

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
PHONE: (831) 427-4863  
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**W9b**

**Prepared October 15, 2009 (for November 4, 2009 Hearing)**

**To:** Coastal Commissioners and Interested Persons

**From:** Dan Carl, District Manager  
Jonathan Bishop, Coastal Planner

**Subject:** **Appeal A-3-SLO-09-058 (DeCicco)** Appeal by Concerned Citizens of Cayucos; and Bruce and Connie Paine of a San Luis Obispo County coastal development permit for a subdivision and construction of a 17-unit motel, 2 commercial lease spaces, common area decks/courtyard, underground parking, 4 residential condominiums, and related landscaping and drainage improvements at Ocean Boulevard and Old Creek Road, in the community of Cayucos, San Luis Obispo County. Appeal Filed: October 12, 2009. 49th Day: November 30, 2009.

**Recommendation**

Staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which appeal A-3-SLO-09-058 was filed. Staff recommends a **YES** vote on the following motion and resolution:

**Motion and Resolution.** I move that the Commission determine and resolve that Appeal Number A-3-SLO-09-058 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Coastal Act Section 30603 regarding consistency with the certified Local Coastal Program and/or the public access policies of the Coastal Act.

Passage of this motion and resolution will result in a finding of no substantial issue and adoption of the following findings. By such action, the Coastal Commission declines to take jurisdiction over the coastal development permit (CDP) for this project, the County's action becomes final and effective, and any terms and conditions of the County's decision remain unchanged. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present

**Findings**

San Luis Obispo County approved a coastal development permit for the above-described project on October 8, 2008 (see notice of County's action in Exhibit 1). On August 12, 2009, the Commission determined that the project was appealable to the Commission pursuant to Coastal Act Section 30603 and LCP Section 23.01.043(c)(4) because the approved development includes a subdivision, which is not listed as the principal permitted use in the Residential Multi-Family and Commercial Retail land use categories that apply to the site.<sup>1</sup> The Commission subsequently received a valid appealable Final Local Action Notice for the project on September 28, 2009.

The Appellants contend that the County's approval is inconsistent with San Luis Obispo County Local

<sup>1</sup> See <http://documents.coastal.ca.gov/reports/2009/8/W9a-8-2009.pdf>.



Coastal Program (LCP) standards related to parking, toxics, traffic, fire protection, visual resources, and general neighborhood compatibility (see full appeal document in Exhibit 2).

Coastal Act Section 30625(b) requires the Commission to hear an appeal unless it determines that no substantial issue exists with respect to the grounds on which the appeal has been filed.<sup>2</sup> Commission staff has analyzed the County's Final Local Action Notice for the development (Exhibit 1), the Appellants' contentions (Exhibit 2), and the relevant requirements of the LCP (Exhibit 3). The appeal raises no substantial issue with respect to the LCP as follows:

#### Parking

The County approved project includes an underground parking structure to serve the development. Under the LCP, the project is required to provide 32 parking spaces and one loading space (CZLUO 23.04.160 et seq.). In this case, the parking space requirements are split between the residential use and the commercial use of the project (10 spaces required for the condo units and 22 spaces plus 1 loading space for the hotel). Under Table O of the LCP, parking areas required to serve a particular development is not listed as a use. According to the County, such facilities are viewed as "Accessory Uses" which are "customarily incidental, related and subordinate to the main use of a lot or building and do not alter or change the character of the main use."

The Appellants contend that the underground parking structure serves only the commercial use, and because the subterranean structure extends or "passes onto" (or under in this case) the adjoining residentially zoned portion of the project that it is conflict with the LCP because a "hotel" is not an allowed use in the residentially zoned portion of the site.

It appears that the underground parking spaces approved in the residential zone are intended to serve the commercial component of the project. Thus, technically the project does result in a commercial use in a residential zone. However, given the mixed-use nature of the project, and the fact that there is no fundamental incompatibility between the proposed residential and commercial parking, no substantial issue is raised by this inconsistency. In addition, the underground parking will be serving a priority visitor-serving use (motel). Also, the combined parking does not create any incompatibility or conflict with users of the project or parking issues in the surrounding neighborhood.

#### Toxics

The Appellants also contend that the County failed to evaluate and mitigate the presence of toxics on the site, which was a gas station at one time. The Appellants believe that excavation of the site will result in the removal of this waste, as well as pumping of contaminated water from the site to nearby creeks and watercourses. The Appellants contend that this issue was dealt with only after (emphasis added) the

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<sup>2</sup> The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. In previous decisions on appeals, the Commission has generally been guided by the following factors in making substantial issue determinations: the degree of factual and legal support for the local government's decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government's decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance.



County approved the CEQA document for the project. The Appellants further allege that this violates CEQA requirements for timely review of environmental impacts.

Appellants cite procedural violations and specific court cases related to the County's CEQA process in support of this contention; no specific LCP standards are cited. CEQA requirements are not the standard of review for this coastal development permit and therefore are not valid appeal contentions. Nonetheless, to the extent that the LCP protects against the potential adverse impacts of toxic substances on coastal resources, the County review and approval appears to adequately address the issue of subsurface toxics and hazardous materials that may be discovered on the site during construction. According to the County, potential contamination of the site is adequately addressed by a previous underground storage tank investigation, a new Phase I Environmental Site Assessment completed during the preparation of the Mitigated Negative Declaration, and the recommendations of the Environmental Health Division, which are included as County conditions of approval (see County Special Conditions 16 through 19). Under the County special conditions, the Applicant must prepare a Contaminated Materials Management Plan (CMMP) and follow a detailed work plan that must be implemented prior to the issuance of construction permits. All work plans must be review and approved by the County Division of Environmental Health and the Regional Water Quality Control Board. In sum, no substantial issue is raised by this claim.

#### Traffic

Appellants contend that the County approval fails to evaluate and mitigate traffic impacts. Appellants cite Coastal Zone Land Use Ordinance (CZLUO) Section 23.02.035 (v), which states: "The proposed use or project 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." In addition, the Appellants cite an independent traffic report (Orosz Engineering Group, Inc. 2008) which concludes that the traffic analysis by the County fails to address several potentially significant effects relating to the lack of provision of pedestrian facilities, delays at two closely spaced intersections, and site distance for drivers.

The County findings indicate that transportation impacts, including pedestrian safety and impacts to Old Creek Road are adequately addressed. According to the County findings, the traffic study prepared for the project (TPG, 2007) concludes that no project-specific mitigation measures are necessary (including no need to alter the roadway or traffic signals in the area). The County Public Works Department reviewed this study and agreed with its conclusions. The County Public Works Department also notes, and the Commission concurs, that the traffic and safety concerns raised deal with existing conditions, and are not considered new impacts resulting from this project. In addition, County special conditions of approval appear to adequately address the issue of traffic, pedestrian access, and safety (see County Special Conditions 27 and 28). In sum, it appears that traffic issues have been adequately addressed by the County.

The appeal also cites a lack of provision for pedestrian facilities to get people across Highway One to the beach and back. The lack of adequate pedestrian crossing in the area is an existing, ongoing condition that won't be exacerbated by the proposed project. In this case, it is not an LCP requirement, nor is this



project required to solve an ongoing neighborhood access issue of much larger scope.

#### Fire Protection

The LCP requires that adequate public services be available to serve new development (Public Works Policy 1). The Appellants contend that there is insufficient fire flow and fire protection for the project. No evidence to support this contention is provided.

A review of the County approval indicates that the issue of fire protection is adequately addressed. On August 31, 2006 a Fire Safety Plan was prepared by the Cayucos Fire Protection District for this project. Special Condition 7 of the County approval ensures that all requirements of the plan are met. These measures include installing fire hydrants, and having the project reviewed by a registered Fire Protection Engineer. In addition, Special Condition 42 of the County approval requires the applicant to provide verification from the Cayucos Fire Protection District that the all measures identified in the August 31, 2006 plan have been complied with prior to occupancy. In this case, the County has conditioned the project appropriately in terms of addressing fire protection, and there is no evidence to suggest that these conditions will be inadequate in this case, or that extraordinary efforts beyond what the County has already done are necessary. Thus, LCP public works issues, particularly those related to fire protection have been adequately addressed by the County.

#### Visual and Scenic Resources

The LCP requires that unique and attractive features of the landscape, including unusual landforms and scenic vistas, be preserved and protected (Visual and Scenic Resource Policy 1). CZLUO Section 23.02.034(c)(4)(iii) requires that new development be compatible with the neighborhood in terms of health, safety, and welfare of the general public or persons residing or working in the neighborhood of the use. The CZLUO further requires that the proposed use not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development (23.02.034(c)(4)(iv)).<sup>3</sup>

The Appellants contend that the project is highly visible and interferes with views from and along Highway 1. The Appellants further contend that the project is out of character with the surrounding neighborhood. The Appellants believe that the tall structure will shade nearby residences and block their view of the ocean. In general, the appeal contends that the project is too large and will have an adverse visual impact of the project on the character of Cayucos and its community and neighborhoods. Lastly, the Appellants contend that the commercial project will result in neighborhood impacts such as noise, light and air pollution generally associated with placing a commercial project in a residential neighborhood.

The County found that the proposed project was consistent with the visual and scenic resource protection standards of the LCP. According to the County findings, the proposed project meets all LCP development standards for the area in terms of setbacks, density, and height limitations. Based on a Visual Analysis (Morro Group, 2007), the County found that; 1) existing views have been previously

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<sup>3</sup> The Appellant cites Coastal Act section 30251 and 30253 in the appeal contention. However, the Coastal Act is not the standard of review for this project and therefore is not applicable.



compromised and are not considered scenic; and 2) as viewed from the west (Highway 1), the project would not significantly impact distant ridgelines, significant geologic features or scenic views. In addition, a number of project modifications were made during the course of the local review in an attempt to reduce and "soften" any potential impacts. These include an additional "stepping back" of the motel portion of the project along Ocean Boulevard and the residential portion along Orville Avenue. Landscaping, lighting, color, air quality, and other design elements are addressed through County conditions of approval (See for example Special Conditions 3, 4, 5, 6, 20, 26, 38, 39, and 41).

Visual resources and community character issues often involve more qualitative judgments and are thus challenging to analyze. In this case, Commission staff have visited the site and, with respect to the question of substantial issue, has generally concurred with the County's assessment regarding the impacts of the project and the character of the surrounding area. Although the project is large compared to surrounding development, understanding the context of the site in relation to its surroundings is important in this case. The project is located on the inland side of Highway One in a substantially developed area, and previous use on the site was a gas station. Although Highway One views are almost always important, the view allowed at this location is of relatively dense existing development along the highway and extending up the slope. As such, the view is less significant than some other Highway One views in this respect, and the project should adequately fit into this existing viewscape and built environment without significantly adversely affecting it. As compared to Highway One views west towards the Pacific Ocean, which are most important here, the surrounding development in the area is an eclectic mix of older beach cottages and new residences. The backdrop for the proposed development is made up of residences perched on the hillside and is not a unique or attractive feature of the landscape under the LCP. There is no question that the development will change the views of the inland areas from Highway One, however, the question is whether these impacts, or the views currently available, are significant. The views that are more directly impacted in this case are private views, not significant public views protected under the LCP. Overall, the development does not raised a substantial issue of conformance with respect to the LCP, and no significant coastal resources of statewide importance will be impacted by the proposed scale and design.

The County has provided adequate factual and legal support for its decision that the approved development would be consistent with the applicable policies in the certified LCP (Exhibit 1). There are no significant coastal resources affected by the decision, and no adverse precedent will be set for future interpretations of the LCP. Finally, the appeal does not raise issues of regional or statewide significance.

For the reasons stated above, the Commission finds that Appeal Number A-3-SLO-09-058 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified LCP and/or the public access policies of the Coastal Act.



**Exhibits:**

Exhibit 1: San Luis Obispo County CDP decision

Exhibit 2: Appeal of San Luis Obispo County's CDP decision

Exhibit 3: Applicable San Luis Obispo County LCP policies





SAN LUIS OBISPO COUNTY  
DEPARTMENT OF PLANNING AND BUILDING

FINAL LOCAL  
ACTION NOTICE

VICTOR HOLANDA, AICP  
DIRECTOR

REFERENCE # 3-SLO-09-272

APPEAL PERIOD 9/29-10/2/09

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SEP 28 2009

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

September 23, 2009

Franco DeCicco  
115 Kodiak Street  
Morro Bay, CA 93442

Kim Hatch, Pults and Associates  
3450 Broad Street, Suite 106  
San Luis Obispo, CA 93401

**CORRECTED NOTICE OF FINAL COUNTY ACTION**

HEARING DATE: October 28, 2008

SUBJECT: County File No. – SUB2005-00241, DRC2006-00064  
Tract Map/Development Plan/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 corrected Notice of Final Action is being mailed to you pursuant to Section 23.02.033(d) of the Land Use Ordinance and the Coastal Commission letter dated August 31, 2009 (attached).

This action is appealable to the California Coastal Commission pursuant to dispute resolution procedures 3-09-015-EDD which resulted in the California Coastal Commission concurring with the Executive Director's determination on August 12, 2009 that an appealable coastal development permit is required for the subject project. Regulations in Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043 contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The regulations provide the California Coastal Commission ten (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.

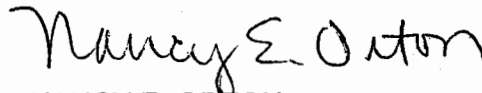
Exhaustion of appeals at the county level is required prior to appealing the matter to the California Coastal Commission. This second appeal must be made directly to the California Coastal Commission Office. Contact the Commission's Santa Cruz Office at (831) 427-4863 for further information on their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

If you have questions regarding your project, please contact me at (805) 781-5008.

Sincerely,



NANCY E. ORTON  
Coastal Planning and Permitting

cc: California Coastal Commission,  
725 Front Street, Suite 300, Santa Cruz, California 95060  
Bruce Paine, Concerned Citizens of Cayucos  
191 Stuart Ave.  
Cayucos, CA 93430  
John Belsher, Belsher & Becker, 412 Marsh St, San Luis Obispo, CA 93401  
Perennial Architect & Associates, P.O. Box 171, Cayucos, CA 93430  
Barrie St. James, 2939 Orville Ave., Cayucos, CA 93430  
Morgan Rafferty, ECOSLO, P.O. Box 1014, San Luis Obispo, CA 93406  
Lillian Smith, 170 Oakhurst Court, Santa Maria, CA 93455  
Greg Neshime, 138 Old Creek Road, Cayucos, CA 93430  
Julie Sanders, 201 Old Creek Road, Cayucos, CA 93430  
Jennifer Childs, 3207 Marsh Road, Cayucos, CA 93430  
Earl Van Fleet, 2845 Orville Ave., Cayucos, CA 93430

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(Planning Department Use Only – for California Coastal Commission)

Date NOFA copy mailed to Coastal Commission: September 23, 2009

Enclosed: X Resolution with Findings and Conditions  
X Adopted Staff Report and Memo dated October 28, 2008



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SEP 28 2008

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

**IN THE BOARD OF SUPERVISORS**

COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tues day October 28, 20 08

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

**ABSENT:** None

RESOLUTION NO. 2008-336

RESOLUTION MODIFYING THE DECISION OF THE  
PLANNING COMMISSION AND CONDITIONALLY APPROVING  
THE APPLICATION OF FRANCO DECICCO FOR A  
TENTATIVE TRACT MAP/COASTAL DEVELOPMENT PERMIT FOR  
TRACT 2863, DEVELOPMENT PLAN SUB2005-00241,  
AND VARIANCE DRC2006-00064

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CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

The following resolution is now offered and read:

WHEREAS, on March 27, 2008, May 22, 2008 and June 26, 2008, 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 Franco DeCicco for a tentative tract map/coastal development permit for Tract 2863, Development Plan SUB2005-00241, and Variance DRC2006-00064; and

WHEREAS, Franco DeCicco 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 21 and Title 23 of the San Luis Obispo County Code; and

WHEREAS, public hearings were duly noticed and conducted by the Board of Supervisors on October 7, 2008 and October 28, 2008, and determination and decision was made on October 28, 2008; and

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

WHEREAS, the Board of Supervisors has duly considered the appeal and determined that the appeal should be upheld in part and the decision of the Planning

Commission should be modified and that the application should be approved subject to the findings and conditions set forth below.

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

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 C 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 concerning the tentative tract map filed by Franco DeCicco is hereby upheld in part and the decision of the Planning Commission is modified and that the application of Franc DeCicco for a tentative tract map/coastal development permit for Tract 2863 is hereby approved subject to the conditions of approval set forth in Exhibit D attached hereto and incorporated by reference herein as though set forth in full.
6. That the appeal concerning the development plan filed by Franco DeCicco is hereby upheld in part and the decision of the Planning commission is modified and that the application of Frank DeCicco for Development Plan SUB2005-00241 is hereby approved subject to the conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.
7. That the appeal concerning the variance filed by Frank DeCicco is hereby denied and the decision of the Planning Commission is affirmed and that the application of Franco DeCicco for Variance DRC2006-00064 is hereby approved based upon the findings and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.

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SEP 28 2009

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

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

Tuesday, October 28, 2008

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

**ABSENT:** None

In the matter of **RESOLUTION NO. 2008-336:**

This is the time set for continued hearing (continued from October 7, 2008) to consider an appeal by Franco DeCicco of the Planning Commission's conditional approval of a Tentative Tract Map/Coastal Development Permit for Tract 2863, Development Plan (SUB 2005-00241) located at the northwest corner of Ocean Boulevard and Old Creek Road in the community of Cayucos; 2nd District.

**Mr. Mike Wulkan:** Planning, presents the staff report; outlines the recommendation based on the Board's direction at the last hearing; additionally, suggests changes to Conditions #7 and #42 regarding fire safety.

**Supervisor Gibson:** questions various aspects of the redesigned project and the staff report, with Mr. Wulkan responding.

**Supervisor Lenthall:** questions reductions to the overall size of this through the redesign, with Mr. Wulkan responding.

**Mr. Marshall Ochylski:** representing Mr. DeCicco, speaks to what they have changed based on comments by Mr. Belsher and the Board at the last hearing.

**Mr. Kim Hatch:** architect for the project, presents drawings for each of the floors under their revised proposal, including a revised model; addresses the dimensions of the building; discusses comments regarding fire flows and feels the information, provided by staff, on this was not correct.

**Mr. John Belsher:** representing the Concerned Citizens of Cayucos, addresses the concerns they still have with the project relating to the height, traffic and neighborhood compatibility.

**Mr. Stan House, Ms. Judy Apple, Ms. Lynn Schoennauer, Mr. Keith Taylor:** speak in support of the application as they believe the Applicant as done everything he was asked to do.

**Ms. Cynthia Malmen, Mr. Bill Shea, Ms. Margaret Ambrosavage, Mr. Larry Shochet, Ms. Connie Paine, Ms. Anne Ahmed, Ms. Sharon Deegan, Mr. Paul Choucalas, Ms. Julie Sanders, Ms. Jeanne Edwards:** (some presenting powerpoints and videos) speak against the proposal as presented and want it more compatible with the neighborhood; the project is not close to the beach for visitors; concerns to the size; want a condition added to never change to timeshares.

**Mr. Belsher:** gives his closing comments regarding the size of the individual units; doesn't believe this meets the "heart and soul" of the land use requirements.

**Mr. Ochylski:** gives their closing comments; presents a copy of the January 1999 letter from Health Agency regarding the underground storage tank.

**Mr. Hatch:** continues with the closing comments for the Applicant.

**Supervisor Gibson:** questions whether the Applicant is willing to compromise any further, with Mr. Franco DeCicco, Applicant, speaking to the compromises they have already made and indicates this is the best they can do.

**Mr. Tim McNulty:** Deputy County Counsel, addresses the parking and whether it is or isn't an auxiliary use.  
**Supervisor Achadjian:** questions whether curb painting and special time zones would solve parking issues for neighbors.

**Mr. Glen Marshall:** Public Works, responds to questions regarding painting the curb on Orville red to limit parking in this area.

**Supervisor Gibson:** believes this is "drastically" out of scale for the area; addresses his concerns to the height of the building based on which zoning it is located on; speaks to other projects in the County where there was overwhelming opposition to a project.

**Mr. Hatch:** addresses how they determined average natural grade.

**Board Members:** discuss various aspects of the project versus others in the County; discuss mixed use projects; and, whether this is a Smart Growth project or not.

**Supervisor Gibson:** suggests a motion to deny the project, continue it off-calendar to allow development of two separate building units or to revise the project into a two-story facility.

**Chairperson Patterson:** addresses his concerns to the project.

A motion by Supervisor Bruce S. Gibson, seconded by Chairperson James R. Patterson to deny appeal and continue the matter off calendar to allow the Applicant to bring back two separate projects with two stories above natural grade, is discussed and Supervisor Gibson withdraws his motion.

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

**AYES:** Supervisors: Bruce S. Gibson, Chairperson James R. Patterson,

**NOES:** Supervisors: Harry L. Ovitt, Jerry Lenthall, K.H. 'Katcho' Achadjian

**ABSENT:**None

motion to deny the appeal and adopt the resolution presented at the October 7, 2008 meeting, fails.

A motion by Supervisor Bruce S. Gibson to deny the appeal and uphold the Planning Commission approval changing Condition 4f from 22 to 28 feet but retaining the two-story requirement, is discussed.

Thereafter, on motion of Supervisor Jerry Lenthall, seconded by Supervisor K.H. 'Katcho' Achadjian, the Board agrees to continue the meeting past 5:00 p.m.

**Board Members:** discuss the motion by Supervisor Gibson and the setback requirements.

**Supervisor Gibson withdraws his motion and makes another motion to tentatively deny the appeal and continue the hearing to December 16, 2008 to allow staff to time to prepare findings to support that denial, with said motion dying for lack of a second.**

A motion by Supervisor Harry L. Ovitt, seconded by Supervisor Jerry Lenthall to approve the staff recommendation, is discussed.

**Supervisor Gibson:** will not support motion as it doesn't take care of the compatibility issues on Orville Street.

**Chairperson Patterson:** addresses his concerns to the motion.

Thereafter, on motion of Supervisor Harry L. Ovitt, seconded by Supervisor Jerry Lenthall, and on the following roll call vote:

**AYES:** Supervisors: Harry L. Ovitt, Jerry Lenthall, K.H. 'Katcho' Achadjian

**NOES:** Supervisors: Bruce S. Gibson, Chairperson James R. Patterson

**ABSENT:**None

the Board upholds the appeal in part and RESOLUTION NO. 2008-336, resolution modifying the decision of the Planning Commission and conditionally approving the application of Franco DeCicco for the tentative Tract Map/Coastal Development Permit for Tract 2863, Development Plan SUB2005-00241, and Variance DRC2006-00064, adopted.

cc: Planning (2); Public Works  
11/06/08 dg

STATE OF CALIFORNIA )  
                                  )  
County of San Luis Obispo )

ss.

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.

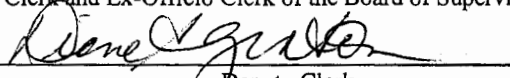
WITNESS my hand and the seal of the said Board of Supervisors, affixed this 6th day of November, 2008.

(SEAL)

JULIE L. RODEWALD

County Clerk and Ex-Officio Clerk of the Board of Supervisors

By:

  
Deputy Clerk



SAN LUIS OBISPO COUNTY  
DEPARTMENT OF PLANNING AND BUILDING  
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SEP 28 2009 VICTOR HOLANDA, AICP  
DIRECTOR

TO: BOARD OF SUPERVISORS  
FROM: MIKE WULKAN, SUPERVISING PLANNER  
VIA: WARREN HOAG, AICP, DIVISION MANAGER, CURRENT PLANNING  
DATE: OCTOBER 28, 2008  
SUBJECT: REVISED PLANS: ITEM C-4, CONTINUED HEARING TO CONSIDER APPEAL BY FRANCO DECICCO

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Background

This report is being transmitted to your Board in response to revised plans submitted by the applicant per your Board's request at the October 7, 2008 public hearing. The revised plans were not received in time to include them in the October 28 staff report.

At the October 7, 2008 public hearing, your Board asked the applicant to submit revised plans showing the upper floor of the motel-portion of the building set back at least 15 feet from the property line along Orville Avenue. In addition, your Board asked to see other design changes resulting in a visual "softening" of the appearance of the building as seen from Orville Avenue.

Revised Plans

The applicant has revised the plans as requested, and the revised elevations, perspectives, floor plans, and other plans are attached. The applicant has complied with your Board's request to increase the upper floor setbacks along Orville Avenue and visually "soften" the appearance of the building as seen from Orville Avenue. In addition, the revised design includes a suggestion by Supervisor Achadjian to create an opening between the residential and motel-portions of the building. Specifically, the revisions:

- Increase the upper floor setbacks along Orville Avenue from a minimum of 5-11 feet to a minimum of 15 feet. In addition, the plan revisions increase the setbacks on the second floor from a minimum of 5-11 feet to a minimum of 9-15 feet from the property line, and they slightly increase the setbacks on the first floor. As a result, the building visibly and progressively steps back from the ground floor to the upper floor (see the attached plan labeled "Orville Street Set-back").
- Increase the separation between the residential and motel-portions of the building from 9 to 22 feet on the Orville side of the building, and create a new separation between the residential and motel-portions of the building along Ocean Blvd. The result is a prominent opening that breaks up the building mass along Orville Avenue and creates a view corridor through the building from Orville Avenue to Ocean Blvd. on the upper floor (see the attached elevations, street perspectives, and 3<sup>rd</sup> floor view corridor).

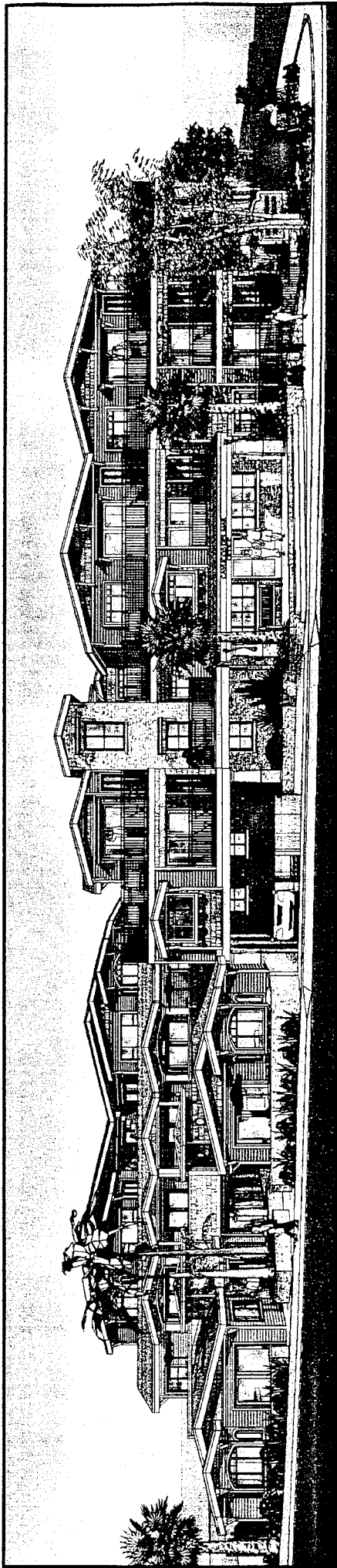
- Reduce the sizes of the units by a total of about 1,350 square feet, mostly on the upper floor facing Orville Avenue. This results in smaller units (for example, one unit is reduced from 1,020 square feet to 436 square feet in area), less building mass and greater common open area for the occupants.

#### Recommendation

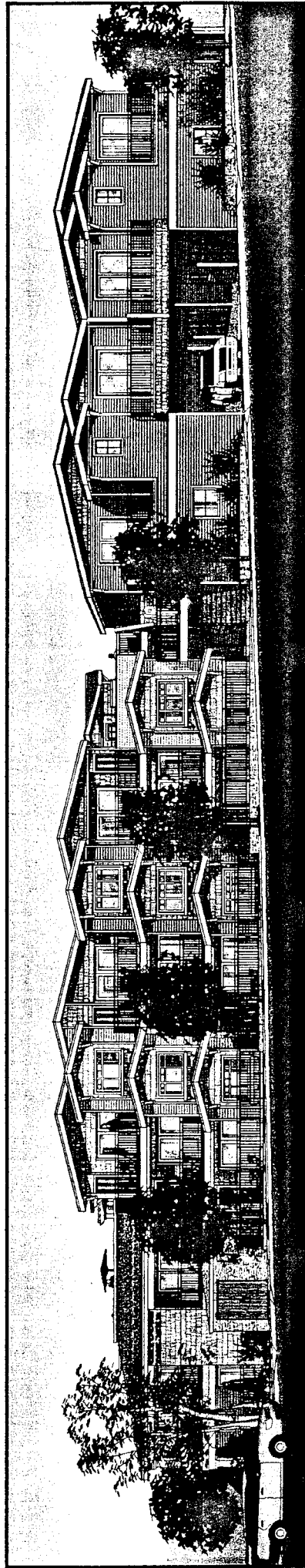
Uphold the appeal in part and adopt and instruct the chairman to sign the resolution modifying the decision of the Planning Commission and conditionally approving the application of Franco DeCicco for a Tentative Tract Map/Coastal Development Permit for Tract 2863, Development Plan SUB 2005-00241, and Variance DRC 2006-00064.

#### Attachments

Orville street setback  
Elevations  
Ocean Avenue and Orville perspectives  
3<sup>rd</sup> floor view corridor  
Roof/site plan  
Third, second and first level floor plans



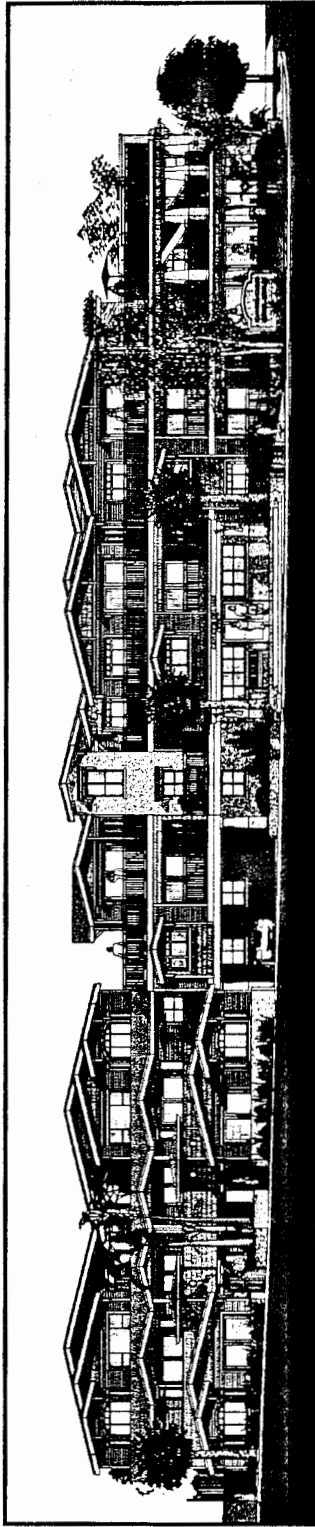
Ocean Avenue



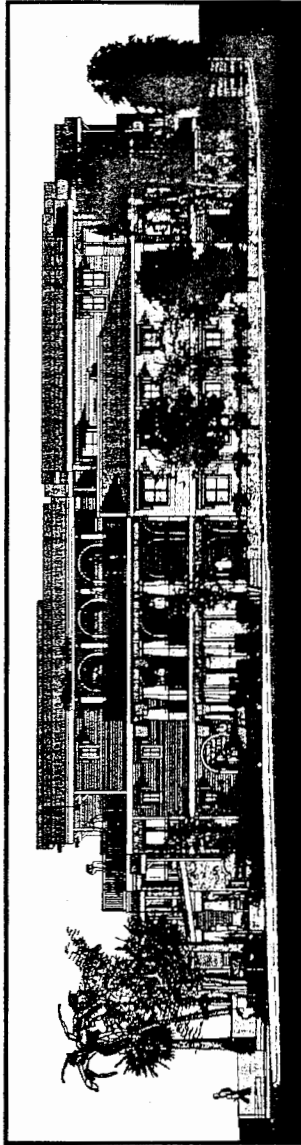
Orville Street

# CAYUCOS DEL MAR

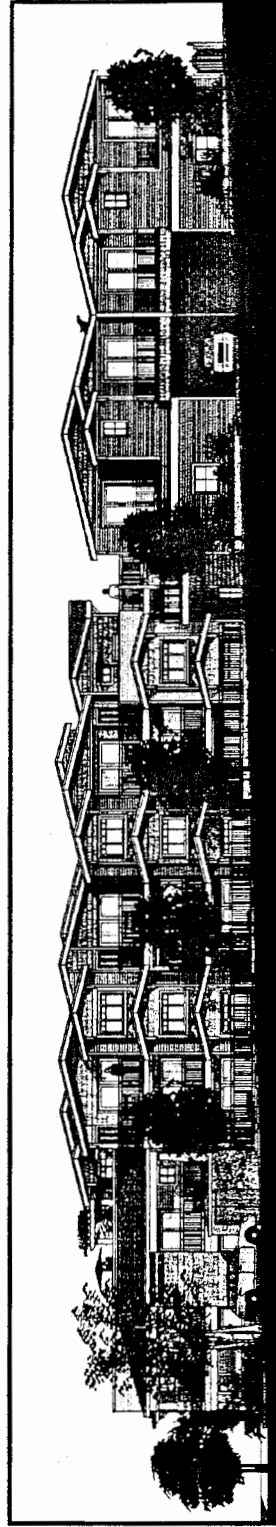




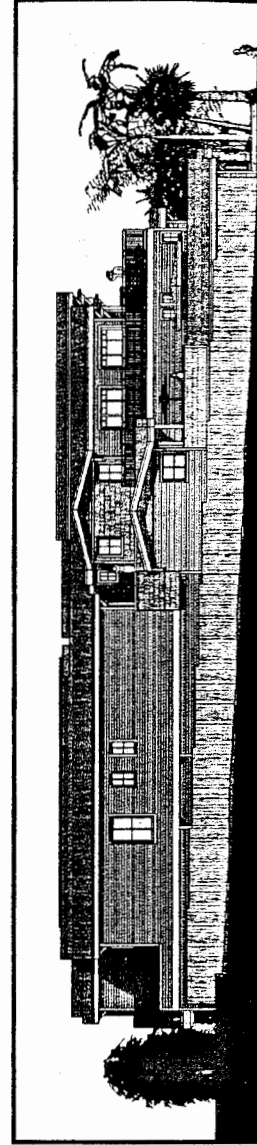
West



South



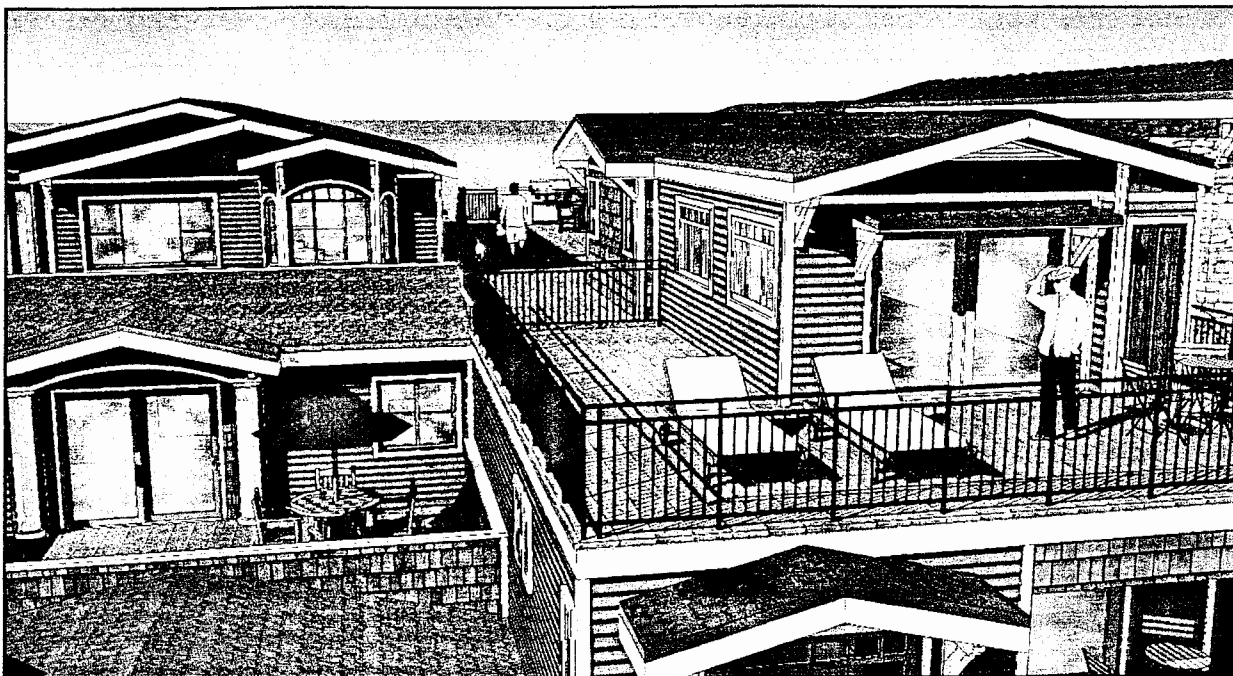
East



North

# CAYUCOS DEL MAR

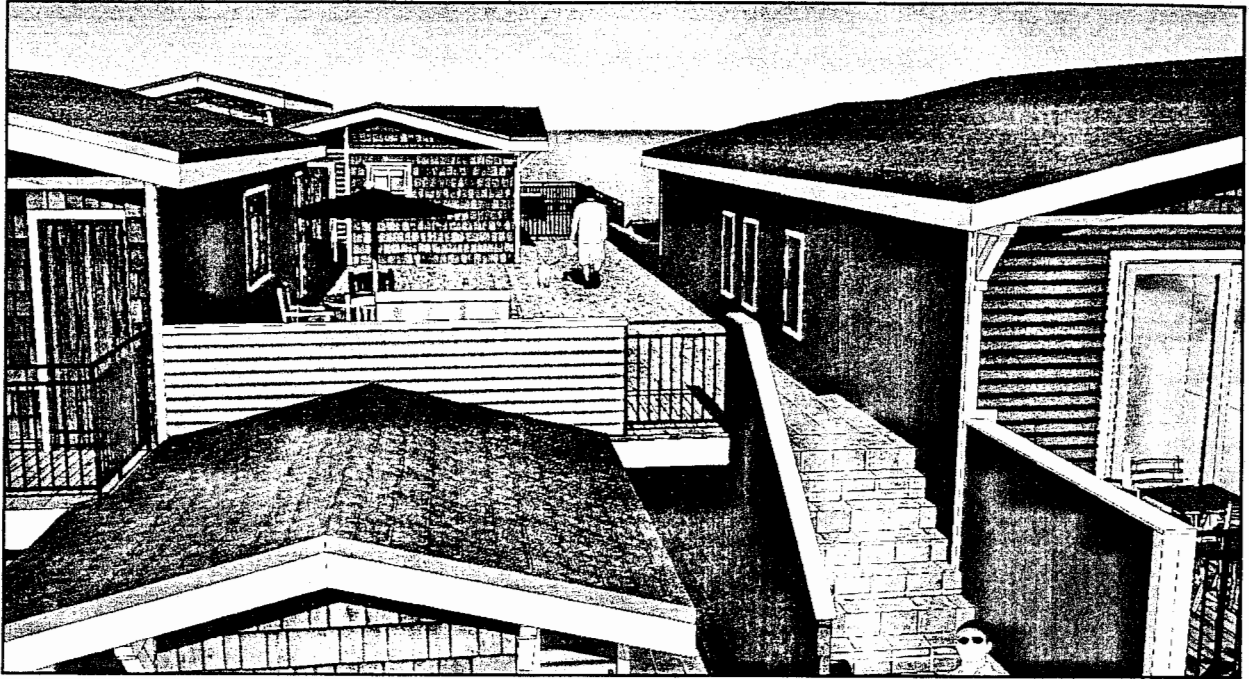
Elevations



## CAYUCOS DEL MAR

Ocean Avenue  
Set-back

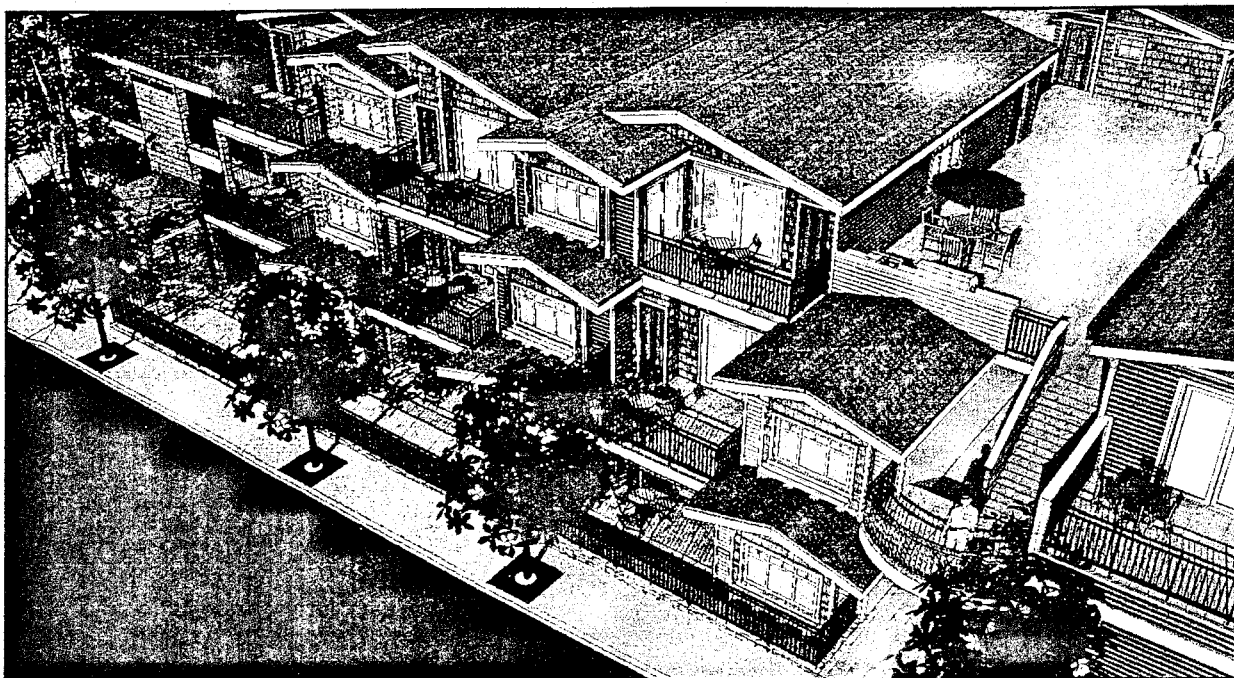
*Steven D. Padgett, LLC/Associates, LLP*



## CAYUCOS DEL MAR

3rd Floor  
View Corridor

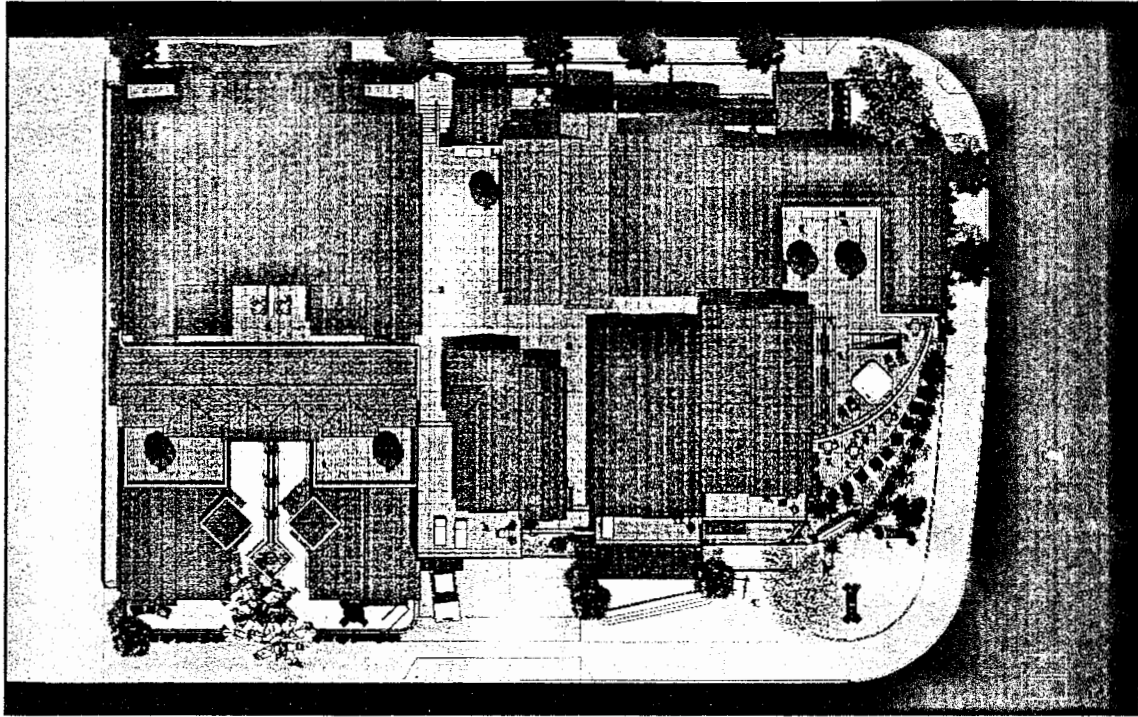
Source: H. P. Inc. MAG. ASOCIADOS / J.



## CAYUCOS DEL MAR

Orville Street  
Set-back

McKenzie Planning, LLC & Associates, LLP



Roof/Site Plan

CAYUCOS DEL MAR

Steven D. Potts, AIA, Associate, LLP

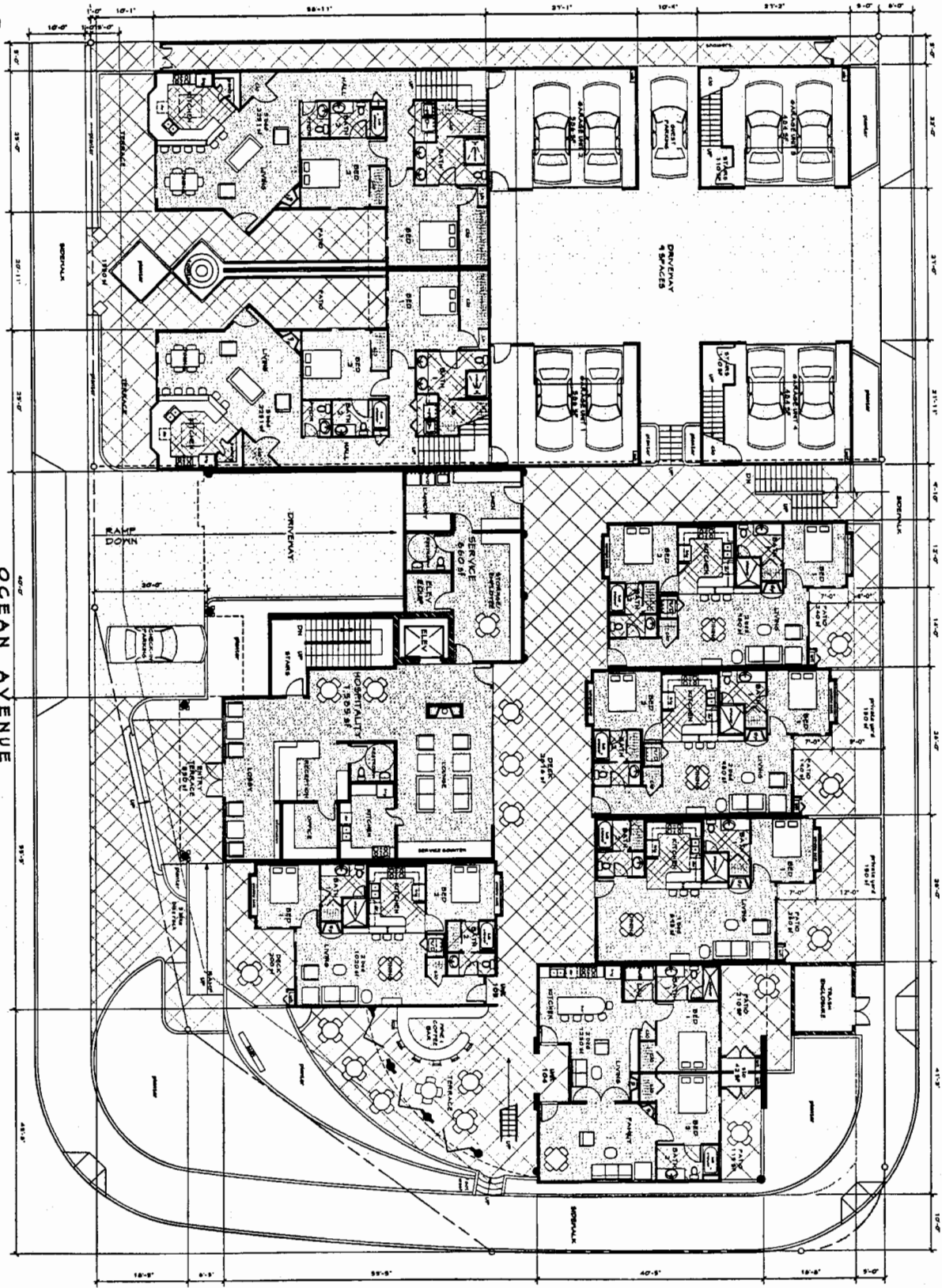


FIRST LEVEL FLOOR PLANS  
1/8" = 1'-0"

OCEAN AVENUE

ORVILLE STREET

OLD CREEK ROAD



A-1

DATE: OCT 08  
REV: 001



118 AROUND ST  
SAN DIEGO, CA 92104  
(619) 775-7348

FRANCO DEBICO

NO. OCEAN AVENUE  
SAN DIEGO, CA 92104

CANON  
1000 W. 10TH ST.  
SAN DIEGO, CA 92101

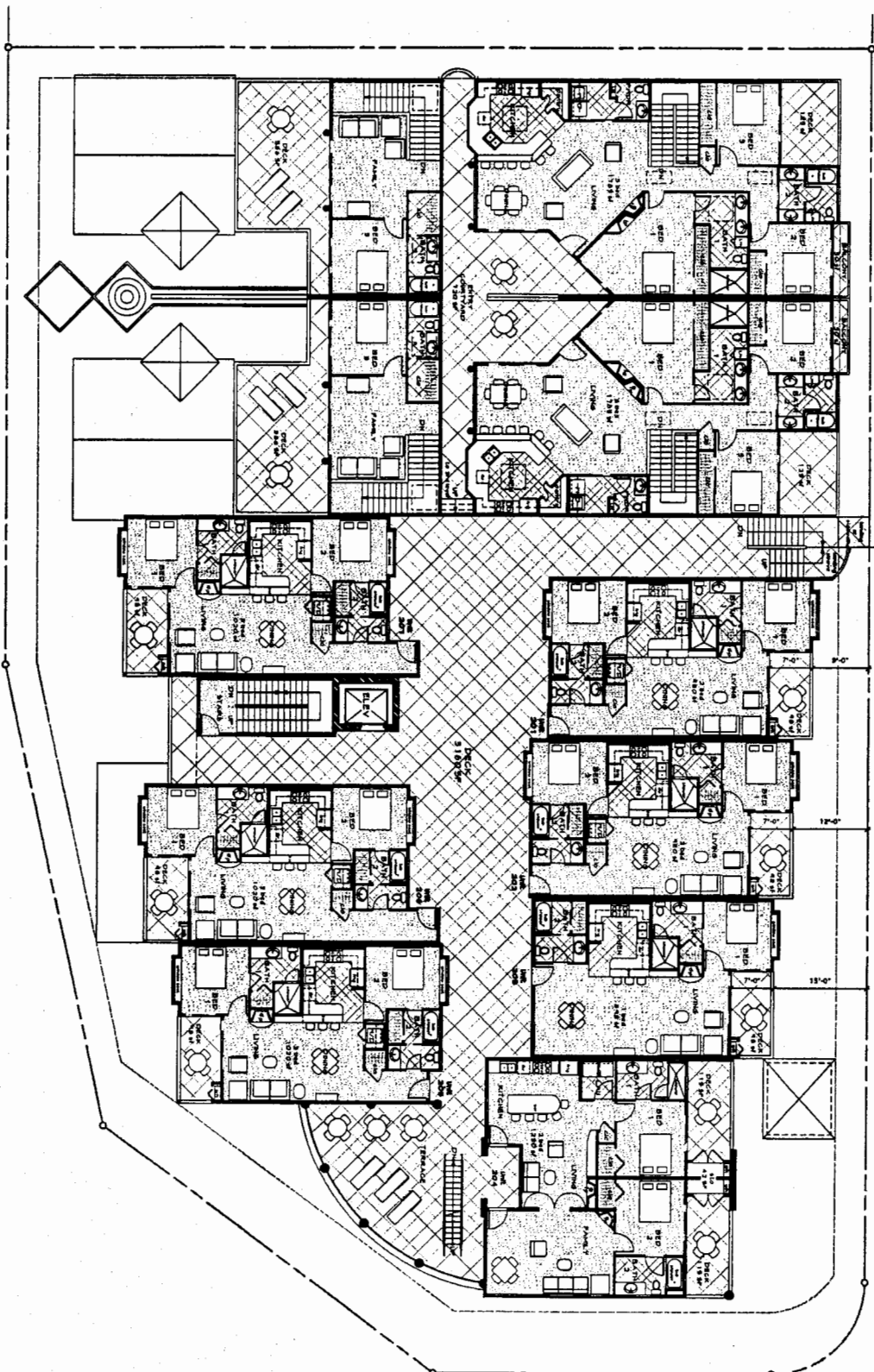
PROJECT:

This drawing is prepared by the Architect and is not to be used for any other purpose without the written consent of the Architect. The Architect assumes no responsibility for the accuracy of the information provided by the client or for the results of the construction of the project.

**POTTS**  
Steven D. Potts, A.I.A., & Associates



**SECOND LEVEL FLOOR PLANS**  
1/8" = 1'-0"



**PULTS**  
Steven D. Pults, A.I.A., & Associates

*Architects, Planning & Engineers*  
1150 Grand Street, Suite 100  
San Francisco, California 94107  
(415) 774-1111

**CANYON**  
1000 BAY  
1000 BAY  
1000 BAY

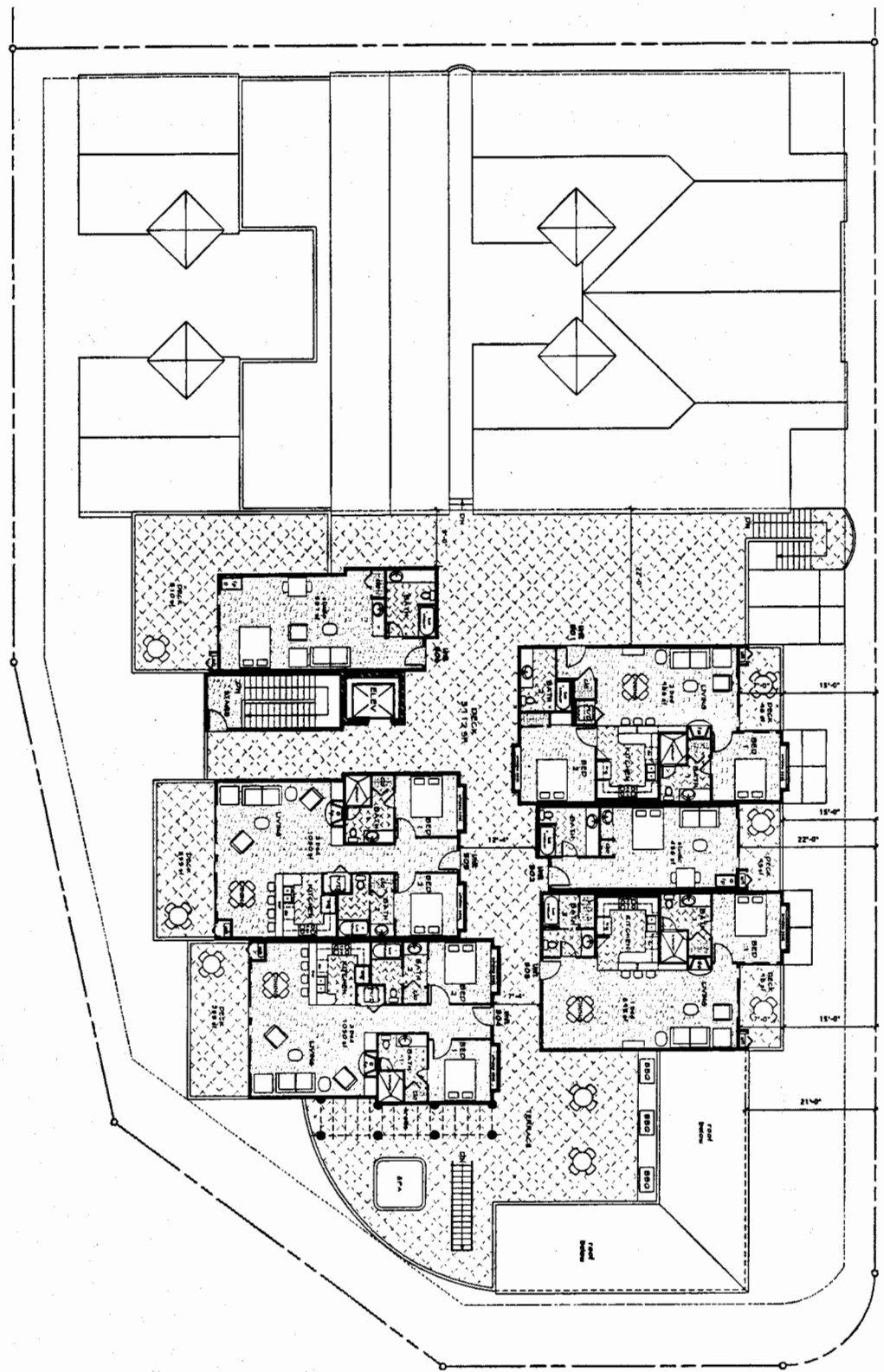
**PLANO DISCOUNT**  
115 KNOX ST  
SAN FRANCISCO, CA 94102  
(415) 772-7885

**SEVEN & ONE**  
FLOOR PLAN



**A-2**

**THIRD LEVEL FLOOR PLANS**



**PROJECT**  
115 KNOX ST  
LOS ANGELES, CA 90012  
(800) 772-7665

**ARCHITECT**  
PULITS  
STEVEN D. PULITS, A.I.A., & ASSOCIATES

**DATE**  
OCT 03

**REV**  
A-3

**PROJECT**  
115 KNOX ST  
LOS ANGELES, CA 90012  
(800) 772-7665

**ARCHITECT**  
PULITS  
STEVEN D. PULITS, A.I.A., & ASSOCIATES

**DATE**  
OCT 03

**REV**  
A-3



EXHIBIT A: FINDINGS, DEVELOPMENT PLAN SUB2005-00244  
VARIANCE DRC2006-00064

RECEIVED  
SEP 28 2009  
CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

**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 February 21, 2008, and a Revised Mitigated Negative Declaration has been issued on May 29, 2008 for this project. Mitigation measures are proposed to address aesthetics, air quality, cultural resources, geology and soils, hazards and hazardous materials, noise, transportation/circulation, water, and land use, and are included as conditions of approval.

The Revised Mitigated Negative Declaration, including mitigation measures, effectively addresses the issues raised by the Concerned Citizens of Cayucos in its "Request for Review" (environmental appeal) of the proposed Mitigated Negative Declaration, as follows:

*Consistency with Estero Area Plan*

The Mitigated Negative Declaration and Visual Analysis for this project adequately address the project's consistency with policies in the *existing* Estero Area Plan. The Estero Area Plan *update* has not been approved by the Coastal Commission, is not in effect, and therefore cannot be used as a basis to evaluate a proposed project's consistency with the Local Coastal Program. No specific policy inconsistencies with the existing Estero Area Plan were identified; the project is consistent with Cayucos Urban Area standards in the Estero Area Plan associated with setbacks, density, and height limitations. In addition, granting a Variance to Commercial Retail Standard #1 for Cayucos, which requires new development to reflect a Western or Victorian style, would not result in a significant impact. Mitigation measures recommended in the Visual Analysis and incorporated into the project design include changing the style from the originally proposed Mediterranean style to a "California beach house style. Although that style still requires a Variance to Commercial Retail Standard #1, it would result in a project that better reflects the architectural style of the surrounding neighborhood (see also following Findings I through M).

*Aesthetic impacts*

The Mitigated Negative Declaration adequately addresses the potential of the project to introduce a use within a scenic view open to the public, because the Visual Analysis determined that 1) the existing views from Orville Street looking west have been previously compromised and are therefore not considered scenic views in the analysis, and no significant impacts would occur, and 2) as viewed from the west, the proposed project would not significantly impact distant ridgelines, significant geologic features or scenic views from Highway 1.

The Mitigated Negative Declaration adequately addresses the potential of the project to change the visual character of the area, because the following mitigation measures reduce this potential impact to a less than significant level:

- additional stepping back of the motel portion of the project along Ocean Blvd. and the Residential Multi-Family- portion along Orville Avenue (these measures have already been incorporated into a revised project design)
- changing the architecture of the proposed project from "California Mediterranean" to "California Beach House style architecture". (this architectural style has already been incorporated into a revised project design)

#### *Air Quality, Hazards, Hazardous Materials*

Potential contamination of the site is adequately addressed by the previous underground storage tank investigation, a new Phase I Environmental Site Assessment completed during the preparation of this Mitigated Negative Declaration, and the recommendations of the Environmental Health Division, which are included as mitigation measures. The following mitigation measures to be completed prior to recordation of the final map and issuance of construction permits reduce potential impacts to a less than significant level:

- implementation of a work plan submitted to the Division of Environmental Health which describes procedures to deal with a possible 7<sup>th</sup> underground storage tank, the elimination point of the former gas stations floor drain, potential lead or asbestos-containing materials in the existing building, and potential Volatile Organic Compounds
- verification that the Division of Environmental Health has issued a closure letter for the site, and that any and that any underground storage tanks, piping and/or other hazardous materials, hazardous materials related equipment, lead, asbestos, contaminated soil, etc. discovered upon implementation of the work plan have been disposed of properly under the direction of Environmental Health
- verification that the Regional Water Quality Control Board and the Division of Environmental Health have reviewed and approved a Contaminated Materials Management Plan (CMMP), and implementation of the CMMP during site excavation

The Mitigated Negative Declaration adequately addresses potential air quality impacts associated with excavation of the underground garage, because it is expected that less than 2,000 cubic yards of material would be moved per day (below the APCD's mitigation threshold). As a result, no mitigation measures, beyond standard dust control measures already required by the county code would be required.

The Mitigated Negative Declaration adequately addresses the need for dewatering, its potential affects on biological resources, and the associated impacts of storm water runoff on biological resources in Willow Creek, because the following mitigation measures reduce potential impacts to a less than significant level. In addition, adequate capacity exists in the storm water system to handle the increased runoff from the project, according to the Public Works Department, and. project is not expected to significantly increase the amount or degrade the quality of runoff from the neighborhood:

- compliance with the requirements of the National Pollutant Discharge Elimination System Phase I and/or Phase II storm water program and the County's Storm Water Pollution Control and Discharge Ordinance
- no construction of the underground garage between Oct. 15 and April 15
- implementation of a construction dewatering plan that describes the dewatering technologies to be used, the Best Management Practices to be employed, the

- proposed outfall location (currently the existing storm drain), and water quality standards to be met for discharged water, at a minimum
- verification that appropriate dewatering and/or discharge permits have been issued by the Regional Water Quality Control Board
- no subsurface water to be discharged into the public storm water system without filtration and all necessary discharge permits

#### *Transportation and Circulation*

The Mitigated Negative Declaration adequately addresses transportation impacts, including pedestrian safety and impacts to Old Creek Road. The traffic study prepared for this project concludes that no project-specific mitigation measures are necessary. The Public Works Department agrees with that conclusion, and also comments that most of the traffic concerns expressed in the comment letter attached to the Request for Review deal with existing conditions, and are not considered impacts of the project. The required standard road improvements for this project would reduce significant operational traffic impacts to a less than significant level.

The following mitigation measures reduce potential impacts on regional transit needs and potential impacts due to short-term construction traffic to a less than significant level:

- payment of applicable regional transit in-lieu fees to the Regional Transit Authority
- implementation of a Construction Traffic Management Plan that includes measures such as identifying the maximum number of daily trips proposed for construction workers and construction vehicles, and designated worker parking

#### **Development Plan**

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan, because the motel is a "Principally Permitted" allowable use in the existing Commercial Retail land use category, the residential multi-family portion of the project is a "Principally Permitted" allowable use in the existing Residential Multi-Family land use category, and the project, as conditioned, is consistent with all of the General Plan policies, including applicable Coastal Plan policies regarding public works, coastal watersheds, visual and scenic resources, and archaeology.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code, including Section 23.04.028d. regarding parcels sizes for condominiums in the Residential Single-Family and Multi-Family categories, Section 23.04.029 regarding minimum parcel sizes in the Commercial and Office categories, Section 23.04.084b. regarding density and intensity standards for multi-family dwellings, Section 23.04.160 et seq. regarding parking and loading, Section 23.04.300 et seq. regarding signs, Sections 23.05.040 et seq. and 23.05.050 regarding drainage, Section 23.07.104 regarding archaeology, and Section 23.08.262 regarding hotels and motels.
- 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 neither the residential units nor the motel 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 drainage, traffic, noise, air quality, and other health, safety and welfare concerns.

- E. The proposed project will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development, because the four multi-family dwellings are compatible with, and will not conflict with, surrounding residential uses and land use categories. The motel is also compatible with, and will not conflict with, surrounding residential uses and land use categories for the following reasons:
- 1) The motel portion of the building will be set back from adjacent neighborhoods by at least 55 feet from the closest residential properties on Orville Ave., and by a minimum of 75 feet from the closest residential properties on Old Creek Road.
  - 2) The proposed project, as conditioned, will not cause significant visual effects to the surrounding neighborhood in terms of mass, scale, height, appearance, and architectural style, according to a visual study prepared by an independent professional consultant
  - 3) The common outdoor activity areas for the motel and residences will be oriented away from most residential areas.
  - 4) The main motel entrance and parking entrance will be on Ocean Blvd., away from residences.
  - 5) The parking area will be subterranean, and more spaces will be provided than are required by the Coastal Zone Land Use Ordinance.
  - 6) The Negative Declaration determined that there will be no significant traffic impacts on the surrounding neighborhood.
  - 7) The Negative Declaration determined that there will be no significant noise impacts on the surrounding neighborhood, and a condition of approval requires that a local property manager be available 24 hours a day to respond to any potential neighborhood complaints.
- F. The proposed project 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 1) the project fronts on Ocean Blvd. and Orville Avenue, both local roads constructed to a level able to handle any additional traffic associated with the project, and on Old Creek Road, a collector road that is able to handle any additional traffic associated with the project, and 2) the Negative Declaration determined that the project will not result in significant traffic impacts. In addition, street improvements are required on all three fronting streets.

#### **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 site is not located between the first public road and the ocean, developed vertical coastal access exists within ¼ mile of the project site, and the project will not inhibit access to the coastal waters and recreation areas.

#### **Archeologically Sensitive Area**

- H. The site design and development incorporate adequate measures to ensure that archeological resources will be acceptably and adequately protected, because monitoring of earth disturbing activities is required.

***Variance to allow development having other than Western or Victorian-style architecture***

- 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 it is situated, because Cayucos has only one other area in the Commercial Retail land use category that is not within or in close proximity to the Central Business District, and that small area has limited commercial development potential and is already partially developed in and surrounded by development with other than Western or Victorian-style architecture.
- J. There are special circumstances applicable to the property, including 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 and in the same land use category. These circumstances consist of the following:
  - 1. The proposed project is well outside of the Cayucos Central Business District, where Western or Victorian-style architecture is most appropriate, and where a common design theme and façade treatments are desired, according to the discussion of the Central Business District in Chapter 6 of the Estero Area Plan.
  - 2. The site is surrounded by residential development where buildings with a beach house-style of architecture predominate, and the Negative Declaration includes a mitigation measure that calls for the proposed project to reflect that beach house-style architecture in order to be compatible with the visual character of the area. Thus, the Variance is needed in order to assure compatibility with the visual character of the area.
  - 3. The proposed project, while not reflecting a strictly Western or Victorian architectural style, does include architectural elements specified in the planning area standard requiring such architecture, including wood or wood-appearing materials, railings and balconies.
- K. The variance does not authorize a use that is not otherwise authorized in the land use category because the proposed multi-family dwellings and motel are allowable in the Residential Multi-Family and Commercial Retail land use categories on this site.
- L. 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 architectural style does not affect health or safety, and because the proposed beach house-style architecture will make the project compatible with the visual character of the area.
- M. The variance is consistent with the San Luis Obispo County General Plan, because the proposed beach house-style architecture will make the project compatible with the visual character of the area, thereby promoting consistency with the General Goal of the Land Use Element to preserve and enhance the quality of residential areas by preserving desirable neighborhood characteristics. Aside from the issue of architectural style, the variance will not conflict with any General Plan or Local Coastal Plan policies or standards.

## **EXHIBIT B: CONDITIONS OF APPROVAL, DEVELOPMENT PLAN SUB2005-00241**

### ***Approved Development***

1. This approval authorizes:
  - a) A residential/motel mixed-use development, all in a three-story building, including the following:
    - i) four residential multi-family units having a total floor area of about 10,300 square feet, plus decks and courtyards
    - ii) an 18-unit motel, to be operated as a conventional motel for overnight and short-term lodging by the general public, and a 17,600 square-foot subterranean garage
  - b) A Variance to allow development that reflects a "California beach house-style" of architecture instead of the Western or Victorian-style architecture that is required by the Estero Area Plan of the Land Use Element and Local Coastal Plan (planning area standard #1 for the Commercial Retail category in Cayucos)

### **General**

2. In addition to the following conditions of approval, the applicant shall comply with the conditions of approval for Tract 2863 regarding access and improvements, improvement plans, drainage, and utilities.

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

#### ***Site Development***

3. At the time of application for construction permits, submit revised plans to the Department of Planning and Building for review and approval. The plans are to include the following:
  - a. Provide additional screening of the blank walls on the north (residential) elevation of the building that abuts the Residential Multi-Family category by use of trees in selective locations to provide more substantial screening of the blank walls than would be provided by the previously proposed palm trees.
  - b. Replace the Queen palm--used as a street tree along Ocean Blvd. and a portion of Old Creek Road--with another species that is either native or drought tolerant from the County-approved list of plant materials in order to comply with the street tree requirements of the Real Property Division Ordinance, Section 21.03.010c(7).
  - c. Provide additional street trees, which may be grouped, as needed along at least two of the street frontages in order to provide street trees at a ratio of one tree for every 25 feet of frontage, as required by the Real Property Division Ordinance, Section 21.03.010c(7).

4. **At the time of application for construction permits**, the applicant shall submit construction plans and elevations to the Department of Planning and Building for review and approval consistent with the following conditions:

*Visual impacts*

- a. No highly reflective glazing or coatings shall be used on west and south facing windows.
- b. No highly reflective exterior materials such as chrome, bright stainless steel or glossy tile shall be used on the south and west facing sides of the development where visible from off-site locations.
- c. Submit revised plans showing a minimum 15-foot building setback from the property line for the three motel units on the third level of the Commercial Retail-portion of the building along Orville Avenue.

*Noise impacts*

- d. Plexiglass or similar barriers shall be installed on top of the walls that enclose the upper floor decks/terraces of the residential units to a total height of six feet above the decks/terraces in order to reduce noise exposure in those outdoor areas.

*Air quality*

- e. Only Air Pollution Control District (APCD)-approved wood burning devices can be installed in new dwelling units per APCD rule 504. These devices include:
  - i. all EPA-certified Phase II wood burning devices
  - ii. catalytic wood burning devices which emit less than or equal to 4.1 grams per hour of particulate matter which are not EPA-certified but have been verified by a nationally recognized testing lab
  - iii. non-catalytic wood burning devices which emit less than or equal to 7.5 grams per hour which are not EPA-certified but have been verified by a nationally recognized testing lab
  - iv. pellet-fueled woodheaters
  - v. dedicated gas-fired fireplaces

*Geology and Soils*

- f. Construction and grading plans shall reflect the recommendations of the geotechnical report (GSI, 2006).

Construction plans submitted, and all development shall be consistent with the approved site plan, and the revised and approved floor plans, elevations, and landscape plans.

**Signs**

5. **At the time of application for construction permits**, submit a sign plan for the entire site showing all locations, dimensions, materials, text, and lighting of all proposed exterior signs in accordance with the requirements of Coastal Zone Land Use Ordinance Sections 23.04.300 et seq. The proposed project identification monument sign near the intersection of Old Creek Road and Ocean Blvd. shall be no greater than three feet in height; otherwise, it shall be relocated outside of the required setback area. The maximum sign area for the monument sign is 60 square feet. Any signage visible from off-site shall not be internally illuminated.



### ***Lighting***

6. **At the time of application for construction permits**, the applicant shall submit interior and exterior lighting plans to the Department of Planning and Building for review and approval. The plans shall include the height, location, and intensity of all exterior lighting, and shall be consistent with the following.
  - a. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties; the point source of all exterior lighting shall be shielded from off-site views.
  - b. Light hoods shall be dark colored.
  - c. All required security lights shall utilize motion detector activation.
  - d. Light trespass from exterior lights shall be minimized by directing light downward and utilizing cut-off fixtures or shields.
  - e. Lumination from exterior lights shall be the lowest level allowed by public safety standards.
  - f. Lumination spill-over from security lighting in the parking garages shall be minimized through selective luminaire placement, in conjunction with possible motion detectors, fixture design, lowest allowable foot-candle standards, and hours of operation.
  - g. Any signage visible from off-site shall not be internally illuminated.

### ***Fire Safety***

7. **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. Requirements shall include, but not be limited to those outlined in the Fire Safety Plan dated August 31, 2006 that was prepared by the Cayucos Fire Protection District for this proposed project.

### ***Services***

8. **At the time of application for construction permits**, the applicant shall provide a letter from the Cayucos Sanitary District and clearance from County Service Area 10A stating that they are willing and able to service the property.

### ***Utilities***

9. **At the time of application for construction permits**, the applicant shall submit a utility plan to the Department of Planning and Building for review and approval. The utility plan shall include the undergrounding of existing overhead utilities on-site and surrounding the project along the project frontages of Ocean Avenue, Old Creek Road and Orville Street, unless PG&E provides written documentation that such undergrounding is infeasible due to high voltage or other technical reasons.

### **Conditions to be completed prior to issuance of a construction permit**

#### ***Grading, Drainage, Sedimentation and Erosion Control***

10. **Prior to issuance of construction permits**, the applicant shall submit a Drainage and Erosion Control plan to be reviewed by the Department of Public Works. The plans shall comply with Coastal Zone Land Use Ordinance Sections 23.05.040 and 23.05.050 and the following:
  - a. No subsurface water shall be discharged into the public storm water system without filtration and all necessary discharge permits



- b. Submit complete drainage calculations for review and approval. A Soils Engineer is to determine the volume of subsurface flows which will enter the underground garage or be intercepted by underground drains, and if calculations so indicate, offsite storm drain improvements will be required.

**During construction and operation**, the project shall comply with the requirements of the National Pollutant Discharge Elimination System Phase I and/or Phase II storm water program and the County's Storm Water Pollution Control and Discharge Ordinance.

11. **Prior to issuance of construction permits**, the applicant shall submit a sedimentation and erosion control plan pursuant to Coastal Zone Land Use Ordinance Section 23.05.036 for review and approval by the Department of Public Works.
12. Planters, benches, and other proposed improvements within the rights-of-way of along Orville Avenue, Old Creek Road or Ocean Blvd. require that the applicant first obtain an encroachment permit from the Public Works Department **prior to issuance of construction permits**.

#### **Geology and Soils**

13. To minimize the amount of dewatering necessary, construction of the underground garage shall be prohibited between Oct. 15 and April 15, and this shall be placed as a note on the grading and construction plans **prior to issuance of grading and construction permits**.
14. **Prior to issuance of construction permits**, the applicant shall submit a construction dewatering plan for review and approval by the Department of Public Works for Encroachment Permit purposes. The plan shall include description of dewatering technologies to be used, the Best Management Practices to be employed during dewatering, the proposed outfall location (currently the existing storm drain), and water quality standards to be met for discharged water, at a minimum. The applicant shall implement the provisions of the approved dewatering plan during excavation. The applicant shall also provide the Department of Planning and Building and the Department of Public Works with verification that appropriate dewatering and/or discharge permits have been issued by the Regional Water Quality Control Board prior to commencement of the dewatering.
15. **Prior to issuance of a grading permit**, the applicant shall be responsible for identifying an "export site" where excavated material can be accepted. A separate grading permit may be required for the export site.

#### **Hazards and Hazardous Materials**

16. **Prior to recordation of the final map and issuance of construction permits**, the applicant shall submit a work plan to the Division of Environmental Health which describes procedures to determine the following:
  - a. whether or not a 7<sup>th</sup> underground storage tank (UST) still exists onsite, if it was the used oil UST and whether or not it leaked
  - b. the elimination point of the former gas stations floor drain (whether or not it was into

- the sewer system or a septic/leach system)
- c. whether or not lead or asbestos-containing materials were used in the construction of the building.
  - d. whether or not Volatile Organic Compounds (VOCs) are present onsite in the soil gas. This portion of the work plan shall be prepared by a qualified Health Risk Assessor and shall be in compliance with the USEPA Guidance on vapor intrusion and the Cal-EPA/DTSC Guidance for the evaluation of subsurface vapor intrusion.
17. The approved work plan shall be implemented **prior to recordation of the final map and issuance of construction permits**. If VOCs are present, they shall be addressed in the CMMP (see below).
18. **Prior to recordation of the final map and issuance of construction permits**, the applicant shall provide verification to the Department of Planning and Building that the Division of Environmental Health has issued a closure letter for the site, and that any and that any underground storage tanks, piping and/or other hazardous materials, hazardous materials related equipment, lead, asbestos, contaminated soil, etc. discovered upon implementation of the work plan have been disposed of properly under the direction of Environmental Health.
19. **Prior to recordation of the final map and issuance of construction permits**, the applicant shall provide verification to the Department of Planning and Building that the RWQCB and Environmental Health have reviewed and approved a Contaminated Materials Management Plan (CMMP) for the project. The plan shall include, at minimum, a discussion of the findings from the additional site assessment work required in the work plan (see above), and the methodologies proposed for proper field screening of excavated soil for potential contamination by an environmental monitor, identification of a contractor licensed to perform the removal and transportation of hazardous waste, proper handling, onsite storage and disposal of contaminated soil, and confirmatory soil sampling, etc. if encountered. The approved CMMP shall be implemented **during the site excavation**.

#### ***Air Quality***

20. **Prior to issuance of construction permits**, the applicant shall submit to the Air Pollution Control District (APCD) a geologic evaluation of naturally occurring asbestos on the project site. If naturally occurring asbestos is present onsite, the applicant shall comply with all requirements outlined in the Asbestos Airborne Toxic Control Measures (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations. These requirements may include, but are not limited to: 1) an Asbestos Dust Mitigation Plan that shall be approved by the APCD prior to construction, and 2) an Asbestos Health and Safety Program. If the applicant has any questions regarding these requirements, they shall contact Ms. Karen Brooks, APCD at 781-5912.
21. **Prior to issuance of construction permits**, the applicant shall develop and submit to the Air Pollution Control District for review and approval a comprehensive Construction Activity Management Plan (CAMP) designed to minimize the amount of large construction equipment operating during any given time period. The purpose of the CAMP is to specifically define the mitigation measures that will be employed as the project moves forward, in order to ensure all requirements are accounted for in the project budget, included in the contractor bid specifications, and are fully implemented throughout project construction. The plans should include but not be limited to the following elements:

- a. Dust control measures
- b. Construction schedule to limit construction equipment operation (including idling limits) and truck trips during non-peak hours
- c. Air Quality complaint response plan.

22. **Prior to issuance of construction permits**, the following netes regulations shall be shown on grading, demolition and building plans for implementation during grading and construction activities. The project shall comply with all applicable Air Pollution Control District regulations pertaining to the control of fugitive dust (PM10) as contained in section 6.5 of the Air Quality Handbook.

- a. Reduce the amount of disturbed area where possible.
- b. Water trucks or sprinkler systems shall be used in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency shall be required whenever wind speeds exceed 15 mph. Reclaimed (nonpotable) water should be used whenever possible.
- c. All dirt stock-pile areas shall be sprayed daily as needed.
- d. All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading, unless seeding or soil binders are used.
- e. Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible following completion of any soil disturbing activities.
- f. Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading should be sown with a fast germinating native grass seed and watered until vegetation is established.
- g. All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD.
- h. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site.
- i. All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with CVC Section 23114.
- j. Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site.
- k. Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible.
- l. The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the APCD prior to recordation and finished grading of the area.

23. **Prior to issuance of demolition permits**, the applicant shall contact the Air Pollution Control District (APCD) regarding requirements relating to demolition activities. If utility pipelines are removed or relocated, or if buildings are removed or renovated, this project

may be subject to various regulatory jurisdictions, including the requirements stipulated in the National Emission Standard for Hazardous Air Pollutants (40CFR61, Subpart M – asbestos NESHAP). These requirements include, but are not limited to: 1) notification requirements to the APCD, 2) asbestos survey conducted by a Certified Asbestos Inspector, and 3) applicable removal and disposal requirements of identified asbestos containing material (ACM). The applicant shall contact Tim Fuhs of the Enforcement Division of APCD (781-5912) for further information.

24. **Prior to issuance of grading and construction permits**, the applicant shall contact APCD District Engineer David Dixon at (805) 781-5912 to determine if California statewide portable equipment registration (issued by the California Air Resources Board) or APCD District permit is required for use of portable equipment during grading and construction activities. The following list is provided by the APCD as a guide to equipment and operations that may have permitting requirements, but should not be viewed as exclusive:

- a. Portable generators and equipment with engines that are 50 horsepower and greater
- b. IC engines
- c. Power screens, conveyors, diesel engines, and/or crushers
- d. Unconfined abrasive blasting operations
- e. Concrete batch plants
- f. Rock and pavement crushing
- g. Tub grinders
- h. Trommel screens

#### **Cultural Resources**

25. **Prior to issuance of construction permits**, the applicant shall submit a monitoring plan prepared by a subsurface qualified archaeologist, for the review and approval of the Environmental Coordinator. The monitoring plan shall include:

- a. List of personnel involved in the monitoring activities;
- b. Description of how the monitoring shall occur;
- c. Description of frequency of monitoring (e.g. full-time, part time, spot checking);
- d. Description of what resources are expected to be encountered;
- e. Description of circumstances that would result in the halting of work at the project site (e.g. what is considered "significant" archaeological resources?);
- f. Description of procedures for halting work on the site and notification procedures;
- g. Description of monitoring reporting procedures.

#### **Landscape Plans**

26. **Prior to issuance of construction permits**, the applicant shall submit revised landscaping plans to the Department of Planning and Building for review and approval. The plans are to include the following:

- a. Provide additional screening of the blank walls on the north (residential) elevation of the building that abuts the Residential Multi-Family category by use of trees in selective locations to provide more substantial screening of the blank walls than would be provided by the previously proposed palm trees.
- b. Replace the Queen palm--used as a street tree along Ocean Blvd. and a portion of Old Creek Road--with another species that is either native or drought tolerant

from the County-approved list of plant materials in order to comply with the street tree requirements of the Real Property Division Ordinance, Section 21.03.010c(7).

- c. Provide additional street trees, which may be grouped, as needed along at least two of the street frontages in order to provide street trees at a ratio of one tree for every 25 feet of frontage, as required by the Real Property Division Ordinance, Section 21.03.010c(7).

#### ***Transportation***

27. **Prior to issuance of construction permits**, the applicant shall pay applicable regional transit in-lieu fees to the Regional Transit Authority.
28. **Prior to issuance of a grading permit**, the applicant shall submit a Construction Traffic Management Plan to the Department of Public Works for review, approval and issuance of an Encroachment Permit. That plan shall include measures that identify the maximum number of daily trips proposed for construction workers and construction vehicles, and designated worker parking.

#### ***School, Public Facility Fees***

29. **Prior to issuance of construction permits**, the applicant shall pay all applicable school and public facilities fees.

#### **Conditions to be completed prior to or during project construction**

##### ***Geology and Soils***

30. Prior to any site disturbance, the applicant shall post a performance bond with the County in an amount commensurate with the cost of restoring the site to its pre-existing condition. If at any time during any excavation of the site there is cessation of work for more than 90 days, excluding all periods of time that such work is discontinued due to circumstances beyond the control of the applicant, the applicant shall be responsible for the full restoration of the site to its pre-existing condition. The performance bond shall be released by the County at the time the construction permit is finalized or the site is restored.
31. **Approximately one week prior to commencement of excavation**, the applicant shall schedule an onsite pre-construction meeting with representatives from the Department of Planning and Building and the Department of Public Works, the soils engineer, the project architect and/or engineer, and the contractor.
32. **Prior to and during construction**, the applicant shall implement the recommendations of the geotechnical report (GSI, 2006). Measures to be taken include excavating native materials, importing non-expansive fill materials, and diverting drainage away from the foundation, among others. Implementation of these measures shall be verified by the Department of Planning and Building.

### ***Building Height***

33. The maximum height of the project is 28 feet for the portion of the building within the Residential Multi-Family land use category, as measured from average natural grade of that portion of the site, and 30 feet for the portion of the building in the Commercial Retail land use category, as measured from the average natural grade of that portion of the site.
- a. **Prior to any site disturbance**, a licensed surveyor or civil engineer shall stake the lot corners, building corners, and establish average natural grade and set a reference point (benchmark).
  - b. **Prior to approval of the foundation inspection**, the benchmark shall be inspected by a licensed surveyor 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.

### ***Cultural Resources***

34. **During all ground disturbing construction activities**, the applicant shall retain a qualified archaeologist, approved by the Environmental Coordinator, to monitor all earth disturbing activities, per the approved monitoring plan. If any significant archaeological resources or human remains are found during monitoring, work shall stop within the immediate vicinity (precise area to be determined by the archaeologist in the field) of the resource until such time as the resource can be evaluated by an archaeologist and any other appropriate individuals. The applicant shall implement the mitigation measures as required by the Environmental Coordinator.

### ***Air Quality***

35. **If hydrocarbon-contaminated soil is encountered during construction activities**, the Air Pollution Control District (APCD) must be notified immediately. Any storage pile of contaminated material must be covered at all times, except when soil is added or removed. The following measures shall be implemented:
- a. covers on storage piles shall be maintained in place at all times in areas not actively involved in soil addition or removal
  - b. contaminated soil shall be covered with at least six inches of packed uncontaminated soil or other TPH-non-permeable barrier such as plastic tarp; no headspace shall be allowed where vapors could accumulate
  - c. covered piles shall be designed in such a way as to eliminate erosion due to wind or water; no openings in the covers are permitted
  - d. during soil excavation, odors shall not be evident to such a degree as to cause a public nuisance
  - e. clean soil must be segregated from contaminated soil
  - f. contact Karen Brooks of the APCD (781-5912) for further information

36. **Prior to finished grading and prior to recordation of the final map**, the name and telephone number of the person or persons designated by the contractor or builder to monitor the dust control program (see Condition 22I.) shall be provided to the Air Pollution Control District.

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

***Public Improvements***

37. **Prior to occupancy or final inspection, whichever comes first**, the public improvements for Tract 2863 shall be completed.

***Landscaping***

38. Landscaping in accordance with the approved landscaping plan shall be installed or bonded for **before final building inspection**. 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.

***Building colors and materials***

39. **Prior to occupancy or final inspection, whichever comes first**, the building colors and materials shall be consistent with the approved color and materials board to the satisfaction of the Planning and Building Department.

***Cultural Resources***

- 40.. **Upon completion of all monitoring/mitigation activities, and prior to occupancy or final inspection, whichever occurs first**, the consulting archaeologist shall submit a report to the Environmental Coordinator summarizing all monitoring/mitigation activities and confirming that all recommended mitigation measures have been met.

***Noise***

41. **Prior to occupancy of the hotel units**, the applicant shall designate a local property manager. The local property manager shall be available 24 hours a day to respond to tenant and neighborhood questions or concerns. If the property owner lives within the Cayucos Urban Area as defined in the County General Plan, the owner may designate himself or herself as the local contact person.

The name, address and telephone number(s) of the local contact person shall be submitted to the Department of Planning and Building, the local Sheriff Substation, the main county Sheriff's Office, and the local fire agency, and shall be supplied to the property owners within a 300-foot radius. The name, address and telephone number(s) of the local contact person shall be permanently posted on the premises in prominent locations. Any change in the local contact person's address or telephone number shall be promptly furnished to the agencies and neighboring property owners as specified in this condition.

***Fire safety***

42. **Prior to occupancy or final inspection, whichever occurs first**, the applicant shall provide verification from the Cayucos Fire Protection District that the measures identified in the August 31, 2006 letter have been complied with. These measures include installing additional fire hydrants, and having the project reviewed by a registered Fire Protection Engineer.



***Inspection***

43. 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.

***On-going conditions of approval (valid for the life of the project)******Transient Occupancy***

44. The motel is to be operated as a conventional motel for overnight and short-term lodging by the general public. No person or persons shall occupy a motel unit for greater than 29 consecutive days.

***Conversion to more intensive use***

45. The motel component of the proposed project shall not be converted to any other or more intensive use, including timeshare estates or residential condominiums, without approval of a discretionary land use permit (Minor Use Permit, at minimum, dependent on request), accompanied by approval of a land division, as required.

***Noise***

46. The local property manager designated by the applicant shall be available 24 hours a day to respond to tenant and neighborhood questions or concerns. If the property owner lives within the Cayucos Urban Area as defined in the County General Plan, the owner may designate himself or herself as the local contact person. The name, address and telephone number(s) of the local contact person shall be permanently posted on the premises in prominent locations. If there is a change in the local contact person's name, address or telephone number, that information shall be promptly furnished to the Department of Planning and Building, the local Sheriff Substation, the main county Sheriff's Office, the local fire agency, and all property owners within a 300-foot radius.

***Access to common areas***

47. In the event that condominium units are not created, the occupants of the residential units shall have guaranteed access to and use of the common areas of the project as shown on Tentative Tract Map 2863.

***Compliance***

48. 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***

49. The applicant shall as a condition of approval of this development plan and variance application defend, indemnify and hold harmless the County of San Luis Obispo or its agents, officers and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul any approval of the County concerning this development plan and variance, which action is brought within the time period provided for by law. This condition is subject to the provisions of Government Code section 66474.9, which are incorporated by reference herein as though set forth in full.



## EXHIBIT C: FINDINGS, TENTATIVE TRACT 2863

### ***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 February 21, 2008, and a Revised Mitigated Negative Declaration has been issued on May 29, 2008 for this project. Mitigation measures are proposed to address aesthetics, air quality, cultural resources, geology and soils, hazards and hazardous materials, noise, transportation/circulation, water, and land use, and are included as conditions of approval.

The Revised Mitigated Negative Declaration, including mitigation measures, effectively addresses the issues raised by the Concerned Citizens of Cayucos in its "Request for Review" (environmental appeal) of the proposed Mitigated Negative Declaration, as follows:

#### ***Consistency with Estero Area Plan***

The Mitigated Negative Declaration and Visual Analysis for this project adequately address the project's consistency with policies in the *existing* Estero Area Plan. The Estero Area Plan *update* has not been approved by the Coastal Commission, is not in effect, and therefore cannot be used as a basis to evaluate a proposed project's consistency with the Local Coastal Program. No specific policy inconsistencies with the existing Estero Area Plan were identified; the project is consistent with Cayucos Urban Area standards in the Estero Area Plan associated with setbacks, density, and height limitations. In addition, granting a Variance to Commercial Retail Standard #1 for Cayucos, which requires new development to reflect a Western or Victorian style, would not result in a significant impact. Mitigation measures recommended in the Visual Analysis and incorporated into the project design include changing the style from the originally proposed Mediterranean style to a "California beach house style. Although that style still requires a Variance to Commercial Retail Standard #1, it would result in a project that better reflects the architectural style of the surrounding neighborhood (see also following Findings I through M).

#### ***Aesthetic impacts***

The Mitigated Negative Declaration adequately addresses the potential of the project to introduce a use within a scenic view open to the public, because the Visual Analysis determined that 1) the existing views from Orville Street looking west have been previously compromised and are therefore not considered scenic views in the analysis, and no significant impacts would occur, and 2) as viewed from the west, the proposed project would not significantly impact distant ridgelines, significant geologic features or scenic views from Highway 1.

The Mitigated Negative Declaration adequately addresses the potential of the project to change the visual character of the area, because the following mitigation measures reduce this potential impact to a less than significant level:

- additional stepping back of the motel portion of the project along Ocean Blvd. and the Residential Multi-Family- portion along Orville Avenue (these measures have already been incorporated into a revised project design)
- changing the architecture of the proposed project from "California Mediterranean" to "California Beach House style architecture". (this architectural style has already been incorporated into a revised project design)

#### *Air Quality, Hazards, Hazardous Materials*

Potential contamination of the site is adequately addressed by the previous underground storage tank investigation, a new Phase I Environmental Site Assessment completed during the preparation of this Mitigated Negative Declaration, and the recommendations of the Environmental Health Division, which are included as mitigation measures. The following mitigation measures to be completed prior to recordation of the final map and issuance of construction permits reduce potential impacts to a less than significant level:

- implementation of a work plan submitted to the Division of Environmental Health which describes procedures to deal with a possible 7<sup>th</sup> underground storage tank, the elimination point of the former gas stations floor drain, potential lead or asbestos-containing materials in the existing building, and potential Volatile Organic Compounds
- verification that the Division of Environmental Health has issued a closure letter for the site, and that any and that any underground storage tanks, piping and/or other hazardous materials, hazardous materials related equipment, lead, asbestos, contaminated soil, etc. discovered upon implementation of the work plan have been disposed of properly under the direction of Environmental Health
- verification that the Regional Water Quality Control Board and the Division of Environmental Health have reviewed and approved a Contaminated Materials Management Plan (CMMP), and implementation of the CMMP during site excavation

The Mitigated Negative Declaration adequately addresses potential air quality impacts associated with excavation of the underground garage, because it is expected that less than 2,000 cubic yards of material would be moved per day (below the APCD's mitigation threshold). As a result, no mitigation measures, beyond standard dust control measures already required by the county code would be required.

The Mitigated Negative Declaration adequately addresses the need for dewatering, its potential affects on biological resources, and the associated impacts of storm water runoff on biological resources in Willow Creek, because the following mitigation measures reduce potential impacts to a less than significant level. In addition, adequate capacity exists in the storm water system to handle the increased runoff from the project, according to the Public Works Department, and. project is not expected to significantly increase the amount or degrade the quality of runoff from the neighborhood:

- compliance with the requirements of the National Pollutant Discharge Elimination System Phase I and/or Phase II storm water program and the County's Storm Water Pollution Control and Discharge Ordinance
- no construction of the underground garage between Oct. 15 and April 15
- implementation of a construction dewatering plan that describes the dewatering technologies to be used, the Best Management Practices to be employed, the

proposed outfall location (currently the existing storm drain), and water quality standards to be met for discharged water, at a minimum

- verification that appropriate dewatering and/or discharge permits have been issued by the Regional Water Quality Control Board
- no subsurface water to be discharged into the public storm water system without filtration and all necessary discharge permits

#### *Transportation and Circulation*

The Mitigated Negative Declaration adequately addresses transportation impacts, including pedestrian safety and impacts to Old Creek Road. The traffic study prepared for this project concludes that no project-specific mitigation measures are necessary. The Public Works Department agrees with that conclusion, and also comments that most of the traffic concerns expressed in the comment letter attached to the Request for Review deal with existing conditions, and are not considered impacts of the project. The required standard road improvements for this project would reduce significant operational traffic impacts to a less than significant level.

The following mitigation measures reduce potential impacts on regional transit needs and potential impacts due to short-term construction traffic to a less than significant level:

- payment of applicable regional transit in-lieu fees to the Regional Transit Authority
- implementation of a Construction Traffic Management Plan that includes measures such as identifying the maximum number of daily trips proposed for construction workers and construction vehicles, and designated worker parking

#### ***Tentative Map***

- B. The proposed map is consistent with applicable county general and specific plans, because it complies with the Estero Area Plan and the applicable area plan standards; is consistent with all of the General Plan policies, including applicable Coastal Plan policies regarding public works, coastal watersheds, visual and scenic resources, and archaeology; and is being subdivided in a consistent manner with the Commercial Retail and Residential Multi-Family land use categories.
- C. The proposed map is consistent with the county zoning and subdivision ordinances, because the parcels meet the minimum parcel sizes set by the Coastal Zone Land Use Ordinance, as well as the design standards of the Real Property Division Ordinance.
- D. The design and improvement of the proposed subdivision are consistent with the applicable county general and specific plans, because the required improvements will be completed consistent with county ordinances, and the conditions of approval and the design of the parcels meet applicable policies of the general plan and ordinances
- E. The site is physically suitable for the type of development proposed, because the proposed parcels contain adequate area for development of residential units and a motel, and because potential impacts regarding geology, soils, drainage, and hazards will be mitigated.

- F. The site is physically suitable for the proposed density proposed, because the site can adequately support the proposed number of residential units and motel units while providing adequate open area.
- G. The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because no rare, endangered or sensitive species are present; and mitigation measures for aesthetics, air quality, cultural resources, geology and soils, hazards and hazardous materials, noise, transportation/circulation, water, and land are required.
- H. The design of the subdivision or the type of improvement will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.
- I. The proposed map complies with Section 66474.6 of the State Subdivision Map Act, as to methods of handling and discharge of waste.

## **EXHIBIT D: CONDITIONS OF APPROVAL, TENTATIVE TRACT 2863**

### **Approved Project**

This approval authorizes a one-lot subdivision to create a five-unit condominium for development of a residential/motel mixed-use development, all in a three-story building, including the following:

- a) four residential multi-family units having a total floor area of about 10,300 square feet, plus decks and courtyards
- b) an 18-unit motel, to be operated as a conventional motel for overnight and short-term lodging by the general public, and a 17,600 square-foot subterranean garage

### **Access and Improvements**

1. Roads and/or streets to be constructed to the following standards:
  - a. Old Creek Road constructed to an A-3b road section (project side) fronting the property (minimum paved width to be 46 feet)
  - b. Ocean Blvd. constructed to an A-2b road section (project side) fronting the property (minimum paved width to be 36 feet)
  - c. Orville Avenue constructed to an A-2b road section (project side) fronting the property (minimum paved width to be 30 feet)
2. All driveways shall be constructed in accordance with County Public Improvement Standards. All driveways constructed on county roads require an encroachment permit.

### **Improvement Plans**

3. Improvement plans shall be prepared in accordance with San Luis Obispo County Improvement Standards by a Registered Civil Engineer and submitted to the Department of Public Works and the County Health Department for approval. The plan is to include:
  - a. Street plan and profile
  - b. Drainage ditches, culverts, and other structures (if drainage calculations require)
  - c. Water plan (County Health)
  - d. Sewer plan (County Health)
  - e. Grading and erosion control plan for subdivision-related improvement locations
  - f. Public utility plan, showing all existing utilities and installation of all utilities to serve every lot
  - g. To minimize the amount of dewatering necessary, construction of the underground garage shall be prohibited between Oct. 15 and April 15, and this shall be placed as a note on the grading and construction plans prior to issuance of grading and construction permits.
4. The applicant shall enter into an agreement with the county for the cost of checking the map, the improvement plans if any, and the cost of inspection of any such improvements by the county or its designated representative. The applicant shall also provide the

county with an Engineer of Work Agreement retaining a Registered Civil Engineer to furnish construction phase services, Record Drawings and to certify the final product to the Department of Public Works.

5. The Registered Civil Engineer, upon completion of the improvements, must certify to the Department of Public Works that the improvements are made in accordance with all conditions of approval, including any related land use permit conditions and the approved improvement plans. All public improvements shall be completed prior to occupancy of any new structure.
6. If environmental permits from the Army Corps of Engineers or the California Department of Fish and Game are required for any public improvements that are to be maintained by the County, the applicant or his engineer, prior to the approval of the plans by the Department of Public Works, shall:
  - a. submit a copy of all such permits to the Department of Public Works, OR
  - b. document that the regulatory agencies have determined that said permit is not required

#### **Drainage**

7. Submit complete drainage calculations to the Department of Public Works for review and approval. A Soils Engineer is to determine the volume of subsurface flows which will enter the underground garage or be intercepted by underground drains, and if calculations so indicate, offsite storm drain improvements will be required.
8. The project shall comply with the requirements of the National Pollutant Discharge Elimination System Phase I and/or Phase II storm water program.

#### **Utilities**

9. Electric and telephone lines shall be installed underground. **At the time of application for construction permits**, the applicant shall submit a utility plan to the Department of Planning and Building for review and approval. The utility plan shall include the undergrounding of existing overhead utilities on-site and surrounding the project along the project frontages of Ocean Avenue, Old Creek Road and Orville Street, unless PG&E provides written documentation that such undergrounding is infeasible due to high voltage or other technical reasons.
10. Cable T.V. conduits shall be installed in the street.
11. Gas lines shall be installed.

#### **Fire Protection**

12. The applicant shall submit the fire safety clearance letter from the Cayucos Fire Protection District establishing fire safety requirements prior to filing the final parcel or tract map.

### **Affordable Housing Fee**

13. Prior to filing the final parcel or tract map, the applicant shall pay an affordable housing fee of 3.5 percent of the adopted public facility fee effective at the time of recording for each residential lot. This fee shall not be applicable to any official recognized affordable housing included within the residential project.

### **Quimby Fee**

14. Unless exempted by Chapter 21.09 of the county Real Property Division Ordinance or California Government Code section 66477, prior to filing of the final parcel or tract map, the applicant shall pay the in-lieu" fee that will be used for community park and recreational purposes as required by Chapter 21.09. The fee shall be based on the total number of new parcels or remainder parcels shown on the map that do not already have legal residential units on them.

### **Conditions required to be completed prior to filing of the final map**

#### *Landscape Plans*

15. Prior to filing of the final map, the applicant shall submit revised landscaping plans to the Department of Planning and Building for review and approval. The plans are to include the following:
  - a. Provide additional screening of the blank walls on the north (residential) elevation of the building that abuts the Residential Multi-Family category by use of trees in selective locations to provide more substantial screening of the blank walls than would be provided by the previously proposed palm trees.
  - b. Replace the Queen palm—used as a street tree along Ocean Blvd. and a portion of Old Creek Road—with another species that is either native or drought tolerant from the County-approved list of plant materials in order to comply with the street tree requirements of the Real Property Division Ordinance, Section 21.03.010c(7).
  - c. Provide additional street trees, which may be grouped, as needed along at least two of the street frontages in order to provide street trees at a ratio of one tree for every 25 feet of frontage, as required by the Real Property Division Ordinance, Section 21.03.010c(7).

#### *Services*

16. Prior to recordation of the final map, the applicant shall submit to the Environmental Health Division a final "will-serve" letter from the Cayucos Sanitary District and a final clearance from County Service Area 10A.

### *Hazards and Hazardous Materials*

17. **Prior to recordation of the final map**, the applicant shall submit a work plan to the Division of Environmental Health which describes procedures to determine the following:
  - a. whether or not a 7<sup>th</sup> underground storage tank (UST) still exists onsite, if it was the used oil UST and whether or not it leaked
  - b. the elimination point of the former gas stations floor drain (whether or not it was into the sewer system or a septic/leach system)
  - c. whether or not lead or asbestos-containing materials were used in the construction of the building.
  - d. whether or not Volatile Organic Compounds (VOCs) are present onsite in the soil gas. This portion of the work plan shall be prepared by a qualified Health Risk Assessor and shall be in compliance with the USEPA Guidance on vapor intrusion and the Cal-EPA/DTSC Guidance for the evaluation of subsurface vapor intrusion.
18. The approved work plan shall be implemented **prior to recordation of the final map**. If VOCs are present, they shall be addressed in the CMMP (see below).
19. **Prior to recordation of the final map**, the applicant shall provide verification to the Department of Planning and Building that the Division of Environmental Health has issued a closure letter for the site, and that any and that any underground storage tanks, piping and/or other hazardous materials, hazardous materials related equipment, lead, asbestos, contaminated soil, etc. discovered upon implementation of the work plan have been disposed of properly under the direction of Environmental Health.
20. **Prior to recordation of the final map**, the applicant shall provide verification to the Department of Planning and Building that the RWQCB and Environmental Health have reviewed and approved a Contaminated Materials Management Plan (CMMP) for the project. The plan shall include, at minimum, a discussion of the findings from the additional site assessment work required in the work plan (see above), and the methodologies proposed for proper field screening of excavated soil for potential contamination by an environmental monitor, identification of a contractor licensed to perform the removal and transportation of hazardous waste, proper handling, onsite storage and disposal of contaminated soil, and confirmatory soil sampling, etc. if encountered. The approved CMMP shall be implemented **during the site excavation**.
21. **Prior to recordation of the final map**, the name and telephone number of the person or persons designated by the contractor or builder to monitor the dust control program (see Development Plan SUB2005-00241 Condition 22I.) shall be provided to the Air Pollution Control District.

### **Additional Map Sheet**

22. The applicant shall prepare an additional map sheet to be approved by the County Department of Planning and Building and the Department of Public Works. The additional map sheet shall be recorded with the final parcel or tract map. The additional map sheet shall include the following:
  - a. Development shall comply with all conditions of approval of Development Plan SUB2005-00241.



- b. Public improvements shall be completed prior to occupancy or final inspection, whichever comes first.
- c. The motel is to be operated as a conventional motel for overnight and short-term lodging by the general public. No person or persons shall occupy a motel unit for greater than 29 consecutive days.
- d. The motel component of the proposed project shall not be converted to any other or more intensive use, including timeshare estates or residential condominiums, without approval of a discretionary land use permit (Minor Use Permit, at minimum, dependent on request), accompanied by approval of a land division, as required.
- e. The local property manager designated by the applicant shall be available 24 hours a day to respond to tenant and neighborhood questions or concerns. If the property owner lives within the Cayucos Urban Area as defined in the County General Plan, the owner may designate himself or herself as the local contact person. The name, address and telephone number(s) of the local contact person shall be permanently posted on the premises in prominent locations. If there is a change in the local contact person's name, address or telephone number, that information shall be promptly furnished to the Department of Planning and Building, the local Sheriff Substation, the main county Sheriff's Office, the local fire agency, and all property owners within a 300-foot radius.
- f. Only Air Pollution Control District (APCD)-approved wood burning devices can be installed in new dwelling units per PCD rule 504. These devices include:
  - i. all EPA-certified Phase II wood burning devices
  - ii. catalytic wood burning devices which emit less than or equal to 4.1 grams per hour of particulate matter which are not EPA-certified but have been verified by a nationally recognized testing lab
  - iii. non-catalytic wood burning devices which emit less than or equal to 7.5 grams per hour which are not EPA-certified but have been verified by a nationally recognized testing lab
  - iv. pellet-fueled woodheaters
  - v. dedicated gas-fired fireplaces
- g. No highly reflective glazing or coatings shall be used on west and south facing windows.
- h. No highly reflective exterior materials such as chrome, bright stainless steel or glossy tile shall be used on the south and west facing sides of the development where visible from off-site locations.
- i. A sign plan for the entire site show all locations, dimensions, materials, text, and lighting of all proposed exterior signs in accordance with the requirements of Coastal Zone Land Use Ordinance Sections 23.04.300 et seq. The proposed project identification monument sign near the intersection of Old Creek Road and Ocean Blvd. shall be no greater than three feet in height; otherwise, it shall be relocated outside of the required setback area. The maximum sign area for the monument sign is 60 square feet.
- j. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties; the point source of all exterior lighting shall be shielded from off-site views.
- k. Light hoods shall be dark colored.
- l. All required security lights shall utilize motion detector activation.
- m. Light trespass from exterior lights shall be minimized by directing light downward and utilizing cut-off fixtures or shields.

- n. Lumination from exterior lights shall be the lowest level allowed by public safety standards.
- o. Lumination spill-over from security lighting in the parking garages shall be minimized through selective luminaire placement, in conjunction with possible motion detectors, fixture design, lowest allowable foot-candle standards, and hours of operation.
- p. Any signage visible from off-site shall not be internally illuminated.

### **Covenants, Conditions and Restrictions**

- 23. The developer shall submit proposed covenants, conditions, and restrictions for the subdivision to the County Department of Planning and Building for review and approval. The CC&R's shall provide for the creation of a Homeowner's Association, and at a minimum, shall include the following provisions:
  - a. Access to, use of and maintenance of common areas.
  - b. Notification to prospective buyers that an additional map sheet was recorded with the final parcel or tract map. The restrictions, conditions and standards set forth in the additional map sheet apply to future development. It is the responsibility of the prospective buyers to read the information contained on the additional map sheet.

### **Miscellaneous**

- 24. This subdivision is also subject to the standard conditions of approval for all subdivisions using community water and sewer, a copy of which is attached hereto and incorporated by reference herein as though set forth in full.
- 25. All timeframes on approved tentative maps for filing of final parcel or tract maps are measured from the date the Review Authority approves the tentative map, not from any date of possible reconsideration action.

### **Indemnification**

- 26. The applicant shall as a condition of approval of this tentative or final map application defend, indemnify and hold harmless the County of San Luis Obispo or its agents, officers and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul any approval of the County concerning this subdivision, which action is brought within the time period provided for by law. This condition is subject to the provisions of Government Code section 66474.9, which are incorporated by reference herein as though set forth in full.

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE

725 FRONT STREET, SUITE 300

SANTA CRUZ, CA 95060-4508

VOICE (831) 427-4863 FAX (831) 427-4877

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT****Please Review Attached Appeal Information Sheet Prior To Completing This Form.****SECTION I. Appellant(s)**

Name: Concerned Citizens of Cayucos, an unincorporated association; and Bruce &amp; Connie

Mailing Address: P O Box 496 Paine

City: Cayucos

Zip Code: 93430

Phone: 805-542-9900

**SECTION II. Decision Being Appealed**

1. Name of local/port government:

County of San Luis Obispo

2. Brief description of development being appealed:

SUB 2005-00241, DRC 2006-00064 Tract Map / Development Plan / Variance / Coastal Development Permit  
(DeCicco Mixed Use Project)

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Old Creek Road @ Highway 1 (No. Ocean Blvd.)

APNs 064-263-025, 064-262-036, 064-263-052, and 064-263-053

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

- ☐ Approval; no special conditions
- ☒ Approval with special conditions:
- ☐ Denial

**RECEIVED**

OCT 12 2009

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

**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.	
DATE FILED	
DISTRICT	

**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: October 28, 2008

7. Local government's file number (if any): SUB 2005-00241, DRC 2006-00064

**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:

Franco DeCicco  
115 Kodiak Street  
Morro Bay, CA 93442

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) Bruce & Connie Paine  
191 Stuart  
Cayucos, CA 93430

(2)

(3)

(4)

**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.

SEE ATTACHED



**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/our knowledge.

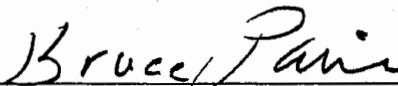
  
\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent

Date: October 9, 2009

**Note:** If signed by agent, appellant(s) must also sign below.

**Section VI. Agent Authorization**

I/We hereby authorize John W. Belsher  
to act as my/our representative and to bind me/us in all matters concerning this appeal.

  
\_\_\_\_\_  
Signature of Appellant(s)

Date: October 9, 2009

**Appeal of DeCicco Project  
by Concerned Citizens of Cayucos  
Tract Map 2863/Development Plan SUB 2005-00241/Variance DRC 2006-00064  
SLO County approval October 28, 2008**

Concerned Citizens of Cayucos presents the following bases for appeal of the referenced project approval:

1. Conflict with CZLUO by placing commercial parking on residentially zoned property. The project has an underground parking structure which serves the commercial project. This structure passes onto the residentially zoned portion of the project (condo project). There is no planned use of the underground parking structure for the condo project. Accordingly, the project's use of residentially zoned property for commercial hotel use is in conflict with Table O of the Framework, as "hotel" is not an allowed use in the residential zone.

2. Failure to Evaluate and Mitigate presence of Toxics On Site The record includes an admission of the discovery of toxic waste on the property. This is significant in that excavation of the site will result in removal of this waste, as well as pumping of water from the site to the creek, with attendant contamination. This issue was handled by the requirement of a Phase II report after approval by the County of the CEQA document. This violates CEQA's requirement of timely review of environmental impacts. The postponing of known mitigation evaluation until after project approval has been specifically found violative of CEQA by California courts. See Sundstrom v. County of Mendocino, 202 Cal App. 3d 296 (1988). As a practical matter, the County is allowing this project to develop right into a known problem, without the appropriate site evaluation and mitigation in place.

3. Failure to Evaluate and Mitigate traffic impacts.

An October 7, 2008 report by traffic engineer Steve Orosz of Orosz Engineering Group, Inc., concludes that the traffic analysis by the County fails to address several important potentially significant effects relating to:

A. Lack of analysis or provision of pedestrian facilities. The project is separated from the beach by Highway 1 and will cater to beach-going visitors. As noted by OEG, "the project has a substantial potential to create an adverse impacts due to lack of a plan to get pedestrians from the project to the beach and back. Currently there are no pedestrian facilities to address this area of concern.

B. Failure to address delay and queuing of two closely spaced intersections. Old Creek Road crosses a frontage road some 50 feet from the turn off of Highway 1, meaning there are two busy intersections only a few feet from each other, with several turning movements conflicting with through traffic. According to OEG, "the queuing may cause significant safety and intersection capacity impacts.



C. Sight distance concerns are not addressed. The closely spaced intersections of both Ocean/Old Creek Road and Highway 1/Old Creek Road created sight distance concerns for several turning movements. The intersection of Orville Avenue (bounding the project's commercial trash and loading as well as garage entrance) and Old Creek Road is further noted to be potentially dangerous intersection due to sight distance concerns.

The traffic concerns raise conflict in the required finding of CZLUO Section 23.02.035, to wit: v) "The proposed use or project 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."

4. Insufficient Fire Flow and Fire Protection. South Cayucos has a storage tank of only 200,000 gallons. There appears to be insufficient volume to provide fire flow required by the UFC. Cayucos Fire District does not have a ladder truck which can reach the third floor proposed by applicant.

5. Visual impacts violate the Coastal Act and Coastal Plan policies. The project proposes a huge 3-story structure out of character with the surrounding neighborhood of south Cayucos. It is highly visible from Highway 1 and interferes with views from and along Highway 1. Far removed from downtown and sandwiched between residential single family homes, the project is 30 feet in height, with a western facing profile of 220 feet of solid building, immediately across the street from single story homes which now look to the ocean with unobstructed views but will likely be shaded by the structure. Trash enclosures and other commercial activity, as well as parking for the residential condo project face the neighbors on Orville Avenue, which will be turned into a commercial service alley by the project design. Approximately a third of the houses in the surrounding residential neighborhood are single-story beach bungalows of 800-1200 sq. ft. Because the houses are small in scale generally, there is a view corridor between parcels nearly every 50 feet. By contrast this 3-story high project provides no view corridor for 220 feet of two stories and a minimal view corridor at the third story. The project covers virtually all the commercial and residential lots, presenting a massive building to those travelling along Highway 1 as they enter Cayucos. Cayucos is unquestionably a significant destination point for coastal visitors. Over 2000 people signed petitions protesting the visual impact of the project on the character of Cayucos and its community and neighborhoods.

Among the laws and policies violated are the following:

A. Coastal Act PRC Section 30251: "The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas [and] . . . be visually compatible with the character of surrounding areas . . ."

B. Coastal Act PRC Section 30253: "Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses."



C. Coastal Plan Visual Policy 1: "[S]cenic vistas . . . are to be preserved [and] protected."

D. CZLUO Section 23.02.034 (4) required finding of neighborhood compatibility. Among the required findings for a development plan approval are:

iii) "The establishment and subsequent operations . . . will not . . . 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" and

iv) "The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development."

6. Other Considerations

The commercial project will result in neighborhood impacts such as noise, light and air pollution generally associated with placing commercial projects in the middle of a residential neighborhood.

## **LCP Policies**

### **Traffic**

**CZLUO Section 23.02.034(c)(4)(v):** *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.*

### **Fire Protection**

#### ***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. ...*

### **Visual and Scenic Resources**

#### ***Visual and Scenic Resource Policy 1: Protection of Visual and Scenic Resources***

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

**CZLUO Section 23.02.034(c)(4)(iii):** *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;*

**CZLUO Section 23.02.034(c)(4)(iv):** *The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development.*