

CALIFORNIA COASTAL COMMISSION

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

F16a

RECORD PACKET COPY

Appeal filed 10/29/2002
49th day 12/17/2002
49-day waiver 11/15/2002
Staff JB-SC

Previous Coastal Commission Actions & Dates
Substantial issue found 5/8/2003
Project denied 5/8/2003

Revised Findings
Revised findings staff report prepared.. 9/18/2003
Revised findings hearing date..... 10/10/2003

APPEAL STAFF REPORT - REVISED FINDINGS

Local government.....City of Grover Beach
Local Decision.....Application No. 01-018, Approved with conditions (see Exhibit E).
Appeal NumberA-3-GRB-02-086
Applicant.....Horizon Seabright L.L.C.
AgentChris Skiff
AppellantsCommissioners 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 descriptionDivide a .98-acre parcel with an existing residence into two parcels of 20,002.98 s.f. (Parcel 1) and 22,494.26 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).
Commissioners prevailing: Desser, Iseman, Durazo, Curtis, Orr, Allgood, Wan and Woolley

Staff note: The Coastal Commission denied the proposed land division on *de novo* review after public hearing on May 8, 2003 by a vote of 8-2. Because the staff recommendation had been for approval with conditions, this report contains revised findings reflecting the Commission's action. For this same reason, the findings have been modified from the previous version of the staff report to reflect the Commission's concerns about impacts on environmentally sensitive habitat.



California Coastal Commission
October 2003 Meeting in Coronado

Staff: J.Bishop Approved by: *JS*

Synopsis of the Coastal Commission's May 8, 2003 action: The Applicant's proposed project raised concerns related to the protection of riparian / oak woodland ESHA, the Pismo Lake State Ecological Reserve, and appropriate residential densities adjacent to sensitive habitats. In this case, the Commission found that the creation of a new lot and one additional building envelope to support future residential development would significantly degrade the Pismo Lake environs and would not be compatible with the continuance of those habitat areas. After public hearing, the Coastal Commission denied the Applicant's proposed project by an 8-2 vote.

Summary of Staff Recommendation: Staff recommends that the Commission adopt the following revised findings in support of the Commission's action on May 8, 2003, denying the permit to divide a .98-acre parcel with an existing residence into two parcels and create a new building envelope for residential development.

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1. Project Procedural History

The City of Grover Beach has a certified LCP. On April 9, 2002, the Grover Beach Planning Commission adopted a resolution to deny this project. Following this decision the Applicant made changes to the proposal. On July 9, 2002, the Planning Commission again denied the revised project. On appeal, 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; construction of a driveway and retaining wall; construction of a sediment retention basin; and development of other associated drainage elements. The action was subject to 52 Conditions of Approval (See Exhibit E for the complete text of the City's findings and conditions of approval).

Commissioners Sara Wan and Pedro Nava, and Jon and Rosanne Seitz then appealed the City Council's approval to the Commission. On May 8, 2003, the Coastal Commission found that a substantial issue existed with respect to the proposed project's conformance with the LCP and took jurisdiction over the coastal development permit for the proposed project. At the same public hearing the Commission denied the project. Because Commission staff's recommendation at the May 8, 2003 hearing was to conditionally approve the project, revised findings reflecting the Commission's May 8th action are necessary.

2. Staff Recommendation on Revised Findings

Staff recommends that the Commission adopt the following revised findings in support of its denial of a coastal development permit for the proposed development on May 8, 2003.

Motion: *I move that the Commission adopt the revised findings in support of the Commission's action on May 8, 2003 concerning appeal number A-3-GRB-02-086.*

Staff Recommendation of Approval: Staff recommends a YES vote. Passage of this motion will result in the adoption of revised findings as set forth in this report. The motion requires a majority vote of the members from the prevailing side present at the May 8, 2003 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

Resolution to Adopt Revised Findings. The Commission hereby adopts the findings set forth below for denial of a coastal development permit for the proposed development on the ground that the findings support the Commission's decision made on May 8, 2003 and accurately reflect the reasons for it.



Recommended Findings and Declarations

The Commission finds and declares as follows:

3. Project Description

A. Project Location

The project site is located at 1003 Front Street in the City of Grover Beach (APN 060-491-029). The existing 42,497.24 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 southern 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.

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.

The subject parcel was created by the Bagwell Tract, a four (4) parcel subdivision approved by the Commission in 1978 prior to the certification of the LCP.¹ Owing to the environmental sensitivity of the area, the Regional Commission required a 5-acre natural buffer zone to border the southern edge of the Pismo Lake marsh west of North Fourth Street. The 5-acre buffer was dedicated to the City as permanent open space as a condition of approval. The western extent of the natural buffer is located immediately adjacent to northern property boundary of the parcel. According to the LCP, "the buffer area must remain in an undisturbed natural condition."²

B. Project Description

As originally approved by the City, the project includes a land division of the existing .98-acre parcel that will result in two parcels. Parcel 1 is proposed to be 20,002.98 square feet and Parcel 2 is proposed to be 22,494.26 square feet. The project also included the construction of one new single-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).

¹ Application 133-08

² City of Grover Beach certified Local Coastal Program, pg. 14.



In addition to the new home on Parcel 1, the applicant proposed to construct a sediment retention basin, a new driveway, retaining wall, and improved drainage features to support the new development. The retention basin would be 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 was 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 included modifications to the drainage easement so that the easement will be located outside of the building envelope of the proposed residence.

Following the filing of the appeal and Commission staff's identification of resource concerns, the applicant modified the project proposal. As submitted by the applicant, changes to the project include a new lot line configuration resulting in two new parcels (Parcel 1 = 22,044.45 and Parcel 2 = 22,452.79), as well as a modified development envelope located further away from the dripline of the adjacent oak woodland canopy. The applicant has requested that the residence originally proposed on Parcel 1 be removed from the project description with the understanding that any future development on the site would be subject to separate coastal development permit review and approval.

4. Coastal Development Permit Determination

A. Applicable Policies

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

B. Inland Resource Area

Water Resources - 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.*

Action Standard 4. *Areas designated for development in the Meadow Creek uplands shall be at a density of 0-4 units per gross acre. Any application for development must*



demonstrate the following:

- (a) *That the project does not significantly alter presently occurring plant and animal populations in the Meadow Creek ecosystem in a manner that would impair the long-term stability of the Meadow Creek ecosystem; i.e., natural species diversity, abundance and composition are essentially unchanged as a result of the project.*
- (b) *That the project does not harm or destroy a species or habitat that is rare or endangered.*
- (c) *That the project does not harm or destroy a species or habitat that is essential to the natural biological functioning of the Meadow Creek ecosystem.*
- (d) *That the project does not significantly reduce consumptive values of the Meadow Creek ecosystem.*

Action Standard 5. *As the areas designated for low density development within the City limits in the Pismo lake area actually develop, natural buffer areas and open space dedications shall be made for as much of the undeveloped land as feasible.*

Action Standard 6. *The area generally known as the Meadow Creek Uplands shall be developed with clustered single family detached dwellings. The cluster design will aid in development which is sensitive to surrounding habitat areas. Development in this area shall be sited and designed to prevent impacts which would significantly degrade Pismo Lake and/or Meadow Creek habitat values. Please see approved development plan (Figure 1) at the end of this component. The number of dwelling units shown on this exhibit for areas within the Coastal Zone represent the maximum number allowed.*

Access to development in the Meadow Creek upland area shall be via a 30' wide private residential street extension of North 5th Street ending in a cul-de-sac, and off of Charles Place connecting to Margarita Avenue. Parking shall be required as per existing City standards.

Policy 7. *All materials used to cover any part of the ground within the proposed developable areas, other than residential structures, public roads, public street improvements, and swimming pools shall be permeable. Permeable surfaces may consist of paving blocks, porous concrete, brick, or any other similar material which will permit percolation of precipitation and runoff into the ground. (Section 30231)*

Policy 8.

- (a) *Lands with slope of 25% or greater shall not be developed. Lands with a slope between 10% and 25% may be developed if the development incorporates specific measures to minimize grading and drainage systems which limit the rate of runoff, including siltation and erosion, to that which occurs naturally on the undeveloped*



site. Applications for development on sites between 10% and 25% shall be accompanied by site specific professional engineering plans.

- (b) Prior to the transmittal of a coastal development permit, the permittee shall submit a runoff control plan designed by a licensed engineer qualified in hydrology and hydraulics, which would assure no increase in peak runoff rate from developed site over the greatest discharge expected from the existing undeveloped site as a result of a 100 year frequency storm. Runoff control shall be accompanied by such means as on-site detention/desiltation basins or other devices. Energy dissipating measures at the terminus of outflow drains shall be constructed. The runoff control plan including supporting calculations shall be in accordance with the latest adopted City Standards and shall be submitted to and determined adequate in writing by the Community Development Department.

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.

B. Analysis of Consistency with Applicable LCP Policies

1. Riparian / Oak Woodland Protection

LCP Requirements

The City of Grover Beach LCP requires that new development be compatible with the environmentally sensitive habitat areas of Pismo Lake Ecological Reserve. Any development adjacent to environmentally sensitive habitat areas, such as the proposed additional lot, and any future development on the lot (e.g. house, driveway, retaining walls, and sediment retention basin), must be compatible with the protection and long-term biological continuance of these habitat areas (Action Standards 3,4,5, and 6). More specifically, the policies in the LCP contain strict protections to avoid adverse impacts to native oak woodlands (Inland Resource Policy 9a and 9b); as well as the riparian wetlands habitat of Meadow Creek (Action Standards 3 and 4). In particular, these standards require that new development upland of the habitat not harm or any way change the species diversity and habitat values of Meadow Creek. Furthermore, the LCP contains strong water quality protection standards for Meadow Creek and Pismo Lake (Inland Resource Policies 7 and 8).



The project is directly adjacent and borders the Pismo State Ecological Reserve. The LCP designates the on-site riparian/oak woodland as environmentally sensitive habitat area (ESHA). Page 14 of the certified LCP describes the ESHA as follows:

Flora and Fauna: Pismo Lake and the remaining undeveloped lands adjacent to its borders provide a variety of native habitats. Because these habitats contain some rare and endangered species of plants, and because encroaching development now jeopardizes the ability of this natural area to withstand the impacts of urbanization, Pismo Lake and its environs must be considered a sensitive habitat area (emphasis added).

The proposed project will impact two different types of sensitive habitat areas described in the LCP. The first habitat community is Oak Woodlands. Oak Woodlands are a type of habitat found in the vicinity of Pismo Lake, both on the east and west of North Fourth Street. Coast live oak (*Quercus agrifolia*) dominate this type of habitat and is described in the LCP as being "the last woodland of this type in the entire region." The project site contains many mature Coast live oak trees as well as some trees in early life stages. West of North Fourth Street (in the project area) the woodland is intermixed with riparian vegetation and extends from the north boundary of the project site to the shore of the marsh areas of Pismo Lake. The second habitat type is Riparian Woodlands. Riparian Woodlands are also found west of North Fourth Street (in the project area). The LCP describes the Riparian Woodland habitat here as part of the oak woodland complex described previously. Riparian vegetation associated with the Oak Woodland includes elderberry, wild rose, poison oak, wild cucumber, nettle, berry, and other herbaceous plants. In addition, Arroyo willows (*Salix lasiolepis*) are present on the project site.

The riparian / oak woodland 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 adjacent to the property. 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. The Biological Assessment submitted by the applicant asserts that no "sensitive" species were observed within the property boundaries. The Biological Assessment failed, though, to consider a number of sensitive plant and animal species that have the potential to occur in the vicinity of the property.³ More fundamentally, the biological assessment did not consider the oak/riparian woodland habitat on the property as sensitive habitat for purposes of evaluation under the LCP. Further, nothing in the biological assessment refutes the well-documented conclusion of the certified LCP, confirmed by staff site visit, that the riparian woodlands at issue here are ESHA. The riparian woodland serves as both a wildlife corridor and refuge extending from the project site to the banks of Pismo Lake. Commission biological and planning staff have reviewed the Applicant's biological assessment, have visited and assessed the site, and have concluded that the riparian / oak woodland is a valuable ESHA. The Commission finds that the riparian/oak woodland is an ESHA resource worthy of the maximum LCP protection prescribed for it.

³ Listed plants so identified in the Biological Assessment (Morro Group, 2001) include: San Luis mariposa lily (*Calochortus obispoensis*); Pismo clarkia (*Clarkia speciosa* ssp. *Immaculate*); and Wells manzanita (*Arctostaphylos wellsii*). Listed animals include: Cooper's hawk (*Accipiter cooperi*); southwestern pond turtle (*Clemmys marmorata pallida*); yellow warbler (*Dendroica petechia*); willow flycatcher (*Empidonax trailii*); yellow-breasted chat (*Icteria virens*); steelhead trout – south/Central ESU (*Oncorhynchus mykiss irideus*); California red-legged frog (*Rana aurora draytonii*); two-striped garter snake (*Thamnophis hammondi*).



Project Impacts

The proposed project includes the creation of a new parcel and development envelope to support future residential development. Currently, a single-family residence and concrete driveway exist on-site. By creating a new parcel and development envelope, future residential development can be expected. Any future residential development would necessarily introduce significant new residential structures, noise, lights, activities, and runoff immediately adjacent and into the riparian / oak woodland areas. The riparian / oak woodland is a relatively undisturbed environment, home to any number of migratory, seasonal and year-round inhabitants (including some State and Federally-listed endangered species) who are passing through, foraging, nesting, hunting, and resting in this area day and night. The increased human activity from the proposed project would be visible and audible within the riparian/oak woodland habitat areas. Since the proposed project is for residential use, the noise, lights, and activities would be present (at varying levels) all times of the day and night and all year. There is also the potential for larger events (like residential parties), when such activities and impacts would increase. In addition, residential site improvements such as retaining walls, driveways, and permanent erosion control and drainage devices expected within and adjacent to the riparian/oak woodland would both adversely impact wildlife during its construction, and permanently displace a portion of it where the structures would be installed.

The biological continuance of the existing oak woodlands and riparian corridor would be adversely impacted because important habitat areas would be replaced by urban development. Any animals using the area (Cooper's hawk, Southwestern Pond Turtle, California Red-legged Frog, etc.) would thus be further confined into the downslope riparian woodland, crowding wildlife already present there and potentially leading to displacement if carrying capacity is exceeded. In addition, within the then confined riparian woodland area, the expected additional noise, lights, and activities due to the proposed project could cause many of the birds and animals to leave altogether. For the species not displaced entirely, resting wildlife would expend energy on wasted alarm movements in response to the human activities. Such energy is at a premium if predators are present, and even more at a premium during breeding season when the birds and animals are maintaining nests and territory, as well as foraging and feeding young. The wasted energy could have a detrimental effect on reproductive success and behavior, as well as the loss of foraging time and/or breeding interaction. The cumulative effect of constant impacts (such as nighttime lighting) and multiple impacts from human noises, lights, and activities – particularly stronger stimuli such as loud noises and fast movements – would lead to decreased wildlife abundance and vigor in the riparian/ oak woodland inconsistent with the LCP policies that require the maximum protection of this sensitive habitat. Although it is possible that some of the impacts that will necessarily follow from the proposed project could potentially be lessened through changes in the project, the project as proposed does not include measures to mitigate these impacts. Additionally, the applicant has failed to provide any evidence that mitigation measures exist that could eliminate these impacts. This is inconsistent with the LCP standard that requires that the natural species diversity, abundance and composition of the habitat be essentially unchanged after the project, as well as the requirements to not harm or otherwise significantly impact the habitat values of the Meadow Creek ESHA. If feasible, the LCP requires that undeveloped areas remain in open space. Further, developments in this area must be designed to prevent impacts to the ESHA.



Project Inadequately Protects Coastal Water Quality

The LCP also protects the water quality of the adjacent Meadow Creek and Pismo Lake. Policy 7 requires that permeable materials be used for all ground cover within developable areas, with the exception of residential structures, roads, street improvements, and swimming pools. Policy 8 of the LCP prohibits development on slopes 25% or greater and limits runoff rates to that which occur naturally on the undeveloped site. Policy 8(b) requires the use of energy dissipation structures at the terminus of outflow drains. Strict adherence to these policies are critical to protect the water quality because according to the LCP encroaching residential developments both east and west of North Forth Street have, by causing the removal of vegetation, increased erosion problems and sedimentation of the Pismo Lake marsh and creek.⁴

The 42,467 square foot (.98 acre) parcel is currently almost exclusively pervious, with the exception of roughly 5,000 square feet of the existing residential footprint, driveway, porches, and walkways. In addition to surface drainage from the house and driveway, a stormdrain on Second Street collects stormwater and conveys it across the property through a 10' cross-property drainage easement. According to the Initial Study conducted by the City, the current drainage system is ineffective and runoff is currently being directed to Pismo Lake while at the same time exacerbating erosion and sedimentation in this habitat area. The City approved project includes a new residential lot (effectively doubling the density), a new residential structure, driveway, restoration of the degraded stormwater drainage system, and improvement to the lateral drainage easement onsite. Improvements include the installation of rock energy dissipaters, an additional drainage pipe to be installed at the southern property boundary, construction of earthen drainage swales, construction of concrete retaining walls and wood fencing to support drainage improvements, and construction of a sediment retention basin in the rear of the newly proposed residence to capture and retain runoff onsite.

The City approved project includes roughly 3,556 square feet of new structural ground coverage associated with the additional residential lot. This would add 17.78% more impervious surfacing to that which already exists. Given the presence of highly erodible soils and the LCP requirement to retain onsite runoff, implementation of drainage improvements such as sediment retention basins and concrete retaining walls would necessitate significant ground disturbance, alteration of site topography, and removal of vegetation/ground cover. The alteration of natural hydrological dynamics within ESHA areas is expected with this project.

In addition, runoff from the site would be expected to contain typical runoff elements associated with urban residential development. Urban runoff is known to carry a wide range of pollutants including nutrients, sediments, trash and debris, heavy metals, pathogens, petroleum hydrocarbons, and synthetic organics (such as pesticides and herbicides).⁵ Urban runoff can also alter the physical, chemical, and

⁴ City of Grover Beach certified Local Coastal Program paragraph two ("Conflicts") pg. 16.

⁵ Pollutants of concern found in urban runoff include, but are not limited to: sediments; nutrients (nitrogen, phosphorous, etc.); pathogens (bacteria, viruses, etc.); oxygen demanding substances (plant debris, animal wastes, etc.); petroleum hydrocarbons (oil, grease, solvents, etc.); heavy metals (lead, zinc, cadmium, copper, etc.); toxic pollutants; floatables (litter, yard wastes, etc.); synthetic organics (pesticides, herbicides, PCBs, etc.); and physical changed parameters (freshwater, salinity, temperature, dissolved oxygen).



biological characteristics of water bodies to the detriment of aquatic and terrestrial organisms.

Cumulative Impacts

The LCP requires that development not degrade the habitat values of Pismo Lake and Meadow Creek (Action Standard 3). The Commission is concerned about the project's impacts, both individually and cumulatively, to the coastal resources thus far discussed in these findings. As described, the subject parcel is only one of four large parcels (approximately 1 acre each) created by the Bagwell Tract in 1978. There is potential for further requests to subdivide the Bagwell tract. The combined effect of future subdivisions on coastal resources when considered along with the proposed project can be expected to lead to cumulative impacts to the types of coastal resources detailed in the findings above. In particular, and probably of most direct relevance since this lot and other lots are adjacent to the Pismo Lake Ecological Reserve, adverse impacts to ESHA (through multiple structures, added disturbance, heightened runoff and sedimentation, etc.) would necessarily be cumulatively worsened by the contribution of this proposed project.

Potential growth-inducing and cumulative impacts associated with the project, some of which may be realistic to expect, do not encompass new issues beyond those covered in the previous findings. Rather, these potential impacts serve to emphasize the previous conclusions with regard to ESHA impacts. The potential cumulative and growth-inducing aspects of the project are related specifically to the subdivision of other Bagwell tract lots, which may be proposed in Grover Beach.

Conclusion

Inconsistent with coastal resource protection policies of the certified LCP, the project will degrade riparian oak woodland and riparian habitats through the creation of a new lot and building envelope to support future residential development. These development activities, which will occur within and adjacent to sensitive habitat areas, will adversely impact sensitive riparian/oak woodlands, alter natural drainage patterns, and contribute sediments and pollutants to coastal waters (e.g., Pismo Lake and Meadow Creek).

In addition to directly impacting ESHA areas, the development will disrupt adjacent habitat by introducing noise and light to the natural areas, and potentially result in the increase in runoff, erosion, and siltation into coastal waters. Moreover, by developing within and adjacent to the riparian/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 due to 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 disturbance through added residential use. As a result, the project is not compatible with the biological continuance of ESHA, inconsistent with the LCP Action Standards 3, 4, 5, 6, 9a, and 9b.

Inconsistent with Policies 7 and 8, 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 any new development project on this site 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.

The project as approved by the City of Grover Beach does not adequately address the LCP standards protecting the sensitive habitat areas of Meadow Creek and the Pismo Lake Ecological Reserve. The oak woodland and riparian habitat located adjacent to the existing parcel is an important coastal resource, interconnected with the larger Pismo Lake Ecological Reserve and unique to this area of Grover Beach. The presence of Pismo Lake Ecological Reserve directly to the north of the property has helped to protect these sensitive habitat areas. Maximum application of LCP habitat protection standards in this area is essential to preserve the healthy biological continuance of the oak woodland and wetland habitat.

Finally, and most fundamentally, the proposed project would create an additional residential development site within ESHA that the Commission is not required to approve. The LCP is clear that the densities planned for in this area are maximums, and that new development must be designed to prevent impacts to ESHA. In this case, the applicant already has a residential building site, with an existing single family home, and is not entitled to a subdivision. This is particularly the case when the subdivision development would necessarily cause impacts to ESHA. Although some of these impacts could perhaps be lessened through mitigation measures, the proposed project does not include measures to mitigate these impacts. Additionally, the applicant has failed to provide any evidence that mitigation measures exist that could eliminate these impacts. It is feasible, though, to eliminate the impacts by not creating the new residential building site in first place. In a case such as this, where the existing legal parcel is already developed with a reasonable economic use (single family home), the ESHA protection policies must be applied to the maximum extent feasible, and require, therefore, that the subdivision be denied.

In conclusion, the Commission finds that the proposed cannot be found consistent with the LCP and is denied.

5. California Environmental Quality Act (CEQA)

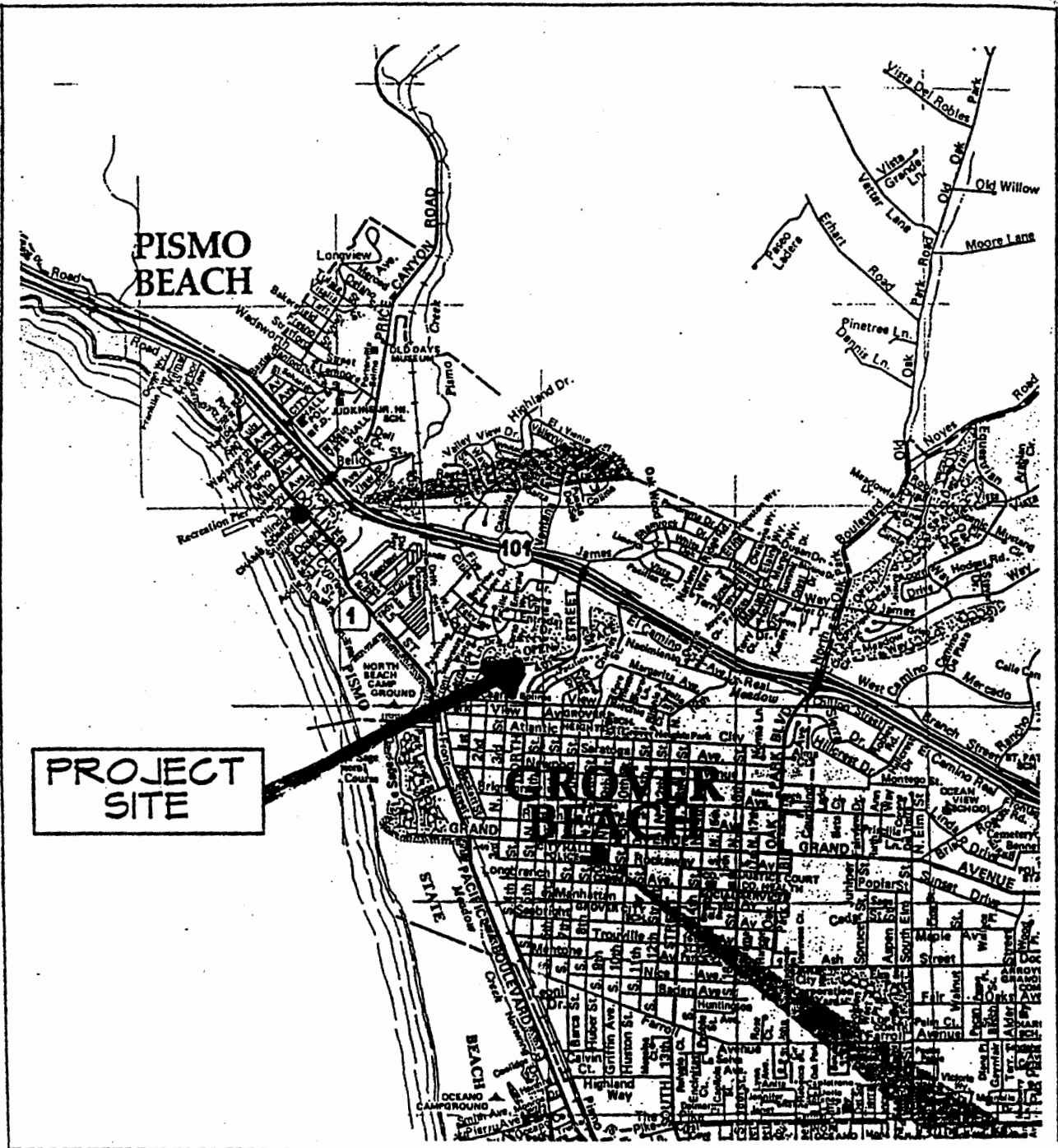
Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development 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 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 identified and discussed certain additional potential adverse and unmitigated impacts not fully addressed by the local government. As illustrated by the findings above, the Commission finds that the



environmentally sensitive habitat area (ESHA) impacts of the proposed project represent significant adverse effects on the environment within the meaning of CEQA. The proposed project does not include mitigation measures to substantially lessen these significant adverse effects. In addition, the application does not indicate whether or not any feasible mitigation measures or feasible alternatives that would substantially lessen these effects are available. Accordingly, the proposed project is not approvable under CEQA and is denied.





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

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



SITE

PISMO LAKE

EXHIBIT NO. B
APPLICATION NO. A-3-GRB-02-086
Aerial Photo
1 of 1

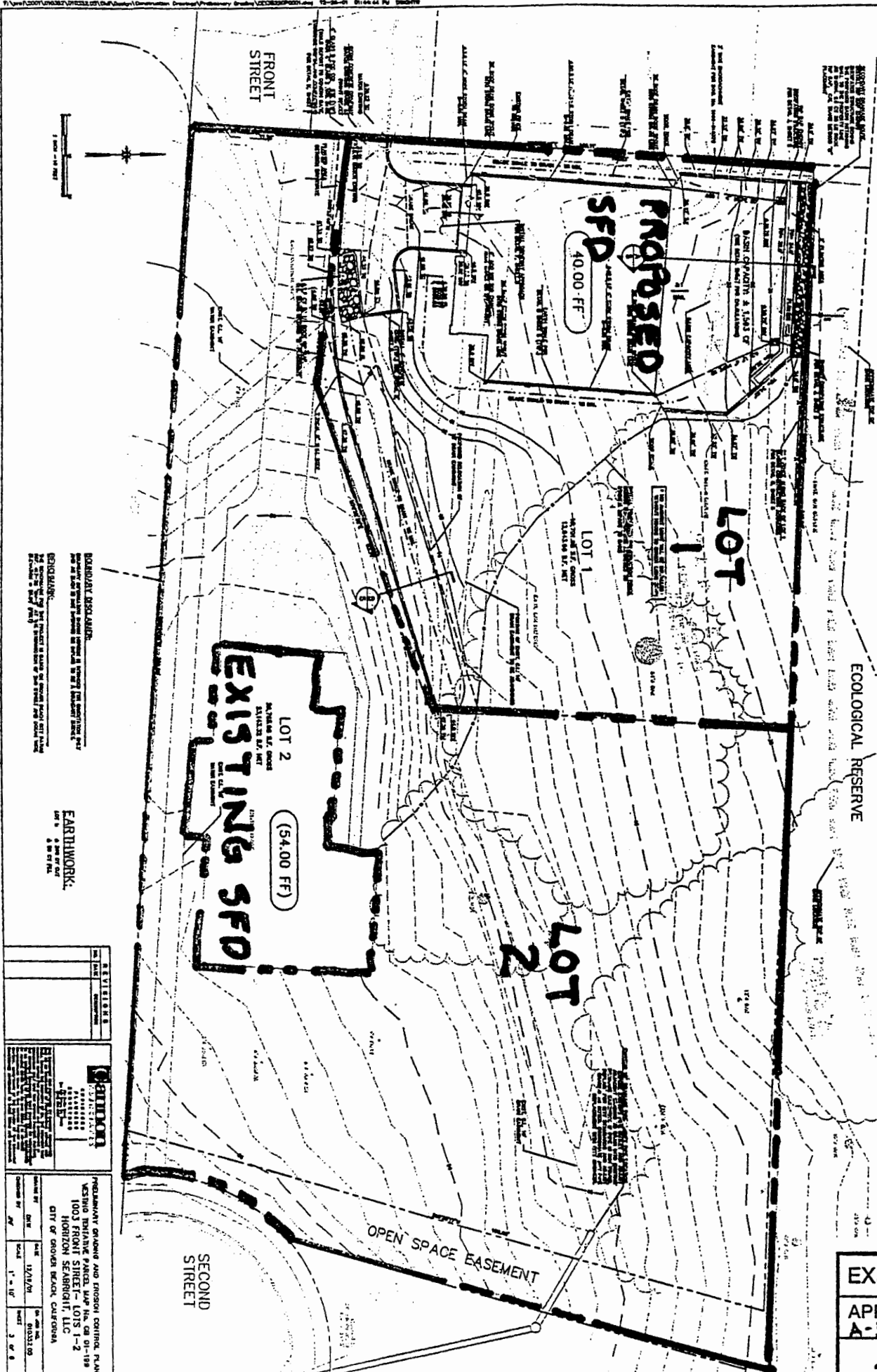


EXHIBIT NO. C
APPLICATION NO.
A-3-GRB-02-086
Site PLAN
1 of 1

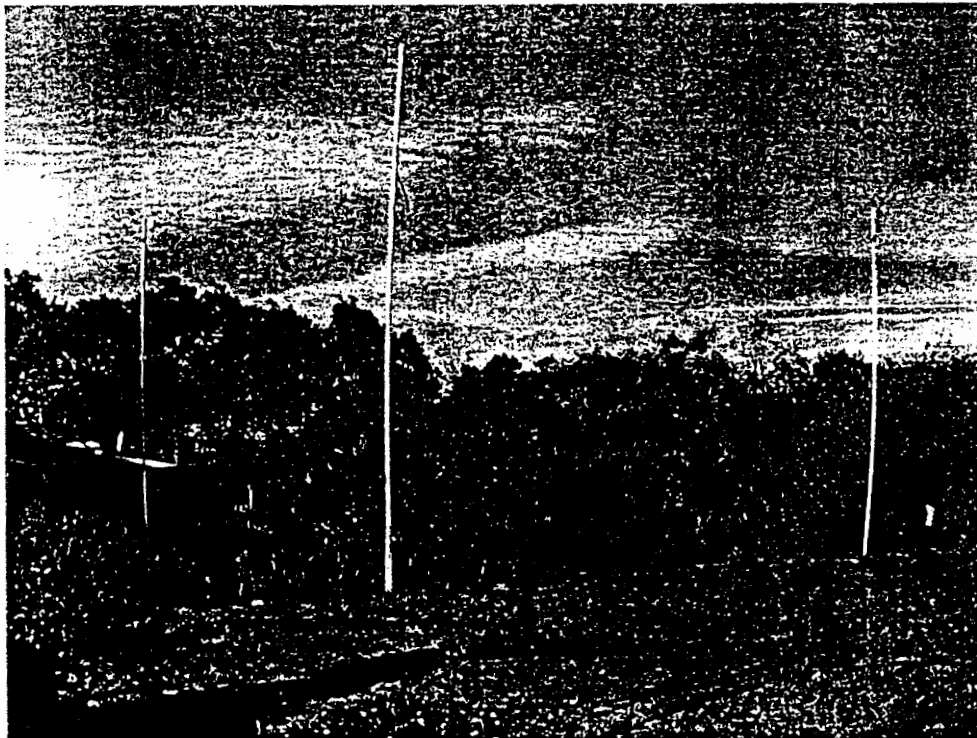
BOUNDARY DISCLAIMER:
THIS PLAN IS A PRELIMINARY PLAN AND DOES NOT REPRESENT A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED HEREON. THE USER OF THIS PLAN SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR VERIFYING THE ACCURACY OF THE INFORMATION PROVIDED HEREON.

EARTHWORK:
1" = 40' 0"

NO.	DATE	DESCRIPTION
1	12/2/05	PRELIMINARY DRAINAGE AND EROSION CONTROL PLAN

HORIZON
1003 FRONT STREET - LOTS 1-2
HORIZON SEABRIGHT, LLC
CITY OF GARDEN BEACH, CALIFORNIA

PRELIMINARY DRAINAGE AND EROSION CONTROL PLAN
1003 FRONT STREET - LOTS 1-2
HORIZON SEABRIGHT, LLC
CITY OF GARDEN BEACH, CALIFORNIA
DATE: 12/2/05
SCALE: 1" = 40' 0"
SHEET: 3 OF 3



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-02-086
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

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

CALIFORNIA
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

Resolution No. 02-62
Application No. 01-018
VTPM, AA, and CDP
August 19, 2002

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 ($\frac{1}{2}$ " 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 $\frac{1}{2}$ 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.

Resolution No. 02-62
Application No. 01-018
VTPM, AA, and CDP
August 19, 2002

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

Resolution No. 02-62
Application No. 01-018
VTPM, AA, and CDP
August 19, 2002

<u>Contractor</u>	<u>Date</u>	<u>License No.</u>
<u>Architect</u>	<u>Date</u>	<u>License No.</u>
<u>Engineer</u>	<u>Date</u>	<u>License No.</u>

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.

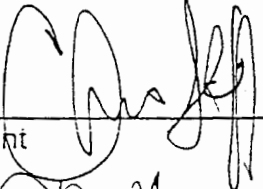

STEPHEN C. LIEBERMAN, MAYOR

ATTEST:

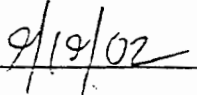

DONNA L. McMAHON, CITY CLERK

Resolution No. 02-62
Application No. 01-018
VTPM, AA, and CDP
August 19, 2002

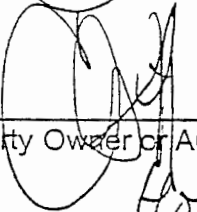
This permit is hereby accepted upon the express terms and conditions hereof, and shall have no force or effect unless and until agreed to, in writing, by the Applicant and Property Owner or Authorized Agent. The undersigned hereby acknowledges the approved terms and conditions and agrees to fully conform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

 Pres.

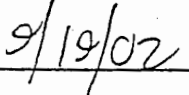
Applicant Horizon Seabright, LLC



Date 9/19/02

 Pres.

Property Owner or Authorized Agent 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

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 10 of 13 pages)

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:

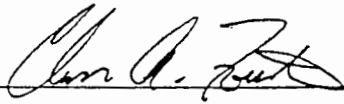
1. The Applicant shall amend the subdivision Covenants, Conditions and Restrictions to include a requirement that the City and the State Department of Fish and Game shall be made a "third party" to the project's Covenants, Conditions and Restriction (CC&Rs) so that the City and/or Department of Fish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

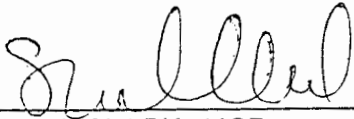
AYES:	Commissioners Morris-Versaw, Leon, Calmenson, and Conroy
NOES:	Commissioners Barnett and Chair Foerster
ABSENT:	Commissioner Mires
ABSTAIN:	None

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

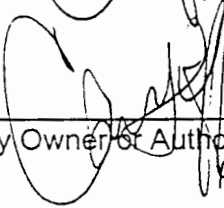


, Pres.
Horizon Seabright, LLC

Date

9/19/02

Property Owner or Authorized Agent



, Pres.
Horizon Seabright, LLC

Date

9/19/02

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

RECEIVED

OCT 28 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. ☒ 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.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

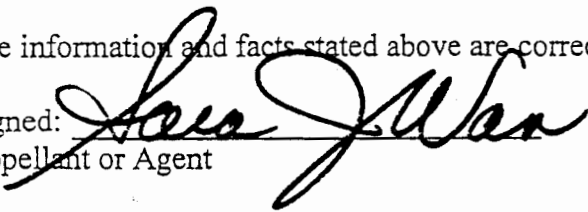
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attached 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: 
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: _____

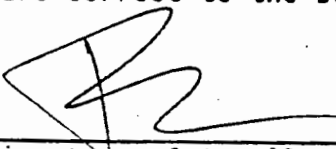
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

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.

CCC Exhibit F

Signature of Appellant(s) (page 4 of 19 pages)

Date _____

CALIFORNIA COASTAL COMMISSION

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

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
 725 FRONT STREET, SUITE 300
 SANTA CRUZ, CA 95060
 (510) 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 29 2002

CALIFORNIA
 COASTAL COMMISSION
 CENTRAL COAST DISTRICT

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 Administratorc. ☐ Planning Commissionb. ☒ City Council/Board of Supervisorsd. ☐ Other: _____6. Date of local government's decision: August 19, 20027. Local government's file number: 01-018SECTION 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 SKIFFHORIZON SEABRIGHT, LLC475 MARSH STREETSAN 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 Seitz350 Estuary WayGrover Beach, CA 93433(5) Paulene Verdegaa1201 Estuary WayGrover Beach, CA 93433(2) Roscoe (Rusty) Doss897 N. 1st StreetGrover Beach, CA 93433(6) Janet Bispo201 Estuary WayGrover Beach, CA 93433(3) John & Paula Martinez888 N. 2nd StreetGrover Beach, CA 93433(7) Carol A. Lair898 N. 1st StreetGrover Beach, CA 93433(4) Dave & Linnette Conners942 Front StreetGrover Beach, CA 93433SECTION 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)

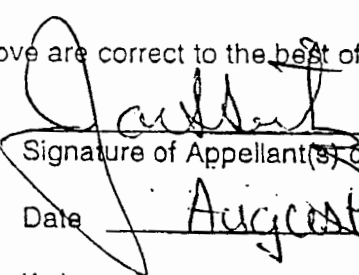
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

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 F
(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 Verdegaaal 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.

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

RECEIVED

OCT 21 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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:

CCC Exhibit F
(page 14 of 19 pages)

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."

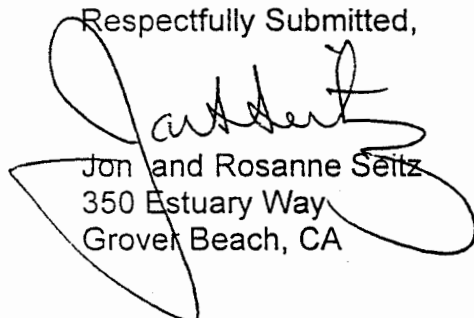
At the Planning Commission meeting both the Applicant and Staff took the position before the Planning Commission that Section 9(d) did not apply to this Project, because the Project is not located within the Meadow Creek uplands. We believe this position to be in error for the following reasons:

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,



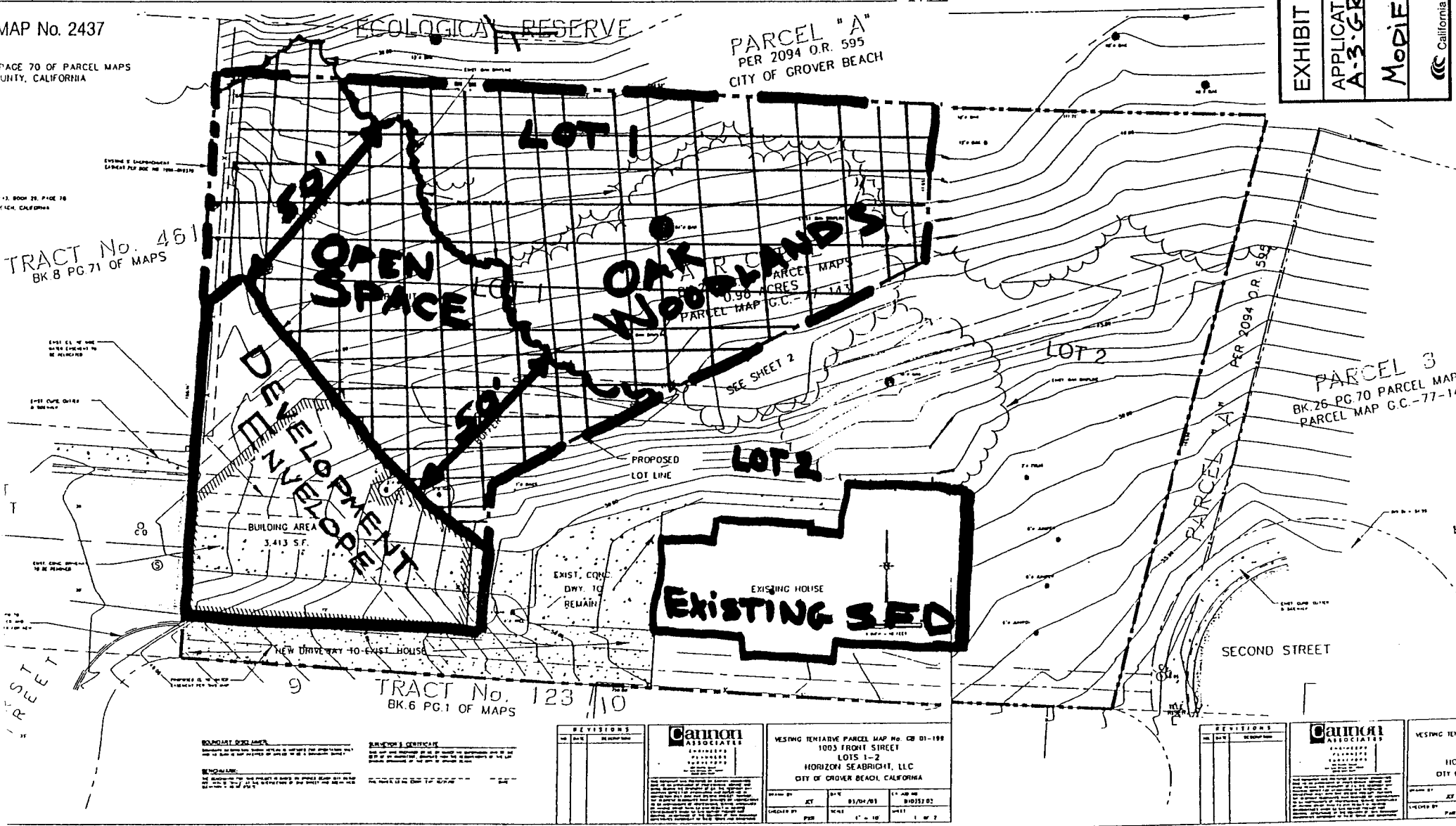
Jon and Rosanne Seitz
350 Estuary Way
Grover Beach, CA

EXHIBIT NO. **G**
 APPLICATION NO.
A-3-GRB-02-086
Modified Plan
 California Coastal Commission

MAP No. 2437

PAGE 70 OF PARCEL MAPS
 UNITY, CALIFORNIA

TRACT No. 461
 BK 8 PG 71 OF MAPS



BOUNDARY DISCLOSURE
 THE BOUNDARY OF THE PROPERTY IS SHOWN BY THE DOTTED LINE AND THE DOTTED LINE IS THE BOUNDARY OF THE PROPERTY.

REVISIONS
 NO. DATE BY DESCRIPTION
 1 01/04/03 JCT 1003 FRONT STREET
 2 01/04/03 JCT 1003 FRONT STREET
 3 01/04/03 JCT 1003 FRONT STREET

Cannon ASSOCIATES
 ENGINEERS
 PLANNERS
 ARCHITECTS
 LANDSCAPE ARCHITECTS
 1003 FRONT STREET
 GROVER BEACH, CALIFORNIA 93027

VESTING TENTATIVE PARCEL MAP No. CB 01-199
 1003 FRONT STREET
 LOTS 1-2
 HORIZON SEABRIGHT, LLC
 CITY OF GROVER BEACH, CALIFORNIA

REVISIONS
 NO. DATE BY DESCRIPTION
 1 01/04/03 JCT 1003 FRONT STREET
 2 01/04/03 JCT 1003 FRONT STREET
 3 01/04/03 JCT 1003 FRONT STREET

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 GROVER BEACH, CALIFORNIA 93027

VESTING TENTATIVE
 1003 FRONT STREET
 LOTS 1-2
 HORIZON SEABRIGHT, LLC
 CITY OF GROVER BEACH, CALIFORNIA

