

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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Th8a

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Filed: 3/9/04
49th day: 4/27/04
49-Day Waiver: 3/24/04
Staff: JB-SC
Approved w/ Conditions: 10/14/04
Revised Findings Staff report: 10/28/04
Revised Findings Hearing date: 11/18/04

COASTAL DEVELOPMENT PERMIT REVISED FINDINGS

Local government.....San Luis Obispo County

Local Decision.....D020349P - Approved with conditions (see Exhibit C).

Appeal NumberA-3-SLO-04-019

Applicant.....Claire Goedinghaus

AgentTSLLC/MCD

AppellantsCommissioners John Woolley and Mike Reilly.

Project location.....Highland and Mar Vista Drives, Los Osos, San Luis Obispo County (Estero Planning Area (APN(s) 074-025-008) (see Exhibit A).

Project descriptionDevelop eight single-family residences in two phases. Phase 1 allows the construction of four residences prior to completion of the Los Osos community sewer; Phase 2 allows construction of four residences after sewer completion. Residences range in size from 3,920 s.f. to 5,580 s.f. located on eight parcels ranging from 14,800 s.f. to 22,000 s.f..

File documents.....County permit D020349P; San Luis Obispo County certified LCP; Tract 2161; COAL 94-097; Voluntary Merger (County File S030154V); *Evaluation of 1996 Existing Conditions and Habitat Conservation Plan Considerations for Tract 2161*(David Wolff Environmental, 6/7/04); Botanical Survey (V.L. Holland, Susan Weis, 8/3/94); Cultural Resource Investigation (Parker and Associates, 1994).

Staff recommendation ...Approval

Commissioners Eligible to Vote: Caldwell, Iseman, Kram, Kruer, Nava, Neely, Peters, Potter, Rose, Albert, and Burke.



California Coastal Commission

November 2004 Meeting in San Pedro

Staff: J.Bishop Approved by: *C.L. 10/28/04*

Summary: On October 14, 2004 the Commission found Substantial Issue with respect to the appeal of this project in Los Osos, and subsequently approved the project pursuant to the staff recommendation with one change to Special Condition #3. The Commission replaced a recommended water retrofit condition with a condition to minimize water use associated with the project. Revisions to the Conditions and Findings to reflect this Commission action are on page 6 (Special Condition #3), and pages 10 and 11.

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1. Staff Recommendation on Revised Findings

Staff recommends that the Commission adopt the following revised findings in support of its conditional approval of a coastal development permit for the proposed development on October 14, 2004.

Motion. I move that the Commission adopt the revised findings in support of the Commission's action on October 14, 2004 approving the development with conditions proposed under appeal number A-3-SLO-04-019 pursuant to the staff recommendation.

Staff Recommendation of Adoption. Staff recommends a **YES** vote. Passage of this motion will result in adoption of the revised findings as set forth in this report. The motion requires a majority vote of the members from the prevailing side present at the October 14, 2004 hearing, with at least three of the prevailing members voting. Commissioners eligible to vote on the revised findings are Commissioners Caldwell, Iseman, Kram, Kruer, Nava, Neely, Peters, Potter, Rose, Albert, and Burke. If the motion fails, the revised findings are postponed to a later meeting.

Resolution. The Commission hereby adopts the findings set forth below for approval with conditions of a coastal development permit for the proposed development on the grounds that the findings support the Commission's decision made on October 14, 2004 and accurately reflect reasons for it.

De Novo Findings and Declarations

2. Project Description

A. Project Background

The proposed project has a complex history involving a series of local approvals dating back to 1995. The current 8-lot configuration is the result of a lot line adjustment (COAL 94-097), a subdivision (Tract 2161), an amendment to the subdivision (Tract 2161), and a voluntary lot merger (S030184V). The following is a summary of how the 8 lots were created.

COAL 94-097

August 7, 1995 the County Subdivision Review Board approved a lot line adjustment (COAL 94-097) merging ten (10) lots into four (4) lots, for a net reduction of six (6) lots. These lots, also located in Los Osos, were part of a 10-lot Cuesta-by-the-sea grouping owned by the current applicant. Much of this property is subject to environmental constraints including high groundwater, flooding, and the presence of identified wetlands. The intention of the owner was to offset the density increase of the future subdivision proposal (Tract 2161).

TRACT 2161

On February 8, 1996 the County approved the subdivision Tract 2161 on the subject 4.35-acre parcel.



The six lots that were retired under COAL 94-097 were added to the Tract 2161 parcel for a new total of seven (7) lots. Embedded as a condition of this approval, the property owner was required to record COAL 94-097, as described above. The merger of COAL 94-097 was recorded in San Luis Obispo County on May 7, 1998.

Road Exception Request

On July 17, 1997 the County amended Tract 2161 by granting a Road Exception Request to the tentative tract map. The road exception request allowed adjustment of the requirement for county standard sidewalk from concrete on both sides of the road (Seahorse Lane) to a decomposed granite pathway on one side of the road only. The Commission received a Final Local Action Notice for this decision on July 23, 1997.

Voluntary Merger

Because the tentative map for Tract 2161 proposes eight lots instead of seven, one additional lot had to be merged. In 2003, prior to recordation of the final map for Tract 2161 (and as a means to obtain eight lots in Tract 2161), the owner merged two of the remaining Cuesta-by-the-sea lots, leaving a total of three lots. This merger was recorded on November 18, 2003.

B. Project Description

At this time, the County has approved the development of eight single-family residences on Tract 2161 lots. The residences range in size from 3,920 square feet to 5,580 square feet and are located on eight lots ranging from 14,800 square feet to 22,000 square feet. The project is located on the west ends of Highland and Mar Vista Drives, approximately 600 feet west of Doris Avenue in the community of Los Osos, in the Estero Planning Area.

The County approved the development in two phases. Phase 1 allows construction of four residences prior to completion of the Los Osos community sewer. These lots are to be served by onsite septic systems and have been approved by the RWQCB. Upon completion of the Los Osos community sewer, these residences are required to connect to the community sewer and all septic systems are to be abandoned. Phase 2 would construct four new residences after sewer completion. These residences are required to be served by the new community sewer system. The County placed a scenic easement on lots 1, 3, 5, and 7 to assure that these residences could not be developed until after sewer completion (County Condition 3a).

In addition to the residences, the project includes roads, grading and drainage improvements, extensive tree planting, and a dedicated multi-purpose access trail for public use. The County approval includes 20 special conditions related to building heights; grading and erosion control; public works; archaeology; and compliance with RWQCB stormwater pollution provisions.

See Exhibit D for site plans, elevations, and the County's complete findings, and conditions of approval.



3. Conditions of Approval

A. Standard Conditions

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

B. Special Conditions

1. **Authorized Project.** This Coastal Development Permit authorizes only: Phase 1 development of four (4) single-family residences constructed on Tract 2161 lots 2, 4, 6, and 8, consistent with the final plans detailed in Special Condition #2 below.
2. **Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two sets of final plans to the Executive Director of the Coastal Commission for review and approval. The final project plans shall demonstrate the following:
 - a) The County required scenic easement (County Condition 3a) shall be noted on undeveloped lots 1, 3, 5, and 7. A notation should be included on the plans that future development of these parcels is subject to a separate coastal development permit.
 - b) The County imposed public access improvements (County Condition 3b), shall be graphically depicted on the project plans. The plans shall be accompanied by evidence that the design and location of the public access improvements have been reviewed and approved by San Luis Obispo County Parks Division.

The permittee shall undertake development in accordance with the final plans approved by the Executive Director pursuant to the special conditions. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the approved plans shall occur



without a Commission amendment to coastal development permit unless the Executive Director determines that no amendment is necessary.

3. **Water Conservation.** Each parcel shall be developed and maintained with the following water conservation measures:

Exterior

All landscaping shall be drought tolerant trees and native plants (“xeriscape”), with drip irrigation as necessary to establish said vegetation. Each parcel shall be allowed a single turf area not to exceed 500 square feet. Flow restrictors shall be installed on exterior hose bibs.

Interior

All plumbing fixtures will be rated “low flow” (1.6 gallons per flush for toilets). All water-consuming appliances, including washing machines, shall be “Energy Star” rated.

4. **County Conditions of Approval.** Except for County conditions of approval #1, and #13, all conditions of San Luis Obispo County’s approval of the project become conditions of this permit. All conditions of San Luis Obispo County’s approval pursuant to planning authority other than the Coastal Act continue to apply.

4. Coastal Development Permit Findings

A. Development Density

1.1 Applicable Policies

Coastal Zone Land Use Ordinance (CZLUO) Section 23.04.082b allows for the development of one (1) single family dwelling for each legal parcel. It states in part:

CZLUO Section 23.04.082 – Single-Family Dwelling: In land use categories where single-family dwellings or mobilehomes are identified by the Land Use Element “A” uses, the number of dwellings allowed on a single lot is as follows...

b. Residential categories: One for each legal parcel as defined in Chapter 23.11 (Definitions – Parcel)...

1.2 Analysis of Consistency with Applicable Policies

The Commission has not approved new subdivisions in Los Osos recently given the degree of concerns related to sensitive habitat protection and sustainable public service capacities in the community that



have been raised in recent years.¹ However, given the particular circumstances and equities of this case, and the fact that the specific resource impacts due to this project can be effectively addressed through special conditions, the project can still be approved consistent with the LCP.

There is strong evidence in the record that the subdivision development underlying the current approval is a violation because it occurred under an expired permit for Tract 2161. Nonetheless, pursuing it as such makes little sense because of the complex procedural history of the project, inaccurate County direction to the Applicant concerning the validity of the subdivision and the substantial reliance of the applicant on this direction, and the relatively small benefits, in any, that potentially could be achieved through an order to remove existing development and restore the site. To the extent that an increase in residential density in this area raises resource issues under the LCP, these can be effectively addressed through the conditions attached to this permit. Public Service concerns are addressed below in subsequent findings; With respect to habitat, biological studies and environmental documents for the subdivision did not identify any sensitive habitat on the site at the time of the subdivision. The site has since been substantially developed (i.e. grading, retaining walls, underground utilities, roads, and landscaping have been installed). In addition, the project site is bound on three sides by residential development and lacks connectivity with other nearby habitat areas (See Aerial Photo in Exhibit B). This is an important distinction to make given the known sensitive habitat areas further upslope and to the south of the project site. The project is residential infill within an existing developed area. Moreover, the increase in residential density and associated resource demand has been at least partially mitigated by the retirement of seven lots from nearby Cuesta-by-the-Sea. These lots were highly constrained due to the presence of wetlands. To the extent that there was development potential associated with these lots, their elimination is a benefit, as development potential has been shifted from wetlands to an urban area.

With respect to the equities of the case and the reliance of the applicant, the rules for extending coastal development permits are complicated in the LCP, particularly for the third (and final) extension. Approval of a third time extension requires specific findings to be made, additional noticing, and a new public hearing. More important, the County records show that the Applicant made efforts to extend the permits in a timely manner consistent with the direction of the County. The Applicant followed the County's direction and was led to believe that extending the tract map would also extend the life of the coastal development permit. It does not seem reasonable to penalize the Applicant for the many procedural missteps of this case.

As described, the project has a complex history. The procedural issues (i.e. noticing, permit expiration, and extensions) discussed in the Substantial Issue findings reveal a lack of coordination between the Commission and the County on this particular project. This issue was highlighted in the Periodic Review of 2001. The County has recently responded to these concerns through the Phase One Periodic Review Implementation effort which further clarifies and implements appropriate noticing procedures.

¹ Denials of proposed subdivisions and conditional certificates of compliance in Los Osos by the Coastal Commission include coastal development permit applications A-3-SLO-98-087 (Pratt/Cabrillo Associates, Tract 1873), A-3-SLO-99-079 (Linsley Subdivision), and A-3-SLO-01-108 (Schoenfeld Certificates of Compliance)



1.3 De Novo Conclusion

The project has a complex permitting history and raises important procedural issues. Adequate noticing of local approvals and accurate information regarding County procedures has been an ongoing concern with Commission staff and the County and strides are being made to improve this situation. In this case, however, it seems unreasonable to place the burden on the Applicants. As mentioned, the Applicant pursued the development in accordance with the direction given by the County. As applied in this case, the special conditions in the following sections of this report effectively resolve the substantive resource protection concerns raised by the appeal.

B. Public Services

2.1 Applicable Policies

As required by Public Works Policy 1, all new development must demonstrate that there are sufficient public service capacities to serve the development:

Public Works Policy 1: Availability of Service Capacity. New development (including divisions of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development. Priority shall be given to infilling within existing subdivided areas. Prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line for which services will be needed consistent with the Resource Management System where applicable...

The Estero Area Plan contains the Interim Service Capacity Allocation standard for new water allocations in the community of Los Osos, and states:

Interim Service Capacity Allocation. Prior to completion of a Resource Capacity Study, the following priorities for water use shall be established, which shall be implemented through the review and approval of subdivision and development plan proposals.

- a. Reservation of 800 acre-feet per year (consumptive use) for agricultural use to protect existing and projected agricultural water needs in accordance with the Brown and Caldwell study (1974).*
- b. Projected infill of residential, commercial, and visitor-serving uses on existing subdivided lots.*
- c. Extend services to areas where services will correct existing or potential problems (e.g., areas with high nitrate readings) where individual wells are now in use.*
- d. Additional land division will be permitted within substantially subdivided areas in accordance with lot sizes permitted in the Land Use Element and Coastal Zone Land Use Ordinance. Findings must be made that resources are adequate to serve the previously identified higher priorities uses in addition to proposed lots.*



e. Additional divisions would be permitted within the urban service line boundary only where adequate additional capacity is identified and it can be demonstrated that the proposed development would not jeopardize the availability of resources available to higher priority proposed uses.

f. Land divisions in the areas outside the urban services line and not specifically covered elsewhere in the South Bay standards, shall not be less than two and on-half acres.

2.2 Analysis of Consistency with Applicable Policies

The LCP requires that new development be environmentally-sustainable, both in terms of available infrastructure and in terms of potential impacts to environmental resources such as groundwater. Public Works Policy 1 requires that there are "sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line" prior to permitting all new development. In this case, significant issues have been raised regarding the availability of adequate public services to support the project.

Sewer

The proposed project was approved in two phases by San Luis Obispo County; Phase 1 commencing initially with septic tank service and Phase 2 taking place when that portion of the project can be connected to a community sewer system (County Condition #1, Exhibit C). Upon completion, the entire development must hook up to the community sewer.

This phased development scheme is the only manner that the project as a whole could be considered due to the current sewer moratorium in Los Osos. In January 1988, the Regional Water Quality Board imposed a septic tank discharge moratorium due to water quality degradation of the Bay and the groundwater basin from septic disposal. A prohibition zone has been established where expansions of existing buildings and new residential construction has been halted until the County provides a solution to the water degradation problem. Projects in Los Osos within the prohibition area (as is the case here) are limited to replacement of existing discharges. However, in this case, the Regional Water Quality Control Board (RWQCB) has exempted the project from the septic system prohibition because the phasing allows the project to maintain one-acre minimums for septic tank disposals (See letter from the RWQCB dated July 11, 2001 in Exhibit F of this report.)

Even though Phase 2 development can only occur once a community sewer system is in place, the phasing scheme approved by the County raises significant concern. First, it is uncertain when a community sewer system will be online. As discussed in preceding paragraphs, there has been over 20 years of community discussion surrounding substandard septic systems and adverse impacts to the quality of groundwater. While progress has been made recently regarding site design and a community sewage treatment plant, and the Commission has approved a permit for a sewer plant, the details of anticipated community buildout, treatment plant capacity, and schedules of service remain uncertain.

Secondly, circumstances may change affecting the way in which the proposed future Phase 2 project would be analyzed. In the amount of time it takes to connect Phase 2 development with the



communitywide sewer, a number of changed circumstances may occur. Changed circumstances can include a change in statewide resource policies, new knowledge about environmental threats, or newly listed endangered species in Los Osos, such as occurred in 1994 when the endangered Morro shoulderband snail (*Helminthoglypta walkeriana*) was federally listed. Changed circumstances such as this would affect the way in which new development projects in the area would be evaluated.

In the time since the appeal was filed, the Applicant has worked with Staff to address the issues raised by the development. The applicant has agreed to modify their proposed project to eliminate the speculative Phase 2 development. Special Condition 1 requires the applicant to submit modified plans showing the elimination of Phase 2 for clarity in permit implementation and condition compliance.

Water Supply

In addition to the issues surrounding community sewer capacities, there are also concerns regarding the additional water demands created by the development. This is problematic due to the uncertainty surrounding the safe yield of the Los Osos groundwater basin from which Los Osos receives its water. According to estimates cited by the LCP, the Los Osos groundwater basin is currently being drafted at a greater rate than it is being recharged. The Resource Management System has recommended a Level of Severity (LOS)² of either II or III for water supply and distribution in Los Osos. This issue is detailed in the findings from the Coastal Commission Periodic Review of the San Luis Obispo County LCP.³

Most recently, the Los Osos Community Services District prepared a Safe Yield Analysis for Los Osos. The report was prepared by Cleath & Associates and was made part of the Los Osos Water Master Plan (August 2002). The findings state that under current conditions the Los Osos Valley ground water basin is estimated to have a yield of 3,560 acre-feet per year. Current ground water production in the basin has averaged 3,380 afy over the past 10 years. However, as noted in the 2001 Periodic Review, eight of the past fifteen years have been in overdraft. The safe yield analysis suggests that limited growth may be accommodated if accompanied by strategic use of extraction and recharge systems. However, without passing judgment on this assessment, it is premature to rely upon it. A thorough review and analysis of the new information through the LCP Estero Area Plan Update is needed.

The Estero Area Plan prioritizes water allocations for new development in Los Osos through the Interim Service Capacity Allocation (ISCA). Under the ISCA, new subdivisions are a low priority compared to us such as infill development on existing subdivided lots and agriculture. The Applicants highlight the fact that the increased density has been mitigated by the retirement of seven lots from Cuesta-by-the-Sea.

To address concerns related to water supplies, Special condition 3 requires the applicant to minimize water use associated with the project through the use of both exterior (e.g. landscaping) and interior water conservation measures. A retrofit condition would not be appropriate given the current absence of a retrofit program in Los Osos. With this condition, the project will avoid inconsistencies with LCP

² For water resources a LOS III exists when water demand equals the available resource; the amount of consumption has reached the dependable supply of the resource. LOS II occurs when water demand equals or exceeds the estimated dependable supply.

³ page 62-63 of Exhibit A to Periodic Review Report dated July 12, 2001



requirements calling for adequate water supplies.

2.3. Public Services Conclusion

Given the uncertainty surrounding existing and future public service capacities and the potential for changing environmental resource constraints in Los Osos, it is appropriate to take a precautionary approach and not approve Phase 2 development at this time. Following the appeal, the Applicant has agreed to delete Phase 2 from the approved project.

By minimizing new water use (see Special Condition 3), the project will avoid adverse impacts to coastal resources. By prohibiting Phase 2 development (see Special Condition 1) the project will not rely on speculative public service capacities and will thereby avoid potential adverse impacts to coastal resources. Only with these conditions can the Commission approve the project consistent with the Public Works policies of the LCP.

C. Public Access and Recreation

3.1 Applicable Policies

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." Because this project is located between Los Osos Valley Road (the first through public road) and the sea, for public access and recreation issues the standard of review is not only the certified LCP but also the access and recreation policies of the Coastal Act. The Coastal Act includes requirements to maximize access, protect existing access, provide access in new development projects, and protect lands for public recreational uses and facilities (including Coastal Act policies 30210 – 30214, 30221 – 30223, and 30240(b)).

3.2 Analysis

Multi-purpose Access Trail

In the past the public has used the parcel as a through public access/equestrian connection from inland Sea Horse Lane through to Pecho Road and the beach. In part, this is the reason for the County's requirements to construct a public access trail at the southern property boundary. The proposed multi-purpose public trail would enhance through access from Sea Horse Lane to Pecho Road by providing a designated space for pedestrians, bicyclists, and horseback riders to move between these two roads towards the coast. According to the applicant a portion of this trail is already complete. This portion of the project should enhance public access as directed by the Coastal Act cited above. To formalize the multi-purpose access trail Special Condition 1c requires that it be visually depicted on final plans and that the design and location be approved by the County Parks Division.



3.3. Public Access and Recreation Conclusion

The proposed development can be found consistent with the LCP and Coastal Act public access, recreation, and priority site policies cited above.

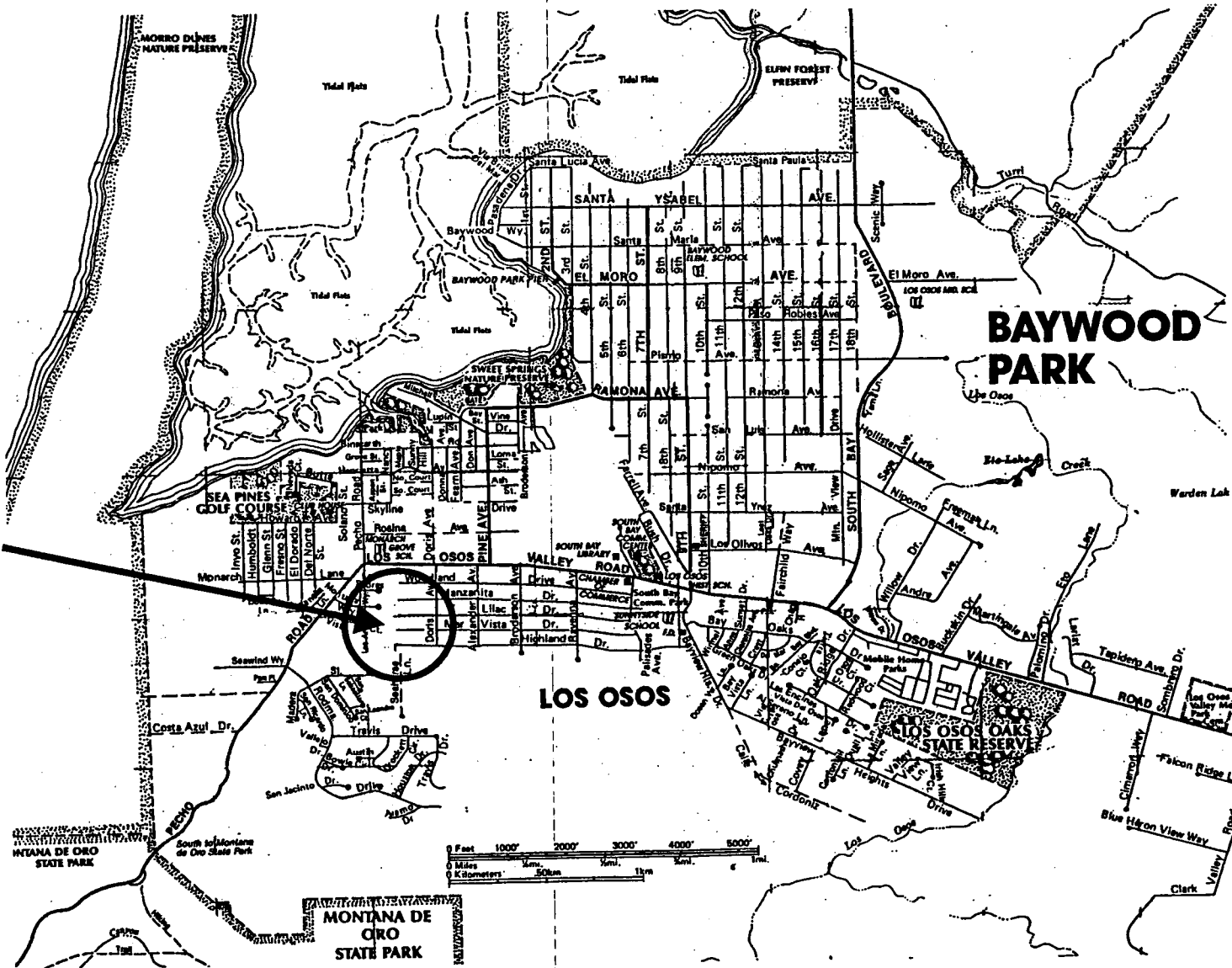
5. California Environmental Quality Act (CEQA)

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 analyzed the environmental impacts posed by the project and identified changes to the project that are necessary to reduce such impact to an insignificant level. Based on these findings, which are incorporated by reference as if set forth herein in full, the Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA.



Site

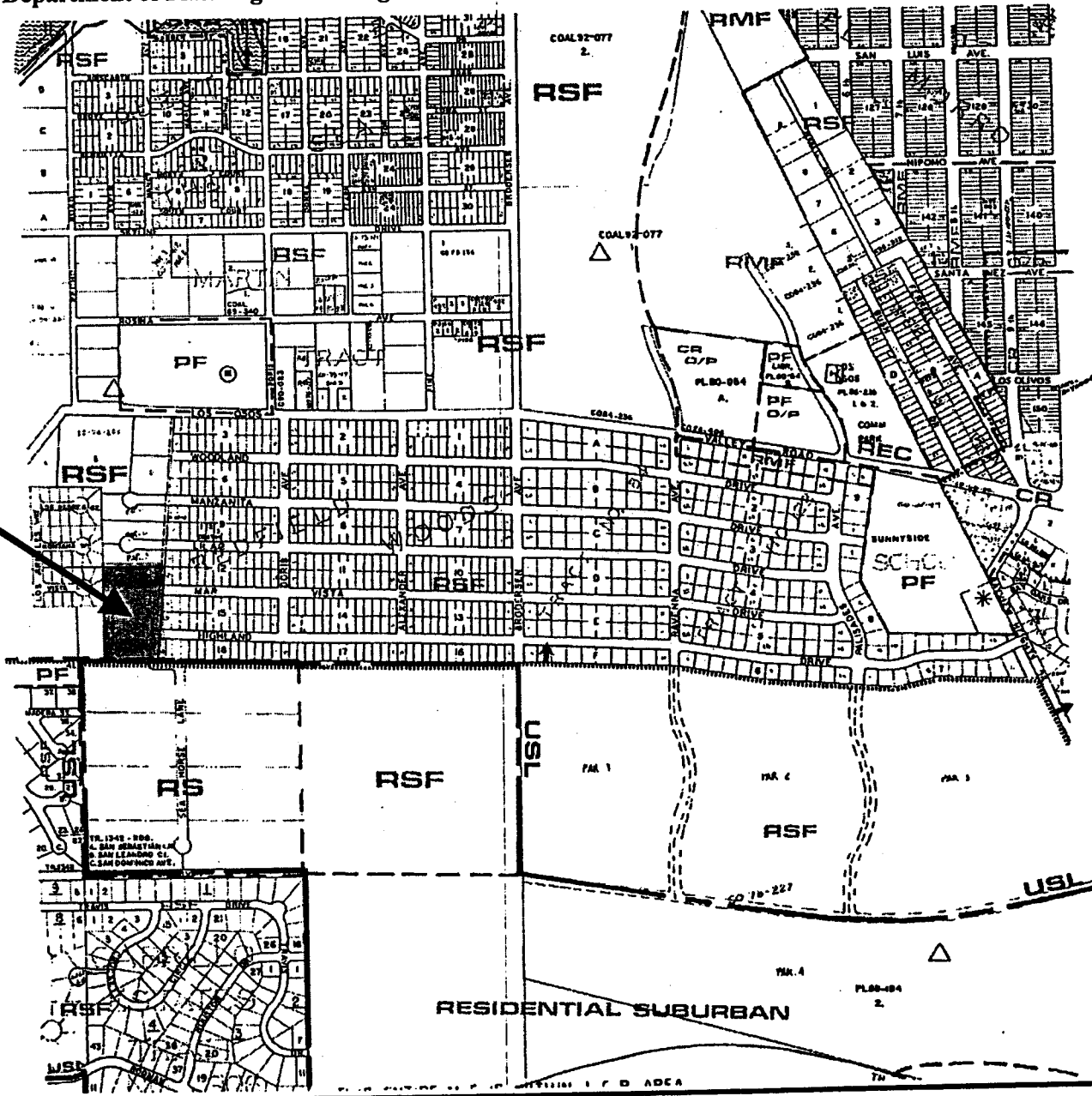


Project
 Minor Use Permit/ Coastal Development Permit
 Goedinghaus – D020349P



Exhibit
 Vicinity Map

Site

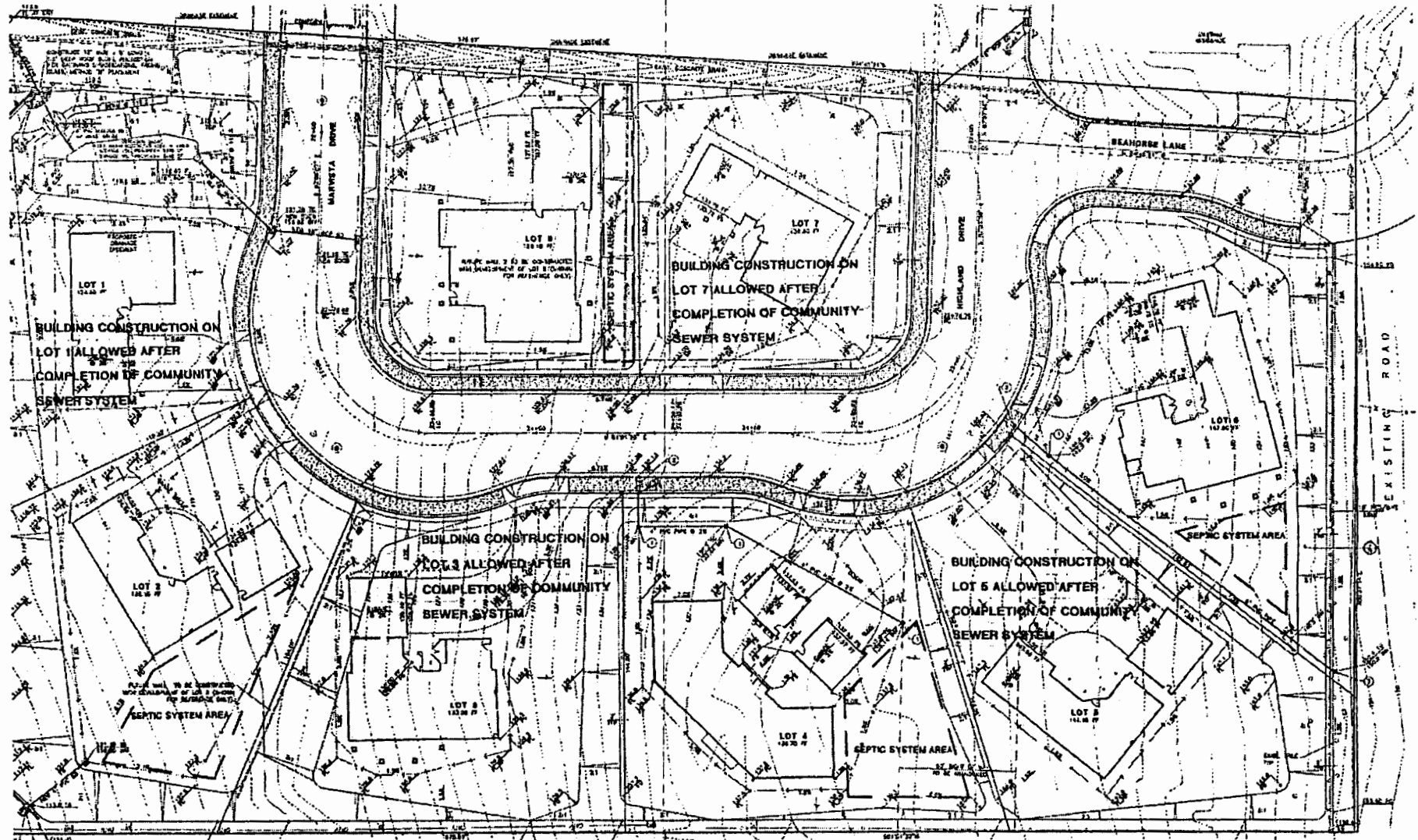


CCC Exhibit A
(page 2 of 2 pages)

Project
Minor Use Permit/ Coastal Development Permit
Goedinghaus - D020349P



Exhibit
Land Use Category Map



Project
 Minor Use Permit/ Coastal Development Permit
 Goedinghaus – D020349P



Exhibit
 Site Plan

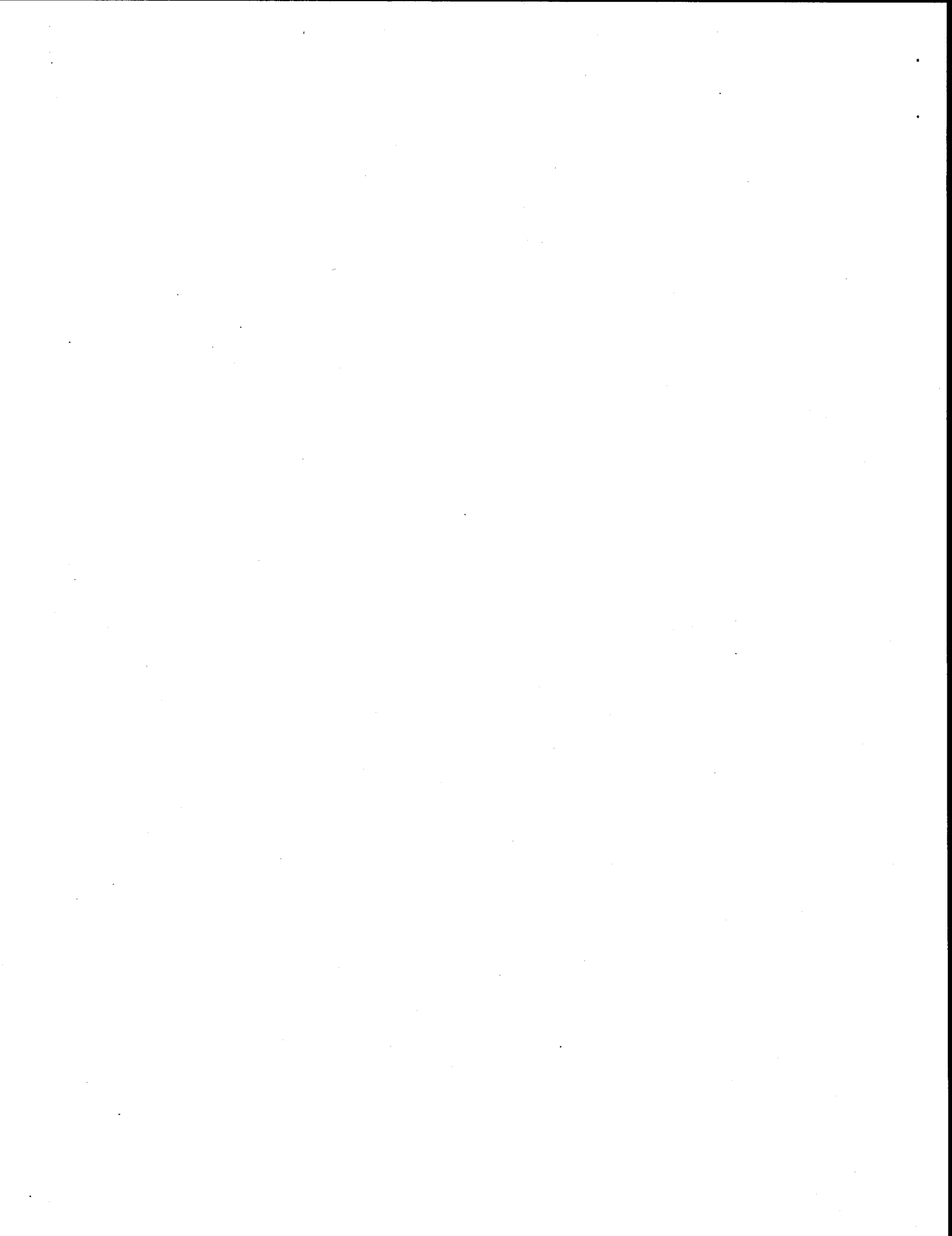
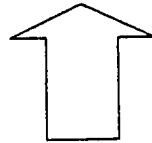


EXHIBIT 6
OCTOBER 1995 COLOR AERIAL IMAGE OF AREA SURROUNDING TRACT 2161



North



CCC Exhibit C
(page 1 of 2 pages)

EXHIBIT 3
OCTOBER 1995 CLOSE UP COLOR AERIAL IMAGE OF TRACT 2161

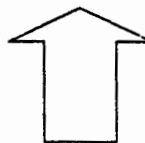


TRACT 2161

MAR VISTA DR.

HIGHLAND DR.

North



CCC Exhibit C
(page **2** of **2** page)

WCC



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

RECEIVED

FEB 25 2004

February 11, 2004

J.H. Edwards
P.O. Box 6070
Los Osos, CA 93412

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

FINAL LOCAL ACTION NOTICE	
REFERENCE #	<u>3-SLO-04-073</u>
APPEAL PERIOD	<u>2/26-3/10/04</u>

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: February 6, 2004

SUBJECT: GOEDINGHAUS – County File No. D020349P
Document No. 2004-031

LOCATED WITHIN COASTAL ZONE: YES

The above-referenced application was approved by the Hearing Officer, based on the approved Findings and Conditions, which are attached for your records. This Notice of Final Action is being mailed to you pursuant to Section 23.02.033(d) of the Land Use Ordinance.

This action is appealable to the Board of Supervisors within 14 days of this action. If there are Coastal grounds for the appeal there will be no fee. If an appeal is filed with non coastal issues there is a fee of \$474.00. This action may also be appealable to the California Coastal Commission pursuant to regulations contained in Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The regulations provide the California Coastal Commission 10 working days following the expiration of the County appeal period to appeal the decision. This means that no construction permits can be issued until both the County appeal period and the additional Coastal Commission appeal period have expired without an appeal being filed.

Exhaustion of appeals at the county level is required prior to appealing the matter to the California Coastal Commission. This second appeal must be made directly to the California Coastal Commission Office. Contact the Commission's Santa Cruz Office at (831) 427-4863 for further information on their appeal procedures.

If the use authorized by this Permit approval has not been established or if substantial work on the property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated through conditions of approval of this Permit, this approval shall

CC Exhibit D
(page 1 of 6 pages)

expire and become void unless an extension of time has been granted pursuant to the provisions of Section 23.02.050 of the Land Use Ordinance.

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

If you have questions regarding your project, please contact your planner at (805) 781-5600. If you have any questions regarding these procedures, please contact me at (805) 781-5612.

Sincerely,

Lona Franklin, Secretary
PLANNING DEPARTMENT HEARINGS

(Planning Department Use Only)

Date NOFA copy mailed to Coastal Commission: after February 21, 2004

Enclosed: X Staff Report
 X Findings and Conditions

000 Exhibit D
(page 2 of 6 pages)

EXHIBIT A - FINDINGS

Environmental Determination

- A. The Environmental Coordinator, after completion of the Initial Study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration: ED03-167 (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on November 20, 2003 for this project. Mitigation measures are proposed to address Geology and Soils, Public Services/Utilities, Transportation/Circulation, and Water and are included as conditions of approval.

Minor Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the project is for single family residences in the Residential Single Family land use category and because it is consistent with Coastal Plan Policies, as it is conditioned to provide will-serve letters for water and sewer availability, is located on existing lots of record on slopes less than 20 percent, is required to have an erosion and sedimentation control plan, will not impact cultural resources, and will not inhibit or interfere with shoreline access.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code, including height and setback requirements of the Zoning Ordinance.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the project does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the project is similar to, and will not conflict with, the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the subdivision of the project site is designed with roads to be constructed to a level able to handle any additional traffic associated with the project.

Coastal Access

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project will not inhibit access to the coastal waters and recreation areas. The subdivision of the project site is designed to provide public access westward through the site and towards the ocean.

Archeological Sensitive Area

- H. The site design and development incorporate adequate measures to ensure that archeological resources will be acceptably and adequately protected because no resources were found during the preliminary site survey.

EXHIBIT B - CONDITIONS OF APPROVAL

Authorized Use

1. This approval authorizes eight (8) single family residences to be constructed in two phases, as follows:
 - a. Phase 1: Four (4) single family residences constructed on future Tract 2161 lots 2, 4, 6, and 8 prior to completion of the Los Osos community sewer. Upon completion of the community sewer, the four residences shall connect to the sewer and the septic systems shall be abandoned in accordance with the requirements of the Department of Planning and Building and the Los Osos Community Services District.
 - b. Phase 2: Four (4) single family residences constructed on future Tract 2161 lots 1, 3, 5 and 7 after completion of the Los Osos community sewer.
2. Proposed retaining wall 1 (between lots 2 and 3) and proposed retaining wall 2 (between lots 7 and 8) shall both be constructed by the applicant.
3. All development shall be consistent with the approved floor plans, architectural elevations, and a revised site plan. The revised site plan shall indicate the following:
 - a. The existing scenic preservation easement on all lots to be developed in Phase 2 of the project (lots 1, 3, 5, and 7).
 - b. A 15 foot wide trail easement along the southern border of lots 5 and 6 and a 25 foot wide trail transition area on the southwest corner of the site. The trail corridor shall be subject to the review and approval of the Parks Division prior to issuance of a building permit for any residence associated with this project, #D020349P or Tract 2161. The trail corridor shall be unobstructed along its width.
4. No construction shall begin until tentative Tract 2161, as tentatively approved on February 8, 1996, is recorded, except for the following development:
 - a. Construction of one of the single family residence included in Phase 1 of this permit, subject to applicable setback requirements of the Coastal Zone Land Use Ordinance.
 - b. Subdivision improvements to meet conditions for Tract 2161.

Building Height

5. **The maximum height of the project is 28 feet from average finished grade.**
 - a. **Prior to any site disturbance**, a licensed surveyor or civil engineer shall stake the lot corners, building corners, and establish average finished grade and set a reference point (benchmark).
 - b. **Prior to approval of the foundation inspection**, the benchmark shall be inspected by a building inspector prior to pouring footings or retaining walls, as an added precaution.
 - c. **Prior to approval of the roof nailing inspection**, the applicant shall provide the building inspector with documentation that gives the height reference, the allowable height and the actual height of the structure. This certification shall be prepared by a licensed surveyor or civil.

Grading, Drainage, Sedimentation and Erosion Control

6. **Prior to issuance of construction permits**, if grading is to occur between October 15 to April 15, a

sedimentation and erosion control plan shall be submitted pursuant to Coastal Zone Land Use Ordinance Section 23.05.036.

7. **Prior to issuance of construction permits**, the applicant shall submit a drainage plan for review and approval by the County Public Works Department.

Fire Safety

8. **Prior to issuance of a construction permit**, the applicant shall provide the county Department of Planning and Building with a fire safety plan approved by South Bay Fire.
9. **Prior to occupancy or final inspection**, which ever occurs first, the applicant shall obtain final inspection and approval from South Bay Fire of all required fire/life safety measures.

Public Works

10. **Prior to issuance of building permits for Phase 1 and Phase 2**, the applicant shall meet all requirements of the County Public Works Department. This condition does not preclude the construction of subdivision improvements consistent with the conditions for Tract 2161.
11. **Prior to issuance of building permits for Phase 1**, the applicant shall submit to the Department of Planning and Building a will serve letter from the California Cities Water Company for water for the residences to be constructed in Phase 1.
12. Upon completion of the Los Osos community sewer, the residences constructed in Phase 1 of the project shall connect to the community sewer and the septic systems shall be abandoned in accordance with the requirements of the Department of Planning and Building and the Los Osos Community Services District.
13. **Prior to issuance of building permits for Phase 2**, the applicant shall submit to the county Department of Planning and Building a will serve letter for water from the California Cities Water Company and community sewer service from the Los Osos Community Services District for the residences to be constructed in Phase 2.

Los Osos Moratorium Compliance

14. **Prior to issuance of a construction permit**, the applicant shall complete a Los Osos Compliance form.

Archaeology

15. In the event archaeological resources are unearthed or discovered during any construction activities, the following standards apply:
 - a. Construction activities shall cease and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law.
 - b. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.

Miscellaneous

16. The applicant shall comply with all requirements of the California Regional Water Quality Control Board,

000 Exhibit D
(page 5 of 6 pages)

including obtaining a SWPPP Permit, as applicable.

17. **Prior to issuance of construction permits**, the applicant shall pay all applicable school and public facilities fees.
18. **Prior to occupancy of any structure associated with this approval**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.
19. This permit is valid for a period of 60 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050. This permit is generally considered to be vested once a building permit has been issued and substantial site work has been completed. Substantial site work is defined (Section 23.02.042) as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade ('sticks in the air').
20. **Prior to issuance of construction permits for development on any Phase 2 lot (lots 1, 3, 5 and 7)**, the existing scenic preservation easement shall be removed.

CALIFORNIA COASTAL COMMISSION

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

www.coastal.ca.gov

**COMMISSION NOTIFICATION OF APPEAL**

DATE: March 11, 2004

TO: Pat Beck, Chief Of Permitting
County of San Luis Obispo, Planning & Building Department
County Government Center
San Luis Obispo, CA 93408

FROM: Steve Monowitz, Permit Supervisor

RE: Commission Appeal No. A-3-SLO-04-019

Please be advised that the coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Section 30602 or 30625. Therefore, the decision has been stayed pending Commission action on the appeal pursuant to Public Resources Code Section 30623.

Local Permit #: D020349P

Applicant(s): Claire Goedinghous, Attn: J. H. Edwards

Description: Allow eight single family residences constructed in two phases. Phase 1: Construct 4 residences prior to completion of the Los Osos community sewer; Phase 2: Construct four residences after sewer completion. Residences range in sizes from 3,920 square feet to 5,580 sq.ft. and will be located on eight parcels ranging in size from 14,800 sq.ft. to 22,000 sq.ft.

Location: Highland & Mar Vista Drives (Estero planning area), Los Osos (San Luis Obispo County) (APN(s) 074-025-008)

Local Decision: Approved w/ Conditions

Appellant(s): Commissioner John Woolley; Commissioner Mike Reilly, Chair

Date Appeal Filed: 3/9/2004

The Commission appeal number assigned to this appeal is A-3-SLO-04-019. The Commission hearing date has not yet been established for this appeal. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the County of San Luis Obispo's consideration of this coastal development permit must be delivered to the Central Coast District office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Jonathan Bishop at the Central Coast District office.

OCC Exhibit E
page 1 of 6 pages

CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s):

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

Commissioner John Woolley

Commissioner Mike Reilly, Chair

45 Fremont Street, Suite 2000

45 Fremont Street, Suite 2000

San Francisco, CA 94105

San Francisco, CA 94105

(415) 904-5200

(415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Minor Use Permit/Coastal Development Permit for construction of eight (8) single family residences in two phases. Phase 1: Construct four (4) residences prior to completion of the Los Osos community sewer; Phase 2: Construct four (4) residences after sewer completion.

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

Highland & Mar Vista Drives, Los Osos, San Luis Obispo County APN 074-025-008.

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: X

c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-04-019

DATE FILED: March 9, 2004

DISTRICT: Central Coast

RECEIVED

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Exhibit E

(page 2 of 6 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
- b. City Council/Board of Supervisors
- c. Planning Commission
- d. Other: _____

6. Date of local government's decision: 2/6/04

7. Local government's file number: D020349P

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:
Claire Goedinghouse
c/o Jeff Edwards
P.O. Box 6070, Los Osos, CA 93412

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) O. Allen Kellogg
273 Vista Ct.
Los Osos, CA 93402

(2) Pat Beck, Chief of Planning
SLO County Bldg. & Plng. Dept
County Government Center, Rm. 310
San Luis Obispo, CA 93408

(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.

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: March 9, 2004

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

Signed: _____

Date: _____

(Document2)

COO Exhibit E
(page 4 of 6 pages)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

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

See Attached.

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

SECTION V. Certification

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

Signed: *Anna Ruff*
Appellant or Agent

Date: March 9, 2004

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

Signed: _____

Date: _____

Reasons for Appeal: San Luis Obispo County Coastal Development Permit D020349P (Goedinghaus)

The County approved project involves the development eight (8) single family residences in two phases (4 residences constructed prior to completion of the Los Osos community sewer, and 4 residences constructed after completion of the sewer) on a 4.35 acre site in the community of Los Osos. The project is inconsistent with the policies and ordinances of the San Luis Obispo County Local Coastal Program, as detailed below.

1. Development Density – CZLUO Section 23.04.082 allows one single-family dwelling (SFD) for each legal parcel. The County approval indicates that the site was previously subdivided into eight (8) parcels (Tract 2161) ranging from 14,800 square feet to 22,000 square feet. However, at this time Commission staff has been unable to confirm that a valid coastal development permit was issued for this subdivision. The County approved project allows for a two-phased development totaling eight (8) SFD's. Given the fact that Tract 2161 appears not to be a valid subdivision, the project is inconsistent with the LCP because the County approved project exceeds the LCP density standards.
2. LCP Policy 1 for Public Services requires that new development demonstrate the availability of sufficient public service capacities to serve the development. The proposed project involves the development of eight residences in two phases. Phase I includes four (4) single-family residences constructed prior to completion of the Los Osos community sewer. Phase II includes the construction of four (4) additional single-family residences following completion of the sewer. The San Luis Obispo County approval of the second phase of the project is contingent upon connection to a community-wide sewer system. In this case, four future homes have been approved with no current provision to serve the development with wastewater service. The project is inconsistent with the LCP because it relies on a phased development scheme in a time where public service capacities are uncertain.



**California Regional Water Quality Control Board
Central Coast Region**



Winston H. Hickox
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/~rwqcb3>
81 Higuera Street, Suite 200, San Luis Obispo, California 93401-5411
Phone (805) 549-3147 • FAX (805) 543-0397

Gray Davis
Governor

RECEIVED

July 11, 2001

MAR 05 2004

Claire Goedinghaus
13106 Neff Road
La Mirada, CA 90638

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Dear Ms. Goedinghaus:

COVERAGE UNDER GENERAL ORDER NO. 00-12, WASTE DISCHARGE REQUIREMENTS FOR RESIDENTIAL ON-SITE WASTEWATER SYSTEMS WITHIN THE BAYVIEW HEIGHTS AND MARTIN TRACT AREAS OF LOS OSOS, SAN LUIS OBISPO COUNTY

We have reviewed your revised Notices of Intent (applications) to comply with General Waste Discharge Requirements Order No. 00-12 and find them to be complete. Your revised submittal indicates that your proposed on-site wastewater discharges on parcels (APN) 074-025-008 (lots 1 through 4) may comply with the conditions for coverage under Order No. 00-12. Your submittal also indicates the proposed project may be consistent with criteria specified in the Water Quality Control Plan, Central Coast Region (Basin Plan) for siting and design of on-site wastewater systems. In order to assure compliance with Order No. 00-12 and the Basin Plan, the wastewater system must be installed as described in your submittal. Plus a leachfield expansion area (equal to 100% of the required disposal area as required by Basin Plan) must be indicated on your site plans. (plans submitted did not include the expansion area). Also, in order to prolong the useful life of the disposal system, we recommend you alternate disposal field use periodically (such as annually).

This letter documents exemption to the Basin Plan prohibition of waste discharges within the Los Osos area (Resolution 83-13) and coverage under General Order No. 00-12 provided ongoing compliance with the requirements of the Order are demonstrated. Please note there are monitoring and reporting requirements associated with this Order as well as payment of annual fees. A copy of the Order is attached for your records.

If you have questions, please call Sorrel Marks at 549-3695 or Gerhardt Hubner at 542-4647.

Sincerely,


Roger W. Briggs
Executive Officer

S:\wb\southern\staff\sorrel\00-12\yanbeurden.approval

- c: Jeff Edwards, P. O. Box 6070, Los Osos, CA 93412 (without attachment)
- Pat Beck, Planning & Building, Co. Govt. Center, San Luis Obispo, CA 93408 (without attachment)
- Bruce Buel, Los Osos CSD, P. O. Box 6064, Los Osos, CA 93412 (without attachment)

California Environmental Protection Agency



CCC Exhibit F
(page 1 of 1 pages)

