agreeing to the terms and Conditions of Approval.

3. The Applicant shall pay development impact fees as set forth in Ordinance No. 95-10 and Resolution No. 95-79.

4. The Developer agrees, as a condition of approval of this resolution, to indemnify, defend and hold harmless, at Developer's expense, City and City's agents, officers and employees from and against any claim, action or proceeding commenced within the time period provided in Government Code Section 66499.37 to attack, review, set aside, void or annul the approval of this resolution or to determine the reasonableness, legality or validity of any condition attached hereto. City shall promptly notify Developer of any such claim, action or proceeding of which City receives notice, and City will cooperate fully with Developer in the defense thereof. Developer shall reimburse City for any court costs and attorney's fees that City may be required to pay as a result of any such claim, action or proceeding. City may, in its sole discretion, participate in the defense of any such claim, action or proceeding, but such participation shall not relieve Developer of the obligations of this condition. Developer's acceptance of this resolution or commencement of construction or operations under this resolution shall be deemed to be acceptance of all conditions contained in this resolution.

CONDITIONS FOR ARCHITECTURAL APPROVAL AND COASTAL DEVELOPMENT PERMIT:

5. An engineered grading plan shall be submitted and approved by the Community Development Director and City Engineer prior to the issuance of a building permit, and that prior to pouring any forms or foundations, the Applicant's engineer certify the grades.

6. The project site plan, architectural elevations, grading plan, and landscaping plan shall

be consistent with all Development Standards of the City of Grover Beach Zoning Ordinance.

7. Any significant changes to the site or development plans shall be approved by the Planning Commission.

8. The plans submitted for a building permit shall be in substantial conformance with the plans approved by the Planning Commission, and signed by a person qualified under the State Business and Professions Code.

9. All notes and specifications as shown on the plans shall be considered Conditions of Approval.

10. A color board and list of colors and materials for the project shall be submitted to and approved by the Community Development Director prior to issuance of building permit. Colors and materials shall be muted, natural tones that are compatible with the natural surroundings, and shall not be stark and light colored.

11. Architectural elevations for all sides of the proposed home shall be provided prior to issuance of a building permit and shall be approved by the Community Development Director.

12. Site plans for each lot at a scale not less than 1 inch = 20 feet shall be submitted at the time of building permit application. The site plan shall include dimensioned property lines and all project data including building setbacks; areas of landscaping, paving, and building coverage; retention basins, and the location, material, and height of fencing.

13. Temporary drainage control measures shall be in place on the construction site during the months of November through April.

14. The hours of construction shall be from 7:00 a.m. to 7:00 p.m. Monday through Friday, and 9:00 a.m. to 5:00 p.m. Saturday, Sunday, and holidays (Municipal Code Section 3101.1).

15. A site utility plan prepared by a person qualified under the State Business and Professions Code shall be submitted and approved prior to issuance of a building permit for each residence.

16. The landscape plan shall be submitted with building permit application. Additional information regarding an automatic irrigation system, plant size and species shall be provided for each lot and approved by the Community Development Director prior to issuance of each building permit. Landscape and irrigation plans shall be prepared by a licenced landscape contractor or landscape architect. Said plan to be consistent with the City's adopted *Landscape Standards for Water Conservation*. The landscape plan must

contain a note that requires all specified plant material be consistent with *Nursery Standards*.

17. Landscaping shall be installed in accordance with the approved landscaping plan prior to final building inspection.

18. Any wood-burning device shall comply with the requirements of Air Pollution Control District Rule 504. The manufacturer and model number of such devices shall be noted on building plans. Inspection by the building department shall occur at the time of framing for zero-clearance fireplaces and at the time of installation for wood-burning stoves.

19. Rain gutters and downspouts shall be provided on all roof areas and splash boxes provided under downspouts.

20. Roll-up garage doors and electric garage door openers shall be installed on all garage doors, and shall incorporate decorative details as indicated in the project elevations.

21. Perimeter and individual lot fencing shall not exceed 6 feet in height.

22. All utilities including PG&E, cable television, and telephone shall be installed underground.

23. The driveway shall be designed, approved and constructed at the applicant's expense. Each driveway shall have a 14 foot flat area in front of the garage. A maximum of 4% slope (½" in 12') will be allowed. The remainder of the driveway must conform to City standards. Concrete driveways shall be constructed to City standards.

24. The landscaping plan shall conform to the mitigation measures established by the project arborist in Resolution 02-010.

25. The average maximum height of the building from natural grade shall not exceed 18 ½ feet in height.

26. The proposed retention basin for lot 1 shall be maintained by the property owner of lot 1. Said basin shall not be covered by impervious surfaces or any other obstructions that would impede basin function.

27. Landscaping shall be maintained in a thriving condition particularly in areas within view of the public right-of-way.

28. Applicant shall use water trucks and/or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water should

be used whenever possible. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site.

29. Applicant shall use double-pane windows to help conserve energy.

CONDITIONS FOR SUBDIVISION:

30. A mylar copy of the recorded map shall be submitted and approved by the Community Development Department. The map shall also be provided in digitized format that is compatible with the City's geographical information system.

31. A mylar copy of the improvement plans shall be submitted and approved by the Community Development Department.

32. The drainage easement shall be relocated as noted on the Vesting Tentative Parcel Map and shall maintained by the property owners (not the City of Grover Beach) and it shall be recorded with the Final Map for this project. The applicant shall repair the drain outlet from the Second Street cul-de-sac to properly convey drainage to the easement to the satisfaction of the City Engineer.

33. All lots shall be graded per approved grading and drainage plans subject to final review by City Engineer.

34. Improvement water shall be retained in on-site for lot 1 in a drainage basin as shown on grading plans. The design of the basins shall be approved by the Community Development Director and City Engineer prior to recordation of the final map, according to the following formula: *Area of Lot (square feet) x % Impervious Area x 0.33 feet = Cubic Feet of Retention Needed.*

35. Each lot shall be individually serviced with water and stubbed out to each lot prior to recordation, or a cash bond shall be posted with the City; the amount to be determined by the Community Development Director.

36. Each lot shall be individually serviced with underground utilities including PG&E, cable television and telephone. Said utilities to be stubbed out to each lot prior to recordation, or a cash bond shall be posted with the City; the amount to be determined by the Community Development Director.

37. Prior to recordation, either monuments shall be set or a cash bond be presented to the City guaranteeing their setting within one year.

38. The Final Map shall be prepared by a licensed engineer or licensed land surveyor.

39. Prior to recordation of the Final Map, street improvements on Front Street shall be designed and constructed at the Applicant's expense and approved by the City Engineer and Community Development Director. Improvements shall be designed and constructed at the Applicant's expense and shown on building plans. The Applicant will pay the City $13.00 per frontage foot for the design and engineering of required street improvements. A performance bond, letter of credit or other form of guarantee that guarantees the construction of the public improvements, approved by the City or City Attorney shall be provided prior to issuance of a building permit. After grades have been staked and forms set, the Applicant's engineer or surveyor must verify that the forms are correct and notify the City of same prior to inspection.

40. Lowering or relocation of utilities shall be accomplished at the Applicant's expense, subject to approval by the Community Development Director.

41. Prior to recordation of the Final Map, the engineering plan check fees shall be paid.

42. Prior to recordation of the Final Map, park in-lieu fees shall be paid.

43. All site paved areas including driveways and walkways shall be designed and installed as per City Standards and Specifications. All City curbs and gutters to be a minimum of 8 inches, and gutters shall be 18 inches.

44. Water service pipe shall be at least 1 inch.

45. All trenches in the paved street will be repaved as per City standard drawing W.8.

46. Parcel sizes on Final Map shall be as shown and approved for Vesting Tentative Parcel Map No. 2437.

47. The Applicant shall record a blanket open space easement in a form reviewed and approved by the City Attorney over the remaining area of lots 1 and 2 that are outside the building envelop, driveways and drainage basin to prohibit removal or disturbance of oak trees on these parcels.

48. All Planning Commission Conditions of Approval shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the above sheet as follows: *"The undersigned have read and understand the conditions, and agree to abide by any and all conditions which it is their usual and customary responsibility to perform, and which are within their authority to perform.*

Signed:

_____

Property Owners *Date*

Contractor	*Date*	*License No.*
Architect	*Date*	*License No.*
Engineer	*Date*	*License No.*

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Grover Beach **DOES HEREBY ADOPT** Resolution 02-62.

On motion by Council Member Neufeld, seconded by Council Member Ekbom, and on the following roll-call vote, to wit:

AYES: Council Members - Ekbom, Neufeld, Santos, Mayor Pro Tem Arnoldsen, and Mayor Lieberman.
NOES: Council Members - None.
ABSENT: Council Members - None.
ABSTAIN: Council Members - None.
none

the foregoing Resolution No. 02-62 was **PASSED, APPROVED,** and **ADOPTED** this 19th day of August, 2002.

STEPHEN C. LIEBERMAN, MAYOR

ATTEST:

DONNA L. McMAHON, CITY CLERK

This permit is hereby accepted upon the express terms and conditions hereof, and shall have no force or effect unless and until agreed to, in writing, by the Applicant and Property Owner or Authorized Agent. The undersigned hereby acknowledges the approved terms and conditions and agrees to fully conform to and comply with said terms and conditions within the recommended time frames approved by the City Council.

Applicant — Pres. Horizon Seabright, LLC — Date 9/19/02

Property Owner or Authorized Agent — Pres. Horizon Seabright, LLC — Date 9/19/02

FINAL LOCAL ACTION NOTICE

REFERENCE # 3-GRB-02-506

APPEAL PERIOD 10/16-10/29/02

combined w/ 3-GRB-02-507

COMMUNITY DEVELOPMENT DEPARTMENT

NOTICE OF FINAL ACTION ON COASTAL DEVELOPMENT PERMIT

NOTICE OF FINAL CITY ACTION on a Coastal Development Permit for: Application No. 01-018, Specific Development Plan,

The following project is located in the City of Grover Beach Coastal Zone and a Coastal Permit Application has been acted on by the City:

Applicant: Horizon Seabright, LLC

Address: 475 Marsh Street, San Luis Obispo, Ca 93401

Project Description: To subdivide a .98 acre parcel into two single family residential lots and construct one single family residence

Project Location: 1003 Front Street, Grover Beach, CA 93433

APN No.: 060-491-029 Lot Area: .98 acres (42,467 square feet)

Zoning: Coastal Planned Single Family Residential District (C-P-R-1 Zone)

LCP/General Plan: Low Density Residential

Filing Date: May 27, 2001 Action Date: September 10, 2002

Action by: Planning Commission Action Taken: Approval

☐ THIS SITE IS OUTSIDE OF THE COASTAL COMMISSION APPEAL JURISDICTION

☐ This City decision is appealable to the California Coastal Commission pursuant to the California Public Resource Code, Section 30603. Any person may appeal this decision to the Coastal Commission within TEN (10) working days following Commission receipt of this notice. Appeals must be in writing and should be addressed to: California Coastal Commission, 725 Front Street, Suite 300 Santa Cruz, CA 95060, Phone: 415-427-4863

Attachments: Permit, Findings, if any, and Conditions of Approval
x - Original to be place in project file
x - Copy by certified mail to: Lee Otter, District Chief Planner, Coastal Commission

CCC Exhibit E
(page 10 of 13 page

COPY

RESOLUTION NO. 02-052

RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF GROVER BEACH
GRANTING A SPECIFIC DEVELOPMENT PLAN APPROVAL
FOR APPLICATION NO. 01-018

The Planning Commission of the City of Grover Beach finds that the request for a Specific Development Plan for property located at 1003 Front Street (APN 060-491-029), in the Coastal Planned Single Family Residential District (C-P-R-1) Zoning District, is GRANTED subject to the following Findings and Conditions of Approval:

FINDINGS:

1. The proposed project is consistent with the goals, policies, and maps in the Grover Beach General Plan, specifically the Northwest Grover Beach Neighborhood Plan. The proposed project is consistent with the density requirements of the Land Use Element for the Low Density Residential Land Use Designation.

2. This project satisfies all applicable provisions of the Planning and Zoning regulations of the City of Grover Beach, including the requirements for density, lot coverage, parking, landscaping, setbacks, height, and other environmental requirements and development standards for the C-P-R-1 Zoning District.

3. The proposed project is consistent with the Local Coastal Plan policies since it will not significantly impact sensitive environmental resources in the Pismo Lake Ecological Area and surrounding habitat, visual resources, or result in significant erosion or sedimentation.

4. Architectural and general appearance of these structures is appropriate for the proposed site and uses, and is in keeping with the residential character of the surrounding area. As conditioned, the architectural design of the project is consistent with other residential developments in the area.

5. The proposed project design will not be detrimental to the orderly and harmonious development of the City. The proposed project will not impair the desirability of investment or occupation in the neighborhood.

6. The Specific Development Plan is consistent with the General Development Plan, Vesting Tentative Parcel Map, Architectural Approval, Coastal Development Permit, and Environmental Determination approved and adopted by the City Council on August 19, 2002.

7. Conditions of Approval, Mitigation Measures, and a Mitigation Monitoring Program have been incorporated into and adopted with the project planning entitlements identified in Finding #6, and they will mitigate potential environmental impacts to a less than significant level.

8. Development of the proposed project will protect the existing oak trees to the maximum extent possible.

9. The Applicant, City of Grover Beach and Department of Fish and Game will enter into a third party agreement to inspect drainage and erosion facilities and will maintain them to ensure the project will protect off-site resources from significant erosion and sedimentation.

CONDITIONS OF APPROVAL:

1. The Applicant shall amend the subdivision Covenants, Conditions and Restrictions to include a requirement that the City and the State Department of Fish and Game shall be made a "third party" to the project's Covenants, Conditions and Restriction (CC&Rs) so that the City and/or Department of Fish and Game shall come onto the properties to inspect: and if necessary perform maintenance on drainage and erosion control devices. The CC&Rs specificly that a lien may be placed on the properties if necessary to recover the cost of drainage and erosion control maintenance.

2. The average height from natural grade of the house proposed on Lot 1 shall be lowered by three feet.

3. The landscape plan shall be modified to include landscape screening between the proposed house on Lot 1 and the rear yard of the neighboring house to the west, located at 1001 Front Street, subject to approval by the Community Development Director.

4. A drainage system shall be installed on the southerly property line of Lot 2 to capture surface water which occasionally flows onto the neighbor's property located at 898 First Street.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Grover Beach **DOES HEREBY ADOPT** Resolution 02-052.

On motion by Commissioner Morris-Versaw, seconded by Commissioner Leon, and on the following roll-call vote, to wit:

AYES:	Commissioners Morris-Versaw, Leon, Calmenson, and Conroy
NOES:	Commissioners Barnett and Chair Foerster
ABSENT:	Commissioner Mires
ABSTAIN:	None

the foregoing **RESOLUTION NO. 02-052** was **ADOPTED** on this 10th day of September, 2002.

CHAIR FOERSTER

ATTEST:

SUSAN K. CLARK, AICP
SECRETARY OF THE PLANNING COMMISSION

This permit is hereby accepted upon the express terms and conditions hereof, and shall have no force or effect unless and until agreed to, in writing, by the Applicant and Property Owner or Authorized Agent. The undersigned hereby acknowledges the approved terms and conditions and agrees to fully conform to and comply with said terms and conditions within the recommended time frames approved by the City Planning Commission.

Applicant , Pres. Horizon Seawright, LLC — Date 9/19/02

Property Owner or Authorized Agent , Pres. Horizon Seawright, LLC — Date 9/19/02

CCC Exhibit E
(page 13 of 13 pages)

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s):

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

Commissioner Sara J. Wan, Chair	**Commissioner Pedro Nava**
California Coastal Commission	**California Coastal Commission**
45 Fremont Street, Suite 2000	**45 Fremont Street, Suite 2000**
San Francisco, CA 94105-2219	**San Francisco, CA 94105-2219**
(415) 904-5200	**(415) 904-5200**

SECTION II. Decision Being Appealed

1. Name of local/port government: **City of Grover Beach**

2. Brief description of development being appealed:
Subdivide a .98 acre parcel into two single family residential lots and construct one single family residence.

3. Development's location (street address, assessor's parcel number, cross street, etc.:
1003 Front Street, Grover Beach (San Luis Obispo County) APN 060-491-029

4. Description of decision being appealed:

   a. Approval; no special conditions: ____
   b. Approval with special conditions: xx
   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-GRB-02-086**
DATE FILED: **10/28/02**
DISTRICT: **Central**

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OCT 2 8 2002
CALIFORNIA COASTAL COMMISSION CENTRAL COAST AREA

CCC Exhibit F (page 1 of 19 pages)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (PAGE 2)

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

a. ___ Planning Director/Zoning Administrator

c. ___ Planning Commission

b. ~~xx~~ City Council/Board of Supervisors

d. ___ Other: _____

6. Date of local government's decision: **August 19, 2002**

7. Local government's file number: **01-018**

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:
Horizon Seabright, LLC, Attn: Chris Skiff
475 Marsh Street
San Luis Obispo, CA 93401

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) **Jon & Rosanne Seitz**
350 Estuary Way
Grover Beach, CA 93433

(2) **City of Grover Beach, Attn: Susan Clark**
154 So. 8th Street
Grover Beach, CA 93433

(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.

CCC Exhibit F
(page 2 of 19 pages)

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 Reasons For This Appeal.

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.

Signed: Laura J. Wan
Appellant or Agent

Date: 10/28/02

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

CCC Exhibit F
(page 3 of 19 pages)

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 Reasons For This Appeal.

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.

Signature of Appellant(s) or Authorized Agent

Date 10/28/02

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 _____

STATE OF CALIFORNIA – THE RESOURCES AGENCY GRAY DAVIS, Gover

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
ANTA CRUZ, CA 95060
1) 427-4863

Reasons for Appeal: City of Grover Beach Coastal Development Permit Application No. 01-018 (Horizon Seabright, LLC.)

The proposed project is to subdivide one existing parcel of 42,467.54 square feet into two parcels of 15,701.85 square feet (parcel 1) and 26,765.69 square feet (parcel 2). The project also includes the construction of a new 2,200 square foot single-family residence on parcel 1. This development is inconsistent with the policies and action standards of the City of Grover Beach Local Coastal Program, as detailed below.

1. Action Standard 3 for the Inland Resource Areas of Pismo Lake and Meadow Creek (Northeastern Branch) requires that new development be sited and designed to prevent impacts that would significantly degrade the Meadow Creek and downstream Pismo Lake environs, and shall be compatible with the continuance of those habitat areas. The proposed development is located on the upper banks of the Pismo Lake State Ecological Reserve, which supports a variety of sensitive plants and animals and is protected by the LCP. The close proximity of the proposed lot and residence to the sensitive Oak Woodland, intermixed Riparian Woodland, and Pismo Lake is incompatible with protection and continuance of these habitats, inconsistent with the certified LCP.

2. Policy 9(b) of the LCP requires that "no development shall occur within fifty (50) feet of the dripline of a solid oak canopy." The property and adjacent riparian woodland area supports numerous native oak trees and willows. According to the plans submitted by the applicant, the new house and sediment retention basin will be located less than 50 feet from the dripline of the solid oak canopy, inconsistent with Policy 9(d). In addition, the proposed project is inconsistent with Policy 9(a) prohibiting the removal Coast Live Oaks except for emergency situations, as it will result in the removal of one oak tree adjacent to the existing driveway.

STATE OF CALIFORNIA - THE RESOURCES AGENCY Gray Davis, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s):

Name, mailing address and telephone number of appellant(s):
JON AND ROSANNE SEITZ
350 ESTUARY WAY
GROVER BEACH, CA 93433
(805) 543-7272 FAX (805) 543-7281
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:
CITY OF GROVER BEACH 154 S. 8th STREET, GROVER BEACH, CA

2. Brief description of development being appealed:
APPROVAL OF HORIZON SEABRIGHT APPLICATION NO. 01-018 FOR TENTATIVE PARCEL MAP, ARCHITECTURAL APPROVAL AND ENVIRONMENTAL DETERMINATION AND COASTAL PERMIT

3. Development's location (street address, assessor's parcel number, cross street, etc.:
1003 FRONT STREET, GROVER BEACH, CA (APN#060-491-029)
See Exhibit "A" for further description.

4. Description of decision being appealed:

a. Approval; no special conditions: _____
b. Approval with special conditions: X APPROVAL OF VESTING TENTATIVE MAP
c. Denial: _____ WITHIN COASTAL ZONE

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-GRB-02-086
DATE FILED: 10/28/02
DISTRICT: Central

RECEIVED
AUG 2 9 2002
CALIFORNIA COASTAL COMMISSION CENTRAL COAST AREA

CCC Exhibit F
(page 6 of 19 pages)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (PAGE 2)

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

a. ___ Planning Director/Zoning Administrator

c. ___ Planning Commission

b. X City Council/Board of Supervisors

d. ___ Other:_____

6. Date of local government's decision: August 19, 2002

7. Local government's file number: 01-018

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:
CHRIS SKIFF
HORIZON SEABRIGHT, LLC
475 MARSH STREET
SAN LUIS OBISPO, CA 93401

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) Jon & Rosanne Seitz
350 Estuary Way
Grover Beach, CA 93433

(2) Roscoe (Rusty) Doss
897 N. 1st Street
Grover Beach, CA 93433

(3) John & Paula Martinez
888 N. 2nd Street
Grover Beach, CA 93433

(4) Dave & Linnette Conners
942 Front Street
Grover Beach, CA 93433

(5) Paulene Verdegaal
201 Estuary Way
Grover Beach, CA 93433

(6) Janet Bispo
201 Estuary Way
Grover Beach, CA 93433

(7) Carol A. Lair
898 N. 1st Street
Grover Beach, CA 93433

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.

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.)

Please see attachment

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.

Signature of Appellant(s) or Authorized Agent

Date August 28, 2002

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 _____

CCC Exhibit _____
(page 8 of 19 pages)

APPEAL TO COASTAL COMMISSION
SECTION IV

EXHIBITS:

A. Bagwell Tract Map approved by the Coastal Commission
B. Coastal Commission Permit to Charles Bagwell
C. 1977 Grover Beach Staff Report approving Bagwell Subdivision
D. Minutes of 1982 Planning Commission approving CPR-1 Zoning
E. July 26, 2002 letter from Rosanne Seitz to Tom Sullivan and August 6, 2002 response from Tom Sullivan
F. CPR-1 Zoning Code
G. Various sections from the Grover Beach Local Coastal Program
H. Resolution 02-013 of the Grover Beach Planning Commission denying the project on April 9, 2002.
I. July 9, 2002 Planning Commission Staff Report for Planning Commission meeting of July 9, 2002 at which the project was denied for a second time.
J. City Council Staff Report, Mitigation Measures and Resolutions adopted by the City Council August 19, 2002.
K. Proof of Service

INTRODUCTION:

The real property that is the subject of Horizon Seabright LLC's proposed Parcel Map is located at 1003 Front Street, Grover Beach, California. Said parcel was one of the parcels that was originally created by the Bagwell Tract, a four (4) lot subdivision that was approved in 1977 (see Exhibit "A" for location of property). Jon and Rosanne Seitz own real property located at 350 Estuary Way, Grover Beach, California and is one of the lots located within the Bagwell Tract. Pauline Verdegaal is the owner of 201 Estuary Way and is one of the properties located within the Bagwell Tract. The Bagwell Tract is located in the "Pismo Lake Designation " of the Inland Resource Area of Grover Beach's Local Coastal Program (see Exhibit "G").

The City's files related to the approval of the Charles Bagwell Tract and the adoption of its CPR-1 Zoning are incomplete, paper thin and do not contain any documentation referencing Coastal Commission approvals or actions with respect to the Bagwell Tract or the adoption of the CPR-1 Zoning Ordinance. We have made a public records request to the Coastal Commission for the file related to the Bagwell Tract approval (which was recently located) and the Coastal Commission's file for the City's adoption of its CPR-1 Zoning (which is currently being processed by the Coastal Commission staff).

HISTORICAL BACKGROUND OF THE BAGWELL TRACT:

A. In 1977, Charles Bagwell applied to the City to create a multi-parcel subdivision (with higher density than what was finally approved) along the southerly border of the Pismo Lake (an Estuary), an environmentally sensitive area (local Coastal Program and July 11, 1997 staff report (Exhibit "C"). Through the environmental review process, Coastal Commission permit (approval) process (see Coastal Commission Permit attached as Exhibit "B") and the City's planning process, the requested density was scaled down to a four (4) lot subdivision (April 11, 1977 staff report and testimony of City planning staff, July 9, 2002 Planning Commission Meeting). At the time the property was zoned R-1. Apparently staff and the Planning Commission recommended a zone change from R-1 to R-A, as an environmental mitigation measure to limit further development in the Tract. However that mitigation measure was not implemented.

We suspect, the R-A zoning was not pursued because Planning staff believed that Agricultural Zoning would be inappropriate for the Bagwell Tract and that the Coastal Commission's approval of the four (4) lot Bagwell Tract Map provided sufficient limitations on further subdivisions of the parcels (i.e. further subdivision would require Coastal Commission approval). (See additionally, letter from Rosanne Seitz to Tom Sullivan, a former City Planning Director, and Mr. Sullivan's response collectively Exhibit "E").

B. During the year 1981 the City approved a Local Coastal Program and during 1982 the City processed an amendment to the Local Coastal Program to initiate a zone change from R-1 to CPR-1 that affected the four (4) lots within the Bagwell Tract and Tract No. 1948 and Tract No. 1080 that are located south of the Bagwell Tract and across 4th Street. At the Planning Commission meeting, then Director Sullivan responded to public comments concerning the impact of CPR-1 zoning on the Bagwell Tract. Those August 10, 1982 Minutes are appended hereto as Exhibit "D". During that testimony Mr. Sullivan reported:

- The conditions placed on the subdivision (Bagwell Tract) by the Coastal Commission when it was originally approved exceed the requirements of the new Ordinance and that the Certified Local Coastal Program stipulates that those conditions of approval shall apply to these four (4) lots.

- That the City and the Coastal Commission agreed that the conditions that were set down by the City and the Coastal Commission when the land was subdivided (Bagwell Tract) was what was going to control what was built there.

- That the conditions of the Coastal Commission and the City placed on the project when it was approved are the conditions they (Bagwell Tract landowners) have to live with it and that is what is stated in the Local Coastal Program.

C. Within recent history Horizon Seabright purchased one of the Bagwell lots that is currently improved with a single family residence consistent with the original Bagwell subdivision. Horizon Seabright has applied for a Coastal Development Permit to divide the property to create a new lot for further development. The Planning Commission has considered and rejected the permit on two (2) separate occasions. During these hearings the Planning Commission received testimony related to; environmental impacts of the project, the limitations placed on the original Bagwell Tract, that the Bagwell Tract was fully developed consistent with the Bagwell Tract Map (Exhibit "A"), that three (3) property owners on Estuary Way were told that their respective properties could not be further subdivided when they originally applied for development permits, and that two additional property owners would seek to subdivide their property if the Seabright development was approved (Minutes of February 13, March 12 and July 9, 2002 meetings).

- On April 9, 2002 the Planning Commission denied the project based on ten (10) separate findings (see Resolution 02-013 attached as Exhibit "H").

- On July 9, 2002 the Planning Commission, based on the same mitigated negative declaration presented to the Planning Commission on April 9, 2002, again rejected the project.

D. On August 19, 2002 the City Council considered the Appeal of Horizon Seabright, LLC of the Planning Commission's July 9, 2002 denial of the project. At that meeting, and despite public comment in opposition, the City Council took the following actions:

- Adopted Resolution 02-____ a Resolution of the City Council of the City of Grover Beach adopting Environmental Determination and Mitigated Negative Declaration for Application 01-018. Said Resolution, Exhibit "A" and Monitoring Programs are attached hereto as Exhibit "J".

- Adopted Resolution 02-_____ a Resolution of the City Council of the City of Grover Beach granting a vested Tentative Map for parcel number 2437 Architectural Review and Coastal Development Approval for Application 01-018 attached hereto as Exhibit "J".

BASIS FOR APPEAL:

A. Without Coastal Commission approval, development within the Bagwell Tract is limited to one residential unit per parcel.

The Bagwell Tract is located within the Pismo Lake designation of the Inland Resource Area of the Local Coastal Program. The Local Coastal Program does not contain a density policy for the Pismo Lake area (for example, see Meadow Creek Density Map). We believe this is so, because further development is not allowed within the Bagwell Tract (other than that which was previously approved by the Coastal Commission) without a certified revision to the Local Coastal Program. (see Exhibits "D" and "E" as further evidence).

B. Grover Beach failed to request Coastal Commission comments on the proposed project and environmental determinations.

The Staff Report and Council package does not reflect that the project or the environmental determinations were forwarded to the Coastal Commission for comment on the project, or the wetlands located immediately adjacent to the project.

C. The City did not follow its Zoning Code in approving the General Development Plan.

Development within the CPR-1 Zoning Area of the City requires a two step process; a General Development Plan approval and Specific Plan approval (see Exhibit "F"). The City failed to perform the ten (10) step analysis required by Section 9106.3 in approving the elements of the General Development Plan (see Exhibit "I Planning Commission Staff Report) and Exhibit "J" City Council's Staff Report and Resolutions approving the Parcel Map).

D. The City of Grover Beach's mitigation measures do not adequately address the Local Coastal Program.

Mitigation Measure MM-6 (see Exhibit "J") conflicts with Policy 9B (page 25) of the Inland Resource Area of the Local Coastal Program, which states "No development shall occur within fifty (50) feet of the drip line of a solid canopy oak woodland" (Exhibit "G").

E. The environmental study was not provided to the Department of Fish and Game for comment as an interested party.

CCC Exhibit F
(page 12 of 19 pages)

The City Staff Report and Staff package does not reference that the project or environmental determinations were forwarded to the Department of Fish and Game for comment.

F. The City, in approving the Project (Exhibit "J"), did not address the findings for denial contained in Resolution 02-013 (Exhibit "H") of the Planning Commission.

October 18, 2002

JON S. SEITZ
350 Estuary Way
Grover Beach, CA 93433

Via California Overnight

ATTENTION: APPEALS DEPARTMENT
CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, STE. 300
SANTA CRUZ, CA 95060

Re: Amendment to Coastal Commission Appeal of City of Grover Beach Approval of Horizon Seabright's Application No. 01-018 for Tentative Parcel Map, Architectural Approval, Coastal Permit and Environmental Determination

Exhibit "A": Biological Assessment Report
Exhibit "B": Oak Tree Construction Impact Report
Exhibit "C": Planning Commission Staff Report
Exhibit "D": Aerial photograph that shows Project area in relation to oak woodland and canopy.
Exhibit "E": Photograph of 42 inch oak referred to in Initial Environmental Study
Exhibit "F": Photograph showing the canopy of the 42 inch oak and other trees in vicinity.
Exhibit "G": Photograph of 84 inch oak referenced in Initial Environmental Study
Exhibit "H": Intentionally Omitted.
Exhibit "I": Local Coastal Program Vegetation Map
Exhibit "J": Photograph of cul-de-sac and driveway demonstrating lack of oak trees.
Exhibit "K": Depiction of contours of the Development Plan and 42" oak tree.

Dear Sir or Madam:

We have already lodged our initial Appeal to the Coastal Commission regarding the above related Project. Please accept this letter as:

A. Incorporating the prior Appeal; and
B. To amend Section IV of the original Appeal as follows:

SUMMARY OF FURTHER OBJECTIONS

The above referenced Development Plan violates policies 9(b) and 9(d) of the Summary of Conflicts, Section B-1, Inland Resource Area (pp. 25) of the City of Grover Beach's Local Coastal Program as follows:

1. The Development will occur within fifty (50) feet of a solid canopy oak woodlands which violates Section 9(b) of the City's Local Coastal Program; and

2. Development will occur below the sixty (60) foot contour in violation of Section 9(d) of the City's Local Coastal Program.

ANALYSIS OF FURTHER OBJECTIONS

I. The Development Plan violates the prohibitions of development within fifty (50) feet of the dripline of a solid oak canopy referenced in Section 9(b) of the City's Local Coastal Program which states:

> "(b) No development shall occur within 50 feet of the dripline of a solid canopy oak woodland."

The Project clearly includes development that is within fifty (50) feet of a dripline of a solid oak canopy. This fact is recognized in the Environmental Initial Study as follows:

> "The proposed project is a subdivision of one existing parcel (42,467.54 sf) into two lots (parcels 1 and 2). Lot 1 is proposed to be 20,002.98 sf and lot 2 is proposed to 22,494.26 sf. The project also includes the construction of one new single family residence on lot 1, approximately 2,200 sf. There is an existing (2,788 sf) residence on parcel 2. The property is located adjacent to a sensitive resource area that is part of an upland riparian habitat and wetland. The property is situated at the top of the Pismo Lake Ecological Area riparian bank, which is in the coastal zone. The property and adjacent riparian area has numerous willow and native oak trees. All of the oak trees on-site are proposed to be preserved. (Emphasis added).
>
> Proposed lot 1 has an 84" oak tree. The project has been redesigned to keep development away from the driplines of the oak trees to the extent feasible."

> The Project includes development of a retention basin and a new driveway for lot 1. The proposed retention basin is located at the top of the bank of the Lake and is near the dripline of a 42" oak tree. A low retaining wall is proposed from where the two driveways split apart, to the edge of the tree canopy of the 84" oak. The applicant proposes to install tree protection fencing at the dripline of the tree and proposes to use other tree protection measures recommended by the project arborist during construction. These same tree protection measures will be utilized for the 42" oak tree. (Emphasis added).

See also the Biological Assessment Report (Exhibit "A", Maps and "Description of Conditions")and the Oak Tree Construction Impact (Report Exhibit B and attached Map) that are referenced in the Project's Initial Environmental Study.

In support of this Appeal I am also attaching the following photographs that further depict the oak tree habitat and the proposed Project as follows:

C. An aerial photograph that shows the Project area in relation to the oak woodland and canopy.

D. A photograph of the forty-two (42) inch oak referenced in the Initial Study (Note: both the drainage basin and the residence will be constructed within fifty (50) feet of the dripline of this oak tree).

E. A photograph showing the canopy of the forty-two (42) inch oak and other oak trees in the vicinity.

F. A photograph of the eighty-four (84) inch oak tree referenced in the Initial Study (Note: photograph A shows the eighty-four (84) inch oak tree in relation to the other solid oak canopy that is affected by the Project).

The Planning Commission Staff Report on the Development Plan recognized the conflict as follows (Exhibit "C", page 4):

> "The Local Coastal Program (LCP) includes a policy that states: *No development shall occur within 50 feet of the dripline of a solid canopy oak woodland.* Staff conducted another site inspection of the building site and oak tree canopy, and concluded that the 84 inch oak is not a solid canopy of an oak woodland, but is a single tree, with poor canopy. In addition, the LCP delineates the location

of "oak woodland" areas, and the proposed development is not within 50 feet of the oak woodland as mapped in the LCP."

In response to Planning Commission and resident's concerns, both the Applicant and City Staff stated that the Planning Commission could rely on the Vegetation Map that was approved by the Coastal Commission because the map showed oak woodlands at a distance that would be compliant with Section 9(b). A color copy of the Vegetation Map is attached as Exhibit "I".

We contend that reliance on the Vegetation Map (Exhibit 'I") is erroneous for the following reasons:

1. The Map is inconsistent with the written description of the oak woodlands area described in the Local Coastal Program at page 15 which states:

   Oak Woodland Community: This type of community is found in the vicinity of Pismo Lake within Grover Beach, both east and west of North Fourth Street. Map 3 shows the location of these wooded areas. The oak woodland community is dominated by coast live oak (Quercus agrifolia) and is the last woodland of this type in the entire region. East of North Fourth Street, the oaks form a dense canopy over the central portion of the area and grade into the riparian community along the marsh's edge. West of North Fourth Street, the woodland community begins at the top of a relatively steep slope and also extends, intermixed with riparian vegetation, to the marsh's shore. Vegetation found in the oak woodland community includes, in addition to coast live oak and pygmy oak, the wild blackberry, poison oak, coyote bush, wild cucumber, and coffeeberry.

   Riparian Woodland Community: West of North Fourth Street, adjacent to the marsh, the riparian community is really part of the oak woodland complex described above. Riparian vegetation associated with the coast live oak woodland, include elderberry, wild rose, poison oak, wild cucumber, nettle, berry and other herbaceous plants.

2. The Vegetation Map clearly misplaces the oak woodlands. The Map shows the oak woodlands in the middle of both our family residence (350 Estuary Way) and the private road that provides access to our home.

Exhibits "F" and "J" are photographs of the cul-de-sac and driveway demonstrating the lack of oak trees in our driveway.

3. The City did not rely on the Vegetation Map in approving the construction of our neighbor's residence on the large vacant lot shown on Exhibit "D". The oak woodlands depicted in the Vegetation Map is clearly within fifty (50) feet of the dripline of both the driveway and the neighbor's residence.

4. The Vegetation Map shows the Applicant's property being adjacent to the beach.

Further, reliance on Staff's observation that a willow tree is intermixed between the eighty-four (84) inch oak and the oak woodlands is misguided as follows:

a. The willow tree does not provide a break in the canopy. The eighty-four (84) inch oak still holds hands with its oak tree cousins. See Exhibit "G".

b. Even if the eighty-four (84) inch oak tree is not part of a solid oak canopy, the forty-two (42) inch oak (Exhibits "E" and "F") clearly is part of the solid oak canopy.

The Coastal Commission must conclude that the Development Plan violates the City's Local Coastal Program

II. The Development Plan violates prohibition of Policy 9(d) because the Plan shows development below the sixty (60) foot contour.

Policy 9(d), page 25 of the Local Coastal Program states:

" (d) As a condition of development approval lands below the 60 foot contour at a minimum in the Meadow Creek uplands areas shall be dedicated to the City or State Department of Fish and Game as public open space as an integral portion of the Pismo Lake Ecological Reserve."

At the Planning Commission meeting both the Applicant and Staff took the position before the Planning Commission that Section 9(d) did not apply to this Project, because the Project is not located within the Meadow Creek uplands. We believe this position to be in error for the following reasons:

1. The Project is upland and immediately adjacent to the Pismo Lake Ecological Reserve and is within the area described as the northern branch of the Inland Resource Area (see Local Coastal Program, page 22 and Local Coastal Program, page 23, paragraph 3). The area to be protected.

2. The Initial Environmental Study, at page 1, describes the property and Project as follows:

   "The property is located adjacent to a sensitive resource area that is part of an upland riparian habitat and wetland."

3. Meadow Creek is a generic term and is not defined in the Local Coastal Program. However, Pismo Lake is located within the Inland Resource Area and is clearly part and parcel of the Meadow Creek.

Therefore, the Coastal Commission must deny the Development Plan because it is not consistent with Section 9(d) of the Local Coastal Program.

Respectfully Submitted,

Jon and Rosanne Seitz
350 Estuary Way
Grover Beach, CA