

RECEIVED

NOV 08 2013

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Wila

Peter R. Andre (1918 - 2000)
Michael J. Morris
James C. Buttery
Dennis D. Law
Scott W. Wall
Kathryn M. Eppright
William V. Douglass
Lisa LaBarbera Toke
Karen Gjardrum Fothergill
Collette A. Hillier

Of Counsel
J. Todd Mirolla
Gordon E. Bosserman

Click here to go to
original staff report

November 8, 2013

Via Email

Commissioners of the California Coastal Commission
c/o Daniel Robinson
(daniel.robinson@coastal.ca.gov)

Re: Appeal No. A-3-SLO-13-013

Dear Commissioners:

This letter is being submitted on behalf of Applicant, Andrew Graham, regarding the above-referenced appeal. We represented Applicant at the public hearing before the San Luis Obispo County Board of Supervisors on February 26, 2013.

The Appeal Staff Report includes a comprehensive discussion of the background and issues on appeal, so we would like to take this opportunity to highlight the following:

1. The purpose of the hearing on November 13, 2013 is to determine whether a substantial issue is raised by Appellants' contentions on appeal. Staff addressed and disposed of the contentions regarding (a) alleged inconsistencies with the RMF land use designation and alleged exemptions from the planned development standards, (b) the fact that the subject property is not in a visitor-serving commercial district, and (c) alleged inconsistencies with LCP policies protecting community character and neighborhood compatibility, thereby demonstrating that there is no substantial issue.
2. The County addressed any potential issues regarding community character and neighborhood compatibility by imposing numerous conditions on the use of the property as a vacation rental, conditions with which Applicant is fully prepared to comply.
3. As stated at page 12 of the Appeal Staff Report, "[t]he approved project being analyzed under appeal is allowing a detached single-family residence to be used as a vacation rental, and it is not an evaluation of whether vacation rentals generally may or may not be appropriate in residential land use categories and/or how they may or may not impact local residents more generally." Appellants made the same general

354074.doc

1102 Laurel Lane
P.O. Box 730
San Luis Obispo, CA 93406-0730
ph 805/543-4171 fx 805/543-0752

2125 South Broadway, Suite 109
P.O. Box 1430
Santa Maria, CA 93456-1430
ph 805/937-1400 fx 805/937-1444

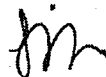
California Coastal Commission
November 8, 2013
Page 2

and speculative arguments at the hearings before the San Luis Obispo County Hearing Officer and the Board of Supervisors and were unsuccessful.

We would be happy to answer any questions you may have before the hearing, and we respectfully request that you find no substantial issue at the hearing.

Thank you for your attention to this letter.

Very truly yours,



Lisa L. Toke

LLT:rl

cc: Clients
Edwin J. Rambuski



RECEIVED RICHARD L. WATKINS
Real Estate Services

NOV 12 2013

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

W11a
123 North Ocean Ave.
Cayucos, CA 93430

T 805-235-1584
F 805-995-1238
Adroitgambit@gmail.com

www.CayucosHouses.com

November 6th, 2013

California Coastal Commission
Central Coast District Office
Dan Carl, Deputy Director
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

RE: W11a A-3-SLO-13-013 (Grahame Vacation Rental)

Dear Deputy Director Carl,

The use of the residence at 194 San Luis Parkway as a vacation rental clearly meets the conditions of San Luis Obispo County's LCP. The performance standards contained in the Vacation Rental Ordinance (CZLUO Section 23-08-165) were applied to that residence as conditions in the MUP. Moreover, additional condition further restricting parking and occupancy, were included to address the special characteristics of that particular development. Incidentally, the tight spaces on San Luis Parkway are not at all unusual in the community of Avila.

The use of residentially zoned properties as vacation rentals under the standards and provisions of CZLUO Section 23-08-165, amply demonstrates that an effective balance between the reasonable concerns of residents and the ability of the public to access a variety of coastal lodging is a realistic goal. The arguments raised by the appellants in this appeal, though certainly familiar, fall short of the intent expressed by Coastal Act, Section 30625b.

There is no substantial issue raised by the contentions of the Appellants and, therefore, no basis for allowing a de nova application. I urge the Commissioners to follow the recommendation of Staff and vote YES on a motion that the Commission determine that Appeal Number A-3-SLO-13-013 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603.

Sincerely yours,

Richard L Watkins

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV

**W11a****Important Hearing Procedure Note:**

This is a substantial issue only hearing. Public testimony will be taken only on the question of whether the appeal raises a substantial issue. Generally and at the discretion of the Chair, testimony is limited to 3 minutes total per side. Please plan your testimony accordingly.

Filed: 3/15/2013
Action Deadline: None
Staff: D. Robinson - SC
Staff Report: 10/25/2013
Hearing Date: 11/13/2013

APPEAL STAFF REPORT SUBSTANTIAL ISSUE DETERMINATION

Appeal Number: A-3-SLO-13-013

Applicant: Andrew Graham

Appellants: Greg and Penni Tidwell & Dr. and Mrs. William Schuh

Local Government: San Luis Obispo County

Local Decision: Approved with conditions

Project Location: 194 San Luis Street Parkway in the unincorporated Avila Beach area of San Luis Obispo County

Project Description: Allow a single-family residence to be used as vacation rental

Staff Recommendation: No Substantial Issue

SUMMARY OF STAFF RECOMMENDATION

San Luis Obispo County approved a coastal development permit (CDP) allowing an existing residence to be used as a vacation rental at 194 San Luis Street Parkway in the community of Avila Beach. The Appellants contend that the County-approved project: (1) is inconsistent with the underlying Residential Multi-Family (RMF) land use designation, and the County's 2005 approval of the planned unit development subdivision related to the property; (2) is not located in a visitor-serving commercial district and does not meet County Local Coastal Program (LCP)

requirements related to visitor-serving priorities; and (3) is inconsistent with LCP policies that protect community character and neighborhood compatibility.

After reviewing the local record, staff has concluded that the appeal does not raise a substantial issue with respect to the project's conformance with the LCP. First, vacation rentals are an allowed use in the County's RMF land use designation, and the County's 2005 planned development approval (in addition to the County's 2003 approval for the construction of the subject residence) did not prohibit this home from being used as a vacation rental. Next, vacation rentals are not required to be located in a visitor-serving commercial district, and the LCP encourages and provides specific standards for residential vacation rentals that are typically applied county-wide. Finally, the County conditioned its approval to protect residential community character and neighborhood compatibility by including strict limits on occupancy, vehicles and parking, tenancy, and noise; a prohibition against changing the residential character of the home's appearance; and penalties for violations of any of these conditions.

In summary, vacation rentals provide an important visitor function that allows small groups and families another option for overnight accommodations near the beach and shoreline throughout the state of California. The County-approved project provides an appropriate balance between providing a visitor-serving accommodation along the coast and ensuring controls are in place to avoid negative impacts to adjacent residents. Staff recommends that the Commission determine that the appeal contentions do not raise a substantial LCP conformance issue, and that the Commission decline to take jurisdiction over the CDP for this project. The single motion necessary to implement this recommendation is found on page 3 below.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION	3
II. FINDINGS AND DECLARATIONS	3
A. PROJECT BACKGROUND	3
B. SAN LUIS OBISPO COUNTY CDP APPROVAL.....	4
C. APPEAL PROCEDURES	4
D. SUMMARY OF APPEAL CONTENTIONS	5
E. SUBSTANTIAL ISSUE DETERMINATION	5
F. CONCLUSION.....	12

EXHIBITS

Exhibit 1 – Project Location
Exhibit 2 – County's Final Local Action Notice
Exhibit 3 – Appeal Contentions
Exhibit 4 – Correspondence

I. MOTION AND RESOLUTION

Staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of no substantial issue would mean that the Commission will not hear the application de novo and that the local action will become final and effective. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission determine that Appeal Number A-3-SLO-13-013 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603. I recommend a yes vote.*

***Resolution to Find No Substantial Issue.** The Commission finds that Appeal Number A-3-SLO-13-013 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 Local Coastal Program and/or the public access and recreation policies of the Coastal Act.*

II. FINDINGS AND DECLARATIONS

A. PROJECT BACKGROUND

The subject residence is located at 194 San Luis Street Parkway (APN 076-201-082), between Laurel Street and Lucas Lane, in the community of Avila Beach, in San Luis Obispo County (see **Exhibit 1**). The County-approved project allows the existing residence to be used as a vacation rental.

The single-family residence is part of a three-unit development built in the mid-2000s in the Residential Multi-Family (RMF) land use designation (sometimes referred to as a zone or district). The residence is surrounded by multi-family residential complexes to the north, south, east and west. The Applicant's residence is a 1,590 square-foot, two-story, three-bedroom home, with an attached two-car garage on the ground floor. The two other units within the original development are located at 196 (APN 076-201-081) and 198 (APN 076-201-080) San Luis Street Parkway.

In 2003, the County approved a CDP (County reference D020252P, Commission reference 3-SLO-03-476) to allow the demolition of an existing single-family residence and a detached garage, and the construction of the three detached single-family residences (described above) on a single parcel. In 2005, while construction of the three residences was underway, the County approved a CDP for a subdivision (County reference SUB2004-00337CO05-0139; Commission reference 3-SLO-05-426) that created three parcels (one for each residence) and one common

lot,¹ as well as associated access ingress/egress, drainage and utility easements at the site. The conditions of approval of the 2005 CDP imposed, among other things, height limits, a drainage plan, and required that the final design be consistent with the Avila Beach Specific Plan.

B. SAN LUIS OBISPO COUNTY CDP APPROVAL

On October 5, 2012 and subject to multiple conditions, the San Luis Obispo County Hearing Officer approved the Applicant's proposed project designed to allow an existing residence to be used as a vacation rental. The approval did not include any physical expansion of the residence, or any other improvements. The Hearing Officer's approval was appealed to the County's Board of Supervisors by Greg and Penni Tidwell, owners of a neighboring house. The Board of Supervisors held a public hearing to consider the appeal on February 26, 2013. At that time, the Board denied the appeal and upheld the Hearing Officer's original approval with revised findings and conditions of approval intended to further clarify the reasons for the Hearing Officer's approval and to further ensure that the project satisfy specific LCP requirements regarding vacation rentals. Notice of the County Board's action on the CDP was received in the Coastal Commission's Central Coast District Office on March 14, 2013 (see **Exhibit 2**). The Coastal Commission's ten-working day appeal period for this action began on March 15, 2013 and concluded at 5pm on March 28, 2013. One valid appeal, submitted by Greg and Penni Tidwell and Dr. and Mrs. William Schuh (also neighboring owners), was received during the appeal period (see **Exhibit 3**).

C. APPEAL PROCEDURES

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. This project is appealable because vacation rentals are not the principal permitted use in the RMF land use category.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the certified LCP or, if applicable, to the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo CDP hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations.² Under Section 30604(b), if the Commission conducts a de

¹ Three parcels of 3,737 sq.ft., 3,010 sq.ft. and 2,916 sq.ft., and one common lot of 4,703 sq.ft..

² The term "substantial issue" is not defined in the Coastal Act or in 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

novo hearing and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. The subject project is not located between the first public road and the sea or the shoreline of any body of water located within the coastal zone, and thus such finding is not required in this case.

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

D. SUMMARY OF APPEAL CONTENTIONS

The Appellants contend that the County-approved project is inconsistent with the certified LCP because it “does not conform to the standards set forth in the Local Coastal Program and does not conform to the standards set forth in the Coastal Act.” While no LCP policies are specifically cited, the Appellants’ contentions are that the project: (1) is inconsistent with the underlying RMF land use designation and was previously granted exemptions from the planned development standards when the planned development was originally approved; (2) is not in a visitor-serving commercial district and does not meet the LCP’s visitor-serving policies and standards; and (3) is inconsistent with LCP policies that protect community character and neighborhood compatibility (including parking) from incompatible and undesirable uses. See **Exhibit 3** for the full text of the appeal contentions.

E. SUBSTANTIAL ISSUE DETERMINATION

Applicable Policies

The County’s LCP includes operational standards for vacation rentals, along with other policies related to visitor-serving uses and neighborhood compatibility. Coastal Zone Land Use Ordinance (CZLUO) Section 23.08.165 provides standards and regulations for vacation rentals in San Luis Obispo County, which include some more limited general standards that apply countywide, and then some very specific standards that apply within Cambria and Cayucos. As a general rule, the County typically applies all of the standards of the vacation rental ordinance to proposed vacation rentals in other areas of the County as well, including as a tool for addressing other LCP consistency issues, and to ensure orderly use of vacation rentals overall. Section 23.08.165 includes:

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. Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of a local government’s CDP decision by filing a petition for a writ of mandate pursuant to the Code of Civil Procedure, Section 1094.5. In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the County does not raise a substantial issue with regard to the Appellants’ contentions.

23.08.165 – Residential Vacation Rentals

The development of a new structure intended for use as a Residential Vacation Rental shall comply with all standards applicable to the construction of a residence within the land use category that the Residential Vacation Rental is proposed. Rental shall not exceed one individual tenancy within seven consecutive calendar days. The use of residential property as a vacation rental within the Cambria and Cayucos urban reserve lines shall comply with the following standards:

- a. **Purpose.** The purpose of this section is to establish a set of regulations applicable to residential vacation rentals. These regulations are in addition to all other provisions of this Title. In the adoption of these standards the Board of Supervisors find that residential vacation rentals have the potential to be incompatible with surrounding residential uses, especially when several are concentrated in the same area, thereby having the potential for a deleterious effect on the adjacent full time residents. Special regulation of these uses is necessary to ensure that they will be compatible with surrounding residential uses and will not act to harm and alter the neighborhoods they are located within.*
- b. **Permit requirements.** Zoning Clearance, Business License and Transient Occupancy Tax Registration for each residential vacation rental. Where water or sewage disposal is provided by a community system, evidence shall be submitted with the application for Zoning Clearance to show that the service provider(s) has been informed of the proposed use of the property as a vacation rental, and has confirmed that there is adequate service capacity available to accommodate this use.*
- c. **Location.** Within all residential land use categories, no residential vacation rental shall be located within 200 linear feet of a parcel on the same block on which is located any residential vacation rental or other type of visitor-serving accommodation that is outside of the Commercial land use category. This location standard can be modified through Minor Use Permit approval when a Development Plan is not otherwise required.*
- d. **Vacation rental tenancy.** Rental of a residence shall not exceed one individual tenancy within seven consecutive calendar days. No additional occupancy (with the exception of the property owner) shall occur within that seven day period. A residential vacation rental shall only be used for the purposes of occupancy as a vacation rental or as a full time occupied unit. No other use (i.e.: home occupation, temporary event, homestay) shall be allowed on the site.*
- e. **Number of occupants allowed.** The maximum number of occupants allowed in an individual residential vacation rental shall not exceed the number of occupants that can be accommodated consistent with the onsite parking requirement set forth in subsection i hereof, and shall not exceed two persons per bedroom plus two additional persons. The Zoning Clearance shall specify the maximum number of occupants allowed in each individual vacation rental.*

- f. **Appearance, visibility and location.** The residential vacation rental is not to change the residential character of the outside appearance of the building, either by the use of colors, materials, lighting; or by the construction of accessory structures or garages visible from off-site and not of the same architectural character as the residence; or by the emission of noise, glare, flashing lights, vibrations or odors not commonly experienced in residential areas.*
- g. **Signs.** Availability of the rental unit to the public shall not be advertised on site.*
- h. **Traffic.** Vehicles used and traffic generated by the residential vacation rental shall not exceed the type of vehicles or traffic volume normally generated by a home occupied by a full time resident in a residential neighborhood. For purposes of this section, normal residential traffic volume means up to 10 trips per day.*
- i. **On-site parking required.** All parking associated with a Residential Vacation Rental shall be entirely onsite, in the garage, driveway or otherwise out of the roadway, in accordance with subsection e., above. Tenants of Residential Vacation Rentals shall not use on-street parking at any time.*
- j. **Noise.** All residential vacation rentals shall comply with the standards of Section 23.06.040 et seq. (Noise Standards). No residential vacation rental is to involve on-site use of equipment requiring more than standard household electrical current at 110 or 220 volts or that produces noise, dust, odor or vibration detrimental to occupants of adjoining dwellings.*
- k. **Local contact person.** All residential vacation rentals 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. Where a property owner lives within the same community as the residential vacation rental, the property owner may designate themselves as the local contact person. All the requirements enumerated in this section shall continue to apply.*
 - (1) 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, the local fire agency and 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 in the rental unit in a prominent location(s). 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 subsection.*
 - (2) If the local contact person is unavailable or fails to respond, the complaining party may contact the Sheriff's Office. The Sheriff will attempt to reach the local contact person. In cases where the Sheriff was unable to reach the local contact person, the penalties as set forth in Subsection n shall apply.*

- l. Transient Occupancy Tax.** Each residential vacation rental unit shall meet the regulations and standards set forth in Chapter 3.08 of the County Code, including any required payment of transient occupancy tax for each residential vacation rental unit.*
- m. Effect on existing residential vacation rentals.** Each individual vacation rental in existence on the effective date of this section (September 10, 2003) shall be subject to a Zoning Clearance, Business License, Transient Occupancy Tax Registration, and all standards set forth in this Section except Subsection c. regarding location, provided evidence that the vacation rental unit was in existence prior to April 11, 2003. Zoning Clearance, Business License, and Transient Occupancy Tax Registration, shall be requested from the county within 120 days of the effective date specified above. If the Zoning Clearance, Business License, and Transient Occupancy Tax Registration, have not been requested within the time frames set forth in this section, the penalties of Chapter 23.10 (Enforcement) of this Title shall apply.*
- n. Violation - vacation rental.** It is unlawful for any person to use or allow the use of property in violation of the provisions of this section. The penalties for violation of this section are set forth in Chapter 23.10 of this Title (Enforcement). Additional penalties for violation of this section may include revocation of the Zoning Clearance and Business License. If a local contact person is not able to be reached by the Sheriff more than three times in any consecutive six month period, this shall be grounds for revocation of the Business License consistent with Title 6 of the County Code.*

Other LCP policies protect and encourage, and give certain priorities to, visitor-serving accommodations in the coastal zone, including:

***Recreation and Visitor-Serving Facilities Policy 1. Recreation Opportunities.** Coastal recreational and visitor-serving facilities, especially lower-cost facilities, shall be protected, encouraged and where feasible provided by both public and private means. ...*

***Recreation and Visitor-Serving Facilities Policy 2. Priority for Visitor Serving Facilities.** Recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent use, but not over agriculture or coastal dependent industry in accordance with PRC 30222. All uses shall be consistent with protection of significant coastal resources. The Land Use Plan shall incorporate provisions for areas appropriate for visitor-serving facilities that are adequate for foreseeable demand. ...*

***Access Policy 4. Provision of Support Facilities and Improvements.** Facilities necessary for public access shall be provided. ...*

Finally, the LCP includes standards to protect the quality of life in residential neighborhoods, including:

***CZLUO Section 23.06.040. Noise Standards.** Sections 23.06.044-050 establish standards for acceptable exterior and interior noise levels and describe how noise is to be measured. These standards are intended to protect persons from excessive noise levels, which are detrimental to the public health, welfare and safety and contrary to the public interest because they can:*

interfere with sleep, communication, relaxation and the full enjoyment of one's property; contribute to hearing impairment and a wide range of adverse physiological stress conditions; and adversely affect the value of real property. It is the intent of this chapter to protect persons from excessive levels of noise within or near various residential development and other specified noise-sensitive land uses.

Access Policy 8. Minimizing Conflicts with Adjacent Users. *Maximum access shall be provided in a manner which minimizes conflicts with adjacent uses. Where a proposed project would increase the burdens on access to the shoreline at the present time or in the future, additional access areas may be required to balance the impact of heavier use resulting from the construction of the proposed project.*

Access Policy 10. Protection of Property Rights and Privacy. *The acquisition of rights for access and view purposes and other uses by the public should be consistent with the protection of the property and use rights of property owners. Access routes should be selected and designed so as to minimize the public impact on private property. This is not meant to be exclusionary against public access rights but to cause a balance to be struck in protecting the individual citizen's property and privacy. Nothing in the Local Coastal Program is to be construed as encouraging, permitting, or endorsing trespass or invasion of private property rights or privacy.*

CZLUO Section 23.08.165 has two overarching standards that are applicable to residential vacation rentals countywide: 1) the development of a new residence intended for use as a vacation rental is required to comply with all standards applicable to the construction of a residence within the land use designation that the vacation rental is proposed; and 2) rental shall not exceed one individual tenancy within seven consecutive calendar days. The other requirements within this section explicitly apply only to the communities of Cambria and Cayucos. However, through the issuance of a CDP (also referred to by the County as a Minor Use Permit), the County generally applies all of the standards of Section 23.08.165 (or modifies them to suit the situation) to vacation rentals in other areas of the County, such as Avila Beach, to ensure orderly use of vacation rentals. Such was the case with the County-approved project here.

Land Use Designation and Development Standards

The Appellants claim that: (1) the “development results in the conversion of a three-unit planned development for which the County had previously granted exemptions for density and parking when the planned development was approved in 2005”; (2) “the planned development’s modifications or exemption from development standards of the primary zone does not result in better design or other public benefit”; (3) “the development is inconsistent with the primary zone”; and (4) “the development is inconsistent with the underlying zoning standards of the LCP and the conditions imposed on the planned unit development when approved in 2005” (see **Exhibit 3** for the full text of the appeal contentions).

In terms of the Appellants’ various claims regarding inconsistency with the planned development standards, the County originally approved construction of three residences, including the subject residence, on one RMF parcel in 2003, as indicated above. All of the approved building standards, pursuant to the LCP’s Avila Beach Specific Plan, San Luis Bay Area Plan, and

CZLUO, were complied with, and the County did not grant any modifications or exemptions (or variances), as the Appellants claim.³ The subsequent County-approved subdivision in 2005 was again consistent with applicable regulations, with no apparent modifications or exemptions (or variances), except that a planned development authorization was needed to allow for the subdivided parcels to be less than 6,000 square feet in size.⁴ Neither the County's approval of the residences in 2003 nor the County's approval of the planned development and subdivision in 2005 were conditioned to prohibit use of the residences as vacation rentals. Thus, the Appellants' contentions with respect to inconsistencies with the planned development approval do not raise a substantial issue of conformity with the policies or implementing ordinances of the LCP.

In terms of the zoning contention, the home is located in the Multi-Family Residential (RMF) land use designation and within the Urban Services Line (USL) in Avila Beach. Vacation rentals are allowed as a conditional use in the RMF land use designation. Thus, the approved project is consistent with the LCP regarding allowable uses in the RMF district and thus the Appellants' contentions in this regard do not raise a substantial issue of consistency with the requirements of the LCP.

Visitor-Serving Priorities

The Appellants claim that, "the development is not located within a visitor-serving commercial district" and that, "the development does not meet zoning standards and policies related to visitor-serving priorities." See **Exhibit 3** for the complete text of the Appellants' contentions.

As indicated just above, the LCP allows for use of a residence as a vacation rental within the RMF land use designation, and does not require vacation rentals to be located in strictly visitor serving commercial districts. In fact, the LCP does not contain a "visitor-serving commercial district" or land use designation per se, but rather contains certain types of commercial districts, such as Commercial Retail or Commercial Service or Industrial, which allow for more commercial-type uses. While the County does have a "Visitor-Serving Priority Area" overlay area (known as a "combining designation"), the fact that the project is not located within this area or within a more commercial-type land use designation does not raise LCP conformity issues.

LCP Coastal Plan Policies 1 and 2 encourage visitor-serving facilities, and the County-approved project is consistent with the LCP's desire to protect, encourage, and prioritize vacation rentals as one of many coastal recreational and visitor-serving facilities provided within the County. Also, CZLUO Section 23.08.165 provides standards for vacation rentals in residentially designated areas, and vacation rentals are allowed as a conditional use in the RMF land use category. Further, because residential vacation rentals are categorically different than other transient lodgings, such as hotels, motels, and RV parks, and are not limited by the LCP to the more commercial-type districts (such as Industrial or Commercial Service) or the visitor-serving

³ Applicable RMF standards include: maximum density (15 units/acre), minimum setbacks (25 feet), maximum height (25 feet), minimum parking (.25 per dwelling unit), maximum floor area ratio (48% of the site), and minimum open area (45% of the site). The County's approval of the residences and subdivision in 2003 and 2005 met all of these standards.

⁴ CZLUO Section 23.04.028 requires a 6,000 square-foot minimum parcel size, but also allows for smaller parcels through approval of a planned development project.

overlay area, the County appropriately allowed for a residential vacation rental use outside of a commercial land use designated area.

Thus for the above reasons, the Appellants' contentions in regards to visitor-serving uses and standards do not raise a substantial conformance issue with the visitor-serving policies and standards of the LCP.

Neighborhood Compatibility

The Appellants contend that the development is "inconsistent with the character of the neighborhood and does not conform to the Local Coastal Plan neighborhood compatibility requirements." The Appellants also claim that the development has "inadequate parking" and "that residential parking for the development is inadequate," and that "there is no provision in the development nor in the 2005 planned unit development plan for any off-site parking." Finally, the Appellants also claim that "the development does not conform to the Coastal Zone Framework for Planning policy of: (1) protecting residential areas from incompatible and undesirable land uses; (2) reserving desirable neighborhood characteristics such as compatible uses, sense of scale, and other amenities; and (3) requiring visitor serving uses be compatible with the needs of local residents." See **Exhibit 3** for the full text of the appeal.

The LCP seeks to protect and maximize coastal access and recreation opportunities in a manner that is consistent with the protection of coastal resources, including community character. The regulation of residential vacation rentals plays an important role in implementing such goals by ensuring that rentals are provided in a manner that protects access, resources, and the integrity of communities. Such regulation is intended to, among other things, ensure that such rentals don't lead to problems in the surrounding area (such as noise and parking issues, etc.). There are various regulatory tools available to address these kinds of potential problems. These include limiting the intensity of vacation rental use, and restricting the number and density of such units to address cumulative impacts.

The County-approved project includes numerous conditions to ensure consistency with community character and neighborhood compatibility consistent with the LCP. In this case, the County appropriately found that by requiring the project to adhere to the standards of CZLUO Section 23.08.165 (which include parking requirements, limitations on the number of occupants, designation of a 24-hour property manager contact, etc.), potential impacts to surrounding property owners can be avoided. For example, the County conditioned its approval to require that occupancy of this vacation rental not exceed two persons per bedroom. Additional conditions include stipulations for revocation of the Minor Use Permit if the Sheriff is not able to reach the designated local contact person more than three times in any consecutive six-month period. The project is also conditioned to comply with CZLUO Section 23.06.040 related to noise standards, which prohibits the rental from producing "noise, dust, odor or vibration detrimental to occupants of adjoining dwellings." In terms of parking, the County limited the number of cars associated with the subject rental to two cars per rental period. The County also conditioned its approval to require that the two cars park inside the existing two-car garage, and to prohibit off-site parking and/or parking in the planned development's guest parking spaces. See **Exhibit 2** for the County's conditions of approval.

All told, the County applied twelve conditions designed to protect residential community character and neighborhood compatibility, including by placing strict limits on maximum occupancy, parking and locations, tenancy, and noise; a prohibition against changing the residential character of the home's appearance; and penalties for violations of any of these conditions. These conditions appropriately ensure that the vacation rental will successfully operate compatible with the neighborhood, and preserve desirable neighborhood characteristics.

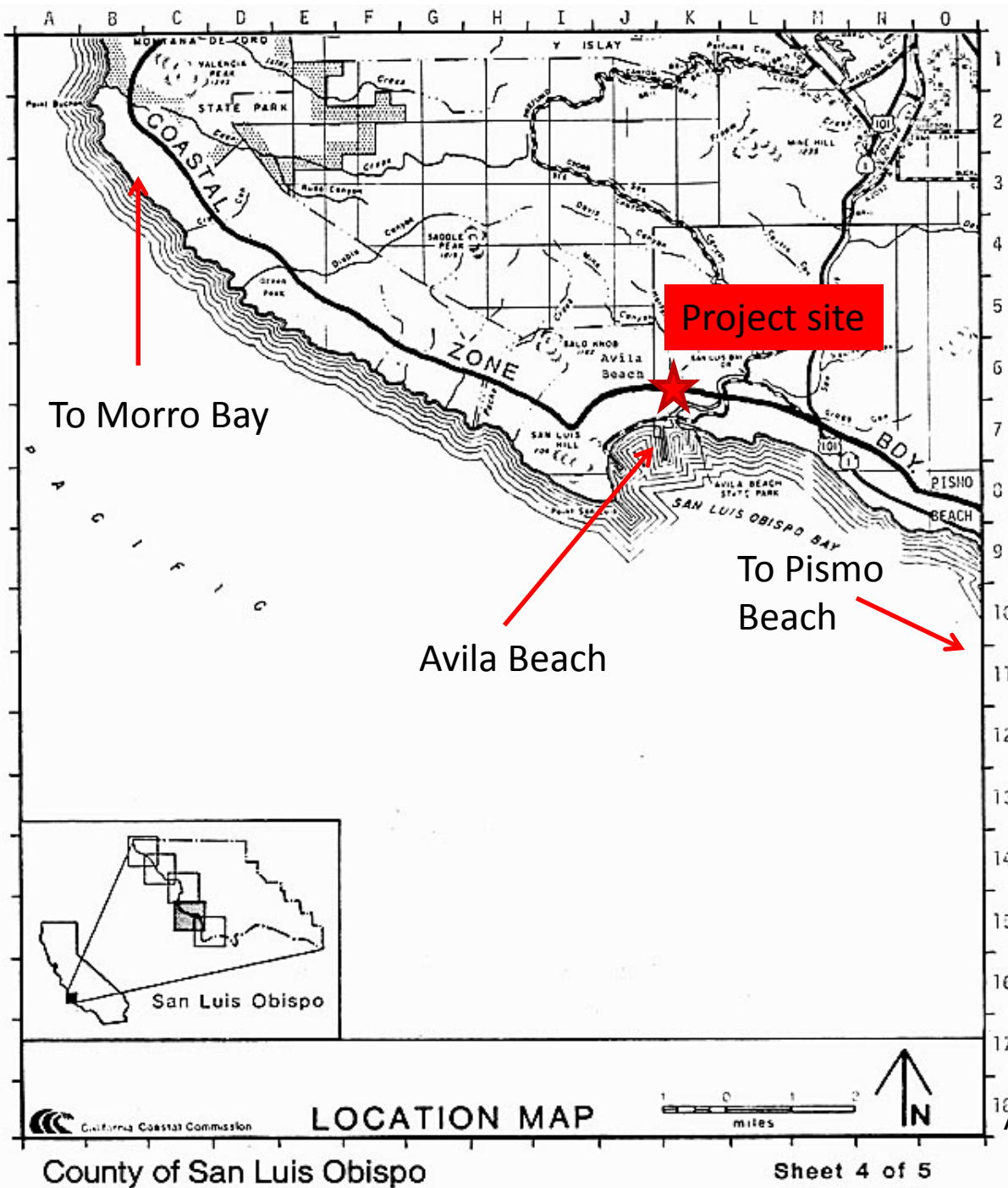
Finally, it is important to note that the question before the Commission is whether the County's decision on this CDP raises substantial LCP conformance issues. The approved project being analyzed under appeal is allowing a detached single-family residence to be used as a vacation rental, and it is not an evaluation of whether vacation rentals generally may or may not be appropriate in residential land use categories and/or how they may or may not impact local residents more generally. Those questions are settled in this case as the LCP allows for vacation rentals and puts in place standards for evaluating them. Thus, issues related to the possibility that vacation rentals are undesirable or incompatible with residential uses and local residents more generally do not raise a substantial issue.

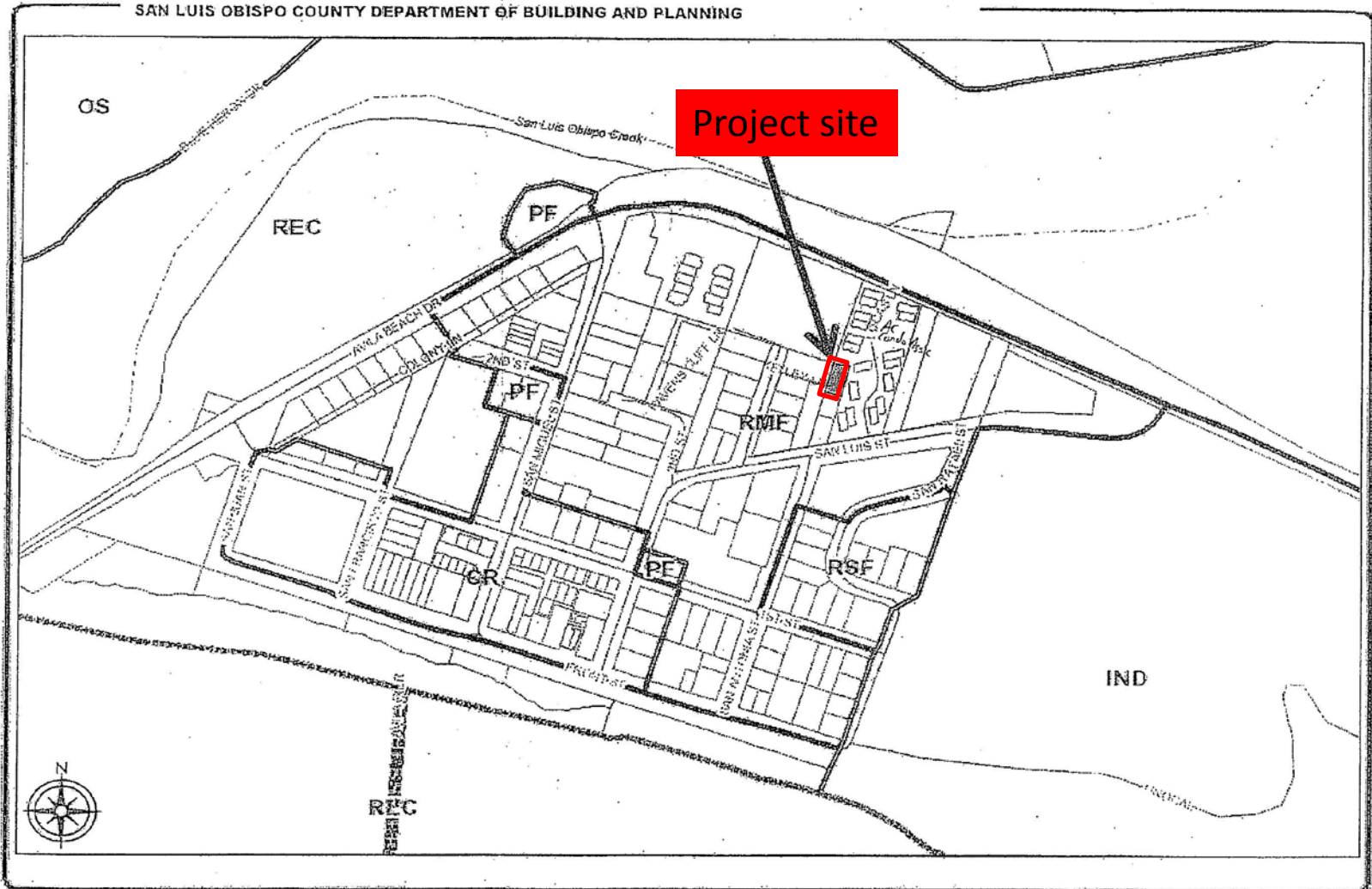
F. CONCLUSION

When considering a project that has been appealed to it, the Commission must first determine whether the project raises a substantial issue of LCP conformity, such that the Commission should assert jurisdiction over a de novo CDP application for such development. At this stage, the Commission has the discretion to find that the project does not raise a substantial issue of LCP conformance, even if the project is not entirely consistent with the applicable certified LCP. As explained above, the Commission is guided in its decision of whether the issues raised in a given case are "substantial" by the following five factors: 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.

As described above, the appeal contentions relate to the project's consistency with the land use designation and planned development standards, visitor-serving priorities, and community character and neighborhood compatibility policies of the certified LCP. The County's approval appropriately considered the LCP's requirements with respect to these issue areas, and the approved conditions are designed to minimize any potential impacts to surrounding property owners from the approved development. Thus, there is adequate factual and legal support for the County's decision. In addition, the approved project would result in allowing an existing residence to be used as a residential vacation rental, and does not include any physical expansion of the existing residence. Thus, the extent and scope of the approved development is relatively minor, and the use will not have any significant adverse effects on coastal resources. Because the County strictly followed the requirements of CZLUO Section 23.08.165 and the visitor-serving and access policies in its approval, this project is not expected to set an adverse precedent for future interpretation of the LCP. Finally, the County-approved project raises only local issues as opposed to those of regional or statewide significance.

In short, the County-approved project is consistent with applicable LCP policies, and the Appellants' contentions are adequately addressed by the County's conditions of approval. Based on the foregoing, including when all five substantial issue factors are weighed together, the appeal contentions do not raise a substantial LCP conformance issue and thus the Commission declines to take jurisdiction over the CDP application for this project.

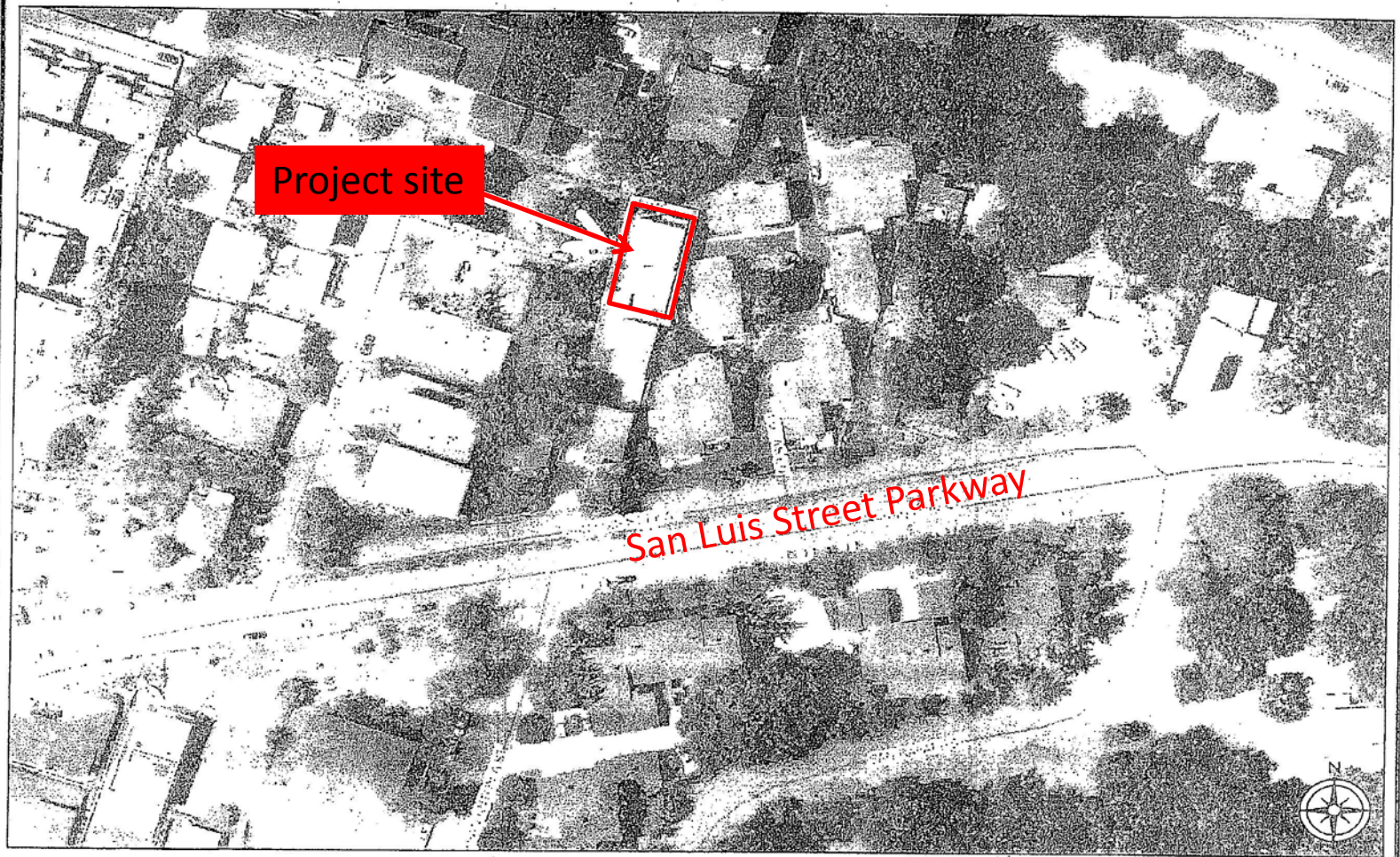




PROJECT
Graham Minor Use Permit / Coastal Development Permit
DRC2012-00012



EXHIBIT
Land Use Category



PROJECT

Graham Minor Use Permit / Coastal Development Permit
DRC2012-00012



EXHIBIT

Aerial View



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

RECEIVED

MAR 14 2013

March 11, 2013

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Andrew Graham
24819 Los Altos Drive
Valencia, CA 91355

FINAL LOCAL
ACTION NOTICE

REFERENCE # 3-SLO-B-057
APPEAL PERIOD 3/15 - 3/28/13

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: February 26, 2013

SUBJECT: County File No. – DRC2012-00012
Minor Use Permit/Coastal Development Permit

LOCATED WITHIN COASTAL ZONE: YES

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

This action is appealable to the California Coastal Commission pursuant to regulations contained in Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The regulations provide the California Coastal Commission 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

Exhibit 2

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) 781-5612.

Sincerely,



RAMONA HEDGES
Custodian of Records

cc: California Coastal Commission,
725 Front Street, Suite 300, Santa Cruz, California 95060

Law Offices of Edwin J. Rambuski, Attn: Edwin J. Rambuski
1401 Higuera St., San Luis Obispo, CA 93401

(Planning Department Use Only – for California Coastal Commission)

Date NOFA copy mailed to Coastal Commission: 3/11/13

Enclosed: X Staff Report(s) dated February 26, 2013
 X Resolution with Findings and Conditions

RECEIVED

MAR 14 2013

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Attachment 4

IN THE BOARD OF SUPERVISORS

COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tuesday, February 26, 2013

**PRESENT: Supervisors Frank Mecham, Bruce S. Gibson, Adam Hill, Debbie Arnold and
Chairperson Paul A. Teixeira**

ABSENT: None

RESOLUTION NO. 2013-33

**RESOLUTION AFFIRMING THE DECISION OF THE
HEARING OFFICER AND CONDITIONALLY APPROVING
THE APPLICATION OF ANDREW GRAHAM
FOR MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT
DRC2012-00012**

The following resolution is now offered and read:

WHEREAS, on October 5, 2012, the Zoning Administrator of the County of San Luis Obispo (hereinafter referred to as the "Hearing Officer") duly considered and conditionally approved the application of Andrew Graham for Minor Use Permit/Coastal Development Permit DRC2012-00012; and

WHEREAS, Edwin J. Rambuski on behalf of Penni and Greg Tidwell has appealed the Hearing Officer's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the Board of Supervisors) pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

Attachment 4

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on February 26, 2013, and determination and decision was made on February 26, 2013; and

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

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be denied and the decision of the Hearing Officer should be affirmed 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 revised Exhibit A attached hereto and incorporated by reference herein as though set forth in full.
3. That this project is found to be categorically exempt from the California Environmental Quality Act under the provisions of California Code of Regulations, title 14, section 15303 (class 3).
4. That the appeal filed by Edwin J. Rambuski on behalf of Penni and Greg Tidwell is hereby denied and the decision of the Hearing Officer is affirmed and that the application of Andrew Graham for Minor Use Permit/Coastal Development Permit

Attachment 4

DRC2012-00012 is hereby approved subject to the revised conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

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

AYES: Supervisors Hill, Mecham, Gibson, Arnold and Chairperson Teixeira

NOES: None

ABSENT: None

ABSTAINING: None

the foregoing resolution is hereby adopted.

Paul A. Teixeira
Chairperson of the Board of Supervisors

ATTEST:

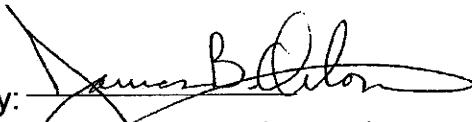
Julie L. Rodewald
Clerk of the Board of Supervisors
By: Sandy Currens
Deputy Clerk

[SEAL]

Attachment 4

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: 
Deputy County Counsel

Dated: February 13, 2013

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

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

WITNESS my hand and the seal of said Board of Supervisors, affixed this 8th
day of March, 2013.

Julie L. Rodewald
County Clerk and Ex-Officio Clerk
of the Board of Supervisors

(SEAL)

By Sandy Cunniff
Deputy Clerk

EXHIBIT "A" – REVISED FINDINGS FOR APPROVAL

CEQA Exemption

- A. The project qualifies for a Categorical Exemption (Class 3) pursuant to CEQA Guidelines Section 15303 because it is considered a conversion of the use of a small existing structure.

Minor Use Permit

- B The proposed project or use is consistent with the San Luis Obispo County General Plan and the County's certified Local Coastal Program because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the proposed vacation rental does not generate activity that presents a potential threat to the surrounding property and buildings. The operational standards for vacation rentals as set forth in Coastal Zone Land Use Ordinance section 23.08.165 have been added as conditions to this project. Because these standards further limit parking requirements, number of occupants and the designation of a 24 hour property manager contact, potential impacts to surrounding property owners can be avoided. The proposed conditions of approval have routinely been added to other minor use permits for establishment of vacation rentals. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the existing residence will not change and, as conditioned, the vacation rental use will not conflict with the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located off San Luis Street Parkway, and no additional traffic is associated with the project because it is using an existing approved residence as a residential vacation rental. Additionally, this vacation rental will have a condition of approval that will limit the number of cars associated with the vacation rental to two cars per rental period and require the two cars to park inside the existing 2 car garage.

Coastal Access

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is not located between the first public road and the shoreline and is not directly adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

EXHIBIT "B" – REVISED CONDITIONS OF APPROVAL

Authorized Use

1. This approval authorizes a Minor Use Permit to allow the existing residence to be used as residential vacation rental.

Operational Conditions

2. Availability of the residence as a rental to the public shall not be advertised on site.
3. Vehicles used and traffic generated by the residential vacation rental shall not exceed the type of vehicles or traffic volume normally generated by a home occupied by a full time resident in a residential neighborhood. Normal residential traffic volume means up to 10 trips per day. For purposes of this vacation rental, no more than two vehicles shall be used and all parking associated with the vacation rental shall be located in the attached 2 car garage. The maximum number of occupants allowed in the residential vacation rental shall not exceed the number of occupants that can be accommodated consistent with the onsite parking requirement, and shall not exceed two persons per bedroom. A lease to the tenants of the Vacation Rental shall contain these parking requirements.
4. The residential vacation rental is not to change the residential character of the outside appearance of the building, either by the use of colors, materials, lighting, or by the emission of noise, glare, flashing lights, vibrations or odors not commonly experienced in residential areas.
5. The residential vacation rental shall comply with the standards of Section 23.06.040 et seq. (Noise Standards). No residential vacation rental is to involve on-site use of equipment requiring more than standard household electrical current at 110 or 220 volts or that produces noise, dust, odor or vibration detrimental to occupants of adjoining dwellings.
6. The property owner shall designate a local property manager or contact person. The local property manager or contact person shall be available 24 hours a day to respond to tenant and neighborhood questions or concerns. Where a property owner lives within the same community as the residential vacation rental, the property owner may designate themselves as the local contact person. The following requirements shall apply:
 - (a) 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, the local fire agency and 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 in the residence in a prominent location(s). 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 subsection.
 - (b) If the local contact person is unavailable or fails to respond, the complaining party may contact the Sheriff's Office. The Sheriff will attempt to reach the local contact person. In cases where the Sheriff was unable to reach the local contact person, the penalties as set forth in 23.08.165 Subsection n shall apply.

Attachment 4

7. Rental of the residence shall not exceed one individual tenancy within seven consecutive calendar days. No additional occupancy (with the exception of the property owner) shall occur within that seven day period. The residential vacation rental shall only be used for the purposes of occupancy as a vacation rental or as a full time occupied residence. No other use (i.e.: home occupation, temporary event, homestay) shall be allowed on the site.
8. The residential vacation rental shall meet the regulations and standards set forth in Chapter 3.08 of the County Code, including any required payment of transient occupancy tax to the County Tax Collector for each residential vacation rental.
9. Penalties for violation of these conditions of approval may include revocation of the Minor Use Permit and Business License. If a local contact person is not able to be reached by the Sheriff more than three times in any consecutive six month period, this shall be grounds for revocation of the Business License consistent with Title 6 of the County Code.
10. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to the Coastal Zone Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once proof of Transient Occupancy Tax payment to the County Tax Collector is submitted to the Department of Planning and Building within 24 months of approval.
11. 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 Coastal Zone Land Use Ordinance.
12. The applicant shall as a condition of approval of this minor use permit defend, at his sole expense, any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this minor use permit or the manner in which the County is interpreting or enforcing the conditions of this minor use permit, or any other action by a third party relating to approval or implementation of this minor use permit. The applicant shall reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition.

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 2/26/2013	(3) CONTACT/PHONE Cody Scheel, Planner I / (805) 781-5157	
(4) SUBJECT Hearing to consider an appeal by Edwin J. Rambuski on behalf of Penni and Greg Tidwell of the Planning Department Hearing Officer's decision to approve a request by Andrew Graham for a Minor Use Permit/Coastal Development Permit (DRC2012-00012) to establish a Residential Vacation Rental at 194 San Luis Street Parkway, Avila Beach. District 3.			
(5) RECOMMENDED ACTION That the Board of Supervisors adopt and instruct the Chairperson to sign the resolution affirming the decision of the Planning Department Hearing Officer and approving the request by Andrew Graham for a Minor Use Permit/Coastal Development Permit (DRC2012-00012) to establish a residential vacation rental at 194 San Luis Street Parkway, Avila Beach, based on the revised findings listed in Exhibit "A" and the revised conditions listed in Exhibit "B".			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. <u>60 minutes</u>) <input type="checkbox"/> Board Business (Time Est. _____)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date _____	
(17) ADMINISTRATIVE OFFICE REVIEW Reviewed by Leslie Brown			
(18) SUPERVISOR DISTRICT(S) District 3 -			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Cody Scheel, Planner I

VIA: Nancy Orton, Planning Division Manager

DATE: 2/26/2013

SUBJECT: Hearing to consider an appeal by Edwin J. Rambuski on behalf of Penni and Greg Tidwell of the Planning Department Hearing Officer's decision to approve a request by Andrew Graham for a Minor Use Permit/Coastal Development Permit (DRC2012-00012) to establish a Residential Vacation Rental at 194 San Luis Street Parkway, Avila Beach. District 3

RECOMMENDATION

That the Board of Supervisors adopt and instruct the Chairperson to sign the resolution affirming the decision of the Planning Department Hearing Officer and approving the request by Andrew Graham for a Minor Use Permit/Coastal Development Permit (DRC2012-00012) to establish a residential vacation rental at 194 San Luis Street Parkway, Avila Beach, based on the revised findings listed in Exhibit "A" and the revised conditions listed in Exhibit "B".

DISCUSSION

Background

At the Planning Department Hearing on October 5, 2012, the Hearing Officer reviewed the information, heard public comment and approved a proposal by Andrew Graham to allow an existing residence to be used as a vacation rental. The existing residence is located at 194 San Luis Street in the community of Avila Beach. No expansion of the existing residence or other improvements are proposed.

At the Planning Department Hearing numerous individuals from the neighborhood spoke against the project and additional letters were presented to the Hearing Officer. The comments from residents concentrated on noise, parking, traffic, the potential for overcrowding and the feeling that the use was generally inappropriate for the neighborhood. There was also concern expressed that the County's ability to conduct enforcement of existing vacation rental standards will not be successful. There are currently at least 23 other licensed vacation rentals in the community of Avila Beach. To date there have been no code enforcement issues with the existing vacation rentals in Avila Beach.

The Planning Department Hearing Officer considered the staff recommendation and the comments and letters received and adopted findings and conditions of approval. These are set forth in Exhibits "A" and "B" of the staff report prepared for the Planning Department Hearing (Attachment 8) and on the Notice of Final Action (Attachment 5). The appellants have appealed the decision by the Planning Department Hearing Officer to allow the residence to be used as a residential vacation rental.

Proposed Revised Findings and Conditions

Since the Planning Department Hearing, staff has revised several Findings and Conditions to further clarify and satisfy specific requirements; this is shown in the attached *Exhibit A - Revised Findings and Exhibit B - Revised Conditions*. The changes are as follows: Finding D. explains the "operational standards" requirements for vacation rentals that have been applied to this project. The change in Finding G. elaborates on the fact that the property is not located between the first public road and the shoreline and will not inhibit coastal access. The changes in the conditions are to combine Condition number 4 into Condition 3, dealing with traffic, parking and number of occupants and finally, the addition of a new Condition number 12 that indemnifies the County from future litigation regarding any decision made on this project.

Appeal Issue

The appellants have stated in their appeal that there is "insufficient evidence to support findings necessary to support granting a Minor Use Permit/Coastal Development Permit", and that "all conditions fail to comply with the LCP."

Staff Response

This project came before the Planning Department Hearing Officer because a Minor Use Permit/Coastal Development Permit are required to allow the establishment of a vacation rental in Avila Beach. Approval of a Minor Use Permit is subject to Coastal Zone Land Use Ordinance (CZLUO) Section 23.02.033c(1) which refers to the findings required for approval of a Development Plan listed in 23.02.034c. Section 23.02.034c(4) establishes the findings required for approval. If one or more of these findings cannot be made the project is subject to being denied. In this case, the Planning Department Hearing Officer considered all the information at the hearing as well as the appropriate findings and approved the Minor Use Permit/Coastal Development Permit. The findings, as recommended for your action today, include description of how and why each of the findings can be made for this project. It is staff's recommendation that there is adequate evidence to support the findings as set forth in *Exhibit A - Revised Findings*.

The operational standards set forth in Coastal Zone Land Use Ordinance Section 23.08.165 have been added as conditions to this project. While those standards only apply to Zoning Clearances issued in Cambria and Cayucos, they can be added to a discretionary permit, in this case a Minor Use Permit. Staff's position is that because these standards set parking requirements, limit the number of occupants and designate a 24-hour property manager contact, potential impacts to surrounding property owners can be avoided. The ordinance provisions, as established for Cambria and Cayucos, were developed to address the concerns raised in the Planning Department Hearing. The proposed conditions of approval have routinely been added to other Minor Use Permit applications requested to establish vacation rentals. In addition, the Hearing Officer added a condition that will limit the number of cars associated with the vacation rental to two cars per rental period and required that the two cars must park inside the existing two-car garage. This condition was added specifically for this project to address concerns heard at the Planning Department Hearing. Lastly, Conditions numbers 9 and 11 discuss revocation of the Minor Use Permit if a local contact person is not able to be reached by the Sheriff more than three times in any consecutive six month period. Furthermore, if it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked.

Vacation rentals are a visitor serving use and visitor serving uses are encouraged in Avila Beach under the Coastal Plan Policies (Chapter 3, San Luis Bay / South County Planning Areas, Avila Beach, Policy 2).

It is staff's recommendation that the Conditions of Approval comply with the Local Coastal Plan.

OTHER AGENCY INVOLVEMENT/IMPACT

County Counsel reviewed and approved the Resolution as to form and content.

FINANCIAL CONSIDERATIONS

The required appeal fee was waived because the appeal involves a coastal issue as the issue of appeal and in order to exhaust local appeals the County cannot charge a fee for the processing of an appeal on an action on a coastal development project per the requirements of the Coastal Zone Land Use Ordinance. The cost of processing this appeal comes from the Department's General Fund support.

RESULTS

Denying the appeal and upholding the Planning Department Hearing Officer's decision will result in the establishment of a Residential Vacation Rental at 194 San Luis Street Parkway, Avila Beach. Upholding the appeal would result in a Residential Vacation Rental not being established.

ATTACHMENTS

1. Exhibit "A" - Revised Findings for Approval
2. Exhibit "B" - Revised Conditions of Approval
3. Appeal form
4. Board Resolution affirming the Planning Department Hearing Officer decision (including revised Findings and Conditions)
5. Notice of Final Action with findings and conditions
6. Planning Department Hearing minutes from October 5, 2012
7. Letters from interested parties
8. Planning Department Hearing Staff report from October 5, 2012

EXHIBIT "A" – REVISED FINDINGS FOR APPROVAL

CEQA Exemption

- A. The project qualifies for a Categorical Exemption (Class 3) pursuant to CEQA Guidelines Section 15303 because it is considered a conversion of the use of a small existing structure.

Minor Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan and the County's certified Local Coastal Program because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the proposed vacation rental does not generate activity that presents a potential threat to the surrounding property and buildings. The operational standards for vacation rentals as set forth in Coastal Zone Land Use Ordinance section 23.08.165 have been added as conditions to this project. Because these standards further limit parking requirements, number of occupants and the designation of a 24 hour property manager contact, potential impacts to surrounding property owners can be avoided. The proposed conditions of approval have routinely been added to other minor use permits for establishment of vacation rentals. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the existing residence will not change and, as conditioned, the vacation rental use will not conflict with the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located off San Luis Street Parkway, and no additional traffic is associated with the project because it is using an existing approved residence as a residential vacation rental. Additionally, this vacation rental will have a condition of approval that will limit the number of cars associated with the vacation rental to two cars per rental period and require the two cars to park inside the existing 2 car garage.

Coastal Access

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is not located between the first public road and the shoreline and is not directly adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

EXHIBIT "B" – REVISED CONDITIONS OF APPROVAL

Authorized Use

1. This approval authorizes a Minor Use Permit to allow the existing residence to be used as residential vacation rental.

Operational Conditions

2. Availability of the residence as a rental to the public shall not be advertised on site.
3. Vehicles used and traffic generated by the residential vacation rental shall not exceed the type of vehicles or traffic volume normally generated by a home occupied by a full time resident in a residential neighborhood. Normal residential traffic volume means up to 10 trips per day. For purposes of this vacation rental, no more than two vehicles shall be used and all parking associated with the vacation rental shall be located in the attached 2 car garage. The maximum number of occupants allowed in the residential vacation rental shall not exceed the number of occupants that can be accommodated consistent with the onsite parking requirement, and shall not exceed two persons per bedroom. A lease to the tenants of the Vacation Rental shall contain these parking requirements. + 2 cars?
note
4. The residential vacation rental is not to change the residential character of the outside appearance of the building, either by the use of colors, materials, lighting, or by the emission of noise, glare, flashing lights, vibrations or odors not commonly experienced in residential areas.
5. The residential vacation rental shall comply with the standards of Section 23.06.040 et seq. (Noise Standards). No residential vacation rental is to involve on-site use of equipment requiring more than standard household electrical current at 110 or 220 volts or that produces noise, dust, odor or vibration detrimental to occupants of adjoining dwellings.
6. The property owner shall designate a local property manager or contact person. The local property manager or contact person shall be available 24 hours a day to respond to tenant and neighborhood questions or concerns. Where a property owner lives within the same community as the residential vacation rental, the property owner may designate themselves as the local contact person. The following requirements shall apply:
 - (a) 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, the local fire agency and 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 in the residence in a prominent location(s). 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 subsection.

- (b) If the local contact person is unavailable or fails to respond, the complaining party may contact the Sheriff's Office. The Sheriff will attempt to reach the local contact person. In cases where the Sheriff was unable to reach the local contact person, the penalties as set forth in 23.08.165 Subsection n shall apply.
- 7. Rental of the residence shall not exceed one individual tenancy within seven consecutive calendar days. No additional occupancy (with the exception of the property owner) shall occur within that seven day period. The residential vacation rental shall only be used for the purposes of occupancy as a vacation rental or as a full time occupied residence. No other use (i.e.: home occupation, temporary event, homestay) shall be allowed on the site.
- 8. The residential vacation rental shall meet the regulations and standards set forth in Chapter 3.08 of the County Code, including any required payment of transient occupancy tax to the County Tax Collector for each residential vacation rental.
- 9. Penalties for violation of these conditions of approval may include revocation of the Minor Use Permit and Business License. If a local contact person is not able to be reached by the Sheriff more than three times in any consecutive six month period, this shall be grounds for revocation of the Business License consistent with Title 6 of the County Code.
- 10. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to the Coastal Zone Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once proof of Transient Occupancy Tax payment to the County Tax Collector is submitted to the Department of Planning and Building within 24 months of approval.
- 11. 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 Coastal Zone Land Use Ordinance.
- 12. The applicant shall as a condition of approval of this minor use permit defend, at his sole expense, any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this minor use permit or the manner in which the County is interpreting or enforcing the conditions of this minor use permit, or any other action by a third party relating to approval or implementation of this minor use permit. The applicant shall reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition.

#863



COASTAL APPEAL FORM

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

Promoting the Wise Use of Land • Helping to Build Great Communities

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

PROJECT INFORMATION

Name: Andrew Graham File Number: DRC-2012-00012

Type of permit being appealed:

☐ Plot Plan ☐ Site Plan ☒ Minor Use Permit ☐ Development Plan/Conditional Use Permit
☐ Variance ☐ Land Division ☐ Lot Line Adjustment ☒ Other: Coastal development permit

The decision was made by:

☐ Planning Director (Staff) ☐ Building Official ☒ Planning Department Hearing Officer
☐ Subdivision Review Board ☐ Planning Commission ☐ Other _____

Date the application was acted on: October 5, 2012

The decision is appealed to:

☐ Board of Construction Appeals ☐ Board of Handicapped Access
☐ Planning Commission ☒ Board of Supervisors

BASIS FOR APPEAL

State the basis of the appeal. Clearly state the reasons for the appeal. In the case of a Construction Code Appeal, note specific code name and sections disputed). (Attach additional sheets if necessary)

Insufficient evidence to support findings necessary to support granting a minor use permit/coastal development permit.

List any conditions that are being appealed and give reasons why you think it should be modified or removed.

Condition Number _____ Reason for appeal (attach additional sheets if necessary)

All conditions and the MUP fail to comply with the LCP.

APPELLANT INFORMATION

Print name: Edwin J. Rambuski, Law Offices of Edwin J. Rambuski
 Address: 1401 Higuera St. Representing Appellants
 Phone Number (daytime): (805) 546-8284 Penny + Greg Tidwell

We have completed this form accurately and declare all statements made here are true.

Signature [Signature]

Date 10/9/2012

OFFICE USE ONLY

Date Received: 10/9/12

Amount Paid: 0

By: [Signature]

Receipt No. (if applicable): N/A

COASTAL APPEAL FORM
 SAN LUIS OBISPO COUNTY PLANNING & BUILDING
 SLOPLANNING.ORG

PAGE 3 OF 3
 JUNE 1, 2010
 PLANNING@CO.SLO.CA.US

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

_____ day _____, 20__

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

RESOLUTION AFFIRMING THE DECISION OF THE
HEARING OFFICER AND CONDITIONALLY APPROVING
THE APPLICATION OF ANDREW GRAHAM
FOR MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT
DRC2012-00012

The following resolution is now offered and read:

WHEREAS, on October 5, 2012, the Zoning Administrator of the County of San Luis Obispo (hereinafter referred to as the "Hearing Officer") duly considered and conditionally approved the application of Andrew Graham for Minor Use Permit/Coastal Development Permit DRC2012-00012; and

WHEREAS, Edwin J. Rambuski on behalf of Penni and Greg Tidwell has appealed the Hearing Officer's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the Board of Supervisors) pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

Attachment 4

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on February 26, 2013, and determination and decision was made on February 26, 2013; and

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

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be denied and the decision of the Hearing Officer should be affirmed 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 revised Exhibit A attached hereto and incorporated by reference herein as though set forth in full.
3. That this project is found to be categorically exempt from the California Environmental Quality Act under the provisions of California Code of Regulations, title 14, section 15303 (class 3).
4. That the appeal filed by Edwin J. Rambuski on behalf of Penni and Greg Tidwell is hereby denied and the decision of the Hearing Officer is affirmed and that the application of Andrew Graham for Minor Use Permit/Coastal Development Permit

Attachment 4

DRC2012-00012 is hereby approved subject to the revised conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

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

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: James B. Wilson
Deputy County Counsel

Dated: February 13, 2013

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

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

WITNESS my hand and the seal of said Board of Supervisors, affixed this day of _____, 20__.

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

(SEAL)

By _____ Deputy Clerk.

EXHIBIT "A" – REVISED FINDINGS FOR APPROVAL

CEQA Exemption

- A. The project qualifies for a Categorical Exemption (Class 3) pursuant to CEQA Guidelines Section 15303 because it is considered a conversion of the use of a small existing structure.

Minor Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan and the County's certified Local Coastal Program because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the proposed vacation rental does not generate activity that presents a potential threat to the surrounding property and buildings. The operational standards for vacation rentals as set forth in Coastal Zone Land Use Ordinance section 23.08.165 have been added as conditions to this project. Because these standards further limit parking requirements, number of occupants and the designation of a 24 hour property manager contact, potential impacts to surrounding property owners can be avoided. The proposed conditions of approval have routinely been added to other minor use permits for establishment of vacation rentals. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the existing residence will not change and, as conditioned, the vacation rental use will not conflict with the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located off San Luis Street Parkway, and no additional traffic is associated with the project because it is using an existing approved residence as a residential vacation rental. Additionally, this vacation rental will have a condition of approval that will limit the number of cars associated with the vacation rental to two cars per rental period and require the two cars to park inside the existing 2 car garage.

Coastal Access

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is not located between the first public road and the shoreline and is not directly adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

EXHIBIT "B" – REVISED CONDITIONS OF APPROVAL

Authorized Use

1. This approval authorizes a Minor Use Permit to allow the existing residence to be used as residential vacation rental.

Operational Conditions

2. Availability of the residence as a rental to the public shall not be advertised on site.
3. Vehicles used and traffic generated by the residential vacation rental shall not exceed the type of vehicles or traffic volume normally generated by a home occupied by a full time resident in a residential neighborhood. Normal residential traffic volume means up to 10 trips per day. For purposes of this vacation rental, no more than two vehicles shall be used and all parking associated with the vacation rental shall be located in the attached 2 car garage. The maximum number of occupants allowed in the residential vacation rental shall not exceed the number of occupants that can be accommodated consistent with the onsite parking requirement, and shall not exceed two persons per bedroom. A lease to the tenants of the Vacation Rental shall contain these parking requirements.
4. The residential vacation rental is not to change the residential character of the outside appearance of the building, either by the use of colors, materials, lighting, or by the emission of noise, glare, flashing lights, vibrations or odors not commonly experienced in residential areas.
5. The residential vacation rental shall comply with the standards of Section 23.06.040 et seq. (Noise Standards). No residential vacation rental is to involve on-site use of equipment requiring more than standard household electrical current at 110 or 220 volts or that produces noise, dust, odor or vibration detrimental to occupants of adjoining dwellings.
6. The property owner shall designate a local property manager or contact person. The local property manager or contact person shall be available 24 hours a day to respond to tenant and neighborhood questions or concerns. Where a property owner lives within the same community as the residential vacation rental, the property owner may designate themselves as the local contact person. The following requirements shall apply:
 - (a) 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, the local fire agency and 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 in the residence in a prominent location(s). 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 subsection.
 - (b) If the local contact person is unavailable or fails to respond, the complaining party may contact the Sheriff's Office. The Sheriff will attempt to reach the local contact person. In cases where the Sheriff was unable to reach the local

Attachment 4

contact person, the penalties as set forth in 23.08.165 Subsection n shall apply.

7. Rental of the residence shall not exceed one individual tenancy within seven consecutive calendar days. No additional occupancy (with the exception of the property owner) shall occur within that seven day period. The residential vacation rental shall only be used for the purposes of occupancy as a vacation rental or as a full time occupied residence. No other use (i.e.: home occupation, temporary event, homestay) shall be allowed on the site.
8. The residential vacation rental shall meet the regulations and standards set forth in Chapter 3.08 of the County Code, including any required payment of transient occupancy tax to the County Tax Collector for each residential vacation rental.
9. Penalties for violation of these conditions of approval may include revocation of the Minor Use Permit and Business License. If a local contact person is not able to be reached by the Sheriff more than three times in any consecutive six month period, this shall be grounds for revocation of the Business License consistent with Title 6 of the County Code.
10. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to the Coastal Zone Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once proof of Transient Occupancy Tax payment to the County Tax Collector is submitted to the Department of Planning and Building within 24 months of approval.
11. 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 Coastal Zone Land Use Ordinance.
12. The applicant shall as a condition of approval of this minor use permit defend, at his sole expense, any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this minor use permit or the manner in which the County is interpreting or enforcing the conditions of this minor use permit, or any other action by a third party relating to approval or implementation of this minor use permit. The applicant shall reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition.



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

October 9, 2012

Andrew Graham
24819 Los Altos Dr.
Valencia, CA 91355

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: October 5, 2012

SUBJECT: ANDREW GRAHAM -County File Number: DRC2012-00012
Minor Use Permit / Coastal Development Permit
DOCUMENT NUMBER: 2012-057_PDH

LOCATED WITHIN COASTAL ZONE: YES

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

This action is appealable to the Board of Supervisors within 14 days of this action. If there are Coastal grounds for the appeal there will be no fee. If an appeal is filed with non-coastal issues there is a fee of \$850.00. This action is appealable to the California Coastal Commission pursuant to regulations contained in Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The regulations provide the California Coastal Commission 10 working days following the expiration of the County appeal period to appeal the decision. This means that no construction permits can be issued until both the County appeal period and the additional Coastal Commission appeal period have expired without an appeal being filed.

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

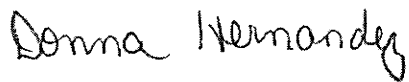
If the use authorized by this Permit approval has not been established or if substantial work on the property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated

through conditions of approval of this Permit, this approval shall expire and become void unless an extension of time has been granted pursuant to the provisions of Section 23.02.050 of the Land Use Ordinance.

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

If you have questions regarding your project, please contact, **Cody Scheel, Project Manager**, at (805) 781-5600. If you have any questions regarding these procedures, please contact me at (805) 788-2947.

Sincerely,

A handwritten signature in black ink that reads "Donna Hernandez". The signature is written in a cursive, flowing style.

DONNA HERNANDEZ, SECRETARY PRO TEM
PLANNING DEPARTMENT HEARINGS

EXHIBIT A - FINDINGS

CEQA Exemption

- A. The project qualifies for a Categorical Exemption (Class 3) pursuant to CEQA Guidelines Section 15303.

Minor Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the proposed vacation rental does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the existing residence will not change and, as conditioned, the vacation rental use will not conflict with the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located off San Luis Street Parkway, and no additional traffic is associated with the project because it is using an existing approved residence as a residential vacation rental. Additionally, this vacation rental will have a condition of approval that will limit the number of cars associated with the vacation rental to two cars per rental period and require the two cars to park inside the existing 2 car garage.

Coastal Access

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is not directly adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

EXHIBIT B - CONDITIONS OF APPROVAL

Authorized Use

1. This approval authorizes a Minor Use Permit to allow the existing residence to be used as residential vacation rental.

Operational Conditions

2. Availability of the residence as a rental to the public shall not be advertised on site.
3. Vehicles used and traffic generated by the residential vacation rental shall not exceed the type of vehicles or traffic volume normally generated by a home occupied by a full time resident in a residential neighborhood. Normal residential traffic volume means up to 10 trips per day. For purposes of this vacation rental, no more than two vehicles shall be used and all parking associated with the vacation rental shall be located in the attached 2 car garage. A lease to the tenants of the Vacation Rental shall contain these parking requirements.
4. The maximum number of occupants allowed in the residential vacation rental shall not exceed the number of occupants that can be accommodated consistent with the onsite parking requirement, and shall not exceed two persons per bedroom. A lease to the tenants of the Vacation Rental shall contain these occupancy requirements.
5. The residential vacation rental is not to change the residential character of the outside appearance of the building, either by the use of colors, materials, lighting, or by the emission of noise, glare, flashing lights, vibrations or odors not commonly experienced in residential areas.
6. The residential vacation rental shall comply with the standards of Section 23.06.040 et seq. (Noise Standards). No residential vacation rental is to involve on-site use of equipment requiring more than standard household electrical current at 110 or 220 volts or that produces noise, dust, odor or vibration detrimental to occupants of adjoining dwellings.
7. The property owner shall designate a local property manager or contact person. The local property manager or contact person shall be available 24 hours a day to respond to tenant and neighborhood questions or concerns. Where a property owner lives within the same community as the residential vacation rental, the property owner may designate themselves as the local contact person. The following requirements shall apply:
 - (a) 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, the local fire agency and 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 in the residence in a prominent location(s). 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 subsection.

- (b) If the local contact person is unavailable or fails to respond, the complaining party may contact the Sheriff's Office. The Sheriff will attempt to reach the local contact person. In cases where the Sheriff was unable to reach the local contact person, the penalties as set forth in 23.08.165 Subsection n shall apply.
- 8. Rental of the residence shall not exceed one individual tenancy within seven consecutive calendar days. No additional occupancy (with the exception of the property owner) shall occur within that seven day period. The residential vacation rental shall only be used for the purposes of occupancy as a vacation rental or as a full time occupied residence. No other use (i.e.: home occupation, temporary event, homestay) shall be allowed on the site.
- 9. The residential vacation rental shall meet the regulations and standards set forth in Chapter 3.08 of the County Code, including any required payment of transient occupancy tax to the County Tax Collector for each residential vacation rental.
- 10. Penalties for violation of these conditions of approval may include revocation of the Minor Use Permit and Business License. If a local contact person is not able to be reached by the Sheriff more than three times in any consecutive six month period, this shall be grounds for revocation of the Business License consistent with Title 6 of the County Code.
- 11. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once proof of Transient Occupancy Tax payment to the County Tax Collector is submitted to the Department of Planning and Building within 24 months of approval.
- 12. 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 Coastal Zone Land Use Ordinance.

SAN LUIS OBISPO PLANNING DEPARTMENT HEARINGS
MINUTES OF THE MEETING OF

October 5, 2012

Minutes of the Regular Meeting of the County Planning Department Hearings held in the Board of Supervisors Chambers, County Government Center, San Luis Obispo, California, at 9:00 a.m.

The meeting is called to order at 9:00 a.m. by Matt Janssen, Hearing Officer.

The following action minutes are listed as they were acted upon by the Hearing Officer of the Planning Department Hearings and as listed on the agenda for the Regular Meeting of October 5, 2012, together with the maps and staff reports attached thereto and incorporated therein by reference.

HEARINGS ARE ADVERTISED FOR 9:00 A.M. THIS TIME IS ONLY AN ESTIMATE AND IS NOT TO BE CONSIDERED AS TIME GUARANTEED. THE PUBLIC AND APPLICANTS ARE ADVISED TO ARRIVE EARLY.

PUBLIC COMMENT PERIOD

No one coming forward.

CONSENT AGENDA:

1. Planning Department Hearing Minutes - September 7, 2012 Minutes reviewed on September 27, 2012 by Matt Janssen, Hearing Officer.
Recommendation: Receive and File

POST MEETING RESULTS: RECEIVED AND FILED

September 7, 2012 PDH Minutes

Received and Filed

Thereafter, on motion of the hearing officer, the Planning Department Hearing Minutes of September 7, 2012 are Received and Filed as recommended and available on file at the office of the County Planning and Building Department.

2. Planning Department Hearing Minutes - September 21, 2012 Minutes reviewed on September 24, 2012 by Dana Lilley, Hearing Officer.
Recommendation: Receive and File

POST MEETING RESULTS: RECEIVED AND FILED

September 21, 2012 PDH Minutes

Received and Filed

Thereafter, on motion of the hearing officer, the Planning Department Hearing Minutes of September 21, 2012 are Received and Filed as recommended and available on file at the office of the County Planning and Building Department.

3. Hearing to consider a request by GEORGE SULLIVAN to construct a windmill and water tower as principal structures in the Commercial Retail land use category. Included is a request to waive curb, gutter and sidewalk requirements for the project. The site is located at on the northeast corner of El Camino Real and Murphy Ave., in the community of Santa Margarita. This project is exempt from the California Environmental Quality Act (CEQA) under Section 15303 of the CEQA Guidelines. County File Number: DRC2012-00016 Assessor Parcel Number: 069-032-012 Supervisorial District: 5 Date received: May 31, 2012 John Busselle, Project Manager Recommendation: Approve

POST MEETING RESULTS: APPROVED

Staff Report

Correspondence Received

Changes to Conditions of Approval

Thereafter, on motion of the hearing officer, the request by GEORGE SULLIVAN for a Minor Use Permit (DRC2012-00016) is granted based on the Findings A. through E. in Exhibit A and subject to the Conditions 1 through 16 in Exhibit B (Document Number: 2012-056_PDH).

HEARING ITEMS:

4. Hearing to consider a request by ANDREW GRAHAM for a Minor Use Permit / Coastal Development Permit to allow an existing single family residence to be used as a residential vacation rental. The proposed project is within the Residential Multi-Family land use category and is located at 194 San Luis Street Parkway, between Laurel Street and Lucas Lane, in the community of Avila Beach. The site is in the San Luis Bay Coastal planning area. This project is exempt under CEQA. County File Number: DRC2012-00012 Assessor Parcel Number: 076-216-026 Supervisorial District: 3 Date Accepted: August 30, 2012 Cody Scheel, Project Manager Recommendation: Approve

POST MEETING RESULTS: APPROVED

Staff ReportRequest For Hearing LetterCorrespondence ReceivedCorrespondence Received 2Correspondence Taken In At MeetingSpeaker Slips

Cody Scheel, Project Manager: presents project, discusses some concerns raised regarding parking and some resolutions for this issue.

Andrew Graham, Applicant: presents case and states objective of project, shows pictures of garage, hands out letter from real estate agent.

Matt Janssen, Hearing Officer: questions applicant if this is his primary residence, about the size of his vehicles, and intended use of garage, with Mr. Graham responding.

Edwin Rambuski, Attorney for Mr. & Mrs. Tidwell: states concerns regarding project, gives reasons why.

Penni Tidwell, Neighbor: states concerns regarding parking for project, has picture exhibit and video. Video is not shown. Has copy of applicants letter from the permit request addressing parking, copy is given to Hearing Officer.

Carla Frisk, President of the Avila Cove HOA: presents concerns regarding project, has letter for staff.

Stephanie Rowe, Neighbor: states concerns regarding project.

Chris Deweese, Neighbor: states concerns regarding project.

Mary Matakovich, Neighbor: states concerns regarding project.

Tony Spinelli, Business owner in Avila and Pismo Beach: states concerns regarding project.

Andrew Graham, Applicant: addresses concerns raised.

Matt Janssen, Hearing Officer: asks staff for follow up comments, with Cody Scheel responding.

Thereafter, on motion of the hearing officer, the request by ANDREW GRAHAM for a Minor Use Permit/Coastal Development Permit

Attachment 6

(DRC2012-00012) is granted based on the Findings A. through G. in Exhibit A and subject to the Conditions 1 through 12 in Exhibit B with the following changes: Condition 3 shall have an additional sentence added at the end which will read: "A lease to the tenants of the Vacation Rental shall contain these parking requirements." Condition 4 shall be deleted, with the remaining Conditions to be renumbered accordingly. Newly renumbered Condition 4 shall be amended to read: " The maximum number of occupants allowed in the residential vacation rental shall not exceed the number of occupants that can be accommodated consistent with the onsite parking requirement and shall not exceed two persons per bedroom. ~~plus two additional persons.~~ A lease to the tenants of the Vacation Rental shall contain these occupancy requirements."

ADJOURNMENT: 10:28 a.m.

DONNA HERNANDEZ, SECRETARY PRO TEM
PLANNING DEPARTMENT HEARINGS

MINUTES WERE RECEIVED AND FILED AT THE NOVEMBER 2, 2012 PLANNING DEPARTMENT HEARING MEETING BY DANA LILLEY, HEARING OFFICER.

August 29th, 2012

To whom it may concern,

This letter is written on behalf of the residents of the Avila Cove Condominium Owners Association. Our association would like to express our deep concern over the potential of utilizing the unit/and or units adjacent to our property as resort rentals. Avila Cove COA has a specific policy that forbids short term rental of any property in the complex. We have this policy because we recognize the shortage of parking for all units located on San Luis Parkway and San Luis Street. Additionally, we make every effort to maintain a peaceful living community that respects the rights of all Avila residents. We believe adding additional rental units will compromise this effort and complicate the already dense parking issues associated with San Luis Parkway and San Luis Street.

Avila Beach has an adequate supply of rental properties located in town and adding additional rentals will not serve to improve the Avila Community. We have a finite amount of city resources to police and manage community needs, so we respectfully request that you keep those resources focused on our current residents and prevent any new unit(s) from being utilized as a resort rental property.

Respectfully,

Avila Cove Condominium Association

August 30, 2012

Dear Cody Scheel and the San Luis Planning and Building Department:

We are writing in response to the letter from the Avila Cove Condo Association. While we are NOT part of Avila Cove Condo Association, we are NOT bound to their rules and regulations. We do understand their concerns, and believe that it will not be an issue for our house. Our house provides 4 car parking spots, two inside the garage and 2 outside. For one family to stay at the house, this will provide more than adequate space.

During the summer months, visitors park their cars on san luis parkway up all the way on Avila Beach Dr to walk into town. This is clearly already happening with or without summer homes being rented. In a recent article from Mary Richert Foppiano (executive director of the Avila Beach Civic Association) she states there isn't enough rental homes in a town that only houses 350 residents, and they welcome addition tourist and vacation rental in order to accommodate the needs of Avila Beach as a resort town. We experienced that first hand as we have often had problems finding good home rentals (there are only 20-30 that is publically known) before purchasing our home. I believe that this will serve the community of Avila beach very well.

While we understand their concern for peaceful living, we do not want to disrupt that balance as well. We love Avila Beach, as we got engaged on that beach and my husband has been coming there since his college years. This community has become our home. We would just like the opportunity to share it with family and friends and therefore going through the formal process of getting the permit.

Sincerely Yours,

The Grahams



Vacational Rental For 194 San Luis Parkway Avila Beach

Penni Tidwell to: cscheel, annemb, Pete Kelley

09/10/2012 10:20 AM

From: Penni Tidwell <pennitidwell@live.com>

To: <cscheel@co.slo.ca.us>, <annemb@sbcglobal.net>, Pete Kelley <pedrokelly@gmail.com>

To Whom it May Concer:

We are writing this letter in regards to the proposed vaction rental request of 194 San Luis Parkway Avila Beach. As owners of 198 San Luis Parkway Avila Beach we have concerns with this being approved beacuse of parking, nuisances, noise, and property value loss.

In regards to the major concern being parking: We ourselves had 194 San Luis Parkway in escrow but because of the difficulty in parking we decided to buy the top unit. Even though these are deemed as two car garages it is impossible to park two vehicles in the garges because of the entrance sharing the common space with the two 9X18 Ft. "Guest Parking". When there are cars in the guest parking spots it makes it impossible to enter gargage straight, therefore you must enter at a 90 degree angle and park at a angle preventing another car to enter garage. Any person(s) renting this unit will find it much easier to violate the rules and park in the guest parking, in front of garage or in front of said unit therefore preventing access to others along with being a Safety and Fire Hazard issue.

The second concern is Nuisances: As stated in the CC&Rs 2.3 Nothing shall be done on any parcel or withing the reciprocal easement area that may be of may become an annoyance or nuisance to the residents of any Parcel or that in any way interferes with the quiet enjoyment of the other occupants of the property of use of the reciprocal easement area. We believe that we along with other residence of the property will having to constently "Police" said vacation renters on how and where to park. CC&Rs also state In Restrictions 2.1 Land use states all parcels shall be used for residential purposes only. Once this property is approved for Vacation Rental it then becomes commercial which violates the CC&Rs.

Third concern is the noise that it will create having Vacation renters in such a small space. All vehicles must pass by first two units using a very narrow and steep driveway therefore causeing a negative impact in the privacy and secruity of our residence.

Lastly we also feel that having a Vacation Rental within our complex will cause a decrease in our property value. Avila Beach already has plenty of Vacation Rentals that should be utilized before more are added.

We would request that Mary Matakovich read this letter tonight Sept. 10th 2012 at meeting on our behalf since we will not be able to attend.

Please feel free to contact us at 209.529.9922 or by email.

We hope that you will take all things considered in this matter,

Sincerely,

Greg and Penni Tidwell

vacation rental



FW: Avila court

Penni Tidwell to: cscheel, annemb, Pete Kelley

09/10/2012 03:45 PM

From: Penni Tidwell <pennitidwell@live.com>

To: <cscheel@co.slo.ca.us>, <annemb@sbcglobal.net>, Pete Kelley <pedrokelley@gmail.com>

To Whom it May Concern:

Please see attached email from Craig Smith who was the Architect of the 194 San Luis Parkway Avila Beach. These are his concerns in regards to the said property requesting to become a Vacation Rental.

Regards,

Greg and Penni Tidwell

Owners of 198 San Luis Parkway Avila Beach

From: pennitidwell@live.com

To: pennitidwell@live.com

Subject: FW: Avila court

Date: Mon, 10 Sep 2012 15:39:51 -0700

Please forward

Subject: Fwd: Avila court

From: GTidwell@tidwellenterprises.com

Date: Mon, 10 Sep 2012 12:20:08 -0700

To: pennitidwell@live.com

Sent from my iPhone

Greg,

I looked into the situation regarding the rental of the unit and there are a couple of things you can do. One is the fact that the existing use permit was not set up for renting a unit out. This is a PUD, not a stand-alone SFR, so there are more "teeth" in the existing conditions of approval. If there is no provision for this, it will have to be applied for. The biggest impact is the parking, or potential lack of it for renting. The parking calc was for occupancy, not renting, therefore this will have to be dealt when they apply for a MUP to rent out the unit.

CRSA Architecture

Craig R. Smith, AIA, CEO/Principal Architect

890 Monterey Street, Suite A

San Luis Obispo, CA 93401

Phone: 1 (805) 544-3380 x 202

Fax: 1 (805) 544-8625

Email: crsa@craigsmithaia.com

Web: www.craigsmithaia.com

Exhibit 2

A-3-SLO-13-013

Page 37 of 78

AVILA VALLEY ADVISORY COUNCIL

San Luis Obispo County, California
P.O. Box 65, Avila Beach, CA 93424
www.AvilaValley.org

Tuesday, September 11, 2012

Cody Scheel, Planner
cscheel@co.slo.ca.us

Hello Cody:

At last night's meeting of AVAC, the Minor Use Permit for a Vacation Rental at 194 Parkway was discussed.

After lengthy discussion and input from nearby neighbors (Avila Cove Condominium Association, the Tidwells who live on the property and Mary Matakovich whose home is next door west of this property, AVAC voted unanimously to: **recommend to Planning that the MUP be DENIED on the basis of limited and difficult parking, the potential for noise and the restriction 2.1 Land Use in the 3-house CC&Rs.**

These parties will be informed of the Hearing on October 5, 2012 if they wish to attend.

Thank you for your continuing attempt to protect Avila's current residents.

Sincerely,

Anne M. Brown, Chair

Sept 12, 2012

To the San Luis Building and Planning Committee;

Thank you for taking the time to review this file and help us navigate this process.

We are writing this letter in response to the neighborhood concerns. In regards to the parking situation, the requirement states a property should have enough parking spaces to accommodate the people allowed. Our home is a 1590 square feet with three bedrooms, allowing for two people per bedroom. A two car garage is ample space required for six people. The building is suited for two regular sized vehicles easily as shown in the building plans we submitted. The two extra spaces outside are a bonus for two other cars, welcomed to anyone within the three homes. I understand that there may be some concerns that the tenets will "violate" unwritten rules of parking but we don't foresee that being a problem as we will only be renting to one family at a time and will make sure they understand they will only be parking in our garage or allotted spaces.

We did review the CCR's prior to purchasing our home with the real estate agent that listed the three homes. They are standard, and we are within our rights to use this home as a part time vacation rental as these properties are free standing homes with no association or HOA only a driveway easement. We will attach the CC&R's upon request.

This proposed vacation rental is a single family rental, we as owners would want the renters to respect our beautiful home as we would. While we understand the neighbors concern, the impact would be the same or less, as if we were there. We have a zero tolerance policy and anyone that does not respect this, will be asked to leave immediately. There will be no need for "policing." This community is mixed with senior homes, families and partying college students less than 200 ft away. It welcomes beach goers everyday that park on San Luis Parkway and around the streets. These are the daily exposures we have as owners in this beach community.

We hope this addresses any concerns of the neighboring residents and eases them knowing we are extremely concerned with maintaining a peaceful living situation and greatly respect the privacy of our fellow homes owners.

Sincerely,

The Grahams

Sept 27, 2012

Dear San Luis Building and Planning Committee,

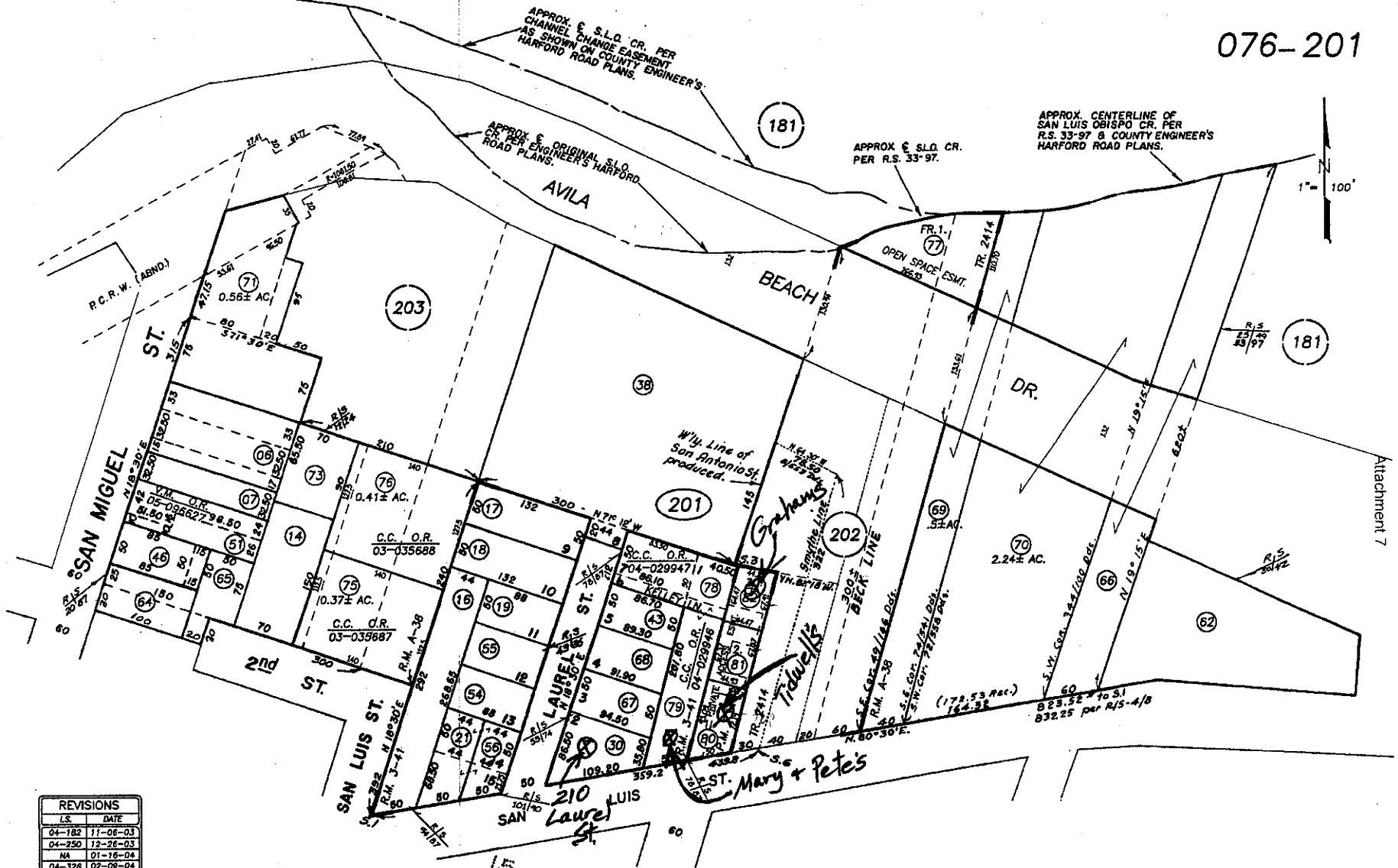
We would also like to attach the parcel plan so it can be presented as an exhibit. Please take note that our house is around 225 ft from the Tidwell's, and around 250 ft from the Mary and Pete's house. However, only 150 ft. away from the Tidwell's home and less than 50 ft away from Mary's house, there is an apartment building (210 Laurel St.) that houses numerous college students. They often have parties no matter what day it is, with loud music, numerous guests parking all over the neighborhood. We would assume that since this property is closer in proximity, and more numerous in the population, it would imply a greater impact on noise, and parking than our single family home would.

We appreciate your time and consideration. Thank you very much.

Sincerely,

The Grahams

076-201



REVISIONS	
L.S.	DATE
04-182	11-06-03
04-250	12-26-03
NA	01-18-04
04-326	02-06-04
05-074	07-15-04
NA	04-20-06
11-050	09-15-10

50 0 100 200
 L2 02-29-00 THIS MAP IS PREPARED FOR ASSESSMENT PURPOSES ONLY.

TRACT NO. 2414, R.M. Bk. 22, Pg. 67-70.
 JUNIOR ADDITION TO THE TOWN OF AVILA, R.M. Bk. 3, Pg. 41.
 PORTION OF RANCHO SAN MIGUELITO LOT 45, R.M. Bk. A, Pg. 38.

AVILA BEACH
 ASSESSOR'S MAP, COUNTY OF
 SAN LUIS OBISPO, CA.
 BOOK 076 PAGE 201



September 29, 2012

Board of Supervisors
County of San Luis Obispo
Coastal Zone Land Used Hearing Panel

Re: Minor Use Permit Application – 194 San Luis St., Avila Beach, CA.

To Whom It May Concern:

Regarding the application for the minor use permit to allow the property at 194 San Luis St. Avila Beach to be used for residential vacation rental property, I see no apparent inconsistencies between the applications intended use and those allowed under title 23 of the San Luis Obispo County Code Section 23.08.165

The applicant intends to employ local professional property management to verify that vacation occupants abide by the ordinances in place and to properly screen prospective renters in such a way as to minimize any potential effects to surrounding owners as a result of those allowed tenancies. There are several remedies available should complaints arise due to violations to these standards.

According to the Declaration of Covenants, Conditions & Restrictions for parcel map CO 05-0139 governing the above referenced property page one third paragraph states "the property has no common area". Each of the properties 194, 196 and 198 San Luis Street, Avila Beach, California have their own independent and separate parcels. The driveway area is an easement. Vacation occupants will be required to park in the garage located at 194 San Luis Street and thus would not create any interference with any other person's rights to the easement area.

The proposed use of the real property located at 194 San Luis Street, Avila Beach for vacation rental purposes does not appear to violate any of the CC&R's governing the property. Those same CC&R's also contend that no adjacent owner can interfere with the rights of other owners for their own property or the reciprocal easement area. Weekly or monthly tenancies in and of themselves do not constitute an annoyance or nuisance and I fail to see how they interfere with the quiet enjoyment of the owners of nearby adjacent properties. Avila Beach has a definite shortage of viable vacation rental units. In a time when attracting tourism helps with generation of income and tax revenues and in the absence of any overwhelming data to support contesting the applicant I urge this panel to vote in favor of granting the Conditional Use permit.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Diane G. Hansen'.

Diane G. Hansen
Keller Williams Central Coast Realty



Brokers
Lic# 00813857
Lic# 00598758

Gordon and Diane Hansen
308 Jeffrey Street • San Luis Obispo, CA 93405 • 805.541.4423 • slotopteam@aol.com
www.gordonanddiane.com
Each Keller Williams Central Coast Office is Independently Owned and Operated



194 San Luis Permit Hearing
Drew Graham to: CODY SCHEEL
Cc: Quynh Quach

10/01/2012 08:53 AM

From: Drew Graham <drew_email@yahoo.com>
To: CODY SCHEEL <cscheel@co.slo.ca.us>
Cc: Quynh Quach <quynhquach707@hotmail.com>

Cody-

Couple of quick things about the information you are going to present as well what is in the packet. If you could change the home type from a multi residential home to a single family home in a "PUD" with only one common easement. Also this should be considered a private home not a commercial home to match what is in the CC&R's and the letter I forwarded to you from the real estate agent. Let me know if there is any concerns with these few minor changes. I have attached the first page of the CC&R's and a site map. Thank you again for helping us through this process look forward to meeting you in person on Friday.

All the best,

Drew

Drew Graham
805.704.7000

RECORDING REQUESTED BY:
FIRST AMERICAN TITLE COMPANY

3457041-LF

AND WHEN RECORDED, RETURN TO:

Estate Financial, Inc.
Mel McColloch
1540 Marsh Street, Suite 230
San Luis Obispo, CA 93401

JULIE RODEWALD
San Luis Obispo County – Clerk/Recorder
Recorded at the request of
First American Title Company

IF
5/27/2016
8:11 AM

DOC#: 2010024564



Titles: 1 Pages: 13

Fees	50.00
Taxes	0.00
Others	0.00
PAID	\$50.00

APN: 076-201-024

The Property consists of three separate Parcels: Parcel 1, Parcel 2 and Parcel 3, as identified on Parcel Map, which together constitute a three-unit planned development of the Property (the "Project").

The County of San Luis Obispo approved the Project under Title 23 of its Coastal Zone Land Use Ordinance at Section 23.22.080, which provides for approval of a planned development which does not otherwise meet minimum parcel size requirements, provided common owned or maintained portions of the subdivision are subject to covenants, conditions and restrictions for the management of commonly used and maintained property. The Property has no common area, but does have Reciprocal Easement Area, subject to maintenance obligations an Association consisting of each Parcel Owner.

Declarant hereby declares that the Property and each Parcel are and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, sold, improved and occupied subject to the declarations, easements, covenants, conditions, servitudes, and charges that are contained in the provisions of the Declaration as well as any amendments thereto, all of which are declared and agreed to be imposed as equitable servitudes in furtherance of a plan of development established by Declarant as reflected in Parcel Map CO 05-0139 and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value and attractiveness of the Property for the benefit of its owners.

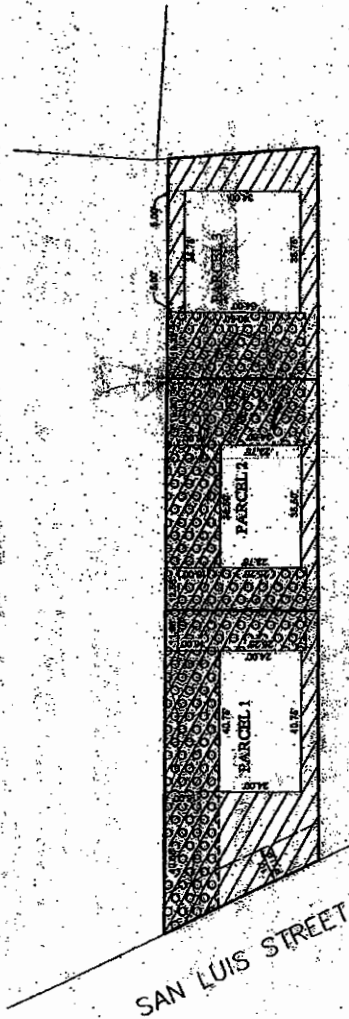
All of such limitations, restrictions, easements, reservations, covenants, conditions, servitudes, liens and charges shall run with the land, shall be binding on and inure to the benefit of all of the parties having or acquiring any right, title or interests in the Property or any Parcel, are for the benefit of the Property and each Parcel, and shall be binding on and inure to the benefit of the successors in interest of all or any Owner of the Property or any Parcel.

1. Definitions. In addition to the definitions provided in the Recitals above, the following definitions shall apply to this Declaration.

90

RM 78

SECTION 30, T4N, R12E, S4E



SEE SHEET 2 FOR
BOUNDARY INFORMATION

LEGEND

PRIVATE ACCESS, EASEMENT
AND EASEMENT

PRIVATE EASEMENT AND
EASEMENT



EASEMENT MAP
PARCEL MAP CO 05-0139
IN THE SOUTHERN DISTRICT OF CALIFORNIA

APPROVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO, CALIFORNIA, ON 05/01/2013, FOR THE PURPOSES OF RECORDING THIS MAP IN THE PUBLIC RECORDS OF THE COUNTY OF SAN DIEGO, CALIFORNIA.

PREPARED BY THE COUNTY OF SAN DIEGO, CALIFORNIA

0000

DATE: 05/01/2013

AVILA COVE CONDOMINIUMS HOMEOWNERS ASSOCIATION**3563 Empleo St., Ste. B, San Luis Obispo CA 93401****(805) 544 - 9093 (Fax) 544 - 6215**

October 4, 2012

PLANNING DEPARTMENT HEARINGS

AGENDA ITEM: 4DATE: 10/5/12

DO NOT REMOVE FROM FILE

Cody Scheel, Project Manager
 Planning and Building Department
 County of San Luis Obispo
 976 Osos Street, Room 300
 San Luis Obispo, CA 93408

RE: Andrew Graham Minor Use Permit/Coastal Development Permit

Dear Mr. Scheel:

The Avila Cove Condominiums Homeowners Association (Association) recently received notification regarding the proposal to allow the residence located at 194 San Luis Street Parkway to be used as a residential vacation rental. On October 3rd, the Association's Board of Directors voted to oppose this permit request for the following reasons:

1. **Residential Neighborhood.** The residence located at 194 San Luis Parkway is located in an area of Avila Beach which is used exclusively for residential use, either as primary residences, second homes or long term tenants. There is no other area of Avila where this situation exists. As one moves towards the beach, the mix between vacation rentals and residences becomes greater. These areas, which are closer to the beach and the village, are much more suited to vacation rentals. The area facing San Luis Creek is quieter and much more suited for strictly residential use. It is for that reason that the Avila Cove Condominiums' CC & R's do not allow for rentals of less than 30 days.
2. **Noise.** The requirement that rental of the residence cannot exceed one individual tenancy within 7 days will allow four different tenants in any given month and during the summer, it is likely that there would, in fact, be a different tenant in the unit every weekend. It is entirely possible that while one tenant will be quiet and respectful of the residential character of the neighborhood, it is equally likely that the next tenant might be rowdy and disrespectful of the neighborhood.

Of the 17 units in the Avila Cove Condominiums, which are located immediately adjacent to 194 San Luis Parkway, roughly two-thirds of them are either owner-occupied or tenants, while the remaining one-third use their units as second homes. In either case, it is fair to say that the Avila Cove owners purchased units in this area of Avila (as opposed to areas closer to the beach) due to its quiet, residential character. One bad vacation tenant can ruin the weekend for both full time and part time residents.

Exhibit 2

A-3-SLO-13-013

Page 46 of 78

Cody Scheel, Project Manager

October 4, 2012

Page Two

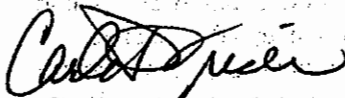
While the unit's owners are required to designate a local property manager that is available 24 hours a day for complaints, by the time a noisy tenant has been reprimanded, the adjacent residents have already been disturbed. Such disruptions are more than likely to occur on weekends when residents are seeking a respite from a busy work week. Finally, if the property manager cannot be reached, the only recourse available to residents is to contact the County Sheriff, thus shifting this burden to the County's already strained resources.

3. **Parking.** This particular unit is the last one in the driveway leading to it from San Luis Street Parkway. As such, it would not be difficult to park a number of cars at this unit since its location will allow cars to be parked "in the garage, driveway or otherwise out of the roadway." This language would allow for a significant number of cars coming in and out of the driveway, thus disturbing the residences on either side of that small lane.
4. **Maximum Number of Occupants.** This restriction, which will allow for a maximum of 6 persons staying in the unit is virtually unenforceable because it will be difficult to determine which persons are staying in the unit and which are "visiting". Even the owner may not be able to enforce this provision if the renter has not properly disclosed the accurate number of people that will be staying in the unit.
5. **Cumulative Impacts.** If this permit is approved, it would appear that there is nothing to prevent other owners in the area from requesting a similar vacation rental status. Should additional permits for vacation rentals be approved, the character of the only exclusively residential area in Avila Beach would be negatively affected. Such a change would also result in an increase in value for those units that can be used as vacation rentals and a decrease in value for those that cannot be similarly used. It is far more equitable that all units in this area remain for residential use only.

The Avila Cove Condominiums Homeowners Association, therefore, believes that findings D and E on Page 5 of the staff report cannot definitively be made because there is no way to guarantee that "the conduct of the use will not be detrimental to the.....persons residing or working in the neighborhood of the use" and/or that "the vacation rental use will not conflict with the surrounding lands and uses". Furthermore, the Association believes that the condominium owners within Avila Cove Condominiums will be negatively affected by the issuance of this permit and is, therefore, requesting that this Minor Use Permit/Coastal Development Permit be denied.

Thank you for your opportunity to comment on this permit request.

Sincerely,



Carla D. Frisk
President

cc: County Supervisor Adam Hill

Exhibit 2

A-3-SLO-13-013

Page 47 of 78

1-1

**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT**

Tentative Notice of Action

Promoting the wise use of land
Helping build great communities

MEETING DATE October 5, 2012	CONTACT/PHONE Cody Scheel	APPLICANT Andrew Graham	FILE NO. DRC2012-00012
LOCAL EFFECTIVE DATE October 19, 2012	Project Manager		
APPROX FINAL EFFECTIVE DATE November 9, 2012	(805) 781-5157 cscheel@co.slo.ca.us		
SUBJECT Hearing to consider a request by Andrew Graham for a Minor Use Permit / Coastal Development Permit to allow an existing single family residence to be used as a residential vacation rental. The proposed project is within the <u>Residential Multi-Family land use category</u> and is located at 194 San Luis Street Parkway, between Laurel Street and Lucas Lane, in the community of Avila Beach. The site is in the San Luis Bay Coastal planning area.			
RECOMMENDED ACTION Approve Minor Use Permit / Coastal Development Permit DRC2012-00012 based on the findings listed in Exhibit A and the conditions listed in Exhibit B			
ENVIRONMENTAL DETERMINATION A Class 3 Categorical Exemption was issued on August 8, 2012 (ED12-028)			
LAND USE CATEGORY Residential Multi-Family	COMBINING DESIGNATION Coastal Appealable Zone, Archaeologically Sensitive Area, Local Coastal Program	ASSESSOR PARCEL NUMBER 076-201-082	SUPERVISOR DISTRICT(S) 3
PLANNING AREA STANDARDS: None applicable <i>Does the project meet applicable Planning Area Standards: N/A</i>			
LAND USE ORDINANCE STANDARDS: Coastal Zone Land Use Ordinance Sections 23.08.165 Residential Vacation Rentals <i>Does the project conform to the Land Use Ordinance Standards: Yes - see discussion</i>			
FINAL ACTION This tentative decision will become the final action on the project, unless the tentative decision is changed as a result of information obtained at the administrative hearing or is appealed to the County Board of Supervisors pursuant Section 23.01.042 of the Coastal Zone Land Use Ordinance; effective on the 10th working day after the receipt of the final action by the California Coastal Commission. The tentative decision will be transferred to the Coastal Commission following the required 14-calendar day local appeal period after the administrative hearing. The applicant is encouraged to call the Central Coast District Office of the Coastal Commission in Santa Cruz at (831) 427-4863 to verify the date of final action. The County will not issue any construction permits prior to the end of the Coastal Commission process.			
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER γ SAN LUIS OBISPO γ CALIFORNIA 93408 γ (805) 781-5600 γ FAX: (805) 781-1242			

1-2

Planning Department Hearing

Minor Use Permit / Coastal Development Permit # DRC2012-00012 / Graham

Page 2

EXISTING USES: Residential / Commercial Retail	
SURROUNDING LAND USE CATEGORIES AND USES: <i>North:</i> Residential Multi-Family/Residences <i>South:</i> Residential Multi-Family/Residences <i>East:</i> Residential Multi-Family/Residences <i>West:</i> Residential Multi-Family/Residences	
TOPOGRAPHY: Nearly level	VEGETATION: N/A
PROPOSED SERVICES: Water supply: Community system, Avila CSD Sewage Disposal: Community system, Avila CSD Fire Protection: Cal Fire – CDF County Fire	ACCEPTANCE DATE: August 30, 2012

LAND USE ORDINANCE STANDARDS:*Section 23.08.165 Residential Vacation Rentals –*

The development of a new structure intended for use as a Residential Vacation Rental shall comply with all standards applicable to the construction of a residence within the land use category that the Residential Vacation Rental is proposed. Coastal Zone Land Use Ordinance section 23.08.165 governs the establishment of residential vacation rentals in the coastal zone. *However, the standards set forth in this section only apply to the urban areas of Cambria and Cayucos. Additionally, this is an existing residence.*

Combining Designations*Section 23.07.120 Local Coastal Plan*

The project site is located within the California Coastal Zone as determined by the California Coastal Act of 1976 and is subject to the provisions of the Local Coastal Plan. Decisions by the Planning Department, Planning Commission or Board of Supervisors on projects within the Coastal Zone may be appealed to the California Coastal Commission. *Residential Vacation Rentals are listed as a special use ("S" use under Table O), and when located within a site that is in the coastal appealable area the special use requires a land use permit (CZLUO 23.08.014). This Minor Use Permit (MUP) satisfies this requirement.*

Section 23.07.104 Archaeologically Sensitive Area

The provisions of this section are intended to protect and preserve archaeological resources. This designation is to ensure that new development will not have significant effects on existing, known or suspected archaeological resources. *This project does not propose any new development and is therefore consistent with the intent of this combining designation.*

COASTAL PLAN POLICIES:

Shoreline Access: N/A

Recreation and Visitor Serving: (See discussion)

Energy and Industrial Development: N/A

Commercial Fishing, Recreational Boating and Port Facilities: N/A

Environmentally Sensitive Habitats: N/A

Agriculture: N/A

Public Works: N/A

Coastal Watersheds: N/A

Visual and Scenic Resources: N/A

Hazards: N/A

Exhibit 2

A-3-SLO-13-013

Page 49 of 78

1-3

Planning Department Hearing
Minor Use Permit / Coastal Development Permit # DRC2012-00012 / Graham
Page 3

Archeology: N/A
Air Quality: N/A

Does the project meet applicable Coastal Plan Policies: Yes

COASTAL PLAN POLICY DISCUSSION:

The Coastal Plan policies for Recreation and Visitor serving uses are focused primarily on commercial recreational uses and commercial lodging facilities such as hotels, motels, bed and breakfast establishments and recreational vehicle parks. These are all classified as transient lodging in Coastal Zone Framework for Planning, Table "O". Residential Vacation Rentals are single family residences by design (or occasionally multi-family residences) and are listed in the Residential use group in Table "O". Although they do serve visitors they are sometimes rented by the month or not rented at all subject to the desire of the property owner. While Coastal Plan Policies generally encourage visitor serving facilities in certain circumstances, residential vacation rentals are not discussed.

STAFF COMMENTS:

The operational standards set forth in Coastal Zone Land Use Ordinance section 23.08.165 have been added as conditions to this project. While those standards only apply to Zoning Clearances issued in Cambria and Cayucos, they can be added to a discretionary permit if appropriate. Staff's position is that the standards will help to minimize any potential impacts to surrounding property owners. The proposed conditions of approval have routinely been added to other minor use permits for establishment of vacation rentals.

A two hundred foot distance limitation is not required outside of urban reserve lines by the Coastal Zone Land Use Ordinance, but it could be added to this permit for similar reasons that the operational standards were added. However, staff is not recommending the two hundred foot distance limitation be imposed on this project since the nearest parcel with a vacation rental to the applicant's parcel is approximately 450 feet to the northwest, in a residential subdivision within the Avila Beach Urban Reserve Line.

COMMUNITY ADVISORY GROUP COMMENTS:

On September 10, 2012 the Planning Department Community Liaison for Avila Beach attended the Avila Valley Advisory Council meeting. Concerns about nuisance and noise were discussed, as well as concerns about inadequate parking for the proposed vacation rental. AVAC recommended denial of the proposed project.

STAFF RESPONSE:

The AVAC recommendation has been taken into consideration and operational conditions have been associated to the project to address noise standards and specific parking requirements. The project has also been conditioned to designate a local property manager or contact person who shall be available 24 hours a day to respond to tenant and neighborhood questions or concerns.

AGENCY REVIEW:

1-4

Planning Department Hearing

Minor Use Permit / Coastal Development Permit # DRC2012-00012 / Graham

Page 4

Public Works – No comment

Avila CSD – No comment

Avila Fire – None received

California Coastal Commission – No comment

LEGAL LOT STATUS:

The existing lot was legally created by a recorded map at a time when that was a legal method of creating lots.

Staff report prepared by Cody Scheel and reviewed by Bill Robeson.

Planning Department Hearing

Minor Use Permit / Coastal Development Permit # DRC2012-00012 / Graham

Page 5

EXHIBIT A - FINDINGS*CEQA Exemption*

- A. The project qualifies for a Categorical Exemption (Class 3) pursuant to CEQA Guidelines Section 15303.

Minor Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the proposed vacation rental does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the existing residence will not change and, as conditioned, the vacation rental use will not conflict with the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located off San Luis Street Parkway, and no additional traffic is associated with the project because it is using an existing approved residence as a residential vacation rental. Additionally, this vacation rental will have a condition of approval that will limit the number of cars associated with the vacation rental to two cars per rental period and require the two cars to park inside the existing 2 car garage.

Coastal Access

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is not directly adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

1-6

Planning Department Hearing
Minor Use Permit / Coastal Development Permit # DRC2012-00012 / Graham
Page 6

EXHIBIT B - CONDITIONS OF APPROVAL**Authorized Use**

1. This approval authorizes a Minor Use Permit to allow the existing residence to be used as residential vacation rental.

Operational Conditions

2. Availability of the residence as a rental to the public shall not be advertised on site.
3. Vehicles used and traffic generated by the residential vacation rental shall not exceed the type of vehicles or traffic volume normally generated by a home occupied by a full time resident in a residential neighborhood. Normal residential traffic volume means up to 10 trips per day. For purposes of this vacation rental, no more than two vehicles shall be used and all parking associated with the vacation rental shall be located in the attached 2 car garage.
4. All parking associated with the residential vacation rental shall be entirely on-site, in the garage, driveway or otherwise out of the roadway. Tenants of the vacation rental shall not use on-street parking at any time. A lease to the tenants of the Vacation Rental shall contain these parking requirements.
5. The maximum number of occupants allowed in the residential vacation rental shall not exceed the number of occupants that can be accommodated consistent with the onsite parking requirement, and shall not exceed two persons per bedroom plus two additional persons.
6. The residential vacation rental is not to change the residential character of the outside appearance of the building, either by the use of colors, materials, lighting, or by the emission of noise, glare, flashing lights, vibrations or odors not commonly experienced in residential areas.
7. The residential vacation rental shall comply with the standards of Section 23.06.040 et seq. (Noise Standards). No residential vacation rental is to involve on-site use of equipment requiring more than standard household electrical current at 110 or 220 volts or that produces noise, dust, odor or vibration detrimental to occupants of adjoining dwellings.
8. The property owner shall designate a local property manager or contact person. The local property manager or contact person shall be available 24 hours a day to respond to tenant and neighborhood questions or concerns. Where a property owner lives within the same community as the residential vacation rental, the property owner may designate themselves as the local contact person. The following requirements shall apply:
 - (a) 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, the local fire agency and supplied to the property owners within a 300 foot radius. The name, address and telephone number(s) of the local contact person shall be

1-7

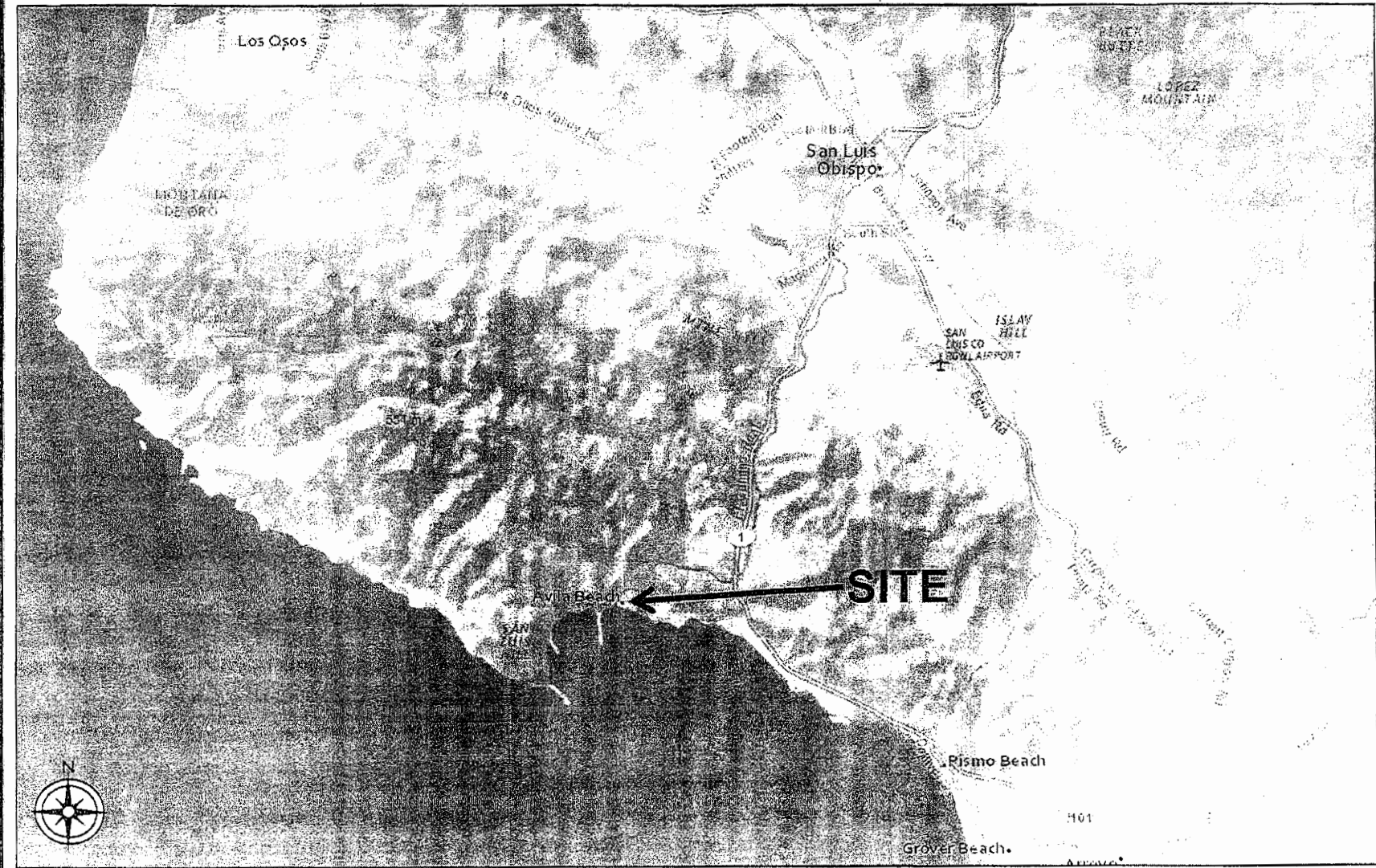
Planning Department Hearing

Minor Use Permit / Coastal Development Permit # DRC2012-00012 / Graham

Page 7

permanently posted in the residence in a prominent location(s). 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 subsection.

- (b) If the local contact person is unavailable or fails to respond, the complaining party may contact the Sheriff's Office. The Sheriff will attempt to reach the local contact person. In cases where the Sheriff was unable to reach the local contact person, the penalties as set forth in 23.08.165 Subsection n shall apply.
9. Rental of the residence shall not exceed one individual tenancy within seven consecutive calendar days. No additional occupancy (with the exception of the property owner) shall occur within that seven day period. The residential vacation rental shall only be used for the purposes of occupancy as a vacation rental or as a full time occupied residence. No other use (i.e.: home occupation, temporary event, homestay) shall be allowed on the site.
 10. The residential vacation rental shall meet the regulations and standards set forth in Chapter 3.08 of the County Code, including any required payment of transient occupancy tax to the County Tax Collector for each residential vacation rental.
 11. Penalties for violation of these conditions of approval may include revocation of the Minor Use Permit and Business License. If a local contact person is not able to be reached by the Sheriff more than three times in any consecutive six month period, this shall be grounds for revocation of the Business License consistent with Title 6 of the County Code.
 12. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once proof of Transient Occupancy Tax payment to the County Tax Collector is submitted to the Department of Planning and Building within 24 months of approval.
 13. 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 Coastal Zone Land Use Ordinance.



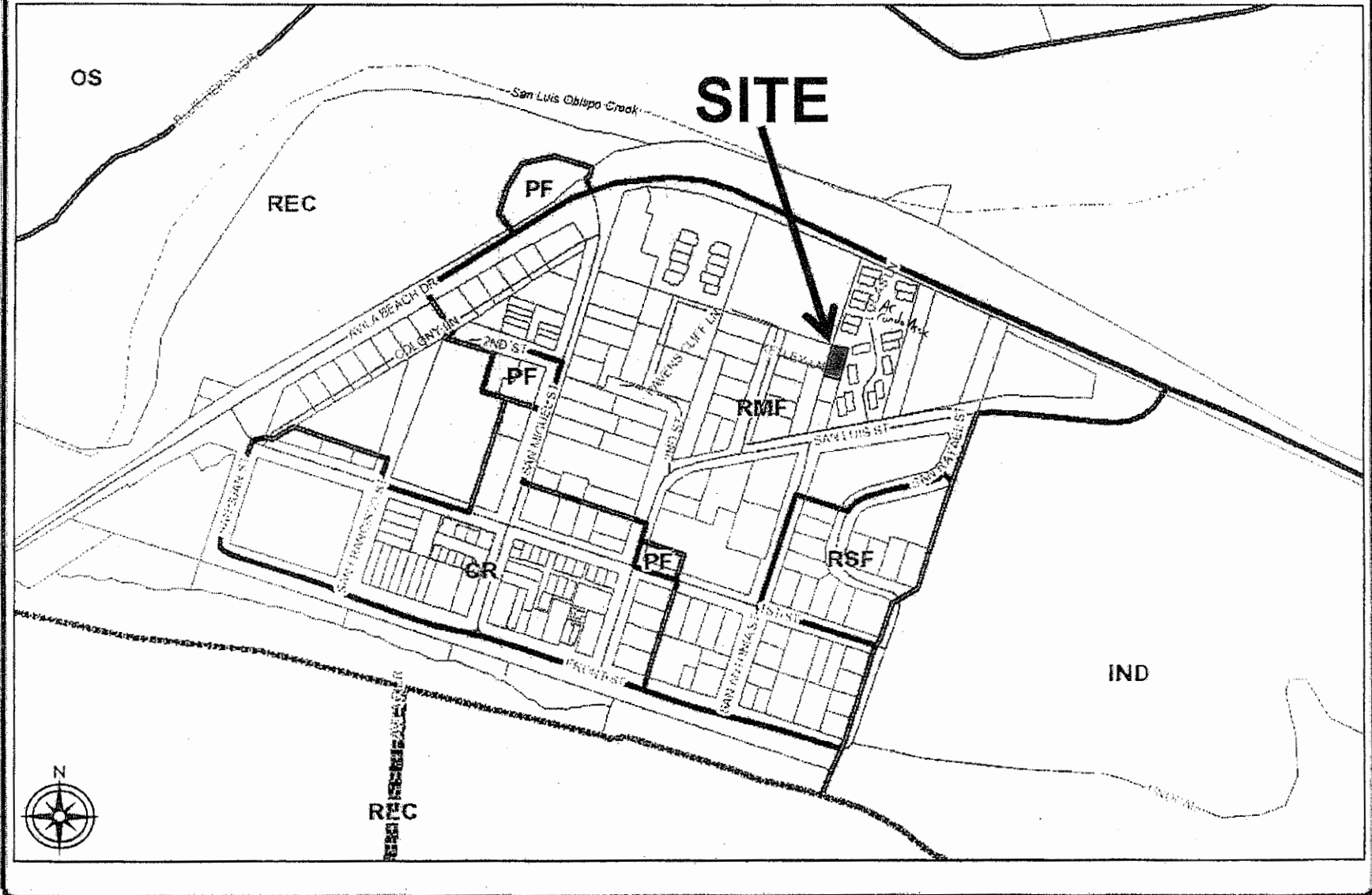
PROJECT

Graham Minor Use Permit / Coastal Development Permit
DRC2012-00012



EXHIBIT

Vicinity Map



Attachment 8
1-9

Page 9 of 20

PROJECT
Graham Minor Use Permit / Coastal Development Permit
DRC2012-00012



EXHIBIT
Land Use Category



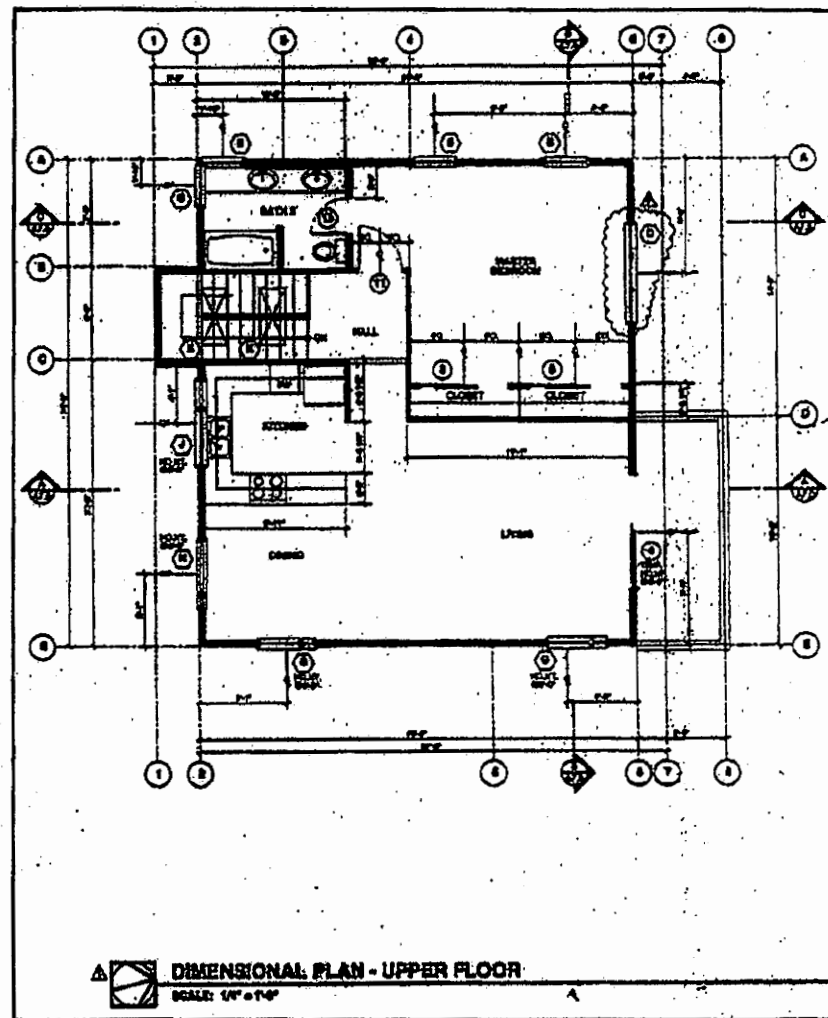
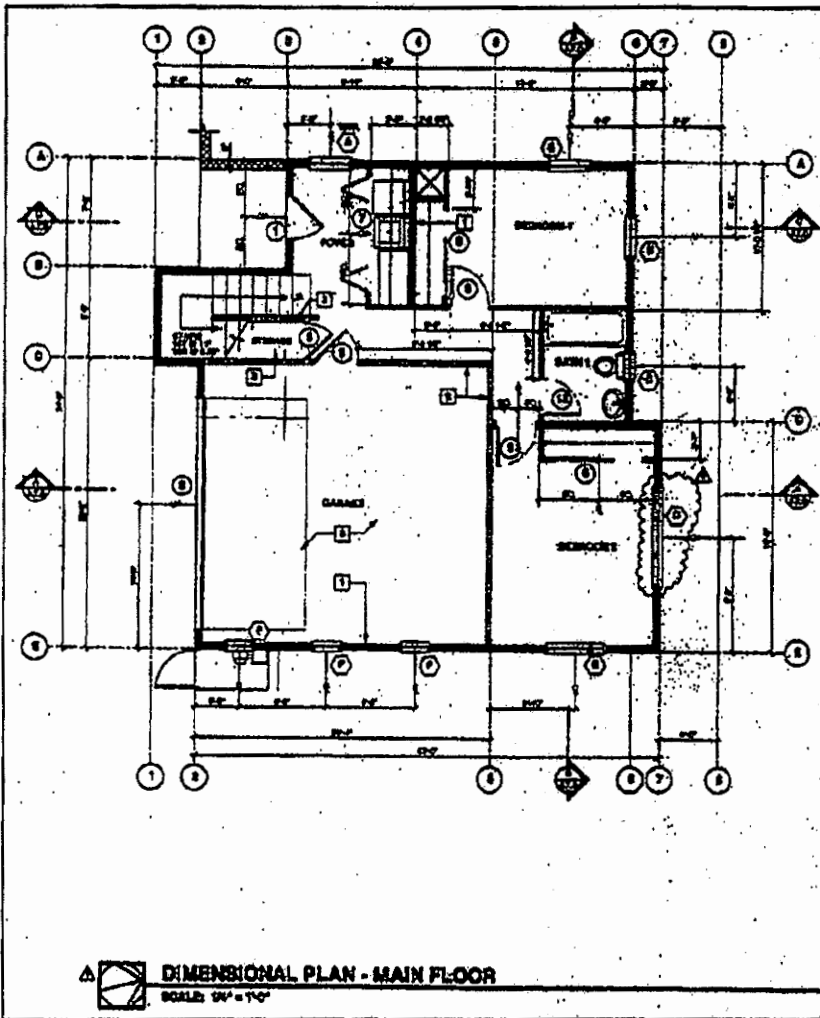
PROJECT

Graham Minor Use Permit / Coastal Development Permit
DRC2012-00012



EXHIBIT

Aerial View



Attachment 8
1-11

PROJECT

Graham Minor Use Permit / Coastal Development Permit
DRC2012-00012



EXHIBIT

Floor Plan

1-12



SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

THIS IS A NEW PROJECT REFERRAL

DATE: 8/9/2012

FR TO:

PW

AUG 10 2012

COUNTY OF SAN LUIS OBISPO

TO FROM: Cody Scheel, Coastal Team

PROJECT DESCRIPTION: DRC2012-00012 ANDREW- Minor Use Permit for a vacation rental.
 Site located off San Luis Street in Avila Beach. APN: 076-201-082.

Return this letter with your comments attached no later than: 14 days from receipt of this referral.
CACs please respond within 60 days. Thank you.

PART 1 - IS THE ATTACHED INFORMATION ADEQUATE TO COMPLETE YOUR REVIEW?

- ☒ YES
☐ NO

(Please go on to PART II.)

(Call me ASAP to discuss what else you need. We have only 10 days in which we must obtain comments from outside agencies.)

PART II - ARE THERE SIGNIFICANT CONCERNS, PROBLEMS OR IMPACTS IN YOUR AREA OF REVIEW?

- ☐ YES
☒ NO

(Please describe impacts, along with recommended mitigation measures to reduce the impacts to less-than-significant levels, and attach to this letter)

(Please go on to PART III)

PART III - INDICATE YOUR RECOMMENDATION FOR FINAL ACTION.

Please attach any conditions of approval you recommend to be incorporated into the project's approval, or state reasons for recommending denial.

IF YOU HAVE "NO COMMENT," PLEASE SO INDICATE, OR CALL.

No comment

8.17.12

Date

Name

Phone

5271



SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

THIS IS A NEW PROJECT REFERRAL

DATE: 8/9/2012

TO: Avila Beach CSD

FROM: Cody Scheel, Coastal Team

PROJECT DESCRIPTION: DRC2012-00012 ANDREW- Minor Use Permit for a vacation rental.
Site located off San Luis Street in Avila Beach. APN: 076-201-082.

Return this letter with your comments attached no later than: 14 days from receipt of this referral.
CACs please respond within 60 days. Thank you.

PART I - IS THE ATTACHED INFORMATION ADEQUATE TO COMPLETE YOUR REVIEW?

☒ YES
☒ NO

(Please go on to PART II.)

(Call me ASAP to discuss what else you need. We have only 10 days in which we must obtain comments from outside agencies.)

PART II - ARE THERE SIGNIFICANT CONCERNS, PROBLEMS OR IMPACTS IN YOUR AREA OF REVIEW?

☐ YES
☒ NO

(Please describe impacts, along with recommended mitigation measures to reduce the impacts to less-than-significant levels, and attach to this letter)
(Please go on to PART III)

PART III - INDICATE YOUR RECOMMENDATION FOR FINAL ACTION.

Please attach any conditions of approval you recommend to be incorporated into the project's approval, or state reasons for recommending denial.

IF YOU HAVE "NO COMMENT," PLEASE SO INDICATE, OR CALL.

No comment

8/9/12
Date

John Wallace
Name

595-2664
Phone

1-14



RE: DRC2012-00012 ANDREW, Coastal E-Referral, (MUP, Avila Beach)

Robinson, Daniel@Coastal to: 'cscheel@co.slo.ca.us'

08/27/2012 02:22 PM

From: "Robinson, Daniel@Coastal" <Daniel.Robinson@coastal.ca.gov>

To: "'cscheel@co.slo.ca.us'" <cscheel@co.slo.ca.us>

Thank you Cody.

CCC has no comments on this vacation rental app.

Cheers,
Daniel

From: cscheel@co.slo.ca.us [mailto:cscheel@co.slo.ca.us]
Sent: Monday, August 27, 2012 11:47 AM
To: Robinson, Daniel@Coastal
Subject: RE: DRC2012-00012 ANDREW, Coastal E-Referral, (MUP, Avila Beach)

Please see attached.

Cody Scheel
Planner - Current Planning

County of San Luis Obispo
Department of Planning & Building
976 Osos Street, Room 300
San Luis Obispo, CA 93408
(805) 781-5157
cscheel@co.slo.ca.us

From: "Robinson, Daniel@Coastal" <Daniel.Robinson@coastal.ca.gov>
To: "'cscheel@co.slo.ca.us'" <cscheel@co.slo.ca.us>
Date: 08/27/2012 11:05 AM
Subject: RE: DRC2012-00012 ANDREW, Coastal E-Referral, (MUP, Avila Beach)

Thanks for trying. Still giving me an error (404).

Daniel

From: cscheel@co.slo.ca.us [mailto:cscheel@co.slo.ca.us]
Sent: Monday, August 27, 2012 11:03 AM

1-15

August 29th, 2012

To whom it may concern,

This letter is written on behalf of the residents of the Avila Cove Condominium Owners Association. Our association would like to express our deep concern over the potential of utilizing the unit/and or units adjacent to our property as resort rentals. Avila Cove COA has a specific policy that forbids short term rental of any property in the complex. We have this policy because we recognize the shortage of parking for all units located on San Luis Parkway and San Luis Street. Additionally, we make every effort to maintain a peaceful living community that respects the rights of all Avila residents. We believe adding additional rental units will compromise this effort and complicate the already dense parking issues associated with San Luis Parkway and San Luis Street.

Avila Beach has an adequate supply of rental properties located in town and adding additional rentals will not serve to improve the Avila Community. We have a finite amount of city resources to police and manage community needs, so we respectfully request that you keep those resources focused on our current residents and prevent any new unit(s) from being utilized as a resort rental property.

Respectfully,

Avila Cove Condominium Association

August 30, 2012

Dear Cody Scheel and the San Luis Planning and Building Department:

We are writing in response to the letter from the Avila Cove Condo Association. While we are NOT part of Avila Cove Condo Association, we are NOT bound to their rules and regulations. We do understand their concerns, and believe that it will not be an issue for our house. Our house provides 4 car parking spots, two inside the garage and 2 outside. For one family to stay at the house, this will provide more than adequate space.

During the summer months, visitors park their cars on San Luis Parkway up all the way on Avila Beach Dr to walk into town. This is clearly already happening with or without summer homes being rented. In a recent article from Mary Richert Foppiano (executive director of the Avila Beach Civic Association) she states there isn't enough rental homes in a town that only houses 350 residents, and they welcome addition tourist and vacation rental in order to accommodate the needs of Avila Beach as a resort town. We experienced that first hand as we have often had problems finding good home rentals (there are only 20-30 that is publically known) before purchasing our home. I believe that this will serve the community of Avila beach very well.

While we understand their concern for peaceful living, we do not want to disrupt that balance as well. We love Avila Beach, as we got engaged on that beach and my husband has been coming there since his college years. This community has become our home. We would just like the opportunity to share it with family and friends and therefore going through the formal process of getting the permit.

Sincerely Yours,

The Grahams

1-17**Vacational Rental For 194 San Luis Parkway Avila Beach**

Penni Tidwell to: cscheel, annemb, Pete Kelley

09/10/2012 10:20 AM

From: Penni Tidwell <pennitidwell@live.com>

To: <cscheel@co.slo.ca.us>, <annemb@sbcglobal.net>, Pete Kelley <pedrokelley@gmail.com>

To Whom it May Concer:

We are writing this letter in regards to the proposed vaction rental request of 194 San Luis Parkway Avila Beach. As owners of 198 San Luis Parkway Avila Beach we have concerns with this being approved beacuse of parking, nuisances, noise, and property value loss.

In regards to the major concern being parking: We ourselves had 194 San Luis Parkway in escrow but because of the difficulty in parking we decided to buy the top unit. Even though these are deemed as two car garages it is impossible to park two vehicles in the garges because of the entrance sharing the common space with the two 9X18 Ft. "Guest Parking". When there are cars in the guest parking spots it makes it impossible to enter gargage straight, therefore you must enter at a 90 degree angle and park at a angle preventing another car to enter garage. Any person(s) renting this unit will find it much easier to violate the rules and park in the guest parking, in front of garage or in front of said unit therefore preventing access to others along with being a Safety and Fire Hazard issue.

The second concern is Nuisances: As stated in the CC&Rs 2.3 Nothing shall be done on any parcel or withing the reciprocal easement area that may be of may become an annoyance or nuisance to the residents of any Parcel or that in any way interferes with the quiet enjoyment of the other occupants of the property of use of the reciprocal easement area. We believe that we along with other residence of the property will having to constently "Police" said vacation renters on how and where to park. CC&Rs also state in Restrictions 2.1 Land use states all parcels shall be used for residential purposes only. Once this property is approved for Vacation Rental it then becomes commercial which violates the CC&Rs.

Third concern is the noise that it will create having Vacation renters in such a small space. All vehicles must pass by first two units using a very narrow and steep driveway therefore causeing a negative impact in the privacy and secruity of our residence.

Lastly we also feel that having a Vacation Rental within our complex will cause a decrease in our property value. Avila Beach already has plenty of Vacation Rentals that should be utilized before more are added.

We would request that Mary Matakovich read this letter tonight Sept. 10th 2012 at meeting on our behalf since we will not be able to attend.

Please feel free to contact us at 209.529.9922 or by email.

We hope that you will take all things considered in this matter,

Sincerely,

Greg and Penni Tidwell

Exhibit 2

A-3-SLO-13-013

Page 64 of 78

1-18**FW: Avila court**

Penni Tidwell to: cscheel, annemb, Pete Kelley

09/10/2012 03:45 PM

From: Penni Tidwell <pennitidwell@live.com>

To: <cscheel@co.slo.ca.us>, <annemb@sbcglobal.net>, Pete Kelley <pedrokelley@gmail.com>

To Whom it May Concern:

Please see attached email from Craig Smith who was the Architect of the 194 San Luis Parkway Avila Beach. These are his concerns in regards to the said property requesting to become a Vacation Rental.

Regards,

Greg and Penni Tidwell

Owners of 198 San Luis Parkway Avila Beach

From: pennitidwell@live.com

To: pennitidwell@live.com

Subject: FW: Avila court

Date: Mon, 10 Sep 2012 15:39:51 -0700

Please forward

Subject: Fwd: Avila court

From: GTidwell@tidwellenterprises.com

Date: Mon, 10 Sep 2012 12:20:08 -0700

To: pennitidwell@live.com

Sent from my iPhone

Greg,

I looked into the situation regarding the rental of the unit and there are a couple of things you can do. One is the fact that the existing use permit was not set up for renting a unit out. This is a PUD, not a stand-alone SFR, so there are more "teeth" in the existing conditions of approval. If there is no provision for this, it will have to be applied for. The biggest impact is the parking, or potential lack of it for renting. The parking calc was for occupancy, not renting, therefore this will have to be dealt when they apply for a MUP to rent out the unit.

CRSA Architecture

Craig R. Smith, AIA, CEO/Principal Architect

890 Monterey Street, Suite A

San Luis Obispo, CA 93401

Phone: 1 (805) 544-3380 x 202

Fax: 1 (805) 544-8625

Email: crsa@craigsmithaia.com

Web: www.craigsmithaia.com

Exhibit 2

A-3-SLO-13-013

Page 65 of 78

1-19

AVILA VALLEY ADVISORY COUNCIL

San Luis Obispo County, California
P.O. Box 65, Avila Beach, CA 93424
www.AvilaValley.org

Tuesday, September 11, 2012

Cody Scheel, Planner
cscheel@co.slo.ca.us

Hello Cody:

At last night's meeting of AVAC, the Minor Use Permit for a Vacation Rental at 194 Parkway was discussed.

After lengthy discussion and input from nearby neighbors (Avila Cove Condominium Association, the Tidwells who live on the property and Mary Matakovich whose home is next door west of this property, AVAC voted unanimously to: **recommend to Planning that the MUP be DENIED on the basis of limited and difficult parking, the potential for noise and the restriction 2.1 Land Use in the 3-house CC&Rs.**

These parties will be informed of the Hearing on October 5, 2012 if they wish to attend.

Thank you for your continuing attempt to protect Avila's current residents.

Sincerely,

Anne M. Brown, Chair

Sept 12, 2012

To the San Luis Building and Planning Committee;

Thank you for taking the time to review this file and help us navigate this process.

We are writing this letter in response to the neighborhood concerns. In regards to the parking situation, the requirement states a property should have enough parking spaces to accommodate the people allowed. Our home is a 1590 square feet with three bedrooms, allowing for two people per bedroom. A two car garage is ample space required for six people. The building is suited for two regular sized vehicles easily as shown in the building plans we submitted. The two extra spaces outside are a bonus for two other cars, welcomed to anyone within the three homes. I understand that there may be some concerns that the tenets will "violate" unwritten rules of parking but we don't foresee that being a problem as we will only be renting to one family at a time and will make sure they understand they will only be parking in our garage or allotted spaces.

We did review the CCR's prior to purchasing our home with the real estate agent that listed the three homes. They are standard, and we are within our rights to use this home as a part time vacation rental as these properties are free standing homes with no association or HOA only a driveway easement. We will attach the CC&R's upon request.

This proposed vacation rental is a single family rental, we as owners would want the renters to respect our beautiful home as we would. While we understand the neighbors concern, the impact would be the same or less, as if we were there. We have a zero tolerance policy and anyone that does not respect this, will be asked to leave immediately. There will be no need for "policing." This community is mixed with senior homes, families and partying college students less than 200 ft away. It welcomes beach goers everyday that park on San Luis Parkway and around the streets. These are the daily exposures we have as owners in this beach community.

We hope this addresses any concerns of the neighboring residents and eases them knowing we are extremely concerned with maintaining a peaceful living situation and greatly respect the privacy of our fellow homes owners.

Sincerely,

The Grahams

ATTN: CODY SCHEEL

Cody this is a copy of
Beach Bum rental policy.
we thought it will be
good for everyone to
know the policy. Thank
you very much.

Andrew Graham

NOTE:

- Last page of this Rental Agreement must be signed and returned to us within 48 hours of receipt along with a copy of your photo ID.
- Full payment is due 30 days prior to arrival and will be charged to credit card on file without notification.
- Key pick up/drop off is at our office at 702 Dolliver St. in Pismo Beach:
Between 3-5pm Monday through Friday and by 3pm Saturday and Sunday.
- Please call to arrange after-hours key pick up.
- All rates and amenities subject to change, we reserve the right if necessary to change properties.

VACATION RENTAL AGREEMENT - TERMS AND CONDITIONS

AGENCY DISCLOSURE - BEACH BUM HOLIDAY RENTAL AND MANAGEMENT INC., herein after referred to as BBHR&M serves as the Agent and representative of all owners of vacation rental properties in its rental program, and is acting at all times, in and for the best interests of the owners.

Guest agrees to the charges on the Rental Agreement. If paying by check, a valid credit card is still required and any non-sufficient funds fees will be charged to guest's credit card.

BBHR&M accepts Visa, MasterCard credit/debit cards:

- A. A payment by credit card equal to 1 night's rent plus processing fee will be required as a reservation guarantee when making a reservation. For reservations of 30 days or more, the reservation guarantee is equal to 25% of the monthly rental fee. Receipt of the last page of this document must be received within 48 hours in order to confirm the reservation. At that time, the credit card on file will be charged accordingly and an automated receipt email will be sent for your records.
- B. The remaining balance is due no later than thirty (30) days prior to your check-in date, either by check or credit card on file. BBHR&M DOES NOT ACCEPT ANY PAYMENTS AT CHECK-IN.
- C. Reservations placed within thirty (30) days of check-in date will require payment in full at the time of booking the reservation and must be paid with credit/debit cards only. BBHR&M does not accept checks for reservations made less than thirty (30) days before check-in date in order to allow for processing time.

*****State Law requires a bed tax collection for all rentals less than thirty (30) days.

CREDIT CARD - By providing credit card number as a guarantee. Guest agrees to pay all rent and associated fees, accept all terms of the lease agreement and accept all liability for any damage not covered by the security deposit and/or beyond normal wear and tear during the term of lease with BBHR&M. Any charges exceeding security deposit, guest understand that these costs will be charged to credit card and that all credit card sales are final.

ARRIVAL & CHECK-IN is at our office 702 Dolliver, Pismo Beach, CA 3:00 to 5:00 pm Monday through Friday, Saturday and Sunday at 3 pm - BBHR&M will attempt to contact Guests close to scheduled arrival date at which time office lock box codes are released for after hour key pick-up. If unavailable by phone, Guest must make contact with office 24 hours prior to arrival date for after hours instructions. The property cannot be guaranteed ready for occupancy until 3PM. BBHR&M will use its commercially reasonable efforts to have the Premises ready for Guest occupancy by 3PM, but BBHR&M cannot guarantee the exact time of occupancy or a back to back rental.

KEYS/OPENERS - Will be released **ONLY** to party signing contract, unless previous arrangements are made and a key release form assigning another party (25 years of age or older) has been previously signed and returned to BBHR&M at least 24Hrs prior to arrival. Guest will receive: 2 sets of keys and 1 remote control device for garage door/gate opener if applicable. Cars must be parked in specified parking only, no trailers allowed on driveways or parking garages unless previously arranged with office. is/are available for this property. Any additional cars will have to be parked on the street, subject to City parking regulations. We cannot guarantee parking outside the specified spaces. **Any unauthorized vehicles will be towed at guest's expense**. Also, Guest shall pay all costs and charges related to loss of any keys or opening devices. (Minimum charge \$50) Guest may not remove locks, even if installed by Guest.

DEPARTURE - CHECK OUT TIME IS 11:00 AM - NO EXCEPTIONS unless 48 hour prior arrangements are made! Timely check-out is strictly enforced so that BBHR&M has adequate time to prepare the property for the next guest. Upon checking out, please return keys and garage remote (if applicable) to the OFFICE. If leaving before office hours, return items to the lock box. If the property's keys are not returned upon check-out, BBHR&M is authorized to charge the Guest's credit card on file for the costs of re-keying or replacing all of the locks and re-issuing new keys to owners, cleaning crews, and BBHR&M. Guests that do not vacate the rental property and return the keys by 11:00 AM, or in the event Guest returns to the premises without the consent of the BBHR&M after turning in the keys and checking out, Guest will be charged a fee equal to the rental rate for one (1) day.

NO SHOW/EARLY DEPARTURE POLICY - BBHR&M is not responsible for Guests inability to arrive on time nor if Guests choose or are required to depart early for any reason, nor if members of Guests party do not show up. NO REFUNDS will be offered.

RESERVATION AGREEMENT - Guests acknowledge, understand, and agree that the moment Guests give BBHR&M their credit card information, BBHR&M is authorized to charge said credit card for the rental amount agreed upon. BBHR&M's Cancellation Policy will govern any cancellation, rescheduling, or change after the credit card transaction has been processed.

SECURITY DEPOSIT: an authorization **HOLD** will be placed on Guest's credit card for the corresponding property's security deposit 1-3 days prior to arrival, this authorization hold is released by Guest's bank card company between 14-21 days. Should it be necessary to use all or any portion of the security deposit, BBHR&M will notify Guest of any findings by phone and/or e-mail. Security deposits may be used but are not limited to as follows:

- A. Guest's Security Deposit Authorization hold will not be charged unless repairs or replacements are needed due to damages resulting from guest's actions.
- B. In the event of receipt of any utility bills with charges not approved by BBHR&M or Owner, or charges extremely exceeding a previous statement the security deposit will be used to cover these charges.
- C. All rental properties are fully furnished. Guest will not remove any items from the property specifically to the beach or other properties. Security deposit will be used to replace or clean the item(s). Rearranging or moving of furniture is prohibited and will result in a fee of no less than \$100 due to extra housekeeping services.
- D. Guest shall not make any alterations in or about the Property including, but not limited to, moving furniture, painting, wallpapering, adding, or changing locks, installing antenna, or satellite dish, placing signs, displays or exhibits, or using screws, fastening devices, large nails or adhesive materials.

CANCELLATION POLICY - Cancellations must be submitted in writing and confirmed by BBHR&M, Inc. no later than thirty (30) days prior to the original check-in date in order to receive a refund, less a \$100 cancellation fee and \$30 processing fee. Less than (30) days notice will result in a LOSS equal to the full rent amount + \$30 processing fee.

For reservations of 30 days or longer, the reservation guarantee (due at the time of reservation) and cancellation fee are equal to 25% of the monthly rental fee. NO EXCEPTIONS.

REFUNDS - This Vacation Rental Agreement is a legally binding agreement between Guests, Agency & Owner. Your reservation binds you to a specific period of time and property. BBHR&M will make every effort to correct any problem that arises during your stay in a timely manner subject to the terms in this agreement. In the rare event the property you have selected is out of order or unavailable; we do reserve the right to substitute with a comparable property without notice or liability. If a comparable property is not available, the guest may select from other available properties at the published rate or receive a full refund. There will be no refunds or compensation for events out of BBHR&M's control including but not limited to: Acts of God, Mother Nature, acts of war or government agencies, road maintenance, gas shortages, power outages or water outages, construction or maintenance work in the vicinity, equipment failures, road conditions, proximity to other dwellings, business closures and area event schedule changes.

HOUSE RULES - Guest assumes responsibility in keeping everyone in their party within BBHR&M's guidelines.

- All vehicles allowed on premises must be registered with office, please verify maximum number of vehicles allowed with each specific property, parking pass may apply to avoid towing.
- No vehicles are allowed to be parked in driveways that are shared with other properties.
- Noise ordinances shall be enforced, 9 pm on weeknights and 11 pm on weekends.
- You will be responsible for the behavior and actions of people from your party on any courtyard or common areas.
- Only the number of guests specified on the Terms and Conditions of the property are allowed overnight or within the property at any given time.
- Other properties may be occupied by people other than your party, please be courteous.
- Absolutely no one is allowed on rooftops.
- No skateboards, bikes, skates, or scooters allowed in courtyards or on decks.

ALCOHOL/DRUGS - No drinking of alcoholic beverages by persons under the legal age of twenty-one (21) is allowed on rental properties. If Guests are arrested for underage drinking at rental properties or if BBHR&M observes Guests under the legal age of twenty-one (21) drinking alcoholic beverages, BBHR&M reserves the right to terminate this Agreement and evict Guests with no refund. Illegal drug use is strictly prohibited and prosecuted to the fullest extent of the law.

BBQ USE - Properties with propane grills are fueled by liquid propane and under NO circumstances may Guests add charcoal or any derivative of charcoal to the propane grills. If Guests add charcoal to a propane grill, BBHR&M is authorized to charge not less than \$100 to Guests credit card for cleaning of grill.

CABLE/SATELLITE TV - Rental properties are individually owned and BBHR&M cannot guarantee TV channel availability. Rental properties do not necessarily offer premium packages, i.e., Movie Channels, Sports Channels, Pay Per View, etc. BBHR&M cannot under any circumstance activate

premium channels. NO EXCEPTIONS! NO REFUNDS OR REBATES will be offered.

CLEANING FEE: Cleaning fee is non-refundable and is applied to restoring the property to a professionally cleaned condition after Guest departure including the laundering of linens. Not included: returning any furniture that has been moved, washing excessive kitchen ware, and any carpet stains not from normal foot traffic will cause an additional fee to be charged. Should Guest need to dispose of waste during stay, there are exterior individual or large containers for their convenience, blue bins for recycling, green bins for yard waste and brown bins for all other waste.

CONDUCT/NEIGHBORLY LAW -Occupancy and use of premises shall not be such as to disturb or offend neighbors or residents by means of including but not limited to; parties, excessive speeding through neighborhoods, riding of ATV's or Off Road Motorcycles/Dirt Bikes, excessive noise and/or obnoxious behavior, discharging of Firearms, BB/Pellet Guns, Paint Ball Guns, Potato Cannons, or Fireworks (illegal in Pismo Beach), or any other noise-inducing mechanisms. Also, Guests shall not disturb, annoy, or interfere with the right to quiet enjoyment of any neighbors or Guests surrounding the property. Guest shall abide by any by-laws or CC&R's, which may be applicable to the property, and further, shall not use the property for any unlawful purpose or violate any law, ordinance, or regulation to avoid termination from the property. Any disturbance calls from neighbors, police department, or individuals to BBHR&M will automatically terminate contract and will result in the forfeiture of the full amount of the Security Deposit. BBHR&M reserves the right to terminate this Agreement and evict Guests with no refund or rebate

DAMAGES TO PROPERTY - Premises are to be left in undamaged condition. Properties have been cleaned and inspected prior to Guests arrival. Guests must call BBHR&M if any damages or defects are noticed upon arrival.

DISPUTES - This Agreement shall be governed by and interpreted in accordance with the laws of the State of California and be treated as though it were executed in the County of San Luis Obispo, State of California. Any action relating to this Agreement shall be instituted and prosecuted only in the San Luis Obispo County Superior Court, California. Guests specifically consent to such jurisdiction and to extraterritorial service of process.

FURNISHINGS/FURNITURE - All properties are privately owned, furnished and equipped by its OWNER. As such, BBHR&M cannot make any changes to the furnishings or equipment provided by the owner. If Guest requires special appliances or equipment, please bring them with you. Furnishings are subject to change without notice. Loss of these items, as well as damage to the property or furnishings in excess of normal wear will be charged to Guest(s), the renter. Certain closets, cabinets and or rooms are locked by the OWNERS for their personal storage and are not included in this rental, tampering with locks will be considered a violation of agreement and result in a fee to cover damages and loss.

FIREPLACES - Some properties contain gas or wood burning fireplaces.

GAS LOG - No other items may be burned in gas log fireplace, including but not limited to; sticks, wood, charcoal, lava rocks, paper, trash, etc. If any other item is burned in gas log fireplace, guest will be charged a \$100 clean-out fee that will be billed directly to Guests credit card on file. Guests further agree that no fire will be left unattended.

WOOD BURNING - BBHR&M does not provide a startup supply of hardwood logs. No other items including but not limited to; charcoal, lava rocks, accelerants, etc. will be burned in fireplaces or fire pits. Guests agree to pay not less than \$100, if any items, other than hardwood or dura-flame type logs are burned in fireplace.

FIRE PITS - Some properties provide a rock fire pit or outdoor wood burning fireplace. If a property

does not offer a fire pit, guests will not make one as doing so is considered a safety hazard and considered damage to the Premises. Guests further agree that no fire will be left unattended. When guests are done with the fire pit, all flames and embers should be put out with water and smothered to avoid accidental fires. All trash must be collected and properly disposed from around the fire pit.

GATED/REGISTERED SECURIT - Some rentals are located within communities that require the names and vehicles of the guests staying in the property, Guest must provide license plate and vehicle make and model requested in the acknowledgement email.

INDEMNIFICATION AND HARMLESSNESS - Guests shall be solely responsible for any property damage, accident or injury to any person or loss sustained by any person, including loss of money, jewelry, and other items of personal property, arising out of or in any way related to Guests use of the premises or the items of personal property provided by BBHR&M or, the Owner at Guests request. Guests shall inspect and be familiar with proper use and application of such items prior to using them. Guests hereby agree to INDEMNIFY, defend and hold harmless Agent(s) and its employees, owners and officers; and/or Homeowners from all claims, disputes, litigation, judgments, costs and attorney fees resulting from loss, damage or injury to Guest, family and friends of Guest or his/her licensees or their personal property from any and all claims including those of third parties, arising out of or in any way related to Guests use of premises or the items of personal property provided therein. Guests hereby agree to hold BBHR&M (s) and its employees, owners and officers and/or Homeowner, harmless and to indemnify same against any and all claims that arise pertaining to any event during the course of rental as a consequence of any acts or omissions of BBHR&M and/or owner it's BBHR&M s, employees and officers. Owner recommends that Guest carry or obtain insurance to protect Guest, family and friends of Guest or his/her licensees. Guest or his/her personal property, including vehicles, are not insured by Owner or, if applicable, HOA, against loss or damage due to fire, theft, vandalism, rain, water, criminal or negligent acts of others, or any other cause. Owner does not insure against personal injury to Guest, family and friends or his/her licensees due to any reason other than the condition of the Property. Guests assume the risk of injury or other losses relating to any recreational activities and will hold owner and its Agents harmless with respect thereto.

ITEMS LEFT BEHIND - BBHR&M is not responsible for any items Guests leave behind intentionally or unintentionally on Premises. BBHR&M will remove all items left behind and dispose of them unless Guests request it to be returned to them. BBHR&M is authorized to charge a \$25 handling fee plus applicable shipping costs for the return of any items Guests leave behind.

JOINT AND INDIVIDUAL OBLIGATIONS - Should there be more than one Guest; each one shall be individually and completely responsible for the performance of all obligations under this Agreement, jointly and individually with every other Guest.

LICENSEE OF OWNER - Guests are a licensee of the Owner and not a tenant; renting the premises in no way constitutes Guests acquiring interest in the property.

LINENS - A standard supply of linens is provided in each property. Bed linen and bath towels are not changed during this stay. The startup set of shampoo, bath soap, hand soap, dish soap, toilet tissue, paper towels, dishwasher and laundry detergent, and trash bags are not replenished; however, housekeeping service and other cleaning arrangements during your stay are available for an additional charge. Contact the Reservations Office for details.

LISTING INFORMATION - Information on listings is as accurate as possible but cannot be guaranteed. Rates, furnishings, fees, and taxes on listings are subject to change without notice. Please call or email to confirm information prior to booking.

LOCK OUT - A lock-out of Guests from a property will result in a \$35 service call during business hours

to provide access to property if Guest is unable to pick-up an extra key. A lock-out after business hours will result in a \$100 service call and Guests credit card being charged accordingly.

LONG-DISTANCE TELEPHONE CALLS - Some properties telephones are toll restricted and do not permit long distance calls except for toll free numbers, calling card calls, credit card calls, collect calls, valid third party calls, and emergency (911) calls. Any special feature calls including but not limited to: Call Return, Call Block, Call Forward that Guests activates will be billed to Guests credit card on file plus a \$15 service charge per incident. Cell-phone signal is generally reliable in most properties but cannot be guaranteed. Not all properties provide phone service.

MAINTENANCE - Guest shall properly use, operate and safeguard the Property including, if applicable, any landscaping, furniture, furnishings, appliances and all mechanical, electrical, gas and plumbing fixtures, and keep them clean and sanitary. Guest shall immediately notify BBHR&M of any problem, malfunction or damage. Guest shall pay for all repairs or replacements caused by Guest, friends, family and licensees of Guest, excluding ordinary wear and tear. Guest shall pay for all damage to the Property as a result of failure to report a problem, malfunction or damage in a timely manner. Guest shall pay for repair of drain blockages or stoppages, unless caused by defective plumbing parts or tree roots invading sewer lines. Guest will be responsible for the cost of any damage to any maintenance service call charges.

MAXIMUM OCCUPANCY - The property is rented as a vacation residence only, for not more than the maximum occupancy stated in all accommodation descriptions. Including the named Guest who is an adult and will be a Guest during the entire period agreed upon (copy of driver's license must be submitted by new guest or adult protector.) These limits are required by law and are for the safety and protection of occupants and Owners. Any child five years old and above is considered an occupant & must be included in the occupancy total. Rollaway beds, cots, inflatable mattresses & sleeping bags or other temporary or portable sleeping device not specifically provided by the owner and intended for use to accommodate extra persons are prohibited. If you are found to exceed the maximum occupancy of your property it will be considered a breach of contract and will result in immediate eviction with no refunds.

NON-ESSENTIAL SERVICE CALLS - Every effort will be made to provide clear concise procedures at the property for operating equipment such as cable/satellite TV's, DVD players, fireplaces and other household equipment. BBHR&M is not responsible for Guest's inability to operate equipment or follow the directions which may result in a service call for assistance. Any non-essential service call requested by Guests to operate equipment will result in a \$50 service charge plus \$50/hr of onsite labor and will be billed to Guest's credit card. (NO refunds will be offered in conjunction with Guest's inability to operate equipment.)

NON-SMOKING: NO EXCEPTIONS - All properties are non-smoking (including all decks, porches and steps). Guests agree to pay no less than \$350 for odor abatement if they smoke in or around the home or if cigarette butts are left on the grounds. Guest forfeits the right to any security deposit refund and is responsible for all damage caused by the smoking including but not limited to removal of stains, burns, odors and any replacement of furnishings damaged by the smoke.

PET POLICY - Unless otherwise specified, pets are **NOT** allowed in most of our properties. Some properties allow for Pet Guests. In those properties, the following terms and conditions apply: A non-refundable, pre-determined by property pet fee is charged per stay for pets to cover all normal clean-up required as a result of a pet being on the premises. NOTE: Pets are not permitted in hot tub. Guests will be charged not less than a \$100 cleaning fee if pet gets into the hot tub. Pets must be completely housebroken, well behaved, and pest free. Pets are not allowed on furniture. Guests will be charged no

less than an extra \$100 cleaning fee for removing pet hair and other pet-related material from furniture. Guests may not use any provided linens or towels on pets. Pets shall not be left uncrated while alone on premises. Guests agree to pay for any damages caused by pets. If pets have an accident in property, all clean-up will be performed by the Guests. Guests further agree to police waste from the grounds and deposit in outside garbage cans. Failure to comply with pet clean-up policy on the premises may result in additional cleaning charges that will be charged to the Guest's credit card. Guests agree to be in full control of their pets at all times and take full responsibility for their pets well being. There are leash laws on and off the beach and guests should plan accordingly. If any of these Pet Policy terms are not met, Guests are in violation of this Agreement. Guests agree that by signing the Acknowledgement of this Agreement, they are authorizing BBHR&M to charge Guests credit card on file for any damages sustained as a result of a pet. If a pet violation occurs on the property, or if Guest does not inform BBHR&M of a pet guest, Guest forfeits any security deposit and is responsible for any and all damage caused by the pet(s) including but not limited to removal of stains, odors, and any replacement of furnishings, walls, doors or flooring damaged by the pet.

REFUSAL OF SERVICE - BBHR&M reserves the right to refuse service to anyone. All rental properties are leased without regard to race, color, religion, sex, national origin, or handicap. Due to liability issues, BBHR&M is unable to provide prospective renters with keys to preview properties.

RIGHT OF ENTRY - Owner and/or BBHR&M representatives have BBHR&M the right to enter the Property, at any time, (a) for the purpose of making necessary or agreed repairs, improvements, decorations, alterations, for maintenance or to supply necessary or agreed services; (b) to verify that Guest has complied with the terms of this Agreement; or (c) Owner and Owner's representatives and BBHR&M have the right to enter the Property, upon reasonable notice, to show the Property to prospective or actual purchasers, Guests, tenants, mortgagees, lenders, appraisers or contractors (d) in case of emergency.

TERMINATION BY OWNED SUBSTITUTIONS - BBHR&M strives to comply with all reservation requests for specific vacation properties. However, due to ownership changes, properties being removed from rental use, mechanical problems, or other unforeseen circumstances outside of BBHR&M's control and cannot absolutely guarantee a specific property. BBHR&M reserves the right to change property assignment to a comparable property without liability within a reasonable time frame should rental property become unavailable. A comparable property will have similar or better value, accommodations, function, unit amenities, or size as determined by BBHR&M. No refunds will be offered when comparable properties are available. Should Guest decline the comparable property, Guest may reschedule or change their reservation to another available date and property at the published rates under the parameters of the rescheduling policy but no refunds will be offered. If comparable properties are not available, Guests will have the option of selecting from any other available properties for their reservation dates and pay or receive a refund of the difference in the total cost or may choose to receive a full refund.

URGENT EMERGENCY SERVICE CALLS - In case any equipment malfunctions, Guests shall call the office number and notify BBHR&M immediately or via the answering service to arrange for repairs and initiate an urgent service call. Every effort will be made to correct any urgent situation in as little time as possible. BBHR&M cannot guarantee against malfunctions of heating, electricity, water, any appliances, hot tubs, Jacuzzi tubs, cable, satellite, television, telephones, electronics, gas logs, grills, etc. No refunds or compensation will be given for failure of the above. Any service call requested by Guests that is a result of Guest action, abuse, misuse or negligence may result in a \$100 service charge plus \$100/hr of onsite labor, plus parts and will be billed to guest's credit card. NO refunds will be offered in conjunction with false or mistaken service calls.

VIOLATION OF AGREEMENT - A material breach of this Agreement by Guests, which, in the sole

determination of BBHR&M, results in damage to the Premises, personal injury to Guests or others, a breach of the peace, a nuisance to others, or a violation of criminal law or local code, shall be grounds for termination of Guests tenancy. Violation of any of the rules contained herein will result in IMMEDIATE EVICTION with NO REFUNDS. If the tenancy created hereunder is for 30 days or less, any expedited eviction procedures set forth in the applicable laws of the State of California shall apply. Guest(s) may be evicted under such procedures if Guest(s): (i) hold over in possession after Guest(s) tenancy has expired; (ii) commit a material breach of any provision of this Agreement that according to its terms would result in the termination of Guest(s) tenancy; or (iii) have obtained possession of the Premises by fraud or misrepresentation. Any reservation made under false pretenses will result in forfeiture of advance payments and the party will not be permitted to check-in.

Dear Board of Supervisors,

We wanted to write this letter to address concerns with the Minor Use Permit process as applied to our efforts to obtain a vacation rental license.

Here are some important issues. Our house is one of 3 detached residences sharing a common easement. They are not in a gated community and there's no HOA. Thousands of visitors park their cars on San Luis Street during the summer months and traffic is common. Most of the owners in Avila, including the appellants, use their residences as second homes so they are, in fact, vacationers. If you were to carefully observe the activities at a house that is rented as a vacation rental and compare them with those taking place at an owner occupied second home they would be difficult to distinguish. Management firms often find owners create more behavioral problems than vacation renters. Vacation rentals seldom achieve more than 30-40% occupancy, remaining vacant much of the balance of the year.

Avila Beach is a high profile destination, with events such as the Amgen Tour, creating increased demand for visitor serving lodging. Traditional development such as Harbor Terrace and a new RV Park contributes traffic, noise and parking issues that are all associated with a greatly expanded carbon footprint. Residential vacation rentals actually act to better sustain the coastal character of historic towns than most commercial projects. The ability of local municipalities to meet AB 32 standards by 2020 through implementation of Climate Action Plans may be compromised by traditional sources of visitor serving lodging tied to commercial development.

The position of the Coastal Commission on vacation rentals has evolved since they approved the County of San Luis Obispo vacation rental ordinance in 2003. Their recent response to efforts by Pismo Beach to satisfy visitor serving lodging through hotel/motel rooms epitomizes this change.

We have patiently followed the MUP licensing process for vacation rentals in San Luis County, even though the revised vacation rental ordinance soon to be reviewed by the Coastal Commission, changes licensing to a ministerial approval. In fact the conditions applied to our MUP go beyond those set forth by the revised ordinance that the Board voted to approve for Cayucos, Cambria and Avila last April. Finally, we have confidence in the ability of our management firm, Beach Bum Rentals, to provide the quality supervision our house and the community deserves.

I urge you to review the recent Staff Report and consider the recommendations of the MUP Hearing Officer, then vote to deny the appeal.

Sincerely,

The Graham's

Item #33 Meeting Date: 2/26/2013
Presented By: The Graham's
Received: Prior to Meeting
Posted to Web: 2/27/2013

Exhibit 2
A-3-SLO-13-013

Page 2 of 2
Page 78 of 78

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: Mr. Greg Tidwell, Mrs. Penni Tidwell, Dr. William Schuh, M.D., and Mrs. Schuh

Mailing Address: c/o Law Offices of Edwin J. Rambuski

1401 Higuera Street

City: San Luis Obispo, CA

Zip Code: 93401

Phone: (805) 546-8284

SECTION II. Decision Being Appealed**RECEIVED****MAR 15 2013****CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA**

1. Name of local/port government:

San Luis Obispo County Board of Supervisors

2. Brief description of development being appealed:

Issuance of a Coastal Development Permit (DRC2012-00012) to establish a residential vacation rental at 194 San Luis Street Parkway, Avila Beach, California.

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

194 San Luis Street Parkway, Avila Beach, California.

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

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

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

Exhibit 3
A-3-SLO-13-013
Page 1 of 9

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: February 26, 2013

7. Local government's file number (if any): DRC2012-00012

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:

Andrew Graham, 24819 Los Altos Drive, Valencia, CA 91355

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) Mr. Greg Tidwell
Mrs. Penni Tidwell
3812 Rexford Drive
Modesto, CA 95356
(209) 985-7171

(2) Dr. William Schuh, M.D., F.A.C.S.
Mrs. Schuh
Vein Care Institute
7390 West Alameda Ave.
Lakewood, CO 80226
(303) 798-3467

(3) Edwin J. Rambuski
1401 Higuera Street
San Luis Obispo, CA 93401
(805) 546-8284
Fax: (805) 546-8489

(4) Craig R. Smith, AIA, CEO
CRSA Architecture
890 Monterey Street, Ste. A
San Luis Obispo, CA 93401
(805) 544-3380

(5) Avila Cove Homeowner's Association
3563 Empleo Street, Ste. B
San Luis Obispo, CA 93401

(6) Ann Brown, Chair
Avila Valley Advisory Council
P.O. Box 65
Avila Beach, CA 93424

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The development does not conform to the standards set forth in the Local Coastal Program and does not conform to the standards set forth in the Coastal Act.

- The development results in the conversion of a three unit planned development for which the County of San Luis Obispo had previously granted exemptions for density and parking when the planned unit development was approved in 2005.

- The planned development's modification or exemption from development standards of the primary zone does not result in better design or other public benefit.

- The development is inconsistent with the primary zone.

- The development has inadequate parking.

- The development is inconsistent with the character of the neighborhood and does not conform to the Local Coastal Plan neighborhood compatibility requirements.

- The development is not located within a visitor-serving commercial district.

- The development does not meet zoning standards and policies related to visitor-serving priorities.

- The development is inconsistent with the underlying zoning standards of the Local Coastal Plan and the conditions imposed on the planned unit development when approved in 2005.

- Residential parking for the development is inadequate.

- There is no provision in the development nor in the 2005 planned unit development plan for any off-site parking.

- The development is inconsistent with the Local Coastal Plan and its policies designed to protect the unique character of the neighborhood.

- The development does not conform to the Coastal Zone Framework for Planning policy of protecting residential areas from being incompatible and undesirable land uses.

- The development does not conform to the Coastal Zone Framework for Planning policy of reserving desirable neighborhood characteristics such as compatible uses, sense of scale, and other amenities.

- The development does not conform to the Coastal Zone Framework for Planning policy requiring visitor serving uses be compatible with the needs of local residents.

- The development does not conform with the Coastal Zone Framework for Planning policy to protect residential areas from incompatible uses.

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: _____

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

Section VI. Agent Authorization

I/We hereby authorize Edwin J. Rambulski
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: 3/8/13

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.



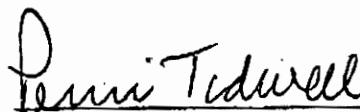
Signature of Appellant(s) or Authorized Agent

Date: 3-7-13

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

Section VI. Agent Authorization

I/We hereby authorize Edwin J. Rambuski
to act as my/our representative and to bind me/us in all matters concerning this appeal.



Signature of Appellant(s)

Date: 3/8/13

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:

3-7-13

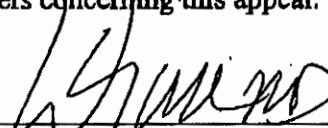
Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize

Edwin J. Rampuski

to act as my/our representative and to bind me/us in all matters concerning this appeal.



Signature of Appellant(s)

Date:

3/11/13

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: 3-7-13

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

Section VI. Agent Authorization

I/We hereby authorize Edwin J. Rambuski
to act as my/our representative and to bind me/us in all matters concerning this appeal.



Signature of Appellant(s)

Date: 3/11/2013

Beachside Rentals, Inc.

December 20, 2012

Daniel Robinson
California Coastal Commission/Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

RECEIVED

DEC 26 2012

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Dear Mr. Robinson,

I am writing to voice my objection to the approval of the proposed revisions to the Vacation Rental Ordinance in San Luis Obispo as presented to the Coastal Commission recently, and request to be notified when this item is scheduled again on your agenda.

As a Vacation Rental business owner and resident of Cayucos, the results of the existing ordinance have created issues that the county has not found satisfactory solutions for. Prior to making major changes to the existing ordinance, the impact on visitor serving lodging and the economy in Cayucos needs to be researched in much more detail.

Cayucos is a very unique Central Coast community with excellent beach access. There are very few hotels, however, and even fewer with beach access at all. Vacation Rentals provide at least 58% of all visitor serving lodging in Cayucos, according to research we have recently conducted using TOT contributions as the basis. Our economy is almost entirely based on tourism.

Any reduction in the existing number of homes available for vacation rentals restrains the availability of coastal access to the public. Having been subject to this ordinance since 2004, the local Vacation Rental Companies have personally seen the availability of active licensed vacation rentals declining significantly since the ordinance was originally approved and enacted. If something is not changed, we will experience a continual and dramatic loss of homes available to visitors in Cayucos over the next 8 years.

There has been concern expressed, *primarily by communities with very different demographics*, that Vacation Rentals disturb the neighborhoods. Cayucos is different. Each month the Cayucos Advisory Council meets and the Sheriff gives a report. In the last 2 years I have been reading the minutes from these meetings, there has not been one comment by the Sheriff regarding disturbances at Vacation Rentals. In addition, the county cannot provide us a list of valid complaints or calls to justify the density standard.

Our neighboring community in Morro Bay also has an ordinance, but it does not have a density standard. Has anyone from our county done research to see if their ordinance is effective? I believe we can have an even more effective ordinance without the proposed or existing density standard.

I would encourage you to review the demographics, which are unique. According to the recent 2010 Census and county records:

- only 33.2% of households here are owner occupied
- 22 % are full time rentals
- 34% are second homes
- 10.10% are licensed vacation rentals (less if you take the inactive licensees into account)

151 Cayucos Dr., Cayucos CA 93430
(805)-995-3680 phone * (805)-995-1306 fax

I believe that the existing density standard in this ordinance has had and will continue to have a negative effect on coastal access to visitors, our Cayucos economic fabric and will create more disturbances in the neighborhoods with the increase in illegal rentals. The proposed changes to the density standard do nothing to rectify the inherent problems highlighted below, and may in fact make them worse.

Below are some of my concerns and some suggestions to consider.

The Existing Location (Density) Standard Issues:

- Allows property owners to hold a license even if it is not used as a vacation rental, which reduces the amount of visitor serving lodging available in Cayucos and is currently creating a significant reduction in "active " rentals as these licensed homes become owner occupied or removed from the Vacation Rental market. On the books, it would seem we have 244 vacation rentals, yet approximately 28% of them are virtually inactive according to tax collections. This number has been increasing slowly each year and these rentals are not being replenished due to the density standard already in place.
- Has dramatically increased the number of illegal vacation rentals in our community. There is not enough staff in the county to enforce the density standard on illegal vacation rentals and the increase in this sector is actually making it more difficult to monitor and locate an owner of these units. This defeats the original intention of the ordinance to be able to regulate the homes and keep an eye on the other parts of the ordinance for noise and disturbances.
- Is costing the county a lot of tax revenue by not registering the illegal rentals and being able to regulate them. Many of these people would prefer to become legal if allowed, but are finding it is very easy to rent their homes through VRBO websites because there is no proactive enforcement of the ordinance. Also, they are losing a lot of revenue by allowing homes to have a license even if it is not used as an actual rental, no tax is collected.

*Suggestion: Since Cayucos is allowed different standards based on the uniqueness of our community, we would like to see the 200 foot density standard eliminated, especially making an exemption for multi-family or oceanfront homes. **Allow any home to be a vacation rental that complies with the rules of the ordinance and maintains a good track record. Perhaps having a limit on the percentage of homes in the area rather than a distance measurement would help.** For example, not more than 15-20 percent of the total number of parcels could be eligible. The rest of the Ordinance is acceptable.*

Please notify me when San Luis Obispo County Vacation Rental Ordinance is on your agenda again. My email address is cayucahini@gmail.com, or I can be reached on my cell phone at 805-801-6705. I would like to attend the meeting if it is a public one.

Thank you for your consideration of these comments and would be happy to answer any questions you might have regarding the Vacation Rental Business in Cayucos.

Sincerely,

Toni LeGras
Member of the CCMA

Phone: 805-995-3680
Email: beachsider@earthlink.net

Beachside Rentals, Inc.
151 Cayucos Drive, Cayucos, CA 93430

Exhibit 4
A-3-SLO-13-013
Page 2 of 11



Shaunna Sullivan / Principal Attorney
Megan E. Fox / Associate Attorney

August 6, 2013

Daniel Robinson
Coast Planner
California Coast Commission
(Central Coast)
725 Front Street, Suite 300
Santa Cruz, CA 95060

US MAIL and
EMAIL: Daniel.Robinson@coastal.ca.gov

Re: *Comments regarding proposed revisions to
San Luis Obispo County Vacation Home Ordinance*

Dear Mr. Robinson:

It was a pleasure talking to you today concerning Coastal Commission review of the proposed San Luis Obispo County Vacation Home Ordinance. Please keep me on the notice list regarding Coastal Commission Review of this ordinance. I also request a copy of any correspondence addressing this ordinance including the recent inquiries you made for further information.

This letter is written on behalf of my mother, Ruth B. Sullivan, who is fortunate enough to own a wonderful beach front home on Studio Drive in Cayucos. Unfortunately, it sits vacant as she cannot rent it under the County's ordinance prohibiting use of private homes as vacation rentals if there is another one located within a 200 foot proximity.

This is a terrible waste of a resource that could and should be utilized to further the goals of the Coastal Act, which include promoting tourism and providing low cost visitor-serving opportunities for others to enjoy our coastal resources. Indeed our community gains from the bed taxes generated and collected from vacation rentals.

Instead this home, like the majority of the other 61 homes in the Studio Drive

Exhibit 4

Daniel Robinson

August 6, 2013

Page 2

enclave, sits vacant. By this ordinance, a handful of vocal Cayucos home owners (of the approximate 10 owner-occupied homeowners) dictate their non-resident neighbors use of their homes. This home purchased in 2006 has such a high property tax that renting it on a monthly basis at fair rental value would not service this property taxes let alone the mortgage.

Unlike my mother's home, many of these homes have passed through families from generation to generation, which explains their extremely low tax base and infrequent use. Others are owned by the ultra rich and are simply not used except on an infrequent basis. To limit vacation rentals and the opportunity to promote visitor-serving homes in an existing development to protect 10 owner-occupied homes is the ultimate "Nimbyism" and certainly does not advance the goals of the Coastal Act.

The ordinance, which prohibits economic use is based on an arbitrary one vacation home per 50 to 200 foot radius or per 100 to 200 feet linear on the same block and across the street. The home on one side of my mother's is vacant, and on the other side, is a vacation house that has never presented any problems. Therefore, it is perfectly logical to have two or more vacation homes in a row and to allow vacation homes on the beach front properties as there are no neighbors to be protected by a radius in front of those homes.

Under the current ordinance, it is simply impossible for my mom's house to qualify as a vacation rental. After my mother attempted to apply for the required permits and licenses, she received correspondence dated July 2, 2008, from Senior Planner, John Busselle, confirming that she could not apply for the required business license and vacation rental application as the next door neighbor had already secured a vacation rental permit and only one vacation rental within every 200 feet is allowed. The July 2, 2008 letter also advised

"You can ask for a waiver of the 200 foot limitation through a coastal Minor Use Permit (MUP) application. A MUP is a

Daniel Robinson
August 6, 2013
Page 3

discretionary land use permit hat goes to a public hearing. The fee for this is \$2,787.00. Since the ordinance went into effect in 2004, there have not been any successful waivers of the 200 foot limitation. The fee is non-refundable so there is a significant risk that you would spend the money and not receive an approval of the waiver.”

We are hoping that the Board of Supervisors will consider revisions to the ordinance to allow more permits for vacation homes while simultaneously adopting reasonable regulations to protect neighborhoods from the noise and partying issues sometimes associated with vacation homes.

After attending numerous Planning Commission and Board of Supervisor hearings addressing the current and proposed vacation home ordinance, it is abundantly clear that this ordinance is structured to eliminate or certainly diminish the number of vacation homes within single family residential homes zoned areas. It certainly offers no ability to increase the number of vacation homes. From my participation in those hearings, it also was evident that there is not an enforcement problem and the 5 or 6 reported complaints over the years do not support these proposed subjective onerous rules and regulations structured to jeopardize and revoke the permits.

1. Vacation Homes Further the Goals of the Coastal Act.

The Coastal Act *encourages the protection of existing and provision of new affordable housing opportunities* in the Coastal Zone. Collectively, these requirements reflect fundamental goal of the Coastal Act: protection of coastal resources by concentrating new development in existing developed areas able to accommodate it.

The Coastal Act policies set forth in Section 30213 support recreational opportunities for “*all the people*” and encourage and protect lower cost visitor and recreational facilities. Section 30221 provides “Oceanfront land suitable for recreational

Daniel Robinson
August 6, 2013
Page 4

use shall be protected for recreational use and development, unless present and foreseeable future demand for public commercial recreational activities that could be accommodated on the property is already adequately provided for in the area". Section 30222 further states:

"The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agricultural or coastal-dependent industry."

While we agree with the County's suggestions that different densities should apply to different areas, the radius proposal simply does not work for Studio Drive or other beachfront properties. Attached hereto is a copy of a map of the Studio Drive area which consists of a long strand of homes. We suggest that the beach front properties have no density restrictions as there is no neighborhood on the seaward side of the homes to protect with a radius. Moreover, to allow only one vacation home a distance of 100 to 200 linear feet and a radius of 50 to 200 feet is a far cry from the 20% limitation of vacation homes allowed in any particular block in the recently adopted Santa Cruz vacation home ordinance approved by the Coastal Commission. This proposal purposefully seeks to eliminate, reduce and restrict vacation homes in single family zoned areas is much more akin to the recently rejected Pismo Beach ordinance. A copy of the Coastal Commission staff report addressing Pismo Beach's and Santa Cruz's ordinances is attached.

**2. The Proposed Revisions to San Luis Obispo County Ordinance
23.08.165 Should Be Modified.**

With regard to mandatory onsite parking requirements, we suggest that the same parking requirements apply as would only apply to a full time resident in a residential

Daniel Robinson
August 6, 2013
Page 5

neighborhood. Since many of the homes have coastal access walkways, there is no way to control the parking generated by public utilization of those access ways. Renters renting homes should not be banned completely from parking on streets at any time. Moreover, it is not realistic to monitor it or to enforce such a restriction as suggested in (i).

As provided in LUP Policy PR-1, "[T]he beach should be free to the public, some parking and/or public transportation access to the beach shall be free to the public, and recreational needs of children, teens, adults, persons with disabilities, elderly, visitors and others shall be accommodated to the extent resources and feasibility permit." To bar any onsite parking by anyone utilizing a vacation home is unreasonable and violative of the policy which provides some parking is to be provided to the beach going public.

We also submit that CEQA has not been complied with as the proposed amendments will have a significant adverse environmental impact as the ordinance will prohibit additional vacation homes and diminish the current stock of vacation homes.

With regard to the noise standards proposed in "j," we submit that the standard proposed is too subjective and requires a different standard than is applied under the regular San Luis Obispo County Noise Ordinance. If noise is an issue, that can be dealt with under current laws. Please don't set a new subjective standard of "disturbing the peace by vacationers." The same noise ordinance that applies to everyone should be the same standard applied to visitors.

With regard to the proposed "n" and "o" regarding enforcement, there needs to be notice and a hearing process identified for dispute resolution. The provision stating "[T]hree violations of subsection "n" as determined by the County of Planning and Building staff person or a Sheriff's Deputy, within any consecutive six month period, shall be grounds for revocation of the Zoning Clearance" is too subjective and provides no opportunity to correct the violations. For example, if over one weekend, a visitor of the tenant is parked on the street and this is documented three times, or if a contact person

Daniel Robinson
August 6, 2013
Page 6

fails to respond within an unspecified time period, this "will cause the processing of zoning clearance revocation" and "the penalties set forth in subsection n shall apply."

While regulations are fine and should be adopted to protect the character and quiet enjoyment of the neighborhood, the goal of such regulation should not be to provide a basis to reduce the number of vacation homes in the neighborhood. If anything, we believe it should be easier not harder to have a vacation home, especially near the shore line. As pointed out by the Coastal Commission in denying Pismo Beach's severe restrictions on vacation homes, "vacation rentals provide an important visitor function that allows groups and families another option for overnight accommodations near the beach and shoreline including in areas without significant commercial overnight options where residential communities flank the immediate shoreline. We submit Planning Commission proposed amendments were largely swayed by vocal residents against vacation homes and commentary by the commissioners certainly indicated their intention to prohibit vacation rentals or to significantly diminish the visitor-serving accommodations rather than provide a reasonable framework to appropriately regulate their establishment and operation. We request that you delete the mandatory language of "n" and "o" and instead provide for a discretionary hearing process that affords notice and due process before imposing any penalties or the loss of a permit.

We contend the ordinance as proposed is unconstitutionally vague and serves no public policy purpose. When a statute that is so vague that people of common intelligence must necessarily guess at its meaning and differ as to its application, it violates the first essential of due process. Such vague law may trap the innocent by not providing fair warning. It also impermissibly delegates the legislative job of defining what is prohibited to police officers, judges, and juries creating a danger of arbitrary and discriminatory application. Further, it may have a chilling effect causing people to steer a wider course than necessary in order to avoid the strictures of the law. Appellants further contend that this ordinance is tantamount to a taking in violation of the Fifth Amendment of the U.S. Constitution and State Constitution. Unlike *John W. Ewing v. City of Carmel by the Sea* (1991) 234 Cal.App.3d 1579, this ordinance does not advance a legitimate

Daniel Robinson
August 6, 2013
Page 7

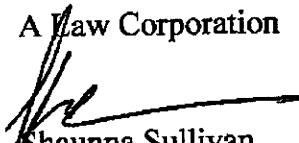
state interest and it denies the economically viable use of many property owners land and property (including my mother's).

The current and proposed ordinance is unfair, unconstitutional and counter-productive to county tourism and statewide encouragement of accessible visitor-serving use of our coastal resources. It is not right that a few vocal residents obstruct all economic use of homes owned by nonresidents who have to suffer the consequences of property taxes, assessments and bed taxes dictated by the residents. I suggest that an ordinance similar to the City of Morro Bay's vacation ordinance be considered for adoption.

These resources should not be limited to a privileged few who are lucky enough to be voting residents and I submit that the Coastal Act is not furthered by further limitations on having a legal vacation home.

Very truly yours,

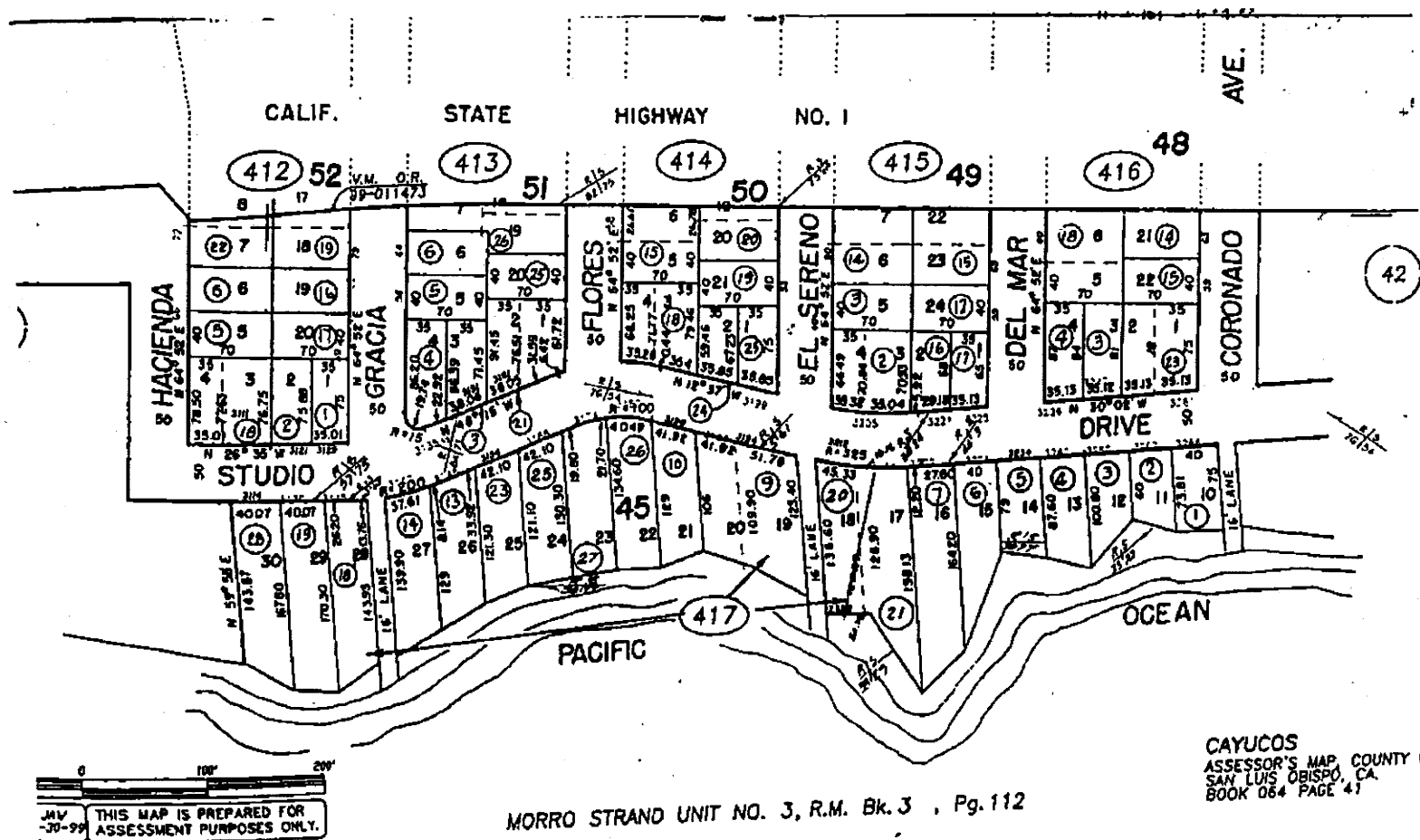
Sullivan & Associates
A Law Corporation

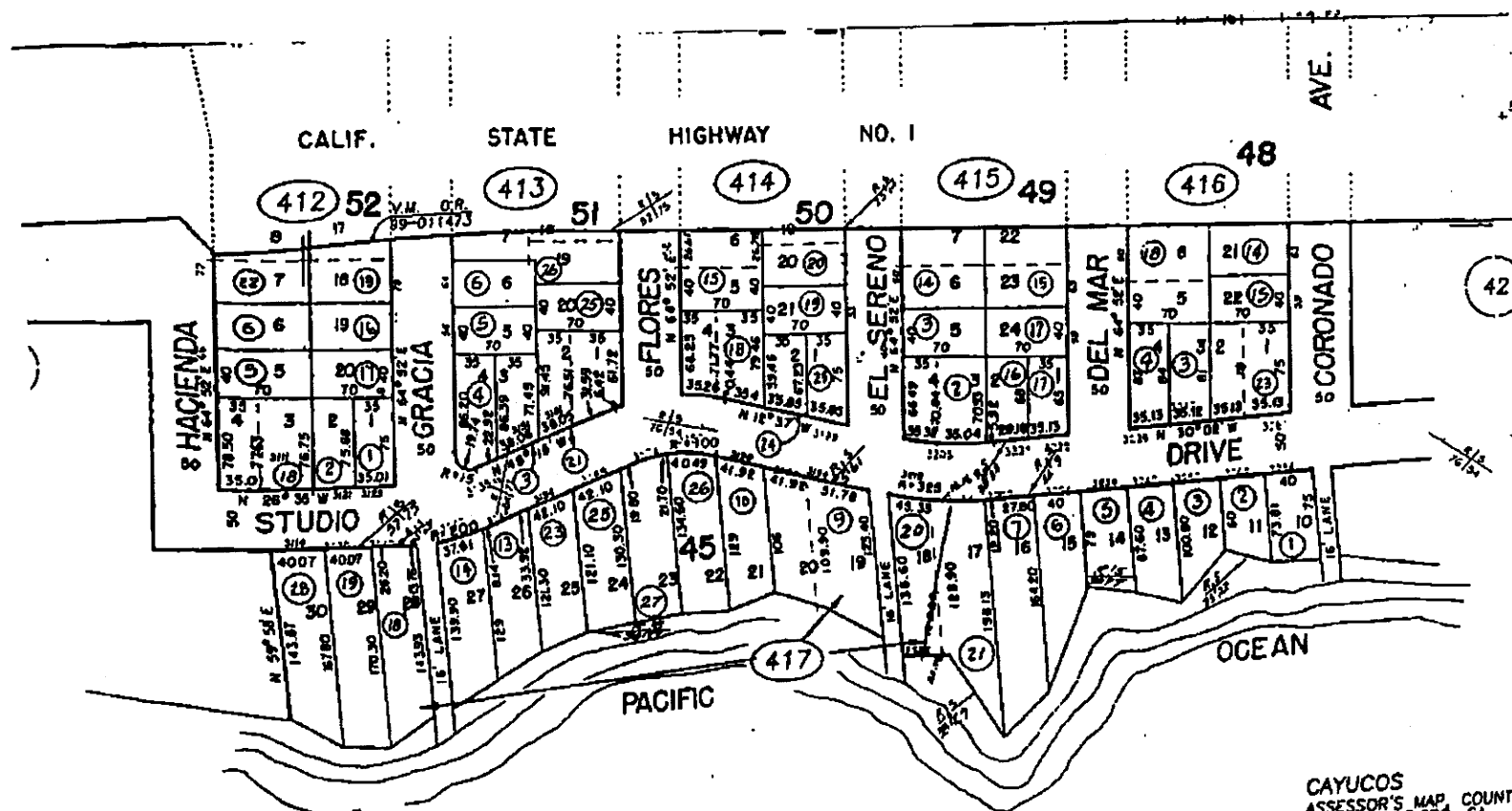


Shaunna Sullivan

SLS:ldc

cc: Ruth B. Sullivan





MORRO STRAND UNIT NO. 3, R.M. Bk. 3 . Pg. 112

CAYUCOS
ASSESSOR'S MAP, COUNTY OF
SAN LUIS OBISPO, CA.
BOOK 064 PAGE 41