

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
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A-3-SLO-23-0020 (DICK RESIDENCE) AUGUST 10, 2023, HEARING EXHIBITS

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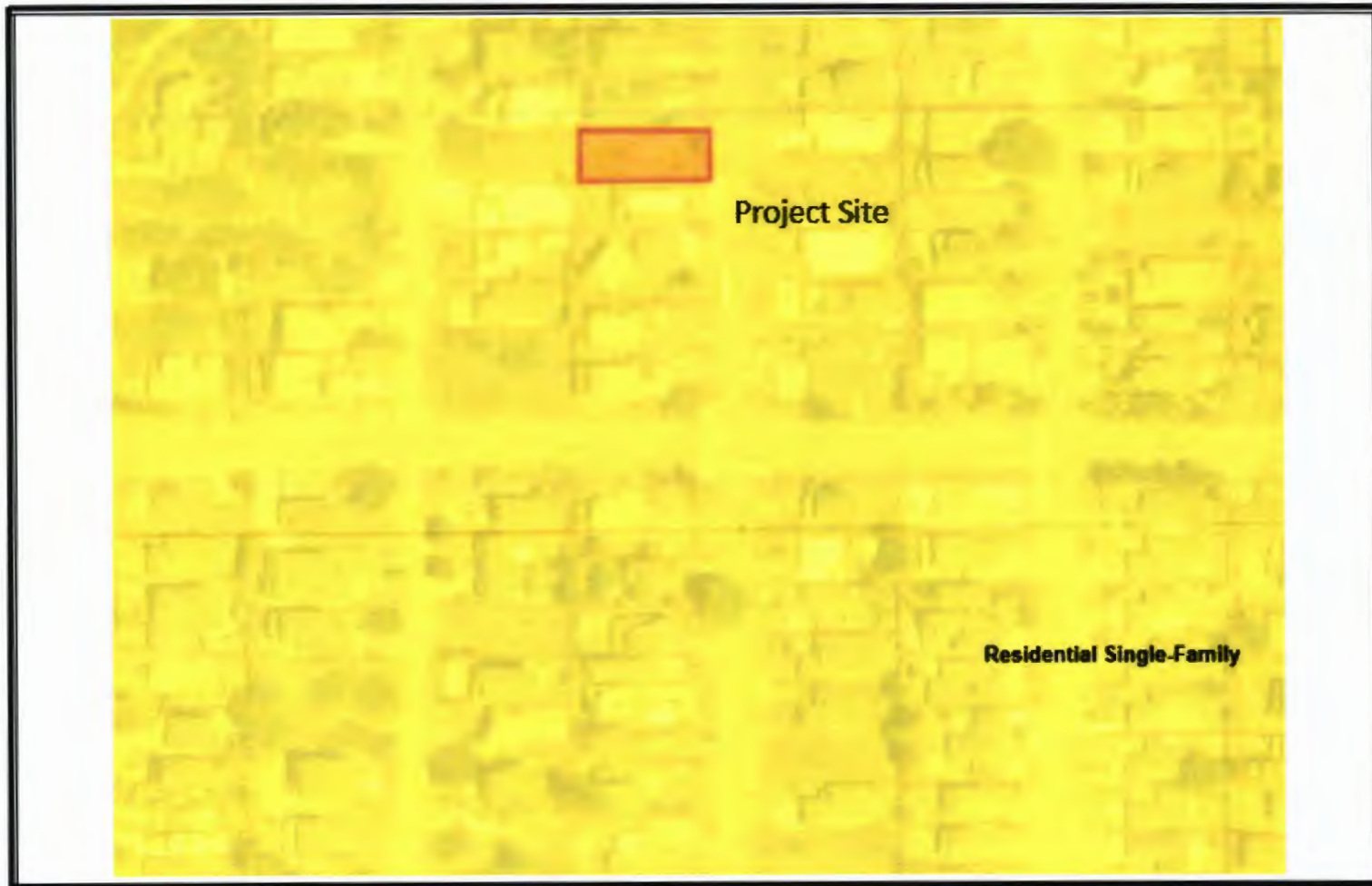
Exhibit 3 – Appeal of County’s CDP Decision

Exhibit 4 – Commission Staff Letters Regarding Special Condition 6



COUNTY OF SAN LUIS OBISPO

Vicinity Map
DRC2021-00145



COUNTY OF SAN LUIS OBISPO

**Land Use Map
DRC2021-00145**



COUNTY OF SAN LUIS OBISPO

Aerial
DRC2021-00145



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING
TREVOR KEITH, DIRECTOR

May 23, 2023

Roger Dick
23665 Pomelo Rd.
Corona, CA 92883

Jeff Edwards
PO Box 6070
Los Osos, CA 93412

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June 5, 2023
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

FINAL LOCAL
ACTION NOTICE

REFERENCE # 3-SLO-23-0516
APPEAL PERIOD 6/6/23 - 6/19/23

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: May 16, 2023
SUBJECT: County File Number: DRC2021-00145
Roger Dick

LOCATED WITHIN COASTAL ZONE: YES
COASTAL APPEALABLE: Yes

On May 16, 2023, the Board of Supervisors denied the appeal of Patrick McGibney and the decision of the Planning Department Hearing Officer was upheld, and the application of Roger Dick for a Development Plan / Coastal Development Permit (DRC2021-00145) is approved subject to the findings and conditions set forth by the Board of Supervisors Resolution Number 2023-115 which are enclosed for your records.

This Notice of Final Action is being mailed to you pursuant to the Land Use Ordinance Section 23.02.036(a).

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 appeal must be made directly to the California Coastal Commission. For further information on their appeal procedures, contact the Commissions Santa Cruz Office at (831) 427-4863.

Additionally, county Coastal Zone Land Use Ordinance Section 23.01-043 and applicable sections of the Coastal Act provide the California Coastal Commission ten (10) working days to appeal the County's Final Action. This means the Applicant and County cannot act on this decision, including but



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING
TREVOR KEITH, DIRECTOR

not limited to, the request or issuance of a building permit, until the Coastal Commission Appeal period has expired without an appeal being filed.

An aggrieved party may obtain judicial review of this action by filing a petition for writ of mandate pursuant to California Code of Civil Procedure Section 1094.5 within the time specified in California Code of Civil Procedure Section 1094.6.

If you have questions regarding your project, please contact Kip Morais at (805) 781-5136.

Sincerely,

Corla Wade

Corla Wade
Secretary, Planning & Building

cc: California Coastal Commission
725 Front Street #300, Santa Cruz, CA 95060, Att: Brian O'Neill

IN THE BOARD OF SUPERVISORS

County of San Luis Obispo, State of California

Tuesday, May 16, 2023

PRESENT: Supervisors Bruce S. Gibson, Dawn Ortiz-Legg, Jimmy Paulding, Debbie Arnold
and Chairperson John Peschong

ABSENT: None

RESOLUTION NO. 2023-116

**RESOLUTION DENYING THE APPEAL OF PATRICK MCGIBNEY (APPL2023-00001) AND
AFFIRMING THE DECISION OF THE PLANNING DEPARTMENT HEARING OFFICER AND
APPROVING THE APPLICATION OF ROGER DICK FOR MINOR USE PERMIT/COASTAL
DEVELOPMENT PERMIT (DRC2021-00145)**

The following resolution is hereby offered and read:

WHEREAS, on January 20, 2023, the Planning Department Hearing Officer of the County of San Luis Obispo (hereinafter referred to as the "Hearing Officer") duly considered the application of Roger Dick for a Minor Use Permit / Coastal Development Permit (C-DRC2021-00145) to allow for the construction of a single-story single-family residence in Los Osos. The residence would be 1,910 square feet with an attached two-car garage and would replace a residence that was previously demolished. The project would result in disturbance of approximately 2,964 square feet on the 5,750 square foot parcel and includes import up to 400 cubic yards of fill material for cultural resource preservation treatment; and

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CENTRAL COAST AREA

WHEREAS, following consideration of the staff analysis and public testimony, the Hearing Officer conditionally approved the Minor Use Permit / Coastal Development Permit (C-DRC2021-00145); and

WHEREAS, Patrick McGibney timely appealed (APPL2023-00001) the Hearing Officer's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on May 16, 2023 regarding the appeal (APPL2023-00001), and determination and decision was made on May 16, 2023; 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 (APPL2023-00001); and

WHEREAS, the Board of Supervisors has duly considered the appeal (APPL2023-00001) and finds that, based on the testimony and evidence presented, the appeal (APPL2023-00001) should be denied and the decision of the Hearing Officer should be affirmed, and that the application should be approved based on the findings and conditions set forth below and attached hereto as Exhibits A and B.

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. The project qualifies for a Class 3 Categorical Exemption pursuant to Section 15303 of the State California Environmental Quality Act Guidelines. None of the exceptions to the exemption would apply because the project would not result in potentially significant environmental impacts associated with its location, cumulative impacts, unusual circumstances, scenic highways, hazardous waste sites, or historical resources.

5. That the Board of Supervisors makes all of the findings of fact and determinations set forth in the staff recommendation and in Exhibit A, attached hereto and incorporated by reference herein as though set forth in full.

6. That the appeal (APPL2023-00001) filed by Patrick McGibney is denied, that the decision of the Hearing Officer is affirmed, and that the application of Roger Dick for a Minor Use Permit / Coastal Development Permit (C-DRC2021-00145) to allow for the construction of a single-story single-family residence in Los Osos, is hereby adopted and approved for the reasons described in the findings set forth in Exhibit A and subject to the conditions of approval in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

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

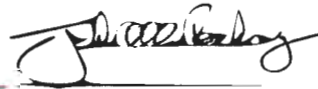
AYES: Supervisors Gibson, Paulding, Ortiz-Legg, Arnold and
Chairperson Peschong

NOES: None

ABSENT: None

ABSTAINING: None

the foregoing resolution is hereby adopted on the 16th day of May, 2023.



John Peschong
Chairperson of the Board of Supervisors

ATTEST:

JOHN NILON

Interim Ex-Officio Clerk of the Board of Supervisors

By: 

Deputy Clerk

{SEAL}

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL

County Counsel

By: /s/ Brian J. Stack

Deputy County Counsel

Dated: April 11, 2023

STATE OF CALIFORNIA) ss.
COUNTY OF SAN LUIS OBISPO)

I, JOHN NILON, Ex-Officio Clerk of the Board of Supervisors thereof, do hereby certify the foregoing to be a full, true and correct copy of an order entered in the minutes of said Board of Supervisors, and now remaining of record in my office.

Witness, my hand and seal of said Board of Supervisors on May 25, 2023.

JOHN NILON

Interim County Administrative Office and
Ex-Officio Clerk of the Board of Supervisors

By: 

Deputy Clerk

EXHIBIT A – FINDINGS
MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT
DRC2021-00145 DICK

Environmental Determination

- A. The project is categorically exempt from environmental review per CEQA Guidelines §15303 (new construction or conversion of small structures) and none of the exceptions to the exemption apply under CEQA Guidelines §15300.2. In accordance with *Berkeley Hillside Preservation v. the City of Berkeley* (2015) 60 Cal.4th 1086, the project does not present unusual circumstances, such as size or location. The project involves the construction of a replacement residence on a previously developed lot in an urbanized area which is zoned residential with numerous homes and lots of similar size. The proposed project is not in a location which would have an impact on an environmental resource of hazardous or critical concern. The project will not result in significant cumulative impacts, will not have a significant effect on the environment, will not damage scenic resources, is not located on a hazardous waste site and will not cause a substantial adverse change in the significance of a historical resource.

Minor Use Permit/Coastal Development Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan and the Estero Area Plan because the proposed single-family residence is an allowed use and as conditioned and is consistent with all of the General Plan and Area Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 (Coastal Zone Land Use Ordinance) 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 project is consistent with the expected development of the parcel. The proposed single-family residence would require a building permit and all proposed construction would be subject to the California Building Code, the California Electrical Code, and the California Plumbing Code in effect at the time of construction.
- E. The proposed project or use will not be inconsistent with the character of the immediate area or contrary to its orderly development because the construction of a single-story single-family residence is consistent with the expected development of the parcel. The project would incorporate design and architectural features that would be consistent with the surrounding residential neighborhood.
- F. The proposed project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project would establish a single-family residence where a single-family residence was located historically, and therefore would not result in a substantial increase in vehicle traffic in the project area.

Coastal Access

- G. The project site is located between the ocean and the first public road paralleling the shoreline. The project site is also located in an urban reserve. The site is not adjacent to the coast and public access ways exist within ¼ mile from the site; therefore, the use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act. The project is not adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

Archaeological Sensitive Area

- H. The site design and development incorporate adequate measures to ensure that archaeological resources will be acceptably and adequately protected because the parcel was surveyed prior to this project, the project is located in a previously disturbed area, and the project is proposing a preservation-in-place treatment in accordance with Section 23.07.104c of the San Luis Obispo County CZLUO. Placement of up to 400 cubic yards of fill material is proposed as part of the project to preserve in place potential cultural resources that may be present on-site. The maximum depth of fill materials would be 3 feet 6 inches above natural grade. The project is conditioned to conduct cultural monitoring during all ground disturbing activities and to stop work in the event of inadvertent finding and contact the County Environmental Coordinator.

Availability of Service Capacity

- I. The proposed project is consistent with Public Works Policy 1: Availability of Service Capacity, as implemented by CZLUO Sections 23.04.021c, 23.04.430 and 23.04.432, because it does not involve the subdivision of land, is located within the urban services line and does not require any water service extension. Under such circumstances, the sufficiency of service capacities is usually satisfied by evidence of a will-serve letter verifying service capacity from the service provider(s) as required by Title 19. The Los Osos Community Services District provided a will-serve letter for existing water service dated May 5, 2021. The San Luis Obispo County Department of Public Works Wastewater Assessment District No. 1 issued a Will Serve Wastewater letter dated May 6, 2021, stating that they are "willing and able to continue to provide wastewater service". The proposed single-family residence is a replacement residence that will replace a demolished single-family residence. The size and scale of the proposed project (replacement 1,910 square-foot single family residence) is consistent with the existing housing stock in the community and wastewater discharges associated with the project will be discharged to the Los Osos Water Recycling Facility (LOWRF) where it would be put to productive reuse and recharge in accordance with the LOWRF's recycling and monitoring programs. In addition, the basin yield metric under the Los Osos Basin Plan (LOBP) has been met every annual report since 2016, the water level and chloride metrics have been improving consistent with the basin model after reaching the sustainable yield metric, and the nitrate metric has been steadily improving following completion of the LOWRF and connection of properties within the Los Osos Sewer Service Area. While the sustainable yield metric methodology was updated by the Los Osos Basin Management Committee for the future 2022 annual report (aimed at stopping any further seawater intrusion in the lower aquifer while the basin recovers from previous over pumping, especially near the coast, as opposed to the original sustainable yield methodology which would have allowed some further seawater intrusion in the lower aquifer as the basin recovered from previous over pumping in the lower aquifer, especially near the coast, and basin plan projects were implemented shifting more production to the east and the upper aquifer), the proposed project is required to comply with applicable state and local water conservation requirements as well as requirements of the local water purveyor consistent with the LOBP (and stipulated judgement) and the

LOWRF's recycling and monitoring programs. Approval of the proposed project would not decrease the likelihood of achieving the LOBP sustainable yield metric because it will not result in net additional water demand in the basin because of compliance with water offset requirements (recommencement of water use onsite will be required to offset 2:1) and domestic wastewater will be put back to reuse or recharge within the basin via the LOWRF.

**EXHIBIT B – CONDITIONS OF APPROVAL
MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT
DRC2021-00145 DICK**

Approved Development

This approval authorizes:

- a. The construction of a single-story 1,910-square-foot single-family residence with an attached 573-square-foot two-car garage.
- b. Maximum building height of 16 feet, as measured from finished grade.
- c. All development shall be consistent with the final approved construction drawings. In the event that significant cultural resources are found on site, the applicant shall submit revisions to final approved construction drawings that include, and not limited to revised design and/or mitigation measures approved by the Environmental Coordinator to avoid significant impacts or reduce to a less than significant level.

CONDITIONS OF APPROVAL

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

Access

1. **At the time of application for construction permits**, the applicant shall submit to the Department of Public Works an encroachment permit application, plans, fees, and post a cash damage bond, to install improvements within the public right-of-way in accordance with County Public Improvement Standards, unless already constructed and acceptable or design exceptions are approved by the Public Works Department in accordance with Section 1.2 of the Public Improvement Standards. The plans are to include, as applicable:
 - a. A new Eleventh Street site access shall be constructed in accordance with B-1 rural driveway approach and A-5 sight distance standards.
 - b. Drainage ditches, culverts, and other structures (if drainage calculations require).
 - c. Public utility plan, showing all existing utilities and installation of all new utilities to serve the site.
 - d. Tree removal/retention plan for trees to be removed and retained associated with the required public improvements. The plan shall be approved jointly with the Department of Planning and Building.
 - e. Traffic control plan for construction in accordance with the California Manual on Uniform Traffic Control Devices (CA-MUTCD).
 - f. The applicant shall provide satisfactory evidence that the Army Corps of Engineers and the California Department of Fish and Game environmental permits have either been secured or that the regulatory agency has determined that their permit is not required.

Site Development

2. **At the time of application for construction permits**, plans submitted shall show all development consistent with the approved site plan, floor plan, and architectural elevations.
3. **At the time of application for construction permits**, the plans shall demonstrate compliance with County of San Luis Obispo Title 19 Plumbing Code and Water Conservation Provisions standards requiring a 2:1 water offset.
4. **At the time of application for construction permits**, plans shall clearly show the structural design to verify compliance with the prescriptive requirements of the California Residential Code in effect at the time of application. Any structural element not complying with the prescriptive requirements shall be prepared by a California Licensed Design Professional (Architect or Engineer) justifying the structural design.
5. **At the time of application for construction permits**, electrical plans shall include notes to show the location of the main electrical panel, sub-panels, receptacles, lights, switches, and smoke detectors and carbon dioxide alarms to verify compliance with the California Electrical Code in effect at the time of application.
6. **At the time of application for construction permits**, notes and information shall be provided on the plans for the plumbing fixtures requirements, the design of waste lines, vents, and water lines to verify compliance with the California Plumbing Code in effect at time of application.
7. **At the time of application for construction permits**, information regarding the project's energy calculation shall be submitted to verify compliance with the California Energy Code in effect at time of application.
8. **At the time of application for construction permits**, the plans shall demonstrate compliance with the California Green Building Code and the County of San Luis Obispo Green Building Ordinance.
9. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting (if applicable). The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

Fire Safety

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

Services

11. **At the time of application for construction permits**, the applicant shall provide a letter from Los Osos Community Service District and County Public Works Assessment District 1 stating they are willing and able to service the property. The applicant shall comply with conditions and requirements of the will-serve.

Drainage, Erosion Control, and Flood Hazard

12. **At the time of application for construction permits**, the applicant shall submit complete drainage plans for review and approval in accordance with Section 23.05.040 of the Coastal Zone Land Use Ordinance.
13. **At the time of application for construction permits**, the applicant shall submit complete erosion and sedimentation control plan for review and approval in accordance with Section 23.05.036 of the Coastal Zone Land Use Ordinance.
14. **At the time of application for construction permits**, the applicant shall demonstrate that the project construction plans are in conformance with their Stormwater Control Plan.

Stormwater Pollution Prevention Plan (SWPPP)

15. **At the time of application for construction permits**, if the project disturbs more than 1.0 acre or is part of a common plan of development, the applicant must enroll for coverage under California's Construction General Permit. Sites that disturb less than 1.0 acre must implement all required elements within the site's erosion and sediment control plan as required by San Luis Obispo County Codes.

Stormwater Control Plan (SWCP)

16. **At the time of application for construction or grading permits**, the applicant shall demonstrate whether the project is subject to post-construction stormwater requirements by submitting a Stormwater Control Plan application or Stormwater Post Construction Requirements (PCRs) Waiver Request Form.
 - a. The applicant must submit a SWCP for all regulated projects subject to Performance Requirement #2 and above. The SWCP must be prepared by an appropriately licensed professional and submitted to the County for review and approval. Applicants must utilize the County's latest SWCP template.
 - b. If post-construction stormwater control measures (SCMs) are proposed, the applicant must submit a draft Stormwater Operations and Maintenance Plan for review by the County. The plan must consist of the following Planning & Building Department forms;
 1. Structural Control Measure Description (Exhibit B)
 2. Stormwater System Contact Information
 3. Stormwater System Plans and Manuals
 - c. If applicable, following approval by the County, the applicant shall record with the County Clerk-Recorder the Stormwater Operation and Maintenance Plan and an agreement or provisions in the CCRs for the purpose of documenting on-going and permanent storm drainage control, management, treatment, inspection and reporting.

Conditions required to be completed prior to issuance of construction permits/building permits:

Fees

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

18. **Prior to the issuance of construction permits**, and in accordance with Title 13.01 of the County Code, the applicant must pay to the Department of Public Works the Los Osos Road Improvement Fee based on the latest adopted area fee schedule and 1.00 peak hour trips as estimated based on the project description. The estimated fee is \$4,198 (\$4,198/PHT x 1.00 PHT).

The applicant shall be responsible for paying to the Department of Public Works the Los Osos Road Improvement Fee consistent with the approved fee schedule at the time of issuance of building permit, or within 30 days of land use permit approval if no building permit is required. In accordance with Government Code section 66020(d)(1), the County provides notice to the applicant that the 90-day approval period in which the applicant may protest imposition of the Road Improvement Fee has begun.

19. **Prior to issuance of a construction permit**, construction and grading plans shall show the following:

- a. The "project limit area" shall include all areas of grading (including cut and fill areas, utility trenching and offsite improvements) and vegetation removal, the development footprint (i.e., all structures and/or site disturbance) necessary fire clearances and staging areas for all construction activities, the location of those activities, and areas for equipment and material storage.
- b. Sturdy and highly visible protective fencing that will be placed along the 'project limit area'. Plan notes shall indicate this fence should remain in place during the duration of project construction to protect vegetation from construction activities.
- c. Plan notes shall indicate native trees and undergrowth outside of the "project limit area" shall be left undisturbed.
- d. Identify any necessary tree trimming. Plan notes shall indicate a skilled arborist, or accepted arborist's techniques, will be used when removing tree limbs.

Archaeology

20. **Prior to issuance of construction permit**, the applicant shall submit a **monitoring plan**, prepared by a County-approved archaeologist, for review and approval by the County Department of Planning and Building. The intent of this Plan is to monitor all earth-disturbing activities in areas identified as potentially sensitive for cultural resources, per the approved monitoring plan. The monitoring plan shall include at a minimum:

- a. List of personnel involved in the monitoring activities;
- b. Inclusion of involvement of the Native American community, as appropriate;
- c. Description of how the monitoring shall occur;
- d. Description of frequency of monitoring (e.g., full-time, part time, spot checking);
- e. Description of what resources are expected to be encountered;

- f. Description of circumstances that would result in the halting of work at the project site (e.g., What is considered "significant" archaeological resources?);
- g. Description of procedures for halting work on the site and notification procedures; and
- h. Description of monitoring reporting procedures.

Crew Education. The monitoring plan shall also include provisions defining education of the construction crew and establishing protocol for treating unanticipated finds. In consultation with a County-approved archaeologist, the applicant shall provide cultural resources awareness training to all field crews and field supervisors. This training will include a description of the types of resources that may be found in the project area, the protocols to be used in the event of an unanticipated discovery, the importance of cultural resources to the Native American community, and the laws protecting significant archaeological and historical sites.

The archaeologist shall verify implementation of the Monitoring Plan during any ground disturbing activities. A final report on compliance shall be submitted by the archaeologist to the County **prior to final inspection.**

- 21. **Foundation Plan - Prior to issuance of construction permit,** the foundation plan shall be reviewed and approved by a County-approved archaeologist and appointed representatives of the Native American tribe. The foundation design shall incorporate a mat-slab style foundation on top of clean, sterile fill. Construction drawings should clearly annotate the existing native ground and the fill. To the extent feasible, foundation elements should be restricted entirely to the fill and within the top 12 inches of existing soil.

Federal No Take Concurrence Requirements

- 22. **Prior to issuance of construction permits, vegetation removal, and/or ground disturbance, the applicant shall provide evidence to the County of the following:**

- 1. A current and valid No-Take Concurrence letter issued by the Service
- 2. All applicable field requirements of the agency permit(s) shall be shown on applicable construction drawings and adhered to during construction. Avoidance and minimization measures recommended in the No-Take Concurrence letter shall be implemented as follows:
 - 1. All project related ground disturbing activities will occur during the dry season (June 1 - October 15) when Morro shoulderband snails are aestivating and unlikely to migrate into work areas.
 - 2. A biologist approved by the Service will conduct a pre-construction survey of the work area to locate Morro shoulderband snails no more than 48 hours prior to the initiation of site work. The biologist will notify the Service of the results of the survey immediately following the survey efforts. No live Morro shoulderband snails will be relocated during these efforts.
 - 3. Prior to any soil disturbance and/or vegetation removal, silt fencing or orange protective fencing will be installed around the perimeter of the proposed project area to prevent unauthorized ground disturbance outside of the work area.

4. A Service-approved biologist will conduct a pre-construction environmental awareness training session for all construction personnel involved in site disturbance. The training is intended to inform the permittees, construction crews, field supervisors, and equipment operators about the status and presence of the federally listed species, grading and construction-activity restrictions, and all proposed avoidance, protection and minimization measures. The Service-approved biologist will have the authority to stop work if Morro shoulderband snail are observed within the project area. If Morro shoulderband snails are observed, the Service will be notified.

- C. As an alternative to subsections A and B above, the project may be eligible for coverage under the current proposed terms of County of San Luis Obispo's ("County") Los Osos Habitat Conservation Plan ("LOHCP") awaiting U.S. Fish and Wildlife Service final approval and issuance of an Incidental Take Permit ("ITP"). Following the effective date of the County's ITP and LOHCP, but prior to building permit issuance, the project proponent may satisfy this condition by securing a Certificate of Inclusion ("COI") from the County, which would confer take coverage under the ITP. The project proponent would have to comply with the terms of the COI and ITP, which includes compliance with the LOHCP. If the County finds that the project proponent is out of compliance with the terms of the COI and ITP, the County would have the authority to revoke the COI and all work relating to the project would have to cease immediately.

If, following two years from the effective approval date of the project, unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050, the ITP has not been issued by the U.S. Fish and Wildlife Service and the LOHCP is not in effect, the project will not have coverage under a County ITP. Without coverage under a County ITP, no site disturbance or construction may occur at the site, and no building permits may be approved, without amendment of this land use permit. Amendment of this land use permit to allow the project to proceed without coverage under a County ITP will require submittal of an application to amend this land use permit and the necessary surveys and reports to properly consider and address the potential for incidentally take (harm, injure, capture and/or kill) of Morro Shoulderband Snail (*Helminthoglypta walkeriana*), and the application to amend this land use permit (including its environmental determination and conditions of approval) would require review and approval by the appropriate Review Authority.

Drainage and Flood Hazard

23. **Prior to issuance of construction permits**, the applicant shall provide evidence satisfactory to the Department of Planning and Building that the Army Corps of Engineers and the California Department of Fish and Game environmental permits have either been secured or that the regulatory agency has determined that their permit is not required.
24. **Prior to acceptance of the improvements (if applicable)**, the Stormwater Operations and Maintenance plan and General Notice must be updated to reflect as-built changes, approved by the County, and re-recorded with the County Clerk-Recorder as amendments to the original document.

Conditions to be completed during construction:

Building Height

25. The maximum height of the dwelling is 16 feet, as measured from finished grade.
- a. **Prior to any site disturbance**, a licensed surveyor or civil engineer shall stake the lot corners, building corners, and establish highest natural grade and set a reference point (benchmark).
 - b. **Prior to approval of the foundation inspection**, the benchmark shall be inspected by a licensed surveyor prior to pouring footings or retaining walls, as an added precaution.
 - c. **Prior to approval of the roof nailing inspection**, the applicant shall provide the building inspector with documentation that gives the height reference, the allowable height and the actual height of the structure. This certification shall be prepared by a licensed surveyor or civil engineer.

Archaeology

26. **During Construction**, the applicant shall implement the following measures to minimize potential impacts to cultural resources on site:
- a. **Usage of Fill** - the most sensitive areas shall be capped with a minimum of three feet of fill material of a type appropriate to the area, and in accordance with recommendations by a soils engineer. Clean, sterile fill, consisting of a layer of other conspicuous material (e.g. fill of a noticeable different color and texture than native soil) shall be placed over the native soil prior to placement of any other clean fill material. The depth of fill to be placed shall be sufficient to prevent foundation elements from extending into the native soil. If structural elements extend into the native soil, these occurrences shall be minimized to the extent feasible and in no case extend more than 18 inches into the native soil.
 - b. **Equipment & Ground Preparation** - All equipment used on the site shall have rubber tire wheels rather than metal treads, and shall be of the minimum size needed to do the work. Grubbing is limited to 6" of top soil, and may be done by the back end scraper of a small skip, with depth limited to 6". Walk behind roto-tiller should be considered. Compaction of the fill should be done with the with care as to not rip into the soil with aggressive wheel turns.
 - c. **Phase III Data Recovery Plan** - If the soils engineer determines capping to be **unfeasible**, to mitigate for the project's direct impact to cultural resources, the Applicant shall retain a County-approved subsurface archaeologist to prepare a Phase III (data recovery) archaeological investigation. The archaeologist shall prepare a detailed research design program for review and approval by the County (this review may include a peer review from a County-retained archaeologist). Furthermore, once approved, the applicant shall implement the program as specified to maximize the success of this measure. The subsurface archaeologist responsible for the Phase III program shall be provided with a copy of the previous archaeological investigation (Cultural Resource Management Services, June 2021).

At a minimum, the Phase III program shall include the following:

- i. standard archaeological data recovery practices;

- ii. recommendation of sample size adequate to mitigate for impacts to archaeological site, including basis and justification of the recommended sample size. Sample size should be between 5 - 10% of the volume of disturbed area. If a lesser sample size is recommended, supporting information shall be presented that justifies the smaller sample size;
- iii. identification of location of sample sites/test units;
- iv. detailed description of sampling techniques and material recovery procedures (e.g. how sample is to be excavated, how the material will be screened, screen size, how material will be collected);
- v. disposition of collected materials;
- vi. proposed analysis of results of data recovery and collected materials, including timeline of final analysis results;
- vii. list of personnel involved in sampling and analysis.
- viii. Specify timing of proposed work relative to the proposed construction schedule.

d. Revised Construction Drawings - If cultural resources are identified on site, the applicant shall submit revised construction drawings to the County incorporating the revised design and/or mitigation measures approved by the Environmental Coordinator to avoid significant impacts or reduce to a less than significant level.

27. **During construction,** in the event archaeological resources are unearthed or discovered, the following standards apply:

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

Native Trees

28. **Native Trees (Oaks) –Minimizing Impacts.** When trees are proposed for removal or to be impacted within their driplines/ canopies, the following measures shall be completed to minimize native tree (oak) impacts:

- A. Grading and/or construction plans shall show locations of all native trees within 25 feet of the proposed project limits (including ancillary elements, such as trenching).
- B. For trees identified as 'to remain protected' they shall be marked in the field as such and protected to the extent possible. Protective measures shall be visible to work crews and be able to remain in good working order for the duration of the construction work. Waterproof signage at protective edge is recommended (e.g., "TREE PROTECTION AREA – STAY OUT"). Grading, trenching, compaction of soil, construction material/equipment storage, or placement of fill shall not occur within these protected areas.

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

Archaeology

29. **Field Completion Report - Upon completion of all monitoring activities, and prior to occupancy or final inspection (whichever occurs first),** the consulting archaeologist shall submit a Completion Report to the Environmental Coordinator summarizing the following:
- a. Completion and compliance of construction activities per the Monitoring Plan and any applicable mitigation measures agreed by the County, archeologist and Native American Representatives throughout the project. If the analysis included in the Phase III Data Recovery Plan is not complete by the time of final inspection, the applicant shall provide to the Environmental Coordinator, proof of obligation to complete the required analysis.

Access

30. **Prior to commencing permitted activities,** all work in the public right-of-way must be constructed or reconstructed to the satisfaction of the Public Works Inspector and in accordance with the County Public Improvement Standards; the project conditions of approval, including any related land use permit conditions; and the approved improvement plans.

Fire Safety

31. **Prior to occupancy or final inspection, whichever occurs first,** the applicant shall obtain final inspection and approval from CAL FIRE/County Fire of all required fire and life safety measures.

Department of Planning and Building Inspection

32. **Prior to occupancy or final inspection, whichever occurs first,** the applicant shall obtain final inspection and approval from the Department of Planning and Building for compliance with the project conditions of approval.

On-going conditions of approval (valid for the life of the project):

33. **On-going condition of approval (valid for the life of the project),** and in accordance with County Code Section 13.08, no activities associated with this permit shall be allowed to occur within the public right-of-way including, but not limited to, project signage, tree planting, fencing, etc., without a valid encroachment permit issued by the Department of Public Works.
34. **On-going condition of approval (valid for the life of the project),** the property owner shall be responsible for operation and maintenance of the public road frontage, including landscaping, maintaining County driveway sight distance standards in a viable condition and on a continuing basis into perpetuity.
35. **On-going condition of approval (valid for the life of the project),** this land use permit is valid for a period of 60 months from its effective date unless time extensions are granted pursuant to 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 a construction permit has been issued and substantial site work has been completed.

Substantial site work is defined by Coastal Zone Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.

36. 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.
37. The applicant shall, as a condition of approval of this land use permit application, defend, hold harmless and indemnify, at his or her sole expense (including attorney's fees, with Counsel approved by the County), 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 land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit, or any other action by a third party relating to approval or implementation of this land use permit. The applicant shall reimburse the County for any court costs and attorney fees that 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. Upon request of the County, the applicant shall also enter into a separate agreement with the County (the "Indemnity Agreement"), in a form approved by County Counsel, agreeing to defend, indemnify, save and hold harmless the County, its present or former officers, agents, or employees, against actions by a third party challenging either its decision to approve this land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit, or any other action by a third party relating to or arising out of the approval or implementation of this land use permit. The agreement shall provide that the applicant will indemnify the County and reimburse it for any costs and/or attorney's fees which the County incurs as a result of such action, and that the County's participation or non-participation in any such litigation shall not relieve the applicant of his or her obligations under this condition or the agreement. The applicant shall also provide sufficient guarantees for the obligations hereunder as determined by County Counsel. Any violation of this condition, including the applicant's failure to execute the Indemnity Agreement or breach thereof, or failure to provide sufficient guarantees, is grounds for the County to rescind and/or revoke its approval of this land use permit. These defense and indemnity obligations shall survive any rescission, revocation and/or set aside of this land use permit.

IN THE BOARD OF SUPERVISORS

County of San Luis Obispo, State of California

Tuesday, May 16, 2023

PRESENT: Supervisors Bruce S. Gibson, Dawn Ortiz-Legg, Jimmy Paulding, Debbie Arnold
and Chairperson John Peschong

ABSENT: None

RESOLUTION NO. 2023-115

**RESOLUTION DENYING THE APPEAL OF PATRICK MCGIBNEY (APPL2023-00001) AND
AFFIRMING THE DECISION OF THE PLANNING DEPARTMENT HEARING OFFICER AND
APPROVING THE APPLICATION OF ROGER DICK FOR DEVELOPMENT PLAN/COASTAL
DEVELOPMENT PERMIT (DRC2021-00145)**

The following resolution is hereby offered and read:

WHEREAS, on January 20, 2023, the Planning Department Hearing Officer of the County of San Luis Obispo (hereinafter referred to as the "Hearing Officer") duly considered the application of Roger Dick for a Development Plan / Coastal Development Permit (C-DRC2021-00145) to allow for the construction of a single-story single-family residence in Los Osos. The residence would be 1,910 square feet with an attached two-car garage and would replace a residence that was previously demolished. The project would result in disturbance of approximately 2,964 square feet on the 5,750 square foot parcel and includes import up to 400 cubic yards of fill material for cultural resource preservation treatment; and

WHEREAS, following consideration of the staff analysis and public testimony, the Hearing Officer conditionally approved the Development Plan / Coastal Development Permit (C-DRC2021-00145); and

WHEREAS, Patrick McGibney timely appealed (APPL2023-00001) the Hearing Officer's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on May 16, 2023 regarding the appeal (APPL2023-00001), and determination and decision was made on May 16, 2023; 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 (APPL2023-00001); and

WHEREAS, the Board of Supervisors has duly considered the appeal (APPL2023-00001) and finds that, based on the testimony and evidence presented, the appeal (APPL2023-00001) should be denied and the decision of the Hearing Officer should be affirmed, and that the application should be approved based on the findings and conditions set forth below and attached hereto as Exhibits A and B.

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. The project qualifies for a Class 3 Categorical Exemption pursuant to Section 15303 of the State California Environmental Quality Act Guidelines. None of the exceptions to the exemption would apply because the project would not result in potentially significant environmental impacts associated with its location, cumulative impacts, unusual circumstances, scenic highways, hazardous waste sites, or historical resources.

5. That the Board of Supervisors makes all of the findings of fact and determinations set forth in the staff recommendation and in Exhibit A, attached hereto and incorporated by reference herein as though set forth in full.

6. That the appeal (APPL2023-00001) filed by Patrick McGibney is denied, that the decision of the Hearing Officer is affirmed, and that the application of Roger Dick for a Development Plan / Coastal Development Permit (C-DRC2021-00145) to allow for the construction of a single-story single-family residence in Los Osos, is hereby adopted and approved for the reasons described in the findings set forth in Exhibit A and subject to the conditions of approval in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

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

AYES: Supervisors Gibson, Paulding, Ortiz-Legg, Arnold and
Chairperson Peschong

NOES: None

ABSENT: None

ABSTAINING: None

the foregoing resolution is hereby adopted on the 16th day of May, 2023.

John Peschong
Chairperson of the Board of Supervisors

ATTEST:

JOHN NILON
Interim Ex-Officio Clerk of the Board of Supervisors

By: Niki Martin
Deputy Clerk

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: /s/ Brian J. Stack
Deputy County Counsel

Dated: April 11, 2023

STATE OF CALIFORNIA) ss.
COUNTY OF SAN LUIS OBISPO)

I, JOHN NILON, Ex-Officio Clerk of the Board of Supervisors thereof, do hereby certify the foregoing to be a full, true and correct copy of an order entered in the minutes of said Board of Supervisors, and now remaining of record in my office.

Witness, my hand and seal of said Board of Supervisors on May 17, 2023.

JOHN NILON

Interim County Administrative Office and
Ex-Officio Clerk of the Board of Supervisors

By: Niki Martin
Deputy Clerk

**EXHIBIT A – FINDINGS
MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT
DRC2021-00145 DICK**

Environmental Determination

- A. The project is categorically exempt from environmental review per CEQA Guidelines §15303 (new construction or conversion of small structures) and none of the exceptions to the exemption apply under CEQA Guidelines §15300.2. In accordance with *Berkeley Hillside Preservation v. the City of Berkeley* (2015) 60 Cal.4th 1086, the project does not present unusual circumstances, such as size or location. The project involves the construction of a replacement residence on a previously developed lot in an urbanized area which is zoned residential with numerous homes and lots of similar size. The proposed project is not in a location which would have an impact on an environmental resource of hazardous or critical concern. The project will not result in significant cumulative impacts, will not have a significant effect on the environment, will not damage scenic resources, is not located on a hazardous waste site and will not cause a substantial adverse change in the significance of a historical resource.

Minor Use Permit/Coastal Development Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan and the Estero Area Plan because the proposed single-family residence is an allowed use and as conditioned and is consistent with all of the General Plan and Area Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 (Coastal Zone Land Use Ordinance) 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 project is consistent with the expected development of the parcel. The proposed single-family residence would require a building permit and all proposed construction would be subject to the California Building Code, the California Electrical Code, and the California Plumbing Code in effect at the time of construction.
- E. The proposed project or use will not be inconsistent with the character of the immediate area or contrary to its orderly development because the construction of a single-story single-family residence is consistent with the expected development of the parcel. The project would incorporate design and architectural features that would be consistent with the surrounding residential neighborhood.
- F. The proposed project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project would establish a single-family residence where a single-family residence was located historically, and therefore would not result in a substantial increase in vehicle traffic in the project area.

Coastal Access

- G. The project site is located between the ocean and the first public road paralleling the shoreline. The project site is also located in an urban reserve. The site is not adjacent to the coast and public access ways exist within ¼ mile from the site; therefore, the use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act. The project is not adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

Archaeological Sensitive Area

- H. The site design and development incorporate adequate measures to ensure that archaeological resources will be acceptably and adequately protected because the parcel was surveyed prior to this project, the project is located in a previously disturbed area, and the project is proposing a preservation-in-place treatment in accordance with Section 23.07.104c of the San Luis Obispo County CZLUO. Placement of up to 400 cubic yards of fill material is proposed as part of the project to preserve in place potential cultural resources that may be present on-site. The maximum depth of fill materials would be 3 feet 6 inches above natural grade. The project is conditioned to conduct cultural monitoring during all ground disturbing activities and to stop work in the event of inadvertent finding and contact the County Environmental Coordinator.

Availability of Service Capacity

- I. The proposed project is consistent with Public Works Policy 1: Availability of Service Capacity, as implemented by CZLUO Sections 23.04.021c, 23.04.430 and 23.04.432, because it does not involve the subdivision of land, is located within the urban services line and does not require any water service extension. Under such circumstances, the sufficiency of service capacities is usually satisfied by evidence of a will-serve letter verifying service capacity from the service provider(s) as required by Title 19. The Los Osos Community Services District provided a will-serve letter for existing water service dated May 5, 2021. The San Luis Obispo County Department of Public Works Wastewater Assessment District No. 1 issued a Will Serve Wastewater letter dated May 6, 2021, stating that they are "willing and able to continue to provide wastewater service". The proposed single-family residence is a replacement residence that will replace a demolished single-family residence. The size and scale of the proposed project (replacement 1,910 square-foot single family residence) is consistent with the existing housing stock in the community and wastewater discharges associated with the project will be discharged to the Los Osos Water Recycling Facility (LOWRF) where it would be put to productive reuse and recharge in accordance with the LOWRF's recycling and monitoring programs. In addition, the basin yield metric under the Los Osos Basin Plan (LOBP) has been met every annual report since 2016, the water level and chloride metrics have been improving consistent with the basin model after reaching the sustainable yield metric, and the nitrate metric has been steadily improving following completion of the LOWRF and connection of properties within the Los Osos Sewer Service Area. While the sustainable yield metric methodology was updated by the Los Osos Basin Management Committee for the future 2022 annual report (aimed at stopping any further seawater intrusion in the lower aquifer while the basin recovers from previous over pumping, especially near the coast, as opposed to the original sustainable yield methodology which would have allowed some further seawater intrusion in the lower aquifer as the basin recovered from previous over pumping in the lower aquifer, especially near the coast, and basin plan projects were implemented shifting more production to the east and the upper aquifer), the proposed project is required to comply with applicable state and local water conservation requirements as well as requirements of the local water purveyor consistent with the LOBP (and stipulated judgement) and the

LOWRF's recycling and monitoring programs. Approval of the proposed project would not decrease the likelihood of achieving the LOBP sustainable yield metric because it will not result in net additional water demand in the basin because of compliance with water offset requirements (recommencement of water use onsite will be required to offset 2:1) and domestic wastewater will be put back to reuse or recharge within the basin via the LOWRF.

**EXHIBIT B – CONDITIONS OF APPROVAL
MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT
DRC2021-00145 DICK**

Approved Development

This approval authorizes:

- a. The construction of a single-story 1,910-square-foot single-family residence with an attached 573-square-foot two-car garage.
- b. Maximum building height of 16 feet, as measured from finished grade.
- c. All development shall be consistent with the final approved construction drawings. In the event that significant cultural resources are found on site, the applicant shall submit revisions to final approved construction drawings that include, and not limited to revised design and/or mitigation measures approved by the Environmental Coordinator to avoid significant impacts or reduce to a less than significant level.

CONDITIONS OF APPROVAL

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

Access

1. **At the time of application for construction permits**, the applicant shall submit to the Department of Public Works an encroachment permit application, plans, fees, and post a cash damage bond, to install improvements within the public right-of-way in accordance with County Public Improvement Standards, unless already constructed and acceptable or design exceptions are approved by the Public Works Department in accordance with Section 1.2 of the Public Improvement Standards. The plans are to include, as applicable:
 - a. A new Eleventh Street site access shall be constructed in accordance with B-1 rural driveway approach and A-5 sight distance standards.
 - b. Drainage ditches, culverts, and other structures (if drainage calculations require).
 - c. Public utility plan, showing all existing utilities and installation of all new utilities to serve the site.
 - d. Tree removal/retention plan for trees to be removed and retained associated with the required public improvements. The plan shall be approved jointly with the Department of Planning and Building.
 - e. Traffic control plan for construction in accordance with the California Manual on Uniform Traffic Control Devices (CA-MUTCD).
 - f. The applicant shall provide satisfactory evidence that the Army Corps of Engineers and the California Department of Fish and Game environmental permits have either been secured or that the regulatory agency has determined that their permit is not required.

Site Development

2. **At the time of application for construction permits, plans submitted shall show all development consistent with the approved site plan, floor plan, and architectural elevations.**
3. **At the time of application for construction permits, the plans shall demonstrate compliance with County of San Luis Obispo Title 19 Plumbing Code and Water Conservation Provisions standards requiring a 2:1 water offset.**
4. **At the time of application for construction permits, plans shall clearly show the structural design to verify compliance with the prescriptive requirements of the California Residential Code in effect at the time of application. Any structural element not complying with the prescriptive requirements shall be prepared by a California Licensed Design Professional (Architect or Engineer) justifying the structural design.**
5. **At the time of application for construction permits, electrical plans shall include notes to show the location of the main electrical panel, sub-panels, receptacles, lights, switches, and smoke detectors and carbon dioxide alarms to verify compliance with the California Electrical Code in effect at the time of application.**
6. **At the time of application for construction permits, notes and information shall be provided on the plans for the plumbing fixtures requirements, the design of waste lines, vents, and water lines to verify compliance with the California Plumbing Code in effect at time of application.**
7. **At the time of application for construction permits, information regarding the project's energy calculation shall be submitted to verify compliance with the California Energy Code in effect at time of application.**
8. **At the time of application for construction permits, the plans shall demonstrate compliance with the California Green Building Code and the County of San Luis Obispo Green Building Ordinance.**
9. **At the time of application for construction permits, the applicant shall provide details on any proposed exterior lighting (if applicable). The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.**

Fire Safety

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

Services

11. **At the time of application for construction permits, the applicant shall provide a letter from Los Osos Community Service District and County Public Works Assessment District 1 stating they are willing and able to service the property. The applicant shall comply with conditions and requirements of the will-serve.**

Drainage, Erosion Control, and Flood Hazard

12. **At the time of application for construction permits**, the applicant shall submit complete drainage plans for review and approval in accordance with Section 23.05.040 of the Coastal Zone Land Use Ordinance.
13. **At the time of application for construction permits**, the applicant shall submit complete erosion and sedimentation control plan for review and approval in accordance with Section 23.05.036 of the Coastal Zone Land Use Ordinance.
14. **At the time of application for construction permits**, the applicant shall demonstrate that the project construction plans are in conformance with their Stormwater Control Plan.

Stormwater Pollution Prevention Plan (SWPPP)

15. **At the time of application for construction permits**, if the project disturbs more than 1.0 acre or is part of a common plan of development, the applicant must enroll for coverage under California's Construction General Permit. Sites that disturb less than 1.0 acre must implement all required elements within the site's erosion and sediment control plan as required by San Luis Obispo County Codes.

Stormwater Control Plan (SWCP)

16. **At the time of application for construction or grading permits**, the applicant shall demonstrate whether the project is subject to post-construction stormwater requirements by submitting a Stormwater Control Plan application or Stormwater Post Construction Requirements (PCRs) Waiver Request Form.
 - a. The applicant must submit a SWCP for all regulated projects subject to Performance Requirement #2 and above. The SWCP must be prepared by an appropriately licensed professional and submitted to the County for review and approval. Applicants must utilize the County's latest SWCP template.
 - b. If post-construction stormwater control measures (SCMs) are proposed, the applicant must submit a draft Stormwater Operations and Maintenance Plan for review by the County. The plan must consist of the following Planning & Building Department forms;
 1. Structural Control Measure Description (Exhibit B)
 2. Stormwater System Contact Information
 3. Stormwater System Plans and Manuals
 - c. If applicable, following approval by the County, the applicant shall record with the County Clerk-Recorder the Stormwater Operation and Maintenance Plan and an agreement or provisions in the CCRs for the purpose of documenting on-going and permanent storm drainage control, management, treatment, inspection and reporting.

Conditions required to be completed prior to issuance of construction permits/building permits:

Fees

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

18. **Prior to the issuance of construction permits**, and in accordance with Title 13.01 of the County Code, the applicant must pay to the Department of Public Works the Los Osos Road Improvement Fee based on the latest adopted area fee schedule and 1.00 peak hour trips as estimated based on the project description. The estimated fee is \$4,198 (\$4,198/PHT x 1.00 PHT).

The applicant shall be responsible for paying to the Department of Public Works the Los Osos Road Improvement Fee consistent with the approved fee schedule at the time of issuance of building permit, or within 30 days of land use permit approval if no building permit is required. In accordance with Government Code section 66020(d)(1), the County provides notice to the applicant that the 90-day approval period in which the applicant may protest imposition of the Road Improvement Fee has begun.

19. **Prior to issuance of a construction permit**, construction and grading plans shall show the following:

- a. The "project limit area" shall include all areas of grading (including cut and fill areas, utility trenching and offsite improvements) and vegetation removal, the development footprint (i.e., all structures and/or site disturbance) necessary fire clearances and staging areas for all construction activities, the location of those activities, and areas for equipment and material storage.
- b. Sturdy and highly visible protective fencing that will be placed along the 'project limit area'. Plan notes shall indicate this fence should remain in place during the duration of project construction to protect vegetation from construction activities.
- c. Plan notes shall indicate native trees and undergrowth outside of the "project limit area" shall be left undisturbed.
- d. Identify any necessary tree trimming. Plan notes shall indicate a skilled arborist, or accepted arborist's techniques, will be used when removing tree limbs.

Archaeology

20. **Prior to issuance of construction permit**, the applicant shall submit a **monitoring plan**, prepared by a County-approved archaeologist, for review and approval by the County Department of Planning and Building. The intent of this Plan is to monitor all earth-disturbing activities in areas identified as potentially sensitive for cultural resources, per the approved monitoring plan. The monitoring plan shall include at a minimum:

- a. List of personnel involved in the monitoring activities;
- b. Inclusion of involvement of the Native American community, as appropriate;
- c. Description of how the monitoring shall occur;
- d. Description of frequency of monitoring (e.g., full-time, part time, spot checking);
- e. Description of what resources are expected to be encountered;

- f. Description of circumstances that would result in the halting of work at the project site (e.g., What is considered "significant" archaeological resources?);
- g. Description of procedures for halting work on the site and notification procedures; and
- h. Description of monitoring reporting procedures.

Crew Education. The monitoring plan shall also include provisions defining education of the construction crew and establishing protocol for treating unanticipated finds. In consultation with a County-approved archaeologist, the applicant shall provide cultural resources awareness training to all field crews and field supervisors. This training will include a description of the types of resources that may be found in the project area, the protocols to be used in the event of an unanticipated discovery, the importance of cultural resources to the Native American community, and the laws protecting significant archaeological and historical sites.

The archaeologist shall verify implementation of the Monitoring Plan during any ground disturbing activities. A final report on compliance shall be submitted by the archaeologist to the County **prior to final inspection.**

- 21. **Foundation Plan - Prior to issuance of construction permit,** the foundation plan shall be reviewed and approved by a County-approved archaeologist and appointed representatives of the Native American tribe. The foundation design shall incorporate a mat-slab style foundation on top of clean, sterile fill. Construction drawings should clearly annotate the existing native ground and the fill. To the extent feasible, foundation elements should be restricted entirely to the fill and within the top 12 inches of existing soil.

Federal No Take Concurrence Requirements

- 22. **Prior to issuance of construction permits, vegetation removal, and/or ground disturbance, the applicant shall provide evidence to the County of the following:**
 - 1. A current and valid No-Take Concurrence letter issued by the Service
 - 2. All applicable field requirements of the agency permit(s) shall be shown on applicable construction drawings and adhered to during construction. Avoidance and minimization measures recommended in the No-Take Concurrence letter shall be implemented as follows:
 - 1. All project related ground disturbing activities will occur during the dry season (June 1 - October 15) when Morro shoulderband snails are aestivating and unlikely to migrate into work areas.
 - 2. A biologist approved by the Service will conduct a pre-construction survey of the work area to locate Morro shoulderband snails no more than 48 hours prior to the initiation of site work. The biologist will notify the Service of the results of the survey immediately following the survey efforts. No live Morro shoulderband snails will be relocated during these efforts.
 - 3. Prior to any soil disturbance and/or vegetation removal, silt fencing or orange protective fencing will be installed around the perimeter of the proposed project area to prevent unauthorized ground disturbance outside of the work area.

4. A Service-approved biologist will conduct a pre-construction environmental awareness training session for all construction personnel involved in site disturbance. The training is intended to inform the permittees, construction crews, field supervisors, and equipment operators about the status and presence of the federally listed species, grading and construction-activity restrictions, and all proposed avoidance, protection and minimization measures. The Service-approved biologist will have the authority to stop work if Morro shoulderband snail are observed within the project area. If Morro shoulderband snails are observed, the Service will be notified.

- C. As an alternative to subsections A and B above, the project may be eligible for coverage under the current proposed terms of County of San Luis Obispo's ("County") Los Osos Habitat Conservation Plan ("LOHCP") awaiting U.S. Fish and Wildlife Service final approval and issuance of an Incidental Take Permit ("ITP"). Following the effective date of the County's ITP and LOHCP, but prior to building permit issuance, the project proponent may satisfy this condition by securing a Certificate of Inclusion ("COI") from the County, which would confer take coverage under the ITP. The project proponent would have to comply with the terms of the COI and ITP, which includes compliance with the LOHCP. If the County finds that the project proponent is out of compliance with the terms of the COI and ITP, the County would have the authority to revoke the COI and all work relating to the project would have to cease immediately.

If, following two years from the effective approval date of the project, unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050, the ITP has not been issued by the U.S. Fish and Wildlife Service and the LOHCP is not in effect, the project will not have coverage under a County ITP. Without coverage under a County ITP, no site disturbance or construction may occur at the site, and no building permits may be approved, without amendment of this land use permit. Amendment of this land use permit to allow the project to proceed without coverage under a County ITP will require submittal of an application to amend this land use permit and the necessary surveys and reports to properly consider and address the potential for incidentally take (harm, injure, capture and/or kill) of Morro Shoulderband Snail (*Helminthoglypta walkeriana*), and the application to amend this land use permit (including its environmental determination and conditions of approval) would require review and approval by the appropriate Review Authority.

Drainage and Flood Hazard

23. **Prior to issuance of construction permits**, the applicant shall provide evidence satisfactory to the Department of Planning and Building that the Army Corps of Engineers and the California Department of Fish and Game environmental permits have either been secured or that the regulatory agency has determined that their permit is not required.
24. **Prior to acceptance of the improvements (if applicable)**, the Stormwater Operations and Maintenance plan and General Notice must be updated to reflect as-built changes, approved by the County, and re-recorded with the County Clerk-Recorder as amendments to the original document.

Conditions to be completed during construction:

Building Height

25. The maximum height of the dwelling is 16 feet, as measured from finished grade.

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

Archaeology

26. **During Construction**, the applicant shall implement the following measures to minimize potential impacts to cultural resources on site:

- a. **Usage of Fill** - the most sensitive areas shall be capped with a minimum of three feet of fill material of a type appropriate to the area, and in accordance with recommendations by a soils engineer. Clean, sterile fill, consisting of a layer of other conspicuous material (e.g. fill of a noticeable different color and texture than native soil) shall be placed over the native soil prior to placement of any other clean fill material. The depth of fill to be placed shall be sufficient to prevent foundation elements from extending into the native soil. If structural elements extend into the native soil, these occurrences shall be minimized to the extent feasible and in no case extend more than 18 inches into the native soil.
- b. **Equipment & Ground Preparation** - All equipment used on the site shall have rubber tire wheels rather than metal treads, and shall be of the minimum size needed to do the work. Grubbing is limited to 6" of top soil, and may be done by the back end scraper of a small skip, with depth limited to 6". Walk behind roto-tiller should be considered. Compaction of the fill should be done with the with care as to not rip into the soil with aggressive wheel turns.
- c. **Phase III Data Recovery Plan** - **If the soils engineer determines capping to be unfeasible**, to mitigate for the project's direct impact to cultural resources, the Applicant shall retain a County-approved subsurface archaeologist to prepare a Phase III (data recovery) archaeological investigation. The archaeologist shall prepare a detailed research design program for review and approval by the County (this review may include a peer review from a County-retained archaeologist). Furthermore, once approved, the applicant shall implement the program as specified to maximize the success of this measure. The subsurface archaeologist responsible for the Phase III program shall be provided with a copy of the previous archaeological investigation (Cultural Resource Management Services, June 2021).

At a minimum, the Phase III program shall include the following:

- i. standard archaeological data recovery practices;

- ii. recommendation of sample size adequate to mitigate for impacts to archaeological site, including basis and justification of the recommended sample size. Sample size should be between 5 - 10% of the volume of disturbed area. If a lesser sample size is recommended, supporting information shall be presented that justifies the smaller sample size;
- iii. identification of location of sample sites/test units;
- iv. detailed description of sampling techniques and material recovery procedures (e.g. how sample is to be excavated, how the material will be screened, screen size, how material will be collected);
- v. disposition of collected materials;
- vi. proposed analysis of results of data recovery and collected materials, including timeline of final analysis results;
- vii. list of personnel involved in sampling and analysis.
- viii. Specify timing of proposed work relative to the proposed construction schedule.

d. Revised Construction Drawings - If cultural resources are identified on site, the applicant shall submit revised construction drawings to the County incorporating the revised design and/or mitigation measures approved by the Environmental Coordinator to avoid significant impacts or reduce to a less than significant level.

27. During construction, in the event archaeological resources are unearthed or discovered, the following standards apply:

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

Native Trees

28. Native Trees (Oaks) –Minimizing Impacts. When trees are proposed for removal or to be impacted within their driplines/ canopies, the following measures shall be completed to minimize native tree (oak) impacts:

- A. Grading and/or construction plans shall show locations of all native trees within 25 feet of the proposed project limits (including ancillary elements, such as trenching).
- B. For trees identified as 'to remain protected' they shall be marked in the field as such and protected to the extent possible. Protective measures shall be visible to work crews and be able to remain in good working order for the duration of the construction work. Waterproof signage at protective edge is recommended (e.g., "TREE PROTECTION AREA – STAY OUT"). Grading, trenching, compaction of soil, construction material/equipment storage, or placement of fill shall not occur within these protected areas.

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

Archaeology

29. **Field Completion Report - Upon completion of all monitoring activities, and prior to occupancy or final inspection (whichever occurs first),** the consulting archaeologist shall submit a Completion Report to the Environmental Coordinator summarizing the following:
- a. Completion and compliance of construction activities per the Monitoring Plan and any applicable mitigation measures agreed by the County, archeologist and Native American Representatives throughout the project. If the analysis included in the Phase III Data Recovery Plan is not complete by the time of final inspection, the applicant shall provide to the Environmental Coordinator, proof of obligation to complete the required analysis.

Access

30. **Prior to commencing permitted activities,** all work in the public right-of-way must be constructed or reconstructed to the satisfaction of the Public Works Inspector and in accordance with the County Public Improvement Standards; the project conditions of approval, including any related land use permit conditions; and the approved improvement plans.

Fire Safety

31. **Prior to occupancy or final inspection, whichever occurs first,** the applicant shall obtain final inspection and approval from CAL FIRE/County Fire of all required fire and life safety measures.

Department of Planning and Building Inspection

32. **Prior to occupancy or final inspection, whichever occurs first,** the applicant shall obtain final inspection and approval from the Department of Planning and Building for compliance with the project conditions of approval.

On-going conditions of approval (valid for the life of the project):

33. **On-going condition of approval (valid for the life of the project),** and in accordance with County Code Section 13.08, no activities associated with this permit shall be allowed to occur within the public right-of-way including, but not limited to, project signage, tree planting, fencing, etc., without a valid encroachment permit issued by the Department of Public Works.
34. **On-going condition of approval (valid for the life of the project),** the property owner shall be responsible for operation and maintenance of the public road frontage, including landscaping, maintaining County driveway sight distance standards in a viable condition and on a continuing basis into perpetuity.
35. **On-going condition of approval (valid for the life of the project),** this land use permit is valid for a period of 60 months from its effective date unless time extensions are granted pursuant to 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 a construction permit has been issued and substantial site work has been completed.

Substantial site work is defined by Coastal Zone Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.

36. 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.
37. The applicant shall, as a condition of approval of this land use permit application, defend, hold harmless and indemnify, at his or her sole expense (including attorney's fees, with Counsel approved by the County), 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 land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit, or any other action by a third party relating to approval or implementation of this land use permit. The applicant shall reimburse the County for any court costs and attorney fees that 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. Upon request of the County, the applicant shall also enter into a separate agreement with the County (the "Indemnity Agreement"), in a form approved by County Counsel, agreeing to defend, indemnify, save and hold harmless the County, its present or former officers, agents, or employees, against actions by a third party challenging either its decision to approve this land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit, or any other action by a third party relating to or arising out of the approval or implementation of this land use permit. The agreement shall provide that the applicant will indemnify the County and reimburse it for any costs and/or attorney's fees which the County incurs as a result of such action, and that the County's participation or non-participation in any such litigation shall not relieve the applicant of his or her obligations under this condition or the agreement. The applicant shall also provide sufficient guarantees for the obligations hereunder as determined by County Counsel. Any violation of this condition, including the applicant's failure to execute the Indemnity Agreement or breach thereof, or failure to provide sufficient guarantees, is grounds for the County to rescind and/or revoke its approval of this land use permit. These defense and indemnity obligations shall survive any rescission, revocation and/or set aside of this land use permit.



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

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 5/16/2023	(3) CONTACT/PHONE Kip Morais, Planner (805) 781- 5136 Airlin Singewald, Environmental Coordinator (805) 781-5198	
(4) SUBJECT Hearing to consider an appeal (APPL2023-00001) by Patrick McGibney of the Planning Department Hearing Officer's approval of the application by Roger Dick for a Minor Use Permit/Coastal Development Permit to allow for the construction of a single-story, 1,910 square-foot single-family residence with an attached 573-square-foot two-car garage to replace a demolished residence on a 5,750-square-foot parcel. The project site is in the Residential Single-Family land use category and is located at 1153 11th Street, in the community of Los Osos. The site is in the Estero Planning Area. District 2.			
(5) RECOMMENDED ACTION It is recommended that the Board adopt the resolution to deny the appeal by Patrick McGibney and uphold the decision of the Planning Department Hearing Officer to: <ol style="list-style-type: none"> 1. Approve a Development Plan / Coastal Development Permit (DRC2021-00145) to allow for the construction of a single-family residence. 2. Affirm the decision of the Planning Department Hearing Officer that the project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA). 			
(6) FUNDING SOURCE(S) General Fund Support	(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. 45 min.) <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? Yes	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date _____	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa Howe			

(18) SUPERVISOR DISTRICT(S)

District 2



COUNTY OF SAN LUIS OBISPO

TO: Board of Supervisors

FROM: Planning and Building
Kip Morais, Planner

VIA: Airlin Singewald, Environmental Coordinator

DATE: May 16, 2023

SUBJECT: Hearing to consider an appeal (APPL2023-00001) by Patrick McGibney of the Planning Department Hearing Officer's approval of the application by Roger Dick for a Minor Use Permit/Coastal Development Permit to allow for the construction of a single-story, 1,910 square-foot single-family residence with an attached 573-square-foot two-car garage to replace a demolished residence on a 5,750-square-foot parcel. The project site is in the Residential Single-Family land use category and is located at 1153 11th Street, in the community of Los Osos. The site is in the Estero Planning Area. District 2.

RECOMMENDATION

It is recommended that the Board adopt the resolution to deny the appeal by Patrick McGibney and uphold the decision of the Planning Department Hearing Officer to:

1. Approve a Development Plan / Coastal Development Permit (DRC2021-00145) to allow for the construction of a single-family residence.
2. Affirm the decision of the Planning Department Hearing Officer that the project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA).

DISCUSSION

Background

The Planning Department Hearing Officer heard the project on January 20, 2023 and approved the request by Roger Dick for a Development Plan / Coastal Development Permit (DRC2021-00145) to construct a replacement single-family residence and to construct associated site improvements.

The request was found consistent with the San Luis Obispo County General Plan, standards outlined in the Planning Area Standards of the Estero Area Plan, County Code Title 23 - Coastal Zone Land Use Ordinance (CZLUO), and Coastal Plan Policies. Refer to the Planning Department Hearing staff report and attachments (Attachment 6) for additional project analysis.

Project Details

The project site historically supported a single-family residence that was demolished in May of 2010 (permit number: PMT2009-01815). The Applicant is requesting entitlements to allow for the construction of a single-story, 1,910 square-foot single-family replacement residence with an attached two-car garage to replace the residence that was previously demolished.

The proposed residence would include two bedrooms, two bathrooms, one half-bathroom (i.e., powder room), an office/flex room, a kitchen, a living room/great room, a laundry room, a pantry, and an entryway. The residence would also include a 50 square-foot covered patio, a 36 square-foot covered entry, and an approximately 573 square-foot attached two-car garage. The total footprint of the structure would be approximately 2,483 square feet. The project would also include the construction of a new 16-foot-wide asphalt driveway to be located from 11th Street to the parcel frontage and a proposed concrete driveway from the parcel frontage to the proposed residence garage.

The project site currently supports existing connections to community water and wastewater utility infrastructure owned and operated by the Los Osos Community Services District (Los Osos CSD) and the County of San Luis Obispo Department of Public Works Wastewater Assessment District Number 1. The County has issued a letter (dated May 6, 2021) stating that the Wastewater Assessment District Number 1 is willing and able to continue to provide wastewater service to the project property, and a separate letter was issued by the CSD (Dated May 5, 2021) confirming the property has existing water service and that the CSD will continue to serve water to the property in the future.

A Minor Use/Coastal Development Permit is required because the project is appealable to the California Coastal Commission (CCC) due to the project's location in the Coastal Zone between the sea and the first public road.

CEQA Compliance

A Class 3 Categorical Exemption was issued for the project on October 13, 2022. Class 3 Categorical Exemptions are limited to the construction and location of limited numbers of new, small structures, including single-family residences in residential zones.

Appeal

Pursuant to the CZLUO Section 23.01.042, the action/decision by the Planning Department Hearing Officer was subject to appeal to the Board of Supervisors within 14 calendar days after the date of the action. An appeal by Patrick McGibney was received on January 20, 2023 requesting reconsideration of the Planning Department Hearing Officer's action to approve the request by Roger Dick for DRC2021-00145.

The Appellant's letter raises the following issues related to the project's approval:

Appeal Issue #1: The project violates Public Works Policy 1 of the County's Local Coastal Program.

Staff Response:

Public Works Policy 1 requires that new development demonstrate adequate service capacities are available to serve the proposed development and is implemented pursuant to Coastal Zone Land Use Ordinance Section 23.04.430, see staff response to Item 2 below.

The project would include the construction of a single-family residence where a single-family residence with an onsite septic system and water service from the Los Osos CSD was previously located. The project site currently supports existing connections to community water and wastewater utility infrastructure owned and operated by the Los Osos Community Services District (LOCSD) and County Public Works Wastewater Assessment District No. 1. The project site is located within the Los Osos Urban Reserve Line (URL) and the Urban Services Line (USL), does not involve the subdivision of land, and does not require any water service extension. Under such circumstances, the sufficiency of service capacities is usually satisfied by evidence of a will-serve letter or continue-to-serve letter verifying service capacity from the service provider(s) as required by Title 19. The project would rely on continued service from the Los Osos CSD for potable water services. The Los Osos CSD issued a letter (dated May 5, 2021) confirming the property has existing water service and that the Los Osos CSD will continue to serve water to the property in the future. County Public Works Wastewater Assessment District No. 1 has issued a letter (Dated May 6, 2021) stating that the district is willing and able to continue to provide wastewater service to the project property.

Appeal Issue #2: The project violated Coastal Zone Land Use Ordinance Section 23.04.430.

Staff Response:

Section 23.04.430 of the Coastal Zone Land Use Ordinance requires that land use permits for development located **between** an urban services line and urban reserve line not be approved unless the approval body first finds that the capacities of available water supply and sewage disposal services are sufficient to accommodate both existing development and allowed development on presently-vacant parcels within the urban services line. The intent of this section is to give priority to infill development within the urban services over development proposed between the urban services line and the urban reserve line.

The project site is not located between an urban services line and urban reserve line; it is located within the boundaries of both lines and therefore subsections 23.04.430.a and b of the Coastal Zone Land Use Ordinance do not apply. This appeal issue is not relevant to the proposed project. To the extent a determination that there is adequate water and sewage disposal capacity available to serve the proposed development is required, such a determination would be based on analysis discussed in staff response to Item 4 below and further supported by Los Osos CSD and Wastewater Assessment District Number 1 continue-to-serve letters.

Appeal Issue #3: The project violates Special Condition 6 of the Los Osos Wastewater Treatment Facility's Coastal Development Permit.

Staff Response:

Special Condition 6 of the Los Osos WWTF Coastal Development Permit (A-3-SLO-09-055/069) reads:

"6. Wastewater Service to Undeveloped Properties. Wastewater service to undeveloped properties within the service area shall be prohibited unless and until the Estero Area Plan is amended to identify appropriate and sustainable buildout limits, and any appropriate mechanisms to stay within such limits, based on conclusive evidence indicating that adequate water is available to support development of such properties without adverse impacts to ground and surface waters, including wetlands and all related habitats."

As indicated above, Special Condition 6 is limited to **undeveloped** properties and does not expressly prohibit proposed development on developed properties where wastewater service already exists. This is also stated through the CCC staff report related to the WWTF (June 10, 2010).

The project site is not an undeveloped property. While the terms "developed" and "undeveloped" are not defined in the WWTF Coastal Development Permit, the term "development" is defined in the County's Local Coastal Program, which adopted the Coastal Act's definition of "development" to the letter (Public Resources Code Section 30106):

"'Development' means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511)."

The Coastal Act adds that "[a]s used in this section [defining 'development'], 'structure' includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line."

Per the Coastal Act's definition, the project site would be considered developed. However, in a CCC staff report for its March 2021 hearing related to the appeal of several accessory dwelling units in Los Osos, the CCC asserted "Special Condition 6 was intended to limit any expansion of wastewater service to facilitate increased growth and development in the community and thus must be interpreted broadly." Using CCC's more broad interpretation, the project site would not constitute increased growth or development because it has been previously developed with a residential single family dwelling and has historical onsite water use.

Because the project site had a septic tank from the previous residence, the site was determined eligible for connection to the WWTF. The property has installed a sewer lateral line and has been assessed the connection fee by the County. The County issued a letter (dated May 6, 2021) stating that the Wastewater Assessment District Number 1 is willing and able to continue to provide wastewater service to the project property. The

Los Osos WWTF has capacity because it was designed with the capacity to treat the buildout population of the collection area (18,428 persons; the current population is 12,500 persons).

The project does not violate the spirit or intent of Special Condition 6 because it would not introduce wastewater service to an undeveloped property and will be required to offset water demand within the basin on a 2:1 basis to ensure recommencement of historical water use at the site would not negatively impact basin management efforts discussed in staff's response to Item 3 below.

Appeal Issue #4: The project will affect water resources of the over drafted Los Osos Groundwater Basin.

Staff Response:

The project site is located within the Los Osos Area Subbasin of the Los Osos Valley Groundwater Basin, which is a low-priority subbasin under the Sustainable Groundwater Management Act (SGMA) (Basin No. 3-08.01) but is adjudicated and has been identified as a basin subject to conditions of critical overdraft per the Department of Water Resources (DWR) Bulletin 118. The Los Osos Groundwater Basin was adjudicated in October 2015 and is managed by the Los Osos Groundwater Basin Management Committee (BMC), consisting of representatives from Los Osos CSD, Golden State Water Company (GSWC), S&T Mutual Water Company (S&T), and the County of San Luis Obispo (County). These parties worked together to prepare the Los Osos Basin Plan (LOBP), a comprehensive groundwater management strategy to address problems facing the basin, including seawater intrusion and elevated nitrate concentrations, and for restoration of basin water resources, while respecting existing water rights.

The LOBP established a sustainable yield estimate for the basin. The sustainable yield is the maximum amount of water that may be extracted from the basin each year a) using existing infrastructure, b) without causing seawater to intrude further than the current extent, and c) with no active wells producing water with a chloride concentration in excess of 250 mg/L. The current (2022) sustainable yield estimate for the Los Osos Groundwater Basin is 2,380 AF. This is an updated estimate with more conservative assumptions compared to the previous sustainable yield estimate of 2,760 AF. The latest (2021) groundwater production estimate (2,000 AF) is 84 percent of the latest sustainable yield estimate (2,380 AF). Since groundwater production from the basin is less than the basin's sustainable yield, the Los Osos Groundwater Basin is not in overdraft. Nevertheless, to ensure the proposed development has a neutral to positive effect on the basin, the proposed project will be subject to a 2:1 water offset requirement. In addition, the basin yield metric under the LOBP has been met every annual report since 2016, the water level and chloride metrics have been improving consistent with the basin model after reaching the sustainable yield metric, and the nitrate metric has been steadily improving following completion of the LOWRF and connection of properties within the Los Osos Sewer Service Area.

On April 22, 2008, the Board of Supervisors approved two plumbing retrofit ordinances for the Los Osos area. The ordinances address seawater intrusion into the lower aquifer zone of the Los Osos Groundwater Basin. To manage this serious problem, the ordinances require both new and existing development to help address this problem by retrofitting older, non-conserving fixtures with those that are water efficient. These Title 19 retrofit requirements require a 2:1 offset of new water demand for covered development. The proposed project will implement a 2:1 water offset and is required to comply with applicable state and local water conservation requirements as well as requirements of the local water purveyor consistent with the LOBP (and stipulated judgement) and the WWTF's recycling and monitoring programs. Approval of the proposed project would not decrease the likelihood of achieving the LOBP sustainable yield metric because it should result in

a net decrease of water use in the basin via the WWTF. Wastewater discharges associated with the project will be discharged to the WWTF where it would be put to productive reuse and recharge in accordance with the WWTF's recycling and monitoring programs.

Appeal Issue #5: Will-serve letters do not indicate sustainability of a water basin.

Staff Response:

Public Works Policy 1 requires the County to make a finding of sufficient service capacities as implemented by Section 23.04.430 which gives priority to infilling development within the urban services line over development proposed between the urban services line and the urban reserve line. The proposed project is located within the urban services line and does not require any water service extension. Under such circumstances, the sufficiency of service capacities for development not involving subdivisions of land is usually satisfied by the applicant obtaining a will-serve letter verifying service capacity from the service provider (in this case the Los Osos Community Services District) as required by Title 19. The proposed single-family residence is a replacement residence that will replace a demolished single-family residence. The Los Osos CSD has provided a continuation of water service dated May 5, 2021.

OTHER AGENCY INVOLVEMENT/IMPACT

The project was referred to the Public Works Department, CAL FIRE / County Fire, California Coastal Commission, Los Osos Community Services District, County Department of Environmental Health, and the Los Osos Community Advisory Council. A summary of the comments received is contained in the attached Planning Commission staff report. County Counsel has reviewed and approved as to form and legal effect of the attached Resolution with Findings and Conditions.

BUSINESS IMPACT STATEMENT

Denial of this appeal would mean the Planning Department Hearing Officer's approval of this project would stand. As a result, a Minor Use Permit/ Coastal Development Permit (DRC2021-00032)) would be authorized to allow for the construction of a single-story, 1,910-square-foot single-family residence with an attached two-car garage to replace a residence that was previously demolished.

FINANCIAL CONSIDERATIONS

This project is in the Coastal Zone and is not subject to an appeal fee. The cost to process the appeal is covered by the General Fund. While the Department is typically able to absorb these costs by using the existing budget, costs exceeding this amount may require Board approval for an increase in General Fund support. The Department will return to the Board later in FY 2022-23 should an additional budget adjustment be necessary.

RESULTS

Denial of this appeal would mean the Planning Department Hearing Officer's tentative approval of the Minor Use Permit / Coastal Development Permit (DRC2021-00145) to construct a new single-family residence would stand. This project is consistent with the County efforts to increase housing stock.

Upholding the appeal would deny the request for a Development Plan / Coastal Development Permit (DRC2021-00145) to construct a new single-family residence.

ATTACHMENTS

- 1 PowerPoint Presentation
- 2 Resolution Denying the Appeal with Findings and Conditions
- 3 Appeal Form
- 4 Notice of Final Action of Planning Department Hearing of January 20, 2023
- 5 Minutes from Planning Department Hearing of January 20, 2023
- 6 Staff Report and Attachments from Planning Department Hearing
- 7 Graphics & Location Map
- 8 Notice of Exemption



COUNTY OF SAN LUIS OBISPO

Board of Supervisors May 16, 2023

Appeal (APPL2023-00001) of
Roger Dick
request for C-DRC2021-00145



COUNTY OF SAN LUIS OBISPO

Project Description / PDH Approval

- DP / CDP (C-DRC2021-00145) to allow:
 - Replacement single-family residence
 - Existing water and sewer service
- Adopted environmental determination:
 - Categorically Exempt, Section 15303, Class 3
- January 20, 2023 - Planning Department Hearing
- January 20, 2023 - Appeal Request Received

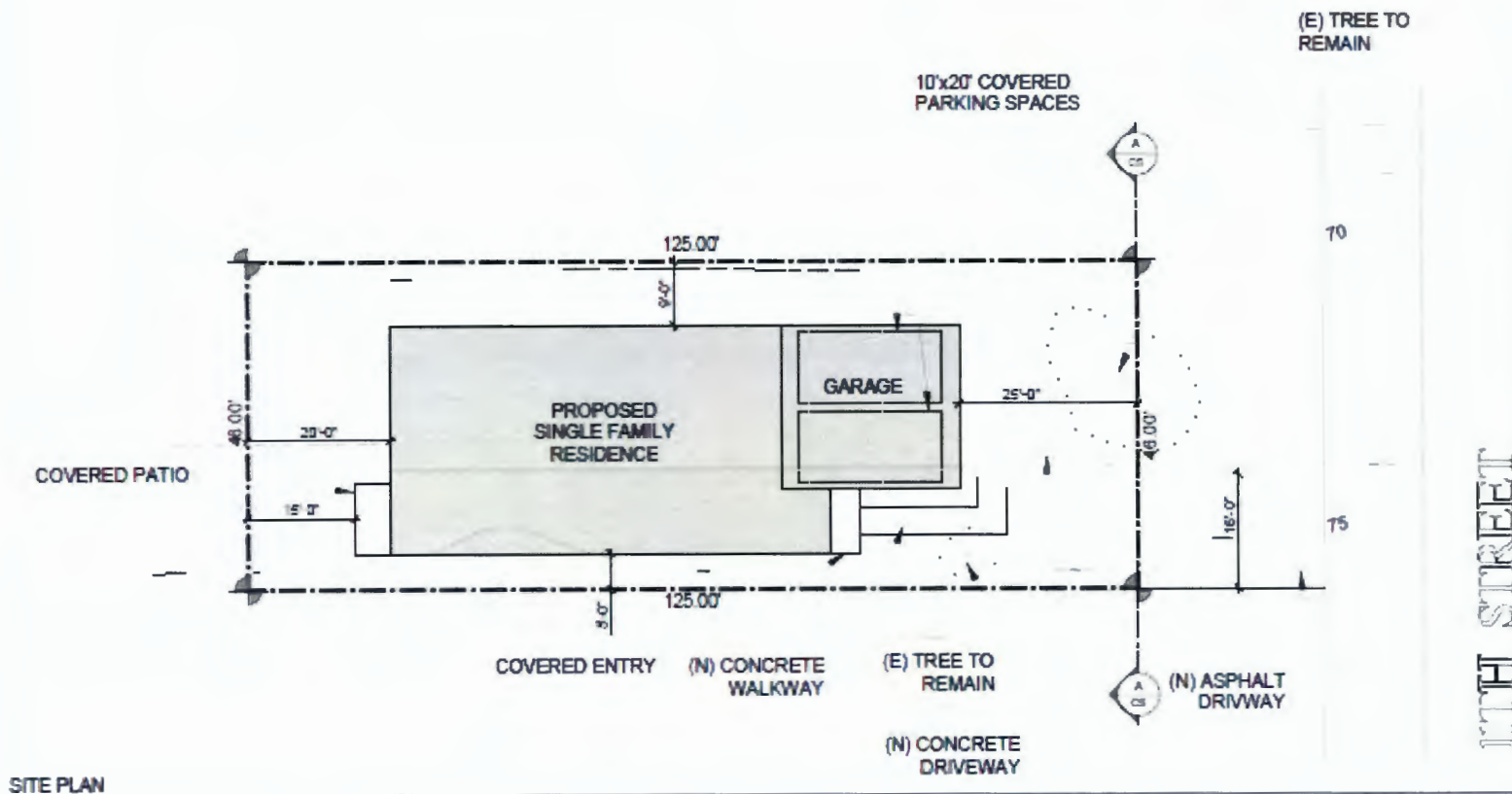


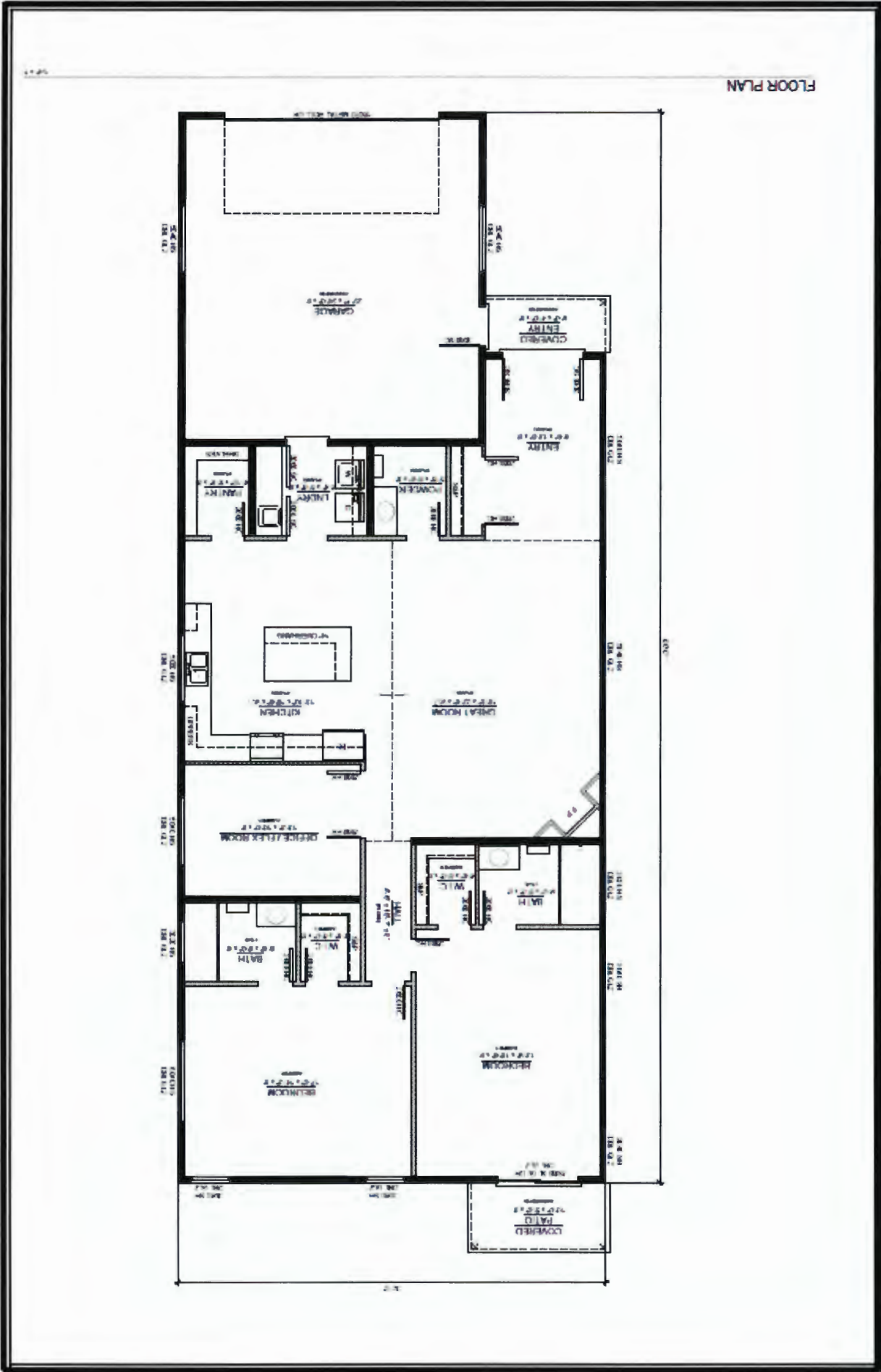






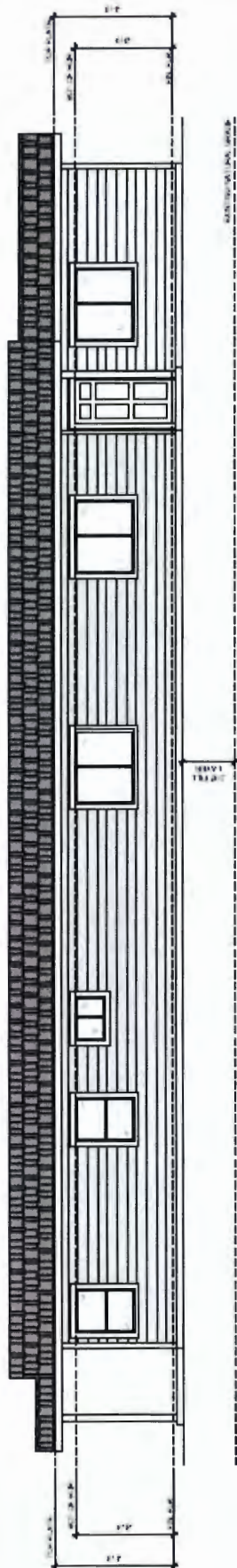
COUNTY OF SAN LUIS OBISPO



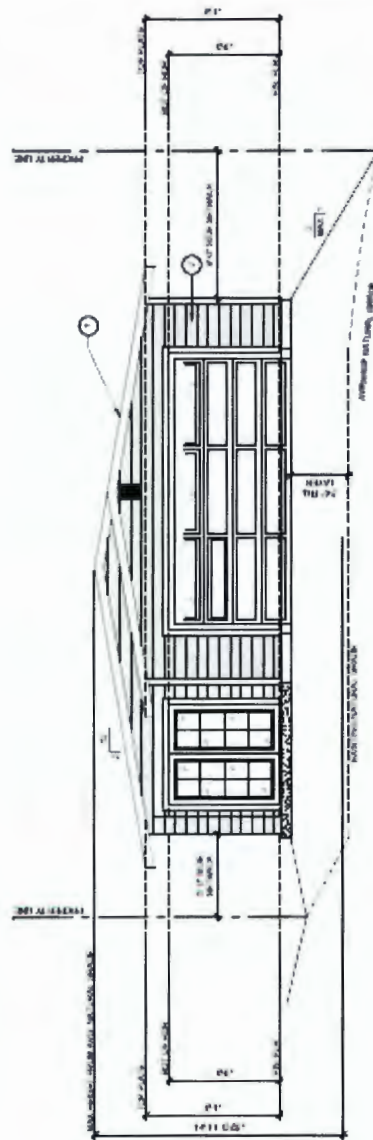


COUNTY OF SAN LUIS OBISPO

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LEFT ELEVATION (SOUTH FACING)

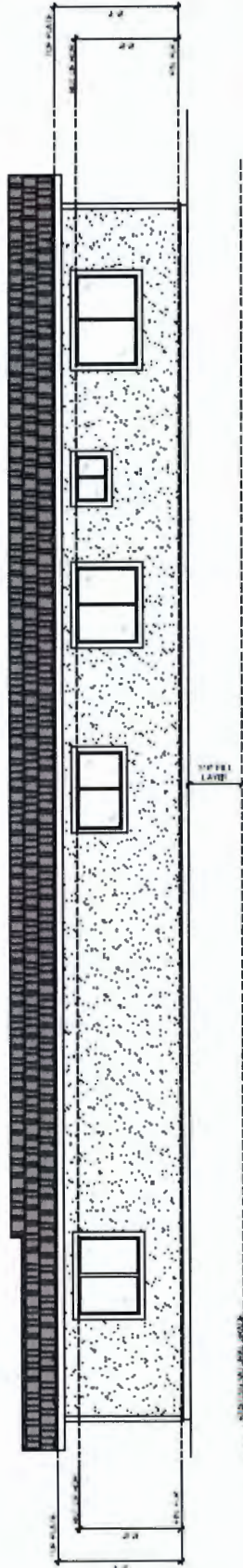


FRONT ELEVATION (EAST FACING)



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RIGHT ELEVATION (NORTH FACING)



REAR ELEVATION (NORTH-WEST FACING)



COUNTY OF SAN LUIS OBISPO

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Appeal Issues- Summary

- Violation of Public Works Policy 1 of the LCP
- Violation of CZLUO Section 23.04.430
- Violation of Special Condition 6 of the WWTF CDP
- Impacts on water resources of the Los Osos Groundwater Basin
- Will-serve letters do not indicate sustainability of a water basin



Appeal Issue 1: LCP PW Policy 1

Appellant asserts:

- The project violates Public Works Policy 1 of the County's Local Coastal Program.

Staff Response to Appeal Issue 1:

- Continue to serve letters
 - LOCSD (May 5, 2021)



Appeal Issue 2: CZLUO § 23.04.430

Appellant asserts:

- The project violates Coastal Zone Land Use Ordinance Section 23.04.430.

Staff Response to Appeal Issue 2:

- 23.04.430 does not apply
- Limited to properties **between** the URL and USL
 - Project site is within both



Appeal Issue 3: Special Condition 6

Appellant asserts:

- Special WWTF Condition 6 does not allow new development until the Community Plan Update is approved by Coastal Commission.

Staff Response to Appeal Issue 3:

- Parcel is not undeveloped per Coastal Act and LCP definitions
- Existing wastewater service
- Continue to serve letter



Appeal Issue 4: Water Resources

Appellant asserts:

- The project will affect water resources of the overdrafted Los Osos Groundwater Basin.

Staff Response to Appeal Issue 4:

- LOCSD will-serve letter
- County Assessment District 1 intent-to-provide letter
- T19 2:1 offset = reduced water demand and would not result in seawater intrusion



Appeal Issue 5: Will-Serve Letters

Appellant asserts:

- Will-serve letters do not indicate sustainability of a water basin.

Staff Response to Appeal Issue 4:

- LOCSD will-serve letter
- County Assessment District 1 intent-to-provide letter



Summary

- Meets and exceeds all development standards
- Consistent with County efforts to increase housing stock
- Consistent with General Plan, Estero Area Plan, County Coastal Code Title 23 - (CZLUO), and Coastal Plan Policies
- No waivers, modifications or variance requests
- Appeal items have been addressed



Recommendation

- Affirm the decision of the Planning Department Hearing Officer to approve a Development Plan / Coastal Development Permit (C-DRC2021-00145) to allow for the construction of a single-family residence.
- Affirm the decision of the Planning Department Hearing Officer that the project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA).





COUNTY OF SAN LUIS OBISPO

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IN THE BOARD OF SUPERVISORS

County of San Luis Obispo, State of California

_____ day _____, 20__

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

**RESOLUTION DENYING THE APPEAL OF PATRICK MCGIBNEY (APPL2023-00001) AND
AFFIRMING THE DECISION OF THE PLANNING DEPARTMENT HEARING OFFICER AND
APPROVING THE APPLICATION OF ROGER DICK FOR DEVELOPMENT PLAN/COASTAL
DEVELOPMENT PERMIT (DRC2021-00145)**

The following resolution is hereby offered and read:

WHEREAS, on January 20, 2023, the Planning Department Hearing Officer of the County of San Luis Obispo (hereinafter referred to as the "Hearing Officer") duly considered the application of Roger Dick for a Development Plan / Coastal Development Permit (C-DRC2021-00145) to allow for the construction of a single-story single-family residence in Los Osos. The residence would be 1,910 square feet with an attached two-car garage and would replace a residence that was previously demolished. The project would result in disturbance of approximately 2,964 square feet on the 5,750 square foot parcel and includes import up to 400 cubic yards of fill material for cultural resource preservation treatment; and

WHEREAS, following consideration of the staff analysis and public testimony, the Hearing Officer conditionally approved the Development Plan / Coastal Development Permit (C-DRC2021-00145); and

WHEREAS, Patrick McGibney timely appealed (APPL2023-00001) the Hearing Officer's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on May 16, 2023 regarding the appeal (APPL2023-00001), and determination and decision was made on May 16, 2023; 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 (APPL2023-00001); and

WHEREAS, the Board of Supervisors has duly considered the appeal (APPL2023-00001) and finds that, based on the testimony and evidence presented, the appeal (APPL2023-00001) should be denied and the decision of the Hearing Officer should be affirmed, and that the application should be approved based on the findings and conditions set forth below and attached hereto as Exhibits A and B.

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. The project qualifies for a Class 3 Categorical Exemption pursuant to Section 15303 of the State California Environmental Quality Act Guidelines. None of the exceptions to the exemption would apply because the project would not result in potentially significant environmental impacts associated with its location, cumulative impacts, unusual circumstances, scenic highways, hazardous waste sites, or historical resources.
5. That the Board of Supervisors makes all of the findings of fact and determinations set forth in the staff recommendation and in Exhibit A, attached hereto and incorporated by reference herein as though set forth in full.
6. That the appeal (APPL2023-00001) filed by Patrick McGibney is denied, that the decision of the Hearing Officer is affirmed, and that the application of Roger Dick for a Development Plan / Coastal Development Permit (C-DRC2021-00145) to allow for the construction of a single-story single-family residence in Los Osos, is hereby adopted and approved for the reasons described in the findings set forth in Exhibit A and subject to the conditions of approval 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 on the ____ day of _____, 20__.

Chairperson of the Board of Supervisors

ATTEST:

Ex-Officio Clerk of the Board of Supervisors

By: _____
Deputy Clerk

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: 
Deputy County Counsel

Dated: April 11, 2023

**EXHIBIT A – FINDINGS
MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT
DRC2021-00145 DICK**

Environmental Determination

- A. The project is categorically exempt from environmental review per CEQA Guidelines §15303 (new construction or conversion of small structures) and none of the exceptions to the exemption apply under CEQA Guidelines §15300.2. In accordance with *Berkeley Hillside Preservation v. the City of Berkeley* (2015) 60 Cal.4th 1086, the project does not present unusual circumstances, such as size or location. The project involves the construction of a replacement residence on a previously developed lot in an urbanized area which is zoned residential with numerous homes and lots of similar size. The proposed project is not in a location which would have an impact on an environmental resource of hazardous or critical concern. The project will not result in significant cumulative impacts, will not have a significant effect on the environment, will not damage scenic resources, is not located on a hazardous waste site and will not cause a substantial adverse change in the significance of a historical resource.

Minor Use Permit/Coastal Development Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan and the Estero Area Plan because the proposed single-family residence is an allowed use and as conditioned and is consistent with all of the General Plan and Area Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 (Coastal Zone Land Use Ordinance) 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 project is consistent with the expected development of the parcel. The proposed single-family residence would require a building permit and all proposed construction would be subject to the California Building Code, the California Electrical Code, and the California Plumbing Code in effect at the time of construction.
- E. The proposed project or use will not be inconsistent with the character of the immediate area or contrary to its orderly development because the construction of a single-story single-family residence is consistent with the expected development of the parcel. The project would incorporate design and architectural features that would be consistent with the surrounding residential neighborhood.
- F. The proposed project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project would establish a single-family residence where a single-family residence was located historically, and therefore would not result in a substantial increase in vehicle traffic in the project area.

Coastal Access

- G. The project site is located between the ocean and the first public road paralleling the shoreline. The project site is also located in an urban reserve. The site is not adjacent to the coast and public access ways exist within ¼ mile from the site; therefore, the use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act. The project is not adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

Archaeological Sensitive Area

- H. The site design and development incorporate adequate measures to ensure that archaeological resources will be acceptably and adequately protected because the parcel was surveyed prior to this project, the project is located in a previously disturbed area, and the project is proposing a preservation-in-place treatment in accordance with Section 23.07.104c of the San Luis Obispo County CZLUO. Placement of up to 400 cubic yards of fill material is proposed as part of the project to preserve in place potential cultural resources that may be present on-site. The maximum depth of fill materials would be 3 feet 6 inches above natural grade. The project is conditioned to conduct cultural monitoring during all ground disturbing activities and to stop work in the event of inadvertent finding and contact the County Environmental Coordinator.

Availability of Service Capacity

- I. The proposed project is consistent with Public Works Policy 1: Availability of Service Capacity, as implemented by CZLUO Sections 23.04.021c, 23.04.430 and 23.04.432, because it does not involve the subdivision of land, is located within the urban services line and does not require any water service extension. Under such circumstances, the sufficiency of service capacities is usually satisfied by evidence of a will-serve letter verifying service capacity from the service provider(s) as required by Title 19. The Los Osos Community Services District provided a will-serve letter for existing water service dated May 5, 2021. The San Luis Obispo County Department of Public Works Wastewater Assessment District No. 1 issued a Will Serve Wastewater letter dated May 6, 2021, stating that they are "willing and able to continue to provide wastewater service". The proposed single-family residence is a replacement residence that will replace a demolished single-family residence. The size and scale of the proposed project (replacement 1,910 square-foot single family residence) is consistent with the existing housing stock in the community and wastewater discharges associated with the project will be discharged to the Los Osos Water Recycling Facility (LOWRF) where it would be put to productive reuse and recharge in accordance with the LOWRF's recycling and monitoring programs. In addition, the basin yield metric under the Los Osos Basin Plan (LOBP) has been met every annual report since 2016, the water level and chloride metrics have been improving consistent with the basin model after reaching the sustainable yield metric, and the nitrate metric has been steadily improving following completion of the LOWRF and connection of properties within the Los Osos Sewer Service Area. While the sustainable yield metric methodology was updated by the Los Osos Basin Management Committee for the future 2022 annual report (aimed at stopping any further seawater intrusion in the lower aquifer while the basin recovers from previous over pumping, especially near the coast, as opposed to the original sustainable yield methodology which would have allowed some further seawater intrusion in the lower aquifer as the basin recovered from previous over pumping in the lower aquifer, especially near the coast, and basin plan projects were implemented shifting more production to the east and the upper aquifer), the proposed project is required to comply with applicable state and local water conservation requirements as well as requirements of the local water purveyor consistent with the LOBP (and stipulated judgement) and the LOWRF's recycling and monitoring programs. Approval of the proposed project would not decrease the likelihood of achieving the LOBP sustainable yield metric because it will not result in net additional water demand in the basin because of compliance with water offset requirements (recommencement of water use onsite will be required to offset 2:1) and domestic wastewater will be put back to reuse or recharge within the basin via the LOWRF.

**EXHIBIT B – CONDITIONS OF APPROVAL
MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT
DRC2021-00145 DICK**

Approved Development

This approval authorizes:

- a. The construction of a single-story 1,910-square-foot single-family residence with an attached 573-square-foot two-car garage.
- b. Maximum building height of 16 feet, as measured from finished grade.
- c. All development shall be consistent with the final approved construction drawings. In the event that significant cultural resources are found on site, the applicant shall submit revisions to final approved construction drawings that include, and not limited to revised design and/or mitigation measures approved by the Environmental Coordinator to avoid significant impacts or reduce to a less than significant level.

CONDITIONS OF APPROVAL

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

1. **At the time of application for construction permits**, the applicant shall submit to the Department of Public Works an encroachment permit application, plans, fees, and post a cash damage bond, to install improvements within the public right-of-way in accordance with County Public Improvement Standards, unless already constructed and acceptable or design exceptions are approved by the Public Works Department in accordance with Section 1.2 of the Public Improvement Standards. The plans are to include, as applicable:
 - a. A new Eleventh Street site access shall be constructed in accordance with B-1 rural driveway approach and A-5 sight distance standards.
 - b. Drainage ditches, culverts, and other structures (if drainage calculations require).
 - c. Public utility plan, showing all existing utilities and installation of all new utilities to serve the site.
 - d. Tree removal/retention plan for trees to be removed and retained associated with the required public improvements. The plan shall be approved jointly with the Department of Planning and Building.
 - e. Traffic control plan for construction in accordance with the California Manual on Uniform Traffic Control Devices (CA-MUTCD).
 - f. The applicant shall provide satisfactory evidence that the Army Corps of Engineers and the California Department of Fish and Game environmental permits have either been secured or that the regulatory agency has determined that their permit is not required.

Site Development

2. **At the time of application for construction permits**, plans submitted shall show all development consistent with the approved site plan, floor plan, and architectural elevations.
3. **At the time of application for construction permits**, the plans shall demonstrate compliance with County of San Luis Obispo Title 19 Plumbing Code and Water Conservation Provisions standards requiring a 2:1 water offset.
4. **At the time of application for construction permits**, plans shall clearly show the structural design to verify compliance with the prescriptive requirements of the California Residential Code in effect at the time of application. Any structural element not complying with the prescriptive requirements shall be prepared by a California Licensed Design Professional (Architect or Engineer) justifying the structural design.

5. **At the time of application for construction permits**, electrical plans shall include notes to show the location of the main electrical panel, sub-panels, receptacles, lights, switches, and smoke detectors and carbon dioxide alarms to verify compliance with the California Electrical Code in effect at the time of application.
6. **At the time of application for construction permits**, notes and information shall be provided on the plans for the plumbing fixtures requirements, the design of waste lines, vents, and water lines to verify compliance with the California Plumbing Code in effect at time of application.
7. **At the time of application for construction permits**, information regarding the project's energy calculation shall be submitted to verify compliance with the California Energy Code in effect at time of application.
8. **At the time of application for construction permits**, the plans shall demonstrate compliance with the California Green Building Code and the County of San Luis Obispo Green Building Ordinance.
9. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting (if applicable). The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

Fire Safety

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

Services

11. **At the time of application for construction permits**, the applicant shall provide a letter from Los Osos Community Service District and County Public Works Assessment District 1 stating they are willing and able to service the property. The applicant shall comply with conditions and requirements of the will-serve.

Drainage, Erosion Control, and Flood Hazard

12. **At the time of application for construction permits**, the applicant shall submit complete drainage plans for review and approval in accordance with Section 23.05.040 of the Coastal Zone Land Use Ordinance.
13. **At the time of application for construction permits**, the applicant shall submit complete erosion and sedimentation control plan for review and approval in accordance with Section 23.05.036 of the Coastal Zone Land Use Ordinance.
14. **At the time of application for construction permits**, the applicant shall demonstrate that the project construction plans are in conformance with their Stormwater Control Plan.

Stormwater Pollution Prevention Plan (SWPPP)

15. **At the time of application for construction permits**, if the project disturbs more than 1.0 acre or is part of a common plan of development, the applicant must enroll for coverage under California's Construction General Permit. Sites that disturb less than 1.0 acre must implement all required elements within the site's erosion and sediment control plan as required by San Luis Obispo County Codes.

Stormwater Control Plan (SWCP)

16. **At the time of application for construction or grading permits**, the applicant shall demonstrate whether the project is subject to post-construction stormwater requirements by submitting a Stormwater Control Plan application or Stormwater Post Construction Requirements (PCRs) Waiver Request Form.
 - a. The applicant must submit a SWCP for all regulated projects subject to Performance Requirement #2 and above. The SWCP must be prepared by an appropriately licensed professional and submitted to the County for review and approval. Applicants must utilize the County's latest SWCP template.
 - b. If post-construction stormwater control measures (SCMs) are proposed, the applicant must submit a draft Stormwater Operations and Maintenance Plan for

review by the County. The plan must consist of the following Planning & Building Department forms;

1. Structural Control Measure Description (Exhibit B)
 2. Stormwater System Contact Information
 3. Stormwater System Plans and Manuals
- c. If applicable, following approval by the County, the applicant shall record with the County Clerk-Recorder the Stormwater Operation and Maintenance Plan and an agreement or provisions in the CCRs for the purpose of documenting on-going and permanent storm drainage control, management, treatment, inspection and reporting.

Conditions required to be completed prior to issuance of construction permits/building permits:

Fees

17. **Prior to issuance of construction permits**, the applicant shall pay all applicable school and public facilities fees.
18. **Prior to the issuance of construction permits**, and in accordance with Title 13.01 of the County Code, the applicant must pay to the Department of Public Works the Los Osos Road Improvement Fee based on the latest adopted area fee schedule and 1.00 peak hour trips as estimated based on the project description. The estimated fee is \$4,198 (\$4,198/PHT x 1.00 PHT).
- The applicant shall be responsible for paying to the Department of Public Works the Los Osos Road Improvement Fee consistent with the approved fee schedule at the time of issuance of building permit, or within 30 days of land use permit approval if no building permit is required. In accordance with Government Code section 66020(d)(1), the County provides notice to the applicant that the 90-day approval period in which the applicant may protest imposition of the Road Improvement Fee has begun.
19. **Prior to issuance of a construction permit**, construction and grading plans shall show the following:
- a. The "project limit area" shall include all areas of grading (including cut and fill areas, utility trenching and offsite improvements) and vegetation removal, the development footprint (i.e., all structures and/or site disturbance) necessary fire clearances and staging areas for all construction activities, the location of those activities, and areas for equipment and material storage.
 - b. Sturdy and highly visible protective fencing that will be placed along the 'project limit area'. Plan notes shall indicate this fence should remain in place during the duration of project construction to protect vegetation from construction activities.
 - c. Plan notes shall indicate native trees and undergrowth outside of the "project limit area" shall be left undisturbed.
 - d. Identify any necessary tree trimming. Plan notes shall indicate a skilled arborist, or accepted arborist's techniques, will be used when removing tree limbs.

Archaeology

20. **Prior to issuance of construction permit**, the applicant shall submit a **monitoring plan**, prepared by a County-approved archaeologist, for review and approval by the County Department of Planning and Building. The intent of this Plan is to monitor all earth-disturbing activities in areas identified as potentially sensitive for cultural resources, per the approved monitoring plan. The monitoring plan shall include at a minimum:
- a. List of personnel involved in the monitoring activities;
 - b. Inclusion of involvement of the Native American community, as appropriate;
 - c. Description of how the monitoring shall occur;
 - d. Description of frequency of monitoring (e.g., full-time, part time, spot checking);
 - e. Description of what resources are expected to be encountered;

- f. Description of circumstances that would result in the halting of work at the project site (e.g., What is considered "significant" archaeological resources?);
- g. Description of procedures for halting work on the site and notification procedures; and
- h. Description of monitoring reporting procedures.

Crew Education. The monitoring plan shall also include provisions defining education of the construction crew and establishing protocol for treating unanticipated finds. In consultation with a County-approved archaeologist, the applicant shall provide cultural resources awareness training to all field crews and field supervisors. This training will include a description of the types of resources that may be found in the project area, the protocols to be used in the event of an unanticipated discovery, the importance of cultural resources to the Native American community, and the laws protecting significant archaeological and historical sites.

The archaeologist shall verify implementation of the Monitoring Plan during any ground disturbing activities. A final report on compliance shall be submitted by the archaeologist to the County **prior to final inspection.**

- 21. **Foundation Plan - Prior to issuance of construction permit,** the foundation plan shall be reviewed and approved by a County-approved archaeologist and appointed representatives of the Native American tribe. The foundation design shall incorporate a mat-slab style foundation on top of clean, sterile fill. Construction drawings should clearly annotate the existing native ground and the fill. To the extent feasible, foundation elements should be restricted entirely to the fill and within the top 12 inches of existing soil.

Federal No Take Concurrence Requirements

- 22. **Prior to issuance of construction permits, vegetation removal, and/or ground disturbance, the applicant shall provide evidence to the County of the following:**

- 1. A current and valid No-Take Concurrence letter issued by the Service
- 2. All applicable field requirements of the agency permit(s) shall be shown on applicable construction drawings and adhered to during construction. Avoidance and minimization measures recommended in the No-Take Concurrence letter shall be implemented as follows:
 - 1. All project related ground disturbing activities will occur during the dry season (June 1 - October 15) when Morro shoulderband snails are aestivating and unlikely to migrate into work areas.
 - 2. A biologist approved by the Service will conduct a pre-construction survey of the work area to locate Morro shoulderband snails no more than 48 hours prior to the initiation of site work. The biologist will notify the Service of the results of the survey immediately following the survey efforts. No live Morro shoulderband snails will be relocated during these efforts.
 - 3. Prior to any soil disturbance and/or vegetation removal, silt fencing or orange protective fencing will be installed around the perimeter of the proposed project area to prevent unauthorized ground disturbance outside of the work area.
 - 4. A Service-approved biologist will conduct a pre-construction environmental awareness training session for all construction personnel involved in site disturbance. The training is intended to inform the permittees, construction crews, field supervisors, and equipment operators about the status and presence of the federally listed species, grading and construction-activity restrictions, and all proposed avoidance, protection and minimization measures. The Service-approved biologist will have the authority to stop work if Morro shoulderband snail are observed within the project area. If Morro shoulderband snails are observed, the Service will be notified.

- C. As an alternative to subsections A and B above, the project may be eligible for coverage under the current proposed terms of County of San Luis Obispo's ("County") Los Osos Habitat Conservation Plan ("LOHCP") awaiting U.S. Fish and Wildlife Service final approval and issuance of an Incidental Take Permit ("ITP"). Following the effective date of the County's ITP and LOHCP, but prior to building

permit issuance, the project proponent may satisfy this condition by securing a Certificate of Inclusion ("COI") from the County, which would confer take coverage under the ITP. The project proponent would have to comply with the terms of the COI and ITP, which includes compliance with the LOHCP. If the County finds that the project proponent is out of compliance with the terms of the COI and ITP, the County would have the authority to revoke the COI and all work relating to the project would have to cease immediately.

If, following two years from the effective approval date of the project, unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050, the ITP has not been issued by the U.S. Fish and Wildlife Service and the LOHCP is not in effect, the project will not have coverage under a County ITP. Without coverage under a County ITP, no site disturbance or construction may occur at the site, and no building permits may be approved, without amendment of this land use permit. Amendment of this land use permit to allow the project to proceed without coverage under a County ITP will require submittal of an application to amend this land use permit and the necessary surveys and reports to properly consider and address the potential for incidentally take (harm, injure, capture and/or kill) of Morro Shoulderband Snail (*Helminthoglypta walkeri*), and the application to amend this land use permit (including its environmental determination and conditions of approval) would require review and approval by the appropriate Review Authority.

Drainage and Flood Hazard

23. **Prior to issuance of construction permits**, the applicant shall provide evidence satisfactory to the Department of Planning and Building that the Army Corps of Engineers and the California Department of Fish and Game environmental permits have either been secured or that the regulatory agency has determined that their permit is not required.

24. **Prior to acceptance of the improvements (if applicable)**, the Stormwater Operations and Maintenance plan and General Notice must be updated to reflect as-built changes, approved by the County, and re-recorded with the County Clerk-Recorder as amendments to the original document.

Conditions to be completed during construction:

Building Height

25. The maximum height of the dwelling is 16 feet, as measured from finished grade.

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

Archaeology

26. **During Construction**, the applicant shall implement the following measures to minimize potential impacts to cultural resources on site:

- a. **Usage of Fill** - the most sensitive areas shall be capped with a minimum of three feet of fill material of a type appropriate to the area, and in accordance with recommendations by a soils engineer. Clean, sterile fill, consisting of a layer of other conspicuous material (e.g. fill of a noticeable different color and texture than native soil) shall be placed over the native soil prior to placement of any other clean fill material. The depth of fill to be placed shall be sufficient to prevent foundation elements from extending into the native soil. If structural elements extend into the native soil, these occurrences shall be minimized to the extent feasible and in no case extend more than 18 inches into the native soil.
- b. **Equipment & Ground Preparation** - All equipment used on the site shall have rubber tire wheels rather than metal treads, and shall be of the minimum size needed to do the work. Grubbing is limited to 6" of top soil, and may be done by the back end scraper of a small skip, with depth limited to 6". Walk behind roto-tiller should be

considered. Compaction of the fill should be done with the with care as to not rip into the soil with aggressive wheel turns.

- c. **Phase III Data Recovery Plan - If the soils engineer determines capping to be unfeasible**, to mitigate for the project's direct impact to cultural resources, the Applicant shall retain a County-approved subsurface archaeologist to prepare a Phase III (data recovery) archaeological investigation. The archaeologist shall prepare a detailed research design program for review and approval by the County (this review may include a peer review from a County-retained archaeologist). Furthermore, once approved, the applicant shall implement the program as specified to maximize the success of this measure. The subsurface archaeologist responsible for the Phase III program shall be provided with a copy of the previous archaeological investigation (Cultural Resource Management Services, June 2021).

At a minimum, the Phase III program shall include the following:

- i. standard archaeological data recovery practices;
- ii. recommendation of sample size adequate to mitigate for impacts to archaeological site, including basis and justification of the recommended sample size. Sample size should be between 5 - 10% of the volume of disturbed area. If a lesser sample size is recommended, supporting information shall be presented that justifies the smaller sample size;
- iii. identification of location of sample sites/test units;
- iv. detailed description of sampling techniques and material recovery procedures (e.g. how sample is to be excavated, how the material will be screened, screen size, how material will be collected);
- v. disposition of collected materials;
- vi. proposed analysis of results of data recovery and collected materials, including timeline of final analysis results;
- vii. list of personnel involved in sampling and analysis.
- viii. Specify timing of proposed work relative to the proposed construction schedule.

- d. **Revised Construction Drawings - If cultural resources are identified on site**, the applicant shall submit revised construction drawings to the County incorporating the revised design and/or mitigation measures approved by the Environmental Coordinator to avoid significant impacts or reduce to a less than significant level.

27. **During construction**, in the event archaeological resources are unearthed or discovered, the following standards apply:

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

Native Trees

28. **Native Trees (Oaks) -Minimizing Impacts**. When trees are proposed for removal or to be impacted within their driplines/ canopies, the following measures shall be completed to minimize native tree (oak) impacts:

- A. Grading and/or construction plans shall show locations of all native trees within 25 feet of the proposed project limits (including ancillary elements, such as trenching).
- B. For trees identified as 'to remain protected' they shall be marked in the field as such and protected to the extent possible. Protective measures shall be visible to work crews and be able to remain in good working order for the duration of the construction work. Waterproof signage at protective edge is recommended (e.g., "TREE PROTECTION AREA - STAY OUT"). Grading, trenching, compaction of soil, construction material/equipment storage, or placement of fill shall not occur within these protected areas.

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

Archaeology

29. **Field Completion Report - Upon completion of all monitoring activities, and prior to occupancy or final inspection (whichever occurs first),** the consulting archaeologist shall submit a Completion Report to the Environmental Coordinator summarizing the following:

- a. Completion and compliance of construction activities per the Monitoring Plan and any applicable mitigation measures agreed by the County, archeologist and Native American Representatives throughout the project. If the analysis included in the Phase III Data Recovery Plan is not complete by the time of final inspection, the applicant shall provide to the Environmental Coordinator, proof of obligation to complete the required analysis.

Access

30. **Prior to commencing permitted activities,** all work in the public right-of-way must be constructed or reconstructed to the satisfaction of the Public Works Inspector and in accordance with the County Public Improvement Standards; the project conditions of approval, including any related land use permit conditions; and the approved improvement plans.

Fire Safety

31. **Prior to occupancy or final inspection, whichever occurs first,** the applicant shall obtain final inspection and approval from CAL FIRE/County Fire of all required fire and life safety measures.

Department of Planning and Building Inspection

32. **Prior to occupancy or final inspection, whichever occurs first,** the applicant shall obtain final inspection and approval from the Department of Planning and Building for compliance with the project conditions of approval.

On-going conditions of approval (valid for the life of the project):

33. **On-going condition of approval (valid for the life of the project),** and in accordance with County Code Section 13.08, no activities associated with this permit shall be allowed to occur within the public right-of-way including, but not limited to, project signage, tree planting, fencing, etc., without a valid encroachment permit issued by the Department of Public Works.
34. **On-going condition of approval (valid for the life of the project),** the property owner shall be responsible for operation and maintenance of the public road frontage, including landscaping, maintaining County driveway sight distance standards in a viable condition and on a continuing basis into perpetuity.
35. **On-going condition of approval (valid for the life of the project),** this land use permit is valid for a period of 60 months from its effective date unless time extensions are granted pursuant to 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 a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Coastal Zone Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
36. 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.
37. The applicant shall, as a condition of approval of this land use permit application, defend, hold harmless and indemnify, at his or her sole expense (including attorney's fees, with Counsel approved by the County), 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 land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit, or any other action by a

third party relating to approval or implementation of this land use permit. The applicant shall reimburse the County for any court costs and attorney fees that 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. Upon request of the County, the applicant shall also enter into a separate agreement with the County (the "Indemnity Agreement"), in a form approved by County Counsel, agreeing to defend, indemnify, save and hold harmless the County, its present or former officers, agents, or employees, against actions by a third party challenging either its decision to approve this land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit, or any other action by a third party relating to or arising out of the approval or implementation of this land use permit. The agreement shall provide that the applicant will indemnify the County and reimburse it for any costs and/or attorney's fees which the County incurs as a result of such action, and that the County's participation or non-participation in any such litigation shall not relieve the applicant of his or her obligations under this condition or the agreement. The applicant shall also provide sufficient guarantees for the obligations hereunder as determined by County Counsel. Any violation of this condition, including the applicant's failure to execute the Indemnity Agreement or breach thereof, or failure to provide sufficient guarantees, is grounds for the County to rescind and/or revoke its approval of this land use permit. These defense and indemnity obligations shall survive any rescission, revocation and/or set aside of this land use permit.

Attachment 3

If you have any questions, please contact the Records Management Division at (805) 781-5600.



COASTAL APPEALABLE 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: Roger Dick File Number: DRC 2021-00145

Type of permit being appealed:

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

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: 2023-01-20

The decision is appealed to:

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

BASIS FOR APPEAL

☒ INCOMPATIBLE WITH THE LCP. The development does not conform to the standards set forth in the Certified Local Coastal Program of the county for the following reasons (attach additional sheets if necessary).

Explain: Approval Violates PWP 1, CZLUO 23.04.430 & Condition 6 of the LOWWP CDP

☐ INCOMPATIBLE WITH PUBLIC ACCESS POLICIES. The development does not conform to the public access policies of the California Coastal Act – Section 30210 et seq of the Public Resource Code (attach additional sheets if necessary).

Explain: _____

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

Condition Number D-I Reason for appeal (attach additional sheets if necessary)

This Project will affect water resources of the over-stressed LO Water Basin
will serve letters Donot indicate Sustainability of a water Basin

APPELLANT INFORMATION

Print name: Patrick McG. Carey
Address: 1177 3rd St, Los Osos Phone Number (daytime): 831-238-5697

I/We are the applicant or an aggrieved person pursuant to the Coastal Zone Land Use Ordinance (CZLUO) and are appealing the project based on either one or both of the grounds specified in this form, as set forth in the CZLUO and State Public Resource Code Section 30803 and have completed this form accurately and declare all statements made here are true.

Signature _____

Date 1-20-23

OFFICE USE ONLY

Date Received: _____ By: _____

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

APRIL 23, 2015
PLANNING@CO.SLO.CA.US



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING
TREVOR KEITH, *DIRECTOR*

January 23, 2023

Roger Dick
23665 Pomelo Rd.
Corona, CA 92883

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: January 20, 2023
SUBJECT: **County File Number: (DRC2021-00145)**
Minor Use Permit / Coastal Development Permit

LOCATED WITHIN COASTAL ZONE: YES
COASTAL APPEALABLE: Yes

On **January 20, 2023**, the above referenced application was approved by the **Planning Department Hearing** based on the approved Findings, and subject to the approved Conditions, which are both enclosed for your records.

If you disagree with this action, pursuant to the County Coastal Zone Land Use Ordinance (CZLUO) Section 23.01.042, and in the manner described therein, you have the right to appeal this decision, or a portion of this decision, to the Board of Supervisors within 14 calendar days after the date of the action.

The appeal must be submitted to the Director of the Department of Planning and Building in the manner and on the proper Department appeal form, as provided on the County website.

If the appeal is consistent with the standards set forth in CZLUO Section 23.01.043.d, there is no fee to file an appeal. If the appeal is not consistent with CZLUO Section 23.01.043.d, a fee, set by the current fee schedule, will be required and must be submitted with the appeal form at time of filing. If the County requires that an appellant submit a fee to file an appeal, the action may be directly appealable to the California Coastal Commission pursuant to the CZLUO Section 23.01.043, and in the manner contained therein, precluding the need to exhaust local administrative appeals.

Additionally, CZLUO Section 23.01.043 and applicable sections of the Coastal Act provide the California Coastal Commission 10 working days following the expiration of the County appeal period to appeal the County's Final Action. This means the Applicant cannot commence development and the County cannot take any further administrative actions for the proposed development, including but not limited to, the request or issuance of a building permit, until the County appeal period and the Coastal

Commission Appeal period, including any suspension of the appeal period by the Coastal Commission pursuant to CZLUO 23.02.039, have expired without an appeal being filed.

Additionally, should a local appeal be filed, and the County approves the application on appeal, that action would be appealable to the California Coastal Commission, pursuant to regulations contained in Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. An appellant may include any of the following: an applicant, an aggrieved person as defined in CZLUO 23.01.043 and any two California Coastal Commissioners. CZLUO Section 23.01.043 and applicable sections of the Coastal Act provide ten (10) working days for an appellant to appeal the County's Final Action. The County Coastal Zone Land Use Ordinance and Coastal Act contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The appeal must be made directly to the California Coastal Commission. For further information on their appeal procedures, contact the Commission's Santa Cruz Office at (831) 427-4863.

Please note that exhaustion of local appeals at the County level is almost always required prior to appealing the matter to the California Coastal Commission. Three exceptions apply to this requirement as provided in CZLUO Section 23.01.043.b(1) (3).

If you have any questions regarding your project, please contact **Kip Moraes** at 805-781-5136.

Sincerely,



Corla Wade, Secretary
County of San Luis Obispo
Department of Planning & Building

cc: California Coastal Commission
Jeff Edwards, PO Box 6070, Los Osos, CA 93412

976 Osos Street, Room 300 | San Luis Obispo, CA 93408 | (P) 805-781-5600 | 7-1-1 TTY/TRS Relay
planning@co.slo.ca.us | www.sloplanning.org

**EXHIBIT A – FINDINGS
MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT
DRC2021-00145 DICK**

Environmental Determination

- A. The project qualifies for a Class 3 Categorical Exemption pursuant to Section 15303 of the State California Environmental Quality Act Guidelines.

Minor Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan and the Estero Area Plan because the proposed single-family residence is an allowed use and as conditioned and is consistent with all of the General Plan and Area Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 (Coastal Zone Land Use Ordinance) 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 project is consistent with the expected development of the parcel. The proposed single-family residence would require a building permit and all proposed construction would be subject to the California Building Code, the California Electrical Code, and the California Plumbing Code in effect at the time of construction.
- E. The proposed project or use will not be inconsistent with the character of the immediate area or contrary to its orderly development because the construction of a single-story single-family residence is consistent with the expected development of the parcel. The project would incorporate design and architectural features that would be consistent with the surrounding residential neighborhood.
- F. The proposed project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project would establish a single-family residence where a single-family residence was located historically, and therefore would not result in a substantial increase in vehicle traffic in the project area.

Coastal Access

- G. The project site is located between the ocean and the first public road paralleling the shoreline. The project site is also located in an urban reserve. The site is not adjacent to the coast and public access ways exist within ¼ mile from the site; therefore, the use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act. The project is not adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

Archaeological Sensitive Area

- H. The site design and development incorporate adequate measures to ensure that archaeological resources will be acceptably and adequately protected because the parcel was surveyed prior to this project, the project is located in a previously disturbed area, and the project is proposing a preservation-in-place treatment in accordance with Section

23.07.104c of the San Luis Obispo County CZLUO, Placement of up to 400 cubic yards of fill material is proposed as part of the project to preserve in place potential cultural resources that may be present on-site. The maximum depth of fill materials would be 3 feet 6 inches above natural grade. The project is conditioned to conduct cultural monitoring during all ground disturbing activities and to stop work in the event of inadvertent finding and contact the County Environmental Coordinator.

Public Works Policy No. 1

i. The proposed project is consistent with Public Works Policy 1: Availability of Service Capacity, as implemented by CZLUO Sections 23.04.021c, 23.04.430 and 23.04.432, because it does not involve the subdivision of land, is located within the urban services line and does not require any water service extension. Under such circumstances, the sufficiency of service capacities is usually satisfied by evidence of a will-serve letter verifying service capacity from the service provider as required by Title 19. The Los Osos Community Services District provided a will-serve letter for existing water service dated May 5, 2021. The proposed single-family residence is a replacement residence that will replace a demolished single-family residence. The size and scale of the proposed project (replacement 1,910 square-foot single family residence) is consistent with the existing housing stock in the community and wastewater discharges associated with the project will be discharged to the Los Osos Water Recycling Facility (LOWRF) where it would be put to productive reuse and recharge in accordance with the LOWRF's recycling and monitoring programs. In addition, the basin yield metric under the Los Osos Basin Plan (LOBP) has been met every annual report since 2016, the water level and chloride metrics have been improving consistent with the basin model after reaching the sustainable yield metric, and the nitrate metric has been steadily improving following completion of the LOWRF and connection of properties within the Los Osos Sewer Service Area. While the sustainable yield metric methodology was updated by the Los Osos Basin Management Committee for the future 2022 annual report (aimed at stopping any further seawater intrusion in the lower aquifer while the basin recovers from previous over pumping, especially near the coast, as opposed to the original sustainable yield methodology which would have allowed some further seawater intrusion in the lower aquifer as the basin recovered from previous over pumping in the lower aquifer, especially near the coast, and basin plan projects were implemented shifting more production to the east and the upper aquifer), the proposed project is required to comply with applicable state and local water conservation requirements as well as requirements of the local water purveyor consistent with the LOBP (and stipulated judgement) and the LOWRF's recycling and monitoring programs. Approval of the proposed project would not decrease the likelihood of achieving the LOBP sustainable yield metric because it will not result in net additional water demand in the basin because of compliance with water offset requirements and domestic wastewater will be put back to reuse or recharge within the basin via the LOWRF.

**EXHIBIT B – CONDITIONS OF APPROVAL
MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT
DRC2021-00145 DICK**

Approved Development

This approval authorizes:

- a. The construction of a single-story 1,910-square-foot single-family residence with an attached 573-square-foot two-car garage.
- b. Maximum building height of 16 feet, as measured from finished grade.
- c. All development shall be consistent with the final approved construction drawings. In the event that significant cultural resources are found on site, the applicant shall submit revisions to final approved construction drawings that include, and not limited to revised design and/or mitigation measures approved by the Environmental Coordinator to avoid significant impacts or reduce to a less than significant level.

CONDITIONS OF APPROVAL

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

Access

1. **At the time of application for construction permits**, the applicant shall submit to the Department of Public Works an encroachment permit application, plans, fees, and post a cash damage bond, to install improvements within the public right-of-way in accordance with County Public Improvement Standards, unless already constructed and acceptable or design exceptions are approved by the Public Works Department in accordance with Section 1.2 of the Public Improvement Standards. The plans are to include, as applicable:
 - a. A new Eleventh Street site access shall be constructed in accordance with B-1 rural driveway approach and A-5 sight distance standards.
 - b. Drainage ditches, culverts, and other structures (if drainage calculations require).
 - c. Public utility plan, showing all existing utilities and installation of all new utilities to serve the site.
 - d. Tree removal/retention plan for trees to be removed and retained associated with the required public improvements. The plan shall be approved jointly with the Department of Planning and Building.
 - e. Traffic control plan for construction in accordance with the California Manual on Uniform Traffic Control Devices (CA-MUTCD).
 - f. The applicant shall provide satisfactory evidence that the Army Corps of Engineers and the California Department of Fish and Game environmental permits have either been secured or that the regulatory agency has determined that their permit is not required.

Site Development

2. **At the time of application for construction permits**, plans submitted shall show all development consistent with the approved site plan, floor plan, and architectural elevations.
3. **At the time of application for construction permits**, the plans shall demonstrate compliance with County of San Luis Obispo Title 19 Plumbing Code and Water Conservation Provisions standards
4. **At the time of application for construction permits**, plans shall clearly show the structural design to verify compliance with the prescriptive requirements of the California Residential Code in effect at the time of application. Any structural element not complying with the prescriptive requirements shall be prepared by a California Licensed Design Professional (Architect or Engineer) justifying the structural design.
5. **At the time of application for construction permits**, electrical plans shall include notes to show the location of the main electrical panel, sub-panels, receptacles, lights, switches, and smoke detectors and carbon dioxide alarms to verify compliance with the California Electrical Code in effect at the time of application.
6. **At the time of application for construction permits**, notes and information shall be provided on the plans for the plumbing fixtures requirements, the design of waste lines, vents, and water lines to verify compliance with the California Plumbing Code in effect at time of application.
7. **At the time of application for construction permits**, information regarding the project's energy calculation shall be submitted to verify compliance with the California Energy Code in effect at time of application.
8. **At the time of application for construction permits**, the plans shall demonstrate compliance with the California Green Building Code and the County of San Luis Obispo Green Building Ordinance.
9. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting (if applicable). The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

Fire Safety

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

Services

11. **At the time of application for construction permits**, the applicant shall provide a letter from Los Osos Community Service District and County Public Works Assessment District 1 stating they are willing and able to service the property. The applicant shall comply with conditions and requirements of the will-serve.

Drainage, Erosion Control, and Flood Hazard

12. **At the time of application for construction permits**, the applicant shall submit complete drainage plans for review and approval in accordance with Section 23.05.040 of the Coastal Zone Land Use Ordinance.
13. **At the time of application for construction permits**, the applicant shall submit complete erosion and sedimentation control plan for review and approval in accordance with Section 23.05.036 of the Coastal Zone Land Use Ordinance.
14. **At the time of application for construction permits**, the applicant shall demonstrate that the project construction plans are in conformance with their Stormwater Control Plan.

Stormwater Pollution Prevention Plan (SWPPP)

15. **At the time of application for construction permits**, if the project disturbs more than 1.0 acre or is part of a common plan of development, the applicant must enroll for coverage under California's Construction General Permit. Sites that disturb less than 1.0 acre must implement all required elements within the site's erosion and sediment control plan as required by San Luis Obispo County Codes.

Stormwater Control Plan (SWCP)

16. **At the time of application for construction or grading permits**, the applicant shall demonstrate whether the project is subject to post-construction stormwater requirements by submitting a Stormwater Control Plan application or Stormwater Post Construction Requirements (PCRs) Waiver Request Form.
 - a. The applicant must submit a SWCP for all regulated projects subject to Performance Requirement #2 and above. The SWCP must be prepared by an appropriately licensed professional and submitted to the County for review and approval. Applicants must utilize the County's latest SWCP template.
 - b. If post-construction stormwater control measures (SCMs) are proposed, the applicant must submit a draft Stormwater Operations and Maintenance Plan for review by the County. The plan must consist of the following Planning & Building Department forms;
 1. Structural Control Measure Description (Exhibit B)
 2. Stormwater System Contact Information
 3. Stormwater System Plans and Manuals
 - c. If applicable, following approval by the County, the applicant shall record with the County Clerk-Recorder the Stormwater Operation and Maintenance Plan and an agreement or provisions in the CCRs for the purpose of documenting on-going and permanent storm drainage control, management, treatment, inspection and reporting.

Conditions required to be completed prior to issuance of construction permits/building permits:

Fees

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

18. **Prior to the issuance of construction permits**, and in accordance with Title 13.01 of the County Code, the applicant must pay to the Department of Public Works the Los Osos Road Improvement Fee based on the latest adopted area fee schedule and 1.00 peak hour trips as estimated based on the project description. The estimated fee is \$4,198 (\$4,198/PHT x 1.00 PHT).

The applicant shall be responsible for paying to the Department of Public Works the Los Osos Road Improvement Fee consistent with the approved fee schedule at the time of issuance of building permit, or within 30 days of land use permit approval if no building permit is required. In accordance with Government Code section 66020(d)(1), the County provides notice to the applicant that the 90-day approval period in which the applicant may protest imposition of the Road Improvement Fee has begun.

19. **Prior to issuance of a construction permit**, construction and grading plans shall show the following:
- a. The "project limit area" shall include all areas of grading (including cut and fill areas, utility trenching and offsite improvements) and vegetation removal, the development footprint (i.e., all structures and/or site disturbance) necessary fire clearances and staging areas for all construction activities, the location of those activities, and areas for equipment and material storage.
 - b. Sturdy and highly visible protective fencing that will be placed along the 'project limit area'. Plan notes shall indicate this fence should remain in place during the duration of project construction to protect vegetation from construction activities.
 - c. Plan notes shall indicate native trees and undergrowth outside of the "project limit area" shall be left undisturbed.
 - d. Identify any necessary tree trimming. Plan notes shall indicate a skilled arborist, or accepted arborist's techniques, will be used when removing tree limbs.

Archaeology

20. **Prior to issuance of construction permit**, the applicant shall submit a **monitoring plan**, prepared by a County-approved archaeologist, for review and approval by the County Department of Planning and Building. The intent of this Plan is to monitor all earth-disturbing activities in areas identified as potentially sensitive for cultural resources, per the approved monitoring plan. The monitoring plan shall include at a minimum:
- a. List of personnel involved in the monitoring activities;
 - b. Inclusion of involvement of the Native American community, as appropriate;
 - c. Description of how the monitoring shall occur;
 - d. Description of frequency of monitoring (e.g., full-time, part time, spot checking);
 - e. Description of what resources are expected to be encountered;
 - f. Description of circumstances that would result in the halting of work at the project site (e.g., What is considered "significant" archaeological resources?);
 - g. Description of procedures for halting work on the site and notification procedures; and
 - h. Description of monitoring reporting procedures.

Crew Education. The monitoring plan shall also include provisions defining education of the construction crew and establishing protocol for treating unanticipated finds. In consultation with a County-approved archaeologist, the applicant shall provide cultural resources awareness training to all field crews and field supervisors. This training will include a description of the types of resources that may be found in the project area, the protocols to be used in the event of an unanticipated discovery, the importance of cultural resources to the Native American community, and the laws protecting significant archaeological and historical sites.

The archaeologist shall verify implementation of the Monitoring Plan during any ground disturbing activities. A final report on compliance shall be submitted by the archaeologist to the County **prior to final inspection.**

21. **Foundation Plan - Prior to issuance of construction permit,** the foundation plan shall be reviewed and approved by a County-approved archaeologist and appointed representatives of the Native American tribe. The foundation design shall incorporate a mat-slab style foundation on top of clean, sterile fill. Construction drawings should clearly annotate the existing native ground and the fill. To the extent feasible, foundation elements should be restricted entirely to the fill and within the top 12 inches of existing soil.

Federal No Take Concurrence Requirements

22. **Prior to issuance of construction permits, vegetation removal, and/or ground disturbance, the applicant shall provide evidence to the County of the following:**

- A. A current and valid No-Take Concurrence letter issued by the Service
- B. All applicable field requirements of the agency permit(s) shall be shown on applicable construction drawings and adhered to during construction. Avoidance and minimization measures recommended in the No-Take Concurrence letter shall be implemented as follows:
1. All project related ground disturbing activities will occur during the dry season (June 1 - October 15) when Morro shoulderband snails are aestivating and unlikely to migrate into work areas.
 2. A biologist approved by the Service will conduct a pre-construction survey of the work area to locate Morro shoulderband snails no more than 48 hours prior to the initiation of site work. The biologist will notify the Service of the results of the survey immediately following the survey efforts. No live Morro shoulderband snails will be relocated during these efforts.
 3. Prior to any soil disturbance and/or vegetation removal, silt fencing or orange protective fencing will be installed around the perimeter of the proposed project area to prevent unauthorized ground disturbance outside of the work area.
 4. A Service-approved biologist will conduct a pre-construction environmental awareness training session for all construction personnel involved in site disturbance. The training is intended to inform the permittees, construction crews, field supervisors, and equipment operators about the status and presence of the federally listed species, grading and construction-activity restrictions, and all proposed avoidance, protection and minimization measures. The Service-approved biologist will have the authority to stop work if Morro

shoulderband snail are observed within the project area. If Morro shoulderband snails are observed, the Service will be notified.

- C. As an alternative to subsections A and B above, the project may be eligible for coverage under the current proposed terms of County of San Luis Obispo's ("County") Los Osos Habitat Conservation Plan ("LOHCP") awaiting U.S. Fish and Wildlife Service final approval and issuance of an Incidental Take Permit ("ITP"). Following the effective date of the County's ITP and LOHCP, but prior to building permit issuance, the project proponent may satisfy this condition by securing a Certificate of Inclusion ("COI") from the County, which would confer take coverage under the ITP. The project proponent would have to comply with the terms of the COI and ITP, which includes compliance with the LOHCP. If the County finds that the project proponent is out of compliance with the terms of the COI and ITP, the County would have the authority to revoke the COI and all work relating to the project would have to cease immediately.

If, following two years from the effective approval date of the project, unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050, the ITP has not been issued by the U.S. Fish and Wildlife Service and the LOHCP is not in effect, the project will not have coverage under a County ITP. Without coverage under a County ITP, no site disturbance or construction may occur at the site, and no building permits may be approved, without amendment of this land use permit. Amendment of this land use permit to allow the project to proceed without coverage under a County ITP will require submittal of an application to amend this land use permit and the necessary surveys and reports to properly consider and address the potential for incidental take (harm, injure, capture and/or kill) of Morro Shoulderband Snail (*Helminthoglypta walkeri*), and the application to amend this land use permit (including its environmental determination and conditions of approval) would require review and approval by the appropriate Review Authority.

Drainage and Flood Hazard

23. **Prior to issuance of construction permits**, the applicant shall provide evidence satisfactory to the Department of Planning and Building that the Army Corps of Engineers and the California Department of Fish and Game environmental permits have either been secured or that the regulatory agency has determined that their permit is not required.
24. **Prior to acceptance of the improvements (if applicable)**, the Stormwater Operations and Maintenance plan and General Notice must be updated to reflect as-built changes, approved by the County, and re-recorded with the County Clerk-Recorder as amendments to the original document.

Conditions to be completed during construction:

Building Height

25. The maximum height of the dwelling is 16 feet, as measured from finished grade.
- a. **Prior to any site disturbance**, a licensed surveyor or civil engineer shall stake the lot corners, building corners, and establish highest natural grade and set a reference point (benchmark).

- b. **Prior to approval of the foundation inspection**, the benchmark shall be inspected by a licensed surveyor prior to pouring footings or retaining walls, as an added precaution.
- c. **Prior to approval of the roof nailing inspection**, the applicant shall provide the building inspector with documentation that gives the height reference, the allowable height and the actual height of the structure. This certification shall be prepared by a licensed surveyor or civil engineer.

Archaeology

26. **During Construction**, the applicant shall implement the following measures to minimize potential impacts to cultural resources on site:

- a. **Usage of Fill** - the most sensitive areas shall be capped with a minimum of three feet of fill material of a type appropriate to the area, and in accordance with recommendations by a soils engineer. Clean, sterile fill, consisting of a layer of other conspicuous material (e.g. fill of a noticeable different color and texture than native soil) shall be placed over the native soil prior to placement of any other clean fill material. The depth of fill to be placed shall be sufficient to prevent foundation elements from extending into the native soil. If structural elements extend into the native soil, these occurrences shall be minimized to the extent feasible and in no case extend more than 18 inches into the native soil.
- b. **Equipment & Ground Preparation** - All equipment used on the site shall have rubber tire wheels rather than metal treads, and shall be of the minimum size needed to do the work. Grubbing is limited to 6" of top soil, and may be done by the back end scraper of a small skip, with depth limited to 6". Walk behind roto-tiller should be considered. Compaction of the fill should be done with the with care as to not rip into the soil with aggressive wheel turns.
- c. **Phase III Data Recovery Plan** - If the soils engineer determines capping to be **unfeasible**, to mitigate for the project's direct impact to cultural resources, the Applicant shall retain a County-approved subsurface archaeologist to prepare a Phase III (data recovery) archaeological investigation. The archaeologist shall prepare a detailed research design program for review and approval by the County (this review may include a peer review from a County-retained archaeologist). Furthermore, once approved, the applicant shall implement the program as specified to maximize the success of this measure. The subsurface archaeologist responsible for the Phase III program shall be provided with a copy of the previous archaeological investigation (Cultural Resource Management Services, June 2021).

At a minimum, the Phase III program shall include the following:

- i. standard archaeological data recovery practices;
- ii. recommendation of sample size adequate to mitigate for impacts to archaeological site, including basis and justification of the recommended sample size. Sample size should be between 5 - 10% of the volume of disturbed area. If a lesser sample size is recommended, supporting information shall be presented that justifies the smaller sample size;
- iii. identification of location of sample sites/test units;
- iv. detailed description of sampling techniques and material recovery procedures (e.g. how sample is to be excavated, how the material will be screened, screen size, how material will be collected);
- v. disposition of collected materials;

- vi. proposed analysis of results of data recovery and collected materials, including timeline of final analysis results;
- vii. list of personnel involved in sampling and analysis.
- viii. Specify timing of proposed work relative to the proposed construction schedule.

d. **Revised Construction Drawings - If cultural resources are identified on site,** the applicant shall submit revised construction drawings to the County incorporating the revised design and/or mitigation measures approved by the Environmental Coordinator to avoid significant impacts or reduce to a less than significant level.

27. **During construction,** in the event archaeological resources are unearthed or discovered, the following standards apply:

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

Native Trees

28. **Native Trees (Oaks) –Minimizing Impacts.** When trees are proposed for removal or to be impacted within their driplines/ canopies, the following measures shall be completed to minimize native tree (oak) impacts:

- A. Grading and/or construction plans shall show locations of all native trees within 25 feet of the proposed project limits (including ancillary elements, such as trenching).
- B. For trees identified as 'to remain protected' they shall be marked in the field as such and protected to the extent possible. Protective measures shall be visible to work crews and be able to remain in good working order for the duration of the construction work. Waterproof signage at protective edge is recommended (e.g., "TREE PROTECTION AREA – STAY OUT"). Grading, trenching, compaction of soil, construction material/equipment storage, or placement of fill shall not occur within these protected areas.

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

Archaeology

29. **Field Completion Report - Upon completion of all monitoring activities, and prior to occupancy or final inspection (whichever occurs first),** the consulting archaeologist shall submit a Completion Report to the Environmental Coordinator summarizing the following:

- a. Completion and compliance of construction activities per the Monitoring Plan and any applicable mitigation measures agreed by the County, archeologist and Native American Representatives throughout the project. If the analysis included in the Phase III Data Recovery Plan is not complete by the time of final inspection, the applicant shall provide to the Environmental Coordinator, proof of obligation to complete the required analysis.

Access

30. **Prior to commencing permitted activities**, all work in the public right-of-way must be constructed or reconstructed to the satisfaction of the Public Works Inspector and in accordance with the County Public Improvement Standards; the project conditions of approval, including any related land use permit conditions; and the approved improvement plans.

Fire Safety

31. **Prior to occupancy or final inspection, whichever occurs first**, the applicant shall obtain final inspection and approval from CAL FIRE/County Fire of all required fire and life safety measures.

Department of Planning and Building Inspection

32. **Prior to occupancy or final inspection, whichever occurs first**, the applicant shall obtain final inspection and approval from the Department of Planning and Building for compliance with the project conditions of approval.

On-going conditions of approval (valid for the life of the project):

33. **On-going condition of approval (valid for the life of the project)**, and in accordance with County Code Section 13.08, no activities associated with this permit shall be allowed to occur within the public right-of-way including, but not limited to, project signage, tree planting, fencing, etc., without a valid encroachment permit issued by the Department of Public Works.
34. **On-going condition of approval (valid for the life of the project)**, the property owner shall be responsible for operation and maintenance of the public road frontage, including landscaping, maintaining County driveway sight distance standards in a viable condition and on a continuing basis into perpetuity.
35. **On-going condition of approval (valid for the life of the project)**, this land use permit is valid for a period of 60 months from its effective date unless time extensions are granted pursuant to 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 a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Coastal Zone Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
36. 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.

37. The applicant shall, as a condition of approval of this land use permit application, defend, hold harmless and indemnify, at his or her sole expense (including attorney's fees, with Counsel approved by the County), 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 land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit, or any other action by a third party relating to approval or implementation of this land use permit. The applicant shall reimburse the County for any court costs and attorney fees that 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. Upon request of the County, the applicant shall also enter into a separate agreement with the County (the "Indemnity Agreement"), in a form approved by County Counsel, agreeing to defend, indemnify, save and hold harmless the County, its present or former officers, agents, or employees, against actions by a third party challenging either its decision to approve this land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit, or any other action by a third party relating to or arising out of the approval or implementation of this land use permit. The agreement shall provide that the applicant will indemnify the County and reimburse it for any costs and/or attorney's fees which the County incurs as a result of such action, and that the County's participation or non-participation in any such litigation shall not relieve the applicant of his or her obligations under this condition or the agreement. The applicant shall also provide sufficient guarantees for the obligations hereunder as determined by County Counsel. Any violation of this condition, including the applicant's failure to execute the Indemnity Agreement or breach thereof, or failure to provide sufficient guarantees, is grounds for the County to rescind and/or revoke its approval of this land use permit. These defense and indemnity obligations shall survive any rescission, revocation and/or set aside of this land use permit.

**SAN LUIS OBISPO PLANNING DEPARTMENT HEARING
MINUTES FOR THE MEETING OF
Friday, January 20, 2023**

Minutes of the Regular Meeting of the County Planning Department Hearings, held via teleconference on the Zoom platform, San Luis Obispo, California, at 9:00 a.m.

The meeting is called to order at 9:01 a.m. by Susan Strachan, Hearing Officer. Susan Strachan, Hearing Officer, calls for a 5 minute break, to return at 9:06am.

Susan Strachan, Hearing Officer, calls meeting to order at 9:06am.

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, 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

Members of the public wishing to address the Planning Department Hearing Officer on consent agenda items and matters other than hearing items may do so at this time, when recognized by the Hearing Officer. Presentations are limited to three minutes per individual.

Susan Strachan, Hearing Officer: opens and closes Public Comment with no members of the public wishing to speak.

CONSENT AGENDA

2. Unless pulled from the consent agenda by the Planning Department Hearing Officer for separate action, the following items will be acted on collectively because individual public hearings were not requested or required pursuant to Land Use Ordinance Section 22.062.050B.4.b. or Coastal Zone Land Use Ordinance Sections 23.02.033b.(2)(ii) and 23.02.033b.(4)(ii):

Susan Strachan, Hearing Officer: asks for any staff updates.

Shani Siong, Supervising Planner, provides an update for consent item #8 and request for item to be continued to date certain of February 3, 2023.

Susan Strachan, Hearing Officer: continues item #8 to February 3, 2023.

3. December 16, 2022_Draft Meeting Minutes

Thereafter, on motion of the Hearing Officer, the Minutes of December 16, 2022 are Received and Filed, and are on file at the office of the Planning and Building Department.

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4. A request by **Alex Newkirk** for a Minor Use Permit/Coastal Development Permit (C-DRC2022-00006) to allow for the construction of an approximately 390 square-foot rooftop deck and an exterior staircase to an existing 1,913 square-foot single-family residence. The proposed project is in the Residential Single Family land use category and is located at 1765 Pacific Avenue in the community of Cayucos. The site is in the Estero Planning Area.

Also to be considered is the determination that this project is categorically exempt from environmental review under CEQA.

County File Number: C-DRC2022-00006 **Assessor Parcel Number: 064-231-021**
Supervisory District: 2 Date Accepted: August 31, 2022
Project Manager: April Lofgren **Recommendation: Approval**

Thereafter, on the motion of the Hearing Officer, the request by Alex Newkirk for a Minor Use Permit/Coastal Development Permit (C-DRC2022-00006) to allow for the construction of an approximately 390 square-foot rooftop deck and an exterior staircase to an existing 1,913 square-foot single-family residence is granted based on the Findings A through J in Exhibit A and subject to the Conditions 1 through 12 in Exhibit B.

The Planning Department Officer also determined that the project is categorically exempt from environmental review under CEQA.

5. A request by **Nancy and Bryan Pank** for a Minor Use Permit/Coastal Development Permit (C-DRC2021-00012) to allow for a 2,473 square-foot addition, including a new 420 square-foot garage and 516 square feet of decks, to an existing 1,473 square-foot single-family residence. The project will result in approximately 1,800 square-feet of disturbance on a 6,988 square-foot parcel. The proposed project is located within the Residential Single-Family land use category and is located at 340 Dorset Street, in the community of Cambria. The site is in the North Coast Planning Area.

Also, to be considered is the determination that this project is categorically exempt from environmental review under CEQA.

County File Number: C-DRC2021-00012 **Assessor Parcel Number: 022-291-036**
Supervisory District: 2 Date Accepted: February 24, 2022
Project Manager: Kip Morais **Recommendation: Approval**

Thereafter, on the motion of the Hearing Officer, the request by Nancy and Bryan Pank for a Minor Use Permit/Coastal Development Permit (C-DRC2021-00012) to allow for a 2,473 square-foot addition, including a new 420 square-foot garage and 516 square feet of decks, to an existing 1,473 square-foot single-family residence is granted based on the Findings A through O in Exhibit A and subject to the Conditions 1 through 12 in Exhibit B.

The Planning Department Officer also determined that the project is categorically exempt from environmental review under CEQA.

Corla Wade, Clerk: requests 10-minute break for technical difficulties.

Thereafter, on the motion of the Hearing Officer, the request by Michael and Kathy Barnes for a Minor Use Permit / Coastal Development Permit (C-DRC2021-00046) to allow for an approximately 1,301 square-foot addition at an existing 1,136 square-foot two-story single-family residence, consisting of an approximately 554 square foot attached garage with an approximately 747 square foot attached living space above the garage and a 154 square-foot deck and supporting appurtenances including the construction of a relocated and improved driveway along Drake Street is granted based on the Findings A through O in Exhibit A and subject to the Conditions 1 through 25 in Exhibit B.

The Planning Department Officer also determined that the project is categorically exempt from environmental review under CEQA.

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8. A request by **Karen and Craig Little** for a Minor Use Permit/Coastal Development Permit (DRC2019-00172) to allow for the construction of a new 2,217 square-foot single-family residence with 790 square-feet of uncovered deck area and a 283 square-foot one-car attached garage. The project will result in approximately up to 2,500 square-feet of site disturbance on the 4,700 square-foot parcel and includes import of approximately 45 cubic yards of fill material for site capping. The project site is in the Residential Single-Family land use category and is located at 94 24th Street in the community of Cayucos. The site is in the Coastal Zone and Estero Planning Area.

Also to be considered is the determination that this project is categorically exempt from environmental review under CEQA.

County File Number: DRC2019-00172

Assessor Parcel Number: 064-183-021

Supervisory District: 2

Date Accepted: July 1, 2022

Project Manager: April Lofgren

Recommendation: Approval

Thereafter, on the motion of the Hearing Officer, the request by Karen and Craig Little is continued to a date certain of February 3, 2023.

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9. A request by **Spanish Vineyards, LLC** for a Minor Use Permit (DRC2019-00256) to allow site disturbance and grading for an approximately 1-mile-long driveway to provide access for a single-family residence. The proposed access driveway would extend west and southwest from the terminus of Vetter Lane (off of Old Park Road) for approximately 1-mile, ending at the location of the proposed single-family residence. The subject property consists of two parcels (APNs 079-251-005 and 044-561-004), totaling 188 acres and 253 acres respectively. The proposed project is within the Rural Lands land use category and is located at the north end of Highland Drive adjacent to the City of Pismo Beach. The project site is within the San Luis Bay sub-area of the South County Planning Area.

Also to be considered at the hearing will be adoption of the Mitigated Negative Declaration prepared for the item. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary.

Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on August 8, 2022 for this project. Mitigation measures are proposed to address air quality, geology, soils, and biological resources.

County File No.: DRC2019-00256
Supervisory District: 3
Project Manager: Terry Wahler

Assessor Parcel No.: 079-251-005 and 044-561-004
Date accepted: September 30, 2021
Recommendation: Approval

Thereafter, on the motion of the Hearing Officer, the request by Spanish Vineyards, LLC for a Minor Use Permit (DRC2019-00256) to allow site disturbance and grading for an approximately 1-mile long driveway to provide access for a single-family residence is granted based on the Findings A through F in Exhibit A and subject to the Conditions 1 through 12 Planning Department, 1 through 10 Public Works, AQ-1 through AQ2, Air Quality, BIO-1 through BIO-11 Biological Resources, and GEO-12 Geology and Soils in Exhibit B.

The Hearing Officer also adopted the Mitigated Negative Declaration prepared for the item wherein the Environmental Coordinator, after completion of the initial study, found that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on August 8, 2022 for this project. Mitigation measures are proposed to address air quality, geology, soils, and biological resources.

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10. A request by **Glenn and Kelle Black and John Sterling Bryan and Christine Bryan** for a Minor Use Permit / Coastal Development Permit (C-DRC2022-00051) to allow an existing two-story 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 362 McCarthy Avenue, in the community of Oceano. The site is in the San Luis Bay Coastal Planning Area.

Also to be considered is the determination that this project is categorically exempt from environmental review under CEQA.

County File Number: C-DRC2022-00051
Supervisor District: 4
Project Manager: Nicole Ellis

Assessor Parcel Number: 061-021-014
Date Accepted: October 24, 2022
Recommendation: Approval

Thereafter, on the motion of the Hearing Officer, the request by **Glenn and Kelle Black and John Sterling Bryan and Christine Bryan** for a Minor Use Permit / Coastal Development Permit (C-DRC2022-00051) to allow an existing two-story single-family residence to be used as a residential vacation rental is granted based on Findings A through G in Exhibit A and subject to the Conditions 1 through 14 in Exhibit B.

The Planning Department Officer also determined that the project is categorically exempt from environmental review under CEQA.

HEARING ITEMS

11. Hearing to consider a request by **Daou Brothers LLC** for a Lot Line Adjustment (COAL21-0180) to adjust the lot lines between 2 parcels of 160-acres (026-233-003, Parcel 1) and 161-acres (026-233-006, Parcel 2). The adjustment will result in 2 parcels of 200-acres (026-233-003, Parcel 1) and 121-acres (026-233-006, Parcel 2). The project will not result in the creation of any additional parcels. The proposed project is within the Agriculture land use category and is located at 4270 and 4274 Adelaida Road, approximately 4 miles west of the City of Paso Robles. The site is in the Adelaida Sub Area of the North County Planning Area.

Also, to be considered is the determination that this project is categorically exempt from environmental review under CEQA.

County File Number: N-SUB2022-00024 Assessor Parcel Number(s): 026-233-003 and 026-233-006

Supervisory District: 2

Date Accepted: November 14, 2022

Project Manager: Jessica Macrae

Recommendation: Approval

Jessica Macrae: Project Manager: displays Power Point presentation of the staff report.

Susan Strachan, Hearing Officer, opens public comment.

Jessica Macrae, Project Manager: states the Agent is available for questions.

Nicholas Chapman and Mankins, members of the public, wish to speak on item 9 in the consent agenda.

Susan Strachan, Hearing Officer: states the item has been approved

At the discretion of the Hearing Officer, the comments will be heard after the completion of the current item.

Susan Strachan, Hearing Officer, closes public comment and has no questions for staff.

Thereafter, on the motion of the Hearing Officer, the request by Daou Brothers LLC for a Lot Line Adjustment (COAL21-0180) to adjust the lot lines between 2 parcels of 160-acres (026-233-003, Parcel 1) and 161-acres (026-233-006, Parcel 2) is granted based on Findings A through B in Exhibit A and subject to the Conditions 1 through 10 in Exhibit B.

The Planning Department Officer also determined that the project is categorically exempt from environmental review under CEQA.

Susan Strachan, Hearing Officer, re-opens public comment on the Consent Agenda for item #9.

Nicholas Chapman and Mr. Mankins: speak.

Susan Strachan, Hearing Officer: comments and calls for a 5-minute break.

Meeting reconvenes at 9:47 a.m.

Susan Strachan, Hearing Officer: states the Consent Agenda approval for item #9 stands and informs the public of the 14 day time frame for appeals.

12. Continued hearing to consider a request by **Roger Dick** for a Minor Use Permit/Coastal Development Permit (DRC2021-00145) to allow for the construction of a single-story, 1,910-square-foot single-family residence with an attached 573-square-foot two-car garage to replace a demolished residence on a 5,750-square-foot parcel. Utility connections are available on site. The project would result in approximately 3,600 square feet of ground disturbance on the 5,750 square foot parcel and includes import of up to 400 cubic yards of fill material for site capping. The project site is in the Residential Single-Family land use category and is located at 1153 11th street, in the community of Los Osos. The site is in the Estero Planning Area.

Also, to be considered is the determination that this project is categorically exempt from environmental review under CEQA.

County File Number: DRC2021-00145	Assessor Parcel Number: 038-061-047
Supervisory District: 2	Date Accepted: December 17, 2021
Project Manager: Kip Morais	Recommendation: Approval

Presentation provided by Brandi Cummings, County Contract Planner.

Brandi Cummings, SWCA Consultant: displays Power Point presentation of the staff report.

Susan Strachan, Hearing Officer: poses questions to staff.

Kip Morais, Planning Staff: responds.

Susan Strachan, Hearing Officer: opens public comment.

Jeff Edwards, Agent: comments.

Patrick McGibney: speaks.

Jeff Edwards, Agent: responds to Mr. McGibney's comments.

Susan Strachan, Hearing Officer closes public comment.

Thereafter, on the motion of the Hearing Officer, the request by Roger Dick for a Minor Use Permit/Coastal Development Permit (DRC2021-00145) to allow for the construction of a single-story, 1,910-square-foot single-family residence with an attached 573-square-foot two-car garage to replace a demolished residence on a 5,750-square-foot parcel is granted based on Findings A through I in Exhibit A and subject to the Conditions 1 through 37 in Exhibit B.

The Planning Department Officer also determined that the project is categorically exempt from environmental review under CEQA.

ADJOURNMENT 10:11am.

Next Scheduled Meeting: February 3, 2023.

**Corla Wade, Secretary
Planning Department Hearings**

Minutes will be Received and Filed at the February 17, 2023 Planning Department Hearing Meeting.

**Staff Reports and Attachments from
Planning Department Hearing of January 20, 2023**

Planning Department Hearing of January 20, 2023

- Link to Planning Department Hearing Agenda (Refer to Hearing Item 12)
DRC2021-00145
[Meeting details - Provox IIP \(ca.gov\)](#)
- Link to Staff Report
[136579 \(ca.gov\)](#)
- Link to Attachments
[Agenda item details - Provox IIP \(ca.gov\)](#)



Promoting the wise use of land
Helping build great communities

COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT
Tentative Notice of Action

MEETING DATE January 20, 2023	CONTACT/PHONE Kip Morais Planner 805-781-5136 kmorais@co.slo.ca.us	APPLICANT Roger Dick	FILE NO. DRC2021-00145
LOCAL EFFECTIVE DATE February 3, 2023			
FINAL EFFECTIVE DATE February 24, 2023 (est.)			
SUBJECT Continued hearing to consider a request by Roger Dick for a Minor Use Permit/Coastal Development Permit to allow for the construction of a single-story, 1,910-square-foot single-family residence with an attached 573-square-foot two-car garage to replace a demolished residence on a 5,750-square-foot parcel. Utility connections are available on site. The project would result in approximately 2,964 square feet of ground disturbance on the 5,750 square foot parcel and includes import of up to 400 cubic yards of fill material for site capping. The project site is in the Residential Single-Family land use category and is located at 1153 11th street, in the community of Los Osos. The site is in the Estero Planning Area.			
RECOMMENDED ACTION Approve Minor Use Permit/Coastal Development Permit (DRC2021-00145) based on the findings listed in Exhibit A and the conditions listed in Exhibit B.			
ENVIRONMENTAL DETERMINATION A Categorical Exemption is proposed for the project (ED22-161).			
LAND USE CATEGORY Residential Single Family	COMBINING DESIGNATION Coastal Zone Archaeologically Sensitive Area	ASSESSOR PARCEL NUMBER 038-061-047	SUPERVISOR DISTRICT 2
PLANNING AREA STANDARDS: Estero Area Plan – Development Within Resource Capacities, Los Osos Land Use Policies <i>Does the project conform to the Planning Area Standards: Yes – see discussion</i>			
LAND USE ORDINANCE STANDARDS: Coastal Zone Land Use Ordinance (Title 23) <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.			

EXISTING USES: Undeveloped; existing landscaping, water meter, and sewer lateral on-site	
SURROUNDING LAND USE CATEGORIES AND USES: <i>North:</i> Residential Single-Family; single-family residence(s) <i>South:</i> Residential Single-Family; single-family residence(s) <i>East:</i> Residential Single-Family; undeveloped land <i>West:</i> Residential Single-Family; 11 th Street, single-family residence(s)	
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: 2 nd District Legislative Assistant, Building Division, Public Works, County Fire/CAL FIRE, Los Osos Community Advisory Council, Los Osos Community Services District, California Coastal Commission	
TOPOGRAPHY: Nearly level	VEGETATION: Ruderal, landscaped
PROPOSED SERVICES: Water supply: Los Osos Community Services District (CSD) Sewage Disposal: County Public Works Assessment District 1 Fire Protection: Cal Fire / County Fire	ACCEPTANCE DATE: September 22, 2021

PROJECT SITE HISTORY

The project site historically supported a small single-family residence that was demolished in May of 2010 (permit number: PMT2009-01815).

DISCUSSION

The project includes a request by Roger Dick for a Minor Use Permit/Coastal Development Permit to allow for the construction of a single-story, 1,824-square-foot single-family residence with an attached two-car garage to replace a residence that was previously demolished on a 5,750-square-foot (0.13-acre) parcel. The project site is located at 1153 11th street in the community of Los Osos, in the Residential Single-Family land use category. The site is generally surrounded by existing residential single-family development.

The proposed residence would include two bedrooms with walk-in closets, two bathrooms, one half-bathroom (i.e., powder room), an office/flex room, a kitchen, a living room/great room, a laundry room, a pantry, and an entryway. The residence would also include a 50-square-foot covered patio, a 36-square-foot covered entry, and an approximately 573-square-foot attached two-car garage. The total footprint of the structure would be approximately 2,483 square feet. The proposed single-family residence setback distances and proposed building height are detailed in the table below.

Front Setback	25 feet
Side Setbacks	9 feet; 5 feet
Rear Setbacks	20 feet (building); 15 feet (patio)
Maximum Building Height	15 feet

The project would also include the construction of a new 16-foot-wide asphalt driveway to be located from 11th Street to the parcel frontage and a proposed concrete driveway from the parcel frontage to the proposed residence garage.

The project site currently supports existing connections to community water and wastewater utility infrastructure owned and operated by the Los Osos Community Services District (LOCSD) and County Public Works Wastewater Assessment District No. 1. County Public Works Wastewater Assessment District No. 1 has issued a letter (Dated May 6, 2021) stating that the district is willing and able to continue to provide wastewater service to the project property, and a separate letter was issued by the LOCSD (dated May 5, 2021) confirming the property has existing water service and that the LOCSD will continue to serve water to the property in the future.

The project is located in the Archaeologically Sensitive Area combining designation per Coastal Zone Land Use Ordinance (CZLUO) Section 23.07.104. An Archaeological Inventory Survey was prepared and submitted with the project land use permit application package (Cultural Resource Management Services 2021). The authors concluded that there is a high potential to encounter archaeological deposits during any major ground disturbance within the area of potential effect. Preservation of subsurface archaeological resources, if they are present within the project site, could be accomplished by capping the area of potential with a minimum of three feet of fill material, in accordance with recommendations by a soils engineer. To address potential impacts to archaeological resources, the applicant is proposing a preservation-in-place treatment in accordance with Section 23.07.104c of the San Luis Obispo County CZLUO. Import and placement of up to 400 cubic yards of fill material is proposed as part of the project to preserve-in-place potential cultural resources that may be present on-site. The maximum depth of fill materials would be 3 feet 6 inches above natural grade.

The project site currently supports two coast live oak trees. Tree #1 (Bio Resources Assessment) in proximity to 11th street is to be retained. Tree #2 (adjacent to the northern boundary of the lot is to be removed. The tree proposed to be removed has three leaders and the biological resources assessment concluded the tree is in severe decline and is damaged beyond reclamation. Tree #2 was recommended for removal in the biological resources assessment and the Certified Arborist Report. Tree protection measures for Oak Tree #1 have been included as conditions of approval. All work would be scheduled to occur between September 16 and January 31, which is outside of bird nesting season.

As a condition of the land use permit approval, prior to construction permit issuance, vegetation removal or ground disturbance, the applicant will also have to either provide evidence of a valid No-Take Concurrence letter issued by the U.S. Fish and Wildlife Service ("Service") or apply for a Certificate of Inclusion if the Los Osos Community Wide Habitat Conservation Plan and Incidental Take Permit is approved and issued by the Service and pay the applicable in-lieu mitigation fee, related to potential impacts to the Morro Shoulderband snail and its habitat.

ESTERO PLANNING AREA STANDARDS

Chapter 4 – Land Use Policies and Programs

Section I. – Areawide Land Use and Marine Resources Policy

B. Development Within Resource Capabilities

- a. Adequate public or private resource capabilities shall be available to serve proposed development. Within urban areas, adequate water supply and sewage disposal capacities

shall be available to serve both existing and potential development within the community before approval of new land divisions using those services. Land divisions requiring urban service extensions beyond the USL/URL shall be prohibited.

Staff comment: The project site is located within the Los Osos Urban Reserve Line (URL) and the Urban Services Line (USL). The project would include the construction of a single-family residence where a single-family residence was previously located on an existing legal lot and is not a new land division. County Public Works Wastewater Assessment District No. 1 has issued a letter (dated May 6, 2021) stating that the district is willing and able to continue to provide wastewater service to the project property, and a separate letter was issued by the Los Osos Community Services District (dated May 5, 2021) confirming the property has existing water service and that the CSD will continue to serve water to the property in the future. Therefore, the proposed project is consistent with this policy.

Chapter 7 – Planning Area Standards

Section VI. – Los Osos Urban Area Standards

C. Drainage

1. **Los Osos Lowland Areas – Drainage Plan Requirement.** In areas designated in Figure 7-40, all land use permit applications for new structures or additions to the ground floor of existing structures shall require drainage plan approval pursuant to Coastal Zone Land Use Ordinance Sections 23.05.040 et seq. unless the County Engineer determines that the individual project site is not subject to or will not create drainage problems.

Staff Response: The project has been conditioned to prepare a drainage plan in accordance with LUO Section 23.05.040.

D. Bayfront Development

1. Height. Proposed structures are limited to the maximum heights shown on Figures 7-41 and 7-42.
2. Fences. Fences shall not be constructed that would restrict public views of the bay from public roads or preclude lateral public access.
3. Vegetation Protection. On-site vegetation shall be preserved whenever possible. Grading shall be minimized and limited to the building pad and driveway, road and other required improvements.

Staff Response: The project site is located within the identified Bayfront area with height limitation. The maximum height allowed on this parcel is 16' and the project proposed a single family residence of 15' high. As designed and conditioned, the project complies with this standard.

Residential Single Family – Development Standards

D. El Morro

1. Lot Coverage. Maximum lot coverage permitted on a single 25-foot lot is 60%; lots of 6,000 square feet or more are permitted 40% coverage, excluding patios, driveway, walks, etc.

Staff Comments: The project would result in 43% lot coverage on a 5,570 square-foot, 46-foot-wide lot. The lot is less than 6,000 square feet and is therefore allowed 60% lot coverage and complies with this standard.

COASTAL ZONE LAND USE ORDINANCE STANDARDS

Section 23.07.120: Local Coastal Program

The project site is located within the California Coastal Zone as established by the California Coastal Act of 1976 and is subject to the provisions of the Local Coastal Program.

Section 23.01.043c.(3)(i): Appeals to the Coastal Commission (Coastal Appealable Zone)

The project is appealable to the Coastal Commission because the subject parcel is located between the sea and the first public road.

Section 23.04.210: Visual Resources

(2) Structure visibility. Minimize structural height and mass by using low-profile design where feasible, including sinking structures below grade. Minimize the visibility of structures by using design techniques to harmonize with the surrounding environment.

Staff comment: The proposed single-story residence would be located in a residential neighborhood that consists of single- and two-story residences. The project would be visually consistent with the type and density of surrounding development and would not be located along a ridgeline or otherwise prominent visual location.

Section 23.07.104: Archaeologically Sensitive Areas

To protect and preserve archaeological resources, the following procedures and requirements apply to development within the areas of the coastal zone identified as archaeologically sensitive.

- a. **Preliminary site survey required.** Before issuance of a land use or construction permit for development within an archaeologically sensitive area, a preliminary site survey shall be required. The survey shall be conducted by a qualified archaeologist knowledgeable in local Native American culture and approved by the Environmental Coordinator. The County will provide pertinent project information to the Native American tribe(s).
- b. **When a mitigation plan is required.** If the preliminary site survey determines that proposed development may have significant effects on existing, known or suspected archaeological resources, a plan for mitigation shall be prepared by a qualified archaeologist. The County will provide pertinent project information to the Native American tribe(s) as appropriate. The purpose of the plan is to protect the resource. The plan may recommend the need for further study, subsurface testing, monitoring during construction activities, project redesign, or other actions to mitigate the impacts on the resource. Highest priority shall be given to avoiding disturbance of sensitive resources. Lower priority mitigation measures may include use of fill to cap the sensitive resources. As a last resort, the review authority may permit excavation and recovery of those resources. The mitigation plan shall be submitted to and approved by the Environmental Coordinator, and considered in the evaluation of the development request by the Review Authority.
- c. **Archaeological resources discovery.** In the event archeological resources are unearthed or discovered during any construction activities, the standards of Section 23.05.140 of this title shall apply. Construction activities shall not commence until a mitigation plan, prepared by a qualified professional archaeologist reviewed and approved by the Environmental Coordinator, is completed and implemented. The County will provide pertinent project information to the affected Native American tribe(s) and consider comments prior to approval of the mitigation plan. The mitigation plan shall include measures to avoid the resources to the maximum degree feasible and shall provide mitigation for unavoidable impacts. A report verifying that the approved mitigation plan has

been completed shall be submitted to the Environmental Coordinator prior to occupancy or final inspection, whichever occurs first.

Staff comment: An Archaeological Inventory Survey was prepared and submitted with the project land use permit application package (Cultural Resource Management Services 2021). The authors concluded that there is a high potential to encounter archaeological deposits during any major ground disturbance within the area of potential effect. Preservation of subsurface archaeological resources, if they are present within the project site, could be accomplished by capping the area of potential with a minimum of three feet of fill material, in accordance with recommendations by a soils engineer. To address potential impacts to archaeological resources, the applicant is proposing a preservation-in-place treatment in accordance with Section 23.07.104c of the San Luis Obispo County CZLUO. Placement of up to 400 cubic yards of fill material is proposed as part of the project to preserve-in-place potential cultural resources that may be present on-site. The maximum depth of fill materials would be 3 feet 6 inches above natural grade. Therefore, the proposed project would be consistent with this policy.

OTHER ORDINANCE REQUIREMENTS

Section 13.01.020: County Road Improvement Fee

From time to time, the board of supervisors shall, by resolutions, set forth the specific amount of the fee for various areas of the county, describe the benefit and the benefit area for which the road improvement fee is imposed, list the specific road facilities and improvements to be financed, describe the estimated costs of these facilities and improvements, describe the reasonable relationship between this road improvement fee and the various types of new developments and set forth the time for payment of this road improvement fee.

Staff comments: The project is within the Los Osos Road Fee Area and is conditioned to the pay the fee prior to issuance of construction permits.

Section 19.07.042(8): Los Osos Groundwater Basin

This section requires water conservation measures including the installation of low-flow fixtures. Additionally, this section requires that development of new structures with plumbing fixtures that use water from the Los Osos Groundwater Basin, retrofit plumbing fixtures in existing structures located within the Los Osos Groundwater Basin but outside the prohibition zone. New residences are required to obtain 300 retrofit credits (equivalent to 300 gallons).

Staff comments: The project is a replacement residence replacing a 546 square foot residence with 64 square feet of storage and 120 square feet of deck. The project is required to offset 300 gallons per day in compliance with Title 19 Section 19.07.042 water conservation provisions.

Section 19.11 and Section 23.05.040: Preconstruction Stormwater Inspection / Stormwater Management Area.

The requirements in these sections are intended to reduce pollutant discharges to the maximum extent practicable and to prevent stormwater discharges from causing or contributing to a violation of receiving water quality standards. These requirements also incorporate the post-construction stormwater management requirements (PRC's) for development projects in the county. The PRCs mandate that development projects use low impact development (LID) to detain, retain, and treat runoff. LID incorporates and conserves on-site natural features, together with constructed hydrologic controls to more closely mimic pre-development hydrology and watershed process. Collectively, these requirements emphasize protecting and, where degraded, restoring key watershed processes to create and sustain linkages between hydrology, channel geomorphology, and biological health necessary for healthy watersheds. Maintenance and restoration of watershed processes impacted by stormwater management is necessary to protect water quality and the beneficial uses of surface and groundwater.

Staff comments: This site is located in a Stormwater Management Area (MS4) Area and is considered a regulated project that is required to submit a Stormwater Control Plan Application and Cover sheet. The project has been conditioned to comply with Section 19.11 and Section 23.05.040.

APPLICABLE COASTAL PLAN POLICIES

Shoreline Access:	N/A
Recreation and Visitor Serving:	N/A
Energy and Industrial Development:	N/A
Commercial Fishing, Recreational Boating & Port Facilities:	N/A
Environmentally Sensitive Habitats:	N/A
Agriculture:	N/A
Public Works:	<input checked="" type="checkbox"/> Policy No: 1
Coastal Watersheds:	<input checked="" type="checkbox"/> Policy No: 8 – 10
Visual and Scenic Resources:	N/A
Hazards:	N/A
Archaeology:	<input checked="" type="checkbox"/> Policy No: 1, 4 – 6
Air Quality:	N/A

Does the project meet applicable Coastal Plan Policies: Yes, as conditioned

COASTAL PLAN POLICY DISCUSSION

Public Works

Policy 1: Availability of Service Capacity

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

- a. It can be serviced by adequate private on-site water and waste disposal systems; and
- b. The proposed development reflects that it is an environmentally preferable alternative.

The applicant shall assume responsibility in accordance with county ordinances or the rules and regulations of the applicable service district or other providers of services for costs of service extensions or improvements that are required as a result of the project. Lack of proper arrangements for guaranteeing service is grounds for denial of the project or reduction of the density that could otherwise be approved consistent with available resources.

Staff comment: This policy requires the County to make a finding of sufficient service capacities as implemented by Section 23.04.430 which gives priority to infilling development within the urban services line over development proposed between the urban services line and the urban reserve line. The proposed project is located within the urban services line and does not require any water service extension. Under such circumstances, the sufficiency of service capacities for development not involving subdivisions of land is usually satisfied by the applicant obtaining a will-serve letter verifying service capacity from the service provider (in this case the Los Osos Community Services District) as required by Title 19. The proposed single-family residence is a

replacement residence that will replace a demolished single-family residence. The Los Osos CSD has provided a continuation of water service dated May 5, 2021. The size and scale of the proposed project (1,910 square feet of living space) is consistent with existing housing stock in the community. The basin yield metric under the Los Osos Basin Plan (LOBP) has been met every annual report since 2016, the water level and chloride metrics have been improving consistent with the basin model after reaching the sustainable yield metric, and the nitrate metric has been steadily improving following completion of the LOWRF and connection of properties within the Los Osos Sewer Service Area. While the sustainable yield metric methodology was updated by the Los Osos Basin Management Committee (BMC) for the future 2022 annual report (aimed at stopping any further seawater intrusion in the lower aquifer while the basin recovers from previous over pumping, especially near the coast, as opposed to the original sustainable yield methodology which would have allowed some further seawater intrusion in the lower aquifer as the basin recovered from previous over pumping in the lower aquifer, especially near the coast, and basin plan projects were implemented shifting more production to the east and upper aquifer), the proposed project is required to comply with applicable state and local water conservation requirements as well as requirements of the local water purveyor consistent with the LOBP (and stipulated judgement) and the LOWRF's recycling and monitoring programs. Approval of the proposed project would not decrease the likelihood of achieving the LOBP sustainable yield metric because it will not result in net additional water demand in the basin because of compliance with water offset requirements and domestic wastewater will be put back to reuse or recharge within the basin via the LOWRF.

Coastal Watersheds

Policy 8: Timing of Construction and Grading

Land clearing and grading shall be avoided during the rainy season if there is a potential for serious erosion and sedimentation problems. All slope and erosion control measures should be in place before the start of the rainy season. Soil exposure should be kept to the smallest area and the shortest feasible period.

Staff comment: The proposed project is consistent with this policy because the project is required to have an erosion and sedimentation control plan and all sedimentation and erosion control measures will be in place before the start of the rainy season.

Policy 9: Techniques for Minimizing Sedimentation

Appropriate control measures (such as sediment basins, terracing, hydro-mulching, etc.) shall be used to minimize erosion and sedimentation.

Staff comment: The proposed project is conditioned to comply with this policy as the applicant shall apply Best Management Practices in the selection and implementation of site maintenance.

Policy 10: Drainage Provisions

Site design shall ensure that drainage does not increase erosion. This may be achieved either through on-site drainage retention, or conveyance to storm drains or suitable watercourses.

Staff comment: The project is conditioned to prepare a drainage plan.

Archaeological Resources

Policy 1: Protection of Archaeological Resources

The County shall provide for the protection of both known and potential archaeological resources. All available measures, including purchase, tax relief, purchase of development rights, etc., shall be explored at the time of a development proposal to avoid development on important

archaeological sites. Where these measures are not feasible and development will adversely affect identified archaeological or paleontological resources, adequate mitigation shall be required.

Staff comment: In accordance with this policy and the CZLUO requirements for areas located in the Archaeologically Sensitive Areas combining designation, an Archaeological Inventory Survey was prepared and submitted with the project land use permit application package (Cultural Resource Management Services 2021). The project has been designed to minimize potential impacts to potential archaeological resources through the placement of fill material in areas with potential for resources prior to initiation of project construction activities. The project is conditioned to require cultural monitoring during any site disturbing activities.

Policy 4: Preliminary Site Survey for Development within Archaeologically Sensitive Areas

Development shall require a preliminary site survey by a qualified archaeologist knowledgeable in Chumash culture prior to a determination of the potential environmental impacts of the project.

Staff comment: An Archaeological Inventory Survey was prepared by Cultural Resources Management Services and submitted with the project land use permit application package. Cultural Resources Management Services is listed as a qualified consultant firm for archaeological and historical technical evaluation and report preparation for the County of San Luis Obispo on the County's Website. Recommendations for capping and preserving identified cultural resources have been included as conditions of approval.

Policy 5: Mitigation Techniques for Preliminary Site Survey before Construction

Where substantial archaeological resources are found as a result of a preliminary site survey before construction, the county shall require a mitigation plan to protect the site. Some examples of specific mitigation techniques include:

- a. Project redesign could reduce adverse impacts of the project through relocation of open space, landscaping or parking facilities.
- b. Preservation of an archaeological site can sometimes be accomplished by covering the site with a layer of fill sufficiently thick to insulate it from impact. This surface can then be used for building that does not require extensive foundations or removal of all topsoil.
- c. When a project impact cannot be avoided, it may be necessary to conduct a salvage operation. This is usually a last resort alternative because excavation, even under the best conditions, is limited by time, costs and technology. Where the chosen mitigation measure necessitates removal of archaeological resources, the county shall require the evaluation and proper deposition of the findings based on consultation with a qualified archaeologist knowledgeable in the Chumash culture.
- d. A qualified archaeologist knowledgeable in the Chumash culture may need to be on-site during initial grading and utility trenching for projects within sensitive areas.

Staff comment: The authors of the Archaeological Inventory Survey prepared for the project concluded that there is a high potential to encounter archaeological deposits during any major ground disturbance within the area of potential effect. Preservation of subsurface archaeological resources, if they are present within the project site, could be accomplished by capping the area of potential with a minimum of three feet of fill material, in accordance with recommendations by a soils engineer. To address potential impacts to archaeological resources, the applicant is proposing a preservation-in-place treatment in accordance with Section 23.07.104c of the San Luis Obispo County CZLUO. Placement of up to 400 cubic yards of fill material is proposed as part of the project to preserve-in-place potential cultural resources that may be present on-site. The maximum depth of fill materials would be 3 feet 6 inches above natural grade. Based on the proposed single-story design of the proposed single-family residence, required foundation

footings would be relatively shallow and would not exceed this depth. Therefore, the proposed project would be consistent with mitigation strategy (b) presented in this policy.

Policy 6: Archaeological Resources Discovered during Construction or through Other Activities

Where substantial archaeological resources are discovered during construction of new development, or through non-permit related activities (such as repair and maintenance of public works projects) all activities shall cease until a qualified archaeologist knowledgeable in the Chumash culture can determine the significance of the resource and submit alternative mitigation measures.

Staff comment: Discovery of archaeological resources is not expected due to implementation of mitigation measures as described above; however, in the event archaeological resources are discovered during project construction activities, the project has been conditioned to require compliance with this policy.

ENVIRONMENTAL DETERMINATION

A Class 3 Categorical Exemption (CE) was issued on October 13, 2022, for the project, pursuant to the State CEQA Guidelines §15303, New Construction or Conversion of Small Structures.

LOS OSOS COMMUNITY ADVISORY GROUP COMMENTS

This project was referred to the Los Osos Community Advisory Group on August 12, 2021. No comments were received. On Nov 18, 2022, this project has been continued to date certain of January 20, 2023 to allow LOCAC to review this application during their December 2022 meeting. LOCAC comments will be published via a memo to this application once received by the Planning Department.

AGENCY REVIEW

Building Division

The Building Division has reviewed the proposed project and confirmed that a building permit is required. Additional notes specific to the building permit requirements were provided (Sylvia Aldana, November 2019).

Department of Public Works

The Department of Public Works has reviewed the proposed project and provided comments and recommended conditions of approval, which have been incorporated in to Exhibit B – Conditions of approval (JR Beard, August 2021).

Los Osos Community Services District (Los Osos CSD)

The Los Osos CSD has issued two Will-Continue-To-Serve letters for the project (Ron Munds, May 2021; Laura Holder, May 2021).

County Fire/CAL FIRE

No response received to date.

Department of Environmental Health

No response received to date.

California Coastal Commission

No response received to date.

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 (Parcel B of Parcel Map COAL 81-246).

Staff report prepared by SWCA Environmental Consultants and reviewed by Kip Morais.

ATTACHMENTS

Attachment 1 – Exhibit A – Findings
Attachment 2 – Exhibit B – Conditions of Approval
Attachment 3 – Graphics
Attachment 4 – Referral Responses
Attachment 5– Notice of Exemption

**EXHIBIT A – FINDINGS
MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT
DRC2021-00145 DICK**

Environmental Determination

- A. The project qualifies for a Class 3 Categorical Exemption pursuant to Section 15303 of the State California Environmental Quality Act Guidelines.

Minor Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan and the Estero Area Plan because the proposed single-family residence is an allowed use and as conditioned and is consistent with all of the General Plan and Area Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 (Coastal Zone Land Use Ordinance) 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 project is consistent with the expected development of the parcel. The proposed single-family residence would require a building permit and all proposed construction would be subject to the California Building Code, the California Electrical Code, and the California Plumbing Code in effect at the time of construction.
- E. The proposed project or use will not be inconsistent with the character of the immediate area or contrary to its orderly development because the construction of a single-story single-family residence is consistent with the expected development of the parcel. The project would incorporate design and architectural features that would be consistent with the surrounding residential neighborhood.
- F. The proposed project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project would establish a single-family residence where a single-family residence was located historically, and therefore would not result in a substantial increase in vehicle traffic in the project area.

Coastal Access

- G. The project site is located between the ocean and the first public road paralleling the shoreline. The project site is also located in an urban reserve. The site is not adjacent to the coast and public access ways exist within ¼ mile from the site; therefore, the use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act. The project is not adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

Archaeological Sensitive Area

- H. The site design and development incorporate adequate measures to ensure that archaeological resources will be acceptably and adequately protected because the parcel was surveyed prior to this project, the project is located in a previously disturbed area, and the project is proposing a preservation-in-place treatment in accordance with Section

23.07.104c of the San Luis Obispo County CZLUO. Placement of up to 400 cubic yards of fill material is proposed as part of the project to preserve in place potential cultural resources that may be present on-site. The maximum depth of fill materials would be 3 feet 6 inches above natural grade. The project is conditioned to conduct cultural monitoring during all ground disturbing activities and to stop work in the event of inadvertent finding and contact the County Environmental Coordinator.

Public Works Policy No. 1

- I. The proposed project is consistent with Public Works Policy 1: Availability of Service Capacity, as implemented by CZLUO Sections 23.04.021c, 23.04.430 and 23.04.432, because it does not involve the subdivision of land, is located within the urban services line and does not require any water service extension. Under such circumstances, the sufficiency of service capacities is usually satisfied by evidence of a will-serve letter verifying service capacity from the service provider as required by Title 19. The Los Osos Community Services District provided a will-serve letter for existing water service dated May 5, 2021. The proposed single-family residence is a replacement residence that will replace a demolished single-family residence. The size and scale of the proposed project (replacement 1,910 square-foot single family residence) is consistent with the existing housing stock in the community and wastewater discharges associated with the project will be discharged to the Los Osos Water Recycling Facility (LOWRF) where it would be put to productive reuse and recharge in accordance with the LOWRF's recycling and monitoring programs. In addition, the basin yield metric under the Los Osos Basin Plan (LOBP) has been met every annual report since 2016, the water level and chloride metrics have been improving consistent with the basin model after reaching the sustainable yield metric, and the nitrate metric has been steadily improving following completion of the LOWRF and connection of properties within the Los Osos Sewer Service Area. While the sustainable yield metric methodology was updated by the Los Osos Basin Management Committee for the future 2022 annual report (aimed at stopping any further seawater intrusion in the lower aquifer while the basin recovers from previous over pumping, especially near the coast, as opposed to the original sustainable yield methodology which would have allowed some further seawater intrusion in the lower aquifer as the basin recovered from previous over pumping in the lower aquifer, especially near the coast, and basin plan projects were implemented shifting more production to the east and the upper aquifer), the proposed project is required to comply with applicable state and local water conservation requirements as well as requirements of the local water purveyor consistent with the LOBP (and stipulated judgement) and the LOWRF's recycling and monitoring programs. Approval of the proposed project would not decrease the likelihood of achieving the LOBP sustainable yield metric because it will not result in net additional water demand in the basin because of compliance with water offset requirements and domestic wastewater will be put back to reuse or recharge within the basin via the LOWRF.

**EXHIBIT B – CONDITIONS OF APPROVAL
MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT
DRC2021-00145 DICK**

Approved Development

This approval authorizes:

- a. The construction of a single-story 1,910-square-foot single-family residence with an attached 573-square-foot two-car garage.
- b. Maximum building height of 16 feet, as measured from finished grade.
- c. All development shall be consistent with the final approved construction drawings. In the event that significant cultural resources are found on site, the applicant shall submit revisions to final approved construction drawings that include, and not limited to revised design and/or mitigation measures approved by the Environmental Coordinator to avoid significant impacts or reduce to a less than significant level.

CONDITIONS OF APPROVAL

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

Access

1. **At the time of application for construction permits**, the applicant shall submit to the Department of Public Works an encroachment permit application, plans, fees, and post a cash damage bond, to install improvements within the public right-of-way in accordance with County Public Improvement Standards, unless already constructed and acceptable or design exceptions are approved by the Public Works Department in accordance with Section 1.2 of the Public Improvement Standards. The plans are to include, as applicable:
 - a. A new Eleventh Street site access shall be constructed in accordance with B-1 rural driveway approach and A-5 sight distance standards.
 - b. Drainage ditches, culverts, and other structures (if drainage calculations require).
 - c. Public utility plan, showing all existing utilities and installation of all new utilities to serve the site.
 - d. Tree removal/retention plan for trees to be removed and retained associated with the required public improvements. The plan shall be approved jointly with the Department of Planning and Building.
 - e. Traffic control plan for construction in accordance with the California Manual on Uniform Traffic Control Devices (CA-MUTCD).
 - f. The applicant shall provide satisfactory evidence that the Army Corps of Engineers and the California Department of Fish and Game environmental permits have either been secured or that the regulatory agency has determined that their permit is not required.

Site Development

2. **At the time of application for construction permits**, plans submitted shall show all development consistent with the approved site plan, floor plan, and architectural elevations.
3. **At the time of application for construction permits**, the plans shall demonstrate compliance with County of San Luis Obispo Title 19 Plumbing Code and Water Conservation Provisions standards
4. **At the time of application for construction permits**, plans shall clearly show the structural design to verify compliance with the prescriptive requirements of the California Residential Code in effect at the time of application. Any structural element not complying with the prescriptive requirements shall be prepared by a California Licensed Design Professional (Architect or Engineer) justifying the structural design.
5. **At the time of application for construction permits**, electrical plans shall include notes to show the location of the main electrical panel, sub-panels, receptacles, lights, switches, and smoke detectors and carbon dioxide alarms to verify compliance with the California Electrical Code in effect at the time of application.
6. **At the time of application for construction permits**, notes and information shall be provided on the plans for the plumbing fixtures requirements, the design of waste lines, vents, and water lines to verify compliance with the California Plumbing Code in effect at time of application.
7. **At the time of application for construction permits**, information regarding the project's energy calculation shall be submitted to verify compliance with the California Energy Code in effect at time of application.
8. **At the time of application for construction permits**, the plans shall demonstrate compliance with the California Green Building Code and the County of San Luis Obispo Green Building Ordinance.
9. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting (if applicable). The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

Fire Safety

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

Services

11. **At the time of application for construction permits**, the applicant shall provide a letter from Los Osos Community Service District and County Public Works Assessment District 1 stating they are willing and able to service the property. The applicant shall comply with conditions and requirements of the will-serve.

Drainage, Erosion Control, and Flood Hazard

12. **At the time of application for construction permits**, the applicant shall submit complete drainage plans for review and approval in accordance with Section 23.05.040 of the Coastal Zone Land Use Ordinance.
13. **At the time of application for construction permits**, the applicant shall submit complete erosion and sedimentation control plan for review and approval in accordance with Section 23.05.036 of the Coastal Zone Land Use Ordinance.
14. **At the time of application for construction permits**, the applicant shall demonstrate that the project construction plans are in conformance with their Stormwater Control Plan.

Stormwater Pollution Prevention Plan (SWPPP)

15. **At the time of application for construction permits**, if the project disturbs more than 1.0 acre or is part of a common plan of development, the applicant must enroll for coverage under California's Construction General Permit. Sites that disturb less than 1.0 acre must implement all required elements within the site's erosion and sediment control plan as required by San Luis Obispo County Codes.

Stormwater Control Plan (SWCP)

16. **At the time of application for construction or grading permits**, the applicant shall demonstrate whether the project is subject to post-construction stormwater requirements by submitting a Stormwater Control Plan application or Stormwater Post Construction Requirements (PCRs) Waiver Request Form.
 - a. The applicant must submit a SWCP for all regulated projects subject to Performance Requirement #2 and above. The SWCP must be prepared by an appropriately licensed professional and submitted to the County for review and approval. Applicants must utilize the County's latest SWCP template.
 - b. If post-construction stormwater control measures (SCMs) are proposed, the applicant must submit a draft Stormwater Operations and Maintenance Plan for review by the County. The plan must consist of the following Planning & Building Department forms;
 1. Structural Control Measure Description (Exhibit B)
 2. Stormwater System Contact Information
 3. Stormwater System Plans and Manuals
 - c. If applicable, following approval by the County, the applicant shall record with the County Clerk-Recorder the Stormwater Operation and Maintenance Plan and an agreement or provisions in the CCRs for the purpose of documenting on-going and permanent storm drainage control, management, treatment, inspection and reporting.

Conditions required to be completed prior to issuance of construction permits/building permits:

Fees

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

18. **Prior to the issuance of construction permits**, and in accordance with Title 13.01 of the County Code, the applicant must pay to the Department of Public Works the Los Osos Road Improvement Fee based on the latest adopted area fee schedule and 1.00 peak hour trips as estimated based on the project description. The estimated fee is \$4,198 (\$4,198/PHT x 1.00 PHT).

The applicant shall be responsible for paying to the Department of Public Works the Los Osos Road Improvement Fee consistent with the approved fee schedule at the time of issuance of building permit, or within 30 days of land use permit approval if no building permit is required. In accordance with Government Code section 66020(d)(1), the County provides notice to the applicant that the 90-day approval period in which the applicant may protest imposition of the Road Improvement Fee has begun.

19. **Prior to issuance of a construction permit**, construction and grading plans shall show the following:
- a. The "project limit area" shall include all areas of grading (including cut and fill areas, utility trenching and offsite improvements) and vegetation removal, the development footprint (i.e., all structures and/or site disturbance) necessary fire clearances and staging areas for all construction activities, the location of those activities, and areas for equipment and material storage.
 - b. Sturdy and highly visible protective fencing that will be placed along the 'project limit area'. Plan notes shall indicate this fence should remain in place during the duration of project construction to protect vegetation from construction activities.
 - c. Plan notes shall indicate native trees and undergrowth outside of the "project limit area" shall be left undisturbed.
 - d. Identify any necessary tree trimming. Plan notes shall indicate a skilled arborist, or accepted arborist's techniques, will be used when removing tree limbs.

Archaeology

20. **Prior to issuance of construction permit**, the applicant shall submit a **monitoring plan**, prepared by a County-approved archaeologist, for review and approval by the County Department of Planning and Building. The intent of this Plan is to monitor all earth-disturbing activities in areas identified as potentially sensitive for cultural resources, per the approved monitoring plan. The monitoring plan shall include at a minimum:
- a. List of personnel involved in the monitoring activities;
 - b. Inclusion of involvement of the Native American community, as appropriate;
 - c. Description of how the monitoring shall occur;
 - d. Description of frequency of monitoring (e.g., full-time, part time, spot checking);
 - e. Description of what resources are expected to be encountered;
 - f. Description of circumstances that would result in the halting of work at the project site (e.g., What is considered "significant" archaeological resources?);
 - g. Description of procedures for halting work on the site and notification procedures; and
 - h. Description of monitoring reporting procedures.

Crew Education. The monitoring plan shall also include provisions defining education of the construction crew and establishing protocol for treating unanticipated finds. In consultation with a County-approved archaeologist, the applicant shall provide cultural resources awareness training to all field crews and field supervisors. This training will include a description of the types of resources that may be found in the project area, the protocols to be used in the event of an unanticipated discovery, the importance of cultural resources to the Native American community, and the laws protecting significant archaeological and historical sites.

The archaeologist shall verify implementation of the Monitoring Plan during any ground disturbing activities. A final report on compliance shall be submitted by the archaeologist to the County **prior to final inspection.**

21. **Foundation Plan - Prior to issuance of construction permit,** the foundation plan shall be reviewed and approved by a County-approved archaeologist and appointed representatives of the Native American tribe. The foundation design shall incorporate a mat-slab style foundation on top of clean, sterile fill. Construction drawings should clearly annotate the existing native ground and the fill. To the extent feasible, foundation elements should be restricted entirely to the fill and within the top 12 inches of existing soil.

Federal No Take Concurrence Requirements

22. **Prior to issuance of construction permits, vegetation removal, and/or ground disturbance, the applicant shall provide evidence to the County of the following:**

- A. A current and valid No-Take Concurrence letter issued by the Service
- B. All applicable field requirements of the agency permit(s) shall be shown on applicable construction drawings and adhered to during construction. Avoidance and minimization measures recommended in the No-Take Concurrence letter shall be implemented as follows:
1. All project related ground disturbing activities will occur during the dry season (June 1 - October 15) when Morro shoulderband snails are aestivating and unlikely to migrate into work areas.
 2. A biologist approved by the Service will conduct a pre-construction survey of the work area to locate Morro shoulderband snails no more than 48 hours prior to the initiation of site work. The biologist will notify the Service of the results of the survey immediately following the survey efforts. No live Morro shoulderband snails will be relocated during these efforts.
 3. Prior to any soil disturbance and/or vegetation removal, silt fencing or orange protective fencing will be installed around the perimeter of the proposed project area to prevent unauthorized ground disturbance outside of the work area.
 4. A Service-approved biologist will conduct a pre-construction environmental awareness training session for all construction personnel involved in site disturbance. The training is intended to inform the permittees, construction crews, field supervisors, and equipment operators about the status and presence of the federally listed species, grading and construction-activity restrictions, and all proposed avoidance, protection and minimization measures. The Service-approved biologist will have the authority to stop work if Morro

shoulderband snail are observed within the project area. If Morro shoulderband snails are observed, the Service will be notified.

- C. As an alternative to subsections A and B above, the project may be eligible for coverage under the current proposed terms of County of San Luis Obispo's ("County") Los Osos Habitat Conservation Plan ("LOHCP") awaiting U.S. Fish and Wildlife Service final approval and issuance of an Incidental Take Permit ("ITP"). Following the effective date of the County's ITP and LOHCP, but prior to building permit issuance, the project proponent may satisfy this condition by securing a Certificate of Inclusion ("COI") from the County, which would confer take coverage under the ITP. The project proponent would have to comply with the terms of the COI and ITP, which includes compliance with the LOHCP. If the County finds that the project proponent is out of compliance with the terms of the COI and ITP, the County would have the authority to revoke the COI and all work relating to the project would have to cease immediately.

If, following two years from the effective approval date of the project, unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050, the ITP has not been issued by the U.S. Fish and Wildlife Service and the LOHCP is not in effect, the project will not have coverage under a County ITP. Without coverage under a County ITP, no site disturbance or construction may occur at the site, and no building permits may be approved, without amendment of this land use permit. Amendment of this land use permit to allow the project to proceed without coverage under a County ITP will require submittal of an application to amend this land use permit and the necessary surveys and reports to properly consider and address the potential for incidentally take (harm, injure, capture and/or kill) of Morro Shoulderband Snail (*Helminthoglypta walkeriana*), and the application to amend this land use permit (including its environmental determination and conditions of approval) would require review and approval by the appropriate Review Authority.

Drainage and Flood Hazard

23. **Prior to issuance of construction permits**, the applicant shall provide evidence satisfactory to the Department of Planning and Building that the Army Corps of Engineers and the California Department of Fish and Game environmental permits have either been secured or that the regulatory agency has determined that their permit is not required.
24. **Prior to acceptance of the improvements (if applicable)**, the Stormwater Operations and Maintenance plan and General Notice must be updated to reflect as-built changes, approved by the County, and re-recorded with the County Clerk-Recorder as amendments to the original document.

Conditions to be completed during construction:

Building Height

25. The maximum height of the dwelling is 16 feet, as measured from finished grade.
- a. **Prior to any site disturbance**, a licensed surveyor or civil engineer shall stake the lot corners, building corners, and establish highest natural grade and set a reference point (benchmark).

- b. **Prior to approval of the foundation inspection**, the benchmark shall be inspected by a licensed surveyor prior to pouring footings or retaining walls, as an added precaution.
- c. **Prior to approval of the roof nailing inspection**, the applicant shall provide the building inspector with documentation that gives the height reference, the allowable height and the actual height of the structure. This certification shall be prepared by a licensed surveyor or civil engineer.

Archaeology

26. **During Construction**, the applicant shall implement the following measures to minimize potential impacts to cultural resources on site:

- a. **Usage of Fill** - the most sensitive areas shall be capped with a minimum of three feet of fill material of a type appropriate to the area, and in accordance with recommendations by a soils engineer. Clean, sterile fill, consisting of a layer of other conspicuous material (e.g. fill of a noticeable different color and texture than native soil) shall be placed over the native soil prior to placement of any other clean fill material. The depth of fill to be placed shall be sufficient to prevent foundation elements from extending into the native soil. If structural elements extend into the native soil, these occurrences shall be minimized to the extent feasible and in no case extend more than 18 inches into the native soil.
- b. **Equipment & Ground Preparation** - All equipment used on the site shall have rubber tire wheels rather than metal treads, and shall be of the minimum size needed to do the work. Grubbing is limited to 6" of top soil, and may be done by the back end scraper of a small skip, with depth limited to 6". Walk behind roto-tiller should be considered. Compaction of the fill should be done with the with care as to not rip into the soil with aggressive wheel turns.
- c. **Phase III Data Recovery Plan - If the soils engineer determines capping to be unfeasible**, to mitigate for the project's direct impact to cultural resources, the Applicant shall retain a County-approved subsurface archaeologist to prepare a Phase III (data recovery) archaeological investigation. The archaeologist shall prepare a detailed research design program for review and approval by the County (this review may include a peer review from a County-retained archaeologist). Furthermore, once approved, the applicant shall implement the program as specified to maximize the success of this measure. The subsurface archaeologist responsible for the Phase III program shall be provided with a copy of the previous archaeological investigation (Cultural Resource Management Services, June 2021).

At a minimum, the Phase III program shall include the following:

- i. standard archaeological data recovery practices;
- ii. recommendation of sample size adequate to mitigate for impacts to archaeological site, including basis and justification of the recommended sample size. Sample size should be between 5 - 10% of the volume of disturbed area. If a lesser sample size is recommended, supporting information shall be presented that justifies the smaller sample size;
- iii. identification of location of sample sites/test units;
- iv. detailed description of sampling techniques and material recovery procedures (e.g. how sample is to be excavated, how the material will be screened, screen size, how material will be collected);
- v. disposition of collected materials;

- vi. proposed analysis of results of data recovery and collected materials, including timeline of final analysis results;
- vii. list of personnel involved in sampling and analysis.
- viii. Specify timing of proposed work relative to the proposed construction schedule.

d. **Revised Construction Drawings - If cultural resources are identified on site**, the applicant shall submit revised construction drawings to the County incorporating the revised design and/or mitigation measures approved by the Environmental Coordinator to avoid significant impacts or reduce to a less than significant level.

27. **During construction**, in the event archaeological resources are unearthed or discovered, the following standards apply:

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

Native Trees

28. **Native Trees (Oaks) –Minimizing Impacts.** When trees are proposed for removal or to be impacted within their driplines/ canopies, the following measures shall be completed to minimize native tree (oak) impacts:

- A. Grading and/or construction plans shall show locations of all native trees within 25 feet of the proposed project limits (including ancillary elements, such as trenching).
- B. For trees identified as 'to remain protected' they shall be marked in the field as such and protected to the extent possible. Protective measures shall be visible to work crews and be able to remain in good working order for the duration of the construction work. Waterproof signage at protective edge is recommended (e.g., "TREE PROTECTION AREA – STAY OUT"). Grading, trenching, compaction of soil, construction material/equipment storage, or placement of fill shall not occur within these protected areas.

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

Archaeology

29. **Field Completion Report - Upon completion of all monitoring activities, and prior to occupancy or final inspection (whichever occurs first)**, the consulting archaeologist shall submit a Completion Report to the Environmental Coordinator summarizing the following:

- a. Completion and compliance of construction activities per the Monitoring Plan and any applicable mitigation measures agreed by the County, archeologist and Native American Representatives throughout the project. If the analysis included in the Phase III Data Recovery Plan is not complete by the time of final inspection, the applicant shall provide to the Environmental Coordinator, proof of obligation to complete the required analysis.

Access

30. **Prior to commencing permitted activities**, all work in the public right-of-way must be constructed or reconstructed to the satisfaction of the Public Works Inspector and in accordance with the County Public Improvement Standards; the project conditions of approval, including any related land use permit conditions; and the approved improvement plans.

Fire Safety

31. **Prior to occupancy or final inspection, whichever occurs first**, the applicant shall obtain final inspection and approval from CAL FIRE/County Fire of all required fire and life safety measures.

Department of Planning and Building Inspection

32. **Prior to occupancy or final inspection, whichever occurs first**, the applicant shall obtain final inspection and approval from the Department of Planning and Building for compliance with the project conditions of approval.

On-going conditions of approval (valid for the life of the project):

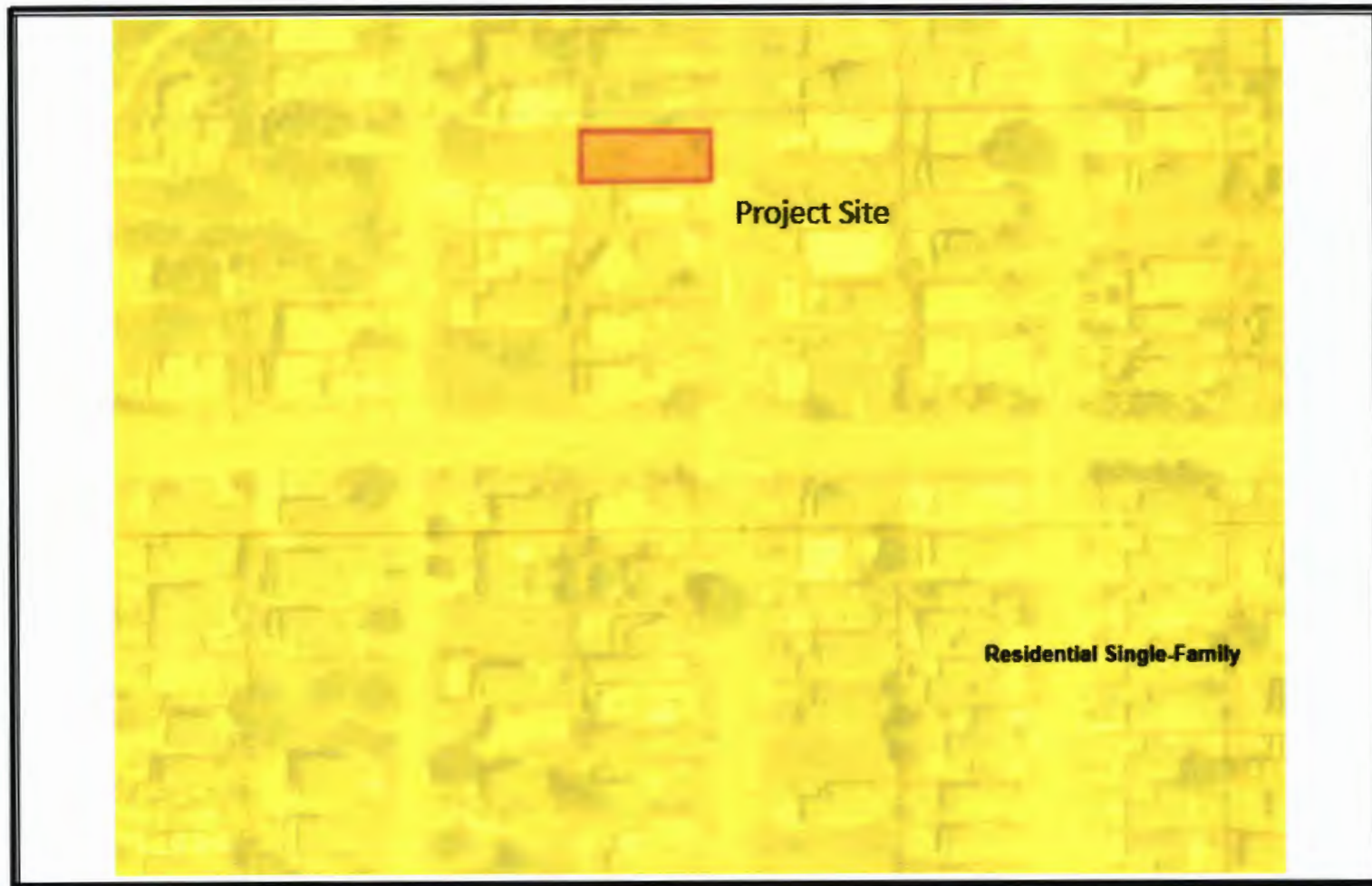
33. **On-going condition of approval (valid for the life of the project)**, and in accordance with County Code Section 13.08, no activities associated with this permit shall be allowed to occur within the public right-of-way including, but not limited to, project signage, tree planting, fencing, etc., without a valid encroachment permit issued by the Department of Public Works.
34. **On-going condition of approval (valid for the life of the project)**, the property owner shall be responsible for operation and maintenance of the public road frontage, including landscaping, maintaining County driveway sight distance standards in a viable condition and on a continuing basis into perpetuity.
35. **On-going condition of approval (valid for the life of the project)**, this land use permit is valid for a period of 60 months from its effective date unless time extensions are granted pursuant to 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 a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Coastal Zone Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
36. 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.

37. The applicant shall, as a condition of approval of this land use permit application, defend, hold harmless and indemnify, at his or her sole expense (including attorney's fees, with Counsel approved by the County), 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 land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit, or any other action by a third party relating to approval or implementation of this land use permit. The applicant shall reimburse the County for any court costs and attorney fees that 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. Upon request of the County, the applicant shall also enter into a separate agreement with the County (the "Indemnity Agreement"), in a form approved by County Counsel, agreeing to defend, indemnify, save and hold harmless the County, its present or former officers, agents, or employees, against actions by a third party challenging either its decision to approve this land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit, or any other action by a third party relating to or arising out of the approval or implementation of this land use permit. The agreement shall provide that the applicant will indemnify the County and reimburse it for any costs and/or attorney's fees which the County incurs as a result of such action, and that the County's participation or non-participation in any such litigation shall not relieve the applicant of his or her obligations under this condition or the agreement. The applicant shall also provide sufficient guarantees for the obligations hereunder as determined by County Counsel. Any violation of this condition, including the applicant's failure to execute the Indemnity Agreement or breach thereof, or failure to provide sufficient guarantees, is grounds for the County to rescind and/or revoke its approval of this land use permit. These defense and indemnity obligations shall survive any rescission, revocation and/or set aside of this land use permit.



COUNTY OF SAN LUIS OBISPO

Vicinity Map
DRC2021-00145



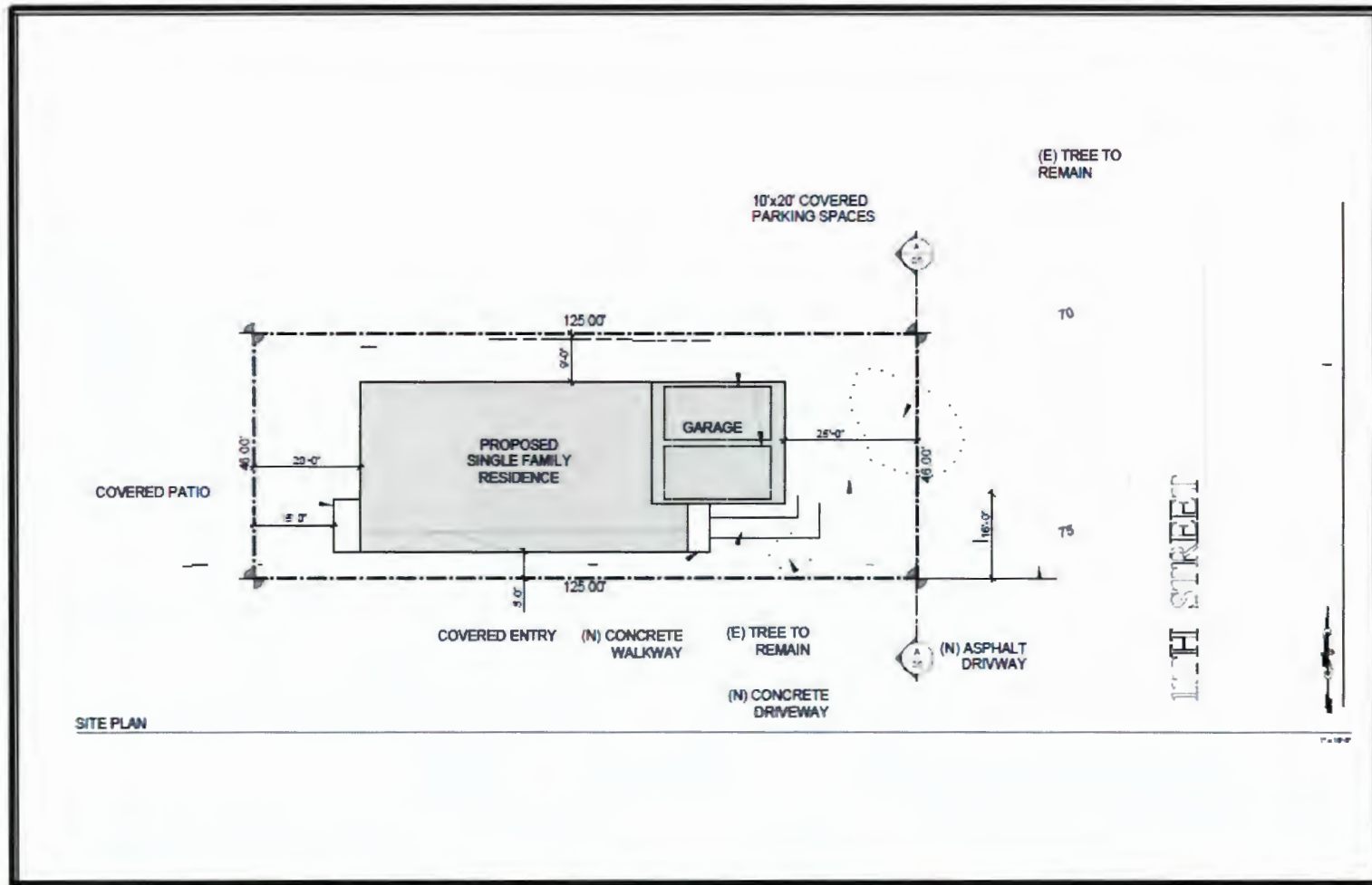
COUNTY OF SAN LUIS OBISPO

**Land Use Map
DRC2021-00145**



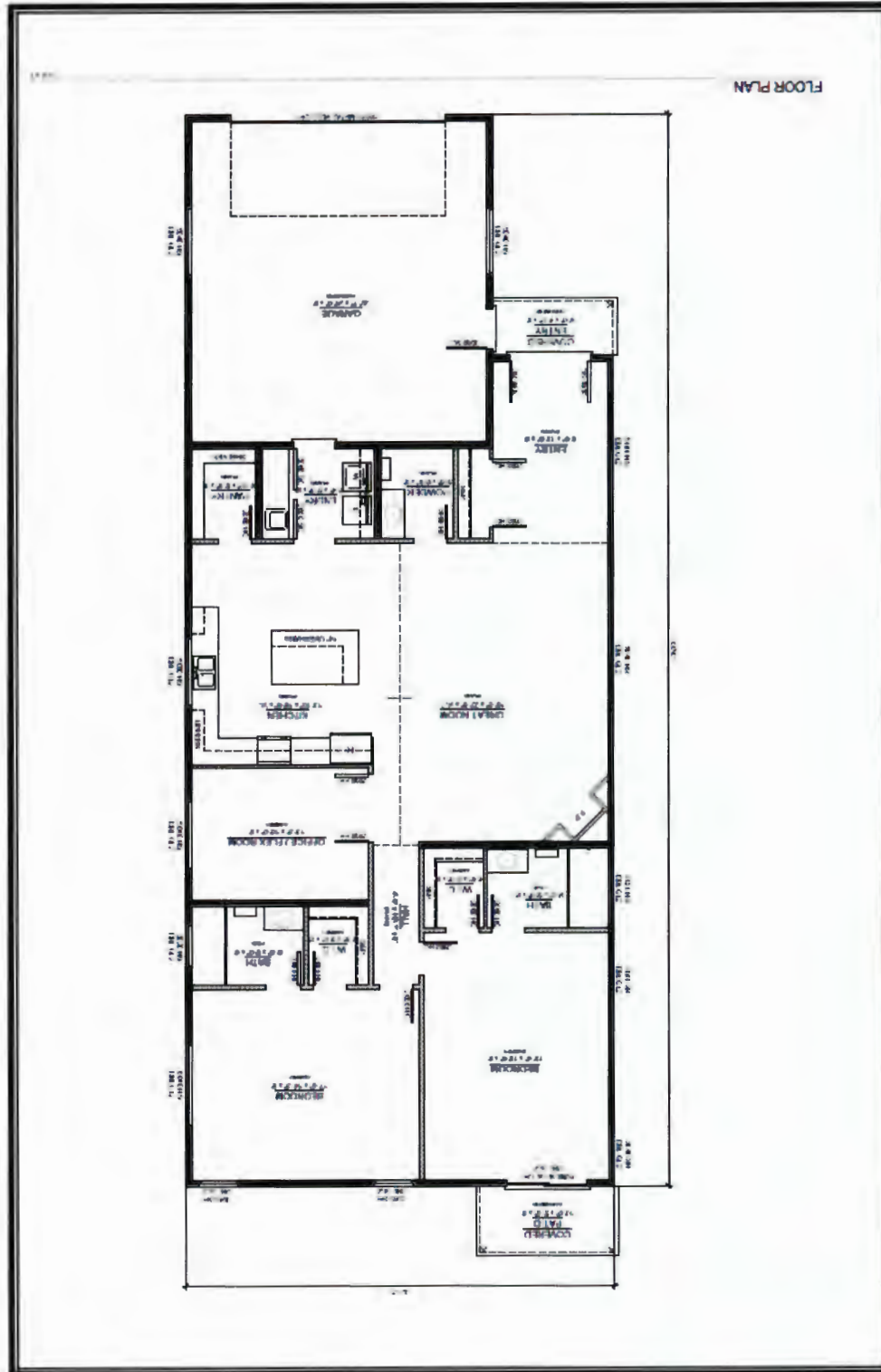
COUNTY OF SAN LUIS OBISPO

Aerial
DRC2021-00145



COUNTY OF SAN LUIS OBISPO

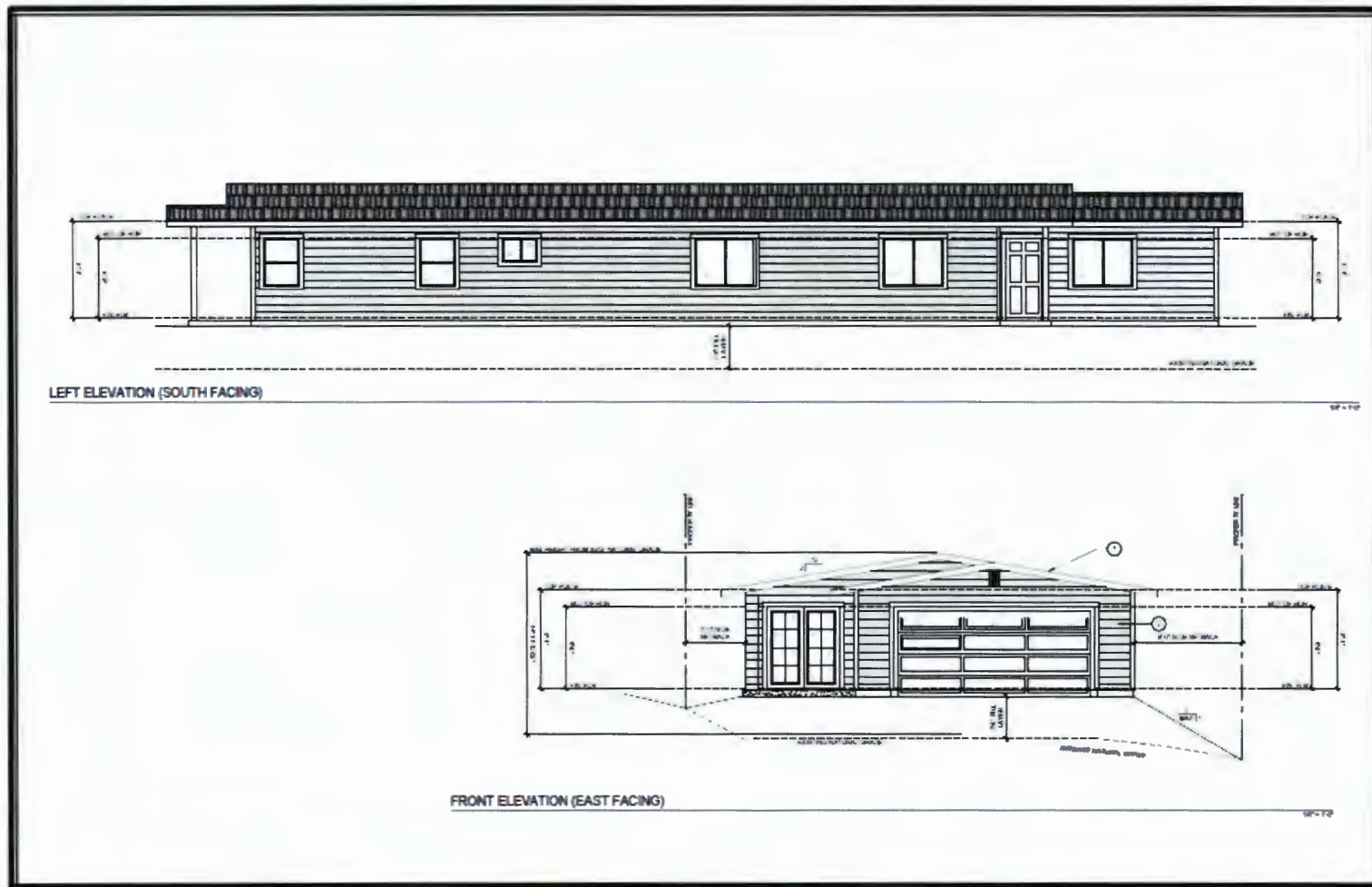
**Proposed Floor Plan
DRC2021-00145**



**Proposed Floor Plan
DRC2021-00145**

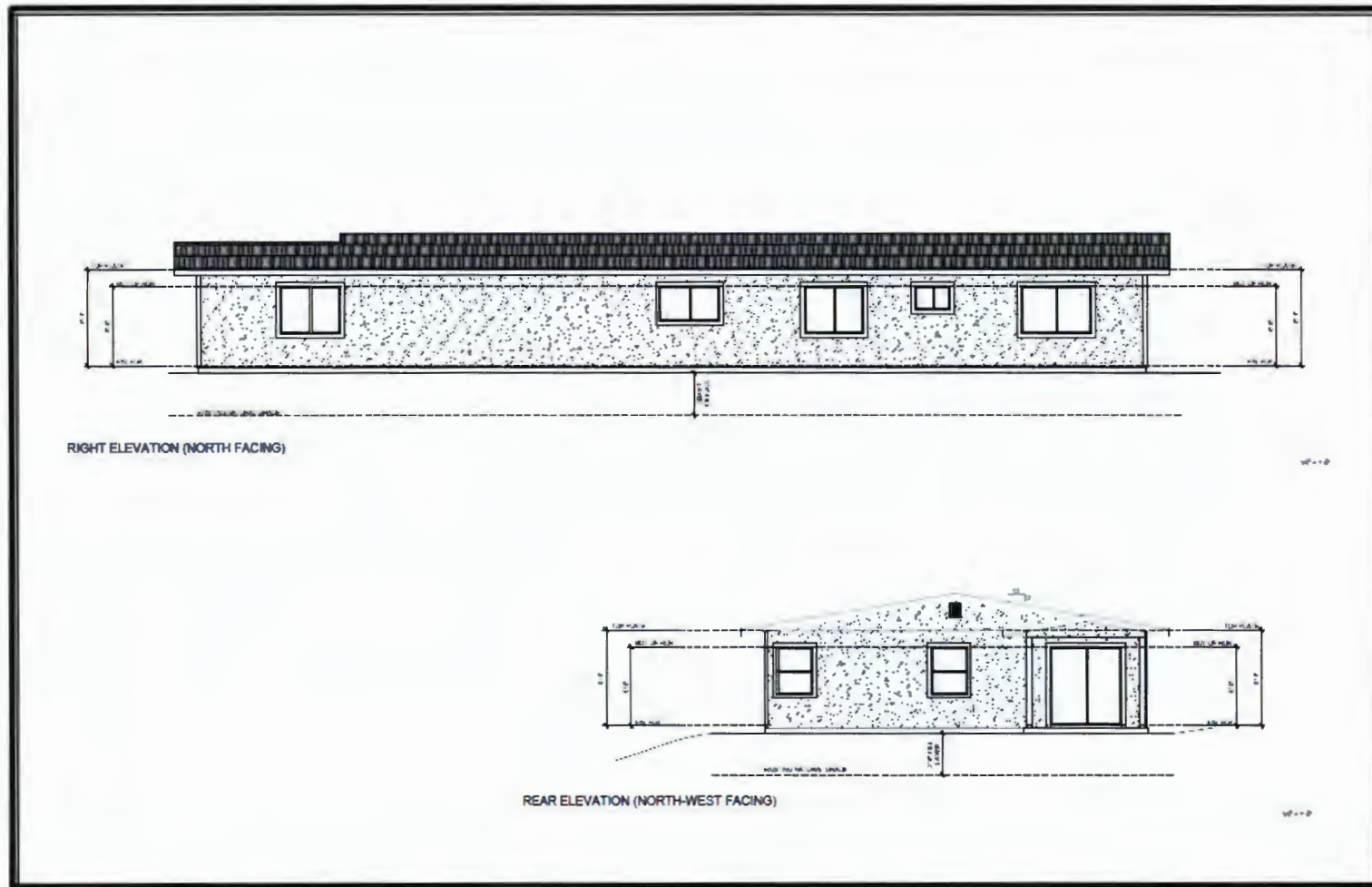
COUNTY OF SAN LUIS OBISPO





COUNTY OF SAN LUIS OBISPO

Proposed Elevations (1)
DRC2021-00145



COUNTY OF SAN LUIS OBISPO

Proposed Elevations (2)
DRC2021-00145



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING
Notice of Exemption

PLN-1124
3/22/2018

Project Title and No.: Dick Minor Use Permit/Coastal Development Permit; DRC2021-00145; ED22-161

Project Location

1153 11th Street in the community of Los Osos, County of San Luis Obispo

Project Applicant/Phone No./Email:

Applicant: Roger Dick
 Agent: J.H. Edwards Company; c/o: Jeff Edwards
 805-235-0873; jhedwardscompany@gmail.com

Applicant Address (Street, City, State, Zip):

P.O. Box 6070, Los Osos, CA 93412

Name of Public Agency Approving Project: County of San Luis Obispo

Description of Nature, Purpose and Beneficiaries of Project:

A request by Roger Dick for a Minor Use Permit/Coastal Development Permit to allow for the construction of a single-story, 1,910-square-foot single-family residence with an attached two-car garage to replace a residence that was previously demolished on a 5,750-square-foot parcel. The proposed residence would include two bedrooms and two and one-half bathrooms with a maximum building height of 16 feet above average natural grade. No new utility connections would be required. The project also includes import of up to 400 cubic yards of fill material to preserve potential cultural resources in place if present. The project site is located at 1153 11th Street within the community of Los Osos, in the Residential Single-Family land use category, the Estero Planning Area, and the California Coastal Zone (appealable jurisdiction).

Exempt Status/Findings: This project is a Class 3 Categorical Exemption under Section 15303 of the State CEQA Guidelines.

Reasons why project is exempt: A Class 3 Categorical Exemption consists of construction and location of limited numbers of new, small structures. An example of this exemption includes one single-family residence in a residential zone. The proposed project includes construction of a single story, single-family residence with an attached two-car garage to replace a single-family residence that was demolished in 2010. The project would be located within the Single-Family Residential land use category and the project includes import and placement of fill materials to preserve potential cultural resources in place. The project would not result in potentially significant environmental impacts associated with its location, cumulative impacts, scenic highways, hazardous waste sites, historical resources, or otherwise have the potential to result in a significant effect.

Additional Information: Additional information pertaining to this notice of exemption may be obtained by reviewing the second page of this document and/or by contacting the environmental coordinator, via phone at (805) 781-5600 or via email at planning@co.slo.ca.us

Brandi Cumming
 SWCA Environmental Consultants, Contract Planner

10/13/2022

Date

976 OSOS STREET, ROOM 300 | SAN LUIS OBISPO, CA 93408 | (805) 781-5600 | TTY/TRS 7-1-1
www.sloplanning.org | planning@co.slo.ca.us



**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING**

**PLN-1124
3/22/2018**

Notice of Exemption

Project Title and No.: Dick Minor Use Permit/Coastal Development Permit; C-DRC2021-00145; ED22-161

15303. New Construction or Conversion of Small Facilities

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

- (a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.
- (b) A duplex or similar multi-family residential structure, totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes and similar structures designed for not more than six dwelling units.
- (c) A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.
- (d) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction. (e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences. (f) An accessory steam sterilization unit for the treatment of medical waste at a facility occupied by a medical waste generator, provided that the unit is installed and operated in accordance with the Medical Waste Management.

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Emi D. Sugiyama

From: Sylvia Aldana
Sent: Friday, November 19, 2021 9:53 PM
To: Emi D. Sugiyama
Cc: Cheryl Journey; Don C. Moore; Michael Stoker
Subject: Re: Referral Package DRC2021-00145

Emi Sugiyama

The following are the Building Division Comments for Planning Project Plan Check Request: DRC2021-00145 JH Edwards Company

In regards to this preliminary review, a building permit is required. The drawings specify the work to be completed consists of a replacement residence on a vacant parcel (previous single family residence on site was demolished in 2009 with PMT2009-01815.) The project shall comply with current California Building codes adopted by the County of San Luis Obispo and Title 19 of the SLO County Codes

While a thorough plan review will be conducted at the time of building permit application, the following items are noted to assist design review and not necessarily be considered complete, due to the plans not being the final permit submittal package;

- 1) Construction shall comply with the 2019 California Residential Code.
- 2) The design of the openings, projections, wall rating based on fire separation distance will need to be shown on the plans to comply with California Residential Code Section 302, including Table 302.1(2) for buildings with sprinklers.
- 3) Provide plans which clearly show the structural design to verify compliance with the prescriptive requirements of the 2019 California Residential Code or any structural element not complying with the prescriptive requirements will need to be prepared by a California Licensed Design Professional (Architect or Engineer) justifying the structural design
- 4) Provide electrical plans with notes to show the location of the main electrical panel, sub-panels, receptacles, lights, switches, and smoke detectors and Co alarms to verify compliance with the 2019 California Electrical Code.
- 5) Provide notes and information on the plans for the plumbing fixtures requirements, the design of the waste lines, vents, and water lines will all need to comply with the 2019 California Plumbing Code.
- 6) Energy calculation will need to be submitted to verify compliance with the 2019 California Energy Code.
- 7) The plans will need to show compliance with the 2019 California Green Building Code and the County of San Luis Obispo's Green Building Ordinance.
- 8) Fire sprinklers will be required under a separate permit application. Provide plans showing the design and layout for the sprinkler system.
- 9) A photovoltaic system will be required under separate permit application. Provide plans showing the design and layout of the photovoltaic (PV) system.
- 10) A grading and SWPPP plan may be required depending on the total area of disturbance.
- 11) A soils report will be required for the project.

Sylvia Aldana
Plans Examiner III

County of San Luis Obispo
Planning and Building Department
(p) 805-781-4671
(f) 805-781-1242
saldana@co.slo.ca.us

The permit processing and review times have been extended from our target dates. Thanks for your patience and understanding as staff is currently working through the permit applications in the order they are received. Please monitor your projects' status on CSS understanding that the target dates are just estimates. We will contact each customer with the next steps in the process as soon as possible. Please note that applications and submittals that are complete provide for a thorough plan review on the first round. Again, thank you for understanding



COUNTY OF SAN LUIS OBISPO DEPARTMENT OF PLANNING AND BUILDING

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From: Mail for PL_Referrals Group <plreferrals@co.slo.ca.us>

Sent: Thursday, August 12, 2021 11:17 AM

To: Michelle Freeman <mfreeman@co.slo.ca.us>; Don C. Moore <dcmoore@co.slo.ca.us>; Michael Stoker <mstoker@co.slo.ca.us>; Sylvia Aldana <saldana@co.slo.ca.us>; brian.o'neill@coastal.ca.gov <brian.o'neill@coastal.ca.gov>; forest.donovan@coastal.ca.gov <forest.donovan@coastal.ca.gov>; garrett.veyna@fire.ca.gov <garrett.veyna@fire.ca.gov>; dell.wells@fire.ca.gov <dell.wells@fire.ca.gov>; Tony.Gomes_fire.ca.gov <Tony.Gomes@fire.ca.gov>; Clint Bullard <clint.bullard@fire.ca.gov>; Kevin.McLean_fire.ca.gov <Kevin.McLean@fire.ca.gov>; Loree.McRoberts@fire.ca.gov <Loree.McRoberts@fire.ca.gov>; julietacker_charter.net <julietacker@charter.net>; Lindeaowne@gmail.com <Lindeaowne@gmail.com>; davehphoto@gmail.com <davehphoto@gmail.com>; pagebender@msn.com <pagebender@msn.com>; rmunds_losososcscd.org <rmunds@losososcscd.org>; Kerry Brown <kbrown@co.slo.ca.us>; Joe Morris <jmorris@co.slo.ca.us>; Peter Moreci <PMoreci@co.slo.ca.us>; JR Beard <rbeard@co.slo.ca.us>; Wendell Wilkes <wwilkes@co.slo.ca.us>; Rene Brill <rbrill@co.slo.ca.us>; David Grim <dgrim@co.slo.ca.us>; Edward Reading <ereading@co.slo.ca.us>

Cc: Emi D. Sugiyama <esugiyama@co.slo.ca.us>

Subject: Referral Package DRC2021-00145

We are requesting your review of this recently submitted application as the proposed project may be of interest or concern to your department/agency. Please click the direct hyperlink below titled "Project Summary / Referral*" for an overview of the project:

[Project Summary / Referral*](#): DRC2021-00145 Replacement SFD

APN(s): 038-061-047

Direct comments or questions on this application to the project manager(s):

Emi Sugiyama, 805-788-9470, esugiyama@co.slo.ca.us

Please comment within 14 days of receiving this e-mail (Community Advisory Groups: please respond within 60 days)

Referral Response:

As part of your response to this referral, please consider the following questions:

- Are there significant concerns, problems or impacts in your area of review?
- If Yes, please describe the impacts along with any recommendations to reduce the impacts in your response.
- If your community has a "vision" statement in the Area Plan - does the community feel this project helps to achieve that vision? If No, please describe.
- What does the community like or dislike about the project or proposal?
- Is the project compatible with surrounding development, does it fit in well with its surroundings? If No, are there changes in the project that would make it fit in better?
- Does the community believe the road(s) that provide access to the site is(are) already overcrowded?
- Does the community wish to have a trail in this location?
- If the proposal is a General Plan Amendment, does the community feel the proposed change would encourage other surrounding properties to intensify, or establish intense uses that would not otherwise occur?
- Please feel free to include information or questions other than those listed above. You may also choose to respond that you have no comments regarding the proposal.

**All information and/or material provided in the linked Referral Package is valid for 90 days after this correspondence. If current or additional information is needed, please contact the Project Manager for the most updated information*





COUNTY OF SAN LUIS OBISPO
Department of Public Works
John Diodati, Director

RECOMMENDED CONDITIONS

Date: August 16, 2021
To: Emi Sugiyama, Project Planner
From: JR Beard, Development Services
Subject: **DRC2021-00145 Edwards MUP 1153 11th St., Los Osos, APN 038-061-047**

Thank you for the opportunity to provide information on the proposed subject project. It has been reviewed by several divisions of Public Works, and this represents our consolidated response.

Public Works Comments:

- A. The project site is located on Eleventh Street, a County-maintained roadway.
- B. The proposed project is within the Los Osos Road Fee Area. Payment of Road Improvement Fees is required prior to building permit issuance.
- C. The proposed project is within a drainage review area. A drainage plan is required to be prepared by a registered civil engineer and will be reviewed at the time of Building Permit submittal by Public Works. The applicant should review Section 23.05.040 of the Land Use Ordinance prior to future submittal of development permits.
- D. This project may be a regulated project as it is located in a Stormwater Management Area (MS4) and is therefore required to submit a Stormwater Control Plan (SWCP) Application or Stormwater Post Construction Requirements (PCRs) Waiver Request Form at time of construction permits.
- E. If the project site disturbs 1.0 acre or more the applicant must enroll for coverage under California's Construction General Permit, which may require preparation of a project Stormwater Control Plan even if it is located outside a Stormwater Management Area.
- F. The site is within the Los Osos Basin and may be subject to the Sustainable Groundwater Management Act (SGMA). However, the Groundwater Sustainability Agency responsible for overseeing SGMA compliance has not completed the planning efforts that will define the need for any groundwater mitigation requirements. In the interim, consideration of the project's impacts on the groundwater basin should be included in the project's CEQA analysis.

Recommended Project Conditions of Approval:

Access

1. **At the time of application for construction permits**, the applicant shall submit to the Department of Public Works an encroachment permit application, plans, fees, and post a cash damage bond, to install improvements within the public right-of-way in accordance with County Public Improvement Standards, unless already constructed and acceptable or design exceptions are approved by the Public Works Department in accordance with Section 1.2 of the Public Improvement Standards. The plans are to include, as applicable:

County of San Luis Obispo Department of Public Works

County Govt Center, Room 206 | San Luis Obispo, CA 93408 | (P) 805-781-5252 | (F) 805-781-1229
pwd@co.slo.ca.us | slocounty.ca.gov

- a. A new Eleventh Street site access shall be constructed in accordance with B-1 rural driveway approach and A-5 sight distance standards.
 - b. Drainage ditches, culverts, and other structures (if drainage calculations require).
 - c. Public utility plan, showing all existing utilities and installation of all new utilities to serve the site.
 - d. Tree removal/retention plan for trees to be removed and retained associated with the required public improvements. The plan shall be approved jointly with the Department of Planning and Building.
 - e. Traffic control plan for construction in accordance with the California Manual on Uniform Traffic Control Devices (CA-MUTCD).
 - f. The applicant shall provide satisfactory evidence that the Army Corps of Engineers and the California Department of Fish and Game environmental permits have either been secured or that the regulatory agency has determined that their permit is not required.
2. **On-going condition of approval (valid for the life of the project)**, and in accordance with County Code Section 13.08, no activities associated with this permit shall be allowed to occur within the public right-of-way including, but not limited to, project signage, tree planting, fences, etc., without a valid encroachment permit issued by the Department of Public Works.
 3. **On-going condition of approval (valid for the life of the project)**, the property owner shall be responsible for operation and maintenance of the public road frontage, including landscaping, maintaining County driveway sight distance standards in a viable condition and on a continuing basis into perpetuity.
 4. **Prior to commencing permitted activities**, all work in the public right-of-way must be constructed or reconstructed to the satisfaction of the Public Works Inspector and in accordance with the County Public Improvement Standards; the project conditions of approval, including any related land use permit conditions; and the approved improvement plans.

Fees

5. **Prior to the issuance of construction permits**, and in accordance with Title 13.01 of the County Code, the applicant must pay to the Department of Public Works the Los Osos Road Improvement Fee based on the latest adopted area fee schedule and 1.00 peak hour trips as estimated based on the project description. The estimated fee is \$4,198 (\$4,198/PHT x 1.00 PHT).

The applicant shall be responsible for paying to the Department of Public Works the Los Osos Road Improvement Fee consistent with the approved fee schedule at the time of issuance of building permit, or within 30 days of land use permit approval if no building permit is required. In accordance with Government Code section 66020(d)(1), the County provides notice to the applicant that the 90-day approval period in which the applicant may protest imposition of the Road Improvement Fee has begun.

Drainage & Flood Hazard

6. **At the time of application for construction permits**, the applicant shall submit complete drainage plans for review and approval in accordance with Section 23.05.040 of the Land Use Ordinance.
7. **At the time of application for construction permits**, the applicant shall submit complete erosion and sedimentation control plan for review and approval in accordance with Section 23.05.036 of the Land Use Ordinance.
8. **Prior to issuance of construction permits**, the applicant shall provide evidence satisfactory to the Department of Planning and Building that the Army Corps of Engineers and the California Department of Fish and Game environmental permits have either been secured or that the regulatory agency has determined that their permit is not required.

County of San Luis Obispo Department of Public Works

County Govt Center, Room 206 | San Luis Obispo, CA 93408 | (P) 805-781-5252 | (F) 805-781-1229
pwd@co.slo.ca.us | slocounty.ca.gov

9. **At the time of application for construction permits**, the applicant shall demonstrate that the project construction plans are in conformance with their Stormwater Control Plan.

Stormwater Pollution Prevention Plan (SWPPP)

10. **At the time of application for construction permits**, if the project disturbs more than 1.0 acre or is part of a common plan of development, the applicant must enroll for coverage under California's Construction General Permit. Sites that disturb less than 1.0 acre must implement all required elements within the site's erosion and sediment control plan as required by San Luis Obispo County Codes.

Stormwater Control Plan (SWCP):

11. **At the time of application for construction or grading permits**, the applicant shall demonstrate whether the project is subject to post-construction stormwater requirements by submitting a Stormwater Control Plan application or Stormwater Post Construction Requirements (PCRs) Waiver Request Form.
- a. The applicant must submit a SWCP for all regulated projects subject to Performance Requirement #2 and above. The SWCP must be prepared by an appropriately licensed professional and submitted to the County for review and approval. Applicants must utilize the County's latest SWCP template.
 - b. If post-construction stormwater control measures (SCMs) are proposed, the applicant must submit a draft Stormwater Operations and Maintenance Plan for review by the County. The plan must consist of the following Planning & Building Department forms;
 1. Structural Control Measure Description (Exhibit B)
 2. Stormwater System Contact Information
 3. Stormwater System Plans and Manuals
 - c. If applicable, following approval by the County, the applicant shall record with the County Clerk-Recorder the Stormwater Operation and Maintenance Plan and an agreement or provisions in the CCRs for the purpose of documenting on-going and permanent storm drainage control, management, treatment, inspection and reporting.
12. **Prior to acceptance of the improvements (if applicable)**, the Stormwater Operations and Maintenance plan and General Notice must be updated to reflect as-built changes, approved by the County, and re-recorded with the County Clerk-Recorder as amendments to the original document.

G:\Development\DEVSEV Referrals\Land Use Permits\MUP\DR2021\DR2021-00145 Edwards MUP 1153 11th St., Los Osos\DR2021-00145 Edwards MUP 1153 11th St., Los Osos.docx

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pwd@co.slo.ca.us | slocounty.ca.gov



November 7, 2022

Dear Sir,

I would like to request a hearing on DRC2021-00145 and have it removed from the consent agenda.

The Los Osos Sustainability Group opposes the request by Roger Dick for a Minor Use Permit/Coastal Development Permit (DRC2021-00145) located at 1153 11 street , in the community of Los Osos, on the grounds that it does not comply with the provisions of the LCP that require proof of a sustainable water supply.

LCP Public Works Policy 1 requires all development in the County to be served by adequate and sustainable water and wastewater services and requires denial of a proposed project should such services not be available.

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

CZLUO 23.04.430: Availability of Water Supply and Sewage Disposal Services. A land use permit for **new development that requires water** or disposal of sewage **shall not be approved unless the applicable approval body determines that there is adequate water** and sewage

disposal capacity available to serve the. proposed development, as provided by this section. (emphasis added)

Special Condition 6 of the LOWWP CDP prohibits wastewater service to serve new growth, such as the project that is the subject of this appeal. It only allows connections for existing development unless and until the LCP is amended to identify appropriate and sustainable buildout limits. Although the County has recently submitted the Los Osos Community Plan to address this issue, at this time the LCP has not yet been amended to establish sustainable buildout limits for new growth in Los Osos. Thus, Special Condition 6's prohibition on providing wastewater services to new growth is still in effect. Due to this prohibition, there is no wastewater service available to serve the approved project, and the LCP requires denial of the proposed development.

In the letter sent by the California Coastal Commission to Trevor Keith (Director of Planning and Building) dated April 19, 2022, it clearly states:

"First, please do not accept any CDP applications for filing that cannot demonstrate that they have . . . access to . . . a sustainable water source"

". . . we do not believe that a will serve from a local water purveyor satisfies LCP and CDP requirements, including as the LCP finding that is required on this point is not for water purveyors to make, rather it is the County's independent responsibility."

"The County should not be even accepting applications for development in Cambria [same as Los Osos] that cannot show evidence of an adequate water supply. A will-serve letter does not provide such evidence, and the County under the LCP is required to make its own finding that an adequate water supply is available to serve a proposed development, and cannot abrogate that responsibility to the [C]CSD"

Thank you for your consideration,

Patrick McGibney
Chair, Los Osos Sustainability Group



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING
TREVOR KEITH, DIRECTOR

Date: November 18, 2022

To: Planning Department Hearing Officer

From: Schani Siong, Supervising Planner

CC: Roger Dick, applicant & Jeff Edwards, agent

Subject: Staff Recommendation to Continue Minor Use Permit / Coastal Development Permit (C-DRC2021-00145) to date certain of January 20, 2023.

Due to an unforeseen circumstance, the Planning Department is recommending this project to be continued to the next available Planning Department Hearing on January 20, 2023.

If you have questions about this request, please contact Project Planner, Kip Morais at kmorais@co.slo.ca.us or Planning Department Hearing secretary, Ysabel Eighmy, yeighmy@co.slo.ca.us



LOS OSOS COMMUNITY ADVISORY COUNCIL
December 15, 2022
Minutes And Notes

LOS OSOS COMMUNITY ADVISORY COUNCIL MEMBERS 2022-2023

Officers Chair: Trish Bartel Vice-Chair: Deborah Howe Secretary: Tom Cross Treasurer: Jim Stanfill Communications Officer: Kristin Horowitz	District Representatives District 1: Patrick McGibney, Andrea Lueker District 2: Kristin Horowitz, Tom Cross District 3: Larry Bender, Larry Raio District 4: Deborah Howe, John Lindt At-Large Supervisor Appointees: Jim Stanfill, VACANT, Trish Bartel
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Minutes and Notes

December 15, 2022

Motion to approve minutes by
Motioned by Jim Stanfill
Seconded by Deborah Howe
Passes unanimously.

Motion to approve Trees and Landscape project outline as [linked](#) in the agenda.
Motioned by Tom Cross
Seconded by Jim Stanfill
Passes unanimously.

Motion to change the name of Ad-Hoc Water committee to "Water Report"
Motion by Tom Cross
Seconded by Patrick McGibney
Passes unanimously.



1. Motion to recommend approval of DRC2022-00054 MUP
 - a. Motioned by Deborah H
 - b. seconded by Jim S
 - c. vote 5-4-1 Motion Passes.
2. Motion to recommend DRC2021-00145 for approval.
 - a. Motion by Tom
 - b. Seconded by John.
 - c. 3-4-2 Motion Fails.

2. Strategic Planning Debrief. Closed Session. 6:00 PM
3. Call to Order 7:00 PM
4. Roll Call

District 1: Patrick McGibney, Andrea Lueker

District 2: Kristin Horowitz, Tom Cross

District 3: Larry Bender, Larry Raio

District 4: Deborah Howe, John Lindt

At-Large Supervisor Appointees: Jim Stanfill, VACANT, Trish Bartel

5. Chairperson Announcements

Strategic Planning Session

- i. talking purpose, priorities, and such.
- ii. Links are being added to the agendas.
- iii. If you have issues, the public is urged to reach out to your district rep.

Revised Bylaws and Policies and Procedures

- iv. [Bylaws Link](#)
- v. [P & P Link](#)
- vi. Documents will be reviewed in January.

6. Council Member Announcements

Kristin: SLO: Take the survey:

www.opentownhall.com/portals/189/Issue_12419/survey_responses/new

Deborah: We are working hard to be transparent.

7. County and Local Reports - *Following each Report, comments will be received from LOCAC and then the Public*

Sheriff's Report: Eleotte

- i. 71 calls for service in November
- ii. Public advised to take care to protect against mail theft. Lock your mailbox if possible, check mail every day.

Highway Patrol Report: G. Klingenberg

- iii. 6 collisions. Most minor.

County Staff Report, Cory Hanh, SLO CO Planning and Building Department

- iv. Monthly reports sent out.
 1. [Link 1](#)
 2. [Link 2](#)
- v. The coastal commission wants to deal with adu's in the community plan. The want is to look at it more comprehensively and holistically.



- vi. The county has not been accepting ADU's for at least a year.
 - 1. There is public accusation saying otherwise. Specifics requested.
 - a. Guest houses are being approved.
There is public concern regarding the water use of approved guest houses.
- vii. public question regarding water treatment and costs.
 - 1. Referred to public works to find an answer.

Supervisor Report, Supervisor Bruce Gibson

viii. No report.

CSD Report: Chris Womack

- ix. Assessment approved for firehouse 15.
 - 1. Public comment regarding emergency radio inside the station.
 - x. request from SMT regarding water use for emergencies.
 - xi. CSD discussed leading incorporation efforts, ultimately deciding now wasn't the time. Suggested CSD work closer with LOCAC.
 - xii. Clean Audit. Full Audit can be found on CSD website.
 - 1. Public and council congratulations for the clean audit.
 - xiii. New well is on schedule. Should be completed by June 2024.
 - xiv. Public concern for parks and open spaces being considered parks.
- Chamber of Commerce Report
- xv. Successful tree lighting
 - xvi. Successful needs and wishes event
 - xvii. Parade got rained out.
 - xviii. Upcoming installation of new board members. No date yet.
8. Public Comments for items not on the agenda - Each speaker will be limited to 3 minutes. There will be no discussion of these comments.

None

9. Approve Minutes from October 2022

[Link to Minutes](#)

Move to approve minutes by Jim Stanfill

Seconded by Deborah Howe

Passes unanimously.

10. Committee Reports, Comments, Action Items

Treasurer's Report, Jim Stanfill

Committee reports:

- i. Land Use, Larry Bender
 - 1. Land Use vote and discussion from LUC meeting December 5
 - a. [Summary Link](#)
- ii. Trees and Landscaping, Andrea Lueker and John Lindt
 - 1. Regular meetings planned for 4th wednesdays at 6pm starting January.
 - 2. Project Outline and Map
 - a. [Link](#)
 - 3. <https://www.losososbearroots.net>
 - 4. Public concern about the upper well and it not being fully utilized.
 - 5. Possible support from Fire Safe



6. Questions to why the county doesn't want a path from LOVR though the red barn area because there is no safe path to the facilities on Palisades.
7. Motion to approve Trees and Landscape project outline as linked in the agenda.
 - a. Motioned by Tom Cross
 - b. Seconded by Jim Stanfill
 - c. Passes unanimously.

iii. Outreach, Kristin Horowitz

1. Working on filename management,
2. Meetings also scheduled for 4th Wednesdays at 6:pm. Conflicting with Trees and Landscaping. Will be discussed for potential change.
3. [Report Link](#)

iv. Ad Hoc Water Committee, Deborah Howe

1. [Report link](#)
2. New name change
 - a. Potential change to "Natural Resources"
 - b. Some contention on if a name change is the best course.
3. Potential for more public input.
4. Public desire for LOCAC to host information on local water info.
5. Motion to change the name of Ad-Hoc Water committee to "Water Report"
 - a. Motion by Tom Cross
 - b. Seconded by Patrick McGibney.
 - c. Passed unanimously.

v. Active Transportation Committee update, Deborah Howe

1. [Report link](#)
2. Committee trying to problem solve traffic speed concerns.
3. County repainting a median line.
4. Concerns on Ramona. Desire for a throughway.
5. Further Concerns regarding lack of safe pedestrian passage though Palisades.
6. Application for Safetrek submitted
7. Meetings scheduled for 3rd tuesdays of each month.

vi. Bylaws

1. Should be ready to present at the January meeting.

11. Agenda Items

Consent Agenda Items

- i. None

Regular Agenda Items

- ii. DRC2022-00054 MUP Stephens, a request for a minor use permit to allow an addition of 880 SF to a 936 SF single family residence located at 1173 5th Street within the Community of Los Osos
 1. Concern on increased water use.
 2. Concern on limiting the ability for a growing family and family home to live in comfort.



3. Concerns of current residents being unable to be supported by current infrastructure and resources.
4. Concerns of the Coastal Commission rejecting the project.
5. Concerns on home density not being considered in favor of bedroom count.
6. Council comment regarding consideration for "accommodating reasonable requests"
7. Public concern regarding the water crisis.
8. Motion to recommend approval of this project
9. Council would like more time to review project documents in advance of meetings to be more informed.
 - a. Motioned by Deborah
 - b. seconded by Jim
 - c. vote 5-4-1 Motion Passes.
- iii. DRC2021-00145 Replacement of a single family residence in Los Osos. A replacement on a vacant parcel, the single family residence was previously demolished in 2009 with PMT2009-01815
 1. Some concern on what the purpose of the project is and if the purpose should have a major impact on the decision.
 2. Water efficiency measures listed.
 3. Concern on water use. Concern on increasing high end housing at the expense of low income housing.
 4. Motion to recommend this project for approval.
 - a. Motion by Tom
 - b. Seconded by John.
 - c. 3-4-2 Motion Fails.

12. Business Items

Development of Business Meetings for LOCAC Council members outside of regularly scheduled LOCAC meetings due to time restraints - discussion and vote

Discussion of when and how often to hold business meetings.

Clarification that meetings will be open to the public and minutes provided

Trees and Landscaping changed to 3rd Thursdays.

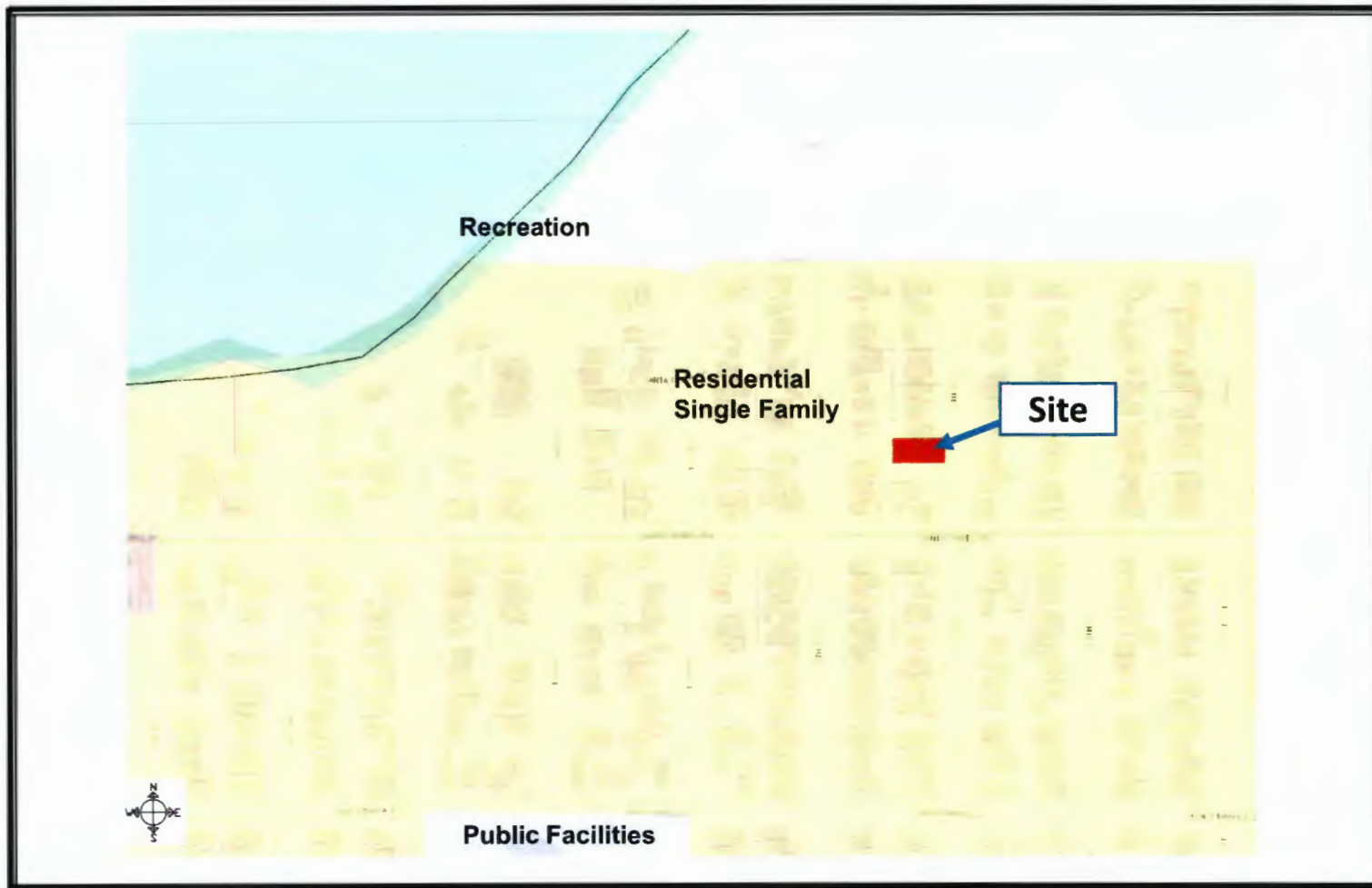
13. Adjourn 9:01





COUNTY OF SAN LUIS OBISPO

Vicinity Map
C-DRC2021-00145



COUNTY OF SAN LUIS OBISPO

Land Use Map
C-DRC2021-00145



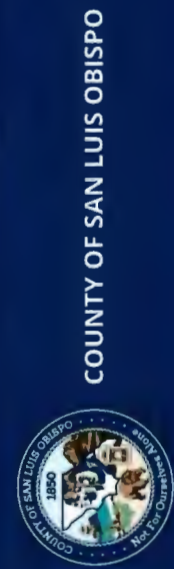
Aerial - present
C-DRC2021-00145



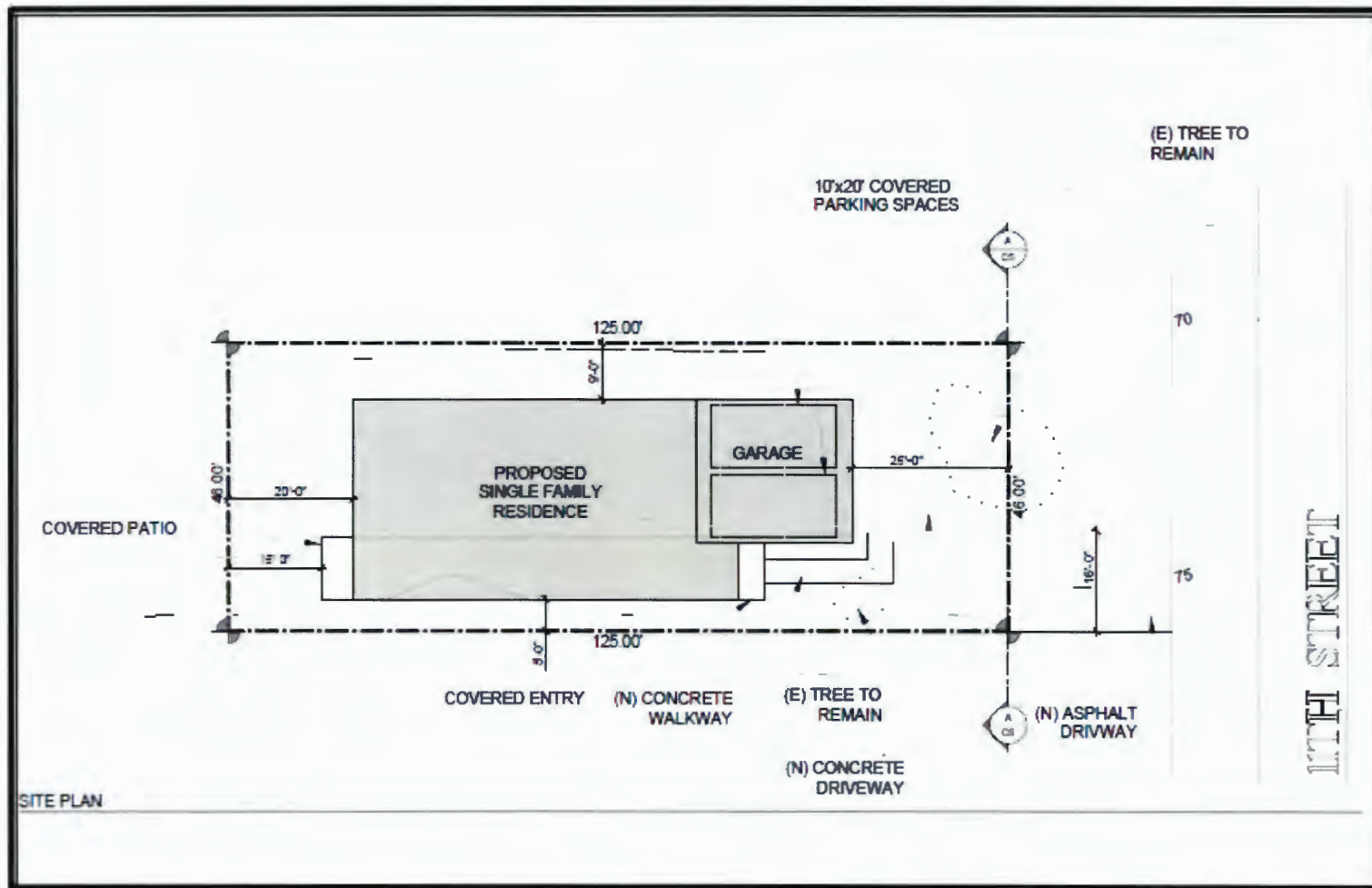
COUNTY OF SAN LUIS OBISPO



Aerial - 2007
C-DRC2021-00145

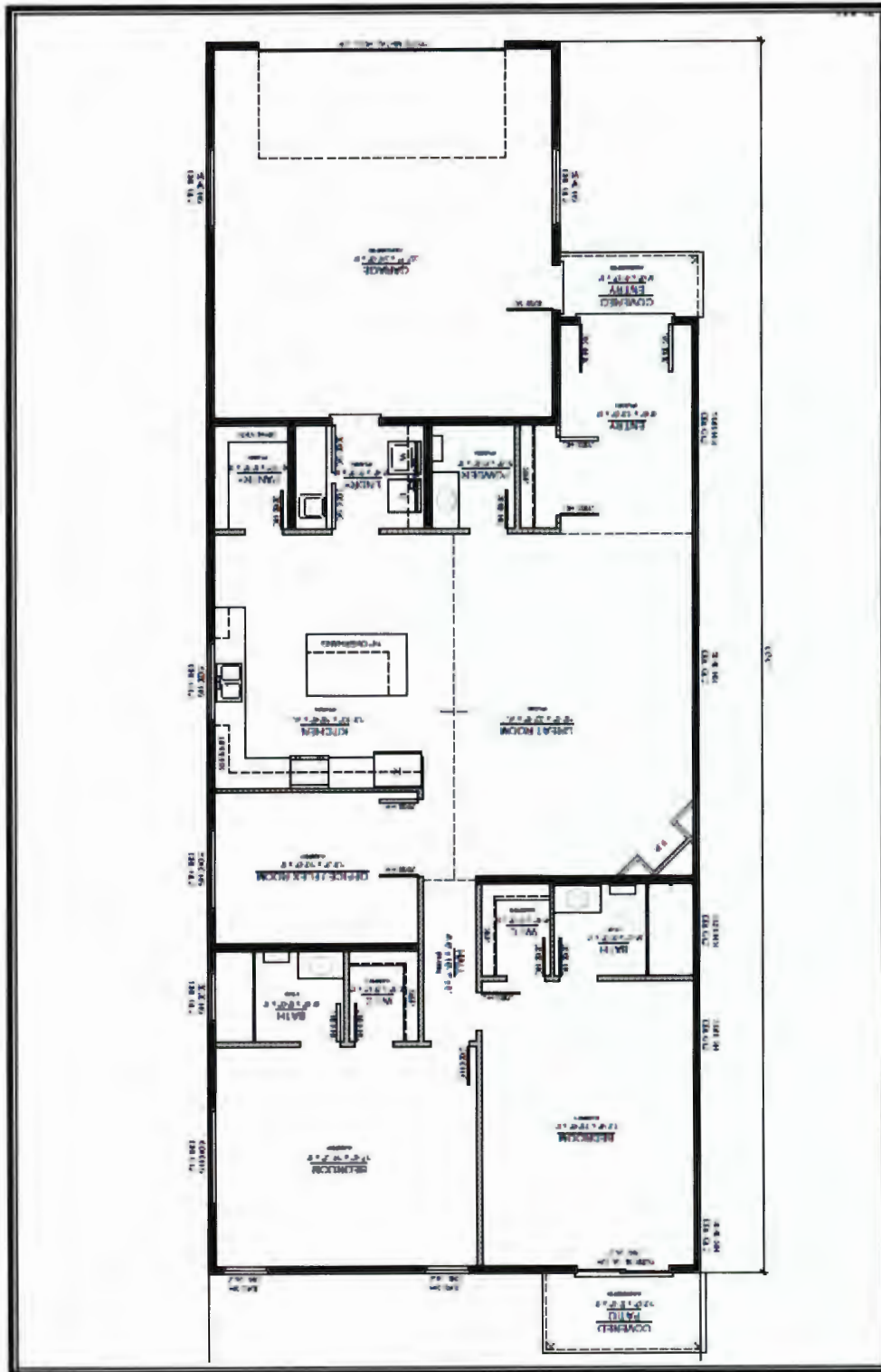


COUNTY OF SAN LUIS OBISPO



COUNTY OF SAN LUIS OBISPO

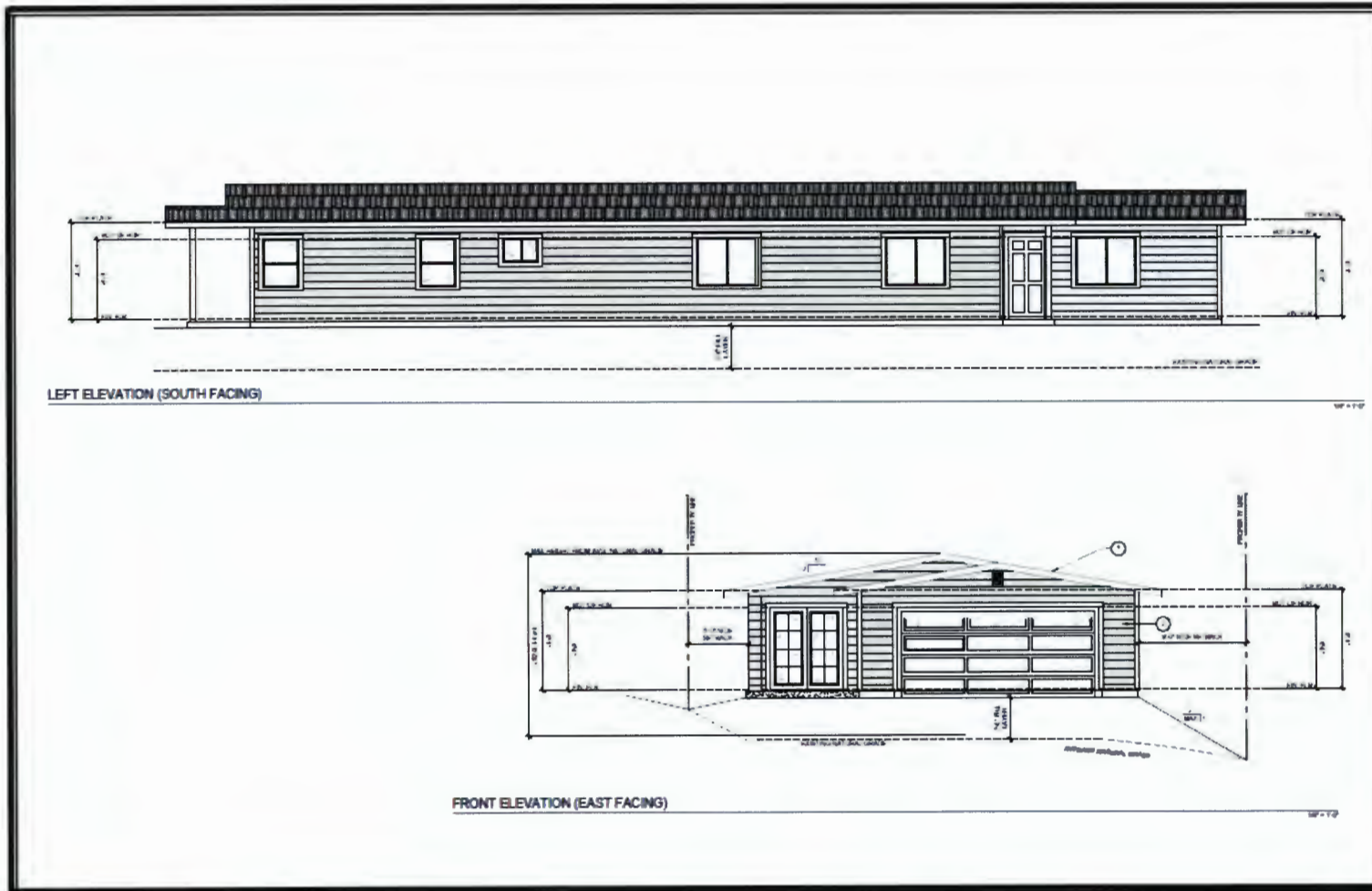
**Proposed Floor Plan
C-DRC2021-00145**



**Proposed Floor Plan
C-DRC2021-00145**

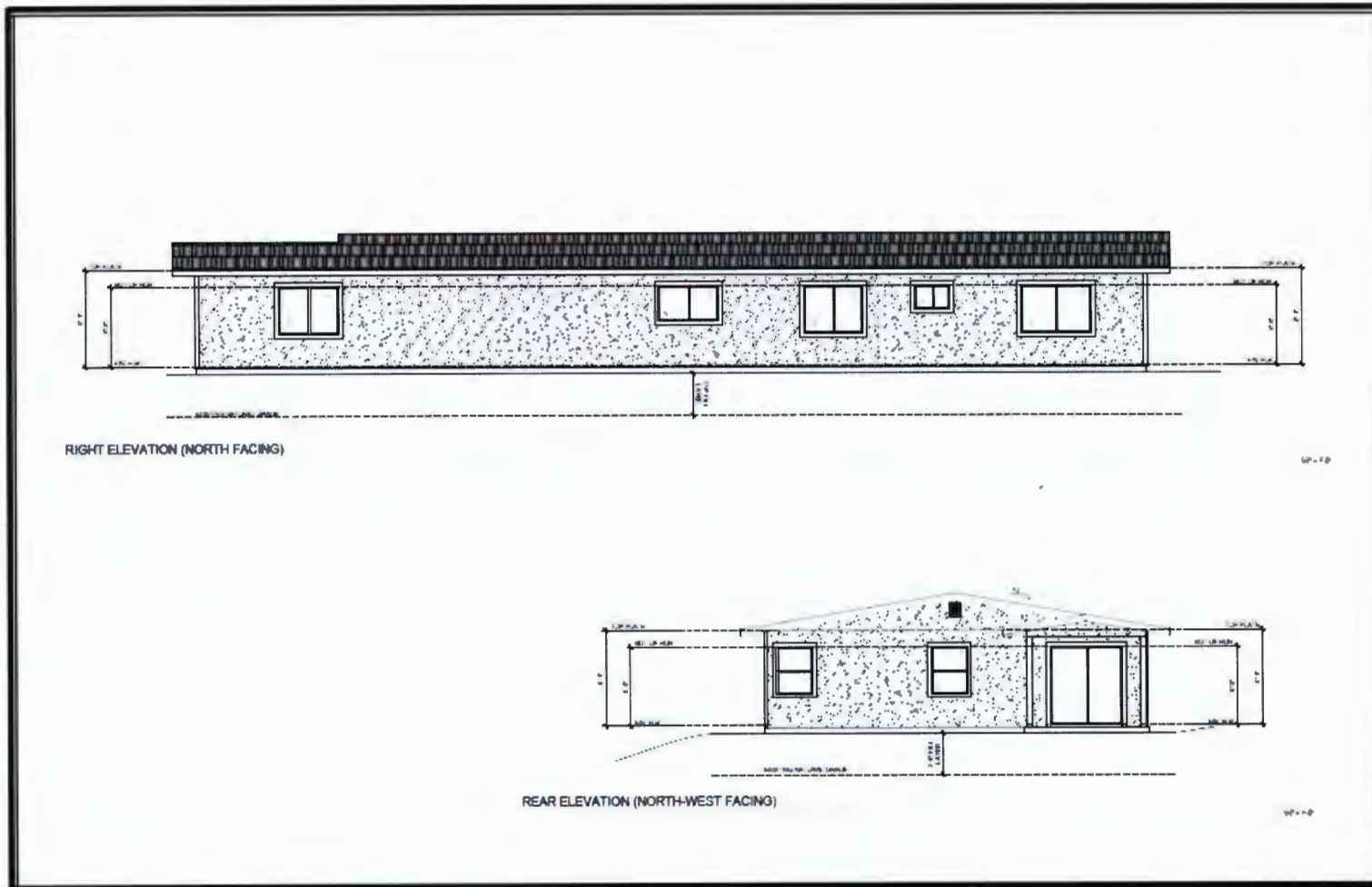


COUNTY OF SAN LUIS OBISPO



COUNTY OF SAN LUIS OBISPO

Proposed Elevations (1)
C-DRC2021-00145



COUNTY OF SAN LUIS OBISPO

Proposed Elevations (2)
C-DRC2021-00145



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING
Notice of Exemption

PLN-1124
3/22/2018

Project Title and No.: Dick Minor Use Permit/Coastal Development Permit; DRC2021-00145; ED22-161

Project Location

1153 11th Street in the community of Los Osos, County of San Luis Obispo

Project Applicant/Phone No./Email:

Applicant: Roger Dick
 Agent: J.H. Edwards Company; c/o: Jeff Edwards
 805-235-0873; jhedwardscompany@gmail.com

Applicant Address (Street, City, State, Zip):

P.O. Box 6070, Los Osos, CA 93412

Name of Public Agency Approving Project: County of San Luis Obispo

Description of Nature, Purpose and Beneficiaries of Project:

A request by Roger Dick for a Minor Use Permit/Coastal Development Permit to allow for the construction of a single-story, 1,910-square-foot single-family residence with an attached two-car garage to replace a residence that was previously demolished on a 5,750-square-foot parcel. The proposed residence would include two bedrooms and two and one-half bathrooms with a maximum building height of 16 feet above average natural grade. No new utility connections would be required. The project also includes import of up to 400 cubic yards of fill material to preserve potential cultural resources in place if present. The project site is located at 1153 11th Street within the community of Los Osos, in the Residential Single-Family land use category, the Estero Planning Area, and the California Coastal Zone (appealable jurisdiction).

Exempt Status/Findings: This project is a Class 3 Categorical Exemption under Section 15303 of the State CEQA Guidelines.

Reasons why project is exempt: A Class 3 Categorical Exemption consists of construction and location of limited numbers of new, small structures. An example of this exemption includes one single-family residence in a residential zone. The proposed project includes construction of a single story, single-family residence with an attached two-car garage to replace a single-family residence that was demolished in 2010. The project would be located within the Single-Family Residential land use category and the project includes import and placement of fill materials to preserve potential cultural resources in place. The project would not result in potentially significant environmental impacts associated with its location, cumulative impacts, scenic highways, hazardous waste sites, historical resources, or otherwise have the potential to result in a significant effect.

Additional Information: Additional information pertaining to this notice of exemption may be obtained by reviewing the second page of this document and/or by contacting the environmental coordinator, via phone at (805) 781-5600 or via email at planning@co.slo.ca.us

Brandi Cumming
 SWCA Environmental Consultants, Contract Planner

10/13/2022

Date



Notice of Exemption

Project Title and No.: Dick Minor Use Permit/Coastal Development Permit; C-DRC2021-00145; ED22-161

15303. New Construction or Conversion of Small Facilities

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

- (a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.
- (b) A duplex or similar multi-family residential structure, totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes and similar structures designed for not more than six dwelling units.
- (c) A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.
- (d) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction. (e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences. (f) An accessory steam sterilization unit for the treatment of medical waste at a facility occupied by a medical waste generator, provided that the unit is installed and operated in accordance with the Medical Waste Management.

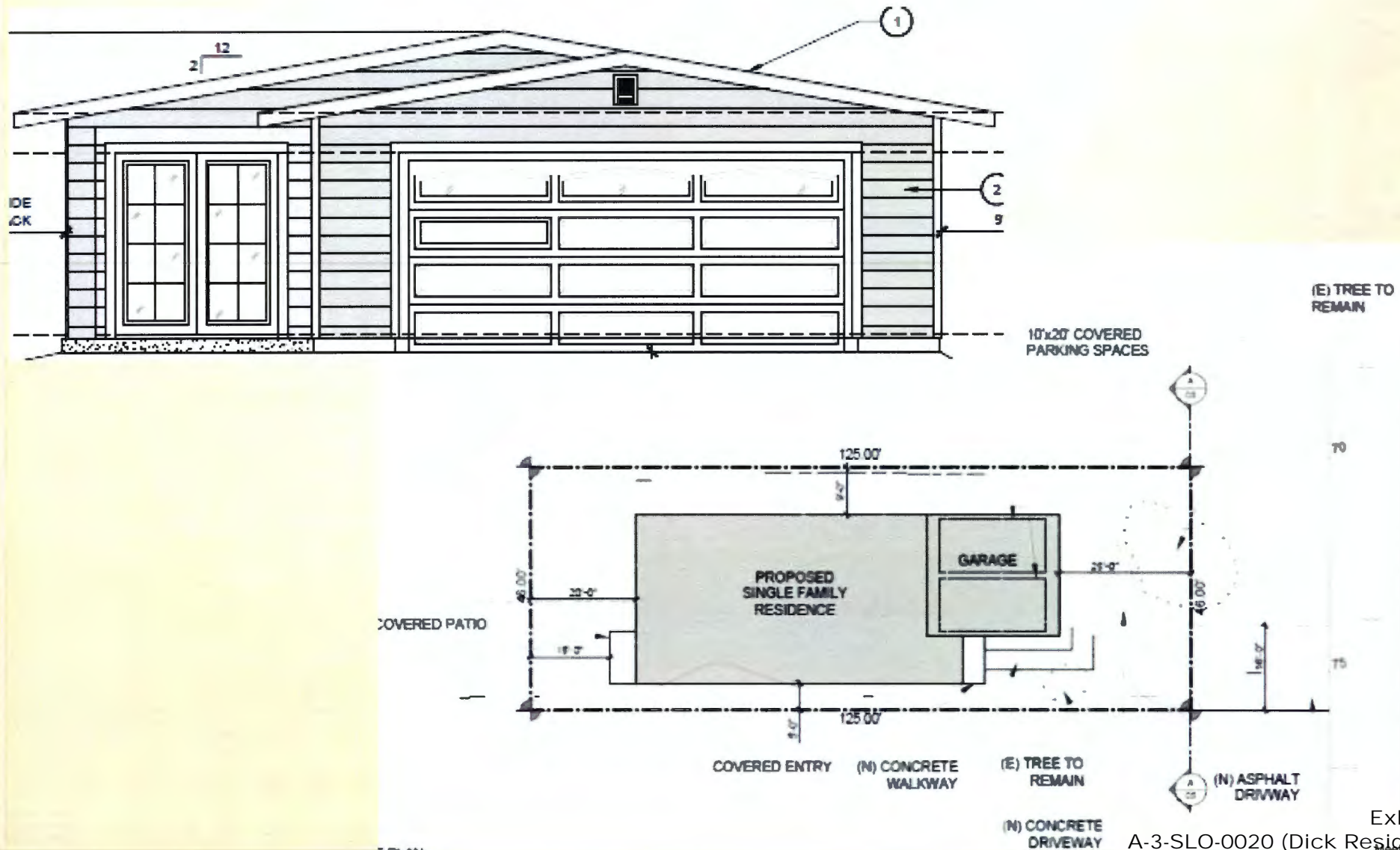
San Luis Obispo County Board of Supervisors

**Tuesday, May 16, 2023
1153 11th Street
Los Osos**



DICK MUP/CDP DRC2021-00145

Replacement Residence



PLAN

Professional Services Performed

- Biological Resources Assessment
- Morro shoulderband snail surveys
- Archeological Survey
- Arborist Report
- Engineered Grading Plan
- Topographic Survey
- Architecture

Replacement Residence 374 Mitchell Ave., Los Osos



Replacement Residence 370 Mitchell Ave., Los Osos



Replacement Residence 600 Woodland Dr., Los Osos



Exhibit 2
A-3-SLO-0020 (Dick Residence)
Page 163 of 173

Replacement Residence 1261 Pasadena Dr., Los Osos



Replacement Residence 1187 8th St., Los Osos



Water & Wastewater Continue-to-Serve Letters



February 25, 2021

President
Christine M. Wornack

Vice President
Matthew D. Fourcroy

Directors
Charles L. Casena
Troy Gatchell
Marshall E. Ochylski

General Manager
Ron Munds

District Accountant
Robert Stills, CPA

Unit Chief
Eddy Moore

Battalion Chief
Paul Provence

Frank Johnston
c/o JH Edwards Co
PO Box 6070
Los Osos, CA 93412

RE: 1153 11th Street, Los Osos, CA
Acknowledgement to Continue to Provide Water Service

This letter is to confirm that the property does have existing water service at the above referenced address, is in good standing with the District and that the District will continue to serve water to the property into the future.

Since the District does not have land use authority and therefore neither approves nor disapproves new development projects, any proposed development at the address does not need approval from the District to proceed unless it requires a water meter that is more than 1 inch in size and/or requires additional water meters to support the development.

Please feel free to contact me with any questions or concerns.

Thank you,

Ron Munds
General Manager
805-528-9379
rmunds@lososcsd.org

Mailing Address:
P.O. Box 6064
Los Osos, CA 93412

Office:
2122 9th Street, Suite 110
Los Osos, CA 93402

Phone: 805/528-9370
FAX: 805/528-9377

www.lososcsd.org



COUNTY OF SAN LUIS OBISPO
Department of Public Works
John Diodati, Interim Director

SAN LUIS OBISPO COUNTY WASTEWATER ASSESSMENT DISTRICT NO. 1 WILL SERVE WASTEWATER LETTER

WASTEWATER ASSESSMENT DISTRICT NO.1 IS WILLING AND ABLE TO CONTINUE TO PROVIDE WASTEWATER SERVICE TO THE FOLLOWING PROPERTY FOR PURPOSES OF Construction of a Single Family Residence: ASSESSOR PARCEL NUMBER 038-061-047, LOCATED AT 1153 11th Street, IN THE COMMUNITY OF Los Osos, SUBJECT TO ALL FEES AND CONDITIONS OF THE RULES AND REGULATIONS OF THE DISTRICT.

ANY WATER SOFTENER INSTALLED SHALL BE THE TYPE WHICH IS REGENERATED AT A LOCATION WHERE SALT BRINES OR OTHER WASTE SUBSTANCES RESULTING FROM SAID REGENERATION ARE NOT DISCHARGED INTO THE PUBLIC SEWER, AND SHALL BE PLUMBED SO THAT WATER PASSING THROUGH SAID WATER SOFTENER DOES NOT SERVE ANY TOILET OR URINAL, OR ANY HOSE BIB, PIPELINE OR FIXTURE SUPPLYING WATER FOR IRRIGATION OR OTHER EXTERIOR USES. NO PERSON SHALL CAUSE OR PERMIT SALT BRINES OR OTHER SUBSTANCES RESULTING FROM SAID WATER SOFTENER REGENERATION PROCESS TO BE DISCHARGED INTO THE PUBLIC SEWER.

BY ACCEPTING CONTINUED SEWER SERVICE FROM THE WASTEWATER ASSESSMENT DISTRICT NO. 1, THE PROPERTY OWNER SHALL DEFEND, AT THE PROPERTY OWNER'S SOLE EXPENSE, THE COUNTY OF SAN LUIS OBISPO ANY ACTION BROUGHT AGAINST THE COUNTY OF SAN LUIS OBISPO, ITS PRESENT OR FORMER OFFICERS, AGENTS OR EMPLOYEES, BY A THIRD PARTY CHALLENGING THE ISSUANCE OF THIS CONTINUED WILL SERVE LETTER OR THE DETERMINATION THAT THE PROPERTY IS "DEVELOPED" WITHIN THE MEANING OF CONDITION OF APPROVAL NO. 6 FOR THE LOS OSOS WATER RECYCLING FACILITY.

LAURA HOLDER
PROGRAM MANAGER

March 3, 2021
DATE

PMT No. N/A

Jeff Edwards

File: 321.600.01
L:\Utilities\2021\March\Will Serve 1153 11th Ltr.docx.LH.kim

County of San Luis Obispo Department of Public Works

County Govt Center, Room 206 | San Luis Obispo, CA 93408 | (P) 805-781-5252 | (F) 805-781-1000

pwd@co.slo.ca.us | slocounty.ca.gov

Exhibit 2
A-3-SLO-0020 (Dick Residence)
Page 166 of 173

Item No. 43

Meeting Date: 05.16.2023

Page 9 of 10

Action Requested

- Affirm the decision of the Planning Department Hearing Officer to approve a Minor Use Permit / Coastal Development Permit (DRC2021-00145) to allow for the construction of a single-family residence.
- Affirm the decision of the Planning Department Hearing Officer that the project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA).
- Affirm the decision of the Planning Department Hearing Officer establishing Findings and Conditions of Approval



**County of San Luis Obispo
Planning Department Hearing**

AGENDA

Road Names
Minor Use Permits
Lot Line Adjustments

ZOOM MEETING INFORMATION:

Website: <https://zoom.us/join>

Meeting ID: 834 6495 0868

Call in Phone Number: (669) 900-9128

MEETING DATE: Friday, January 20, 2023

HEARING OFFICER: Susan Strachan

MEETING LOCATION AND SCHEDULE: Teleconference Only (Zoom Platform)

Meeting Begins

9:00 a.m.

ALL 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.

MATTERS TO BE CONSIDERED

PUBLIC COMMENT PERIOD

1. Members of the public wishing to address the Planning Department Hearing Officer on consent agenda items and matters other than hearing items may do so at this time, when recognized by the Hearing Officer. Presentations are limited to three minutes per individual.

CONSENT AGENDA

2. Unless pulled from the consent agenda by the Planning Department Hearing Officer for separate action, the following items will be acted on collectively because individual public hearings were not requested or required pursuant to Land Use Ordinance Section 22.062.050B.4.b. or Coastal Zone Land Use Ordinance Sections 23.02.033b.(2)(ii) and 23.02.033b.(4)(ii):
3. December 16, 2022_Draft Meeting Minutes

4. A request by **Alex Newkirk** for a Minor Use Permit/Coastal Development Permit (C-DRC2022-00006) to allow for the construction of an approximately 390 square-foot rooftop deck and an exterior staircase to an existing 1,913 square-foot single-family residence. The proposed project is in the Residential Single Family land use category and is located at 1765 Pacific Avenue in the community of Cayucos. The site is in the Estero Planning Area.

Also to be considered is the determination that this project is categorically exempt from environmental review under CEQA

County File Number: C-DRC2022-00006 Assessor Parcel Number: 064-231-021
Supervisory District: 2 Date Accepted: August 31, 2022
Project Manager: April Lofgren **Recommendation: Approval**

5. A request by **Nancy and Bryan Pank** for a Minor Use Permit/Coastal Development Permit (C-DRC2021-00012) to allow for a 2,473 square-foot addition, including a new 420 square-foot garage and 516 square feet of decks, to an existing 1,473 square-foot single-family residence. The project will result in approximately 1,800 square-feet of disturbance on a 6,988 square-foot parcel. The proposed project is located within the Residential Single-Family land use category and is located at 340 Dorset Street, in the community of Cambria. The site is in the North Coast Planning Area.

Also, to be considered is the determination that this project is categorically exempt from environmental review under CEQA.

County File Number: C-DRC2021-00012 Assessor Parcel Number: 022-291-036
Supervisory District: 2 Date Accepted: February 24, 2022
Project Manager: Kip Morais **Recommendation: Approval**

6. A request by **Mark Santo** for a Minor Use Permit/Coastal Development Permit (C-DRC2022-00013) to allow for a 950 square-foot addition, including a new 528 square-foot garage and 398 square feet of living space at an existing 1,011 square-foot residence. The project will result in approximately 1,876 square-feet of disturbance on a 6,828 square-foot parcel. The proposed project is located within the Residential Single-Family land use category and is located at 2104 Andover Place, in the community of Cambria. The site is in the North Coast Planning Area.

Also, to be considered is the determination that this project is categorically exempt from environmental review under CEQA.

County File Number: C-DRC2022-00013 Assessor Parcel Number: 023-205-068
Supervisory District: 2 Date Accepted: 2-24-22
Project Manager: Kip Morais **Recommendation: Approval**

7. A request by **Michael and Kathy Barnes** for a Minor Use Permit / Coastal Development Permit (C-DRC2021-00046) to allow for an approximately 1,301 square-foot addition at an existing 1,136 square-foot two-story single-family residence, consisting of an approximately 554 square foot attached garage with an approximately 747 square foot attached living space above the garage and a 154 square-foot deck and supporting appurtenances including the construction of a relocated and improved driveway along Drake Street. The project would result in the disturbance of approximately 2,000 square feet on a previously disturbed 8,608 square-foot parcel. The proposed project is within the Residential Single-Family land use category and is located at 2281 Madison Street, in the community of Cambria. The project is in the Coastal Zone and in the North Coast Planning Area.

Also to be considered is the determination that this project is categorically exempt from environmental review under CEQA.

County File Number: C-DRC2021-00046 Assessor Parcel Number: 023-052-030
Supervisor District: 2 Date Accepted: September 1, 2022
Project Manager: Nicole Ellis **Recommendation: Approval**

8. A request by **Karen and Craig Little** for a Minor Use Permit/Coastal Development Permit (DRC2019-00172) to allow for the construction of a new 2,217 square-foot single-family residence with 790 square-feet of uncovered deck area and a 283 square-foot one-car attached garage. The project will result in approximately up to 2,500 square-feet of site disturbance on the 4,700 square-foot parcel and includes import of approximately 45 cubic yards of fill material for site capping. The project site is in the Residential Single-Family land use category and is located at 94 24th Street in the community of Cayucos. The site is in the Coastal Zone and Estero Planning Area.

Also to be considered is the determination that this project is categorically exempt from environmental review under CEQA.

County File Number: DRC2019-00172 Assessor Parcel Number: 064-183-021
Supervisor District: 2 Date Accepted: July 1, 2022
Project Manager: April Lofgren **Recommendation: Approval**

9. A request by **Spanish Vineyards, LLC** for a Minor Use Permit (DRC2019-00256) to allow site disturbance and grading for an approximately 1-mile long driveway to provide access for a single-family residence. The proposed access driveway would extend west and southwest from the terminus of Vetter Lane (off of Old Park Road) for approximately 1-mile, ending at the location of the proposed single-family residence. The subject property consists of two parcels (APNs 079-251-005 and 044-561-004), totaling 188 acres and 253 acres respectively. The proposed project is within the Rural Lands land use category and is located at the north end of Highland Drive adjacent to the City of Pismo Beach. The project site is within the San Luis Bay sub-area of the South County Planning Area.

Also to be considered at the hearing will be adoption of the Mitigated Negative Declaration prepared for the item. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary.

Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on August 8, 2022 for this project. Mitigation measures are proposed to address air quality, geology, soils, and biological resources.

County File No.: DRC2019-00256

Supervisory District: 3

Project Manager: Terry Wahler

Assessor Parcel No.: 079-251-005 and 044-561-004

Date Accepted: September 30, 2021

Recommendation: Approval

10. A request by **Glenn and Kelle Black and John Sterling Bryan and Christine Bryan** for a Minor Use Permit / Coastal Development Permit (C-DRC2022-00051) to allow an existing two-story 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 362 McCarthy Avenue, in the community of Oceano. The site is in the San Luis Bay Coastal Planning Area.

Also to be considered is the determination that this project is categorically exempt from environmental review under CEQA.

County File Number: C-DRC2022-00051

Supervisor District: 4

Project Manager: Nicole Ellis

Assessor Parcel Number: 061-021-014

Date Accepted: October 24, 2022

Recommendation: Approval

HEARING ITEMS

11. Hearing to consider a request by **Daou Brothers LLC** for a Lot Line Adjustment (COAL21-0180) to adjust the lot lines between 2 parcels of 160-acres (026-233-003, Parcel 1) and 161-acres (026-233-006, Parcel 2). The adjustment will result in 2 parcels of 200-acres (026-233-003, Parcel 1) and 121-acres (026-233-006, Parcel 2). The project will not result in the creation of any additional parcels. The proposed project is within the Agriculture land use category and is located at 4270 and 4274 Adelaida Road, approximately 4 miles west of the City of Paso Robles. The site is in the Adelaida Sub Area of the North County Planning Area.

Also, to be considered is the determination that this project is categorically exempt from environmental review under CEQA.

County File Number: N-SUB2022-00024 Assessor Parcel Number(s): 026-233-003 and 026-233-006

Supervisory District: 2

Project Manager: Jessica Macrae

Date Accepted: November 14, 2022

Recommendation: Approval

12. Continued hearing to consider a request by **Roger Dick** for a Minor Use Permit/Coastal Development Permit (DRC2021-00145) to allow for the construction of a single-story, 1,910-square-foot single-family residence with an attached 573-square-foot two-car garage to replace a demolished residence on a 5,750-square-foot parcel. Utility connections are available on site. The project would result in approximately 3,600 square feet of ground disturbance on the 5,750 square foot parcel and includes import of up to 400 cubic yards of fill material for site capping. The project site is in the Residential Single-Family land use category and is located at 1153 11th street, in the community of Los Osos. The site is in the Estero Planning Area.

Also, to be considered is the determination that this project is categorically exempt from environmental review under CEQA.

County File Number: DRC2021-00145

Assessor Parcel Number: 038-061-047

Supervisory District: 2

Date Accepted: December 17, 2021

Project Manager: Kip Morais

Recommendation: Approval

ESTIMATED TIME OF ADJOURNMENT: 11:00a.m.

Next Scheduled Meeting: , February 3, 2023, in the County Board of Supervisors Chambers, County Government Center, San Luis Obispo, CA.

Corla Wade, SECRETARY
COUNTY PLANNING DEPARTMENT HEARINGS

SUPPLEMENTAL CORRESPONDENCE

Supplemental correspondence and other materials for open session agenda items that are distributed to the Planning Department staff within 72 hours preceding the Planning Department Hearing meeting are available for public viewing in the Planning and Building Department located at 976 Osos Street, Room 200. With respect to documents submitted by members of the public to the Planning Department staff during a meeting, the law requires only that those documents be copied by the Clerk after the meeting for members of the public who desire copies. However, as a courtesy to others, it is requested that members of the public bring at least 4 extra copies of documents that they intend to submit to the Planning Department staff during a meeting so that those extra copies can be immediately distributed to all members of the Planning Department staff and other members of the public who desire copies.

DEPARTMENT OF PLANNING AND BUILDING MEETING PROCEDURES

Planning Department Hearings are conducted under the authority of the Hearing Officer. Each item scheduled for public hearing at a Planning Department Hearing will be announced by the Hearing Officer and the hearing will be conducted as follows:

1. The Planning Department staff will present the staff report and recommendation on the matter being heard.
2. The Hearing Officer will open the public hearing and will first ask the project applicant (if any) to present any points they feel the Planning Department Hearings should understand about their proposal.
3. The Hearing Officer will ask other interested persons to present any testimony they wish to give about the proposal being considered.
4. The Hearing Officer will offer the project applicant an opportunity for rebuttal of any testimony against the proposal or to clarify information previously presented.

RULES FOR PRESENTING TESTIMONY

All persons who wish to present testimony to the Planning Department Hearings in a public hearing must observe the following rules:

1. When beginning to speak, first identify yourself and place of residence. This is required for the public record. Planning Department Hearings are tape recorded.
2. All remarks must be addressed to the Hearing Officer. Conversation or debate between a speaker and a member of the audience is not permitted.
3. Please keep your remarks as brief as possible. When a number of speakers wish to testify on the same project, the Hearing Officer may limit the time for testimony to 3 minutes for individuals and 8 minutes for persons representing a group. Focus your testimony on the most important facts you wish to be considered. Avoid duplicating testimony provided by others.
4. Whenever possible, written testimony should be presented as well as oral. Written testimony can be submitted for Planning Department Hearings consideration in advance of the actual hearing date.

APPEALS

If you are dissatisfied with any aspect of an approval or denial of a project, you have the right to appeal this decision to the Board of Supervisors up to 14 days after the date of action, in writing, to the Planning Department. If legitimate coastal resource issues related to our local Coastal Program are raised in the appeal, there will be no fee. If an appeal is filed for an inland project, or for a coastal project with no legitimate coastal issues, there will be a fee set by the current fee schedule. If a fee is required, it must accompany the appeal form. The appeal will not be considered complete if a fee is required but not paid. There must be an original form and original signature, a FAX is not accepted.

Planning Department Hearings decisions may also be appealable to the California Coastal Commission pursuant to Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. Exhaustion of appeals at the county is required prior to appealing the matter to the California Coastal Commission. The appeal to the Board of Supervisors must be made to the Planning Commission Secretary, Department of Planning and Building, and the appeal to the California Coastal Commission must be made directly to the California Coastal Commission Office. 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.

Contact the Coastal Commission's Santa Cruz Office at (831) 427-4863 for further information on appeal procedures.

HEARING IMPAIRED: There are devices available for the hearing impaired upon request.

ON THE INTERNET

This agenda may be found on the internet at: <http://www.sloplanning.org> under Upcoming Events. For further information, please call (805) 781-5214.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT ST., SUITE 300
SANTA CRUZ, CA 95060-4508
(831) 427-4863
CENTRALCOAST@COASTAL.CA.GOV

**APPEAL FORM****Appeal of Local Government Coastal Development Permit****Filing Information (STAFF ONLY)**

District Office: Central Coast

Appeal Number: A-3-SLO-23-0020Date Filed: June 6, 2023Appellant Name(s): Patrick McGibney**RECEIVED**

JUN - 5 2023

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA**APPELLANTS**

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review the appeal information sheet. The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's contact page at <https://coastal.ca.gov/contact/#/>).

Note regarding emailed appeals. Please note that emailed appeals are accepted ONLY at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the Central Coast district office, the email address is CentralCoast@coastal.ca.gov. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's contact page at <https://coastal.ca.gov/contact/#/>.

Appeal of local CDP decision

Page 2

1. Appellant information¹

Name: _____

Mailing address: _____

Phone number: _____

Email address: _____

How did you participate in the local CDP application and decision-making process?

Did not participate

Submitted comment

Testified at hearing

Other

Describe: _____

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: _____

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: _____

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

Page 3

[illegible]

Exhibit 3
A-3-SLO-23-0020 (Dick Residence)
Page 3 of 6

Page 4

Applicant name(s): _____

Applicant Address: _____

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

[illegible]

Exhibit 3
A-3-SLO-23-0020 (Dick Residence)
Page 4 of 6

Appeal of local CDP decision

Page 5

5. Identification of interested persons


On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

Interested persons identified and provided on a separate attached sheet

6. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name _____



Signature

Date of Signature _____

7. Representative authorization⁶

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

⁵ If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

⁶ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

Identification of Interested Persons

J.H. Edwards Company

Address: P.O. BOX 6070 Los Osos, CA 93402

Email Address: JHEdwardsCompany@gmail.com

August 3, 2017

Mark Hutchinson, Deputy Director
San Luis Obispo County Department of Public Works
County Government Center, Room 206
San Luis Obispo, CA, 93408

**Subject: Your letter to Dan Carl (Central Coast District Director) dated July 25, 2017
regarding potential amendments to CDP A-3-SLO-09-055/069 (Los Osos
Wastewater Project)**

Dear Mr. Hutchinson:

We received the above-referenced letter from you on July 31, 2017 in which you indicate that the County Board of Supervisors authorized the landowner of a property at 2045 Pine Street in Los Osos (Rick Kirk) to apply to the Coastal Commission: to amend the County's coastal development permit (CDP) for the Los Osos Wastewater Project (CDP A-3-SLO-09-055/069) to include the subject parcel (APN 074-052-033) in the Wastewater Service Area; and to clarify the applicability of CDP A-3-SLO-09-055/069 conditions to this and other undeveloped properties in the Los Osos area subject to the Estero Area Plan. The purpose of this letter is to respond to both of those issues, and to provide direction to the County on the nature of the requirements that continue to adhere by virtue of CDP A-3-SLO-09-055/069.

As you know, CDP A-3-SLO-09-055/069 Special Condition 6 **prohibits** wastewater service to undeveloped properties unless and until the Estero Area Plan is updated to identify appropriate and sustainable buildout limits, and that update is certified as an LCP amendment by the Coastal Commission. The County has been working on the required update to the Los Osos component of the Estero Area Plan, including the complementary Habitat Conservation Plan, for many years, but that update remains incomplete at the County level, and thus it has never been submitted to the Coastal Commission. Importantly, the LCP growth and buildout standards applicable to Los Osos that were required by the Coastal Commission to be updated have not yet been updated. As a result, and as we have discussed with you and your staff and other County staff in other departments, per the CDP **undeveloped properties are not allowed wastewater service at this time.**

With respect to potential amendments to the CDP to potentially add properties to the wastewater service area, such as the aforementioned request related to the property at 2045 Pine Street, the intent of the CDP (including Special Condition 7 allowing for it to be amended under certain circumstances) is **not** to facilitate development of undeveloped properties in Los Osos absent the required LCP update. On the contrary, and as we have discussed with you and your staff and other County staff at the time of the original CDP approval, as well as since then, the intent of the potential amendment provision of the CDP is to consider minor modifications that address potential anomalies associated with **already developed** properties. For example, the Coastal

Commission approved a service area adjustment through a CDP amendment in June 2016 to allow the Monarch Grove area to be added to the service area so as to better protect coastal resources by connecting that area to the wastewater plant instead of continuing use of their failing package plant. At the same time, it is clear under the CDP that undeveloped properties (including significant intensifications of use and expansions on developed properties (e.g., such as the proposed expansion of the Sea Pines Golf Resort and Morro Shores Mobile Home Park), cannot be allowed sewer service and/or be brought into the service area absent the required Estero Area Plan LCP update. The County acknowledged and agreed to be bound by these terms and conditions when it accepted the CDP to construct the Los Osos Wastewater system.

As a result, please understand that we cannot support allowing undeveloped properties, such as the property at 2045 Pine Street, to be added to the service area or to be allowed wastewater service unless and until the LCP's Estero Area Plan is updated as required by CDP A-3-SLO-09-055/069. In addition, and as we have informed you and other County staff, including as recently as May 31, 2017 (i.e., in an email from Daniel Robinson in the Central Coast District Office to you and Kerry Brown of the County's Planning and Building Department) it would appear quite clear at this point that any application proposing to amend CDP A-3-SLO-09-055/069 to allow same **would be required to be rejected** by Coastal Commission staff because it would lessen and avoid the intended effect of the Commission's CDP approval (see California Code of Regulations Section 13166(a)). Again, the Commission required the County to update the Los Osos portion of the Estero Area Plan through an LCP amendment subject to certain criteria before any undeveloped properties in Los Osos can be served. Thus, unless and until the Estero Area Plan is updated as required, modifications to service area boundaries to include undeveloped properties and/or allowing wastewater service to undeveloped properties are not allowed by CDP A-3-SLO-09-055/069.¹

¹ In addition, questions have arisen recently about the potential to allow development on properties prior to the required Estero Area Plan update that have been awarded wastewater or water saving credits (otherwise known as 'Title 19 Retrofit Certificates') in the past. In terms of wastewater credits, the RWQCB has indicated that any credits available from past actions were intended for properties that were already eligible to connect to the sewer. For example, if someone has a property that is eligible to connect to the community sewer system and wanted to build prior to being hooked up to the sewer, then they could utilize a credit to install a temporary septic system. However, as detailed above, only already developed properties are eligible for sewer connection at this time, and thus they would not need a temporary septic credit. In terms of the retrofit certificates, these certificates alone do not somehow entitle development at this time. Although these water conservation certificates were previously issued to properties in the septic prohibition zone, the certificate does not somehow guarantee the right to develop parcels upon completion of the sewer. As described above, the key threshold before wastewater service can be provided to any undeveloped property is certification of the Los Osos portion of the Estero Area Plan by the Coastal Commission.

In short, the requirements of the CDP prohibit the extension of wastewater service to undeveloped properties, and to do so would be a knowing and intentional violation of the CDP.²

We understand that the certain members of the community are interested in developing their properties now that the wastewater treatment plant is up and running, and we can appreciate their desire to do so, including after the significant efforts by many to bring the wastewater treatment plant and system in Los Osos online. At the same time, however, the County is obligated to finalize the update to the Los Osos portion of the Estero Area Plan through LCP amendment before that occurs, and that requirement has been in existence for over a decade, dating back to a similar requirement associated with the since abandoned wastewater treatment plant CDP approved by the Commission in 2004, and also because the County itself required the same as part of its approval of the wastewater treatment plant in late 2009 (i.e., County Condition 92, which was part of the County's proposed project before the Commission when the Commission approved CDP A-3-SLO-09-055/069 in 2010). We would strongly suggest that the County put its efforts towards completing the required LCP planning instead of pursuing any measures designed to avoid its CDP obligations.

Finally, despite the Board authorizing a private citizen to apply to amend the County's CDP, we note that it is the County that is the Permittee of the subject CDP, and it is the County that would have to be the Applicant for any amendment to it. The County could apply on an individual's or group's behalf, as was done for the Monarch Grove CDP amendment request described above, but the County would have to be the entity to request the amendment. We would not be able to accept an application by a private individual or group.

In closing, we again note that the Coastal Commission's CDP requirements that prohibit wastewater service to undeveloped properties in Los Osos are unambiguous, and we strongly suggest that the County recognize that requirement in all County actions (including in accepting any CDP applications, and in any County CDP actions).

We continue to be available to assist County staff as it attempts to complete the required LCP update, and we strongly recommend that the County concentrate its resources on those efforts. If you have any questions or wish to discuss this further, please contact me or Daniel Robinson of my staff at (831) 427-4863.

² We note that the County correctly denied a CDP for development of the proposed *Novy* residence on Pasadena Drive on these grounds in September 2016. We further note that on August 4, 2017 the County Planning Commission will hear a CDP application to develop another undeveloped property in Los Osos (i.e., the proposed *Watterworth* residence on Mitchell Drive), and the Planning Commission should deny this project for the very same reason. Again, approval of development that uses wastewater services on undeveloped properties would be a violation of the County's CDP, and would be subject to enforcement proceedings.

Sincerely,

Dan Carl
District Director
Central Coast District Office
California Coastal Commission

cc: (via email)

Supervisor Bruce Gibson
Supervisor John Peschong
Supervisor Adam Hill
Supervisor Lynn Compton
Supervisor Debbie Arnold
Planning Commissioner Michael Multari
Planning Commissioner Julie Hawkins
Planning Commissioner Jim Harrison
Planning Commissioner Don Campbell
Marvin Rose, County Department of Planning and Building Interim Director
Wade Horton, County Public Works Department Director
Jeff Edwards (Representative for Rick Kirk)

CALIFORNIA COASTAL COMMISSION

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



December 8, 2017

Kerry Brown
San Luis Obispo Department of Planning and Building
976 Osos Street Room 200
San Luis Obispo, CA 93408

Subject: Coastal Development Permit (CDP)/Minor Use Permit (DRC2017-00029)

Dear Kerry:

We are writing in regards to a proposed project to be heard at the December 15th meeting of the San Luis Obispo (SLO) Planning Department to construct four single family residences on four separate lots, located at 282 Mar Vista, 294 Mar Vista, 284 Highland Drive, and 289 Highland Drive in Los Osos (Shear Development Company LLC).

As described accurately in the County's staff report, Special Condition #6 (as well as County project condition #86 and #92) of the Los Osos Wastewater Treatment Plant CDP A-3-SLO-09-055/069 prohibits development on vacant parcels at this time. Specifically, Special Condition 6 prohibits new development on undeveloped properties in the prohibition zone until such time as the Estero Area Plan has been amended and certified by the California Coastal Commission.

We are writing in support of the SLO County Planning staff's recommendation for denial in this case. Because the proposed project cannot hook up to the sewer based on the conditions of the LOWWP permit, and cannot utilize a septic system (the Regional Water Quality Control Board prohibition on new septic discharge is still in effect), the project cannot be approved at this time.

Please do not hesitate to contact me at (831) 427-4863 if you have any questions regarding the above letter of support.

Sincerely,

A handwritten signature in dark ink, appearing to read "Daniel Robinson", is written over a light blue horizontal line.

Daniel Robinson
Coastal Planner
Central Coast District Office

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



August 29, 2016

San Luis Obispo County Department of Planning and Building
976 Osos Street Room 200
San Luis Obispo, CA 93408

Subject: **Frederick G. Novy Single-Family Dwelling (SFD), 1325 Pasadena Drive, Los Osos (APNs 038-732-016 and -017)**

Dear Rob Fitzroy, Hearing Officer,

I am writing to express our support for the Planning Department's denial recommendation of the proposed SFD located on an undeveloped property at 1325 Pasadena Drive in Los Osos, which you will be considering at a Planning Department hearing on September 2, 2016. Initially the project proposed to obtain wastewater service from the new Los Osos Wastewater Treatment Plant (LOWWP); the project now includes a proposed onsite septic system.

We previously worked very closely with the County, the Regional Water Quality Control Board (RWQCB), and other interested parties on the LOWWP project, dating back to the approval of a coastal development permit (CDP) for that project in 2010 (Coastal Commission appeal number A-3-SLO-09-055/069). Approval of the Novy SFD project with a connection to the LOWWP would directly violate Special Condition 6 of CDP A-3-SLO-09-055/069, which states:

"Wastewater service to undeveloped properties within the service area shall be prohibited unless and until the Estero Area Plan is amended to identify appropriate and sustainable buildout limits, and any appropriate mechanisms to stay within such limits, based on conclusive evidence indicating that adequate water is available to support development of such properties without adverse impacts to ground and surface waters, including wetlands and all related habitats."¹

As the County is aware, a Local Coastal Program (LCP) amendment to the Estero Area Plan for this purpose has not been certified by the California Coastal Commission (Commission), although we have had multiple discussions with the County's planning and building staff and have collaborated on draft portions of the Los Osos Community Plan (LOCP) to help expedite this process, and will continue to do so. Given this reality, however, wastewater service for the proposed Novy SFD may not be provided by the LOWWP at this time.

In terms of the project now including an onsite septic system, the RWQCB imposed a moratorium on current sewage discharges, new sources of sewage discharge, and increases in the

¹ Special Condition #6 is similar to County Condition of Approval #86 for the LOWWP, which is entitled "**No Service to Undeveloped Properties.**"

volume of existing sewage sources in the community of Baywood-Los Osos on January 8, 1988. The primary effect of the moratorium is that the County is prohibited from issuing any permits for new onsite sewage disposal systems (commonly called septic systems) within the prohibition area. Further, we also agree with the RWQCB that the “septic system credits” identified in their letter dated May 8, 2014 were intended to be temporary credits for lots that were already eligible to connect to the community sewer. Given that the Novy lots are not eligible to connect to the sewer at this time because the update to the Estero Area Plan has not been certified, these credits should not apply to the Novy property. Thus, because there is an ongoing moratorium, because the proposed project cannot hook up to the sewer based on Special Condition #6 of the LOWWP permit and cannot utilize a septic system based on the August 8, 2016 letter from RWQCB, the project will not have adequate means to dispose of wastewater, and therefore cannot be approved at this time. Based on the above reasons, Commission staff supports County staff’s recommendation of denial at this time.

While denial of the project is appropriate at this time, certification of the LOCP should appropriately guide future development of infill lots within the urban area of Los Osos in the future. When that occurs for this site, Commission staff believes that a wetland setback reduction should not be allowed. At this time, a reduction is recommended to be allowed from 75 to 62 feet. However, it does not appear that a single-family residence of nearly *4,000 square feet* (i.e., a 3,048-square-foot residence, with a 484-square-foot attached garage and a 351-square-foot attached workshop) is the “*minimum*” size that would enable a single-family residence to be established on the site, as required by CZLUO Section 23.07.172.(d)(2). We also do not agree that the site would be “*physically unusable*” for a single-family residence unless the setback was reduced, again as stated by CZLUO Section 23.07.172.(d)(2). Thus, Commission staff does not support the proposed reduction in the wetland setback given that it appears readily feasible, based on project plans associated with the project, for the project to be modified to provide consistency with the LCP’s 75-foot wetland setback requirement.

Thank you for the opportunity to share our thoughts on this project. We look forward to continuing to work with County staff on the Estero Area Plan update (LOCP), which will facilitate future approvals of proposed residences, such as the Novy SFD, within the urban area of Los Osos.

Sincerely,

Daniel Robinson
Coastal Planner
Central Coast District Office

cc: Brandi Cummings, San Luis Obispo County Department of Planning and Building
Jon Rokke, Central Coast Regional Water Quality Control Board
Jeff Edwards

CALIFORNIA COASTAL COMMISSION

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April 19, 2022

Trevor Keith, Director
San Luis Obispo County Department of Planning and Building
976 Osos Street, Room 200
San Luis Obispo, CA 93408

Subject: New Development in Los Osos

Dear Mr. Keith:

The purpose of this letter is to highlight issues of mutual concern as they relate to proposed development in the community of Los Osos. As the County is well aware, including from the County's designation of an LCP Resource Management System Alert Level III for water supply (i.e., where demand exceeds existing supply, and still does) and from the 2015 designation by the California Department of Water Resources of the Los Osos Valley Groundwater Basin as a high priority basin due to its "condition of critical overdraft", there is insufficient water supply to serve even existing development in Los Osos without coastal resource harm (including where an over-drafted groundwater basin can adversely impact sensitive natural resources such as wetlands and marshes, coastal streams and adjacent riparian areas, and marine habitats, as well as adversely impact coastal priority uses such as agriculture and lower-cost visitor-serving development), let alone adding to it new water using development. In addition, much of Los Osos is considered environmentally sensitive habitat area (ESHA) by the LCP within which most development, including residential development, is prohibited. This alone trips up most all residential development in Los Osos at varying levels. And finally, the County's wastewater treatment plant is prohibited from providing wastewater service to anything but existing development (and not to new development on existing lots)¹ unless and until the Estero Area Plan is amended to "identify appropriate and sustainable buildout limits, and any appropriate mechanisms to stay within such limits, based on conclusive evidence indicating that adequate water is available to support development of such properties without adverse impacts to ground and surface waters, including wetlands and all related habitats" as required by the Commission in Special

¹ As we have previously noted, the County is prohibited by CDP A-3-SLO-09-055/069 from providing wastewater services to new development on vacant lots, and that prohibition extends to intensifications of use. Specifically, the Commission has found that the CDP's prohibition on new wastewater service does not only apply to new development on completely vacant parcels, but also to projects that include significant intensifications of use and significant expansions on already-developed properties. The Commission has verified this understanding in multiple Los Osos appeal cases (see adopted findings for A-3-SLO-19-0180 (Shear Development LLC SFDs), A-3-SLO-21-0005 (Kimbell Second Unit), A-3-SLO-21-0004 (Wise Second Unit), A-3-SLO-21-0007 (Bodine Second Unit), and A-3-SLO-21-0008 (Robertson Second Unit)). In short, the County is prohibited by the CDP from providing wastewater services to such development, including intensifications of use, and if the County were to provide such services, the County would be in violation of that CDP and subject to potential Commission enforcement action.

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Condition 6 of CDP A-3-SLO-09-055/069. We are currently reviewing the Los Osos Community Plan that the County has submitted for this purpose and hope to bring that to hearing and Commission action by this summer. In the meantime, and with the goal of avoiding any additional appeals of County CDP actions in Los Osos and ultimately better protecting the Los Osos Groundwater Basin and related resources, we have the following observations and suggestions for the County.

First, please do not accept any CDP applications for filing that cannot demonstrate that they have legal access to both a sustainable water source and wastewater treatment services. To be clear, such applications should not be accepted for review unless and until such water and wastewater is available for use, as availability of these public services reflects a fundamental prerequisite for considering proposed development and must be considered at the filing stage. On this point, we do not believe that a will serve from a local water purveyor satisfies LCP and CDP requirements, including as the LCP finding that is required on this point is not for water purveyors to make, rather it is the County's independent responsibility. To this point, recent Commission's adopted findings on this issue state:²

The County, as the initial CDP decision-making body for CDP applications that include new water use in Cambria [same as Los Osos], needs to consider these perhaps inconvenient facts, and stop approving or even considering such projects unless and until measurable steps are taken that improve water supply issues in Cambria [same as Los Osos]. The County should not be even accepting applications for development in Cambria [same as Los Osos] that cannot show evidence of an adequate water supply. A will-serve letter does not provide such evidence, and the County under the LCP is required to make its own finding that an adequate water supply is available to serve a proposed development, and cannot abrogate that responsibility to the CCSD [or here in Los Osos to any of the water purveyors]. The County is giving applicants a sense of 'false hope' when it does, and is doing a disservice to these applicants and the broader community. It is also leading to a significant number of appeals to, and subsequent CDP denials by, the Commission, each of which require an expenditure of scarce public resources to process.

Unless development can meet the water and wastewater tests above, please do not make any CDP decisions where water supply, wastewater access, and ESHA are issues unless and until the LCP's Estero Area Plan is updated (via the pending Los Osos Community Plan) and those changes are certified by the Coastal Commission. Importantly, those LCP changes are at their core required to provide direction on sustainable growth and buildout in Los Osos as it is affected by these constraints, and it is not appropriate to be making CDP decisions that aren't based in that sort of assessment. As is, Los Osos-area water purveyors are raising their own questions about the sustainability of the Los Osos Groundwater Basin to serve development, and sustainable buildout has not been determined and certified into the LCP, including as it relates to ESHA (and the USFWS Habitat Conservation Plan that is currently in draft

² See adopted Commission findings at <https://documents.coastal.ca.gov/reports/2022/3/F15b/F15b-3-2022-report.pdf>.

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form and still under development). In fact, the Commission has repeatedly determined that LCP consistency cannot be found for any new water using development in Los Osos at the current time, irrespective of any will-serve letter, finding most recently that:³

...the LCP includes a series of provisions which require adequate water and wastewater services for new development, yet the community still does not have an adequate water supply at this time, including as evidenced by the Los Osos Basin Plan 2020 report. Until and unless there is conclusive evidence that adequate water services exist, public services remain a constraint to new development in Los Osos under the LCP.

On this point we would note that in the last few years there have been ten appeals to the Coastal Commission of County CDP approvals for new residential projects in Los Osos. Of those appeals, the Commission took jurisdiction over the CDP applications for five of them (and denied one such application thus far) and five others withdrew their CDP applications after appeal, all for issues having to do with the water supply, wastewater service, and ESHA issues described above. We do not believe it is good planning or good public policy for the County to continue to take in and process CDP applications for projects that lead to an increase in water use on a site, and/or that require County wastewater services that cannot be provided, especially when the outcome is appeal to the Commission. This is exactly the sort of ‘false hope’ that the Commission alludes to in its findings quoted above. We believe that some certainty on these issues will be coming when the Commission considers the County’s proposed Los Osos Community Plan in the near term, and that it is appropriate to wait for that outcome.

In order to provide as much clarity as possible in the meantime, please note that we consider guesthouses, hotel/motel expansions, and large use/structural intensifications associated with existing development to constitute such “new water-using” development. Unless and until conclusive evidence is provided showing that these types of development do not lead to an increase in water use on a given site, we believe that the precautionary principle should be applied, and that CDP applications for such development should not be accepted (because they cannot demonstrate the availability of an adequate and sustainable water source). At the same time we believe that it is likely that small home additions and renovations are not likely to increase water use on a property. Toward this end, we would suggest that an important threshold concept to be applied to the latter such CDP applications is to require applicants to demonstrate, with actual evidence, that the development they propose will not lead to an increase in water use at the site in question.⁴ Such an evaluation demands water-use data and

³ See recent adopted Commission findings for an appeal of a County CDP decision in Los Osos from November 17, 2021 at <https://documents.coastal.ca.gov/reports/2021/11/W14a/w14a-11-2021-report.pdf>.

⁴ To be clear, this is different than trying to demonstrate that one can ‘back out’ or ‘offset’ new water use through some sort of offsite mechanisms, and rather is focused on ensuring that the development in question, by itself, will not lead to the need for additional water use at a site.

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evidence to support any conclusions drawn, and it will be important to collect such information before any applications are filed.⁵

In sum, in our view brand new water-using development (such as a new single-family dwelling or an ADU) cannot meet LCP water supply tests, and CDP applications for such development should not be accepted for processing nor approved. Similarly, CDP applications for development that increases water use on a site (including explicitly guesthouses, hotel/motel expansions, and large use/structural intensifications (at least until a body of evidence is provided to demonstrate that such development does not actually lead to additional water use on such sites)) should also not be accepted for processing nor approved for similar reasons. We would expect that any County approvals of CDPs for such development are likely to be appealed to the Commission, which would likely lead to the Commission taking CDP jurisdiction or denying such applications, based on past recent cases. And finally, any CDP applications for other development needs to clearly demonstrate that such development will not lead to increased water use on the site in the manner described above. In sum, our intent with these observations is not to suggest that no CDP applications for development in Los Osos be accepted; rather, with respect to water, and in the interim as more community-scale water supply improvements are pursued, we believe it is important that proposed new development (whether on vacant or developed lots) does not exacerbate water supply-related problems.

Further, and with all due respect, please be advised that the terms and conditions of Commission-issued CDPs are enforceable. The County needs to take its continuing obligations, commitments and requirements from CDP A-3-SLO-09-055/069 more seriously. The Commission has thus far exercised restraint as it has tried to work with the County as it relates to cases where the County has committed to providing wastewater service to new development when to do so is prohibited by the CDP. However, the ten recent aforementioned appeals where this is and was an issue makes it clear that there is a pattern of disregard as pertains to the requirements of CDP A-3-SLO-09-055/069. Moreover, the County was previously informed of these issues in a letter to Mark Hutchinson dated August 3, 2017 (enclosed). Thus, it appears that the County's disregard of permit requirements is "knowing and intentional." Therefore, going forward, we will have to consider County intent to serve in such cases, including approval of CDPs for projects that require such wastewater service from the County, to be knowing and intentional violations of the CDP, to which the Coastal Act's enforcement provisions could be applied. If there are any questions of CDP interpretation in that regard, the County is advised to discuss such issues with our staff well before taking action that would provide such wastewater services.

In conclusion, it is clear to us that the constraints to development in Los Osos require an honest assessment of the ways in which such development can and cannot be sustainably accommodated in terms of water supply, wastewater service, and ESHA.


⁵ And, where the evidence provided demonstrates that the development will not lead to new water use on a site, pre- and post-monitoring reports for water use on the site should also be considered as a condition of approval, and if the development results in an increase in water use on-site, mitigation measures to bring water use on the site to the pre-development level should also be implemented.

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This is not a new conclusion, and simply continues to reflect the Commission's 2010 action in approving the County's wastewater treatment plant and system, and the terms and conditions pertaining thereto. These issues demand a planning solution that can provide clear LCP direction to all parties moving forward, and we recommend that the County allow that LCP process to be brought to conclusion and completion through the proposed Los Osos Community Plan. When, instead, the County accepts CDP applications and approves them under the current set of circumstances as described above, it simply leads to appeals of such actions to the Commission, each of which takes scarce staff resources away from moving that planning decision forward to fruition. We respectfully request that the County discontinue this practice, including so that we can collectively focus our limited time and resources on the LCP planning task at hand.

Thank you for your attention to these matters, and your requested assistance. I hope that you will share our view that it is simply not good public policy or good planning for there to be any more appeals of County CDP approvals for such development in Los Osos. We strongly believe that our mutual goals associated with adherence to the LCP and the coastal resource protections it requires are better served by recognizing and squarely addressing the issues described through the LCP, as opposed a continuing series of CDP approvals and appeals. I welcome a discussion on these issues when it is convenient for you.

Sincerely,

DocuSigned by:

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Dan Carl, Director
Central Coast District
California Coastal Commission

Enclosure: August 3, 2017 Letter to Mark Hutchinson

cc: Bruce Gibson, San Luis Obispo County Second District Supervisor
John Diodati, San Luis Obispo County Public Works Director
Stephen P. Henry, USFWS
Ron Munds, Los Osos Community Services District
Mark Zimmer, Golden State Water Company
Charlie Cote, S&T Mutual Water Company