

CALIFORNIA COASTAL COMMISSION

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

Th11e**RECORD PACKET COPY**

Filed: 3/4/04
49th day: 4/22/04
Staff: JB-SC
Staff report: 3/5/04
Hearing date: 3/18/04
Hearing item number: Th11e

APPEAL STAFF REPORT - SUBSTANTIAL ISSUE DETERMINATION

Appeal number.....A-3-SLO-04-016 (Public Access View Deck)
Applicants.....County of San Luis Obispo General Services Dept. (Parks Division)
Appellant.....Jim Marrocco
Local government.....San Luis Obispo County (D020261P)
Local decisionApproved with conditions (January 27, 2004)
Project location.....Bay Street, Baywood peninsula neighborhood, Los Osos (west side of Pasadena Drive, approximately 500 feet north of Santa Ysabel), San Luis Obispo County.
Project descriptionConstruct a 226 square foot public access view deck and walkway approach.
File documents.....San Luis Obispo County Certified Local Coastal Program; County Final Local Action Notice (D020261P).
Staff recommendation ...No Substantial Issue

Summary of staff recommendation: San Luis Obispo County approved a proposal to construct a 226 square foot public access view deck at the end of Bay Street in the Baywood peninsula neighborhood of Los Osos, San Luis Obispo County. The public viewing platform resulted from a quiet title action initiated by the neighbors located north and south of the old Bay Street right-of-way. In 1998, a stipulated judgment (that resulted from the quiet title action) gave each adjacent neighbor approximately 4,250 square feet of the old Bay street right-of-way in exchange for leaving a 500 square foot area for a public access viewing platform. The Appellant contends that the approved viewing deck would be incompatible with the small-scale character of the neighborhood, would disturb adjacent residences, and would adversely impact public views due to the mass, scale, and design approved.

The scenic and visual qualities of the Baywood peninsula are an important public resource. However, the Appellant's contentions are not persuasive and not raise a substantial issue requiring the Commission to take jurisdiction over the project. The County has developed a modest project, which is generally consistent with the surrounding character of Baywood, and has been designed to address coastal views and the privacy of adjacent residents. The incremental impact of this structure on the public viewshed would be negligible because it is development between existing houses along a stretch of coastal bluffs already impacted by residential development.



California Coastal Commission
March 18, 2004 Meeting in Monterey

Staff: J. Bishop Approved by: *DSL*

While not addressed in the contentions of appeal, it is important to note that the project is a high priority use under the Local Coastal Program (LCP) because it promotes public access, coastal recreation, and visitor-serving uses. The proposed project provides for the implementation of a public viewing deck already agreed upon and anticipated by the neighborhood. While a number of issues are raised by the appeal, the overall benefits to public access and recreation far outweigh the insignificant impacts to coastal resources posed by project implementation.

Staff recommends that the Commission find that **no substantial issue** exists with respect to this project's conformance with the certified San Luis Obispo County certified LCP and decline to take jurisdiction over the coastal development permit for the project.

Report Contents

	page
1. Appeal of San Luis Obispo County Decision	2
A. San Luis Obispo County Action	2
B. Appeal Procedures	3
C. Appellants' Contentions.....	3
2. Staff Recommendation on Substantial Issue.....	4
Recommended Findings and Declarations.....	4
3. Project Description.....	4
A. Project Location	4
B. County Approved Project.....	4
4. Substantial Issue Findings.....	5
A. Policies Cited by Appeal.....	6
B. Analysis of Consistency with Cited Policies.....	6
C. Substantial Issue Conclusion	9
5. Exhibits	
Exhibit A: Location Map and Project Area Photos	
Exhibit B: County-Approved Site Plans and Elevations	
Exhibit C: County Final Local Action Notice, Findings, and Conditions	
Exhibit D: Appeal of Jim Marrocco	

1. Appeal of San Luis Obispo County Decision

A. San Luis Obispo County Action

San Luis Obispo County approved this proposed project subject to multiple conditions on January 27, 2004 (see exhibit C for the County's adopted findings and conditions on the project). The County's approval was by the Board of Supervisors following an appeal of the Planning Commission's original approval. The current Appellants in this matter before the Commission are the same persons who appealed the Planning Commission's decision.



Notice of the Board of Supervisor's action on the coastal development permit (CDP) was received in the Coastal Commission's Central Coast District Office on February 19, 2004. The Coastal Commission's ten-working day appeal period for this action began on February 20, 2004 and concluded at 5pm on March 4th, 2004. One valid appeal (see below) was received during the appeal period.

B. Appeal Procedures

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

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified LCP or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under Section 30604(b), if the Commission conducts a de novo hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, and thus this additional finding would need to be made in a de novo hearing.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo stage of an appeal.

C. Appellants' Contentions

The Appellant contends that the approved project is inconsistent with the LCP visual and scenic resource protection policies because the approved project would be incompatible with the style and natural features of the neighborhood and would adversely impact public views due to the mass, scale, and design approved. In addition, the Appellant contends that the project does not adequately protect the privacy of adjacent residents. Please see exhibit D for the Appellants' complete appeal document.



2. Staff Recommendation on Substantial Issue

The staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of no substantial issue would mean that the County's decision in this matter would be final (conversely, a finding of substantial issue would bring the project under the jurisdiction of the Commission for hearing and action).

Motion. I move that the Commission determine that Appeal Number A-3-SLO-04-016 raises **no** substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act.

Staff Recommendation of No Substantial Issue. Staff recommends a **yes** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

Resolution to Find No Substantial Issue. The Commission hereby finds that Appeal Number A-3-SLO-04-016 does not present a substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.

Recommended Findings and Declarations

The Commission finds and declares as follows:

3. Project Description

A. Project Location

The proposed development is located on the west side of Pasadena Drive, approximately 500 feet north of Santa Ysabel on an abandoned portion of Bay Street, in the community of Los Osos. The proposed viewing deck is located on an easement granted to the County as part of a 1998 quiet title action which resulted in most of the Bay Street right-of-way being given to adjacent landowners (see Exhibit B). At this time, Coastal Commission staff is unable to confirm that San Luis Obispo County has processed a Coastal Development Permit for the road abandonment. The 500 square foot project site (dedicated easement area) is undeveloped, rectangular in shape, and slopes gently to the west. The prominent scenic view in this area is from Pasadena Drive through gaps between existing residences. The surrounding parcels are developed with single-family residences (see Exhibit A for a location map and photos). The site is located in the Residential Single Family land use category of the certified LCP.

B. County Approved Project

The County approved project includes construction of a 226 square foot public access view deck and a 6 foot wide by 33 foot long path from Pasadena Avenue. The structure would be founded on buried pre-



cast footings extending down below the sandy top layer of the site. A 6 foot wide decomposed granite path would extend from the edge of pavement on Pasadena Avenue westerly towards the view deck. A second portion of the path is made of wood and slopes gradually down from street level in an attempt to lower the overall elevation of the main deck. The main viewing deck would be 226 square feet total and composed of redwood lumber. The deck would also include safety railing on the perimeter of the viewing platform.

See exhibit B for County-approved plans and exhibit C for the adopted County findings, and conditions approving the project.

4. Substantial Issue Findings

A. Policies Cited by Appeal

The appeal contentions generally state that the approved project would be incompatible with the neighborhood character and would adversely impact public views due to the mass, scale, and design approved. The following LCP policies and ordinances have been cited:

Policy 1: Protection of Visual and Scenic Resources

Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas as sensitive habitats are to be preserved, protected and in visually degraded areas restored where feasible. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 5: Landform Alterations

Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. Where feasible, contours of the finished surface are to blend with adjacent natural terrain to achieve a consistent grade and natural appearance. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.034 OF THE CZLUO.]

Policy 6: Special Community and Small-Scale Neighborhoods

Within the urbanized areas defined as small-scale neighborhoods or special communities, new development shall be designed and sited to compliment and be visually compatible with existing characteristics of the community which may include concerns for the scale of the new structures, compatibility with unique and distinguishing architectural historical style, or natural features that add to the overall attractiveness of the community. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO CHAPTER 23.11 (DEFINITIONS) OF THE CZLUO.]



In addition the Appellant contends that the project violates the following LCP ordinances related to privacy needs of adjacent residences:

CZLUO Section 23.04.420h(2) - Type and extent of improvements – required findings. The improvements...shall be required to an extent where such improvements:

- (i) Are necessary to either assure reasonable public access, protect the health and safety of access users, assure and provide for proper long-term maintenance of the accessway, or protect the privacy of adjacent residents.*
- (iv) Incorporate adequate measures to protect the privacy and property right of adjoining property owners and residents.*

CZLUO Section 23.04.420k – Sighting criteria for coastal accessway. In reviewing a proposed accessway, the applicable review body shall consider the effects that a public accessway may have on adjoining land uses in the location and design of the accessway. When new development is proposed, it shall be located so as not to restrict access or to create possible privacy problems. Where feasible, the following general criteria shall be used in reviewing new access locations, or the location of new development where coastal access considerations are involved:

- (3) Review of the accessway shall consider; safety hazards, adequate parking provisions, privacy needs of adjacent residences, adequate signing, and levels of improvements necessary to provide for access;*
- (4) Limiting access to pass and repass should be considered where there are nearby residences, where topographic constraints make the use of the beach dangerous, where there are habitat values that can be disturbed by active use.*

B. Analysis of Consistency with Cited Policies

As detailed below, the appeal does not raise a substantial issue with respect to the project's conformance with the San Luis Obispo County LCP.

1. Neighborhood Compatibility

The LCP requires new development in small-scale neighborhoods or special communities to be visually compatible. LCP Policy 6 for Visual and Scenic Resources states:

Within the urbanized areas defined as small-scale neighborhoods or special communities, new development shall be designed and sited to compliment and be visually compatible with existing characteristics of the community which may include concerns for the scale of the new structures, compatibility with unique and distinguishing architectural historical style, or natural features that add to the overall attractiveness of the community.



The Appellants contend that the size and scale of the project is not compatible with style and natural features of the neighborhood along Pasadena Avenue. This neighborhood is defined in the LCP as a small-scale neighborhood due to the low-density nature of development that is consistent with the topography and vegetation of the Baywood peninsula.

It is the intent of this policy to preserve unique and attractive landscapes that serve as an attraction for both local residents and visitors. Clearly, at approximately 226 square feet, the proposed public access view deck is much smaller in size and scale than that of residential development that is currently found along this part of Pasadena Drive. There are several homes along the seaward side of this part of Pasadena Drive that are 2 stories in height. In addition, on the inland side of Pasadena Drive, there are a series of 2 and 3 story residential structures significantly larger than that proposed project. More importantly, the proposed viewing deck will not diminish the public's attraction to the unique features of the neighborhood, rather, a public access improvement such as this will enhance the public's ability to enjoy the unique and attractive features of the landscape that make this neighborhood special.

The County found the project to be consistent with the character of the immediate neighborhood because the project is similar to, and will not conflict with, the surrounding lands and uses. The County agreed to reduce the size roughly in half (from 446 square feet to 226 square feet) and lower the overall elevation of the structure to temper visual intrusions into the scenic backdrop. The Appellant has prepared a series of comparisons of the proposed project when measured against the six closest public access viewing decks on the Peninsula. These comparisons corroborate the County findings and indicate that the proposed project is fairly average in terms of useable square feet and coverage.

In sum, the County-approved project is not atypical of the size and scale of development along this stretch of Pasadena Drive and will not diminish the unique and attractive landscapes of the neighborhood. Contrary to the Appellant's beliefs, development of a public access viewing platform will have an overall benefit to the attractiveness of the neighborhood. The project is substantially consistent with neighboring development and other view decks on the Baywood peninsula. Thus, the issue does not rise to the level of a substantial issue in terms of the project's conformance with the certified LCP.

2. Visual Resources

In addition and related to the compatibility issues described above, the LCP protects the public viewshed, particularly along the shoreline. The LCP Policy 1 states:

Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas as sensitive habitats are to be preserved, protected and in visually degraded areas restored where feasible.

The Appellants contend that the approved project would negatively impact public views. The appeal states that the deck itself will block 30% of the view corridor between houses on Pasadena Drive. In this case, the approved view deck is development between two existing residences. Although it will incrementally add to the amount of development within the public viewshed from the street, its impact would be less than significant within the scope of the existing view. Although some views directly in



front of the new deck would be impaired, the public viewing benefits of the project far outweigh any minor viewshed impacts.

During the local review of the project a number of design changes were made to lessen the impacts of the deck on public views. First, the County reduced the size of the deck nearly in half. Second, the main platform was lowered in elevation to minimize visual intrusions into the scenic backdrop of the Bay. Third, alternative materials have been incorporated into the design of the railings to minimize visual impacts. Lastly, the platform was moved closer to the street to improve overall public accessibility. With these design elements included in the project, visual impacts are minimal.

Finally, the Appellant states that the project is inconsistent with Policy 4 for Visual and Scenic Resources. However, Policy 4 is specifically related to new development in rural areas. This project is located in an urban area of Los Osos. Therefore, this cited policy does not apply to this project and is not analyzed in this report.

This issue does not rise to the level of a substantial issue in terms of the project's conformance with the certified LCP.

3. Landform Alterations

The Appellants contend that the new deck will require excessive amounts (more than 5 cubic yards) of sand excavation. With respect to landform alterations, the LCP states:

Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. Where feasible, contours of the finished surface are to blend with adjacent natural terrain to achieve a consistent grade and natural appearance.

In this case, no grading is proposed for the project. The only landform alteration to occur is were 6 pre-cast posts enter the ground to support the decking structure. The County reasonably concluded that the amount of sand to be displaced is the minimum necessary to safely support the structure. In a letter to the Planning and Building Department, Jan DiLeo the County Parks Planner says: "The location of the deck is in part to provide disabled access, minimize footings, and also to accommodate the deck a little closer to the road right-of-way." In fact, a pier foundation such as the one approved by the County will displace far less sand than other foundation types such as concrete or slab. Furthermore, the area where sand is displaced will be below the deck of the platform and out of public view. The area surrounding the structure will maintain a natural appearance.

Therefore, this issue does not rise to the level of a substantial issue in terms of the project's conformance with the certified LCP.

4. Privacy Needs of Adjacent Residences

The Appellant states that the new viewing deck will adversely impact the privacy needs of adjacent neighbors. As described, the new public access viewing deck is located between two existing residences. According to the Appellant, the new deck will be just 21 feet from the adjacent resident's house.



There are two major reasons why this contention does not raise to the level of a substantial issue. First, and most importantly, the neighbors to the north and south of the project, whose privacy will likely be impacted most by the project, have already agreed to the development of a viewing platform. As described previously, the result of a quiet title action gave each adjacent neighbor approximately 4,250 square feet of the old Bay street right-of-way in exchange for leaving a 500 square foot area for a public access viewing platform. The location of the easement was pre-determined in the agreement with the County. Accordingly, the public viewing deck and approach is proposed entirely within the agreed upon area. Second, The County approved project was designed to minimize impacts to coastal resources as well as adjacent neighbors. The platform was significantly reduced in size (from 446 s.f. to 226 s.f.) and its location was shifted toward the fronting street to further avoid disruptions to adjacent property owners. In fact, the site plans show that the viewing platform only slightly encroaches between the two adjacent homes. Based on these plans, it appears that most of the development is located close to the street where disturbance already exists.

Because of the reasons described above, this issue does not rise to the level of a substantial issue in terms of the project's conformance with the certified LCP.

B. Substantial Issue Conclusion

The County-approved project is development that is not atypical from the existing Baywood peninsula character in terms of size, scale, and design. The approved project is substantially consistent with neighboring development along Pasadena Drive, and would have an insignificant impact on the public viewshed, landform alterations, and the adjacent neighbor's privacy.

Furthermore, the project must viewed in light of the fact that public access viewing decks such as this are high priorities under the Local Coastal Program (LCP) because it promotes public access, coastal recreation, and visitor-serving uses. The proposed project provides for the implementation of a public viewing deck already agreed upon and anticipated by the adjacent neighbors. While a number of issues are raised by the appeal, the overall benefits to public access and recreation far outweigh the insignificant impacts to coastal resources posed by project implementation

Thus, the Commission finds that no substantial issue exists with respect to this project's conformance with the certified San Luis Obispo County LCP and declines to take jurisdiction over the coastal development permit for the project.



SITE



PROJECT

Minor Use Permit
D010261P

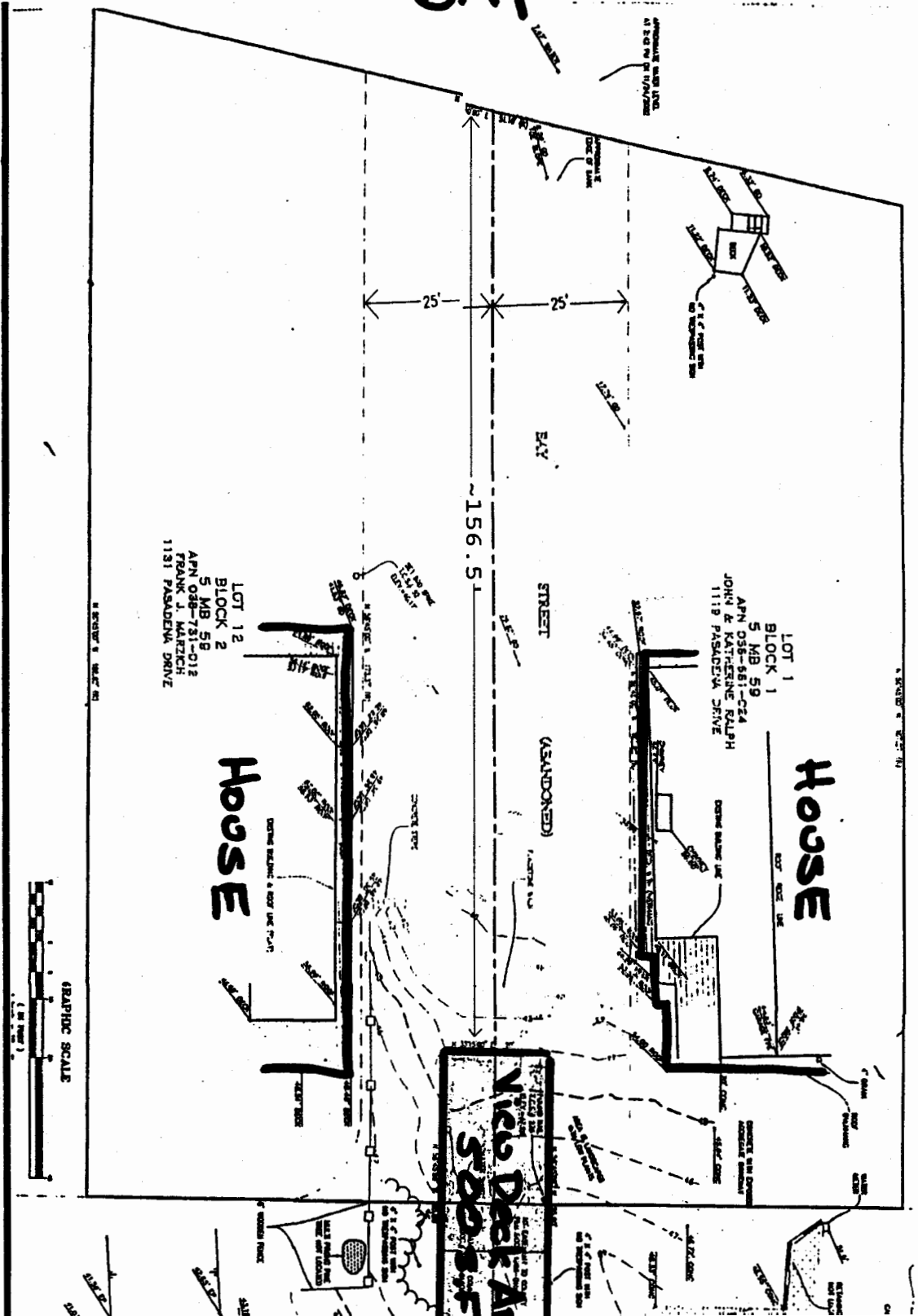


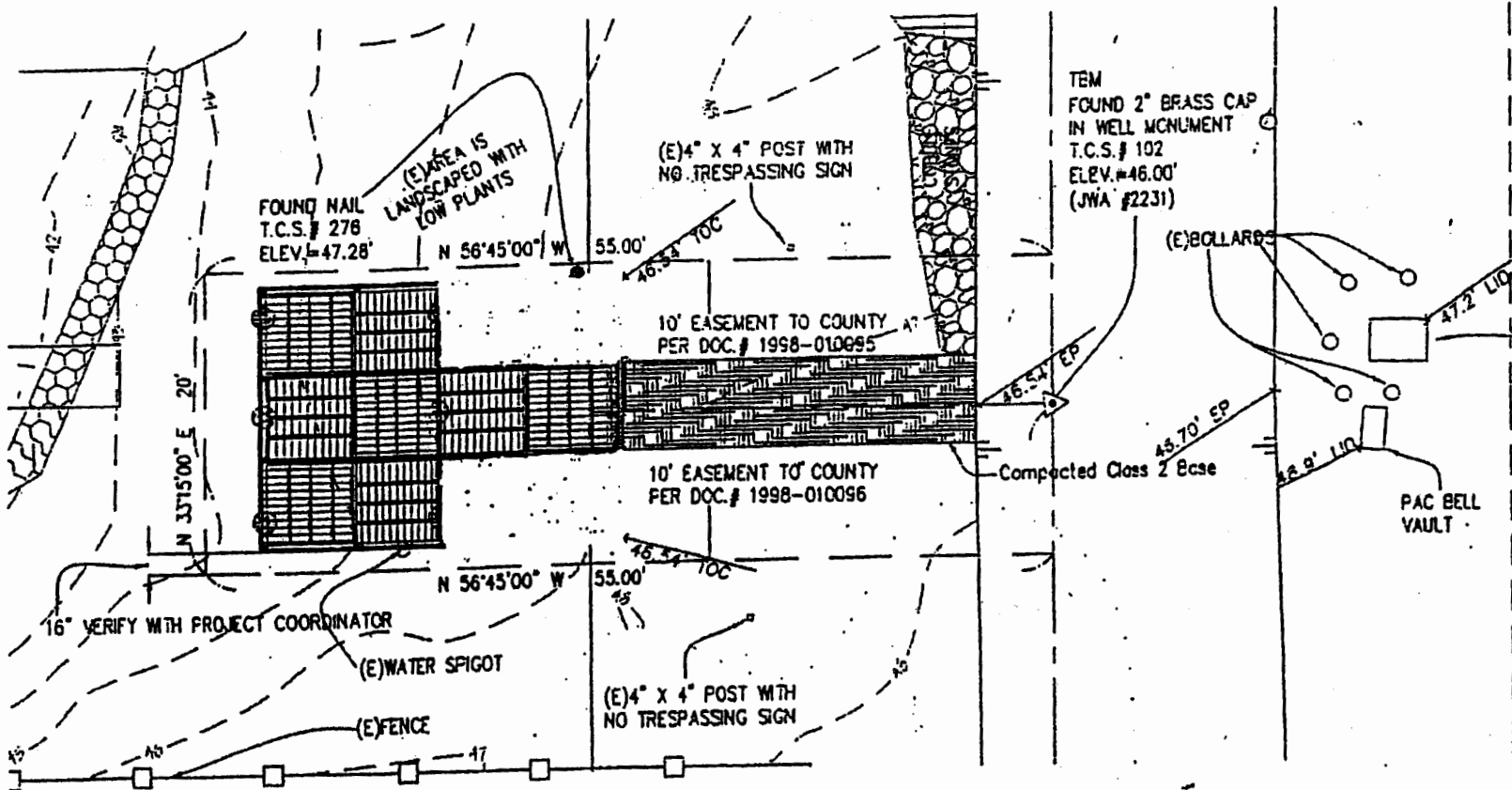
EXHIBIT

Vicinity Map

CCC Exhibit **A**
(page 1 of 3 pages)

BAY





PROJECT

Minor Use Permit
D010261P



EXHIBIT

Revised Site Plan

CCC Exhibit

(page 2 of 3 pages)



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

NOTICE OF FINAL COUNTY ACTION

FINAL LOCAL
ACTION NOTICE
VICTOR HOLANDA, AICP
DIRECTOR

REFERENCE # 3-SLO-04-061

APPEAL PERIOD 2/20-3/4/04

HEARING DATE: January 27, 2004

SUBJECT: DOZ0261P - County of SLO Minor Use Permit

LOCATED WITHIN COASTAL ZONE: YES NO

The above-referenced application was approved on the above-referenced date by the following hearing body:

☒ San Luis Obispo Board of Supervisors

A copy of the findings and conditions is enclosed. The conditions of approval must be completed as set forth in this document.

This action is appealable to the California Coastal Commission pursuant to Coastal Act Section 20603 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. This 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 appeal procedures. If you have questions regarding your project, please contact, Kerry O'Neill, at (805)781-5713.

Sincerely,

Kerry O'Neill

Current Development
SLO County Planning Dept.

(Planning Department use only)

Date NOFA original to applicant: 2/17/04

☒ Mailed

☐ Hand-delivered

Date NOFA copy mailed (certified) to Coastal Commission 2/17/04

Enclosed :

- ☒ Staff Report
- ☒ Resolution
- ☒ Findings and Conditions

RECEIVED

FEB 19 2004

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tues day JAN 27 2004, 2004

PRESENT: Supervisors Shirley Bianchi, Peg Pinard, K.H. "Katcho" Achadjian,
Michael P. Ryan, and Chairperson Harry L. Ovitt

ABSENT: None

RESOLUTION NO 2004-37

**RESOLUTION AFFIRMING THE DECISION OF THE PLANNING DEPARTMENT
HEARING OFFICER AND CONDITIONALLY APPROVING THE APPLICATION OF
THE COUNTY OF SAN LUIS OBISPO,
DEPARTMENT OF GENERAL SERVICES FOR
MINOR USE PERMIT / COASTAL DEVELOPMENT PERMIT
D020261P**

The following resolution is now offered and read:

WHEREAS, on October 2, 2003, the Zoning Administrator of the County of San Luis Obispo (hereinafter referred to as the "Hearing Officer") duly considered and conditionally approved the application of the County of San Luis Obispo, Department of General Services for Minor Use Permit/ Coastal Development Permit D020261P; and

WHEREAS, Jim Marrocco has appealed the Hearing Officer's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on December 16, 2003, and the matter was continued to and determination and decision was made on January 27, 2004; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and determined that the appeal should be denied and the decision of the Hearing Officer should be affirmed subject to the findings and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

CCC Exhibit C
(page 2 of 2 pages)

1. That the recitals set forth herein above are true, correct and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.
3. That the negative declaration prepared for this project is hereby approved as complete and adequate and as having been prepared in accordance with the provisions of the California Environmental Quality Act.
4. That the Board of Supervisors has reviewed and considered the information contained in the negative declaration together with all comments received during the public review process prior to approving the project.
5. That the appeal filed by Jim Marrocco is hereby denied and the decision of the Hearing Officer is affirmed and that the application of the County of San Luis Obispo, Department of General Services for Minor Use Permit / Coastal Development Permit D020261P is hereby approved subject to the conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

Upon motion of Supervisor Bianchi, seconded by ^{Chairperson Ovitt}~~Supervisor~~, and on the following roll call vote, to wit:

AYES: Supervisors Bianchi, Chairperson Ovitt, Pinard, Achadjian, Ryan

NOES: None

ABSENT: None

ABSTAINING: None

the foregoing resolution is hereby adopted.

HARRY L. OVITT

Chairperson of the Board of Supervisors

ATTEST:

JULIE L. RODEWALD
Clerk of the Board of Supervisors

By: VICKI M. SHELBY Deputy Clerk

(SEAL)

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: [Signature]
Deputy County Counsel

Date: January 13, 2004

STATE OF CALIFORNIA) COUNTY OF SAN LUIS OBISPO) ss
I, JULIE L. RODEWALD, County Clerk of the above entitled County, and Ex-Officio Clerk of the Board of Supervisors thereof, do hereby certify the foregoing to be a full, true and correct copy of an order entered in the minutes of said Board of Supervisors, and now remaining of record in my office.
Witness, my hand and seal of said Board of Supervisors this <u>11/0/04</u>
JULIE L. RODEWALD County Clerk and Ex-Officio Clerk of the Board of Supervisors
By <u>Vicki M. Shelby</u> Exhibit C (page 3 of 7 pages)

D020261P 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 (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on September 5, 2003 for this project. Mitigation measures are proposed to address Biological and Cultural Resources 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 use is an allowed use and as conditioned is consistent with all of the General Plan and LCP policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- 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 project is located on a road constructed to a level able to handle any additional traffic associated with the project.

Coastal Access

- G. The project site is located between the first public road and the ocean. The project site is within an urban reserve line (Los Osos) and an existing coastal access point exists within ½ mile of the project site, therefore, the proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act.

Archeological Sensitive Area

- H. The site design and development incorporate adequate measures to ensure that archeological resources will be acceptably and adequately protected because the project has been conditioned to have an archaeologist monitor all earth disturbing activities.

Sensitive Resource Area

- I. As conditioned, the development will not create significant adverse effects on the natural features (Morro Bay) of the site or vicinity that are the basis for the Sensitive Resource Area designation, and will preserve and protect such features through site design.
- J. Natural features and topography have been considered in the design and siting of all proposed physical improvements.
- K. Any proposed clearing of topsoil, trees, or other features is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource.
- L. The soil and subsoil conditions are suitable for any proposed excavation; site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff.
- M. There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.
- N. The proposed use will not significantly disrupt the habitat.

D020261P EXHIBIT B - CONDITIONS OF APPROVAL

Authorized Use

1. This approval authorizes a 226 square foot public access view deck and a 6 foot wide by 33 feet long walkway.
2. All development shall be consistent with the approved site plan.

Public Works

3. Prior to issuance of a building permit, the applicant shall meet all requirements of the County Public Works Department.

Mitigation Measures

4. Prior to any site disturbance, construction areas shall be clearly flagged. All construction shall be limited to within flagged areas.
5. Prior to any site disturbance, a United States Fish and Wildlife Service approved biologist should survey for and move any Morro shoulderband snail found to suitable on-site or off-site habitat areas not planned for disturbance. USFWS authorization shall be required for this activity.
6. Prior to any site disturbance, all personnel associated with project construction activities shall be trained by a USFWS approved biologist on the identification and ecology of the Morro shoulderband snail (MSS), and instructed on the importance of avoiding take of MSS. Workers shall be required to sign a training sheet stating that they have attended the training session, and understand the regulatory implications of "take" as it is defined within the FESA. Workers shall also be instructed on what actions to take in the event that possible MSS are observed on the project site during construction.
7. Within 30 days of project completion, the USFWS approved biologist should prepare a completion report for submittal to the County of San Luis Obispo Planning and Building Department. The report shall summarize all monitoring and mitigation activities conducted during the project, as they pertain to the Morro shoulderband snail.
8. Prior to issuance of construction permits, the applicant shall submit a monitoring plan prepared by a subsurface qualified archaeologist, for the review and approval of the Environmental Coordinator. The monitoring plan shall include:
 - A. List of personnel involved in the monitoring activities;
 - B. Description of how the monitoring shall occur;
 - C. Description of frequency of monitoring (e.g. full-time, part time, spot checking);
 - D. Description of what resources are expected to be encountered;
 - E. Description of circumstances that would result in the halting of work at the project site (e.g. What is considered "significant" archaeological resources?);
 - F. Description of procedures for halting work on the site and notification procedures; and a
 - G. Description of monitoring reporting procedures.
9. During all ground disturbing construction activities, the applicant shall retain a qualified archaeologist, approved by the Environmental Coordinator, to monitor all earth disturbing

activities, per the approved monitoring plan. If any significant archaeological resources or human remains are found during monitoring, work shall stop within the immediate vicinity (precise area to be determined by the archaeologist in the field) of the resource until such time as the resource can be evaluated by an archaeologist and any other appropriate individuals. The applicant shall implement the mitigations as required by the Environmental Coordinator.

10. **Upon completion of all monitoring/mitigation activities, and prior to occupancy or final inspection, whichever occurs first,** the consulting archaeologist shall submit a report to the Environmental Coordinator summarizing all monitoring/mitigation activities and confirming that all recommended mitigation measures have been met. If the analysis included in the Phase III program is not complete by the time final inspection or occupancy will occur, the applicant shall provide to the Environmental Coordinator, proof of obligation to complete the required analysis.

Miscellaneous

11. **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.
12. This permit is valid for a period of 24 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').

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):

JIM MARROCCO

1179 PASADENA DR.

LOS OSOS, CA 93402

(805) 534-0818

Zip

Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:

SAN LUIS OBISPO COUNTY

2. Brief description of development being appealed:

REQUEST BY COUNTY OF SAN LUIS OBISPO FOR A MINOR USE/
COASTAL DEVELOPMENT PERMIT TO ALLOW 226 SQ. FT. PUBLIC
ACCESS VIEW DECK ON A 500 SQ. FT. PARCEL. FILE NO. D020261P

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

WEST SIDE OF PASADENA DRIVE, APPROXIMATELY 500 FT. NORTH
OF SANTA YSABEL, ON ABANDONED BAY STREET, ON THE
BAYWOOD PARK PENINSULA IN THE ESTERO PLANNING AREA.

4. Description of decision being appealed:

a. Approval; no special conditions: ☐

b. Approval with special conditions: ☒

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-04-016

DATE FILED: 3-4-04

DISTRICT: Central

RECEIVED

FEB 23 2004

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA
EXHIBIT D
(page 1 of 22 pages)

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

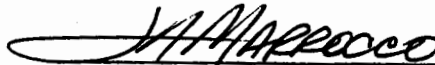
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

PLEASE SEE ATTACHED LETTER DATED
FEB 14, 2004; SUBJECT: MINOR USE / COASTAL DEVELOPMENT
PERMIT; FILE NO. D020261P

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 FEB. 14, 2004

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 D
(page 2 of 20 pages)

Accesses and Sites of County Sponsored Habitat destruction On the Baywood Park Peninsula

AUDUBON VIEW DECK

THIRD STREET BEACH ACCESS

PROPOSED VIEW DECK THE SIZE OF A
TWO CAR GARAGE SITE

SECOND STREET; SITE INCLUDES
100 SQ. FT. CONCRETE SLAB ON BEACH;
A FAILED ATTEMPT AT A BOAT RAMP

FIRST STREET;
UNAUTHORIZED BOAT RAMP AND
HERBICIDE APPLICATION SITE

PASADENA BEACH ACCESS
LACK OF BARRIERS; CAUSING HABITAT
DESTRUCTION IN WETLANDS AND ON
ADJACENT PRIVATE PROPERTIES

MARROCCO

1179 PASADENA DRIVE
LOS OSOS, CA 93402

PHONE: 805-534-0818 FAX: 805-534-0421

Feb. 14, 2004

Subject: Appeal of Minor Use/Coastal Development Permit; File No. D020261P

Dear Coastal Commissioners,

We, my wife, neighbors and I, need your help to preserve our neighborhood, the Baywood Park Peninsula (Please see the cover sheet/aerial view). We live on Pasadena Drive which runs along the perimeter of the peninsula. According to the CPP (Coastal Plan Policies), Chapter 10, page 10-8, the Baywood Park Peninsula, Tract 40, is designated as a "Small Scale Neighborhood".

What the County has permitted, and we are appealing, is the largest view deck in the area; installed on the smallest parcel; covering healthy habitat. It provides the least view, and closest proximity to the adjacent residents (Please see the attached "County Parcels and View Decks" for comparison.). The deck as it is currently described will be the largest of five view decks in the entire Los Osos/ Baywood Park Community. At 226 sq. ft. you will literally be able to drive a PT Cruiser onto the deck; and both the driver and passenger can get out and enjoy 144 sq. ft. on both sides of the car. This violates the following sections of San Luis Obispo County CPP and CZLUO (Coastal Zone Land Use Ordinance) attached:

1. This deck is out of scale and incompatible with the style and natural features of the neighborhood, and that violates CPP Policy 6, page 10-12; Section 23.01.043 d. (1)(ii), (iii), (iv) page 1-20 of the CZLUO.
2. The deck will block 30% of the view corridor between the houses (Please see the attached photos of the "VIEW FROM STREET BEFORE AND AFTER DECK"). That violates CCP Policy 1 and 4, page 10-11.
3. More than 5 cubic yards of sand must be excavated for six concrete piers and curbs constructed on site to support the deck. That violates CPP Policy 5, page 10-12, and Section 23.05.034 of the CZLUO.
4. All of this will all be just 21 feet from the adjacent resident's houses. That violates Sections 23.04.420 h. (2)(i),(iv) page 4-135, 4-136, and k. (3), and (4) page 4-37, 4-38 of the CZLUO.

Even more troubling than this non-compliance project, is the neglect of all the county's properties in Tract 40. Page 10-8 and 10-9 of the Coastal Plan Policies describe this neglect as, "The presents of a few visually unattractive elements have detracted from high scenic quality... 4) Overuse from vehicles and pedestrian trampling the bay front shoreline areas such as... the Otto Estate Easement on Pasadena Drive (Pasadena Beach Access, see photos attached)."

My neighbors and I attempted a restoration project here at the Pasadena Beach Access starting in November of 2000. We met with the County several times, even wrote a mini grant request and received verbal approval from Mike Multary at NEP for \$5000. By May of 2001 County Parks told us they didn't have time, and had other priorities.

Instead of restoration projects, the County has assaulted this "Small Scale Neighborhood" with a project to put a 10 by 50 foot concrete boat ramp, a turnaround,

parking and Mini Park at the South end of 1st Street. Thanks to Audubon and California Fish and Game, this project was put on hold. But that hasn't stopped the damage. The group that wants the ramp has sprayed the County property at 1st Street with un-permitted pesticides and is accelerating bay front erosion on both the County property and the adjacent private property with un-permitted boat launching.

At the North end of 3rd street is another County Beach Access. Aside from occasional weed whacking; the County has neglected it for well over a decade. So, the County has three beach accesses in desperate need of restoration and facilities to control the public, but no scheduled plans to fix any of it. (Please watch the video supplied for a visual documentation of the Elfin Forest, 1st Street, 3rd Street, Pasadena Access, and Bay Street).

It came as quite a surprise when we received a "Notice of Tentative Action/Public Hearing" for the non-compliance view deck on the Bay Street parcel that just three years ago the adjacent residents did what the County hadn't done; they restored it. We appealed it at a Planning Hearing October 3, 2004. Again we were surprised; our concerns were ignored and the Planning Dept. permitted the project; even though the deck violated two of their own local codes; it exceeded 60% lot coverage, and overlapped the County Road-Right-of-way. This caused us to take a little closer look at what was going down here (and you should too).

What we found is a seriously flawed process deceitfully implemented by County staff and appointees (LOCAC). LOCAC initially approved a deck 500% larger than the agreed upon deck size referenced in County Counsel's letter dated December 17, 1997, Re: Settlement Offers on Los Osos Quiet Title Actions." None of LOCAC's volunteer members live in the neighborhood, none talked to anyone in the neighborhood, and none in attendance at their Dec. 11 meeting (that unanimously approved the revised project) had even visited the project site. The residents of Tract 40 were intentionally excluded from the design and review of the project. There is a double standard here. Our "Small Scale Neighborhood" habitat doesn't get the same treatment as the Elfin Forest/Santa Lucia half of the project, nor do the adjacent residents. County parks met three times with the adjacent residents at Santa Lucia regarding the design and their concerns, but never met with the Pasadena residents prior to our appeal (this is all documented and will be presented later).

We think this Minor Use Permit for the Bay Street View Deck should be denied; or significantly reduced in size and postponed until after all the neglected County parcels in Tract 40 are restored. We believe this Small Scale Neighborhood should be reviewed as a whole. Otherwise the County will continue to slip these small non-compliance projects in without California Coastal Review. We need your help to save and restore our neighborhood as well as insure CPP and CZLUO compliance.

Our County does not intend to comply with their CCP, but instead change it. County Planning and LOCAC are now in the process of eliminating/removing the "Small Scale Neighborhood" designation from Tract 40 (Please see the attached LOCAC agenda.). Equally disturbing are the lobbyist to sell the County's non-compliance development projects to you (Please see the newspaper article attached.). We're afraid our neighborhood and the surrounding habitat will be lost to large County recreational development. As we said, we need help; and a little guidance and support wouldn't hurt either. Please review all the County's projects in our "Small Scale Neighborhood," Tract 40, as a whole.

Respectfully Submitted: Kathy and Jim Marrocco, Kay and John Ralph, Chris and Frank Marzichs, Kathy and Rich Grabowski (all residents along Pasadena Drive).

County Parcels and View Decks;

Baywood Park Peninsula

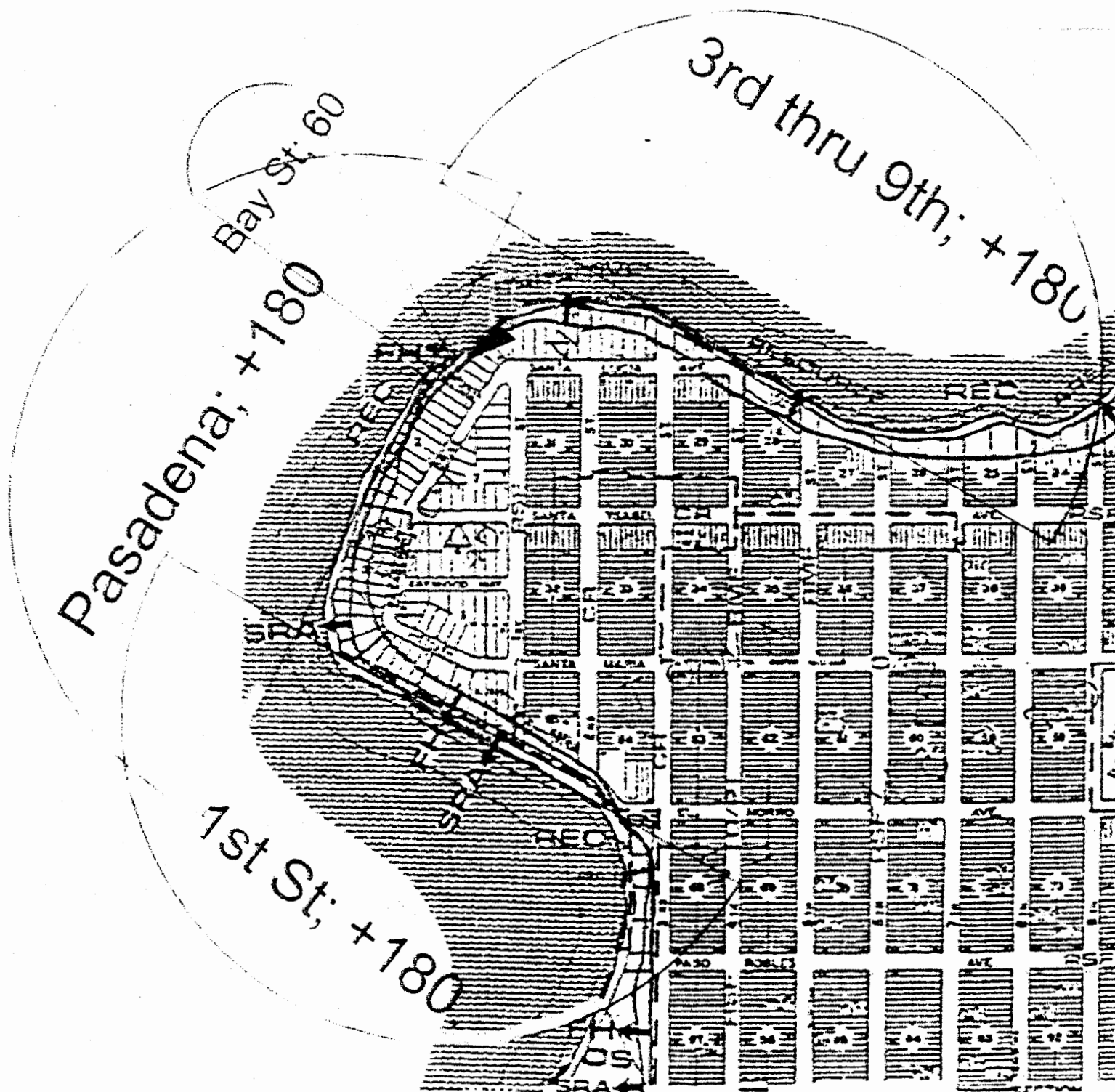
At the County Board of Supervisors meeting December 8, 2003, Shirley Bianchi said you can't put the same size deck at every location; you have to treat every site separately. We completely agree! A view deck's size, location and the need for benches and handrails should be based upon each parcel's size; the view from the parcel; and it's location relative to sensitive habitat and private residences. She also said, "LOCAC doesn't sweat the details." If LOCAC doesn't review project drawings/details, who does? How can they approve projects if they don't sweat the details?

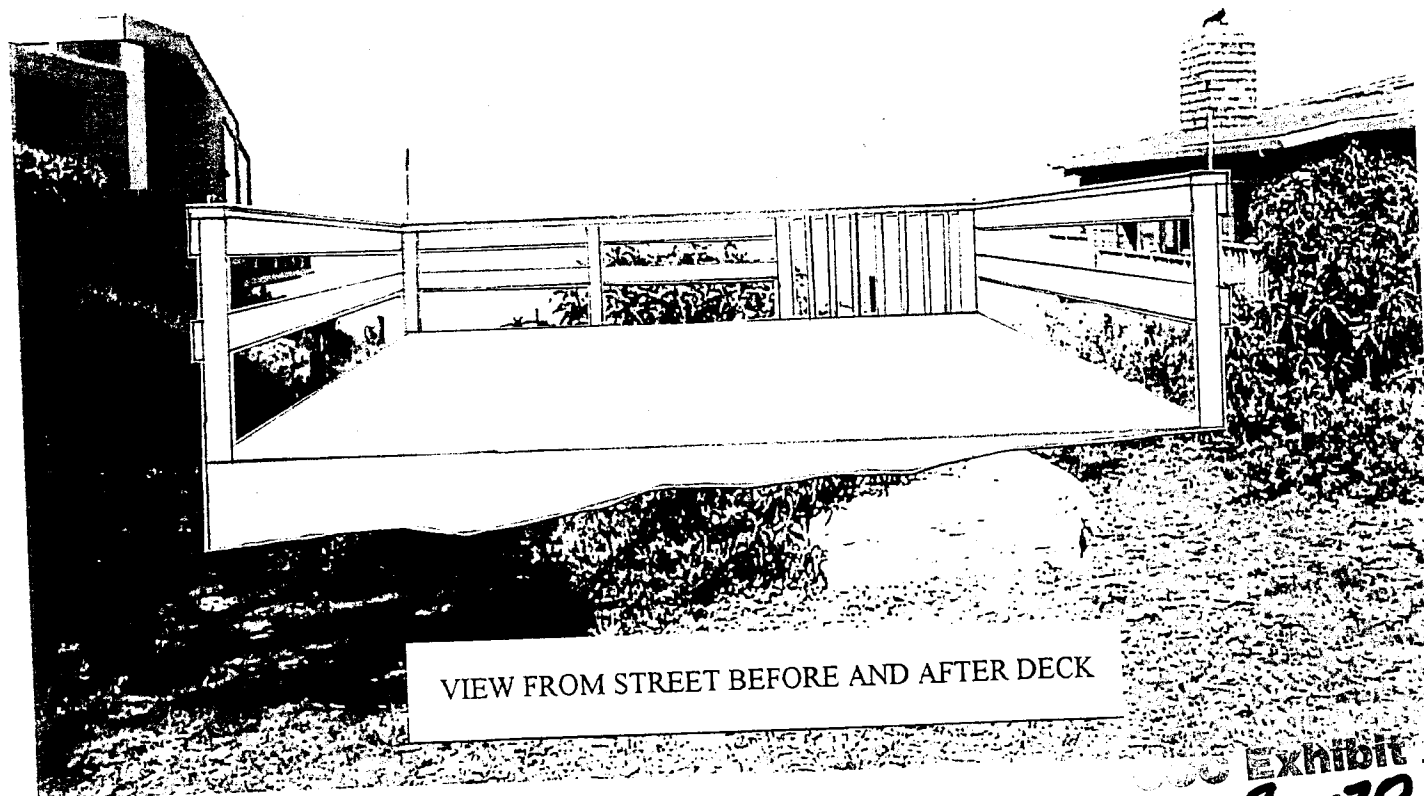
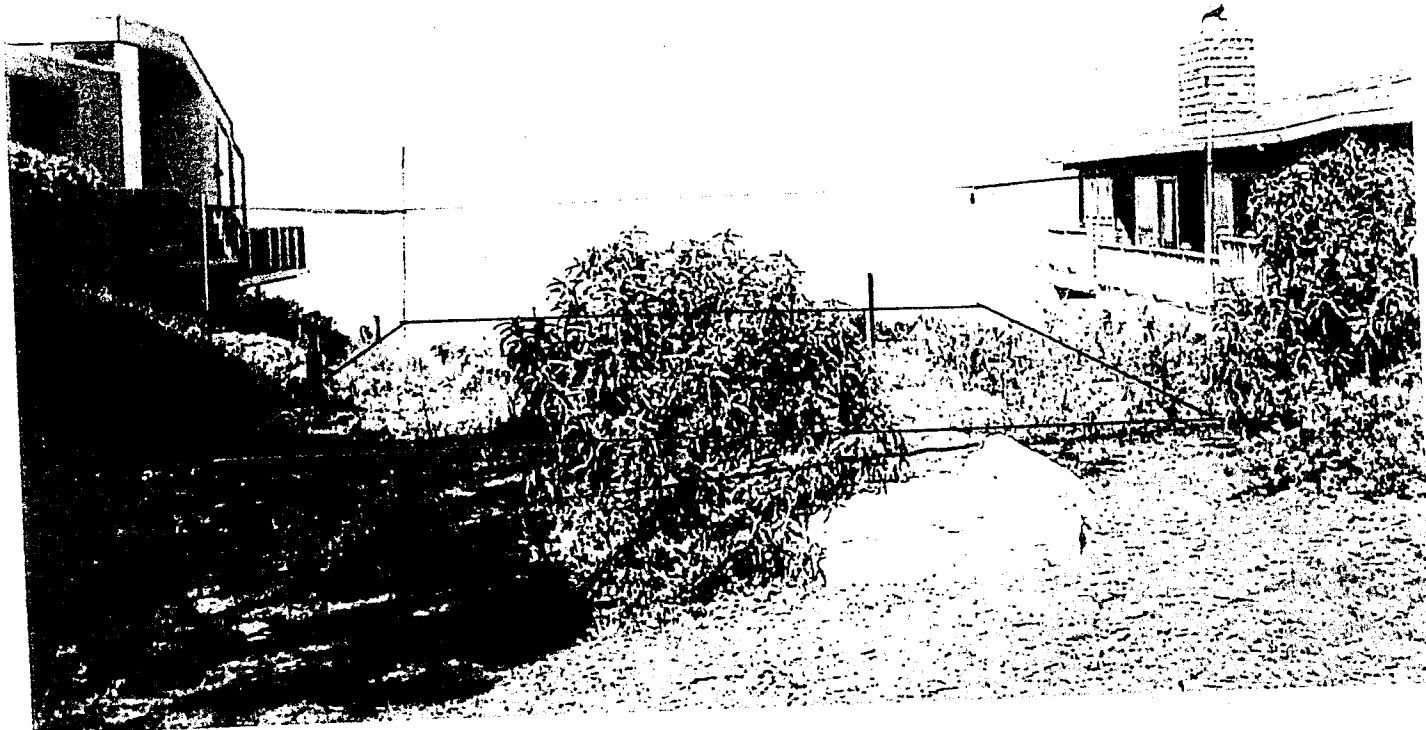
The table below compares Audubon and Elfin Forest view decks with County parcels in Tract 40. The Elfin Forest is an excellent example of how to size and locate view desks and board walks to optimize views, minimize habitat destruction, and preserve the privacy of nearby residents; although the public's parking habits are still a problem for near by residents. The Baywood Park Peninsula, Tract 40 should get the same treatment as the Elfin Forest.

Parcel Location	Size of Parcel	Degrees of View*	Relative location of adjacent residence	View Deck Size(s)
Audubon At 4 th Street	?	180+	>50 feet	180 sq. ft.
Audubon	> 3 acres	180+	>300 feet	170 sq. ft.
Elfin Forest	90 acres or 3,893,760 sq. ft.	270 from both decks	> ¼ mile to nearest house	116 sq. ft. & 220 sq. ft. + 14,100 sq. ft. of boardwalk.
1 st Street	80' x 273' = 21,840 sq. ft.	180 +	>75 ft. at same level	none
Pasadena Drive access	190' x 160' = 30,400 sq. ft.	180 +	>75' and below house level	none
Bay Street	20' x 25' = 500 sq. ft.	58	20' and above house level	226 sq. ft. (proposed)
3 rd Street	80' x 200' = 16,000 sq. ft.	180 +	>75' and below house level	none

* Please see the "Degrees of View" diagram next page.

Degrees of View





VIEW FROM STREET BEFORE AND AFTER DECK

Pasadena Beach Access



Pasadena Access as it used to be with most of the barriers in place. Note that the parking is sited in the wetlands. Below; as it is now without barriers and the public playing in the "Sensitive Wetlands."



23.04.420

- (1) Accessway locations and routes should avoid agricultural areas, sensitive habitats and existing or proposed residential areas by locating near the edge of project sites;
- (2) The size and location of vertical accessways should be based upon the level and intensity of existing and proposed access;
- (3) { Review of the accessway shall consider: safety hazards, adequate parking provisions, privacy needs of adjacent residences, adequate signing, and levels of improvements necessary to provide for access; }
- (4) { Limiting access to pass and repass should be considered where there are nearby residences, where topographic constraints make the use of the beach dangerous, where there are habitat values that can be disturbed by active use. }

[Amended 1995, Ord. 2715]

j. Restoration of degraded access areas. Existing coastal access areas that have been degraded through intense use shall be restored along with construction of new development on the site to the maximum extent feasible. Restoration techniques shall be established through landscaping plan review and approval, and may include trail consolidation and revegetation using native plant species, as well as controlling public access. Restoration shall be required as a condition of land use permit approval, subject to the criteria of this subsection. Restoration of an accessway by a public agency shall require Minor Use Permit approval. The following standards shall apply in addition to any other access improvements required as part of Minor Use Permit review:

- (1) Areas of the site where native vegetation has been destroyed, that are not proposed to be improved with structures, paved areas or landscaping, shall be revegetated with indigenous plants. Prior to revegetation, a landscape plan shall be prepared, reviewed and approved pursuant to Section 23.04.180 et seq. (Landscape) for the areas of revegetation.
- (2) The use of motor vehicles on the accessway, other than maintenance, emergency and agricultural vehicles, shall be prevented by physical barriers for areas other than designated parking.
- (3) Installation of a physical barrier may be required through Minor Use Permit or Development Plan approval to restrict access to degraded areas.
- (4) Public access may be restricted if it is determined that the area is extremely degraded and time is needed to allow recovery of vegetation. Access may be restricted by temporary barriers such as fencing, with signs explaining the restriction. The degree of access and restrictions will be determined by the Planning Director after consultation with the property owner and affected public agencies. At the time of such restriction a date shall be set for removal of such barriers and signs. On or before that date, the Planning Director shall review the progress of recovery and may extend the restriction.

— **k. Sighting criteria for coastal accessway.** In reviewing a proposed accessway, the applicable review body shall consider the effects that a public accessway may have on adjoining land uses in the location and design of the accessway. When new development is proposed, it shall be located so as not to restrict access or to create possible privacy problems. Where feasible, the following general criteria shall be used in reviewing new access locations, or the location of new development where coastal access considerations are involved:

- ➔ (2) **Type and extent of improvements - required findings.** The improvements described in subsection h(1) of this section shall be required to an extent where such improvements:

- (i) { Are necessary to either assure reasonable public access, protect the health and safety of access users, assure and provide for proper long-term maintenance of the accessway, or protect the privacy of adjacent residents. }
- (ii) Are adequate to accommodate the expected level and intensity of public use that may occur;
- (iii) Can be properly maintained by the approved maintenance entity;
- (iv) { Incorporate adequate measures to protect the privacy and property rights of adjoining property owners and residents. }

- i. **Accessway signing.** Where required through land use permit or tentative subdivision map approval, signs installed in conjunction with accessways shall conform to the following standards:

- (1) **Sign design.** Accessway signs shall use white letters on a brown background. The number and dimensions of signs are to be determined through land use permit review.
- (2) **Identification Signs:** Shall contain the words "COASTAL ACCESS" in three-inch letters at the top of the sign, as well as the name of the accessway, if any, and indicate if there are any hazards or rare or endangered species.
- (3) **No Trespass Signs:** Shall contain the words "RESPECT PRIVATE PROPERTY - NO TRESPASSING".
- (4) **Hazard Signs:** Shall be located at the tops of bluffs or cliffs.
- (5) **Parking area signing:** Each parking area shall be posted in a location visible from the public road with a sign that is between two and four square feet in area, stating: "PARKING FOR PUBLIC COASTAL ACCESS". Lettering shall be a minimum of two inches high and clearly legible.

- (4) **Procedures for open space easements and public access documents.** Pursuant to Section 13574 of Title 14 of the California Administrative Code, all land use permits and tentative subdivision maps subject to conditions of approval pertaining to public access, open space, agricultural or conservation easements shall be subject to the following procedures:

- (i) All legal documents shall be forwarded to the executive director of the Coastal Commission for review and approval as to the legal adequacy and consistency with the requirements of potential accepting agencies;
- (ii) The executive director of the Coastal Commission shall have 15 working days from the receipt of the documents in which to complete the review and to notify the applicant and the county of recommended revisions, if any;
- (iii) If the executive director of the Coastal Commission has recommended revisions to the applicant, the land use permit shall not become effective pursuant to Section 23.02.034d of this title until the deficiencies have been resolved to the satisfaction of the executive director;
- (iv) The land use permit may become effective (Section 23.02.034d) upon expiration of the 15 working day period if the Coastal Commission has not notified the applicant and the county that the documents are not acceptable.

→ **h. Requirements for access improvements and support facilities.** Coastal accessways required by this section or by planning area standards of the Land Use Element shall be physically improved as provided by this subsection. The need for improvements to any accessway shall be considered as part of land use permit approval, and responsibility for constructing the improvement shall be borne by the developer or consenting public agency. After construction, maintenance and repair may be accomplished by a public agency or by a private entity approved by the applicable review body taking action on the project land use permit.

- (1) **Typical improvements that may be required.** The extent and type of improvements and support facilities that may be required may include but are not limited to drainage and erosion control measures, planting, surfacing, structures such as steps, stairways, handrails, barriers, fences or walls, benches, tables, lighting, parking spaces for the disabled, safety vehicles or general public use, as well as structures such as restrooms or overlooks.

- (5) Any development that constitutes a Major Public Works Project or Major Energy Facility. "Major Public Works Project" or "Major Energy Facility" shall mean any proposed public works project or energy facility exceeding \$100,000 in estimated construction cost, pursuant to Section 13012, Title 14 of the California Administrative Code.

→ d. **Grounds for appeal.** As required by Section 30603 of the Public Resources Code, appeals to the Coastal Commission shall use only the following grounds for appeal and no others:

- (1) The grounds for appeal of any development listed in subsections c(1) of this section shall be limited to one or more of the following allegations:

- (i) The development fails to provide adequate physical access to and along the coast; or the development fails to provide adequate public or private commercial use in an area designated by the Land Use Element for such use; or interferes with such uses.

- (ii) { The development fails to protect public views from any public road or from a recreational area to, and along the coast. }

- (iii) { The development is not compatible with the established physical scale of the area. For the purposes of this section, "established physical scale of the area" shall include but is not limited to existing natural and manmade landforms and structures in the area, and includes consideration of height, massing and character of the proposed development with its surroundings. }

- (iv) { The development may significantly alter existing natural landforms. }

- (v) The development does not comply with shoreline erosion and geologic setback requirements.

- (2) The grounds for appeal of any development listed in subsections c(2), c(3), c(4) or c(5) of this section shall be limited to an allegation that the development does not conform to the certified local coastal program.

e. **Time for appeal to Coastal Commission.** Any final action by the county on an appealable development shall become effective after the 10-working day appeal period to the Commission in accordance with the requirements of Section 23.02.039 and applicable provisions of the Coastal Act.

→ **Policy 5: Landform Alterations**

Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. Where feasible, contours of the finished surface are to blend with adjacent natural terrain to achieve a consistent grade and natural appearance. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.034 OF THE CZLUO.]

→ **Policy 6: Special Communities and Small-Scale Neighborhoods**

Within the urbanized areas defined as small-scale neighborhoods or special communities, new development shall be designed and sited to complement and be visually compatible with existing characteristics of the community which may include concerns for the scale of new structures, compatibility with unique or distinguished architectural historical style, or natural features that add to the overall attractiveness of the community. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO CHAPTER 23.11 (DEFINITIONS) OF THE CZLUO.]

Policy 7: Preservation of Trees and Native Vegetation

The location and design of new development shall minimize the need for tree removal. When trees must be removed to accommodate new development or because they are determined to be a safety hazard, the site is to be replanted with similar species or other species which are reflective of the community character. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.05.064 OF THE CZLUO.]

Policy 8: Utility Lines within View Corridors

Where feasible, utility lines within public view corridors should be placed underground whenever their aboveground placement would inhibit or detract from ocean views. In all other cases, where feasible, they shall be placed in such a manner as to minimize their visibility from the road. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.08.284 OF THE CZLUO.]

Policy 9: Signs

Prohibit off-premise commercial signs except for seasonal, temporary agricultural signs. Design on-premise commercial signs as an integral part of the structure they identify and which do not extend above the roofline. Information and direction signs shall be designed to be simple, easy-to-read and harmonize with surrounding elements. [THIS POLICY SHALL BE

POLICIES FOR VISUAL AND SCENIC RESOURCES

→ Policy 1: Protection of Visual and Scenic Resources

Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved protected, and in visually degraded areas restored where feasible. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 2: Site Selection for New Development

Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors. In particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 3: Stringline Method for Siting New Development

In a developed area where new construction is generally infilling and is otherwise consistent with Local Coastal Plan policies, no part of a proposed new structure, including decks, shall be built farther onto a beachfront than a line drawn between the most seaward portions of the adjoining structures; except where the shoreline has substantial variations in landform between adjacent lots in which case the average setback of the adjoining lots shall be used. At all times, this setback must be adequate to ensure geologic stability in accordance with the policies of the Hazards chapter. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.118 OF THE CZLUO.]

→ Policy 4: New Development in Rural Areas

New development shall be sited to minimize its visibility from public view corridors. Structures shall be designed (height, bulk, style) to be subordinate to, and blend with, the rural character of the area. New development which cannot be sited outside of public view corridors is to be screened utilizing native vegetation; however, such vegetation, when mature, must also be selected and sited in such a manner as to not obstruct major public views. New land divisions whose only building site would be on a highly visible slope or ridgetop shall be prohibited. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.04.021 OF THE CZLUO.]

single-family homes, as well as street landscaping; 2) sprawling residential developments that intrude on the open space hillsides and hilltops providing a scenic backdrop for the coastal community and coastal views; 3) bulky two-story residential development on bayfront lots which obscure ocean views and require removal of native vegetation (such as Pygmy Oaks); and 4) overuse from vehicles and pedestrian trampling the bay front shoreline areas such as Sweet Springs, Cuesta Inlet and the Otto Estate easement on Pasadena Drive.

Oceano Beach Subdivision. The Oceano Beach Subdivision is between Pismo State Beach and Highway 1, approximately two miles south of the city of Pismo Beach. The subdivision is characterized by residential parcels and the sensitive habitat of the Oceano Lagoon. The rolling sand dunes are highest along the beach side of Strand Way and slope down toward the lagoon on the inland side of the neighborhood. The older residences are generally smaller one and two-story residences resembling the cottage character. The majority of new construction is taller and bulkier, changing the community character from small-scale low density, beach residential neighborhood to a more intense urban character.

E. COMMUNITY SMALL SCALE DESIGN NEIGHBORHOODS

Cayucos - Studio Drive and Pacific Avenue. Studio Drive and Pacific Avenue are residential neighborhoods characterized by 25 to 40 foot wide lots. Most of the structures are low profile one-story houses. The Studio Drive area is immediately adjacent to Highway 1, from which a view of the ocean is usually available.

Any structure within the northern portion of Studio Drive will block some view of the ocean, but two-story structures will also eliminate vistas of the distant ocean and the horizon, cutting off all visual connection with the ocean. One-story structures on Studio Drive, however, do not block vistas from the highway. Based on these criteria, the Studio Drive area should remain as a lower profile area of one-story structures, where two-story structures would block these vistas, to preserve community character.

A public view of the ocean from Highway 1 exists for nearly all of the length of Pacific Avenue. An even more significant public view exists from the major public ocean front road, Pacific Avenue. In addition, the neighborhood is predominantly one-story houses.

Issues and Concerns

The California Coastal Act of 1976 established a comprehensive program to ensure protection of the natural and scenic resources in the coastal zone. Protection strategies must be designed to achieve these Coastal Act policies by minimizing or eliminating any adverse effects. A summary of the most frequently used strategies follows.

Public Acquisition. Public acquisition of aesthetic resources can be accomplished through outright purchase or through purchase of selected rights to protect views or sensitive habitat

Several visually distracting elements interfere with the otherwise high visual integrity. These elements include storage tanks and petroleum facilities, deteriorating residential structures and overuse at Mallagh's Landing.

D. SMALL SCALE NEIGHBORHOODS

Cambria. Cambria is an unincorporated community approximately 20 miles north of Morro Bay. Its scenic physical setting is highly valued by residents as well as visitors to the area. The combination of pristine coastline views, pine-forested hillsides and the open space landscape are important resources which contribute to Cambria's attractiveness.

Within much of these forested areas are premature subdivisions of 25 foot lots that were developed without regard for topography and physical features. This is a complex issue that requires consideration of habitat concerns, visual concerns, public service availability, etc.

Due to the complexity and unique characteristics of the Moonstone Beach Drive and Main Street areas, the community character and visual qualities of these areas were discussed previously as special communities.

South Bay. South Bay is a small-scale residential community consisting of the identified neighborhoods of Los Osos, Baywood Park and Cuesta-by-the-Sea, situated around the southern tidelands of Morro Bay. The community is bordered on the north by tidelands, with low sand dunes on the west, forested and open space slopes on the south, and agricultural land on the east.

The scenic setting of South Bay encompasses many significant and unique natural resources. These scenic features are an attraction for both local residents and visitors. South Bay is an entry way for visitors to Morro Bay and Montana de Oro State Parks. Vistas of the bay, Morro Rock and the sand spit are available from a variety of positions on the hillsides, along the banks of the estuary and from several major public roads.

{ Some of the development within South Bay contributes to the attractiveness and adds character to the area. In particular, the Pasadena Drive neighborhood on the Baywood peninsula maintains a small-scale low-density nature consistent with the topography and vegetation of the peninsula. The small commercial area on Second Street within the Baywood Village is an attractive element of the community and can be characterized as a special community. The low density commercial area, consisting of restaurants and a variety of shops and offices is uniquely situated near the bayfront within walking and viewing distance of a pier area used for ocean and bay viewing. Lower speed automobile traffic, parking and the concentration of shops and services is conducive to safe bicycle and pedestrian use.

{ The presence of a few visually unattractive elements have detracted from high scenic quality. Some of these visual detractors include: 1) the lack of natural vegetation or landscaping for

Contract to pay lobbyist approved

By DAVID SNEED
THE TRIBUNE

A lobbyist who represents many coastal developers will continue to be the county's point person in efforts to improve strained relations with the state Coastal Commission.

Supervisors approved a contract Tuesday to pay Sacramento lobbyist Susan McCabe as much as \$60,000 to represent the county at Coastal Commission meetings this year.

Coastal conservationists are critical of the contract, saying it is an attempt to allow more development on the coast and avoid updating the county's local coastal program.

"The greatest threat I see to the coast

COUNTY WILL PAY \$60,000 FOR REPRESENTATION AT COASTAL COMMISSION MEETINGS THIS YEAR

is the five of you," Pam Heatherington, with the Environmental Center of San Luis Obispo, told supervisors.

Tarren Collins, with the Sierra Club, said that McCabe's list of clients is a "who's who of coastal developers."

James Patterson, a supervisor candidate from Atascadero, urged the board to spend the \$60,000 on updating the local coastal program and let county staff lobby the commission. Expense was one of the reasons given by the

county for its slow progress in updating its coastal program.

All five supervisors defended the contract as a necessary means of protecting local control of the coast. Supervisors have criticized the commission for overstepping its authority.

"There may be places where the Coastal Commission needs to take a heavy hand, but I don't think San Luis Obispo County is one of them," said Supervisor Peg Pinard.

Supervisor Mike Ryan said he expects the contract to save the county money because McCabe will expedite the county's dealings with the commission, thereby reducing staff time spent on appeals and updates.

The county is updating its coastal planning rules at the behest of the Coastal Commission. Commissioners and their staff have been critical of the county's slow progress in the update.

Last year, the county paid McCabe \$25,000 to improve the county's relations with the commission. Supervisors credited her with talking the commission out of sending a letter asking the state Legislature to censure the county for its lack of progress in the update process.

Exhibit D
19 of 29 pages
(page 19 of 29 pages)

LOCAC

LOS OSOS
COMMUNITY
ADVISORY
COUNCIL

AGENDA

E-MAIL LOCAC

HOME

LOS OSOS COMMUNITY ADVISORY COUNCIL
AGENDA
THURSDAY, JANUARY 22, 2004

Los Osos Community Advisory Council
Agenda: Thursday January 22, 2004
South Bay Community Center 7PM

7:00 Call to Order (Allen)

Roll Call (Gary D.)
Treasurer's Report (Ray)

7:05 Chairman Announcements

LOCAC Election
Calendar of upcoming events, EAPDU SLO Jan 27th

7:10 County Supervisor's Report (Shirley Bianchi)

County Planning Report (Mike Wulkan)
Public Works (Ms. Rosemarie Gaglione)
Sheriff's Report (Patrick)
CSD Report Rose Bowker HCP Update

Agenda Items:

7:30 Fuel Modification Areas above Cabrillo, Highland, and Bayview Heights

Firebreaks, emergency access, setbacks between development and open space, greenbelt,
and sensitive habitat (see EAPDU 7-13)

8:00 Goedinghaus project changes (Kerry O'Neill)

8:20 Los Osos "Special Community" and "Small Scale Neighborhood" designation.

8:40 Los Osos Wastewater Treatment Plant Design Update (Bruce Buel)

Review of any significant design changes made in 2003

9:00 Public Comment

9:30 Adjourn

Upcoming agenda items:

- Morro-Montana Project (Pecho Rd.)
- Donovan Project (Sweet Springs)

