

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

| | | | | | |
|--|--|---|---|--|--|
| (1) DEPARTMENT Public Works | | (2) MEETING DATE February 28, 2006 | | (3) CONTACT/PHONE Timothy J. Smith, County Right of Way Agent (805) 781-5290 | |
| (4) SUBJECT Submittal of Resolutions of Intention to Vacate a Portion of Smith Avenue, a Purported Public Road in Town of Oceano, Supervisorial District 4 and a Portion of First Street, County Road No. 3157, in the Town of Los Osos, Supervisorial District 2 | | | | | |
| (5) SUMMARY OF REQUEST Road vacation is requested by owners of an adjacent parcel to consolidate right of way into their parcel. | | | | | |
| (6) RECOMMENDED ACTION It is recommended that your Board adopt the attached Resolutions of Intention to Vacate and set the public hearing for this matter for 9:00 a.m. on April 4, 2006. It is also recommended that the subject Planning Commission Report, attached hereto, be approved. | | | | | |
| (7) FUNDING SOURCE(S) Public Works | | (8) CURRENT YEAR COST Undetermined (County may avoid future maintenance liability obligations) | | (9) ANNUAL COST Undetermined - minimal, if anything at all | |
| (10) BUDGETED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> N/A <input type="checkbox"/> NO | | | | | |
| (11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): Department of Planning and Building, Environmental Coordinator's Division, County Counsel, and County Parks Division, State of California Parks and Recreation Department, Los Osos Community Advisory Council | | | | | |
| (12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Temporary Help _____ | | | | | |
| (13) SUPERVISOR DISTRICT(S) 2 nd and 4th | | | (14) LOCATION MAP <input checked="" type="checkbox"/> Attached <input type="checkbox"/> N/A | | |
| (15) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Hearing (Time Est. _____) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _____) | | | (16) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions (Orig + 4 copies) <input type="checkbox"/> Contracts (Orig + 4 copies) <input type="checkbox"/> Ordinances (Orig + 4 copies) <input type="checkbox"/> N/A | | |
| (17) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A | | | (18) APPROPRIATION TRANSFER REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A | | |

Reference: 06FEB28-C-3

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| (19) ADMINISTRATIVE OFFICE REVIEW | <p><i>OK</i> <i>Leslie Brown</i></p> | <p><i>B-22</i> <i>(2.28.06)</i></p> |
|-----------------------------------|--|---|



SAN LUIS OBISPO COUNTY DEPARTMENT OF PUBLIC WORKS

Noel King, Director

County Government Center, Room 207 • San Luis Obispo CA 93408 • (805) 781-5252

Fax (805) 781-1229

email address: pwd@co.slo.ca.us

TO: Board of Supervisors

FROM: Timothy J. Smith, Right of Way Agent *PK F.W.S.*

VIA: Glen L. Priddy, Deputy Director of Public Works - Engineering Services *GP*

DATE: February 28, 2006

SUBJECT: Submittal of Resolutions of Intention to Vacate a Portion of Smith Avenue, a Purported Public Road in Town of Oceano, Supervisorial District 4 and a Portion of First Street, County Road No. 3157, in the Town of Los Osos, Supervisorial District 2

Recommendation

It is recommended that your Board adopt the attached Resolutions of Intention to Vacate and set the public hearing for this matter for 9:00 a.m. on April 4, 2006. It is also recommended that the subject Planning Commission Reports, attached hereto, are approved.

Discussion

The Smith Avenue vacation is requested by the owner of the adjacent property to gain an additional 20 feet of street frontage for private use and development. The proposed development is for a hotel facility in the Pier Avenue vicinity in Oceano. The subject portion of Smith Avenue is not improved, is mostly dune habitat, and does not provide public or private access. The California Coast Commission conditionally approved the hotel plan.

The County Planning conformity report recommended that the vacation of the subject road is not consistent with the County General Plan, received by the County Planning Commission, unless a coastal access is retained. This access condition can be secured by a reservation clause in the property legal description. Copy of the February 9, 2006 Planning staff conformity report is attached for your information and approval.

The First Street vacation is requested by the owners of adjacent properties, between Santa Maria Avenue and Santa Ysabel Avenue in Los Osos. The owners desire to gain an additional 15 feet of street frontage for private use and development; subject area is generally residential landscaping. The total present width of the right of way is 80 feet. Approval of the request would result in a 50 foot width remainder, which is in compliance

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with County road minimum width standards. The County Planning Commission of January 26, 2006 concurred with the County staff, that the request is in conformity with the County General Plan. The subject conformity report is attached for your approval.

Other Agency Involvement/Impact

The County Planning Department prepared the necessary conformity reports. The neighborhood advisory councils reviewed the proposed requests. Resolutions have been reviewed and approved by the Office of County Counsel.

Financial Considerations

In the event the vacations are approved at the forthcoming hearing, the excess right of way would be absorbed into the adjoining properties. There is no direct financial impact expected to result from the recommended Board action.

Results

Approval of the recommended action will result in the setting of formal hearing dates in compliance with appropriate statutes, and will permit the future consolidation of property interests, leading to the ultimate community-wide result of a more well governed community.

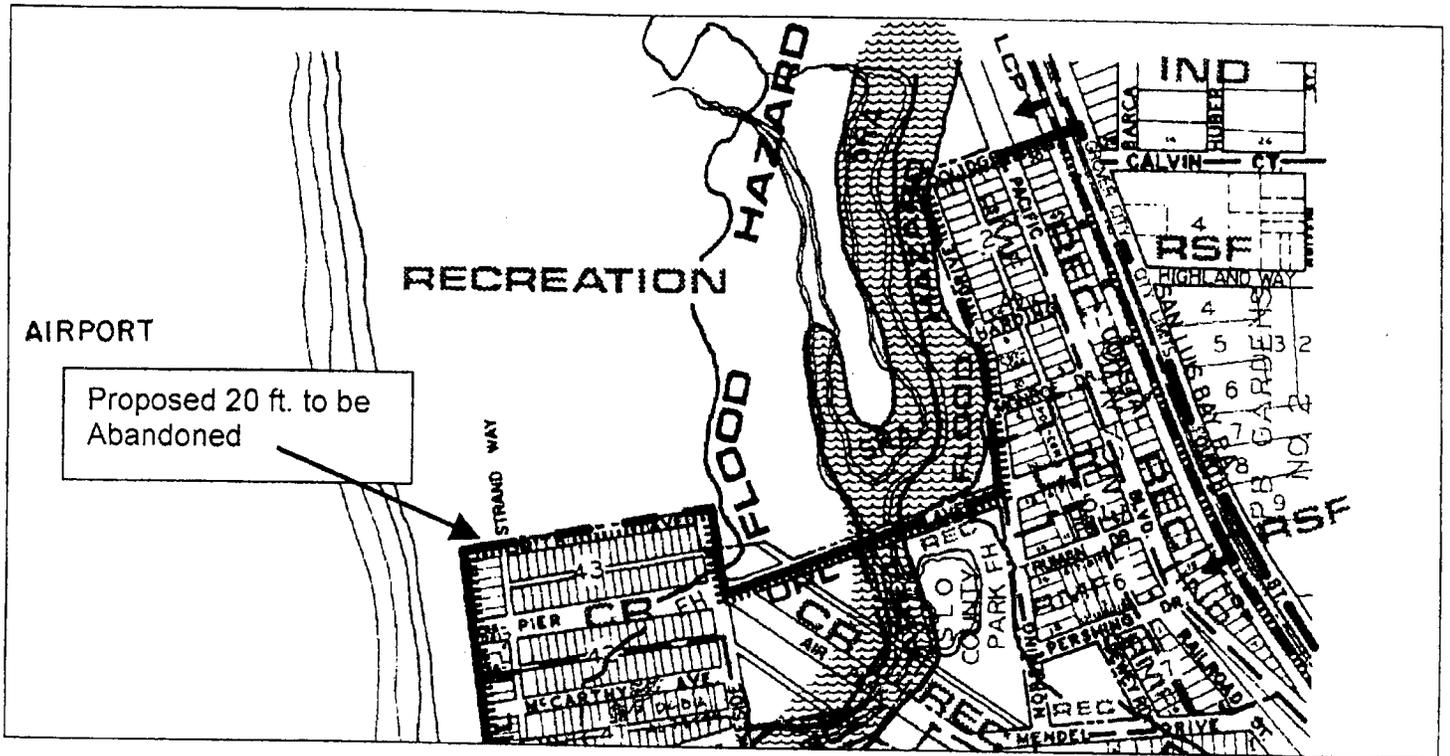
Attachments: Vicinity Maps
Resolutions of Intention to Vacate
Notice of Hearings
Conformity Reports from County Planning Commission

File: TJS

Reference: 06FEB28-C-3

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VICINITY MAP FOR SMITH AVENUE ROAD VACATION

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

*Promoting the wise use of land
Helping build great communities*

| | | | |
|--|---|---|------------------------------|
| DETERMINATION DATE February 9, 2006 | CONTACT/PHONE John Hofschroer 781-5980 | APPLICANT Mueller | FILE NO. SUB2005-00165 |
| SUBJECT Determination of conformity with the General Plan for the abandonment of a 20 foot wide strip of right of way along Smith Ave. between Lakeside and Strand Avenues, located in the Community of Oceano. | | | |
| RECOMMENDED ACTION Receive and file the determination that unless coastal access is retained, the proposed abandonment is in not in conformity with the County General Plan, including the Local Coastal Program. | | | |
| ENVIRONMENTAL DETERMINATION Not required for general plan conformity reports. | | | |
| LAND USE CATEGORY Commercial Retail | COMBINING DESIGNATIONS LCP / AS/ AR /CAZ/ V/CA | ASSESSORS PARCEL NUMBER 061-011-042 | SUPERVISOR DISTRICT (S) 4 |
| PLANNING AREA STANDARDS: San Luis Bay – Oceano: Chapter 8 – Oceano Specific Plan adopted by reference, CR Standards for Limitation on Uses, Airport Review, Drainage, & Permit Requirements. | | | |
| EXISTING USES: The adjacent Mueller property is developed with a single story commercial building and parking lot. The right of way in question is not improved, and is mostly dune habitat. | | | |
| SURROUNDING LAND USES North: Vacant-State Park East: RV/Trailer Park South: Commercial West: State Park Beach Area | | | |
| OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The Public Works Department processes requests for road abandonment. The Airport Land Use Commission comments on projects, such as the proposed hotel on the Mueller property. The California Coastal Commission has jurisdiction over the Mueller hotel permit. | | | |
| TOPOGRAPHY: Flat to gently rolling sand dunes | | VEGETATION: Dune Scrub & Sensitive Habitat | |
| PROPOSED SERVICES: Water supply: Community system Sewage Disposal: Community system Fire Protection: Oceano Community Service District | | ACCEPTANCE DATE: January 27, 2005 | |
| ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER SAN LUIS OBISPO CALIFORNIA 93408 (805) 781-5600 Fax: (805) 781-1242 | | | |

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PROJECT DESCRIPTION

The proposal is for the County to abandon 20' on the south side of Smith Avenue between Strand Avenue and the alley in the community of Oceano. This request is for the County to make a determination of whether or not the abandonment of a portion of Smith Ave. is consistent with the General Plan. If the Board of Supervisors ultimately approves the abandonment, the adjacent property owner (Mr. Mueller et al.) will gain an additional 20' of street frontage available for private use and development.

Smith Ave. is part of the platted circulation system intended to serve an existing subdivided neighborhood north of Pier Ave, in Oceano. The neighborhood is designated Commercial Retail (CR) with a Visitor Serving and Coastal Access Overlay in the Land Use Element. The area is approximately 4 acres in size, underdeveloped, and capable of a substantial commercial buildout potential. Smith Ave. is not developed but could serve approximately 23 existing lots, owned by 7 separate owners.

The possibility of abandonment was discussed during previous permit review for the Mueller Hotel (Oceano Pavilion Project) as part of a new circulation system for the entire neighborhood. The project went through substantial redesign - first through the County, the Airport Land Use Commission and finally at the California Coastal Commission. The California Coastal Commission conditionally approved the hotel and now has sole jurisdiction over the coastal development permit. Recent correspondence from the Coastal Commission staff confirmed that the abandonment is NOT a condition of approval, and further, that they do not support this abandonment.

Mr. Mueller has requested a road abandonment through the County Public Works Department, but felt that the conformity report had already been accomplished through previous permit reviews. The County initiated this conformity review in order to provide necessary clarification.

PROCESS

When the county receives a request for the disposal of real property, in the form of public right-of-way or private easement, the proposal must be evaluated for consistency with the County General Plan before the action is authorized, pursuant to Government Code 65402. The Planning Agency is authorized to prepare and issue conformity reports pursuant to Government Code Section 65100. Coastal Zone Framework for Planning delegates this authority to the Planning Department with the findings forwarded to the County Planning Commission. This conformity report is being prepared because this project requires a determination of conformity with the county general plan.

After the Planning Agency determines general plan conformity, the abandonment request is scheduled for public hearing before the County Board of Supervisors. The abandonment is introduced as a proposed "intent to abandon a road". Mailed notice is provided to all properties that have direct access to the road proposed for abandonment

Generally, the abandonment of a right-of-way does not extinguish rights of others that have legally established easements over the right-of-way. These owners maintain their private easement rights. Abandonment does, however, take the right-of-way out of the public domain and return it for the private use and potential development by adjacent owners. The Board of Supervisors can approve, deny, or only partially approve the abandonment. This may also

include retaining certain rights for public needs such as utilities, paths, trails parking, drainage, slope easements, and equestrian trails.

GENERAL PLAN CONFORMITY

This conformity report is being prepared because this project requires a determination of conformity with the county general plan. According to Coastal Zone Framework for Planning. "The determination of conformity is to be based on the County General Plan including the text, standards, programs and maps contained therein. Factors that may be considered in determining conformity include, but are not limited to the following:

1. The proposed project bears a reasonable relationship to pertinent policies and mapped locations of the most applicable General Plan Elements, Specific Plan or Facility Master Plan (such as an Airport Master Plan).
2. The project is consistent with the goals, objectives and policies of the Land Use Element, Local Coastal Program, and any other applicable General Plan Element.
3. A proposed construction project is designed in conformance with the standards of the Coastal Zone Land Use Ordinance as well as any standards contained in Chapter 8 of the applicable Land Use Element Area Plan.
4. The disposal or sale of public property will not eliminate, delay or unreasonably interfere with the opportunity to develop public sites or structures as identified in the general plan. The proposal should be evaluated for its possible use as a public facility, or for its exchange or sale and subsequent purchase of a better site within the community. The text of this chapter including the following "development guidelines," as well as Chapter 5, the combining designation maps of the applicable LUE Area Plan, and Chapter 8 of the Coastal Plan Policies Document will be used to determine the need for retaining public property. The development guidelines have precedence over identified public facility locations because their scope is broad in terms of ultimate community needs, particularly where specific facility sites have not yet been identified."

ANALYSIS OF CONFORMITY

After review of the proposal with the applicable provisions of the General Plan and Local Coastal Program, the proposed abandonment is found to be not consistent with the general plan. Specific areas of inconsistency include the following:

1. **Relationship to Coastal Zone Framework for Planning.** Smith Ave. and other street ends in the area are designated "Existing Vertical Coastal Access" in the general plan. Any actions to sell or vacate portions of these rights of way are inconsistent with the designation in the adopted general plan. The Coastal Zone Land Use Ordinance section 23.04.420 further requires protection of existing access and a coastal development permit for abandonment or other alteration.
2. **Practical Problems.** Insuring safe and convenient neighborhood circulation is a general goal of the Circulation Element. Smith Ave. is the only right of way serving the 23 commercial lots in the northern portion of this neighborhood. For these property owners to commercially develop, 2- way circulation - at a width sufficient to handle truck traffic and fire engines is preferred, and may be required. The proposed abandonment will effectively block one end of the existing 2-way platted roadway leaving a number of

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lots and respective property owners, with only one existing platted access. Chapter 5 – Circulation in Framework for Planning offers guidelines for providing safe, convenient movement of automobiles, bicycles, and pedestrians within local commercial areas. The piecemeal abandonment of this section, and lack of any alternative ROW's does not appear consistent with provisions for the orderly development of the neighborhood.

3. Consistency with Coastal Access provisions. Both the California Coastal Act and the County's Local Coastal Program require protection of existing access and maximum public access when development occurs. As shown in Attachment D-Land Use Maps, Smith Ave. is designated "Existing Vertical Coastal Access".

While there are a number of related policies, LCP Shoreline Access Policy 1 – Protection of Existing Access, and Policy 2 – New Development, does not support the proposed abandonment. Any abandonment or other action that may diminish the opportunity for access is not consistent with the General Plan and Local Coastal Program.

ALTERNATIVES

An alternative may exist where the abandonment can be found in conformity with the General Plan if rights for public coastal access are retained. If the Board of Supervisors supports the proposal, staff recommends that the following condition be met prior to finalization of the abandonment:

The property owners shall provide the County with an offer of dedication for vertical coastal access, to be recorded, which shall include 20 feet of Smith Ave. fronting the northern property line, as shown on Exhibit A. The offer to dedicate shall be in a form prepared to the approval of County Counsels Office and California Coastal Commission.

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SUMMARY EVALUATION

| Table A | | | | | |
|--|--|-------------------|-------|-----|--|
| Guidelines for Evaluating General Plan Conformity | | | | | |
| Review Category | | Conformity | | | Comments |
| A. Is the project consistent with the Conformity Criteria from Framework for Planning? | | Yes | Maybe | No | |
| 1 | Relationship to Adopted Plans | | | X | In absence of new circulation solution, abandonment will diminish circulation options. |
| 2 | Consistent with the Land Use Element and Local Coastal Program | | | X | Not Consistent with Circulation and Shoreline Access Policies. |
| | Project Designed Consistent with the CZLUO Standards | | | X | Not consistent with 23.04.420 – Coastal Access Required |
| 4 | Sale or Abandonment of Public Property or ROW will not interfere with development of public sites identified in the General Plan | | | X | Options for 2 way access in future commercial neighborhood will be compromised. |
| B. Is the project/proposal consistent with existing adopted General Plan Elements? | | | | | |
| 1 | Countywide General Plan policies | | | | |
| 2. | LCP Policy Document | | | X | Not consistent with Ch 2 – Shoreline Access |
| 3 | Ch 2-Coastal Access | | | X | ROW provides options for access |
| 4 | Pol 1 Protection of Exist Access | | | X | Parking is important access consideration |
| 5 | Pol 4-Provision for Support Facilities | | | X | As private property, potential support facilities compromised |
| 6 | Pol 8-Min. Conflicts between Adj Uses | | | X | Abandonment not necessary for hotel permit |
| 7 | Ch 3 – Recreation & Visitor Serving | X | | | Area subject to significant public use |
| 8 | Pol 1-Recreational Opportunities | | | X | Visitor Access has priority over private hotel. |
| 9 | Pol 2-Priority for Visitor Serving Uses | | | X | Privatization of Accessways not consistent. |
| 10 | Coastal Zone Framework for Planning | | | | |
| 11 | Ch 1-Goals | | | X | Will significantly reduce potential circulation |
| 12 | Ch 5-Circulation | | | X | Poor circulation system will affect land use. |
| 13 | Purpose & Character Statements | | | N/A | |
| 14 | Allowable Uses – Table 'O' | | | N/A | |
| 15 | San Luis Bay Area Plan – Oceano | | | | Smith Ave. is local road serving commercial |
| 16 | Circulation Programs | | | N/A | |
| 17 | Land Use Programs | | | N/A | |
| 18 | Applicable Standards | | | N/A | |
| C. Does the project/proposal comply with the following? | | | | | |
| 1 | Avoids secondary impacts on neighborhood | | | X | Abandonment diminishes options for loop rd. |
| 2 | Furthers Smart Growth Principles? | | X | | Walkable towns and neighborhoods important |
| 3 | Promotes good design? | | | X | Circulation limitations will affect how area develops, other properties loose potential access |
| 4 | Avoid Adverse Environmental Impacts? | | | N/A | This area has dune habitat issues. |
| 5 | Does it preserve Prime Soils for Ag? | | | N/A | |
| 6 | Will retain existing vegetation? | | X | | |
| 7. | Avoid excessive land disturbances? | | X | | |
| 8 | Feasible considering existing hazards? | | | N/A | |
| 9 | Is compatible with existing character of neighborhood? | | | X | 2-way platted access important to developing commercial areas and neighborhoods. |
| D. Other Planning Considerations | | | | | |
| 1 | Will the proposal further stated community objectives? | | X | N/A | |
| 2 | Will the proposal avoid conflicts with stated community objectives? | | | N/A | |
| 3 | Does the Community Advisory Council support the proposal? | | | N/A | |
| 4 | Is the proposal supported by other agencies with jurisdiction? | | | X | Coastal Commission opposes abandonment Public Works may ultimately support it |

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OTHER AGENCY COMMENTS

The California Coastal Commission provided the following comments regarding their final action on the Mueller Hotel Permit and the Smith Ave. abandonment. Below are excerpts from the letter of January 30, 2006:

"Please find attached a copy of the CCC adopted staff report for the Oceano Pavilion project (A-3-SLO-04-061). This report includes the adopted special conditions of approval beginning of pg. 5 of the report. A few things to note:

1) Condition 1(a) requires a 25 ft. dune buffer area "measured from the southern edge of Smith Ave. ROW to the interior of the parcel." The buffer does not include any area within the existing ROW. The intent of the condition is for the 25 foot buffer to be located entirely on Mueller's existing property. Should Smith Ave. be abandoned in favor of the applicant, we would not consider the new land area to be part of the requisite buffer.

2) There is no requirement under this permit to abandon Smith Ave. ROW. In fact, Special Condition 1(d)1 prohibits development within the ROW, except for dune restoration/stabilization and a minimum amount of temporary encroachments during construction.

3) We believe that abandonment of Smith Ave. ROW would be subject to a separate CDP application and appealable to the CCC. We think abandonment here meets the definition of "development" under the Coastal Act and the LCP, as it would result in a "change in intensity of use and access" to the shoreline.

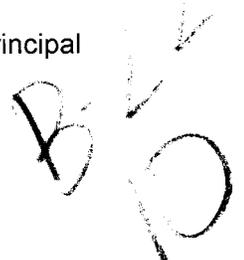
I don't think we would support an abandonment of Smith Ave in favor of the adjacent landowner. Perhaps we should discuss other ways to achieve the goal of dune restoration and vertical public access for Smith Ave?"

DETERMINATION AND FINDINGS

The proposed abandonment (as shown on Attachment E - Exhibit A) is not in conformity with the County General Plan based on the following findings:

- A. The proposed abandonment is in not in conformance with the Coastal Access and Public Recreation policies of the Land Use Element and Local Coastal Program because it proposes to vacate a platted right of way designated for coastal access: and
- B. The proposed abandonment is in not in conformance with the Circulation policies of the Land Use Element and Local Coastal Program because it proposes to diminish options to achieve safe and functional circulation in a developing commercial area.

Report Prepared by John Hofschroer, Senior Planner, and approved by Kim Murry, Principal Planner, Information Services Group, Department of Planning and Building.

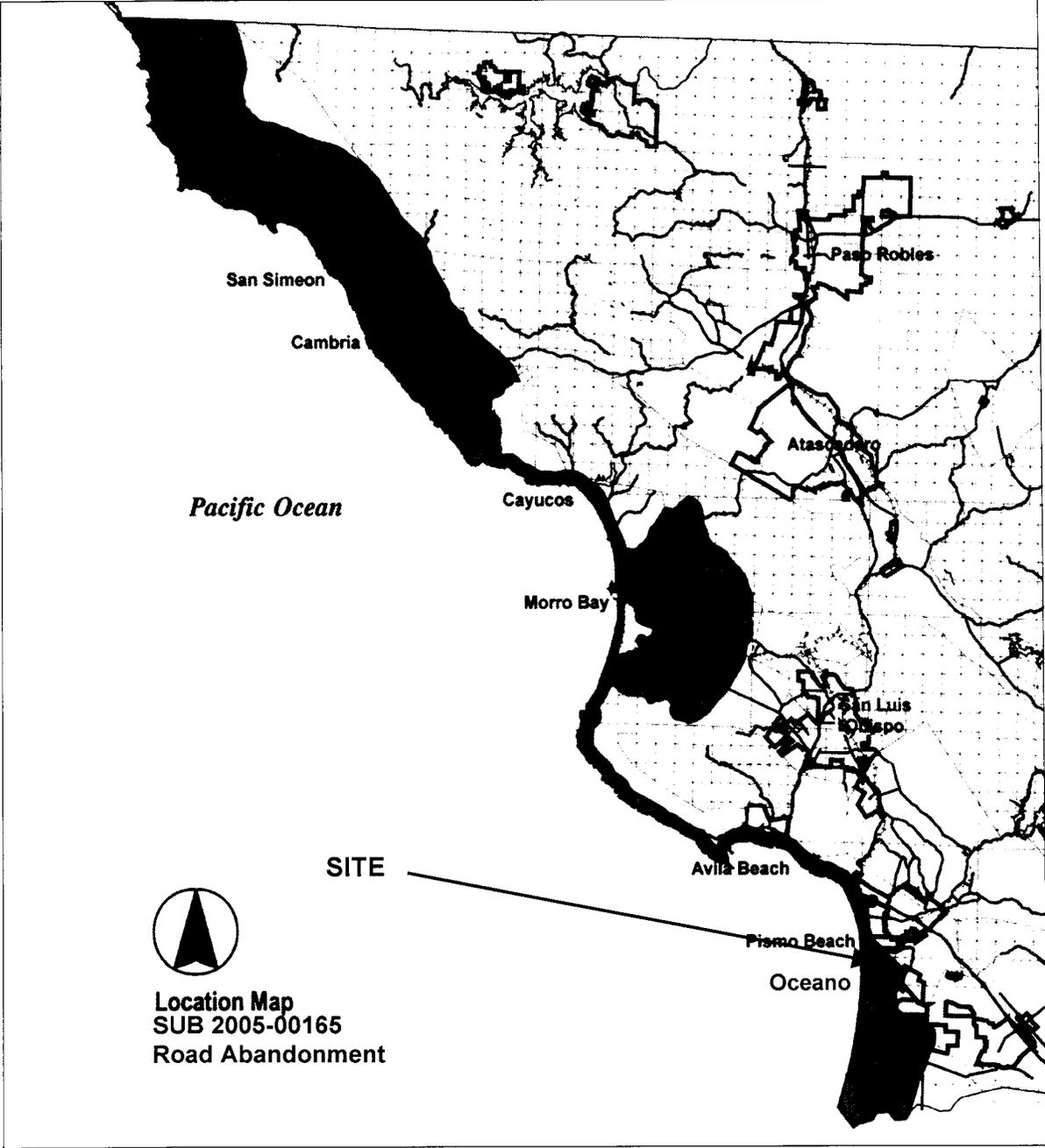


ATTACHMENTS

- A. Location Map
- B. Aerial Photo
- C. Assessors Parcel Map
- D. Land Use Category & Circulation Map
- E. Site Plan of Abandonment Request-Exhibit A

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**Attachment A
Location Map**



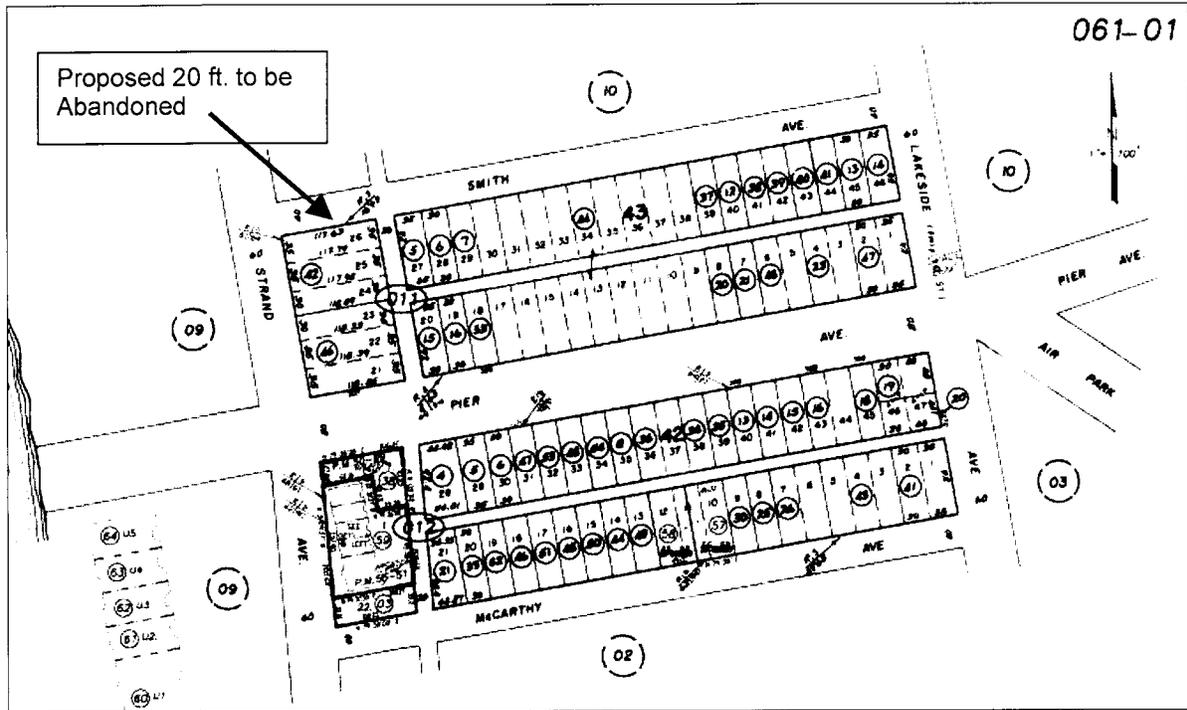
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**Attachment B
Aerial Photo**



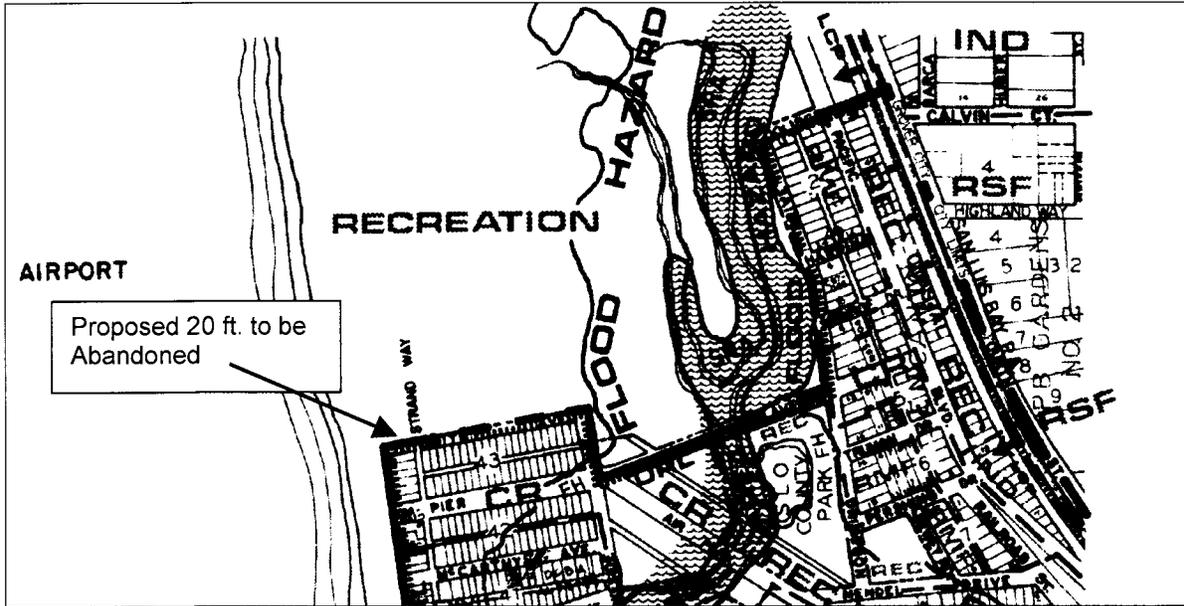
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Attachment C Assessors Parcel Map

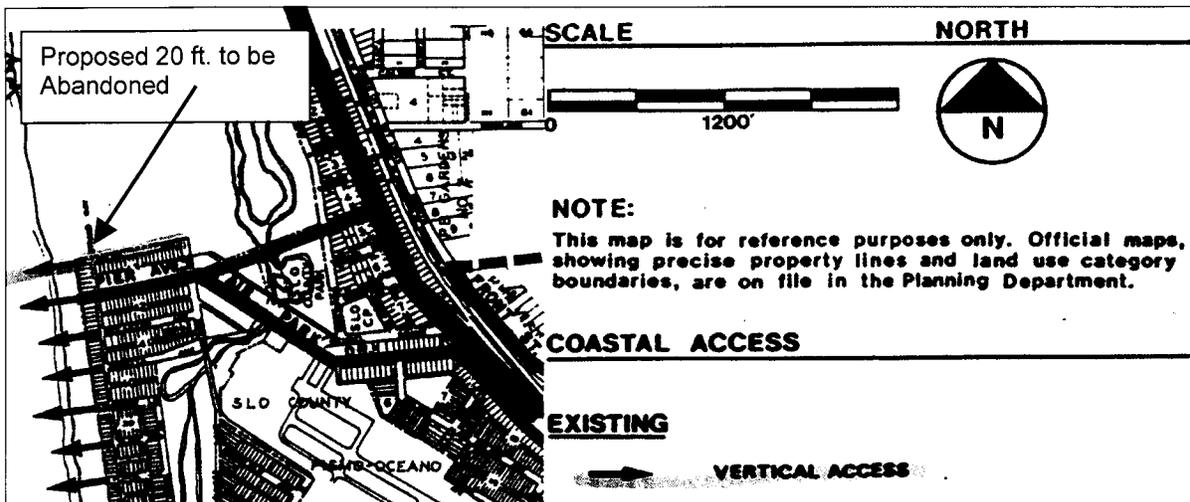


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Attachment D Land Use Category & Circulation Maps



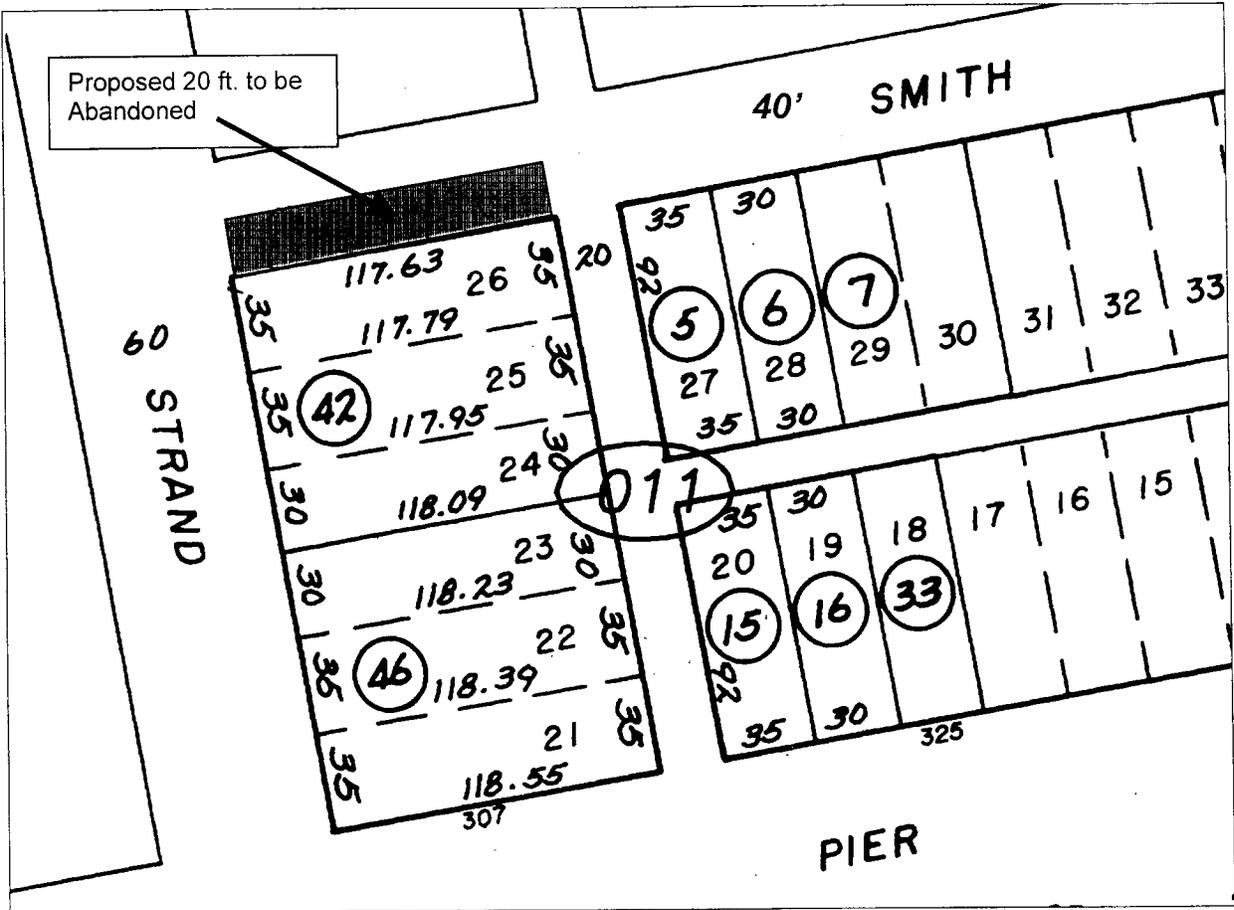
Circulation Combining Designation Map (Smith Ave designated as Existing Coastal Access)



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Attachment E
Site of Proposed Road Abandonment

Exhibit A



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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 OF INTENTION TO VACATE A PORTION OF
SMITH AVENUE, A PURPORTED PUBLIC ROAD,
IN THE TOWN OF OCEANO, SUPERVISORIAL DISTRICT NO. 4**

The following resolution is now offered and read:

WHEREAS, a portion of Smith Avenue, a purported public road, in the Town of Oceano, more particularly described in Exhibit A, attached hereto and made a part hereof, has been recommended for vacation as being unnecessary for present or prospective public use; and

WHEREAS, the Director of Public Works has recommended vacation; and

WHEREAS, the Planning Commission considered the proposed vacation and reported on February 9, 2006, that said vacation is not in conformity with the General Plan.

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. The recitals set forth above are true and correct.
2. Pursuant to Chapter 3, Part 3, Division 9 of the Streets and Highways Code, this Board does hereby intend to vacate a portion of Smith Avenue, a purported public road, in the Town of Oceano, and more particularly described in Exhibit A, and shown on Exhibit B (map), each attached hereto and made a part hereof.
3. Tuesday, the 4th of April 2006, at the hour of 9:00 a.m. in the Chambers of this Board of Supervisors in the County Government Center at 1055 Monterey Street in the City of San Luis Obispo is hereby fixed at this time and place for hearing upon the resolution vacation.
4. The Clerk of this Board is hereby directed to give notice of such time and place of hearing by publication of the attached notice in a newspaper of general circulation printed and published in the County of San Luis Obispo, for at least two successive weeks prior to the date fixed herein for said hearing.

5. The Clerk of the Board is hereby ordered and directed to cause to be conspicuously posted, in the manner prescribed by Streets and Highways Code Section 8323, copies of said Notice along the line of said portion of County Road proposed to be vacated at least two weeks prior to said hearing date.

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

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing Resolution is hereby adopted.

Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: _____

Patricia J. Jones
Deputy County Counsel

Dated: _____

2/7/06

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

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

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

(SEAL)

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

By _____

Deputy Clerk.

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**LEGAL DESCRIPTION OF VACATION OF PORTION OF SMITH AVENUE
A PURPORTED PUBLIC ROAD IN THE TOWN OF OCEANO
COUNTY OF SAN LUIS OBISPO**

That portion of right of way, being twenty feet (20') wide, being the southerly half of Smith Avenue, a purported public road, said portion of right of way whose southerly line lies adjacent to and contiguous with the northerly boundary of Lot 26 of Block 43 of the Oceano Beach Tract No. 2, said tract recorded in Book A of Maps Page 150 of the office of the County Recorder, County of San Luis Obispo, State of California.

Reserving, unto Pacific Gas and Electric Company, any existing easement and/or franchise right at any time, or from time to time, to construct, maintain, operate, replace, remove, renew and enlarge the existing public utility facilities, and all facilities incidental thereto, including access to protect the property from hazards, in, upon and over the road herewith vacated;

AND Reserving, unto SBC any existing easement and/or franchise right at any time, or from time to time, to construct, maintain, operate, replace, remove, renew and enlarge the existing telephone communication facilities, and all facilities incidental thereto, including access to protect the property from hazards, in, upon and over the road herewith vacated;

AND Reserving, unto Southern California Gas Company, any existing easement and/or franchise right at any time, or from time to time, to construct, maintain, operate, replace, remove, renew and enlarge the existing gas piping facilities, and all facilities incidental thereto, including access to protect the property from hazards, in, upon and over the road herewith vacated;

AND Reserving, unto the County of San Luis Obispo, an easement at any time, or from time to time, to construct, maintain, operate, replace, remove, renew and enlarge a coastal accessway, and all facilities incidental thereto, in, upon and over the road herewith vacated.

EXHIBIT "A"

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Site of Proposed Road Abandonment

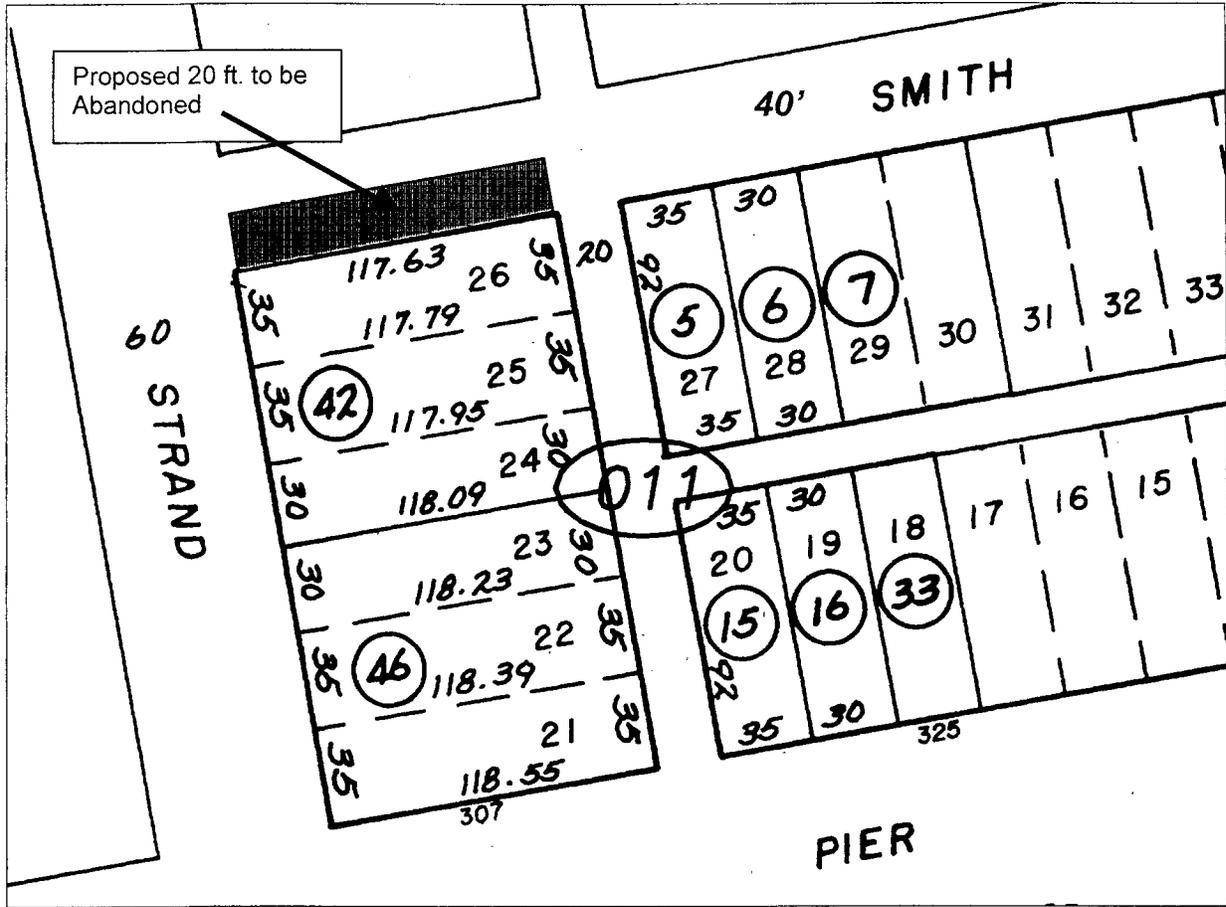


EXHIBIT "B"

VACATION OF A PORTION OF SMITH AVENUE, TOWN OF OCEANO

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**NOTICE OF HEARING OF RESOLUTION
TO VACATE A PORTION OF SMITH AVENUE
A PURPORTED PUBLIC ROAD,
IN THE TOWN OF OCEANO
SUPERVISORIAL DISTRICT NO. 4**

NOTICE IS HEREBY GIVEN that the Board of Supervisors of the County of San Luis Obispo, State of California, duly adopted a resolution of intention to vacate a portion of Smith Avenue, a purported public road, in the Town of Oceano, more particularly described in the attached Exhibit A and shown on the Exhibit B (map).

NOTICE IS HEREBY GIVEN that the Board of Supervisors of said County has duly fixed the 4th day of April 2006, at the hour of 9:00 o'clock a.m. in the Chambers of the Board of Supervisors in the County Government Center at 1055 Monterey Street in the City and County of San Luis Obispo, State of California, as the time and place of hearing upon the resolution of vacation, and for the hearing of evidence either for or against said resolution by any interested party.

Dated:

BY ORDER of the Board of Supervisors of the County of San Luis Obispo, State of California

(SEAL)

County Clerk and ex-officio Clerk
of the Board of Supervisors, County
of San Luis Obispo, State of
California

By: _____
Deputy

noh.Smith

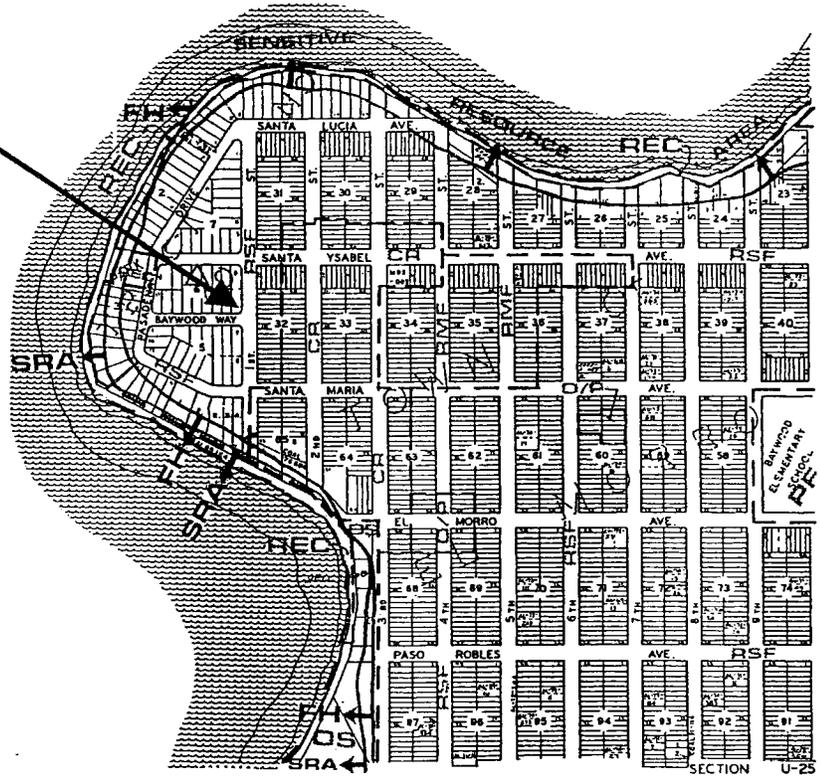
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MORRO BAY

THIS ENTIRE MAP IS WITHIN LCP AREA.
THIS ENTIRE MAP WITHIN AN ARCHAEOLOGICALLY SENSITIVE AREA.

Site

MORRO



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VICINITY MAP FOR VACATION OF PORTION OF FIRST STREET, LOS OSOS



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

DATE: January 26, 2006

To: BOARD OF SUPERVISORS

FROM: ELEANOR PORTER, PLANNING COMMISSION SECRETARY

SUBJECT: DETERMINATION OF CONFORMITY WITH THE GENERAL PLAN FOR THE ABANDONMENT OF A 15'-0 STRIP OF RIGHT OF WAY ON BOTH THE EAST AND WEST SIDE OF 1ST STREET BETWEEN SANTA MARIA AVENUE AND SANTA YSABLE AVENUE. THE PROJECT IS LOCATED IN THE COMMUNIYT OF LOS OSOS IN THE ESTEROPANNING AREA. RESIDENTIAL SINGLE FAMILY LAND USE CATEGORY. APN'S 038-001-007M 038-011-015, 038-011-025 THRU 038-011-029, 038-011-033, 038-733-007/008, 038-734-007/008. COUNTY FILE NO. SUB2004-00320. SUPERVISORIAL DISTRICT 2.

SUMMARY

On January 26, 2006, the Planning Commission concurred with staff that the abandonment of the above referenced road right-of-way, is in conformity with the County General Plan.

RECOMMENDATION

Receive the determination of conformity with the general plan.

DISCUSSION

A copy of the Planning Commission staff report, dated January 26, 2006, is attached for your information.

OTHER AGENCY INVOLVEMENT

Public Works is lead agency for the road abandonment.

FINANCIAL CONSIDERATIONS

None at this time.

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SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

TO: Planning Commission

FROM: Len Mansell, Planner III

DATE: January 26, 2006

SUBJECT: General Plan Conformity Report for the abandonment of 15'-0" on both sides of 1st St. between Pasadena Drive and Santa Ysabel Avenue.
(RECOMMEND RECEIVE AND FILE)

This is to advise the Planning Commission that the San Luis Obispo Department of Planning and Building has acted on the above referenced request for general plan conformity review. Attached is a copy of the staff report for your information.

On the date of determination referenced in the attached staff report, the Department of Planning and Building found the proposed road abandonment in conformity with the applicable provisions of the general plan.

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

*Promoting the wise use of land
Helping build great communities*

| | | | |
|---|--|--|-------------------------------------|
| DETERMINATION DATE January 26, 2006 | CONTACT/PHONE Leonard F. Mansell 781-5199 | APPLICANT Ron Stotz et.al. | FILE NO. SUB2004-00320 |
| SUBJECT Determination of conformity with the General Plan for the abandonment of a 15'-0" strip of right of way on both the east and west side of 1 st St. between Santa Maria Ave. and Santa Ysabel Ave. The project is located in the community of Los Osos in the Estero Planning Area. | | | |
| RECOMMENDED ACTION Receive and file the determination that the proposed abandonment is in conformity with the County General Plan | | | |
| ENVIRONMENTAL DETERMINATION Not required for general plan conformity reports | | | |
| LANDUSE CATEGORY Residential Single Family | COMBINING DESIGNATION CAZ / SSN / LCP / AS Road adjacent to proposed Park to west | ASSESSOR PARCEL NUMBERS 038-011-007,038-011-015 038-011-025 thru 038-011-029 038-011-033,038-733-007/008, 038-734-007/008 | SUPERVISOR DISTRICT (S) 2 |
| PLANNING AREA STANDARDS: Chapter 4 Circulation/Chapter 8 RSF Standards for Height Limitations, Setbacks, Drainage Plan Required, and Lot Coverage limits. | | | |
| EXISTING USES: Residential Single Family | | | |
| SURROUNDING LAND USE CATEGORIES AND USES: North: Residential Single Family East: Residential Single Family South: Residential Single Family West: Residential Single Family | | | |
| OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: Los Osos Community Advisory Council | | | |
| TOPOGRAPHY: Flat to gently rolling | | VEGETATION: Urban Landscape | |
| PROPOSED SERVICES: Water supply: Community system Sewage Disposal: Individual septic system Fire Protection: County Fire Department | | ACCEPTANCE DATE: June 22, 2005 | |
| <p align="center">ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER □ SAN LUIS OBISPO □ CALIFORNIA 93408 □ (805) 781-5600 □ FAX: (805) 781-1242</p> | | | |

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PROJECT DESCRIPTION

The proposal is for the County to abandon 15' on both sides of 1st St. between Pasadena Drive and Santa Ysabel Avenue, in the community of Los Osos. The request is for the County to make a determination of whether or not the abandonment is consistent with the General Plan. If approved by the Board of Supervisors, the adjacent property owners will gain an additional 15' of street frontage available for private use and development. In many cases, the property owners have been maintaining residential landscaping in this area of the right of way.

GENERAL PLAN CONFORMITY

When the county receives a request for the disposal of real property, in the form of public right-of-way or private easement, within the unincorporated area, the proposal must be evaluated for consistency with the County General Plan before the action is authorized. Pursuant to Government Code section 65100, the Planning Department is authorized to prepare and issue conformity reports that are required by Government Code section 65402. This conformity report is being prepared because this project requires a determination of conformity with the county general plan.

The determination of conformity is to be based on the County General Plan, goals, policies, programs, standards, and ordinances, including the maps and text contained therein. Factors that are listed in the Framework for Planning, Part I of the Land Use Element that may be considered in determining conformity include, but are not limited to the following:

1. The proposed project bears a reasonable relationship to pertinent policies and mapped locations of the most applicable General Plan elements, specific plan or facility master plan.
2. The project is consistent with the goals, objectives and policies of the Land Use Element, and any other applicable General Plan Element.

The abandonment of this right-of-way/easement meets the factors as set forth in the Land Use Element as enumerated above.

Generally, the abandonment of a right-of-way does not extinguish rights of properties that have legally established easements over the right-of-way. These properties maintain their private easement rights. Abandonment does, however, take the right-of-way out of the public domain and return it to the private use and development by adjacent owners. The Board of Supervisors can retain public circulation in an abandoned right-of-way for purposes of slope easements, trails or equestrian trails.

PROCESS

The road abandonment process proceeds to the Board of Supervisors via a public hearing process after the findings of conformity with the General plan are made. The project is introduced as a proposed "intent to abandon a road" and then is scheduled no sooner than four weeks after introduction as a full public hearing before the Board of Supervisors. Mailed notice is given to all properties that have direct access to the road proposed for abandonment. Typically, road abandonment proposals are exempt from environmental review. However, each proposal is evaluated individually.

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SUMMARY EVALUATION

| Table A Guidelines for Evaluating General Plan Conformity | | | | | |
|--|--|------------|-------|-----|---|
| Review Category | | Conformity | | | Comments |
| A. Is the project consistent with the Conformity Criteria from Framework for Planning? | | Yes | Maybe | No | |
| 1 | Relationship to Adopted Plans | X | | | |
| 2 | Consistent with the Land Use Element and Local Coastal Program | X | | | |
| | Project Designed Consistent to the CZLUO Standards | X | | | Houses may remodel to move closer to street |
| 4 | Sale or Abandonment of Public Property or ROW will not interfere with development of public sites identified in the General Plan | X | | | |
| B. Is the project/proposal consistent with existing adopted General Plan Elements? | | Yes | Maybe | No | |
| 1 | Countywide General Plan policies | | | N/A | |
| 2 | LCP Policy Document | | | | |
| 3 | Ch 2-Coastal Access | | | | ROW provides legal & physical access to coast |
| 4 | Pol 1 Protection of Exist Access | X | | | Parking is important access consideration |
| 5 | Pol 4-Provision for Support Facilities | X | | | Adequate parking for nearby access retained |
| 6 | Pol 8-Min. Conflicts between Adj Uses | X | | | |
| 7 | Ch 3 – Recreation & Visitor Serving | | | | County maintains 2 nearby Accessways |
| 8 | Pol 1-Recreational Opportunities | X | | | |
| 9 | Pol 2-Priority for Visitor Serving Uses | X | | | |
| 10 | Coastal Zone Framework for Planning | | | | |
| 11 | Ch 1-Goals | X | | | Will not significantly reduce circulation or parking |
| 12 | Ch 5-Circulation | X | | | |
| 13 | Purpose & Character Statements | | | N/A | |
| 14 | Allowable Uses – Table 'O' | | | N/A | |
| 15 | Estero Area Plan | | | | 1 st Street is a minor roadway |
| 16 | Circulation Programs | | | N/A | Acceptance of street ends in Tr 40 and Town of El Moro |
| 17 | Land Use Programs | | | N/A | Proposed Park designated adjacent in Tr 40 |
| 18 | Applicable Standards | | | N/A | |
| C. Does the project/proposal comply with the following? | | Yes | Maybe | No | |
| 1 | Avoids secondary impacts on neighborhood | | X | | Owners may eventually build closer to street. |
| 2 | Furthers Smart Growth Principles? | | | N/A | |
| 3 | Promotes good design? | | X | | Long term alteration of streetscape (front yards) |
| 4 | Avoid Adverse Environmental Impacts? | | | N/A | This area has drainage problems. |
| 5 | Does it preserve Prime Soils for Ag? | | | N/A | |
| 6 | Will retain existing vegetation? | | X | | |
| 7 | Avoid excessive land disturbances? | X | | | Proposed sewer lines are not located in subject area. |
| 8 | Feasible considering existing hazards? | | | N/A | |
| 9 | Is compatible with existing character of neighborhood? | | X | | Remainder of 1st corridor will have deeper front yards. |
| D. Other Planning Considerations | | Yes | Maybe | No | Proposal referred to Advisory Council (LOCAC). |
| 1 | Will the proposal <i>further</i> stated community objectives? | | X | | |
| 2 | Will the proposal <i>avoid conflicts</i> with stated community objectives? | | | X | LOCAC expressed issues with front yards, etc. |
| 3 | Does the Community Advisory Council support the proposal? | | | X | Advisory Council did not support proposal. |
| 4 | Is the proposal supported by other agencies with jurisdiction? | | | N/A | |

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OTHER AGENCY COMMENTS

The Los Osos Community Advisory Council expressed specific concerns regarding this abandonment. First, their concern is that the front setback along this area can then be adjusted forward creating a setback that is not uniform with the rest of 1st St. When these lots and right of ways were created as part of Tract 40, each lot of that tract was granted exclusive easement to use 1st st. for ingress/egress. The abandonment of a right-of-way does not extinguish rights of properties or entities (such as utility companies) that already have legally established easements over the right-of-way.

DETERMINATION AND FINDINGS

The proposed abandonment (as shown on Attachment 2 - Exhibit A) is in conformity with the County General Plan based on the following findings:

- A. The proposed abandonment is in conformance with the Land Use Element because this right-of-way providing ingress/egress is not needed for local circulation.
- B. The proposal does not conflict with other elements of the County General Plan. The street is designated a local street in the Circulation Element, therefore the full 80' right of way is not needed to serve local traffic. The use of adjacent properties for residences is also consistent with the County General Plan and any applicable Specific Plans.

Report Prepared by Leonard Mansell, Planner III, and approved by John Hofschroer, Senior Planner, Information Services Group, Department of Planning and Building.

ATTACHMENTS

1. Location Map
2. Site Plan of Abandonment Request
3. Land Use Category Map
4. Aerial Photo

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Attachment 1
Location Map

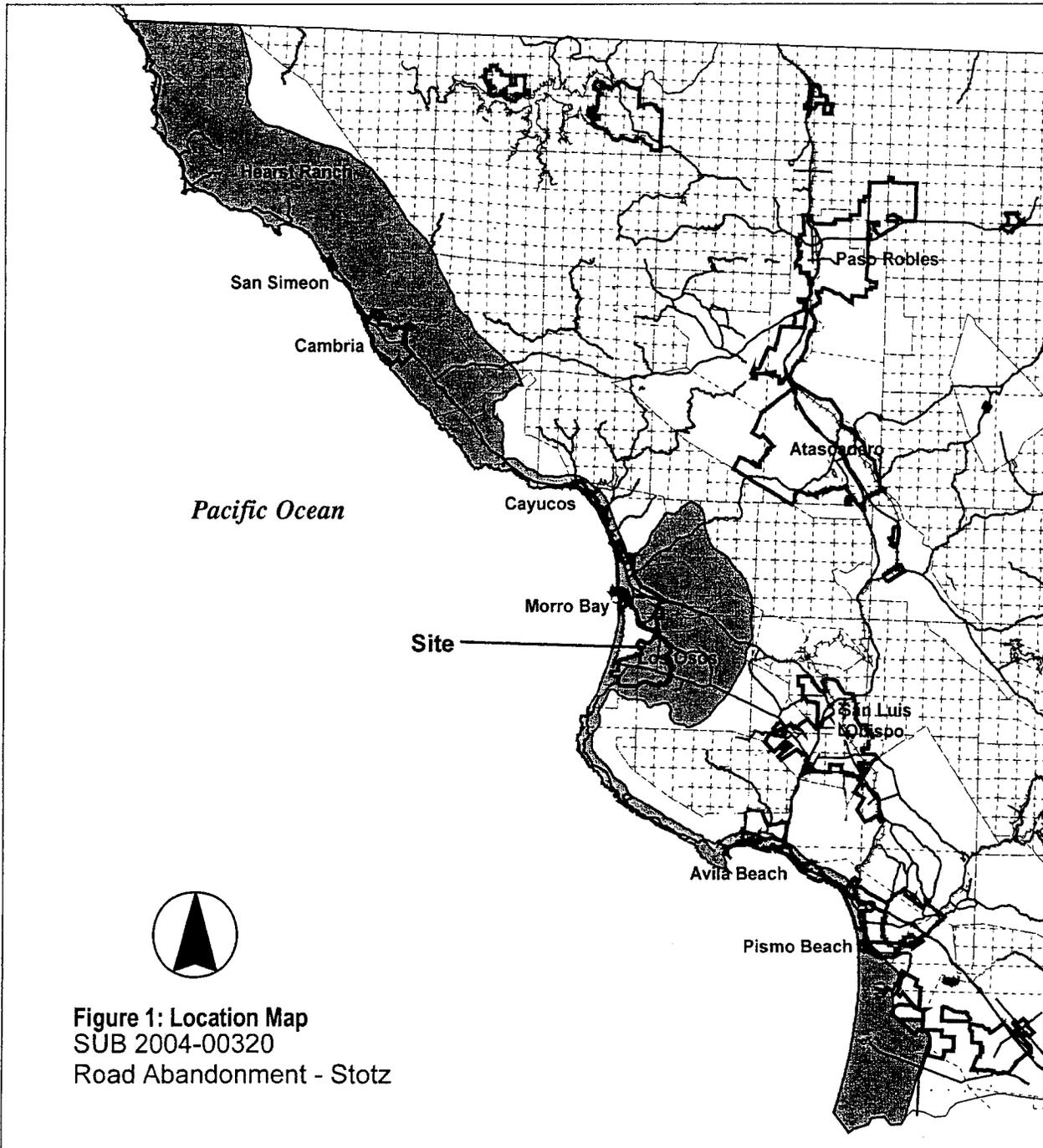


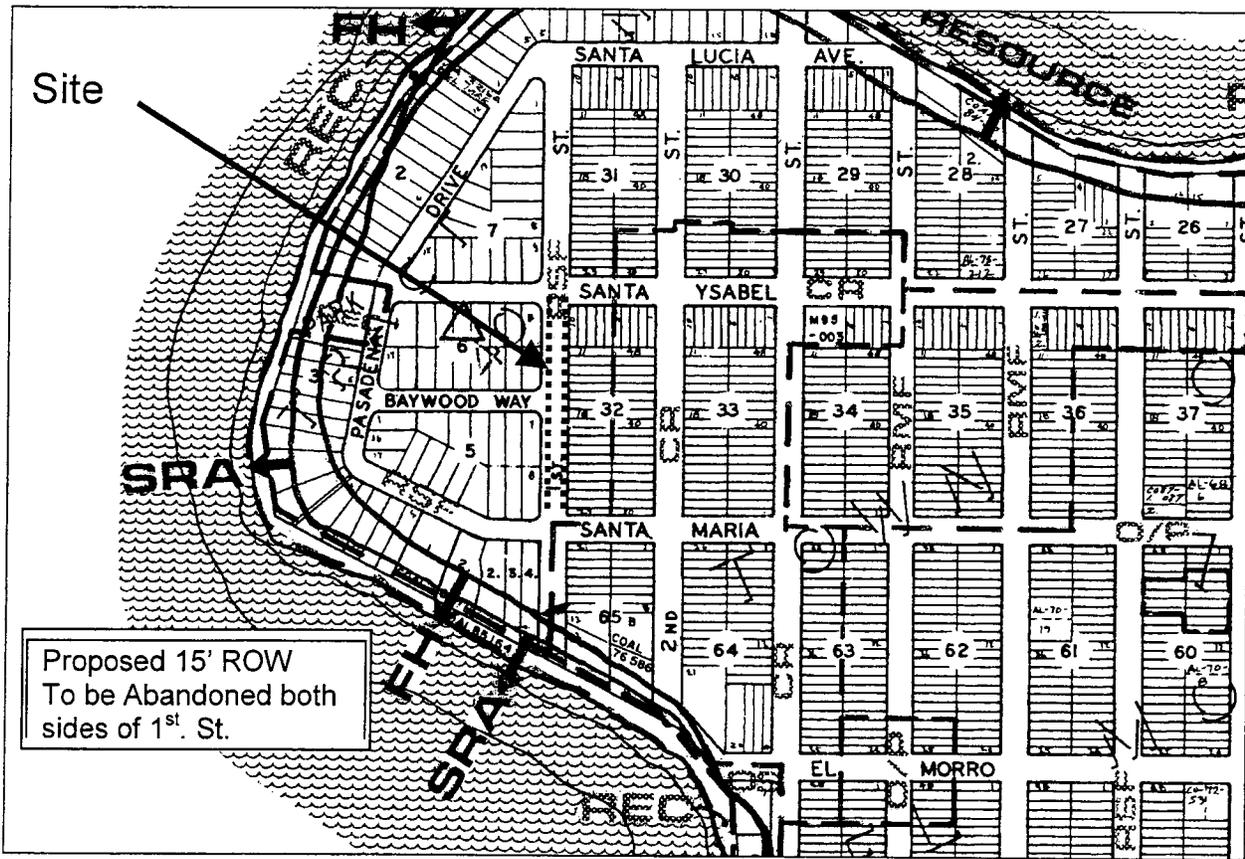
Figure 1: Location Map
SUB 2004-00320
Road Abandonment - Stotz

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Attachment 2
Site Plan of Abandonment Request

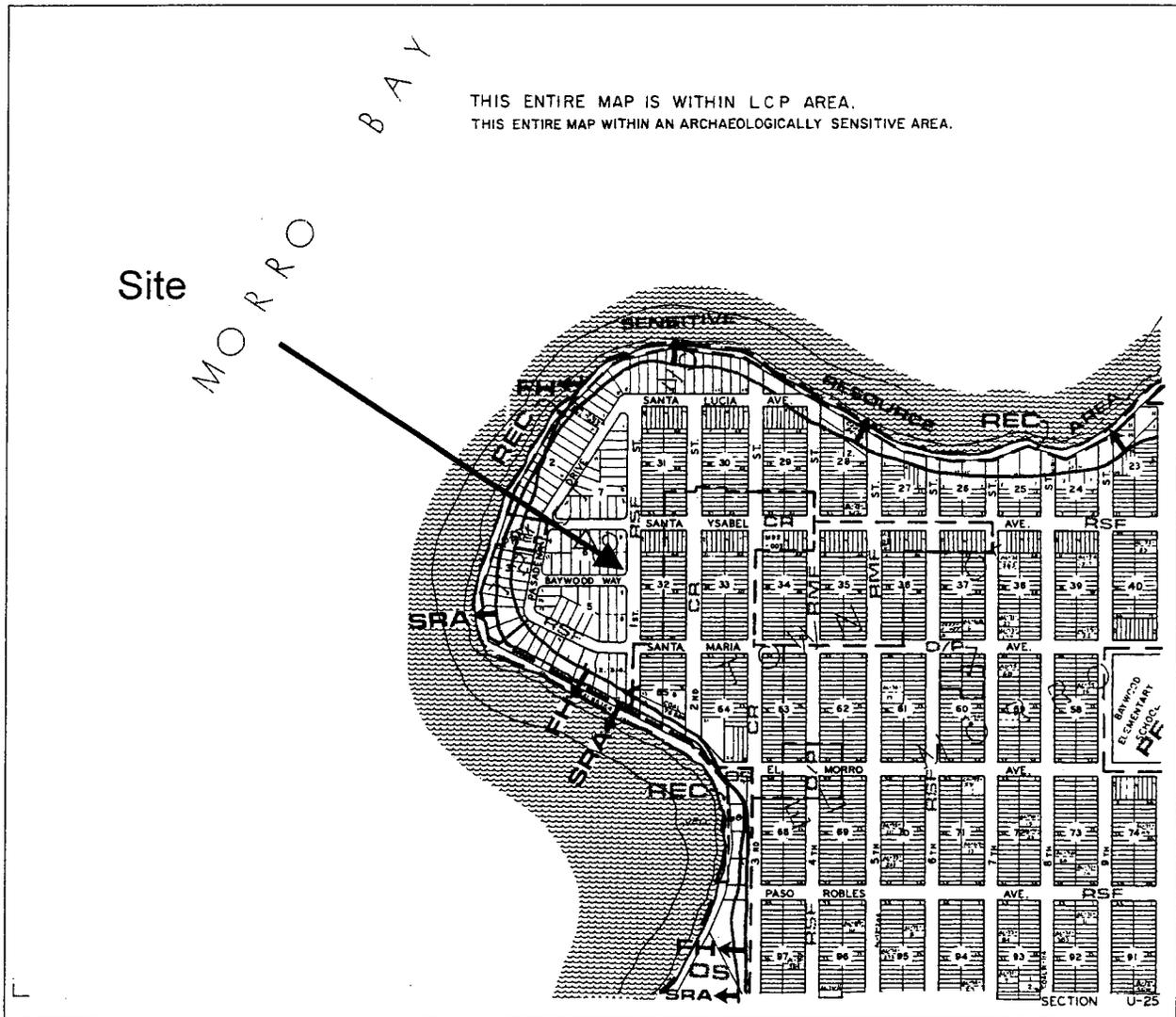
Exhibit A



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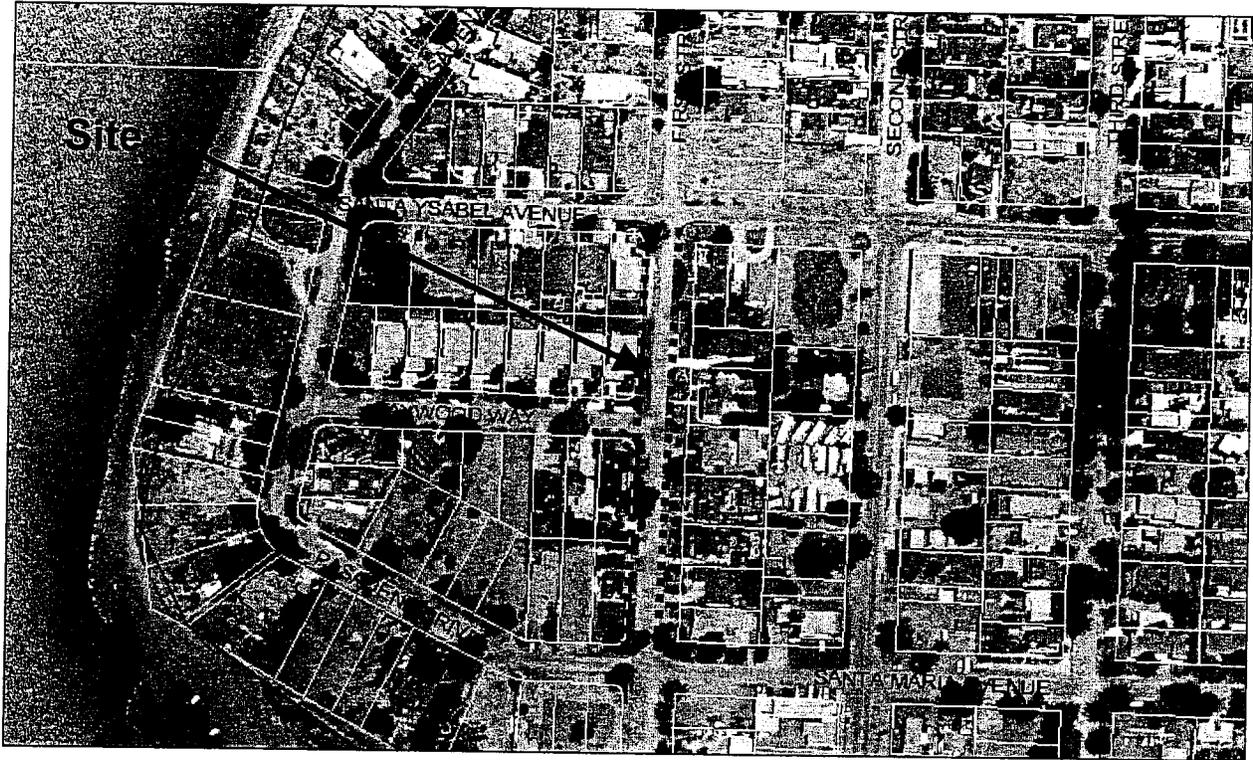
Attachment 3
Land Use Category Map



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Attachment 4
Aerial Photo



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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 OF INTENTION TO VACATE A PORTION OF
FIRST STREET, COUNTY ROAD NO. 3157
LOS OSOS, SUPERVISORIAL DISTRICT NO. 2**

The following resolution is now offered and read:

WHEREAS, a portion of First Street, County Road No. 3157, in the Town of Los Osos, more particularly described in Exhibit A, attached hereto and made a part hereof, has been recommended for vacation as being unnecessary for present or prospective public use; and

WHEREAS, the Director of Public Works has recommended vacation; and

WHEREAS, the Planning Commission considered the proposed vacation and reported on January 26, 2006, that said vacation is in conformity with the General Plan.

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. The recitals set forth above are true and correct.
2. Pursuant to Chapter 3, Part 3, Division 9 of the Streets and Highways Code, this Board does hereby intend to vacate a portion of First Street, County Road No. 3157, in the Town of Los Osos, and more particularly described in Exhibit A, and shown on Exhibit B (map), each attached hereto and made a part hereof.
3. Tuesday, the 4th of April 2006, at the hour of 9:00 AM in the Chambers of this Board of Supervisors in the County Government Center at 1055 Monterey Street in the City of San Luis Obispo is hereby fixed at this time and place for hearing upon the resolution vacation.
4. The Clerk of this Board is hereby directed to give notice of such time and place of hearing by publication of the attached notice in a newspaper of general circulation printed and published in the County of San Luis Obispo, for at least two successive weeks prior to the date fixed herein for said hearing.

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5. The Clerk of the Board is hereby ordered and directed to cause to be conspicuously posted, in the manner prescribed by Streets and Highways Code Section 8323, copies of said Notice along the line of said portion of County Road proposed to be vacated at least two weeks prior to said hearing date.

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

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing Resolution is hereby adopted.

Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: *Patricia J. Lee*
Deputy County Counsel

Dated: 2/7/06

L:\DEVELOP\DEC05\BOS\Firststvac.rsl.wpd.TJS:CAH

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

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

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

(SEAL)

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

By _____
Deputy Clerk.

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JK

**LEGAL DESCRIPTION OF VACATION OF PORTION OF FIRST STREET,
COUNTY ROAD NO. 3157, IN THE TOWN OF LOS OSOS**

That portion of right of way, being fifteen feet (15') on each side of First Street, County Road No. 3157, lying between Santa Ysabel Avenue and Santa Maria Avenue of Tract No. 40, as recorded in Book 5 of Maps Page 59 in the Town of Los Osos, County of San Luis Obispo, and as shown also lying between Santa Ysabel Avenue and Santa Maria Avenue of the Map of El Moro, recorded in Book A of Maps Page 80, said maps as found in the County Clerk Recorder, County of San Luis Obispo, State of California.

Reserving, unto Pacific Gas and Electric Company, any existing easement and/or franchise right at any time, or from time to time, to construct, maintain, operate, replace, remove, renew and enlarge the existing public utility facilities, and all facilities incidental thereto, including access to protect the property from hazards, in, upon and over the road herewith vacated;

AND Reserving, unto SBC any existing easement and/or franchise right at any time, or from time to time, to construct, maintain, operate, replace, remove, renew and enlarge the existing telephone communication facilities, and all facilities incidental thereto, including access to protect the property from hazards, in, upon and over the road herewith vacated;

AND Reserving, unto Southern California Gas Company, any existing easement and/or franchise right at any time, or from time to time, to construct, maintain, operate, replace, remove, renew and enlarge the existing gas piping facilities, and all facilities incidental thereto, including access to protect the property from hazards, in, upon and over the road herewith vacated;

AND Reserving, unto the County of San Luis Obispo, any existing easement and/or franchise right at any time, or from time to time, to construct, maintain, operate, replace, remove, renew and enlarge the existing water and/or future wastewater pipelines, and all facilities incidental thereto, including access to protect the property from hazards, in, upon and over the road herewith vacated.

EXHIBIT "A"

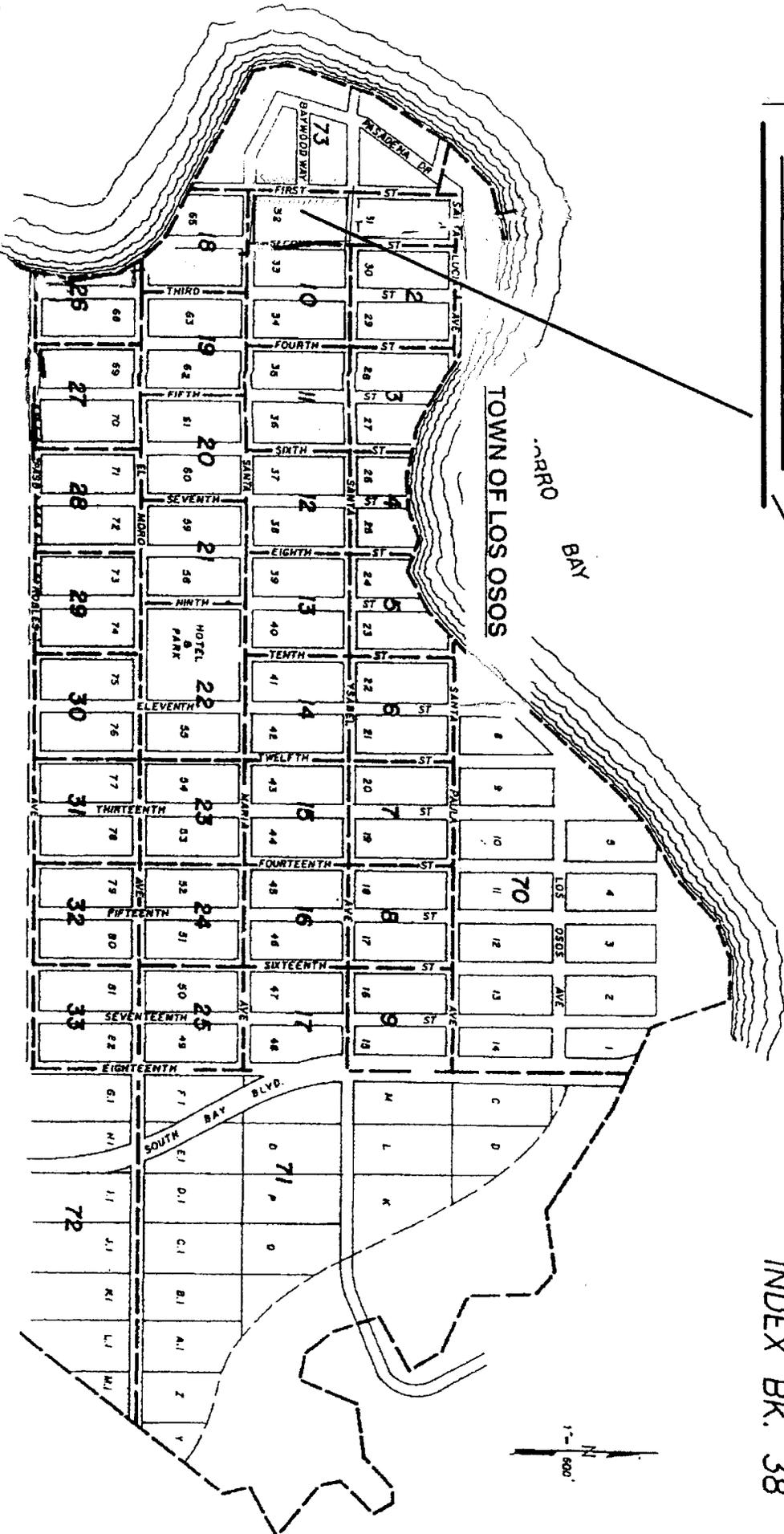
u:firststvac.lgl



Proposed vacation of both the east and west sides of 1st St. from Santa Maria to Santa Ysabel Avenues

Handwritten initials/signature

80 1st St. 15'



INDEX BK. 38

EXHIBIT "B"

INDEX BK. 38
TOWN OF EL MORO

**NOTICE OF HEARING OF RESOLUTION
TO VACATE A PORTION OF FIRST STREET
COUNTY ROAD NO. 3157,
IN THE TOWN OF LOS OSOS,
SUPERVISORIAL DISTRICT NO. 2**

NOTICE IS HEREBY GIVEN that the Board of Supervisors of the County of San Luis Obispo, State of California, duly adopted a resolution of intention to vacate a portion of First Street, County Road NO. 3157, Road District No. 2, in the Town of Los Osos, more particularly described in the attached Exhibit A and shown on the Exhibit B (map).

NOTICE IS HEREBY GIVEN that the Board of Supervisors of said County has duly fixed the 4th day of April 2006, at the hour of 9:00 o'clock a.m. in the Chambers of the Board of Supervisors in the County Government Center at 1055 Monterey Street in the City and County of San Luis Obispo, State of California, as the time and place of hearing upon the resolution of vacation, and for the hearing of evidence either for or against said resolution by any interested party.

Dated:

BY ORDER of the Board of Supervisors of the County of San Luis Obispo, State of California

(SEAL)

County Clerk and ex-officio Clerk
of the Board of Supervisors, County
of San Luis Obispo, State of
California

By: _____
Deputy

noh.1st

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