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Th27b

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APPEAL STAFF REPORT - SUBSTANTIAL ISSUE DETERMINATION

Appeal number.....**A-3-SLO-07-041**

Applicant.....Brent Richissin

Appellant.....George L. Taylor

Local government .....San Luis Obispo County (D000480P / D010107V)

Local decision .....Approved with conditions (July 24, 2007)

Project location .....Austin Court, Los Osos, Estero Planning Area, San Luis Obispo County.

Project description.....Construct a 4,534 square foot single-family residence with an attached garage on slopes in excess of 30 percent. The project includes the removal of 59 eucalyptus trees.

File documents.....San Luis Obispo County Certified Local Coastal Program; County Final Local Action Notice; (D000480P / D010107V); Mitigated Negative Declaration and Notice of Determination No. ED06-036.

Staff recommendation ...**Substantial Issue**

Summary of staff recommendation: San Luis Obispo County approved a coastal development permit and variance allowing construction of a 4,534 square foot single-family residence with attached garage on slopes in excess of 30 percent. The project is located in the Cabrillo Estates neighborhood of Los Osos, San Luis Obispo County. The standard of review is the San Luis Obispo County certified Local Coastal Program (LCP).

The County approval has been appealed, with the appellant citing inconsistencies with the certified LCP. The appellant's contentions can be generally grouped into the following four LCP issue areas: 1) Public Works; 2) Coastal Watersheds; 3) Visual and Scenic Resources; and 4) Variances.

LCP Public Works Policy 1 requires that new development demonstrate that adequate service capacities are available. In Los Osos there is considerable uncertainty as to the available water supply. Current estimates show that urban water demand exceeds safe yield of the Los Osos groundwater basin and is resulting in seawater intrusion. Through the LCP's Resource Management System (RMS), the County Board of Supervisors recently certified a Level of Severity III (the highest level) for water supply in the Los Osos groundwater basin. The Board of Supervisor's recognition of the severe water supply problem and action to address the issue through private retrofitting by itself raises a substantial issue.

Substantial issues are further raised due to the absence of an appropriate programmatic response to address the issue. The County did address the water supply issue in this case by requiring the applicant to retrofit 23 homes in the community with low flow toilets and showerheads. However, this response is problematic because there is no program in place to implement the retrofitting, nor is there a formal entity like a water purveyor or community services district that has taken responsibility to oversee the retrofitting. Instead, the County's condition places the burden on the applicant to conduct private retrofits in the community. Without a formalized retrofit program in place, questions are raised as to the effectiveness, the ability to monitor, and the enforceability of such an approach.

The second issue raised by the appellant relates to controlling erosion and sedimentation, on managing drainage patterns to reduce erosion and runoff, and on siting development off of steeper slopes within coastal watersheds. To control erosion and sedimentation, the LCP limits grading, based on the slope and timing of work. For grading or vegetation removal on steep slopes, a grading and erosion control plan is required. The LCP requires that "appropriate control measures" be used to minimize erosion and sedimentation. To protect groundwater basins, the LCP encourages on-site retention of runoff when feasible. The project site is steep, with some grading proposed on slopes in excess of 30 percent. Impacts caused by downslope drainage and surface runoff are likely to be exacerbated by the removal of up to 59 eucalyptus trees. The County conditions of approval appear effective in dealing with such impacts before and during construction. However, it is unclear how the County approved project addresses post-construction drainage and runoff. Thus, a substantial issue is raised regarding the protection of coastal watersheds.

However, substantial issues are not raised regarding the appellant's allegations regarding the project's conformance with LCP policies related to neighborhood character and the use of variances. The project is located in an existing developed area and is not substantially different than other development in the vicinity. The incremental impact of this structure on the public viewshed would be negligible because it is development between existing houses in a neighborhood already impacted by residential development. Regarding the use of variances, a review of the County approval indicates that all of the required findings necessary to grant a variance have been met.

Staff recommends that the Commission find that **a substantial issue** exists with respect to this project's conformance with the certified San Luis Obispo County certified LCP regarding adequate public service capacities and coastal watersheds and take jurisdiction over the coastal development permit for the project.

Report Contents

1. Appeal of San Luis Obispo County Decision

A. San Luis Obispo County Action

San Luis Obispo County approved the project subject to thirty special conditions on July 24, 2007 (see Exhibit C for the County's adopted findings, conditions, and staff report 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 Appellant in this matter before the Commission (George Taylor) is the same person who appealed the Planning Commission's decision.

Notice of the Board of Supervisor's action on the coastal development permit was received in the Coastal Commission's Central Coast District Office on August 6, 2007. The Coastal Commission's ten-working day appeal period for this action began on August 7, 2007 and concluded at 5pm on August 20, 2007. 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.

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. Summary of Appellants' Contentions

The Appellant contends that the approved project is inconsistent with the LCP policies related to public works, coastal watersheds, visual and scenic resources, and the use of variances. In sum, the appellant contends that adequate public services are not available to serve the proposed development, that grading on steep slopes, use of septic systems, and excessive tree removal will have adverse impacts on coastal watersheds, and that the development would be incompatible with the style and natural features of the neighborhood due to the mass, scale, and design approved. In addition, the appellant contends that the County inappropriately granted a variance for development on slopes exceeding thirty percent.

Please see exhibit D for the appellants' complete appeal document.

2. Staff Recommendation on Substantial Issue

The staff recommends that the Commission determine that **a substantial issue exists** with respect to some of the grounds on which the appeal was filed. 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-07-041 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 Substantial Issue. Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution to Find Substantial Issue. The Commission hereby finds that Appeal Number A-3-SLO-07-041 presents a substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.

Recommended Findings and Declarations

The Commission finds and declares as follows:

3. Project Description

A. Project Location

The proposed development is located in the Cabrillo Estates neighborhood at the western end of Austin Court, approximately 220 feet west of Crocket Circle, in the community of Los Osos in the Estero Planning Area. The site is located in the Residential Single-Family land use category of the certified LCP. The surrounding parcels are also developed with single-family residences. See Exhibit A for a location map and Exhibit B for an aerial photo of the site and surrounding neighborhood.

B. County Approved Project

The County approved project includes construction of a 4,534 square foot single-family residence with an attached garage on slopes in excess of 30 percent. The project includes the removal of 59 eucalyptus trees. 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 can be generally grouped into the following four LCP issue areas: 1) Public Works; 2) Coastal Watersheds; 3) Visual and Scenic Resources; and 4) Variances. The following LCP policies and ordinances have been cited in relevant part:

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. …*

CZLUO Section 23.04.430 - Availability of Water Supply and Sewage Disposal Services. *A land use permit for new development that requires water or disposal of sewage shall not be approved unless the applicable approval body determines that there is adequate water and sewage disposal capacity available to serve the proposed development, as provided by this section. Subsections a. and b. of this section give priority to infilling development within the urban service line over development proposed between the USL and URL. In communities with limited water and sewage disposal service capacities as defined by Resource Management System alert levels II or III:*

a. A land use permit for development to be located between an urban services line and urban reserve line shall not be approved unless the approval body first finds that the capacities of available water supply and sewage disposal services are sufficient to accommodate both existing development, and allowed development on presently-vacant parcels within the urban services line.

b. Development outside the urban services line shall be approved only if it can be served by adequate on-site water and sewage disposal systems, except that development of a single-family dwelling on an existing parcel may connect to a community water system if such service exists adjacent to the subject parcel and lateral connection can be accomplished without trunk line extension.

Coastal Watersheds

Policy 7: Siting of New Development. *Grading for the purpose of creating a site for a structure or other development shall be limited to slopes of less than 20 percent except:*

Existing lots of record in the Residential Single-Family category and where a residence cannot be feasibly sited on a slope less than 20 percent;

When grading of an access road or driveway is necessary to provide access to an area of less than 20 percent slope where development is intended to occur, and where there is no less environmentally damaging alternative;

The county may approve grading and siting of development on slopes between 20 percent and 30 percent through Minor Use Permit, or Development Plan approval, if otherwise required by the Coastal Zone Land Use Ordinance. Also in review of proposed land divisions, each new parcel shall locate the building envelope and access road on slopes of less than 20 percent. In allowing grading on slopes between 20 percent and 30 percent the county shall consider the specific characteristics of the site and surrounding area that include but are not limited to: the proximity of nearby streams or wetlands, the erosion potential and slope stability of the site, the amount of grading necessary, neighborhood drainage characteristics and measures proposed by the applicant to reduce potential erosion and sedimentation. The county may also consider approving grading on slopes between 20 percent and 30 percent where it has been demonstrated that there is no other feasible method of establishing an allowable use on the site without grading. Grading and erosion control plans shall be prepared by a registered civil engineer and accompany any request to allow grading on slopes between 20 percent and 30 percent. It shall also be demonstrated that the proposed grading is sensitive to the natural landform of the site and surrounding area.

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 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.]*

Variances

23.01.045 (d): Action on a variance. *The Planning Commission shall approve, approve subject to conditions, or disapprove a variance as set forth in this subsection. Such decision may be appealed to the Board of Supervisors as set forth in Section 23.01.042 (Appeal).*

***(1) Findings**. Approval or conditional approval may be granted only when the Planning Commission first determines that the variance satisfies the criteria set forth in Government Code Section 65906 by finding that:*

(i) The variance authorized does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and land use category in which such property is situation; and

(ii) There are special circumstances applicable to the property, related only to size, shape, topography, location, or surroundings, and because of these circumstances, the strict application of this title would deprive the property of privileges enjoyed by other property in the vicinity that is in the same land use category; and

(iii) The variance does not authorize a use that is not otherwise authorized in the land use category; and

(iv) The variance is consistent with the provisions of the Local Coastal Program; and

(v) The granting of such application does not, under the circumstances and conditions applied in the particular case, adversely affect public health or safety, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements.

B. Analysis of Consistency with Cited Policies

As detailed below, the appeal raises a substantial issue with respect to the project's conformance with the certified LCP's policies and ordinances regarding Public Works and Coastal Watersheds. Substantial issues are not raised with respect to the project's conformance with LCP policies and ordinances regarding Visual and Scenic Resources and the use of Variances.

1. Public Works

LCP Public Works Policy 1 cited above requires that new development demonstrate that adequate public service capacities are available to serve the proposed development. Policy 1 further directs that new development only be approved if is environmentally-sustainable by requiring a finding be made that "there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban services line" prior to permitting all new development. This required finding is also mandated by section 23.04.430 of the CZLUO with a focus on communities where water and sewer capacities are limited. Together, these standards establish rigorous findings for approving new development in areas that are facing critical resource shortages.

The Resource Management System

To facilitate implementation of Public Works Policy 1 and its corresponding ordinances the LCP requires the use of a Resource Management System (RMS). The RMS is an annual evaluation of available essential resources throughout the County including water supply, sewage disposal, roads, schools, and air quality. The RMS identifies where resources exist or are deficient to support growth.

The RMS is designed to be a growth management tool to assess information and identify management measures or necessary capitol improvements to support existing and new development. In theory, it is also an important mechanism for assuring that coastal resources, particularly groundwater basins and creeks, are not overly impacted by development.

The RMS uses three levels of alert (called levels of severity, or LOS) to identify potential and progressively more immediate resource deficiencies. The alert levels are meant to provide sufficient time for avoiding or correcting a shortage before crisis develops. Level I is defined as the state when sufficient lead time exists either to expand the capacity of the resource or to decrease the rate at which the resource is being depleted. Level II identifies the crucial point at which some moderation of the rate of resource use must occur to prevent exceeding the resource capacity. Level III occurs when the demand for the resource equals or exceeds its supply.

As described in the LCP, the Planning Department notifies the Board of Supervisors when RMS monitoring indicates that a particular resource level of severity in a community appears to have been reached. If the Board concurs in the recommended LOS, a more detailed resource capacity study is completed, followed by public hearings and review by the Planning Commission. Based on this review, the Planning Commission recommends a LOS to the Board. The RMS outlines specific measures that must be implemented for each LOS if the Board formally certifies the recommended level. These measures include such things as identifying and funding new capitol improvements, imposing conservation measures, or even enacting development moratoriums.

Water Supply Background

The RMS has long recommended a LOS of either II or III for water supply and distribution in Los Osos. As presented in the February 2007 Resource Capacity Study, there have been numerous studies focused on Los Osos Valley groundwater issues:

1. Brown and Caldwell (1974): Safe yield at 1,300-1,800 acre feet per year (AFY). This is questioned in the Cleath report, July 2005, where 1,800 AFY is said to be consumptive use and not gross water production. The correct number, according to Cleath, should be closer to 3,750 AFY.

2. Department of Water Resources (1989): The DWR report determined a safe yield of 2,200 AFY through the use of a USGS model. Cleath adjusts this number to 3,140 AFY.

3. URS Corporation (2000): Uses 3,150 AFY as safe yield. URS used and updated USGS model.

4. Cleath and Associates (2002): Cleath used multiple methods to estimate safe yield at 3,560 AFY in the LOCSD Master Water Plan.

5. Cleath and Associates (2005): This newer Cleath report includes a discussion of seawater intrusion. This issue has caused Cleath to reduce safe yield estimates to 3,250 AFY to keep seawater intrusion at bay.

Based on these studies used to determine safe yield, coupled with estimates of the amount of water pumped by all types of groundwater users (including purveyors, private domestic wells, and agricultural

uses) the Resource Capacity Study (pg. 9) concludes the following:

> *Total water production from all portions of the groundwater basin totaled 3,400 AFY. This 2001 number is 150AFY more than the calculated safe yield from the basin. These figures indicate the basin was in overdraft in 2001. Overdraft continues today as shown by the continued seawater intrusion problem in the lower aquifer.*

Substantial Issue Analysis

As described in detail above, there is considerable uncertainty as to the available water supply for the community of Los Osos. Current estimates show that urban water demand exceeds safe yield of the Los Osos groundwater basin. This is highlighted by the County Board of Supervisors recent certification of a Level of Severity III (the highest level) for the Los Osos groundwater basin through the LCP's RMS (see County findings in support of RMS level III certification attached as Exhibit E).

In response, the County Board of Supervisors took action on this project by requiring the applicant to retrofit 23 homes in the community with low-flow toilets and showerheads. The Board of Supervisor's recognition of the severe water supply problem by certifying LOS III, combined with its action to address the issue through private retrofitting, is evidence by itself that adequate public service capacities are not currently available to serve the proposed development, inconsistent with the LCP. Thus, a substantial issue is raised.

Substantial issues are further raised due to the absence of an appropriate programmatic response to the lack of an adequate water supply. As described, the County did address the issue by conditioning the project to require the applicant to retrofit 23 homes in the community with low flow toilets and showerheads. The retrofitting is to be executed by a licensed plumber. While it should be recognized that the County attempted to address the issue through a retrofit condition, the response is problematic because there is no formal program in place to implement the retrofitting, nor is there a formal entity such as a water purveyor or community services district to manage or oversee the retrofitting. Instead, the County has placed the burden on the applicant to conduct private retrofits. As conditioned, the applicant in essence will be charged with implementing the private retrofit program. Without a formalized retrofit program in place, questions are raised as to the effectiveness, the ability to monitor, and the enforceability of such a condition, particularly as these concerns relate to the availability of a public water supply for existing and new development.

In terms of the effectiveness of the County condition, it is not clear that a simple retrofit of 23 homes in the community will result in an equal offset of water demand posed by the new project. The County has required the applicant to demonstrate the savings of 0.85 acre feet/year through retrofits. While the County indicates that this is a worst case water use figure, it is unclear if this number reflects both indoor and outdoor water usage. The County has conditioned the project to also include substantial native landscaping. Establishing native plants on a large lot can use significant amounts of additional water. Including the amount of water use for outdoor landscaping could require more retrofitting to result in no net increase of water withdrawals. Most importantly, the goal of the retrofitting arguably should be to go beyond a no net increase position and actually reduce the amount of water currently drawn from the aquifer. Maintaining the status quo does not curb overdraft nor does it reverse seawater intrusion.

Concerns are also raised about where the retrofitting is to occur. The number of retrofitting opportunities are finite within the community and it is not clear that the retrofits will be targeted to address the highest priority areas and uses, or that opportunities will be available for current water users within the prohibition zone when development in these areas again become available. Which 23 homes will be retrofitted? Are these single bathroom homes or larger homes with multiple bathrooms? If left up to the applicant, is seems clear that retrofitting homes with fewer fixtures would be significantly cheaper and more desirable than retrofitting homes with lots of fixtures. Without question, a well defined and targeted approach to retrofitting is necessary to ensure its effectiveness. The County response falls short in this regard.

Monitoring and enforcement are additional concerns raised by the County's retrofit condition. Unlike other communities, such as in Cambria where the community services district is in charge of the retrofitting, the County approval of this project places the burden on the private landowner to implement the retrofits. Under this scenario it is not be possible to monitor the retrofitting overtime to see if is working. As conditions change in the community, it may be necessary to alter the amount of retrofits or implement new technologies beyond low flow toilets and showerheads. In Cambria for example, the use of hot water recirculation pumps has been a preferred method to reduce residential water use.

Enforcement of the condition is an additional concern. There is nothing in the County's approval that ensures the newly installed toilets and showerheads will remain in the selected homes. It is possible that as homes changes ownership, or homeowners desire other types of fixtures, the low flow fixtures would be removed and replaced with more water intensive units.

Lastly, the County's private retrofit condition could set a precedent on how retrofits might be implemented and managed cumulatively overtime for all similar new development. Under the County's accepted scenario, homeowners will be going door to door, and perhaps even competing with one another for retrofit opportunities as the available stock decreases overtime. The effectiveness of the County condition is in question and monitoring and enforcement appear to be lacking. In short, the LCP requirement that adequate public service capacities be available to serve the proposed development has not been met. For all of these reasons, a substantial issue is raised.

2. Coastal Watersheds

To control erosion and sedimentation, the LCP limits grading, based on the slope and timing of work. For grading or vegetation removal on steep slopes, a grading and erosion control plan is required. The LCP requires that "appropriate control measures" be used to minimize erosion and sedimentation. To protect groundwater basins, the LCP encourages on-site retention of runoff when feasible.

The project is located on steep slopes, primarily between twenty and thirty percent. Some parts of the project are proposed to be graded on slopes exceeding thirty percent. Sedimentation and erosion impacts caused by downslope drainage and surface runoff are likely to be exacerbated by the removal of up to 59 eucalyptus trees. To address this issue, the County approval requires a drainage plan and sedimentation and erosion control plan to ensure slope stability. Although the County special conditions of approval are strong when dealing with sedimentation and erosion before and during construction, post-construction drainage and runoff measures appear weaker. It is unclear how the County approved

project addresses post-construction drainage and runoff. The Commission has previously found that utilizing post-construction best management practices to accommodate the runoff from an 85th percentile storm event (e.g., infiltration basins, vegetated filter strips and grassy swales), is often appropriate to address runoff concerns. Such measures do not appear to be incorporated into the County approval. Thus, a substantial issue is raised regarding the protection of coastal watersheds.

3. Visual and Scenic Resources

The appellant contends that the approved project would negatively impact the character of the neighborhood. Although specific policies are not cited in the appeal on this issue, it is the intent of the LCP to preserve unique and attractive landscapes that serve as an attraction for both local residents and visitors.

The appellant has made general comparisons of the proposed project when measured against neighboring properties, stating that all other houses in the area are "500 to 1,500 square feet smaller." However, such comparisons are not compelling and corroborate the County findings and indicate that the proposed project is fairly average in terms of its overall square footage. A cursory review of recent projects in Cabrillo Estates show that a 4,534 residence as not out of the ordinary and is close in size to many in the neighborhood. Although these square footage increases will incrementally add to the amount of development in the neighborhood, its impact would be less than significant within the scope of the existing development in the area. 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. Discussions with the applicant indicate that efforts to reduce the size of the structure in order to temper its massing have already been made.

The LCP emphasizes the protection of public views rather than private views. In this case, the appeal contentions are limited to neighborhood character. While not called out specifically in the appeal, Staff has reviewed maps and aerial photos to determine where the important public views are. It appears that the primary public view would be from Pecho Road (the first public through road between the project and the shoreline). From this vantage the project is likely only to be seen by looking inland and above the roofline of the already developed residential neighborhood. The project does not appear to "silhouette" above the ridgeline or look out of place given the surrounding scale of development. Public views to the ocean and shoreline would not be impacted.

In sum, the County-approved project is not atypical of the size and scale of development in the Cabrillo Estates neighborhood and will not diminish the unique and attractive landscapes of the neighborhood. Contrary to the appellant's contentions, infill development of a new residence of this size is substantially consistent with neighboring development in the area. Thus, the issue does not rise to the level of a substantial issue in terms of the project's conformance with the certified LCP regarding visual resources and neighborhood character.

4. Variances

The appellant contends that the County inappropriately granted a variance in support of the project,

which is to be developed on steep slopes and in some cases in excess of thirty percent. CZLUO Section 23.01.045(d) establishes five criteria which must be met before a variance can be approved. The analysis below lists the criteria and discusses each:

(i) The variance authorized does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and land use category in which such property is situation.

The project is located in an existing subdivision in the residential single-family land use category in which single-family residences are principally permitted uses. Other properties in this neighborhood similarly developed on steep slopes and are substantially the same in terms of size, height, and design.

(ii) There are special circumstances applicable to the property, related only to size, shape, topography, location, or surroundings, and because of these circumstances, the strict application of this title would deprive the property of privileges enjoyed by other property in the vicinity that is in the same land use category.

The project is located on a site that is almost entirely on slopes in excess of thirty percent. Commission staff has reviewed the topographic maps for the site and has determined that steep slopes cannot be avoided. There is a small "bench" with relatively flat topography directly adjacent to the fronting street, but it is not large enough to accommodate development of a single-family residence even if the house was considerably reduced in size. These same topographic circumstances exist on adjacent properties which have been allowed to develop.

(iii) The variance does not authorize a use that is not otherwise authorized in the land use category.

The proposed project is for a single-family residence which is allowed and established as the principally-permitted use within the residential single-family land use category.

(iv) The variance is consistent with the provisions of the Local Coastal Program.

The variance was granted in order to allow a single-family residence to be developed on a steeply sloping parcel where no feasible alternative exists. The variance is consistent with the LCP provisions addressing development on steep slopes.

(v) The granting of such application does not, under the circumstances and conditions applied in the particular case, adversely affect public health or safety, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements.

The County approval contains numerous conditions dealing with the hazards posed by developing on steep slopes. There is no evidence in the record to indicate that public health and safety would be adversely affected. As conditioned, the County approval appears to meet this requirement.

In sum, the County findings echo those discussed above. A review of the County approval shows that all of the required findings necessary to grant a variance have been met. Most importantly, granting the variance will not have an adverse impact on coastal resources in the neighborhood. Thus, the issue of the County's use of a variance on this particular site does not raise a substantial issue.

B. Substantial Issue Conclusion

The County-approved project is inconsistent with LCP policies and ordinances that require a showing of adequate public services to serve the proposed development. Recent certification of LOS III under the RMS for water supply, coupled with the County's action to impose private retrofits, is evidence that adequate water supplies are not currently available. Moreover, the County's private retrofitting condition raises significant questions about the effectiveness of the response. As conditioned by the County, the use of private retrofits could set an adverse precedent and doesn't directly address the core issue of handling the adverse impacts to the basin from overdraft. For these reasons, staff recommends that a substantial issue is raised with respect to the appellant's contentions surrounding adequate public services. Substantial issues are also raised regarding the way the project addresses post-construction drainage, runoff, and sedimentation.

On the other hand, development of a single-family residence in this neighborhood is not atypical from the existing Cabrillo Estates character in terms of size, scale, and design. The approved project is substantially consistent with neighboring development here and would have an insignificant impact on the public viewshed and community character. In addition, the County approval shows that all of the required findings necessary to grant a variance have been met. Thus, staff recommends that substantial issues are not raised by these two appeal contentions.

In conclusion, Staff recommends that the Commission find that a substantial issue exists with respect to some aspects of this project's conformance with the certified San Luis Obispo County LCP and take jurisdiction over the coastal development permit for the project.

Th27b

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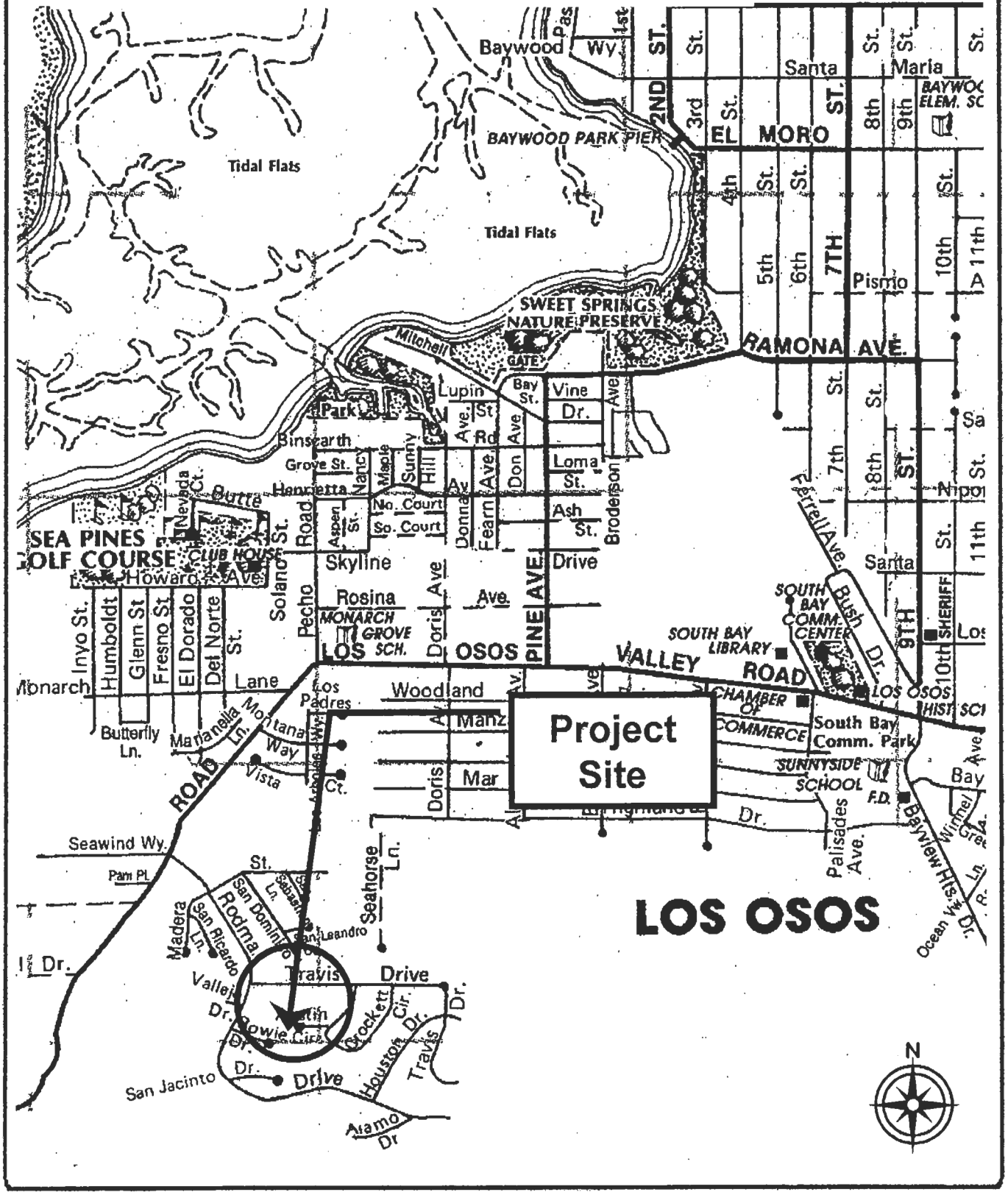
SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Variance
Richissin – D000480 / D010107

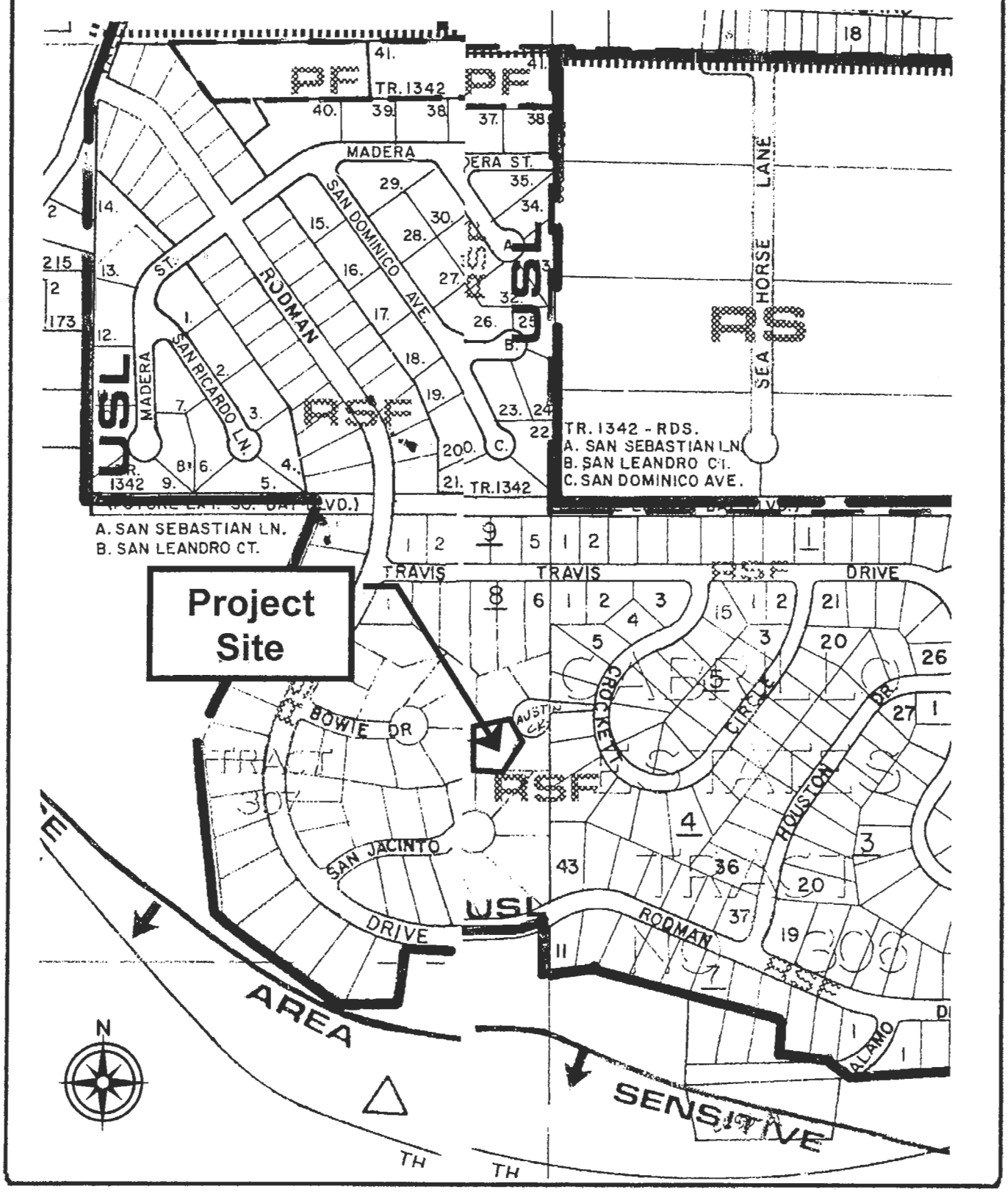
EXHIBIT

Los Osos Vicinity

CCC Exhibit A
(page 1 of 2 pages)

275

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Variance
Richissin – D000480 / D010107

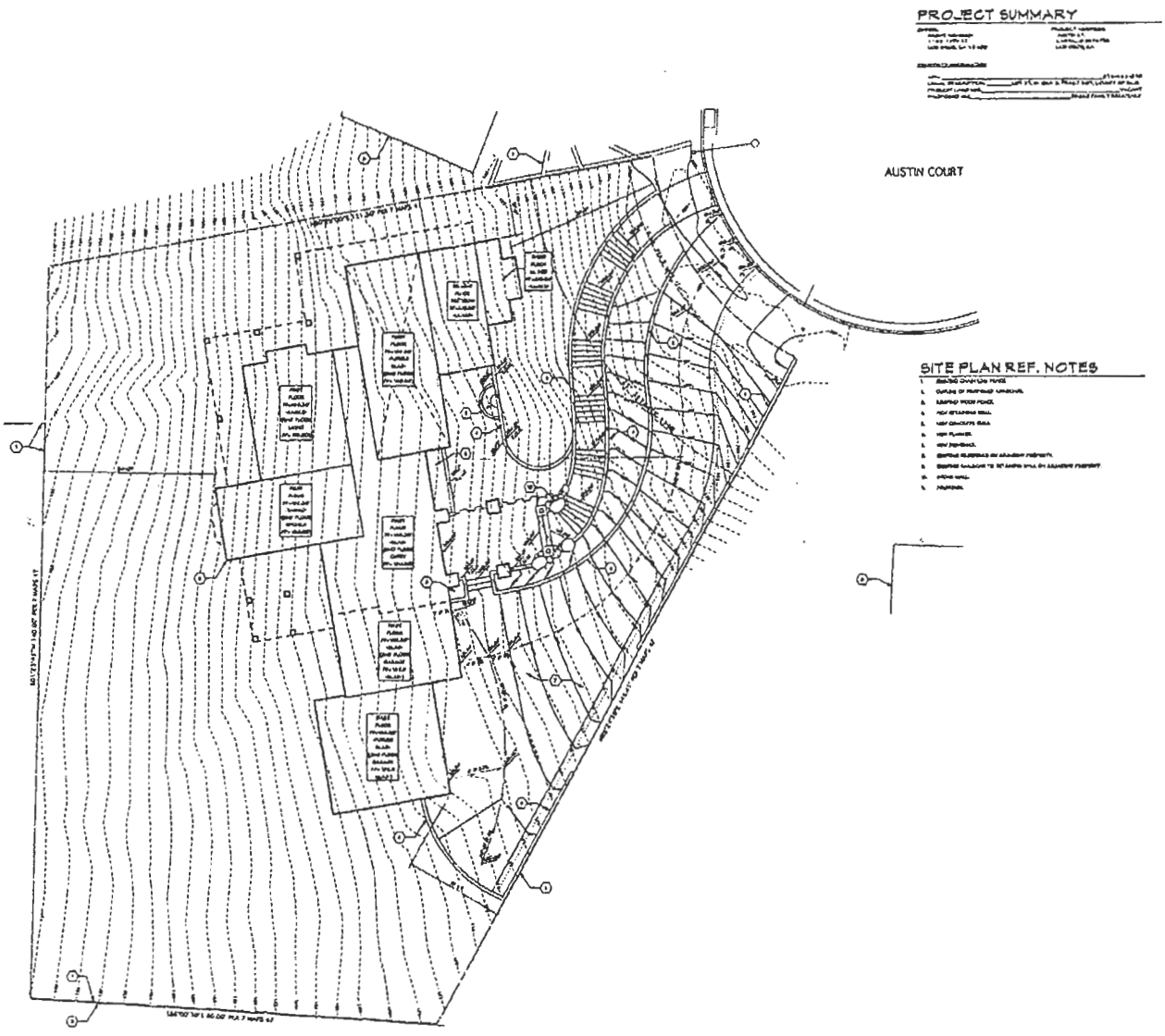
EXHIBIT

Land Use Category Map

CCC Exhibit A
(page 2 of 2 pages)

7-16

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Variance
Richissin – D000480 / D010107

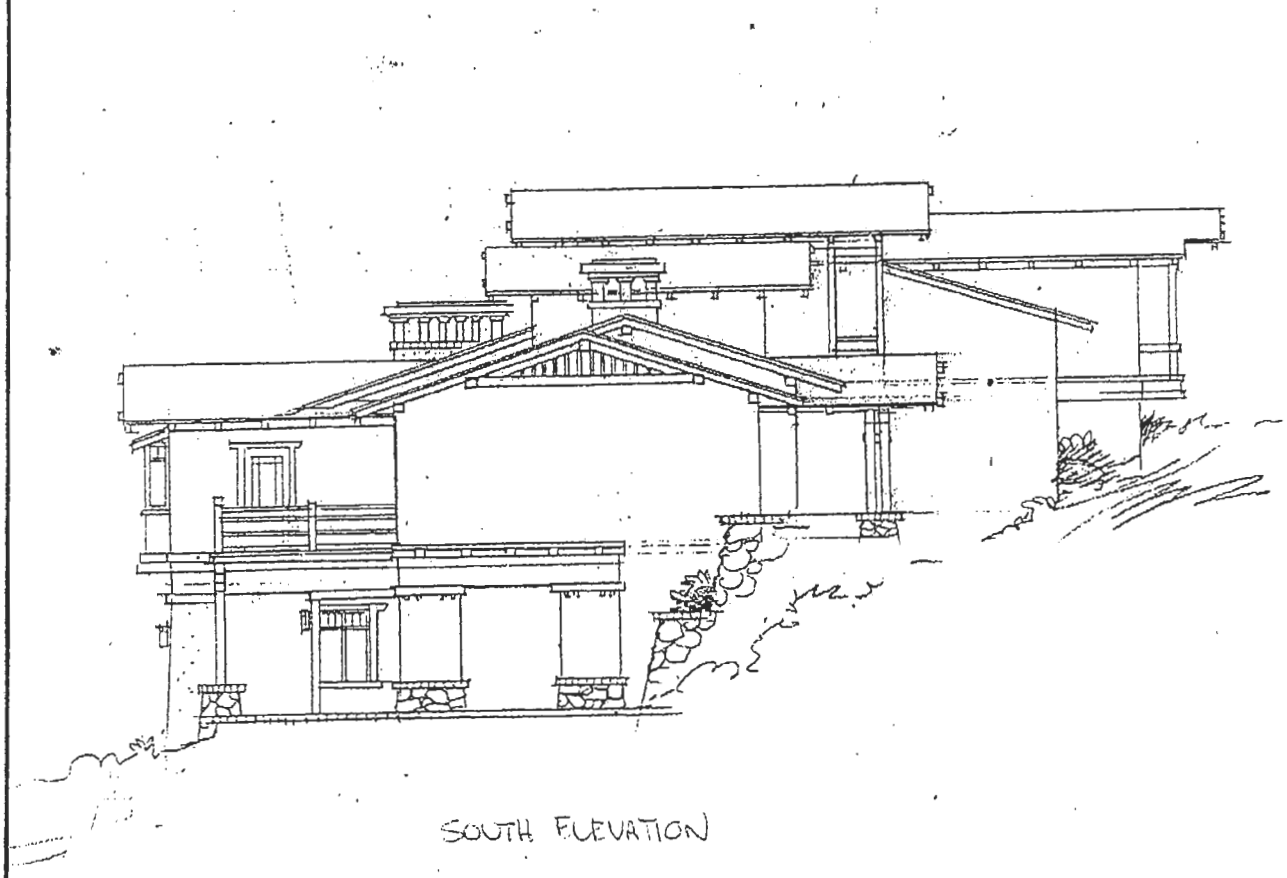
EXHIBIT

Site Plan

CCC Exhibit B
(page 1 of 6 pages)

7-22

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Variance
Richissin – D000480 / D010107

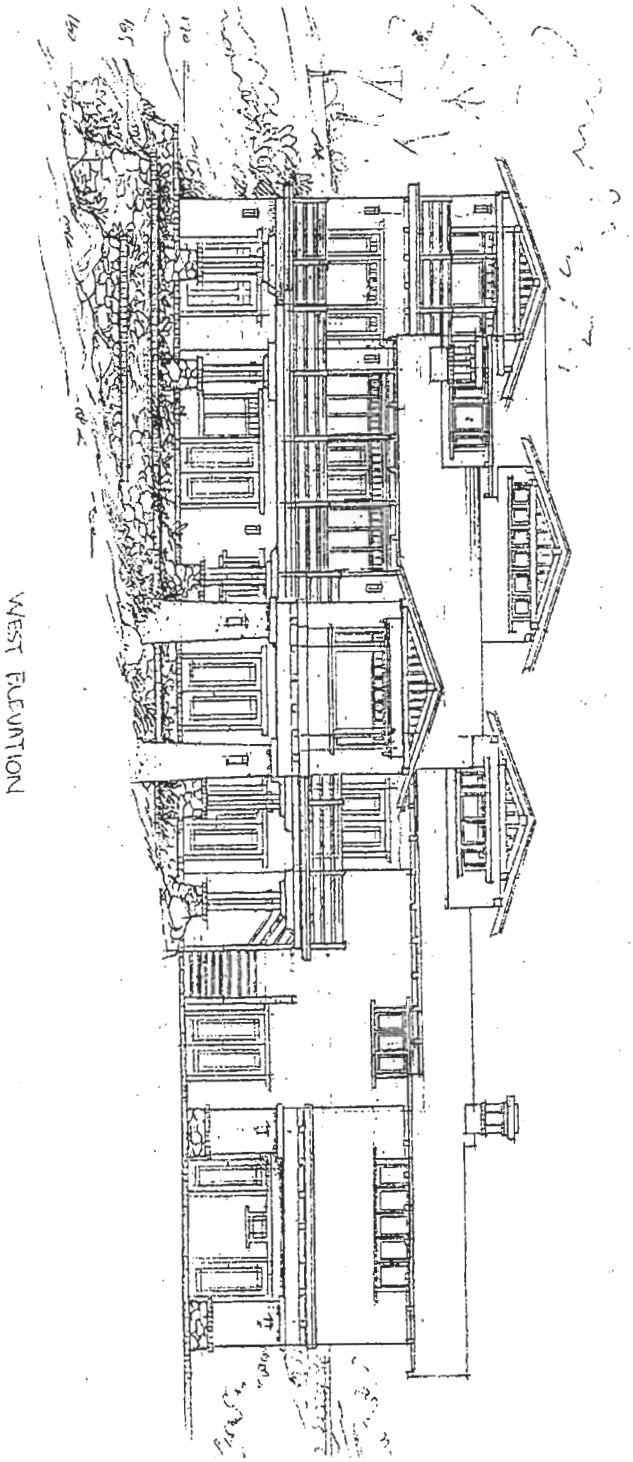
EXHIBIT

North Elevation

CCC Exhibit B
(page 2 of 6 pages)

7-23

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Variance
Richissin – D000480 / D010107

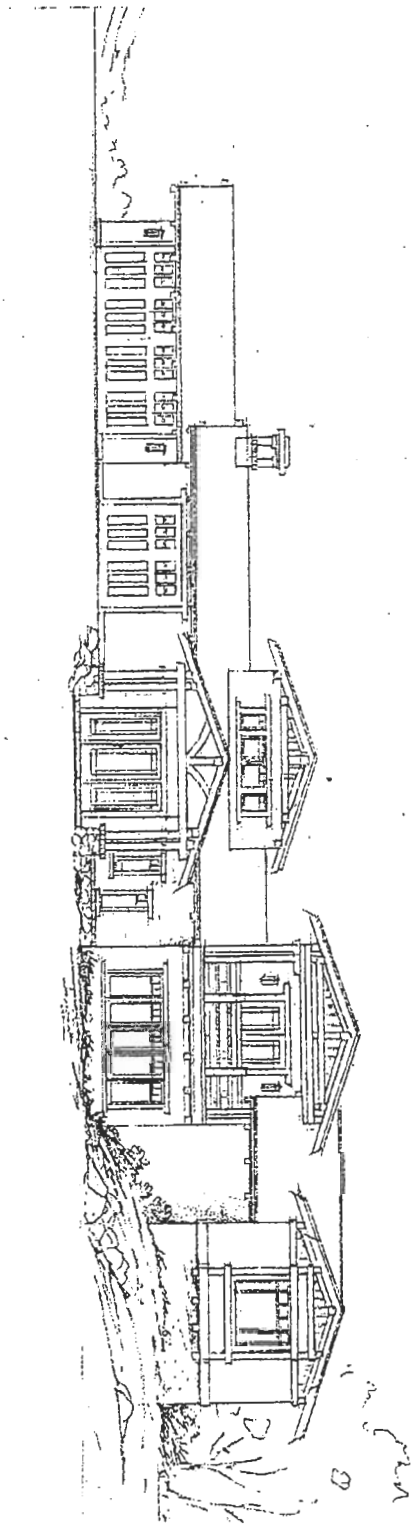
EXHIBIT

West Elevation

CCC Exhibit B
(page 3 of 6 pages)

7-24

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

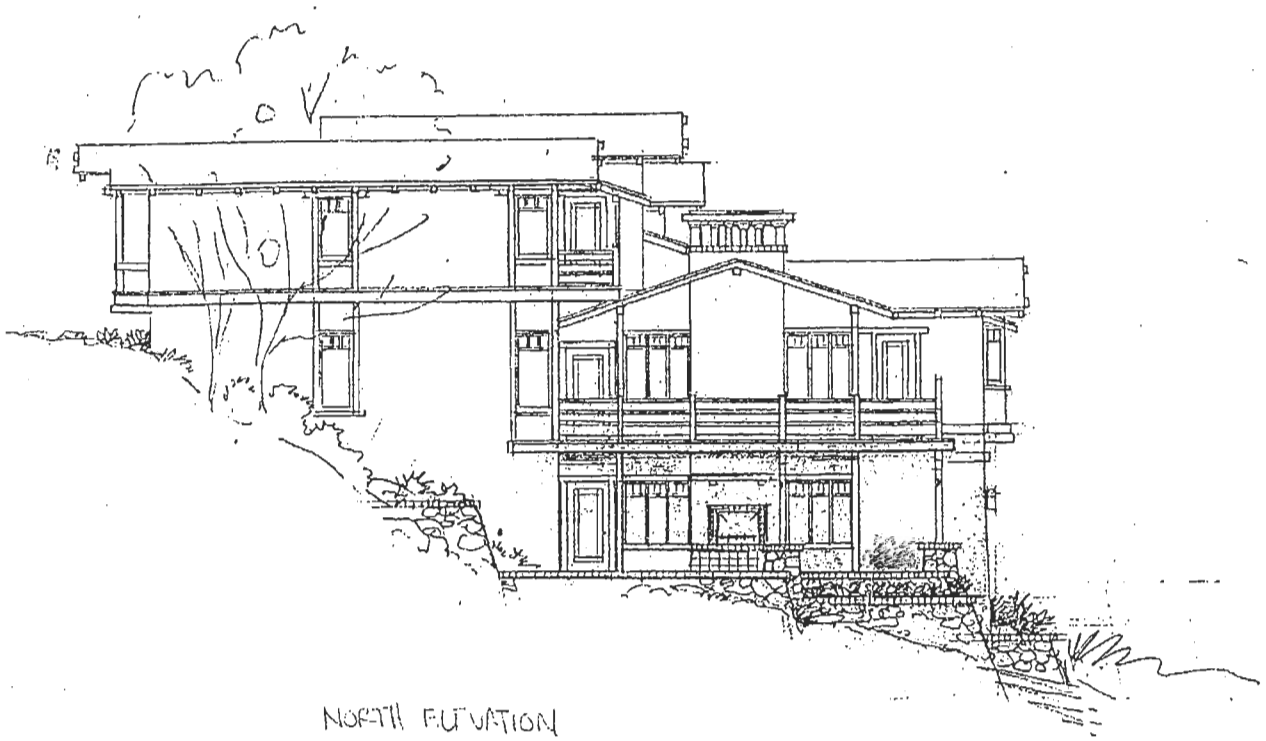
Minor Use Permit / Variance
Richissin – D000480 / D010107

EXHIBIT

East Elevation

CCC Exhibit B
(page 4 of 6 pages)

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Variance
Richissin – D000480 / D010107

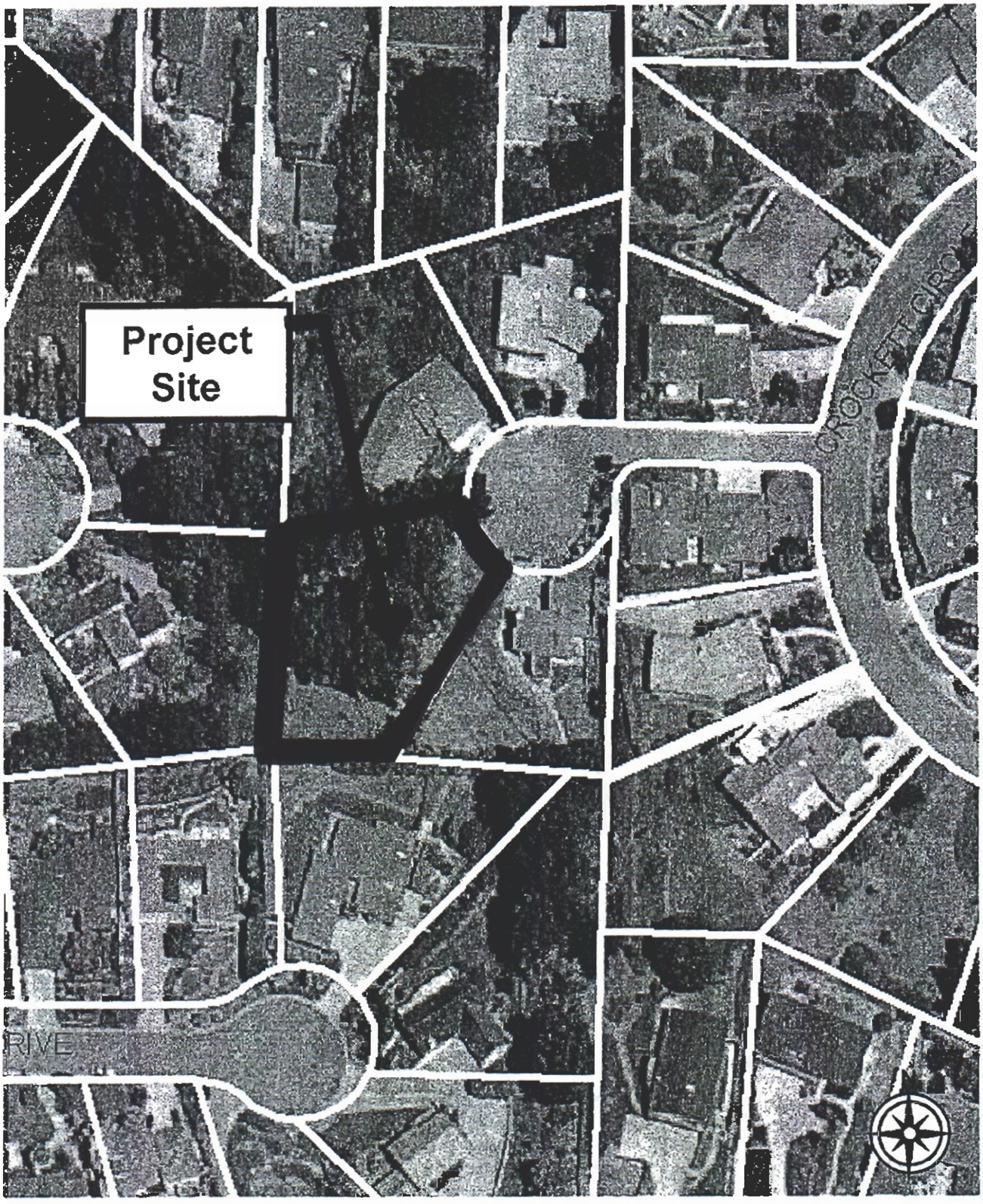
EXHIBIT

South Elevation

CCC Exhibit B
(page 5 of 6 pages)

7-14

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit / Variance
Richissin – D000480 / D010107

EXHIBIT

Aerial Photograph

CCC Exhibit B
(page 6 of 6 pages)

SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

FINAL LOCAL ACTION NOTICE

REFERENCE # 3-SLO-07-269

APPEAL PERIOD 8/7-8/20/07

RECEIVED

AUG 06 2007

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

August 2, 2007

Brent Richissin
1135 15th Street
Los Osos, CA 93402

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: July 24, 2007

SUBJECT: County File No. – Brent Richissin - D000480P / D010107V
Minor Use Permit / Variance / Coastal Development Permit

LOCATED WITHIN COASTAL ZONE: YES

The above-referenced application was approved by the Board of Supervisors, 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 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 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.

CCC Exhibit C
(page 1 of 15 pages)

If you have questions regarding your project, please contact me at (805) 781-5713.
Sincerely,

Kerry Brown

Kerry Brown
Coastal Planning and Permitting

CC: George Taylor

(Planning Department Use Only)

Date NOFA copy mailed to Coastal Commission: August 2, 2007

Enclosed:
X Staff Report
X Findings and Conditions

CCC Exhibit C
(page 2 of 15 pages)

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

Tuesday, July 24, 2007

PRESENT: Supervisors Harry L. Ovitt, Bruce S. Gibson, K.H. 'Katcho' Achadjian, James R. Patterson and Chairperson Jerry Lenthall

ABSENT: None

In the matter of an appeal by G. Taylor and **RESOLUTION NO. 2007-287:**

This is the time set for hearing to consider an appeal by George Taylor of the Planning Commission's decision to approve the application of Brent Richissin for Variance/Minor Use Permit/Coastal Development Permit (D000480/ D010107V) that would allow a 4,534 square foot single family residence with an attached garage on slopes exceeding 30 percent and the removal of 59 eucalyptus trees, located at the western end of Austin Court, approximately 200 feet west of Crockett Circle, in the community of Los Osos in the Estero planning area; 2nd District.

Ms. Kerry Brown: Planning, presents the staff report; comments on the eucalyptus trees in the area; highlights the issues of appeal; presents letters of support from neighbors of Mr. Richissin's permit; presents the staff recommendation.

Mr. George Taylor: Appellant, presents his report; addresses his areas of concern and issues of appeal; speaks on the water use of this project; urges the Board to uphold his appeal.

Mr. Brent Richissin: Applicant, presents his report; addresses the concerns of the Appellant.

Mr. David Duggan: questions how under the Water Basin Plan, the Applicant can install a septic system with less than one acre of land; expresses his support for the appeal.

Mr. Keith Swanson: Los Osos Community Advisory Council (LOCAC) representative, expresses their support of this appeal and urges the Board to uphold the appeal.

Mr. Jeff Edwards: urges the Board to deny this appeal; addresses the Appellant's concerns regarding this permit.

Ms. Julie Tacker: expresses her support for the project; suggests including the condition that the Applicant install water conserving landscaping; urges the Board to deny this appeal.

Mr. Eric Greening: echoes the comments and concerns of Mr. Taylor; urges the Board to uphold the appeal.

Mr. Richard Margetson: addresses his concern that this project would not fall under the "no net increase in water use" for Los Osos and urges the Board to uphold the appeal.

Mr. Joey Racano: outlines his reasons for supporting this appeal.

Mr. Richissin: responds to public comment; urges the Board to deny the appeal.

Mr. Taylor: makes his closing comments; reads a letter from Dr. Thomas Ruehr regarding this project into the record.

Mr. Matt Janssen: Environmental Specialist, responds to public comment and outlines their reasons for supporting the issuance of this permit.

Supervisor Achadjian: questions the groundwater impact with the removal of the trees, with Mr. Janssen responding.

Supervisor Gibson: questions if the conditions address the slope stability, drainage of the site and the use of a septic system, with Ms. Brown responding; highlights the calculation process for water use as outlined in today's Item C-2; expresses his concerns with the language of Condition 7 and suggests alternative language.

Supervisor Patterson: echoes the comments of Supervisor Gibson.

A motion by Supervisor Bruce S. Gibson, to deny the appeal and conditionally approve the application by Brent Richissin; amend Condition Number 7 to read: "The applicant shall provide evidence to the Planning and Building Department of the retrofit of 23 homes in the Los Osos groundwater basin by installing low flow toilets and showerheads. Retrofit installation shall be executed by a license plumber.", with Supervisor James R. Patterson seconding the motion and said motion is discussed.

Mr Janssen: asks the Board to amend the language in Condition Number 1, with the motion maker and second agreeing to the language change presented by staff.

Thereafter, on motion of Supervisor Bruce S. Gibson, seconded by Supervisor James R. Patterson, and on the following roll call vote:

AYES: Supervisors: Bruce S. Gibson, James R. Patterson, Harry L. Ovitt, K.H. 'Katcho' Achadjian, Chairperson Jerry Lenthall
NOES: None
ABSENT: None

the Board denies the appeal; amends Condition Number 1, adding the following sentence: "The project also includes the removal of up to 59 eucalyptus trees."; the language in Condition Number 7 language is replaced as follows: "The applicant shall provide evidence to the Planning and Building Department of the retrofit of 23 homes in the Los Osos groundwater basin by installing low flow toilets and showerheads. Retrofit installation shall be executed by a license plumber."; and, RESOLUTION NO. 2007-287, resolution affirming the decision of the Planning Commission and conditionally approving the application of Brent Richissin for Variance D010107V and for Minor Use Permit D000480P, adopted as amended.

cc: Planning (2)
7/30/07 cmc

STATE OF CALIFORNIA)
) ss.
County of San Luis Obispo)

I, **JULIE L. RODEWALD**, County Clerk and Ex-Officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of the said Board of Supervisors, affixed this 30th day of July, 2007.

(SEAL)

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk of the Board of Supervisors

By CMChristensen
Deputy Clerk

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

Tues day July 24 ,2007

PRESENT: Supervisors Harry L. Ovitt, Bruce S. Gibson, K.H. 'Katcho' Achadjian, James R. Patterson, and Chairperson Jerry Lenthall

ABSENT: None

RESOLUTION NO. 2007-287

RESOLUTION AFFIRMING THE DECISION OF THE PLANNING COMMISSION AND CONDITIONALLY APPROVING THE APPLICATION OF BRENT RICHISSIN FOR VARIANCE D010107V AND FOR MINOR USE PERMIT D000480P

The following resolution is now offered and read:

WHEREAS, on March 22, 2007, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the "Planning Commission") duly considered and conditionally approved the application of the Brent Richissin for Variance D010107V and for Minor Use Permit D000480P; and

WHEREAS, George Taylor has appealed the Planning Commission'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 July 23, 2007, and a determination and decision was made on July 23, 2007; 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 appeals; and

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be denied and the decision of the Planning Commission should be affirmed and that the application should be approved based upon 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:

1. That the recitals set forth hereinabove are true, correct and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibits A and B 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 George Taylor is hereby denied and the decision of the Planning Commission is affirmed that the application of the Brent Richissin for Variance D010107V and for Minor Use Permit D000480P is hereby approved subject to the conditions of approval set forth in Exhibit C attached hereto and incorporated by reference herein as though set forth in full.

Upon motion of Supervisor Gibson, seconded by Supervisor Patterson, and on the following roll call vote, to wit:

AYES: Supervisors Gibson, Patterson, Ovitt, Achadjian, Chairperson Lenthall

NOES: None

ABSENT: None

ABSTAINING: None

the foregoing resolution is hereby adopted.

JERRY LENTHALL
Chairman of the Board of Supervisors

ATTEST:

JULIE L. RODEWALD
Clerk of the Board of Supervisors
By: C.M. CHRISTENSEN Deputy Clerk

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: _____
Deputy County Counsel

Dated: July 11, 2007

CCC Exhibit C
(page 6 of 15 pages)

STATE OF CALIFORNIA,)
) ss
County of San Luis Obispo)

I, JULIE L. RODEWALD, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this 30th day of July, 2007.

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk of the Board of Supervisors

(SEAL)

By: C M Christensen
Deputy Clerk

CCC Exhibit C
(page 7 of 15 pages)

EXHIBIT A - MINOR USE PERMIT 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 January 4, 2007 for this project. Mitigation measures are proposed to address geology, public services, transportation, wastewater, 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 use is an allowed use and as conditioned is consistent with all of the General Plan 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 proposed residence 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 proposed residence 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 Austin Court, a local road 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 is not adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

EXHIBIT B - VARIANCE FINDINGS

Variance

A. The Variance authorized does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and land use category in which it is situated because single family dwellings are principally permitted uses; the project and other sites within the area with steep slopes are similarly developed.

B. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, and because of the absence of these circumstances, the strict application of this title would deprive the property of privileges enjoyed by other property in the vicinity and in the same land use category because the project is located on a site that is almost entirely on slopes in excess of thirty (30) percent and the site would not accommodate development without disturbing steep slopes.

C. The Variance does not authorize a use that is not otherwise authorized in the land use category because single family residences are allowed in the Residential Single Family land use category.

D. The granting of such application does not, under the circumstances and conditions applied in the particular case, adversely affect the health or safety of persons, is not materially detrimental to the public welfare, and is not injurious to nearby property or improvements, because the site is geologically suitable for the development proposed.

E. The Variance is consistent with the provisions of the San Luis Obispo Local Coastal Program.

EXHIBIT C - CONDITIONS OF APPROVAL

Approved Development

1. This approval authorizes a 4534 square foot single family residence with an attached garage on slopes exceeding 30 percent. The project also includes the removal of 59 eucalyptus trees.

Conditions required to be completed at the time of application for construction permits

Site Development

2. **At the time of application for construction permits** plans submitted shall show all development consistent with the approved site plan, floor plan, architectural elevations and landscape plan.

3. **At the time of application for construction permits,** the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp or the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

Fire Safety

4. **At the time of application for construction permits,** all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code.

Services

5. **At the time of application for construction permits**, the applicant shall submit evidence that there is adequate water to serve the proposed project.

6. **At the time of application for construction permits**, the applicant shall submit evidence that a septic system, adequate to serve the proposal, is feasible on the site.

7. The applicant shall provide evidence to the Department of Planning and Building of the retrofit of 23 homes in the Los Osos groundwater basin, to install low flow toilets and showerheads. The retrofitting is to be executed by a licensed plumber.

Conditions to be completed prior to issuance of a construction permit

Environmental Mitigation

Site Specific and Cumulative Geologic Impacts

8. **Prior to any site disturbance or issuance of grading permits or building permits**, the following conditions shall be included on all building plans and grading plans:

a. The project soil engineer shall review and approve construction plans, including all plans for building foundations, excavation, and cut slopes steeper than a 1:1 (45o) slope angle. The Certified Engineering Geologist and soil engineer shall submit written verification to the Department of Planning and Building that the plans within the area of their expertise were reviewed and approved.

b. The project soil engineer shall inspect work on-site and verify that all foundation, grading, and drainage work has been performed in a manner consistent with the intent of the plan review and engineering geology report.

c. The project Certified Engineering Geologist shall issue a final engineering geology compliance report as required by the Uniform Building Code which identifies changes observed during construction, recommendations offered for mitigation, and confirmation that construction was completed in compliance with the intent of the engineering geology report.

d. Should the services of the project Certified Engineering Geologist be terminated prior to final inspection and/or issuance of occupancy permits, the applicant shall submit a transfer of responsibility statement to the County Planning Department from the new Certified Engineering Geologist as per the Uniform Building Code.

e. A final report prepared by the project soil engineer shall be submitted to the County's field inspector stating that all work performed is suitable to support the intended structure. Such report shall include any field reports, compaction data, etc.

f. The applicant shall implement all recommendations in Observation and Testing Programs prepared by project Civil Engineer(s) (CE), Geotechnical Engineer(s) (RGE), and /or Certified Engineering Geologist(s) (CEG). The Observation and Testing Program may include, but not be limited to any of the following tasks:

- Review of Final Project Plans - CEG/RGE/CE
- Review of stripping and clearing of vegetation - CE/RGE
- Review of cut and fill slopes - cut slopes: CEG; fill slopes: CE/RGE
- Review of preparation of soil to receive fill - CE/RGE
- Review of fill placement and compaction - CE/RGE
- Review of subsurface drainage control - CEG/CE/RGE
- Review of footing excavations - CE/RGE
- Review of premoistening of subslab soils - CE/RGE
- Review of erosion control measures - CE/RGE

9. **Prior to any site disturbance or issuance of grading permits or building permits,** the applicant shall submit a Sedimentation and Erosion Control Plan, prepared and signed by a Registered Civil Engineer, that addresses both temporary and long-term sedimentation and erosion control measures. The plan shall include but not be limited to the following measures:

a. Slope surface stabilization: Temporary mulching, seeding or other suitable stabilization measures approved by the County Engineer shall be used to protect exposed erodible areas during construction. Earth or paved interceptors and diversions shall be installed at the top of cut or fill slopes where there is a potential for erosive surface runoff.

b. Erosion and sedimentation control devices: In order to prevent sedimentation discharges, erosion and sediment control devices shall be installed as necessary for all grading and filling. Control devices and measures may include, but are not limited to, energy absorbing structures or devices to reduce the velocity of runoff water.

c. Final erosion control measures: All surfaces disturbed by vegetation removal, grading, or other construction activity are to be revegetated to control erosion within 30 days after completion of grading, unless the graded areas are covered with impervious or other improved surfaces authorized by approved plans.

Control of off-site effects: All grading activity shall be conducted to prevent damaging effects of erosion, sediment production and dust on the site and on adjoining properties.

10. **Prior to any site disturbance**, the applicant shall submit to the County a Drainage Plan, prepared by a Registered Civil Engineer, that evaluates: 1) the effects of the project's projected runoff on adjacent properties and existing drainage facilities and systems; and 2) estimates of existing and increased runoff resulting from the proposed improvements.

Wastewater

11. **Prior to building permit issuance and/or final inspection of the wastewater system**, the applicant will need to show to the county compliance with the Central Coast Basin Plan.

12. **Prior to issuance of building permits**, the applicant show provide the County with a letter verifying that a Certified Engineering Geologist has review the layout of the septic system design, and ensure that it is in conformance with their recommendations.

13. The project soil engineer must observe seepage pit drilling to ensure required depth is obtained.

14. Percolation tests shall be performed by a soils engineer for the design of the disposal system.

15. The siting of a septic system shall be such that the setback minimums not be exceeded.

16. The design of the septic system shall be designed by a civil engineer to conform with conditions (12-14).

Water

17. The applicant shall submit landscape, irrigation, landscape maintenance plans and specifications to the Environmental Coordinator. The landscape plan shall be prepared as provided in Section 23.04.186 of the San Luis Obispo County Coastal Zone Land Use Ordinance. All plants utilized shall be drought tolerant.

Fees

18. **Prior to issuance of a construction permit,** the applicant shall pay all applicable school and public facilities fees.

Architectural Control Committee

19. **Prior to issuance of a construction permit**, the applicant has shall provide evidence to the Planning Department certifying that the Architectural Control Committee for Cabrillo Estates has reviewed and approved plans and specifications.

Conditions to be completed during project construction

Building Height

20. The maximum height of the project is 15 feet (as measured from the highest point of the lot).

    a. **Prior to any site disturbance**, a licensed surveyor or civil engineer shall establish the highest point of the lot 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 engineer.

Geologic Requirements

21. **During project construction/ground disturbing activities**, the applicant shall retain a soil engineer and Certified Engineering Geologist of record and shall provide a written certification of adequacy of the proposed site development for its intended use to the Department of Planning and Building.

Conditions to be completed prior to occupancy or final building inspection /establishment of the use

Geologic Requirements

22. **Prior to occupancy or final inspection**, whichever occurs first, the engineering geologist of record shall verify that construction is in compliance with the intent of the Geologic Assessment. The engineering geologist shall verify that the Reports' recommendations have been incorporated into the final design and construction. This verification shall be submitted in writing to the Department of Planning and Building for review and approval.

23. **Prior to occupancy or final inspection,** whichever occurs first, the Registered Civil Engineer shall verify that the recommendations of the Drainage Plan and the Sedimentation and Erosion Control Plan have been incorporated into the final design and construction. This verification shall be submitted in writing to the Department of Planning and Building for review and approval. If required by the County Engineer, the applicant shall execute a plan check and inspection agreement with the County, so the drainage, sedimentation and erosion control facilities can be inspected and approved before a certificate of occupancy is issued.

24. Landscaping in accordance with the approved landscaping plan shall be installed or bonded for before final building inspection / establishment of the use. If bonded for, landscaping shall be installed within 60 days after final building inspection. All landscaping shall be maintained in a viable condition in perpetuity.

25. **Prior to occupancy or final inspection,** which ever occurs first, the applicant shall obtain final inspection and approval from CDF of all required fire/life safety measures.

26. **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.

Driveway

27. **Prior to issuance of occupancy permit,** a minimum 9 foot wide, 3 and ½ inch thick concrete driveway approach apron shall be constructed as required by Planning Area Standard number 16.

Miscellaneous

28. This land use 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 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.

29. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.

Indemnification

30. The applicant shall as a condition of approval of this variance and minor use permit defend, at his sole expense, any action brought against the County of San

Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this variance and minor use permit or the manner in which the County is interpreting or enforcing the conditions of this variance and minor use permit, or any other action by a third party relating to approval or implementation of this variance and minor use permit. The applicant shall reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition.

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA STRET, SUITE 200
VENTURA, CA 93001-4508
VOICE (805) 585-1800 FAX (805) 641-1732

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: GEORGE L. TAYLOR

Mailing Address: 425 Mitchell Drive

City: Los Osos, CA Zip Code: 93402 Phone: (805) 528-2910

SECTION II. Decision Being Appealed

1. Name of local/~~port~~ government: COUNTY OF SAN LUIS BOARD OF SUPERVISORS

2. Brief description of development being appealed: VARIANCE/MINOR USE PERMIT/ COASTAL DEVELOPMENT PERMIT D000480P / D010107V THAT WOULD ALLOW A 4534 SQUARE FOOT SINGLE FAMILY RESIDENCE WITH AN ATTACHED GARAGE ON SLOPES EXCEEDING 30 PERCENT. THE PROJECT INCLUDES THE REMOVAL OF 59 EUCALYPTUS TREES.

3. Development's location (street address, assessor's parcel no., cross street, etc.):
Address: 2737 Austin Court, Los Osos, CA
APN: 074-482-037
Cross Street: Western end of Austin Court, approximately 220 feet west of Crockett Circle

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions: A 4534 SQUARE FOOT SINGLE FAMILY RESIDENCE WITH AN ATTACHED GARAGE ON SLOPES EXCEEDING 30 PERCENT.

☐ 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-07-041

DATE FILED: 8-20-2007

DISTRICT: Central Coast

CCC Exhibit D
(page 1 of 5 pages)

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

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

- ☐ Planning Director/Zoning Administrator
- ☒ ~~City Council~~/Board of Supervisors
- ☐ Planning Commission
- ☐ Other

6. Date of local government's decision: July 24, 2007 – Government Center San Luis Obispo, CA

7. Local government's file number (if any): Agenda Item C-1

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:
Brent Richissin, 1135 15th Street, Los Osos, CA 93402

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) George L. Taylor, 425 Mitchell Drive, Los Osos, CA 93402
(2) David Duggan, 1399 – 14th Street, Los Osos, CA 93402
(3) Keith Swanson, P.O. Box 6687, Los Osos, CA 93412
(4) Eric Greening, Ecoslo Environmental Center, 1204 Nipomo St., SLO, 93401
(5) Joey Racano, P.O. Box 1260, Morro Bay, CA 93443
(6) Richard Margetson, P.O. Box 6721, Los Osos, CA 93412
(7) Brent Richissin, 1135 15th Street, Los Osos, CA 93402
(8) J. H. Edwards, P.O. Box 6070, Los Osos, CA 93412
(9) Julie Tacker, P.O. Box 6070, Los Osos, CA 93412
(10) Dr. Thomas Ruehr, 2276 Palisades Avenue, Los Osos, CA 93402

CCC Exhibit D
(page 2 of 5 pages)

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

SECTION IV. Reasons Supporting This Appeal

PLEASE 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.
- 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.)
- This 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.

The project is not consistent with the provisions of the San Luis Obispo County LCP barring construction of residences that are out of character with the surrounding neighborhood. The proposed structure will be 5,018 square feet. All other houses in the area are 500 to 1,500 square feet smaller. The other houses are mostly one-story structures, with some two-story structures that are built to appear as though one story, all with modest facades that blend in with neighborhood.

The project is not consistent with those provisions of the LCP protecting the integrity of groundwater basins in order to ensure water quality and sustain the biological productivity of coastal waters.

The project is not consistent with Coastal Plan Policy - Public Services, Policy 1: Availability of Service Capacity, or with CZLUO Section 23.04.430 - Availability of Water Supply and Sewage Disposal Services. ("A land use permit for new development that requires water or disposal of sewage shall not be approved unless the applicable approval body determines that there is adequate water and sewage disposal capacity available to serve the proposed development….") In making their determination, the County Planning Commission relied on a 2005 Annual Resource Report in stating that total demand on the Los Osos Valley Groundwater Basin exceeds safe yield with a current deficit of approximately 150 afy. The 2007 current deficit is now estimated at 600 afy (Groundwater Capacity Study, C-4, 28, J. Caruso, 2/22/07). The County has now certified a Level of Severity III for Los Osos Basin. The project is proposed to use 745 gallons of water per day.

As noted by the County Planning Commission, the project is not consistent with Coastal Plan Policy - Coastal Watersheds, Policy 7: Siting of New Development, because the new residence will be located on slopes in excess of 30 percent.

The excessive amount of projected daily water use and the small size of the parcel contribute to the hazard presented by the steep slope. The nature of the hazard to the groundwater and coastal waters in proposing to install a septic system when soil and site constraints are of the type present here are reflected in Central Coast Basin Plan policy VIII.D.3.i.-11: "While new septic tank systems should generally be limited to new divisions of land having a minimum parcel size of one acre, where soil and other physical constraints are particularly

[continued to page 3a.]

favorable, parcel size shall not be less than one-half acre." The parcel size of the proposed project is less than 1/2 acre, and soil and site constraints for this project are not "particularly favorable." The problematic nature of the soil and site constraints are also evident in the County's nearly two dozen permit conditions in the categories of "geologic resources" and "wastewater." Even in the unlikely event that all of these measures are successfully implemented and function flawlessly so as to create ideal conditions, "some erosion will occur during the first few wet seasons after the project is completed" (Geo Source report, 5.13-3, Erosion Control Measures). Erosion and runoff problems will be greatly magnified by the steepness of the slope and the removal of 59 mature eucalyptus.

The hazard to water quality posed by the steep slope is illustrated in the Central Coast Basin Plan's bar against discharges from new soil absorption systems in sites where "natural ground slope of the disposal area exceeds 30 percent" (VIII.D.3.i.-9). The last 50 feet of slope to the street, below the seepage pit location, is a steep downgrade incline in excess of 30 percent. The residence's 745 gallons of septage a day will be directed into a seepage pit located directly above this incline.

The County's variance findings are not consistent with CZLUO requirements for variance findings in falsely characterizing geologic evaluations as having "concluded that that site is...well suited for the proposed addition." The first geotechnical investigation of the site (GeoSource Inc., 11/22/00) noted the significant runoff and erosion hazards presented by the steep slope and loose subsurface soils, found a "low to moderate" potential for liquefaction and mandated 60 separate recommendations that must be incorporated into the project plans and specifications before the site could be deemed "suitable."

The County relied on stale information in issuing the permit. The most recent geotechnical survey (Cleath, Sept. 12, 2003) states that it "should not be relied upon after a period of 3 years without our review" (6.0 Limitations and uniformity).

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

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

George L. Taylor

Signature of Appellant(s) or Authorized Agent

GEORGE L. TAYLOR

Date: August 17, 2007

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 5 of 5 pages)

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

DATE: MARCH 27, 2007

TO: BOARD OF SUPERVISORS

FROM: JAMES CARUSO, SENIOR PLANNER

VIA: CHUCK STEVENSON, MANAGER LONG RANGE PLANNING CHS

SUBJECT: RESOURCE CAPACITY STUDY FOR LOS OSOS WATER SUPPLY

SUMMARY

This Resource Capacity Study (RCS) is an analysis of water supply and demand in the Los Osos groundwater basin as was ordered by your Board. It is based on information contained in reports commissioned by the Los Osos Community Services District and prepared by the local hydrogeology firm of Cleath and Associates; water supply data from the RMS Annual Summary Reports and from recommendations made by the Planning Commission.

According to the County General Plan, a Resource Capacity Study should: 1) inventory existing water resources available to the agency operating the system; 2) document existing demand for water by all area user groups; and 3) explore any conservation measures that could reasonably be imposed by the water agency.

RECOMMENDATION

The Planning Commission reviewed this RCS on February 22, 2007 and recommends your Board certify a Level of Severity III for water supply in the Los Osos basin and that the following revisions be made to the Resource Capacity Study:

1. The County of San Luis Obispo become the lead agency to implement the following recommendations.
2. All water purveyors should adopt mandatory retrofit measures that will reduce water demand by 30% by the year 2010 compared to 2001 usage.

C-4
2

976 OSOS STREET, ROOM 300 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

EMAIL: planning@co.slo.ca.us • FAX: (805) 781-1242 • WEBSITE: http://www.sloplanning.org

3. Best management practices for agricultural water use shall be encouraged.
4. A temporary moratorium be instituted for all new development that results in a net increase in water use from the basin until overall basin water use is reduced by at least 600 AFY over 2001 data.

DISCUSSION

In December 2005, your Board directed the Department to prepare a Resource Capacity Study (RCS) for the Los Osos groundwater basin. Your Board also recommended a Level of Severity III be set for water supply in the Los Osos area.

This RCS, using existing information developed in hydrogeology studies commissioned by the Los Osos Community Services District, has determined that a Level of Severity III for water supply is appropriate. The RCS has found that:

- the groundwater basin is currently in overdraft;
- sea water intrusion is occurring and has already progressed to the point where community wells need to be relocated;
- aggressive conservation measures must be put into place;
- Golden State Water Co and the Los Osos Community Services District have responded to sea water intrusion by changing well locations;
- S&T Mutual water Co does not meter water use;
- Golden State Water Co and Los Osos CSD customers use a relatively small amount of water per connection;
- Supplemental water supply will eventually be required to attain buildout.

Planning Commission Action

The Commission considered the staff recommendations, took extensive testimony on the issue and discussed each of the staff recommendations. In general, the Commission determined that the existing over draft condition and the sea water intrusion issue should be the focus of actions. The Following recommendations were adopted by the Commission for your Board's consideration (Commission changes in underline/strikeout format):

1. Recommend to the Board of Supervisors that Level of Severity III be certified for water supply in the Los Osos groundwater basin
2. <u>The County of San Luis Obispo become the lead agency to implement the following recommendations</u>.
3. That water purveyors continue to immediately implement the measures to address sea water intrusion.

4. S&T Mutual Water Co. should install meters and adopt an ascending water rate structure as described above.
5. All water purveyors should immediately adopt an ascending water rate structure as described in the RCS.
6. All water purveyors should adopt mandatory retrofit measures that will reduce water demand by ~~15%~~ 30% by the year 2010 compared to 2001 usage.
7. Best management practices for agricultural water use shall be encouraged.
8. Secure supplemental water supplies in sufficient quantity, when combined with conservation measures, to meet demand at projected buildout.
9. The County adopt an ordinance that prohibits new subdivisions that result in the net increase in water usage from the basin.
10. Adopt an ordinance to institute water conservation requirements for parcels outside of water purveyor service areas that mirror the efforts undertaken by purveyors within their service areas.
11. Adopt an ordinance requiring all water purveyors with 5 or more connections to meter individual connection water use.
12. Reduce the build out figure for Los Osos in the Estero Area plan from 28,000 to 19,713.
13. A temporary moratorium be instituted for all new development that results in a net increase in water use from the basin until overall basin water use is reduced by at least 600 AFY over 2001 data.

The primary changes to the RCS adopted by the Commission were:

1. In response to the apparent lack of a "lead agency" in the basin that could drive a water conservation program, the Commission recommended that the County try to take a lead role in the basin-wide response to this water problem. The fact that the County is not a water purveyor in the basin was discussed by the Commission; however, the Commission determined that the ultimate success of a water conservation program must start with a strong initial effort.

2. A temporary moratorium be instituted for all new development that results in a net increase in water use from the basin until overall basin water use is reduced by at least 600 AFY over 2001 data. The 600 acre-feet is approximately the amount of water that is over-drafted from the basin.

3. The Commission heard extensive testimony that the community could conserve an additional 30% over 2001 rates. The original RCS recommended a more conservative 15% reduction in water usage. The Commission raised the goal from 15 % to 30%.

C-4

Proposed Program

The water issues in the Los Osos basin are complex. It is expected that the measures developed to address these issues will also be complex. Staff has determined that, at the Board's direction, a program should be developed that will address implementation of these RCS recommendations. The proposed approach is a cooperative one that would bring the parties into a "task force" to implement the measures adopted by the Board. Such a program could include:

1. Amendments to Title 19 to address water use of new development and remodels of existing uses.

2. Establish time frames for rate structure implementation.

3. Development of the water conservation program for all basin users and purveyors.

4. Address new subdivision requirements to save more water than they will use.

5. Potential structure of a temporary moratorium within the Los Osos groundwater basin for new development requiring additional water use.

Many of these recommendations will require a cooperative approach as the County is not a water purveyor in the basin. The water purveyors have no land use authority for the lands they serve. It's only by working together that the agencies can fully air and address these issues. The Department can report back to your Board with the outline of a cooperative program. The purveyors would be invited to take part in this effort.

OTHER AGENCY INVOLVEMENT

County Public Works Dept reviewed the Resource Capacity Study. The Water Resource Advisory Committee reviewed the report and the Planning Commission action and recommends the following (changes in strike-out/underline):

1. The County of San Luis Obispo ~~become the lead agency to implement~~ shall lead in facilitating the following recommendations.
2. The County adopt an ordinance that prohibits new subdivisions that result in the net increase in <u>non-agricultural</u> water usage from the basin
2. A temporary moratorium be instituted for all new development that results in a net increase in <u>non-agricultural</u> water use from the basin until overall basin water use is reduced by at least 600 AFY over 2001 data.

C-4

CCC Exhibit E
(page 4 of 5 pages)

FINANCIAL CONSIDERATIONS

This Resource Capacity Study was prepared within the current Department budget.

RESULTS

Adoption of the recommendations will start the process to address water issues in Los Osos.

ATTACHMENTS

1. Water Resource Advisory Committee recommendation
2. Planning Commission recommendation
3. Letters received by the Planning Commission
4. Resource Capacity Study

5-3

Resource Capacity Study

Water Supply in the Los Osos Area

February 2007

San Luis Obispo County
Dept of Planning and Building

CCC Exhibit F
(page 1 of 16 pages)

5-4

Executive Summary

This Resource Capacity Study (RCS) is an analysis of water supply and demand in the Los Osos groundwater basin. It is based on reports commissioned by the Los Osos Community Services District and prepared by the local hydrogeology firm of Cleath and Associates. According to the County General Plan, a Resource Capacity Study should: 1) inventory existing water resources available to the agency operating the system; 2) document existing demand for water by all area user groups; and 3) explore any conservation measures that could reasonably be imposed by the water agency.

A Resource Capacity Study results in a determination of a Level of Severity (LOS) of the resource. Levels are set at I, II or III:

Level I	Resource Capacity Problem
Level II	Diminishing Resource Capacity
Level III	Resource Capacity Met or Exceeded

The response to these established levels of severity can range from capital project funding requirements to restrictions on development.

This Resource Capacity Study has determined that there is a Level of Severity III for water supply in the Los Osos area. Recommended actions include implementation of aggressive water conservation measures, prohibition of subdivisions, and requirements that all water purveyors meter water use and adopt an ascending rate structure.

This RCS will be reviewed by the Planning Commission at a public hearing. The Commission shall hear testimony on the subject and will make a recommendation to the Board of Supervisors. The Board will then conduct a second public hearing on the matter. The Board may choose to "certify" the Level of Severity and adopt measures to bring the resource into balance. Alternatively, the Board may chose to certify a different level of severity and take some different action.

1.) Introduction/Background

This Resource Capacity Study was ordered by the Board of Supervisors in December 2005. The Board unanimously set a Level of Severity III for water supply and directed that a Resource Capacity Study (RCS) be prepared.

The Los Osos ground water basin is the only source for local municipal, private domestic and agricultural water supply in the Los Osos area. The onshore

portion of the Los Osos Valley ground water basin covers approximately 10 square miles, of which approximately 3.3 square miles underlie the bay and sand spit, and 6.7 square miles underlie Los Osos, Baywood Park, and the Los Osos Creek valley. When groundwater is pumped out of the lower aquifer, four potential sources of recharge are available for replenishment. These sources are the Los Osos Creek valley, the upper aquifer, bedrock, and sea water.

The Los Osos Valley ground water basin has a limited amount of sustainable water available for use, known as the basin safe yield. The basin safe yield is the amount of naturally occurring ground water that can be withdrawn from an aquifer on a sustained basis, economically and legally, without impairing the native ground-water quality or creating undesirable effects, such water supply problems or water quality degradation.

In 2002, the Los Osos CSD conducted a safe yield analysis for the Los Osos Valley ground water basin in its Water Master Plan. Indications showed that there is an imbalance between the upper and lower aquifer production, with too much production in the lower aquifer and too little production in the upper aquifer. The imbalance has caused sea water intrusion in the lower aquifer. Sea water intrusion is the movement of salt water into a fresh-water aquifer. It not only has an affect on the water quality of the aquifers, but the soil can be damaged as a result of sea water intrusion. Salt build-up is left behind when water evaporates and makes in difficult or impossible to grow crops.

A relatively low percentage of sea water in fresh (less than 5%) can have a significant adverse impact on the potential beneficial uses of the water. Sea water intrusion was first documented in deep basin sediments in 1977 and has been affecting water purveyor wells since the mid 1990's. At present, sea water intrusion is occurring in the western end of the ground water basin. Sea water intrusion is active in the lower aquifer due to basin overdraft. An overdraft is the condition of a groundwater basin or sub basin in which the amount of water withdrawn by pumping exceeds the amount of water that recharges the basin over a period of years. Sea water intrusion is taking place in areas of the Los Osos Valley groundwater basin but to what extent is unknown.

The Resource Management System. The county's Resource Management System (RMS) is a mechanism for ensuring a balance between land development and the resources necessary to sustain such development. When a resource deficiency becomes apparent, efforts are made to determine how the resource capacity might be expanded, whether conservation measures could be introduced to extend the availability of unused capacity, or whether development should be limited or redirected to areas with remaining resource capacity. The RMS is designed to avoid adverse impacts from depletion of a resource.

5-6

The RMS describes a resource in terms of its "level of severity", based on the rate of depletion and an estimate of the remaining capacity, if any. In response to a resource issue or recommended level of severity, the Board of Supervisors may direct that a Resource Capacity Study be conducted. The RCS provides additional details that would allow the Board to certify a level of severity and adopt whatever measures are needed to eliminate or reduce the potential for undesirable consequences. The Board of Supervisors directed the preparation of this RCS in December 2005.

This document is the Resource Capacity Study for water supply in the Los Osos Valley groundwater basin. It is organized in the following manner:

1. **Introduction/background**
2. **Summary of studies done**
3. **Discussion**
   - a **Methods for estimating safe yield**
   - b. **Safe yield/overdraft**
4. **Estimate of projected growth**
   - a. **Subdivisions**
   - b. **Vacant lots**
5. **Summary of water supply and demand**
   - a. **Purveyors**
   - b. **Private wells**
   - c. **Agricultural use**
6. **Measures to increase supply**
7. **Measures to extend resource capacity**
8. **Recommended level of severity**
9. **Recommended actions**

2. Completed studies

In 2003, the Los Osos Community Services District (Los Osos CSD) obtained a grant form the California Department of Water Resources (DWR) for a project consisting of two separate studies; an assessment of sea water intrusion in the Los Osos Valley ground water basin, and an investigation into the source of the lower aquifer recharge. These studies address issues that affect ground water resource management and planning for a sustainable community water supply.

Sea Water Intrusion Assessment

The purpose of the sea water intrusion assessment was to document the historical rate of advance of the sea water wedge and the transition zone, and to establish the current position of these elements. The lower aquifer system in the Los Osos Valley groundwater basin is currently experiencing sea water intrusion. Most of the community water supply is generated from the lower aquifer system;

5-1

therefore, understanding the extent and rate of sea water intrusion is critical to protecting the community water supply.

According to the Sea Water Intrusion Assessment, six aquifer zones have been identified in previously published reports. They include the alluvial aquifer in the Los Osos Creek valley, the perched aquifer (Zone A), the transitional aquifer (Zone B), the upper aquifer (Zone C), and the lower aquifer (Zones D and E). A regional clay aquitard averaging 50 feet in thickness separates the upper aquifer from the lower aquifer. Basin-wide ground water production averaged 3,480 acre-feet per year (afy) between 1985 and 2001, with 2,510 afy being drawn from the lower aquifer.

The Assessment describes the problem of seawater intrusion. Less than five percent sea water in a fresh water aquifer can have a significant adverse impact on the potential beneficial uses of the water. There are certain criteria for evaluating sea water intrusion. The criteria consist of water levels and water quality. The sea water border will move in response to changes in aquifer pore pressure and will move toward an approximate equilibrium based on the Ghyben-Herzberg relation.

The Ghyben-Herzberg relation is comprised of analytical solutions to approximate the intrusion behavior. These solutions are based on a number of assumptions that do not hold in all field cases. The Ghyben-Herzberg relation states, for every foot of fresh water in an unconfined aquifer above sea level, there will be forty feet of fresh water in the aquifer below sea level. According to the Ghyben-Herzberg relation, a fresh water head of approximately 5 feet would be needed to prevent the sea water interface from moving onshore within the upper aquifer. A fresh water head of approximately 9 feet would be required to prevent the sea water interface in the lower aquifer from moving inland. Currently, only upper aquifer water levels are sufficiently high enough to prevent sea water intrusion.

Regarding the sea water assessment for the Los Osos Valley groundwater basin, the Los Osos CSD concluded that:

1. The upper aquifer freshwater/ sea water interface is relatively stable beneath the Morro Bay sand spit, with a potential for active intrusion during extended drought periods.

2. Sea water intrusion in the lower aquifer (zone D) has advanced at an average rate of 60 feet per year between 1985 and 2005, and is currently between Pecho Road and Doris Avenue.

3. Sea water intrusion in the lower aquifer (zone E) has advanced at an average rate of 54 feet per year between 1977 and 2005, and is currently between Broderson Avenue and Palisades Avenue.

Lower Aquifer Recharge Assessment

The Sea Water Intrusion report also included an assessment of lower aquifer recharge. When ground water is pumped out of the lower aquifer, four potential sources of recharge are available for replenishment. These sources are the Los Osos Creek valley, the upper aquifer, bedrock, and sea water. It was concluded that the upper aquifer is the primary source of fresh water recharge to the lower aquifer. The assessment also concluded that lower aquifer production west of the Los Osos Creek valley is currently close to 600 acre-feet per year more than the average fresh water inflow. This is confirmed by the evidence of sea water intrusion. The Los Osos Valley ground water basin is currently in an overdraft condition.

3. Discussion

What is the "safe yield" of a groundwater basin?

Safe yield is the amount of naturally occurring ground water that can be withdrawn from an aquifer on a sustained basis, economically and legally, without impairing the native ground-water quality or creating an undesirable effect such as environmental damage (C. W. Fetter, Applied Hydrogeology, Third Edition, 1994). "Undesirable effects" frequently cited as consequences of exceeding safe yield include:

- Reductions in streamflow; reductions in lake levels
- Drying of wetlands
- Subsidence of the land surface
- Degradation of water quality
- In coastal locations, seawater intrusion into the aquifer's fresh water in storage
- Lowering water levels leading to increase in pumping cost

What methods are used to estimate the safe yield of a groundwater basin?

Water level analysis. Groundwater levels in wells fluctuate over time representing the continuous adjustment of groundwater in storage to changes in recharge and discharge. Fluctuation of water levels is caused by several factors, including pumpage, recharge from direct precipitation and streamflow, infiltration of applied water and subsurface inflows and outflows. Water level analysis is based on empirical measurement of water levels in both production wells and monitoring wells. Levels in individual wells are compared to levels in other wells

throughout an aquifer to create a contour map showing elevations of the groundwater surface. Contour maps are useful for estimating the direction and rate of flow of groundwater within an aquifer. They are also used for estimating the amount of groundwater in storage. Observation of water levels over time can illuminate trends with implications about the long-term prospects for the basin.

Because annual recharge from precipitation is highly variable, long-term analysis of water level trends must include representative periods of above average and below average rainfall. Determination of trends is based on a period of observation that is not biased by an unusually dry or wet year or series of years.

Water budget analysis. Compilation of a water budget provides an estimate of each source of recharge and discharge to and from an aquifer. Estimates are based on a combination of empirical observation (rainfall data, stream flows, core samples, chemical analysis, well levels) and inference using logical assumptions. Water budgets are prepared to enable an understanding of the ways in which the groundwater basin adjusts to changes in recharge and discharge.

Since natural recharge from precipitation cannot be increased, an increase in discharge (pumping) can only be offset by an equivalent decrease in other forms of discharge (i.e., outflow to the ocean, to streamflow, to evapotranspiration, transfer from storage) and/or by supplemental recharge (imported water, control of recharge by dams). "Dynamic equilibrium" is the process by which an aquifer adjusts to a change in recharge or discharge.

The most common change to deal with is increased pumping. Depending on the transmissivity and storativity of the aquifer, achievement of a new equilibrium may not take place for decades following an increase in pumping. Equilibrium is achieved when the water removed by pumping is replaced by water that would otherwise have been discharged via ocean outflow or other sub-surface outflow such as outflow to a local stream or lake or to evapotranspiration. The cause and effect relationship between pumping and changes in various forms of discharge is not always appreciated, because pumping happens at the turn of a switch while the discharge adjustments take place over a very long time.

During the lengthy period of adjustment, a year or two of above average rainfall can temporarily reduce the size of pumping cones of depression and raise water levels in wells, giving a false impression that additional pumping can take place without a significant impact on the aquifer.

4. Estimate of Population Growth

The current population of the Los Osos Valley is approximately 14,500 persons. Build out has been estimated in the revised Estero Plan at 19, 713. Water management documents and studies have used this figure. However, the Los

Osos portion of the Estero Plan has been "taken off the table" by the County and will not be considered by the California Coastal Commission. The previous version of the Estero Plan is now being put back into place. This document has a build out population of approximately 28,000. This build out population figure is not accurate and this report recommends the figure be reduced as part of a future plan amendment.

These figures all probably overestimate the short term increase in population of the Los Osos area. A survey of potential subdivisions and vacant parcels yields a much lower figure. The sites known as Holland, Morro Shores, the "Farm" and other possible subdivision sites have the potential to support approximately 500 new housing units. In addition, a survey of the community indicates that there are approximately 450 - 500 vacant parcels that could be developed in the future. A total of 1000 units could support a population of approximately 2200 – 2500 additional persons. Another 2500 persons could be added over the long term.

5. Summary of Water Supply and Demand

The water supply of the Los Osos Valley is primarily based in the lower aquifer of the valley's groundwater basin. There have been several studies focused on Los Osos Valley ground water issues:

1. Brown and Caldwell (1974): Safe yield at 1300-1800 acre feet year (AFY). This is questioned in Cleath, July 2005, where the 1800 AFY is said to be consumptive use and not gross water production. The correct number, according to Cleath, should be closer to 3750 AFY.

2. Dept of Water Resources (1989): The DWR report determined a safe yield of 2200 AFY thru the use of a USGS model. Cleath adjusts this number to 3140 AFY.

3. URS Corporation (2000): Uses 3150 AFY as safe yield. URS used an updated USGS model.

4. Cleath and Associates (2002): Cleath used multiple methods to estimate safe yield at 3560 AFY in the LOCSD Master Water Plan.

5. Cleath and Associates (2005): This newer Cleath report includes a discussion of sea water intrusion. This issue has caused Cleath to reduce safe yield estimates to 3250 AFY to keep sea water intrusion at bay.

The studies have established a safe yield from each of the sub-groundwater sources. The safe yield (3250 AFY) used in the latest report for the CSD (Cleath and Associates July 2005) will be used in this RCS.

Table 1
Safe Yield Estimate
(from Cleath 2005)

Storage Area	Current Conditions	
	LOCSD Master Plan	2005 Water Management Plan
Upper Aquifer	**1150**	**1150**
Lower Aquifer	**1610**	**1300**
Creek Valley	**800**	**800**
TOTALS	**3560**	**3250**

The safe yield figure in Table of 3250 AFY will be used for this RCS. This safe yield includes provisions for reductions in sea water intrusion.

The safe yield from the basin is one side of the supply and demand equation. The demand side can be estimated by adding the amount of water pumped by all types of groundwater users including purveyors, private domestic wells and agricultural use. The following table from Cleath 2005 uses data from the period 1985-2001:

Table 2
Ground Water Production
1985-2001

Aquifer Zone	Purveyors			Private Domestic	Agricultural Irrigation*	1985-2001 average	2001 prod.
	Golden State	LOCSD	S&T				
A, B	0	0	0	40	0	40	40
C, alluvium	250	230	50	120	330	980	810
D	820	630	60	40	400	1950	2170
E	0	280	0	0	220	500	380
Total	1070	1140	110	200	950	3470	3400

Total water production from all portions of the groundwater basin totaled 3400 AFY. This 2001 number is 150 AFY more than the calculated safe yield from the basin. These figures indicate the basin was in overdraft in 2001. Overdraft continues today is shown by the continued sea water intrusion problem in the lower aquifer.

5-12

Water Demand In the Los Osos Valley

The population of the Los Osos Valley has stayed roughly the same or has trended slightly upward since 1990. Water use is also expected to trend upward as new development occurs outside the prohibition zone and existing dwellings are remodeled or demolished and replaced with larger more modern structures. Water demand in the CSD and Golden State Water Company service areas for the year 2006 is as follows:

Table 3
Water Usage by Purveyor

	LO CSD	Golden State	S and T Mutual
# of connections	2750	2681	175
Acre-feet/year	947 AFY	908 AFY	96.1 AFY
Use per connection	**0.34 AF**	**0.34 AF**	**0.55 AF**

The water use figures for the LOCSD and Golden State service areas are relatively low. The water use figures for the S&T Mutual Co are especially high. The difference in water usage per connection may be attributable to S&T's billing method. The company does not meter water usage; instead everyone is charged a flat rate. This type of billing does not encourage water conservation.

Staff has reviewed other variables to check this assumption. The lot sizes in the Sunset Terrace area (S&T's service area) are a uniform 6,000 – 6,500 sq ft. No unusually large parcels exist in the area that would cause per connection water usage to be higher than other suburban areas. An explanation can be sought through an analysis of community water demand. A survey of other communities' water usage per connection is as follows:

Table 4
Water Use In Other Communities

	San Luis Obispo	Templeton	Morro Bay	Pismo Beach	Nipomo	Golden State (Nipomo)
# of connections	14425	2490	5449	4776	3968	1480
Acre-feet/yr	6001 AFY	1395 AFY	1211 AFY	1927 AFY	2674 AFY	1164 AFY
Use/Connection	**0.41 AFY**	**0.56 AFY**	**0.22 AFY**	**0.40 AFY**	**0.67 AFY**	**0.78 AFY**

The examples of water use in other communities show a wide range of demand per connection. According to the Dept of Water Resources, water demand can be affected by several factors:

1. Size of lot
2. Size of dwelling
3. Climate
4. Soils
5. Rate structure
6. Land use
7. Household income

The range of demand per connection shown in Table 4 can be explained by several of these factors. The relatively low water demand numbers in Morro Bay and Los Osos are probably attributable to the smaller lot sizes that are found in all of our coastal communities; the marine influenced climate, and in the case of Morro Bay, the high percentage of second or vacation homes that are not occupied on a full time basis.

Other factors to be considered include land use patterns and population. The Cities of Pismo Beach and San Luis Obispo have relatively higher per connection water demand than the South Bay communities. Pismo Beach has many vacation homes that arte not occupied full time; however, their demand figure of 0.67 AFY per connection is relatively high. Similarly, the City of San Luis Obispo's demand figure is higher than expected. The water demand in these cities is probably due to 1) the number of hotels and visitors that put a higher demand on water resources; and 2) the substantial difference between the "night time" and "day time" populations of San Luis Obispo. Other communities in the county have become bedroom communities for the commercial center of the county.

Other factors that can explain the wide range in water demand include climate and lot size. According to the Dept of Water resources, 65% of water usage occurs outside the home. The communities of Templeton and Nipomo contain lots that are much larger than other areas of the County. Larger parcels use more water. North County communities can expect to use more water than coastal or south county communities due to the hotter summer climate.

The only figure that cannot seem to be explained by these factors is S&T Mutual Water Company. The S&T service area includes 175 connections in a small area of Los Osos near the Sea Pines Golf Course. The lot sizes, as mentioned above, are small (6,000 – 6,500 sq ft) and all connections are uniformly residential. The climate is marine influenced and soil conditions are similar to the rest of Los Osos. Of all factors that affect water demand in the list above, the only one that seems germane to S&T is rate structure. This mutual water

company is the only purveyor in the community that does not meter water use. All users are charged a flat rate independent of water usage. Metering of water usage at each connection is necessary in Los Osos in order to address the overdraft condition.

Conclusions Regarding Water Supply and Demand

The groundwater basin is currently in overdraft by at least 150 AFY. Sea water intrusion, which is fatal to a fresh water aquifer, is occurring in the Los Osos groundwater basin. Therefore, it is absolutely imperative that all measures are brought to bear to correct this problem. Lowering demand for water is generally the least expensive method to bring the basin back into equilibrium and to halt sea water intrusion. Therefore, while a RCS should look at measures to increase supply, this report shall focus on measures to reduce demand.

6. Measure to Increase Supply

A supplemental water source will eventually be needed for the area. The community is relatively isolated on the coast and is some distance from large surface water projects that could deliver supplemental water.

The few feasible options include:

1. Water wheeling through the City of Morro Bay (State water/desal)
2. Reclaimed water from the future wastewater treatment plant
3. Local Desalination facility
4. Conservation
5. Agricultural water

The water purveyors should review these options for supplemental water. Water wheeling through Morro Bay could include use of State Water or use of water produced by the existing desal plant. A pipeline connection from the City to Los Osos would be required. The pipeline route would probably be along South Bay Blvd and would experience coastal permitting and environmental difficulties. Water from a desal plant would probably cost upwards of $4000 per acre foot/year (Nipomo RCS – 2006). State water costs could run in the range of $1000- $2500 per acre foot per year.

Agricultural water users are located primarily on the east, southeast and northeast sides of the community. A GIS review of acreage in irrigated crops shows approximately 480 acres in irrigated agriculture. Crops in the area require between 1 to 3 acre feet of water per acre. A middle estimate of 2 acre feet per acre results in a water demand of 960 acre feet per year. This is similar to the estimate of agriculture water use by Cleath. Purchase of the water rights from these agricultural users will have serious general plan policy implications.

The use of reclaimed water from the future wastewater treatment plant should be considered. However, as a system design has not yet been completed and the areas of potential use of reclaimed water remain unclear, this option requires additional study. Also, tapping the upper aquifer to augment water supply is possible.

These are the acknowledged difficulties in securing a supply of supplemental water for the community. However, the existing information reviewed for this RCS clearly indicates a need for such a supplemental water supply. It appears that supplemental water is needed in the future even with a scenario of 0% growth and an aggressive water conservation program in place.

7. Measures to Extend Resource Capacity

Generally, the least expensive method to gain "new" water supply is through water conservation. According to the Pacific Institute (The Potential for Water Conservation in California, 2003):

> "Even without improvements in technology, we estimate that indoor residential use could be reduced by approximately 890,000 AF/yr – almost 40 percent – by replacing remaining inefficient toilets, washing machines, showerheads, and dishwashers, and by reducing the level of leaks. All of these savings are cost-effective and have important co-benefits like saving energy and decreasing the amount of waste water created."

It is questionable whether such a water savings figure is attainable in a single community. The Los Osos CSD's Water Management Plan assumes a 200 acre foot/year savings from water conservation by the year 2010. The Nipomo Water Management Plan assumes a 15% savings from water conservation measures. With water demand in Los Osos at 3400 AFY, a reasonable savings through conservation could be as high as, say 10% or 340 AFY. Even this amount of water savings is not enough to balance the demands on the aquifer and supplemental water will eventually be needed.

An aggressive water conservation program is required immediately due to the overdraft condition. A conservation program should require:

1. Mandatory retrofitting of all indoor plumbing fixtures including toilets, shower heads, sinks, washing machines.
2. A steeply tiered water rate structure that heavily penalizes excessive water use.
3. Prohibition of subdivisions that result in a net increase in water use.

4. Outdoor water use restrictions.
5. Metering of all water connections.

The Pacific Institute suggests the following rate structure:

Table 5. Recommended Tiered Rate Structure
Pacific Institute

Tier	Water Use (as percent of base allocation)	Price per Unit Used in Each Tier
Low Volume Discount	0-40%	Base Rate
Conservation Base Rate	41-100%	Base Rate
Inefficient	101-150%	2x Base Rate
Excessive	151-200%	4x Base Rate
Wasteful	201% and above	8x Base Rate

The CSD and Golden State Water Co have commenced changes in well production to decrease the amount of water taken from the lower aquifer. This is the first recommendation from the Sea Water Intrusion Assessment. The purveyors should continue these efforts.

The Los Osos groundwater basin is currently undergoing a process known as adjudication. The CSD filed the case for adjudication in February 2004. The water purveyors (LOCSD, Golden State Water Co, S&T Mutual Water Co and the County) are involved in this court case. In an adjudication case, the parties overlying the groundwater basin turned to the courts to settle disputes over how much groundwater can rightfully be extracted by each party.

Currently, the parties involved in the adjudication case are in discussion of a proposed interim stipulated agreement. The proposed agreement is not yet final and is not a public document. It is not known at this time what effect the stipulated agreement will have on the water resource in the Los Osos groundwater basin.

8. RECOMMENDED LEVEL OF SEVERITY

The county General Plan's *Framework for Planning* contains a discussion of the objectives, procedures and criteria for levels of severity of the Resource Management System. Regarding water resources, the RMS indicates that *"Level of Severity III exists when water demand equals the available resource; the amount of consumption has reached the dependable supply of the resource. A*

C-4 F
CCC Exhibit 36
(page 14 of 16 pages)

Level III may also exist if the time required to correct the problem is longer than the time available before the dependable supply is reached."

Table 6
RESOURCE DEFICIENCY CRITERIA FOR LEVELS OF SEVERITY

Level I	Level II	Level III
Projected consumption estimated to exceed dependable supply within 9 years	7 year lead time to develop supplementary water for delivery to users	Resource is being used at or beyond its estimated dependable supply or will deplete dependable supply before new supplies can be developed

This Resource Capacity Study confirms that for the Los Osos community, water demand presently exceeds the dependable yield. Therefore, Level of Severity III is recommended for the water resources in Los Osos.

9. Recommended Actions

The Resource Management System includes three "action requirements" that accompany a Level of Severity III determination:

If Level III is found to exist, the board shall make formal findings to that effect, citing the basis for the findings, and shall:

1. *Institute appropriate measures (including capital programs) to correct the critical resource deficiency, or at least restore Level II so that severe restrictions will be unnecessary.*
2. *Adopt growth management or other urgency measures to initiate whatever restrictions are necessary to minimize or halt further resource depletion.*
3. *Enact a moratorium on land development, or other appropriate measures, in the area that is affected by the resource problem until such time that the project provides additional resource capacity to support such development.*

The following measures are recommended for implementation:

1. Measures to correct the resource deficiency.

The county can initiate measures that involve the land use and building permitting process. However, since the county is not a water purveyor in Los Osos, some of these measures will need to be undertaken by the LOCSD, Golden State Water Company and S&T, acting separately or as part of a coordinated effort.

Measures to be undertaken by water purveyors:

a. Continue to immediately implement the measures recommended in the Sea Water Intrusion Assessment.
b. S&T Mutual Water Co. should install meters and adopt an ascending water rate structure as described above.
c. All water purveyors should immediately adopt an ascending water rate structure as described above.
d. All water purveyors should adopt mandatory retrofit measures that will reduce water demand by 15% by the year 2010 compared to 2001 usage.
e. Secure supplemental water supplies in sufficient quantity, when combined with conservation measures, to meet demand at projected buildout.

2. Land development measures:

Measures to be undertaken by the County:

f. Prohibit new subdivisions that result in the net increase in water usage from the basin.
g. Institute water conservation requirements for parcels outside of water purveyor service areas that mirror the efforts undertaken by purveyors within their service areas.
h. Adopt an ordinance requiring all water purveyors with 5 or more connections to meter individual connection water use.
i. Reduce the build out figure for Los Osos in the Estero Area plan. From the present 28,000 to 19,713.

References:

Los Osos Community Services District. *Sea Water Intrusion Assessment and Low Aquifer Source Investigation of the Los Osos Valley Ground Water Basin San Luis Obispo County, California.* October, 2005.

Los Osos Community Services District. *Water Management Plan for the Los Osos Valley Ground Water Basin.* July 2005

San Luis Obispo County Department of Planning and Building. *Resource Capacity Study: Water Supply in the Nipomo Mesa Area.* October, 2004.