

CALIFORNIA COASTAL COMMISSION

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COASTAL DEVELOPMENT PERMIT APPLICATION**Application number**3-01-121**Applicant**.....Charles Bachman**Project location**.....1525 Fountain Ave., Oceano, San Luis Obispo County.**Project description**.....Construct a 2,100 square foot single-family residence with approximately 944 square feet of decks and porches and includes a 546 square foot attached garage.**File documents**.....Coastal Act; San Luis Obispo County Certified Local Coastal Program; Wetland Delineation (Holland, Moody, 5/30/01); Herpetological Survey (Andoli, 5/3/01); CCC Staff Biologist Memorandum (Dixon, 4/15/02).**Staff recommendation** ...Approval with Conditions

Summary: The applicant proposes to construct a two-story 2,100 square foot single-family residence on a 9,375 square foot lot adjacent to the airport in the community of Oceano in San Luis Obispo County. The site is within the Coastal Commission's permit jurisdiction by virtue of being located on historic tidelands associated with the confluence of Arroyo Grande Creek, Meadow Creek, and the Pacific Ocean. This area has been previously filled in order to build the Pismo-Oceano Airport and the surrounding neighborhood. The Coastal Act is therefore the standard of review. The County's LCP, however, may be used for guidance.

The proposed development is located entirely within a wetland system. These wetlands, although substantially altered, are considered environmentally sensitive habitat areas (ESHA) because they include plant or animal life or their habitats, which are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. The project would result in direct and indirect impacts to wetland habitats. The project and the cumulative impacts to wetland habitats are considered significant and unavoidable.



California Coastal Commission
August, 2002 Meeting in San Luis Obispo

Staff: JB-SC Approved by: *[Signature]*

Furthermore, portions of the project site and adjacent environs provide suitable habitat for the red-legged frog, southwestern pond turtle, and the California tiger salamander, although none of these species were observed on the project site during biological surveys.

The proposed new single-family dwelling is evaluated as new development on a vacant lot that is entirely environmentally sensitive habitat area (ESHA). As proposed, impacts from residential use must be considered, and the structures and paving proposed on the site are inconsistent with Coastal Act Section 30240 because the entire site is considered to be environmentally sensitive habitat. Although non-resource dependent development in wetlands (ESHA) is not consistent with the policies of Chapter 3 of the Coastal Act, some development of the site must be allowed in order to avoid a taking of the property without just compensation, as provided under Coastal Act Section 30010.

In light of constitutional takings issue associated with the proposed development, staff recommends the project be modified to maximize sensitive wetlands habitat protection consistent with private property rights. Therefore, staff recommends that the Commission **approve** the proposed development subject to a number of conditions in order to maximize consistency with the Chapter 3 policies of the Coastal Act. These conditions include the following requirements:

- Submittal of Revised Project Plans;
- Placement of a conservation deed restriction on all open space/habitat areas;
- Submittal of a wetland restoration and enhancement plan for all open space/habitat areas;
- Implementation of specific measures to minimize temporary construction and cumulative impacts on wetland plants and animals.

As conditioned by this permit, the project will be consistent with Coastal Act Section 30010 and will adequately mitigate for unavoidable impacts to environmentally sensitive habitat. The project is also consistent with Coastal Act policies regarding public access and hazards.

Staff Report Contents

I. Staff Recommendation on CDP Application.....	3
II. Conditions of Approval.....	4
A. Standard Conditions.....	4
B. Special Conditions	4
III. Recommended Findings and Declarations.....	8
A. Project Description.....	8
1. Project Location.....	8
2. Project Description.....	8
3. Standard of Review/Basis of Decision	9
B. Issue Analysis	9
1. Environmentally Sensitive Habitat Areas.....	9
a. Applicable Environmentally Sensitive Habitat Area (ESHA) and Wetland Policies.....	9
b. Description of Sensitive Habitat	12



c. Implementing Sections 30010, 30233 and 30240 of the Coastal Act	13
c. ESHA Impact Analysis	15
d. Conclusion	16
2. Public Access	17
a. Applicable Public Access Policies	17
b. Consistency Analysis	17
3. Hazards	18
a. Flood Hazards	18
b. Other Hazards	18
4. Water Quality	18
a. Applicable Public Access Policies	18
b. Consistency Analysis	19
IV. California Environmental Quality Act (CEQA)	19
V. Exhibits	
A. Project Vicinity Map	
B. Aerial Photo	
C. County Approved Site Plan	
D. Revised Development Envelope	
E. Staff Biologist Memorandum (Dixon, 4/15/02)	
F. County Findings and Conditions of Approval	

I. Staff Recommendation on CDP Application

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

Motion. I move that the Commission approve Coastal Development Permit Number 3-01-121 pursuant to the staff recommendation.

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

Resolution to Approve a Coastal Development Permit. The Commission hereby approves the coastal development permit on the ground that the development as conditioned, is consistent with the requirements of the California Coastal Act of 1976 (Coastal Act). Approval of the coastal development permit complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment; or (2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the development on the environment.

II. Conditions of Approval

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Scope of Permit.** The development authorized by this permit is limited to construction of the following, subject to Executive Director review and approval of Final Plans and compliance with all conditions below:
 - (a) 3,285 square foot development envelope;
 - (b) 2,100 square foot single-family residence with no more than 1,515 square foot disturbance footprint; driveway; and landscaping;
 - (c) 5790 square foot open space.
2. **Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two sets of Final Plans for the Executive Director's review and approval. The Final Plans shall demonstrate the following changes to the project:
 - (a) **Development Envelope.** All development (i.e., the residence, driveway, all impermeable pathways, garages, retaining walls, lawn and ornamental landscape areas, etc.) shall be confined to areas within the revised development envelope, as shown in Exhibit D.
 - (b) **Open Space Area.** There shall be no development surrounding the development footprint. All areas surrounding the development envelope shall be restored and



revegetated with native plants. The Open Space Area shall be designated on the Revised Project Plans, as shown in Exhibit D.

(c) **Driveway.** The driveway shall be constructed using permeable materials.

The Permittee shall undertake development in accordance with the approved Revised Project Plans. Any proposed changes to the approved Revised Project Plans shall be reported to the Executive Director. No changes to the approved Revised Project Plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

3. **Wetland Habitat Restoration and Enhancement Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit for the Executive Director's review and approval, two sets of wetland habitat restoration plans for the entire lot outside of the development envelope as designated on the final site plans required by Special Condition #1. The restoration plan shall be prepared using California native plant species appropriate to the site. The plan shall include an analysis by a qualified expert that considers the specific condition of the site including soil, exposure, temperature, moisture, and wind, as well as restoration goals. At a minimum, the plan shall demonstrate that:

- (a) All vegetation planted on the site will consist of native wetland plants,
- (b) All required plantings will be maintained in good growing conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the restoration plan, and

The plans shall include, at a minimum, the following components:

- (a) A map showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system (if any), topography of the developed site, and all other landscape features, and
- (b) A schedule for installation of plants within the first growing season after completion of construction.

Installation of all plants shall be completed prior to occupancy of the new home. Within 30 days of completion of the landscaping installation, the Permittee shall submit a letter from the project biologist indicating that plant installation has taken place in accord with the approved enhancement plans and describing long-term maintenance requirements for the restoration. At a minimum, long-term maintenance requirements shall include site inspections by a qualified biologist annually, or more frequently, to identify and correct any restoration and maintenance issues.

Five years from the date of completion of the addition, the Permittee or successors in interest shall submit, for the review and approval of the Executive Director, a restoration monitoring report, prepared by a qualified specialist, that certifies the on-site restoration is in conformance with the approved plan along with photographic documentation of plant species and plant coverage.

If the restoration monitoring report or biologist's inspections indicate the landscaping is not in conformance with or has failed to meet the performance standards specified in the Wetland Habitat

Restoration and Enhancement Plan approved pursuant to this permit, the Permittee or successors in interest, shall submit a revised or supplemental restoration plan for the review and approval of the Executive Director. The revised restoration plan must be prepared by a qualified specialist, and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

4. Open Space Restriction.

A. No development, as defined in section 30106 of the Coastal Act shall occur in the Open Space Area as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive director issues for this permit except for:

1. Restoration activities conducted in accordance with the approve Wetland Habitat Restoration and Enhancement Plan prepared for the subject property as required by Special Condition #2.

B. PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI OF THIS PERMIT, the Applicant shall submit for review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, as generally described and shown on Exhibit D attached to this staff report.

5. Fencing. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall satisfy the following requirements:

A. Plans for temporary exclusionary fences to protect sensitive areas from disturbance during construction. Vehicle parking, storage or disposal of materials shall not be allowed within the exclusionary fences. Fences shall be installed prior to the start of construction and shall remain in place and in good condition until construction is completed. The exact placement of the temporary exclusionary fencing shall be identified on site by the project biologist. Either mesh field fence or snowdrift fence, or comparable barrier shall be used.

B. Plans for any permanent fencing, should they be necessary to discourage trampling of the area to be restored outside of the development envelope, shall require the Executive Director's review and approval, and may require an amendment to this permit.

6. Environmental Monitoring During Construction. The permittees shall employ an environmental monitor who is approved by the Executive Director and the County of San Luis Obispo to ensure compliance with all mitigation requirements during the construction phase. Evidence of compliance with this condition by the project monitor shall be submitted to the Executive Director each month while construction is proceeding and upon completion of construction. In the event of non-compliance with the adopted mitigation measures, the Executive Director shall be notified immediately. The environmental monitor shall make recommendations, if necessary, for compliance with the adopted mitigation measures. These recommendations shall be carried out immediately to protect the natural habitat areas of the site.

7. Geologic Hazards/Site Alteration. The Permittee agrees to incorporate the recommended design and construction measures from the Earth Systems Pacific Soils Engineering Report dated March 13, 2001. The design and construction measures include, but are not limited to: site preparation; grading; utility trenches; foundations; slabs-on-grade and exterior flatwork; retaining walls; and



drainage improvements. No modifications to the approved design and construction measures contained in the March 13, 2001 report shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

8. **Water Quality Protection.**

Grading, Drainage, and Erosion Control Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two sets of Grading, Drainage, and Erosion Control Plans to the Executive Director of the Coastal Commission for review and approval, that satisfy the requirements of CZLUO Sections 23.05.024 – 23.05.050, and prohibit ground disturbing activities between October 15 and April 1. The plans shall also identify that ground disturbing activities are also prohibited when the National Weather Service reports a 30% or greater chance of rain. In addition, the plans shall conform to the following requirements:

Implementation of Best Management Practices During Construction. The Drainage and Erosion Control Plans shall identify the type and location of the measures that will be implemented during construction to prevent erosion, sedimentation, and the discharge of pollutants during construction. These measures shall be selected and designed in accordance with the California Storm Water Best Management Practices Handbook and the criteria established by the San Luis Obispo County Resource Conservation District. Among these measures, the plans shall limit the extent of land disturbance to the minimum amount necessary to construct the project; designate areas for the staging of construction equipment and materials, including receptacles and temporary stockpiles of graded materials, which shall be covered on a daily basis; provide for the installation of silt fences, temporary detention basins, and/or other controls to intercept, filter, and remove sediments contained in the runoff from construction, staging, and storage/stockpile areas. The plans shall also incorporate good construction housekeeping measures, including the use of dry cleanup measures whenever possible; collecting and filtering cleanup water when dry cleanup methods are not feasible; cleaning and refueling construction equipment at designated off site maintenance areas; and the immediate clean-up of any leaks or spills.

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

Post Construction Drainage. The drainage plan shall identify the specific type, design, and location of all drainage infrastructure necessary to ensure that post construction drainage from the project does not result in geologic instability, erosion, sedimentation, or the degradation of coastal water quality.

Excavated materials. Grading plans shall indicate approximate quantity of material to be excavated and identification of the receiver site(s) for all such excavated materials. If the fill site is in the coastal zone, then its use for receiving fill must be authorized by a coastal development permit or by a valid County permit that predates the California Coastal Act.

9. **Compliance with Local Conditions of Approval.** All conditions of approval adopted by the San Luis Obispo County Planning Commission on December 7, 2001 (attached as Exhibit F) pursuant to an authority other than the Coastal Act continue to apply to the project (e.g., local conditions 3, 4, 5,

7, and 8). Where there is a conflict between the conditions of the local approval and the terms of this permit, the terms of this permit shall prevail.

10. **Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant's entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

III. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Description

1. Project Location

The proposed development is located at 1525 Fountain Avenue in Oceano (see Exhibits A and B). The site is bounded by a freshwater marsh with standing water to the northeast, the Oceano airport and Fountain Avenue directly to the southwest, and developed lots on both the northwest and southeast sides of the site.

The project site consists of disturbed wetlands with sporadic wetland vegetation cover. According to the Wetland Delineation submitted by the applicant the current vegetation onsite consists of a mixture of ornamental herbs, shrubs, and trees. Arroyo willow trees (*Salix lasiolepis*) occur along the fringe of the site and in some areas surrounding a structure in the southwest property corner. The entire Oceano Airport wetland region was filled to accommodate development, yet was once a complex mosaic of riparian woodlands, freshwater marshes, and upland areas.

2. Project Description

The Applicant proposes to construct a two-story, 2,100 square foot single-family residence directly adjacent to the Oceano Airport. The proposed project covers 4,438 square feet (1,515 s.f. building + 1,523 s.f. paving + 1,400 s.f. landscaping) of wetland habitat and encompasses 3 separate lots (25'x 125' each). Areas not designated for development would be preserved as open space/habitat areas (see Exhibit C).



3. Standard of Review/Basis of Decision

The site is within the Coastal Commission's permit jurisdiction by virtue of being located on historic tidelands associated with the confluence of Arroyo Grande Creek, Meadow Creek, and the Pacific Ocean, that were previously filled in order to build the Oceano Airport and the surrounding neighborhood. The Coastal Act is therefore the standard of review. Coastal Act policies include Section 30240, which prohibits any significant disruption of environmentally sensitive habitat areas, and bans those uses that are not dependent on such resources; and Section 30233, which limits the fill of wetlands.

In this case, the entire site of the proposed development is environmentally sensitive coastal wetland habitat (see finding B(1) below for details). Accordingly, because the proposed development is construction of a single-family residence (which is not a resource-dependent use or an exception under Section 30233) and will result in significant habitat disruption, the proposed residential development cannot be found consistent with Section 30240 and 30233. Therefore, absent other considerations, this project would have to be recommended for denial.

However, Coastal Act Section 30010 states:

The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefore. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

The Coastal Commission is not organized or authorized to compensate landowners denied reasonable economic use of their otherwise developable residential property. Therefore, to preclude claim of takings and to assure conformance with California and United States Constitutional requirements, as provided by Coastal Act Section 30010, this permit allows for the construction of a 2,100 square foot single-family residence to provide a reasonable economic use of this property. This determination is based on the Commission's finding in B(1)(c) of this staff report, below, that the privately-owned parcels were purchased with the expectation of residential use, that such expectation is reasonable, that the investment was substantial, and that the proposed development is commensurate with such investment-backed expectations for the site.

B. Issue Analysis

1. Environmentally Sensitive Habitat Areas

a. Applicable Environmentally Sensitive Habitat Area (ESHA) and Wetland Policies

Coastal Act Section 30240(a) specifically calls for the protection of environmentally sensitive habitat areas and states:

Section 30240(a): Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

The Coastal Act, in Section 30107.5, defines an environmentally sensitive area as

30107.5...any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Coastal Act Section 30233 limits the filling of wetlands and states:

30233: (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative; and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or



estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

For the purposes of this section, "commercial fishing facilities in Bodega Bay" means that not less than 80 percent of all boating facilities proposed to be developed or improved, where such improvement would create additional berths in Bodega Bay, shall be designed and used for commercial fishing activities.

(d) Erosion control and flood control facilities constructed on water courses can impede the movement of sediment and nutrients which would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for such purposes are the method of placement, time of year of placement, and sensitivity of the placement area.

While Coastal Act policies are the standard of review for coastal development, San Luis Obispo County's LCP also provides guidance to the Commission as it considers proposals for development in wetlands. With regards to environmentally sensitive habitat areas, the LUP contains the following relevant policies:

Policy 1 for Environmentally Sensitive Habitats: New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resource shall be allowed within the area.

Policy 5 for Environmentally Sensitive Habitats: Coastal wetlands are recognized as environmentally sensitive habitat areas. The natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved and where feasible, restored.

CZLUO Section 23.07.170 – Environmentally Sensitive Habitats:

d. Development standards for environmentally sensitive habitats:

- (1) New development within or adjacent to the habitat shall not significantly disrupt the resource.
- (2) New development with the habitat shall be limited to those uses that are dependent upon the resource.
- (3) Where feasible, damaged habitats shall be restored as a condition of development approval.
- (4) Development shall be consistent with the biological continuance of the habitat.

- (5) *Grading adjacent to Environmentally Sensitive Habitats shall conform to the provision of Section 23.05.034c (Grading Standards).*

b. Description of Sensitive Habitat

The subject site lies within a geographical area known for its occurrence of plant and animal species native and restricted to wetland systems, including those listed as endangered or threatened under Federal and/or State regulations. Sensitive habitats are defined by local, State, or Federal agencies as those habitats that support special status species, provide important habitat values for wildlife, represent areas of unusual or regionally restricted habitat types, and/or provide high biological diversity.

Residential and commercial development has affected the wetland habitat within the greater Oceano area. All substantial undeveloped areas within this historically filled wetland area represent environmentally sensitive habitat, in various stages of disruption or recovery. Because the wetland habitat ecosystem is a rapidly diminishing resource and is so easily disturbed, it is an acknowledged environmentally sensitive area. The coastal wetlands are communities designated as high priority in the California Department of Fish and Game (CDFG) Inventory. Coastal wetlands also are recognized as sensitive in the San Luis Obispo County's Land Use Plan.

The proposed development lies within a wetland system, which is defined as environmentally sensitive habitat. The extent of the wetland habitat in some areas is difficult to determine due to the historic filling of the area during development of the airport and surrounding neighborhoods. Nonetheless, this wetland is characterized by the presence of hydric soils, wetland vegetation, and indications of wetland hydrology. The remnant wetland habitat areas have suffered severe impacts and in some areas are heavily developed. Potential wetland development throughout this area and the loss of habitat values is a significant issue.

A wetland delineation was conducted by V.L. Holland in April of 2001 to examine the vegetation, soils, and hydrology on the site and to determine if wetlands are present within the disturbance area of the proposed project. The report concluded that the site does not at this time meet the standards for a wetland because it does not have 50% or more of its vegetation and flora as wetland indicators. However, the presence of hydric soils on the site and indications of some wetland hydrology in patches suggest that the area was a wetland historically. The report noted the existence of native arroyo willow and native California blackberry (*Rubus ursinus*) growing naturally on the site. Also, Umbrella sedge (*Cyperus eragrostis*), a common wetland species occurs in small patches found in the freshwater marsh area, located along the northeastern boundary of the lot. While there may not be any endangered plants in the building site presently, the presence of hydric soils and wetland hydrology indicate that the area could be seasonally saturated with water. Thus, contrary to conclusions presented in the submitted wetland delineation, the whole area must be considered environmentally sensitive habitat, as it all has the potential to sustain the endangered and native plants associated with wetlands. (See Exhibit E, Memorandum from CCC Staff Biologist John Dixon).

A herpetological survey conducted by Dr. Fred P. Andoli in April of 2001 (daylight surveys done 4/18/01 and 4/20/01; night surveys were conducted 4/19/01 and 4/24/01; report dated 5/3/01) to determine potential impacts of proposed development found no threatened or endangered species *onsite or in the immediate project area*. However, the report noted the existence of red-legged frog (*Rana aurora*) at nearby Chorro Reservoir. The report also states that a second sensitive species known to occur in the area is the southwestern pond turtle (*Clemmys marmorata*). A third species of concern is the



California tiger salamander (*Ambystoma californiense*) which recently been listed by the U.S Fish and Wildlife Service. This animal reportedly spends most of its life below ground and emerges after spring rains to breed in temporary or permanent ponds or streams. Based on the evidence provided during field investigations, it appears that the site is saturated near the surface for long periods during the rainy season and that saturated areas to the rear of the property remain stagnant for most of the year. While there may not have been any sensitive animal species located at the building site during the field surveys, the nature of the wetland habitat is such that species disperse after rains, migrate to other areas like damp woods or meadows, and generally appear at a variety of different locations and times. Thus, the whole area, including the proposed development site, is considered wetland habitat as it all has the potential to sustain the endangered animal species.

Along the northeastern edge of the property line, an unnamed wetland/riparian system exists to which much of the site drains. The most significant body of wetlands extends behind the subject property in this area. The field survey done by Dr. Andoli describes a slow flow of water from this area along the edge of the Oceano Airport, eventually emptying into Oceano Lagoon. Based on the evidence provided, it appears that some linkages exist from this wetland area to the larger confluence of Arroyo Grande Creek and Oceano lagoon. Although individual specimens have not been identified on the site, suitable habitat exists in and around the subject wetland/riparian system, which includes the applicant's site, for Southwestern pond turtle, California tiger salamander, and California red-legged frog.

c. Implementing Sections 30010, 30233 and 30240 of the Coastal Act

As described above, the entire area of the proposed project sites is environmentally sensitive wetland habitat. The proposed development as submitted includes one building site for a single-family dwelling, with associated infrastructure improvements. This project will require grading of approximately 50-77 cubic yards of material. The proposed project will result in a permanent loss of approximately 4,438 square feet of environmentally sensitive habitat.

Additional disruptions will result from residential development and subsequent use of the site, but these uses are generally amenable to native plant restoration and maintenance measures. Such activities may include: installation of a storm drainage system, utility trenching and, over the long run, ordinary residential activities on the premises such as allowing dogs and other human activity in the habitat area. None of the development activity described is dependent on a location within the sensitive resource area. In addition, this development and its associated activities, individually and collectively, will result in a significant disruption of the environmentally sensitive wetland area onsite as well as surrounding the proposed project. Therefore, this project cannot be found consistent with Coastal Act Section 30240 or Section 30233.

Coastal Act Sections 30240 and 30233, however, must be applied in the context of other Coastal Act requirements, particularly Section 30010. This section provides that the policies of the Coastal Act "shall not be construed as authorizing the commission . . . to exercise [its] power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation." Thus, if strict construction of the restrictions in Section 30240 would cause a taking of property the section must not be so applied and instead must be implemented in a manner that will avoid this result.

Recent court decisions demonstrate that to answer the question whether implementation of a given regulation to a specific project will cause a taking requires an ad hoc factual inquiry into several factors.

Specifically, the courts have consistently indicated that this inquiry must include consideration of the economic impact that application of a regulation would have on the property. A land use regulation or decision may cause a taking if it denies an owner all economically viable use of his or her land. (*Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 112 S. Ct. 2886; also see *Keystone Bituminous Coal Assn. v. DeBenedictis* (1987) 480 U.S. 470, 495, citing *Agins v. Tiburon* (1980) 447 U.S. 255, 260.) Another factor that must be considered is the extent to which a regulation or regulatory decision "interferes with reasonable investment backed expectations." (*Keystone Bituminous Coal Assn. v. DeBenedictis*, supra, 480 U.S. 470, 495, citing *Kaiser Aetna v. United States* (1979) 444 U.S. 164, 175.)

In addition, in order to avoid allegations of a taking, certain types of mitigation measures, such as exactions requiring the dedication of a fee interest in property, must be "roughly proportional" to the impact remediated. (*Dolan v. City of Tigard* (1994) 114 S. Ct. 2309.)

Other factors that may be reviewed in conducting a takings analysis include whether the land use regulation substantially advances a legitimate state interest. (*Nollan v. California Coastal Commission* (1987) 483 U.S. 825.) This is not a significant consideration in analyzing this permit application because the state's interest in protecting environmentally sensitive habitats is well recognized.

Finally, in still other individual cases it may be necessary to consider whether the property proposed for development by the applicant is subject to existing limitations on the owner's title, such as prescriptive rights, that might preclude the applied for use, or that the proposed use would be a nuisance. The question as to whether the any portion of the development is subject to prescriptive rights does not apply in this case. Furthermore, development of the parcel with a single-family residence in the configuration proposed by the applicant would not constitute a nuisance.

The applicant (Mr. Bachman) submitted adequate financial information to demonstrate that he has a sufficient real property interest in the privately held properties to allow the some development. Staff has determined that Mr. Bachman bought the three-lot parcel in the 1992, for which he paid fair market value. During the period when Bachman purchased the parcels, these parcels and other parcels in the Tract were designated in the General Plan and zoned for multi-family residential use. Thus, in the year that the parcels were purchased, Bachman could have legitimately assumed that development of multi-family homes on these lots was a reasonable expectation. Continued development within the Oceano airport area over the intervening years lends further credence to that expectation. Furthermore, materials submitted by the Applicant show that in May of 2001, subsequent to the purchase of the property, that he voluntarily merged the parcels to accommodate a single-family residence only. Therefore, in view of the other residential uses in the vicinity of the privately-held parcels, the Commission finds that the proposed residential use is a reasonable economic use, and also that the resource dependent uses allowed by Coastal Act Section 30240 would not provide an economic use.

In view of the findings that (1) none of the resource dependent uses provided for in Section 30240 would provide an economic use, (2) residential use of the property would provide an economic use and (3) the applicant had a reasonable investment backed expectation that such use would be allowed on the property, the Commission further finds that denial of a residential use, based on the inconsistency of this use with Section 30240 could constitute a taking. Therefore, consistent with Coastal Act Section 30010 and the Constitutions of California and the United States, the Commission determines that full implementation of Section 30240 to prevent residential use of the subject property is not authorized in this case.



Having reached this conclusion, however, the Commission also finds that Section 30010 only instructs the Commission to construe the policies of the Coastal Act, including Section 30240, in a manner that will avoid a taking of property. It does not authorize the Commission to otherwise suspend the operation of or ignore these policies in acting on permit applications.

Moreover, while the applicant may have reasonably anticipated that residential use of the subject properties might be allowed, the Coastal Act provided notice that such residential use would be contingent on the implementation of measures necessary to minimize the impacts of development on environmentally sensitive habitat. Thus, the Commission must still comply with the requirements of Section 30240 by protecting against the significant disruption of habitat values at the site, and avoiding impacts that would degrade these values, to the extent that this can be done consistent with the direction to avoid a taking of property. Mitigations must also be generally proportionate to the adverse impacts caused by development of residences and associated infrastructure.

c. ESHA Impact Analysis

As described previously, the entire area of the applicant's 9,375 square foot parcel is considered environmentally sensitive wetland habitat (see Exhibit E, Memorandum from staff biologist John Dixon). Coastal Act Section 30240 allows only resource-dependent uses in ESHA. The proposed development includes construction of a single-family dwelling, a paved driveway, and landscaping and thus is not a type of development that is dependent on a location within a sensitive resource area.

In this case, the Applicant proposes residential development within ESHA. With the exception of an existing rock foundation from a previously demolished structure and fencing, the property is void of any structures. The applicant has proposed to construct a single-family residence with a 1,515 square foot footprint, for a total of roughly 16.16 % lot coverage. Paved areas constitute another 16.24 %, and landscaping would cover an additional 14.9 % of the total lot area. As with other homes in Oceano, the proposed development will have on-going impacts on ecological functioning of the Oceano wetland area. Such impacts include covering and fragmentation of habitat, prevention of hydrological dynamics, shading of wetland plants, and the continuation of residential uses, which are inconsistent with protection of wetland habitat. A number of concerns with this proposed site location and associated development exist.

First, any residential development brings with it noise, lights, pets, and general activity that is not conducive to fostering habitat values. The lights that would be visible from the proposed residence at night might also have some impact on nighttime foraging and movement of species. Such impacts more than likely exist already due to the site's close proximity to the Oceano airport. In this case, it is difficult to measure the extent of habitat disruptions from such activities. However, given the fact that the entire site is ESHA, a precautionary approach is warranted.

Second, the applicant proposes a paved access driveway from the existing public road that would be necessary to reach the garage, which is located in the rear of the proposed home. The applicant proposes this as a 10 foot wide concrete driveway, running approximately 100 linear feet before curving around the back corner of the home and connecting to a 500 square foot concrete driveway pad. This driveway would create an area of disturbance in this habitat of approximately 1,523 square feet, or 16.25% of the site. In fact, the driveway alone represents a greater percentage of ground coverage and disturbance than the entire residence itself. Such development within ESHA is not consistent with Coastal Act ESHA policies.

Finally, the San Luis Obispo County certified LCP allows for a 25-foot minimum front setback. As mentioned the LCP can provide guidance to the Commission when analyzing development proposals within wetland areas. The applicant proposes a 30-foot front setback from Fountain Avenue, which positions the house 5 feet further towards the rear of the property than required. As discussed in the biological reports, the rear of the property contains a number of mature willows, includes a drainage swale for the westerly flow of water towards Oceano lagoon, and provides the most suitable habitat areas for wetland species.

d. Conclusion

The project site is an environmentally sensitive habitat area within the meaning of Section 30240 of the Coastal Act. This section of the Act requires that such habitat areas be protected against significant disruption or degradation. Strict application of this section is not authorized in this situation, however, because to do so would cause a taking of property in violation of Section 30010 of the Coastal Act, as well as the California and United States Constitutions. Therefore, the Applicant may be permitted to develop a portion of the property, subject to Special Conditions that will reduce or mitigate the impact on wetland habitat to the maximum extent feasible.

Those areas along the northeastern edge of the airport (where the proposed development would occur) are only sparsely developed and maintain some wetland values. To properly recover and preserve viable wetland habitat requires large contiguous tracts of wetland plants, soils, and hydrology for the establishment of a diverse native wetland. Therefore, in order to preserve viable wetland habitat and mitigate impacts of this non-resource dependent use to the maximum extent feasible, additional mitigating conditions are necessary. Appropriate conditions in this case include the submission of revised final plans prior to issuance of the CDP, limiting the development footprint, requiring the restoration and enhancement of wetland areas surrounding the development footprint, requiring the driveway to be constructed using permeable materials, and placing a conservation restriction on the open space/habitat areas, as required by Special Conditions 1, 2, 3, and 4 of this permit approval.

To offset this loss of habitat area, Special Condition 2 requires that the entire development envelope be slightly reduced, thereby effectively limiting the length and overall size of the proposed driveway. Reducing the size of the driveway would have the effect of retaining a larger amount of area available for viable wetland restoration. This project modification also represents some compensation for the disturbance area of the paving, resulting in the loss of wetland habitat areas. In addition, permeable materials are required to be used in the design of the proposed driveway. Special Condition 2 requires a modified development footprint, reducing the coverage and composition of the driveway while at the same time effectively moving the residence forward toward the fronting street, further from sensitive plants and drainage areas suitable to support wetland habitat.

Special Conditions 2 and 4 require that the undeveloped area on the property shall be preserved in open space, subject to a deed restriction that prohibits uses that are inconsistent with habitat restoration and preservation. Special Condition 3 requires that all of the wetland area outside the designated building envelope shall be restored. Definition of a building envelope will help reduce the potential for adverse impacts to the environmentally sensitive habitat in the immediate project area as well as to minimize disruption to wetland habitat throughout the life of the development. These conditions shall run with the land in order to ensure that future owners are aware of the constraints associated with this site. Appropriate mitigation for the impact to wetland habitat in Oceano includes the preservation of open space/habitat areas and restoration and long-term maintenance of these areas. This mitigation is



essentially, roughly proportional to the impact caused by the new development. Thus, special Condition 3 requires the applicants' botanist to submit a plan for the wetland restoration and enhancement component of the project. The plan should also identify construction-related measures to be implemented before and after construction. Special Conditions 5 and 6 require the development of a fencing plan and biological monitoring daily during grading and weekly during other aspects of construction.

Finally, in order to protect the unique soils associated with coastal wetlands, on which sensitive native habitats depend, as well as to prevent spoils disposal and runoff from adversely impacting other sensitive habitat areas, Special Condition 7 requires the Permittee incorporate recommended design and construction measures from the submitted Soils Engineering Report (Earth Systems Pacific Soils Engineering Report, 3/13/01). These measures include, site preparation and grading, utility trenching techniques, foundation types, and erosion control and drainage improvements.

2. Public Access

a. Applicable Public Access Policies

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." The proposed project is located seaward of the first through public road. Coastal Act Sections 30210 through 30214 and 30220 through 30224 specifically protect public access and recreation. In particular:

Section 30210: In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211: Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212(a): Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...

Section 30223: Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

b. Consistency Analysis

The Coastal Act requires that all projects proposed between the first public road and the sea be analyzed for compliance with the public access and recreation policies of the Coastal Act. In this case, the project will not have any impact on the public's ability to physically or visually access the coast. Thus, the project is consistent with the public access requirements of the Coastal Act.

3. Hazards

Section 30253 of the Coastal Act states:

New development shall: (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard. (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

a. Flood Hazards

Coastal Act Section 30253 requires that new development shall minimize the risks to life and property in areas of high geologic, flood, and fire hazard. In terms of coastal hazards, the project is located within the flood hazard area delineated by the San Luis Bay Coastal Area Plan, which generally corresponds to the area that is subject to flooding under a 100-year storm. LCP Policy 3 for Hazards prohibits new residential, commercial and industrial development within flood hazard areas, except for those areas within an urban reserve line, as is the case with this project. In accordance with CZLUO Section 23.07.066, this coastal development permit requires the applicant to incorporate the recommended design and construction measures from the amended Earth Systems Pacific Soils Engineering Report dated March 13, 2001 (see Special Condition 7). Design and construction measures include, but are not limited to: site preparation; grading; utility trenches; foundations; slabs-on-grade and exterior flatwork; retaining walls; and drainage improvements. With these construction elements, the project is consistent with Coastal Act Section 30253(1), which requires that new development minimize risks to life and property in areas of high geologic, flood, and fire hazard.

b. Other Hazards

The proposed development falls within the sphere of influence of the Oceano Airport Review Area. Therefore, the applicant is required to grant/update an Avigation Easement to the County of San Luis Obispo via an avigation easement document prepared by the County. The avigation easement document shall be reviewed and approved by the County Counsel prior to final approval. The County conditioned its approval to provide such an avigation easement (see Exhibit F, County Condition #8). Thus, this aspect of the proposed development is consistent with the hazard policies of the Coastal Act.

4. Water Quality

a. Applicable Public Access Policies

Coastal Act Sections 30230, 30231, and 30232 provide:

Section 30230. Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231. The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for



the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232. Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

b. Consistency Analysis

The proposed project has the potential to degrade wetland habitat through the proposed construction of a house and driveway, altering natural drainage patterns, and contributing sediments and pollutants to coastal wetlands. Construction activities can adversely impact coastal water quality 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 water quality by altering natural drainage patterns and providing areas for the accumulation of pollutants that will eventually be carried into wetland areas by storm water. The proposed project would increase the amount of impervious surface at the site due to the construction of a roof, driveway, and other hard improvements. The driveway, in particular, can accumulate automobile by-products contributing to polluted runoff (e.g., petroleum hydrocarbons, heavy metals such as lead, copper, zinc and cadmium, etc.).

Minimizing sedimentation and impervious surfaces resulting from new development is one way to reduce nonpoint source runoff. The primary mechanisms for minimizing impervious surfaces, in this case, are to require construction best management practices (BMP's) and reduce the size of the driveway. With less impervious area for pollutants to collect upon, there is a reduction in polluted runoff ultimately flushed off site. This can be accomplished by reducing the size and composition of the proposed driveway and implementing erosion control BMP's. Special Conditions 2 and 8 implement these requirements.

As conditioned, the Commission finds that the proposed project would maintain marine resource water quality; would not adversely impact wetland habitats; and, as such, is consistent with Coastal Act Sections 30230, 30231, and 30232.

IV. California Environmental Quality Act (CEQA)

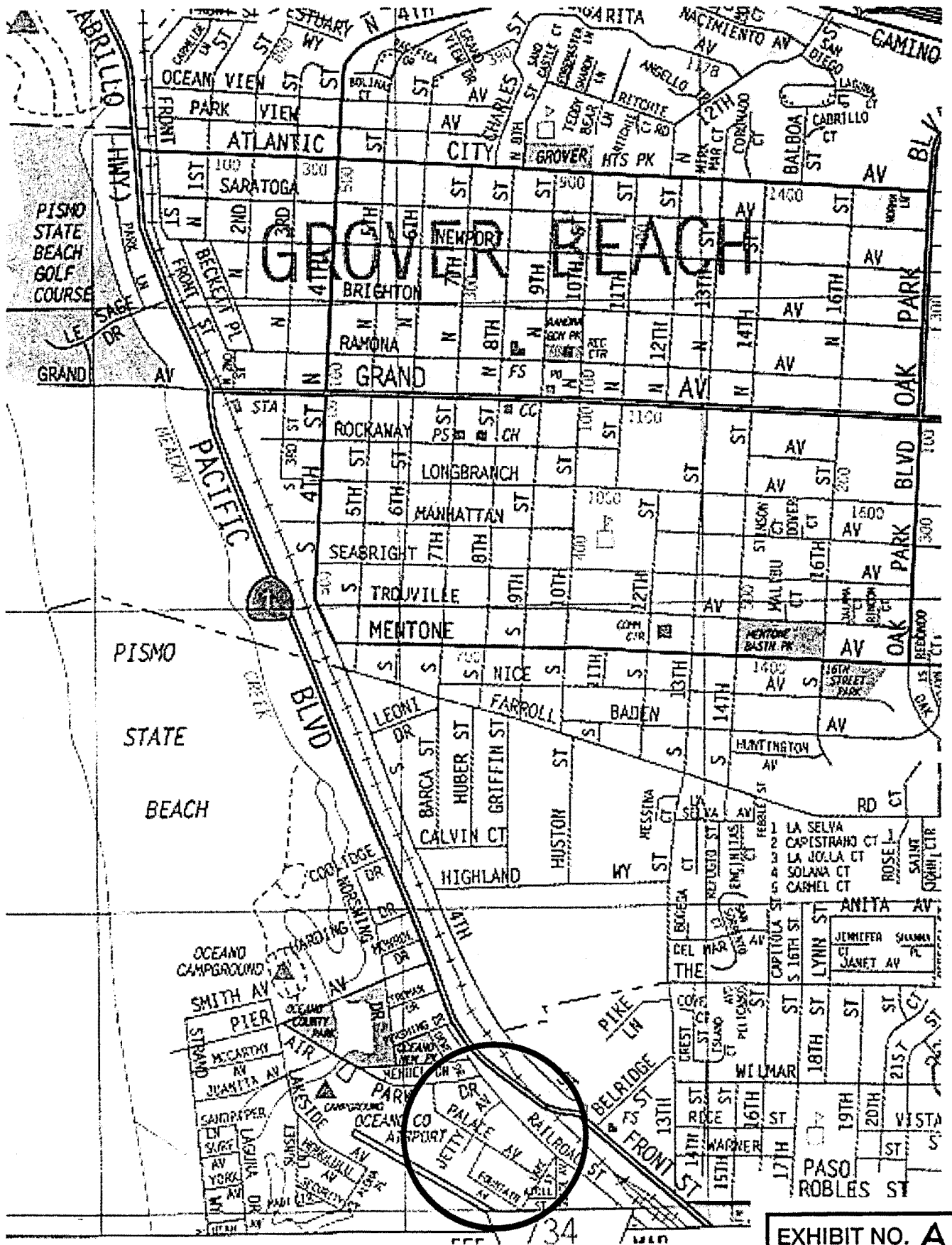
Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development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

The environmental review of the project conducted by Commission staff involved the evaluation of potential impacts to relevant coastal resource issues, including environmentally sensitive wetland

habitat, public access, and hazards. This analysis is reflected in the findings that are incorporated into this CEQA finding. Commission staff received no public comments.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate mitigations to address adverse impacts to said resources. Accordingly, the project is being approved subject to conditions that implement the mitigating actions required of the Applicant by the Commission (see Special Conditions). As such, the Commission finds that only as modified and conditioned by this permit will the proposed project not have any significant adverse effects on the environment within the meaning of CEQA.





Project
Bachman
D000313P/ED01-235

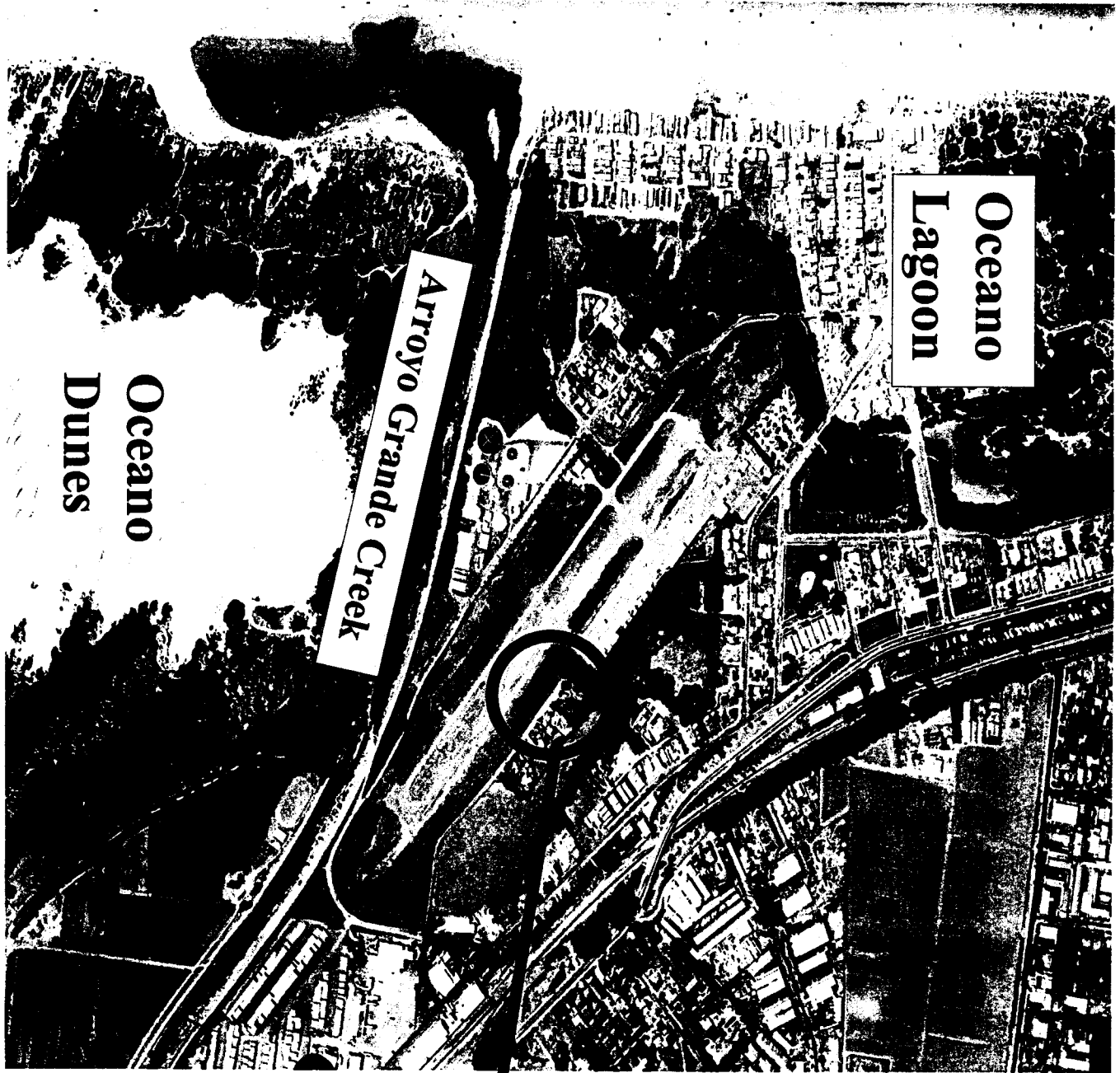


Exhibit
VICINITY MAP


EXHIBIT NO. A

APPLICATION NO.
3-01-121

Site Vicinity Map



Site

EXHIBIT NO. B
APPLICATION NO. 3-01-121
Oceanic Aerial
 California Coastal Commission

Project _____
Bachman
D000313P/ED01-235

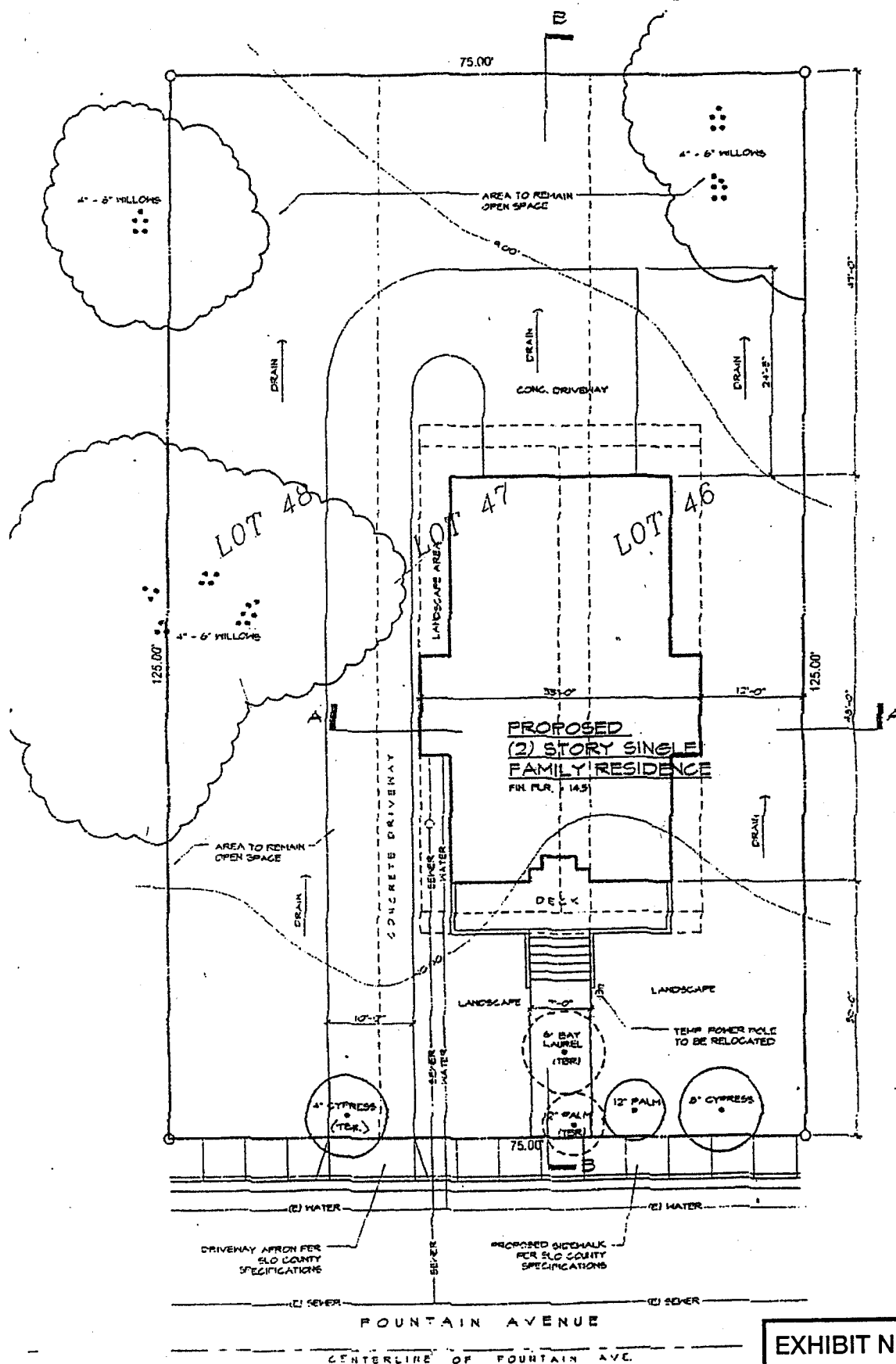


Exhibit SITE PLAN

EXHIBIT NO. C

APPLICATION NO.
3-01-121

County Approved
Site Plan



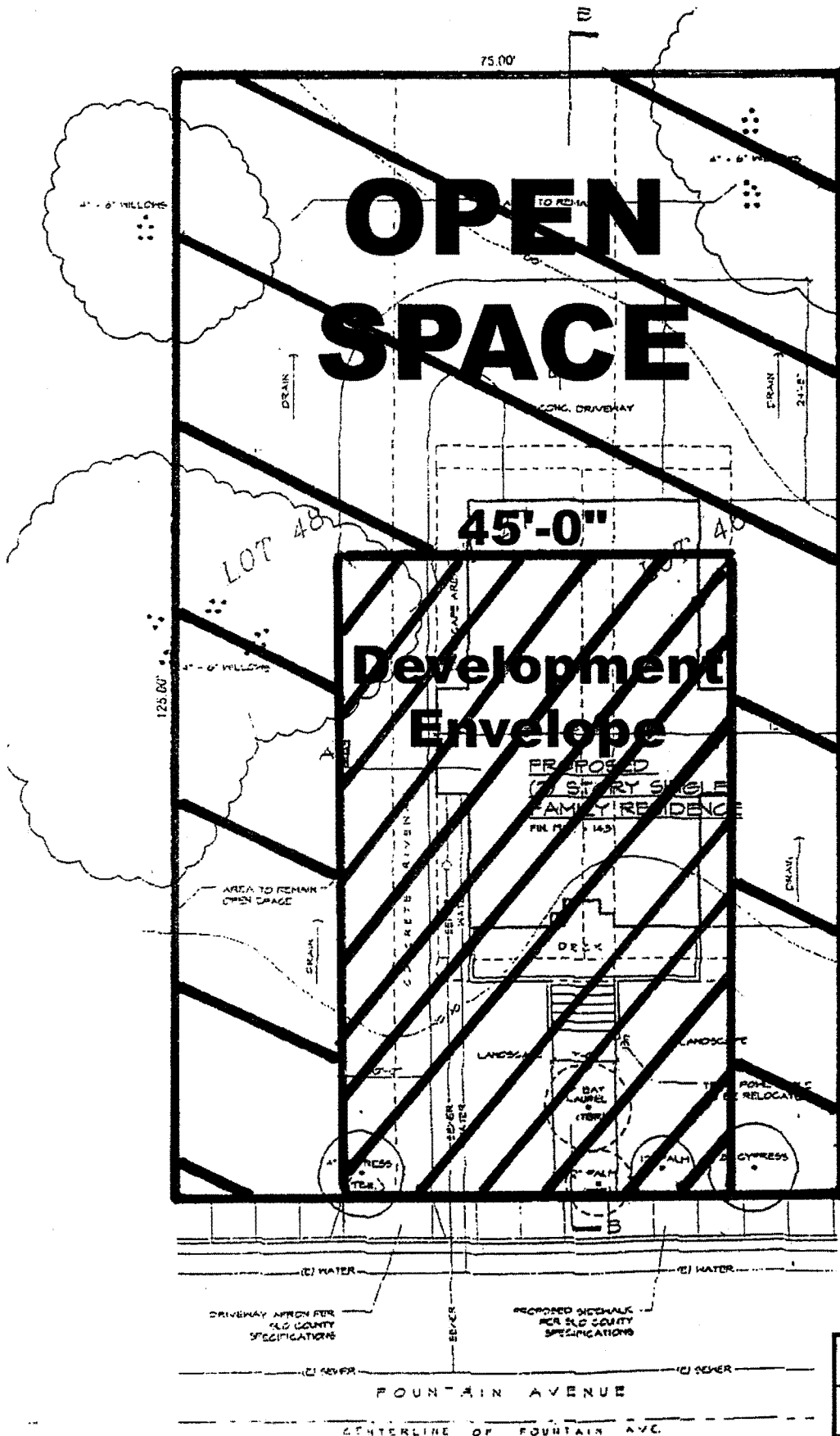


EXHIBIT NO. D
APPLICATION NO. 3-01-121
Revised Site Plan Building Envelope
California Coastal Commission

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



MEMORANDUM

FROM: John Dixon
TO: Jonathan Bishop
SUBJECT: Bachman Property
DATE: April 15, 2002

I reviewed the wetland delineation conducted by Dr. V. L. Holland and Dr. Lynn Moody for Mr. Chuck Bachman. The wetland delineation was conducted using the methods of the 1987 Army Corps of Engineers Wetland Delineation Manual and the results were interpreted based on the Corps' standard, which requires positive evidence of all three "parameters" - hydrology, wetland vegetation, and hydric soils. This is inappropriate for submission to the coastal commission. The California standard is positive evidence of either wetland vegetation or hydric soils. However, the field work appears well done and the results were clearly presented. Therefore, if the four test sites are representative of the entire site, the data are adequate. The site has been planted in lawn grass and ornamental plants and this vegetation and weeds currently dominate the site. Umbrella sedge, a common wetland species occurs in small patches. Hydric soils were present at each of the four sample plots and the topographically lowest plot (nearest the airport) had wetland hydrology as indicated by soil saturation within the upper 12 inches. The depth to free water at the other three sample plots (from southwest to northeast), was 36 inches, 18 inches, and 24 inches. The lowest plot was characterized as "seasonally inundated and saturated" and the others as "seasonally saturated". The samples were taken May 22, 2001. Based on the evidence from late May, it appears quite likely the much, perhaps all, of the site is saturated near the surface for long or very long duration during the winter rainy season.

Based on the evidence in the Holland and Moody report, I conclude that the entire site has hydric soils and is therefore a "wetland" under the Coastal Act and California Code of Regulations. If the applicant would like us to reconsider the spatial extent of the wetland characteristics, they should provide a map distinguishing areas with hydric soils and hydrology from those without those characteristics, substantiated by data from additional sample plots.

EXHIBIT NO. E
APPLICATION NO. 3-01-121
Biologist Memo
California Coastal Commission

EXHIBIT B
CONDITIONS OF APPROVAL -D000313P

Approved Development

1. This approval authorizes:
 - a. The construction of an approximately 2,100 square foot single family residence with approximately 944 square feet of decks and porches in addition to an approximately 546 square foot attached garage.
2. All development activities shall be limited to those areas described in the approved site plan. Site development shall be consistent with the floor plans and elevations. **All wetland setbacks shall be consistent with the approved site plan, to be no less than 63 feet from eastern edge of driveway limits, and 88 feet from eastern wall of single family residence.**
3. **Prior to issuance of building permits**, the applicant shall submit a flood hazard plan for review and approval as required by the County Public Works Department.
4. **Prior to final building permit inspection**, the applicant shall install concrete curb, gutters and sidewalks as approved by the County Public Works Department unless such requirements are waived by County Public Works in conjunction with Department of Planning and Building pursuant to Section 23.05.106. Applicant shall obtain the appropriate encroachment permits for installation of the driveway.

Water/Sewer Service


5. **Prior to issuance of a building permit**, the applicant will submit a final can and will serve water, sewer and fire letter. **Prior to final building inspection**, the applicant shall satisfy the requirements in the Oceano Community Services District letter dated March 13, 2001.

Sensitive Habitat

6. All disturbed areas shall be restored as soon as possible. If the area is within close proximity of a sensitive habitat, a compatible native seed mix shall be used to revegetate the restored area (see following list). The same revegetation treatment shall apply for any areas to be left undisturbed for more than 30 days.

"RIPARIAN" SEED MIX⁽¹⁾

<u>Species</u>	<u># plants/ac</u>	<u>Source</u>
<i>Cornus stolonifera</i> (redtwig dogwood)	10	seeds, mostly cuttings
<i>Heteromeles arbutifolia</i> (toyon)	5	seeds, cuttings
<i>Lonicera involucrata</i> (honeysuckle)	10	seeds, mostly cuttings
<i>Mimulus guttatus</i> (common monkeyflower)	10	seeds, mostly cuttings
<i>Myrica californica</i> (Pacific wax myrtle)	5	seeds, mostly cuttings
<i>Platanus racemosa</i> (California sycamore)	10	seeds, mostly cuttings

EXHIBIT NO. F
APPLICATION NO. 3-01-121
County Conditions
1 of 2
 California Coastal Commission

<i>Populus trichocarpa</i> (black cottonwood)	10	seeds, mostly cuttings
<i>Pteridium aquilinum</i> (bracken fern)	10	cuttings
<i>Quercus agrifolia</i> (coast live oak)	5	seeds, cuttings
<i>Ribes menziesii</i> (canyon gooseberry)	6	seeds, mostly cuttings
<i>Rosa californica</i> (California rose)	6	seeds, cuttings
<i>Rubus ursinus</i> (California blackberry)	15	seeds, cuttings
<i>Salix lasiolepis</i> (arroyo willow)	20	mostly cuttings
<i>Salvia spathecea</i> (pitcher sage)	12	seeds
<i>Sambucus mexicana</i> (blue elderberry)	5	seeds, mostly cuttings

This seed mix is intended to provide general guidelines when revegetating within riparian habitat. Variations of the mix may be appropriate, as recommended by the County Planning and Building Department or county-approved qualified individual, where unique biological conditions exist or seed availabilities are limited. When ordering, local seed stock should be specified and used whenever available.

Geologic Hazards/Site Alteration

7. The applicant agrees to incorporate the recommended design and construction measures from the Earth Systems Pacific Soils Engineering Report dated March 13, 2001. The design and construction measures include, but are not limited to: site preparation; grading; utility trenches; foundations; slabs-on-grade and exterior flatwork; retaining walls; and drainage around improvements. Subsequent amendments to the March 13, 2001 report referenced above shall be included into the design and construction measures, as deemed appropriate by the Department of Planning and Building.

Avigation Easement

8. **Prior to final building inspection**, the applicant shall grant/update an Avigation Easement to the County of San Luis Obispo via an avigation easement document prepared by the county. The avigation easement document shall be reviewed and approved by County Counsel prior to final approval.

Coastal Original Jurisdiction

9. **Prior to issuance of a building permit**, the applicant will demonstrate to the Department of Planning and Building that the California Coastal Commission has issued a Coastal Development Permit, or waived the requirement.

