**OFFICE MEMORANDUM**

Date: February 9, 2006

To: Planning Commissioners

From: Planning Commission Secretary

Subject: Addition of consent item to the February 9, 2006 Planning Commission Agenda

**ADDED ITEM**
**CONSENT:**

B ***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. (Receive and File)***

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.

B-1

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

**TO:** Planning Commission

**FROM:** John Hofschroer, Senior Planner
Information Services Group

**DATE:** February 9, 2006

**SUBJECT:** General Plan Conformity Report for the abandonment of 20' of Smith Ave. between Lakeside and Strand Ave located in the Community of Oceano. (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 not in conformity with the applicable provisions of the general plan.

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600
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B-2

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

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

| DETERMINATION DATE | CONTACT/PHONE | APPLICANT | FILE NO. |
|---|---|---|---|
| February 9, 2006 | John Hofschroer<br>781-5980 | Mueller | 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 | COMBINING DESIGNATIONS | ASSESSORS PARCEL NUMBER | SUPERVISOR DISTRICT (S) |
|---|---|---|---|
| Commercial Retail | LCP / AS/ AR /CAZ/ V/CA | 061-011-042 | 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: | VEGETATION: |
|---|---|
| Flat to gently rolling sand dunes | Dune Scrub & Sensitive Habitat |
| **PROPOSED SERVICES:**<br>Water supply: Community system<br>Sewage Disposal: Community system<br>Fire Protection: Oceano Community Service District | **ACCEPTANCE DATE:**<br>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

**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

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.

B-6



## 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? | | Yes | Maybe | No | |
| 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? | | Yes | Maybe | No | |
| 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 | | Yes | Maybe | No | |
| 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 |
| | | | | | |

## 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. If 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

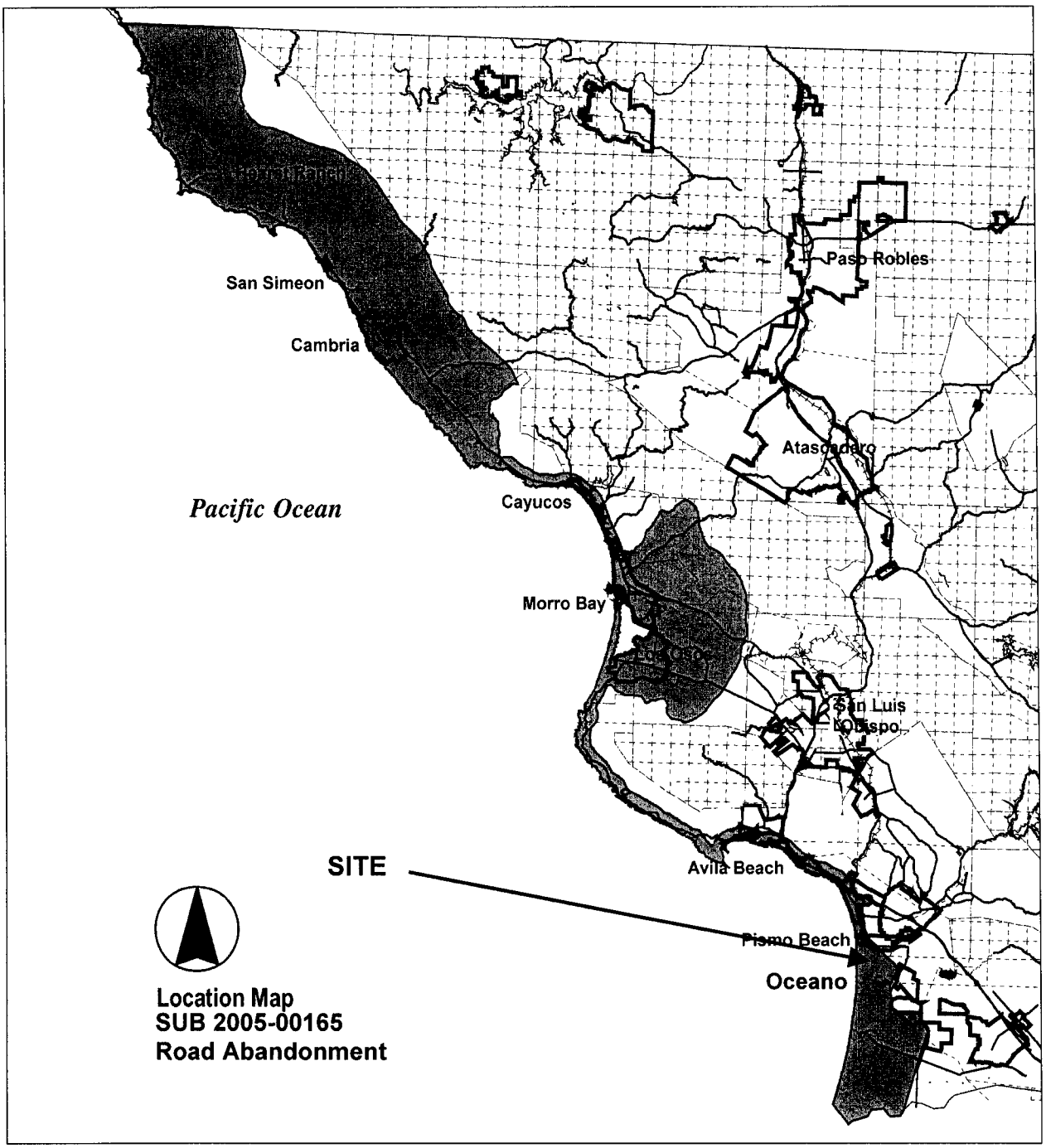
B. The proposed abandonment is in not in conformance with the Circulation policies of the Land Use Element and Local Coastal Program because it proposes to diminish options to achieve safe and functional circulation in a developing commercial area.

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

**ATTACHMENTS**

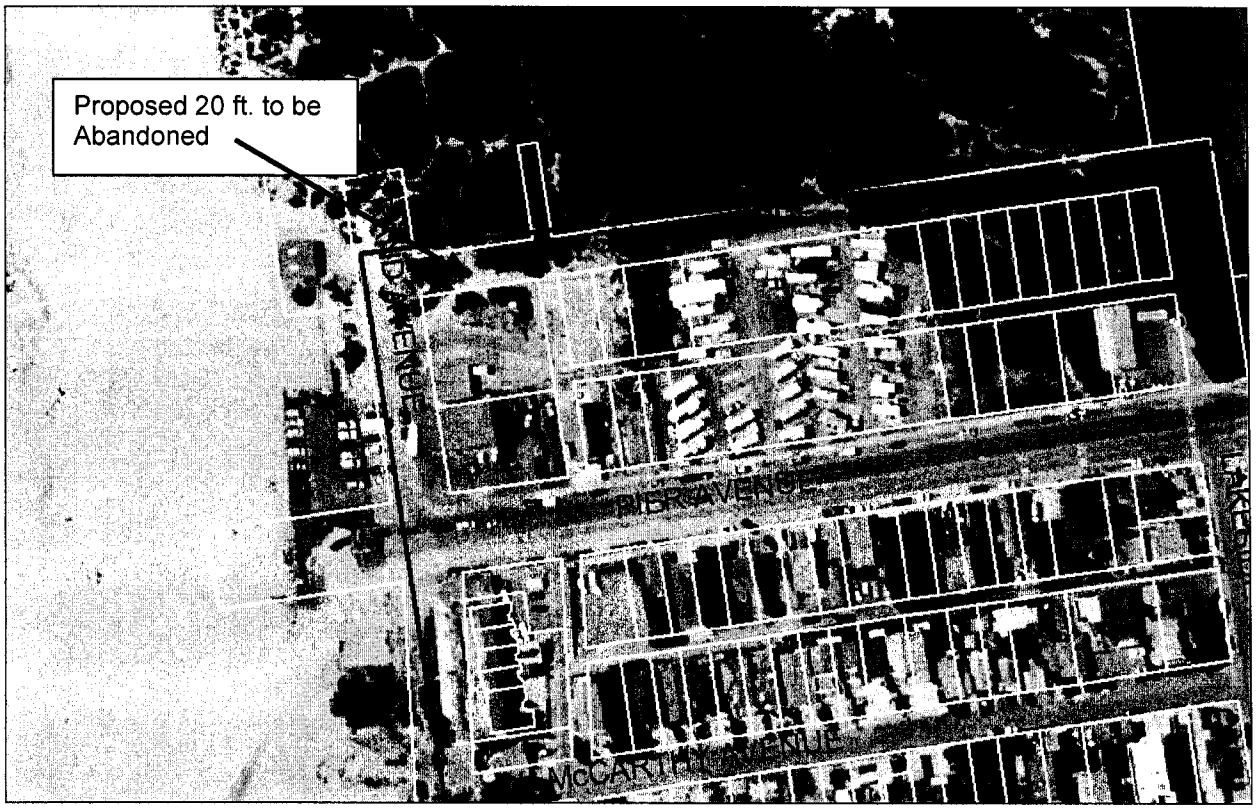
A. Location Map
B. Aerial Photo
C. Assessors Parcel Map
D. Land Use Category & Circulation Map
E. Site Plan of Abandonment Request-Exhibit A

# Attachment A
# Location Map



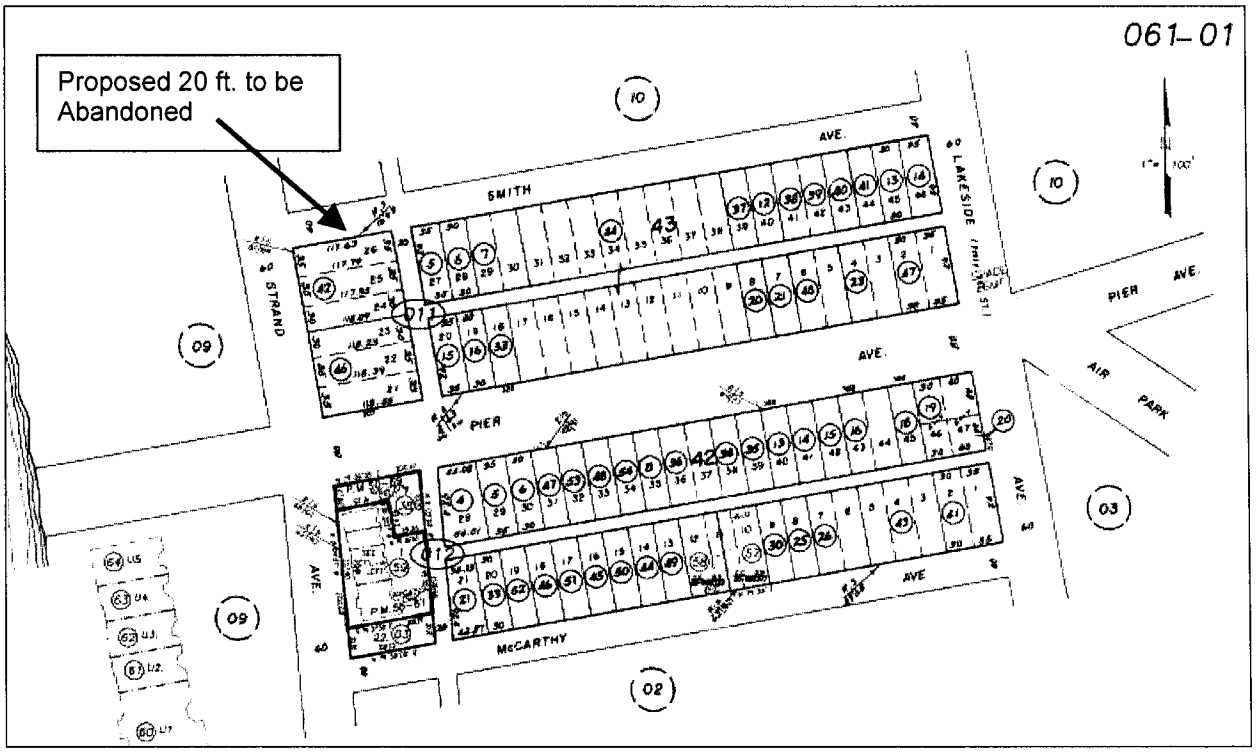
B-10

# Attachment B
## Aerial Photo

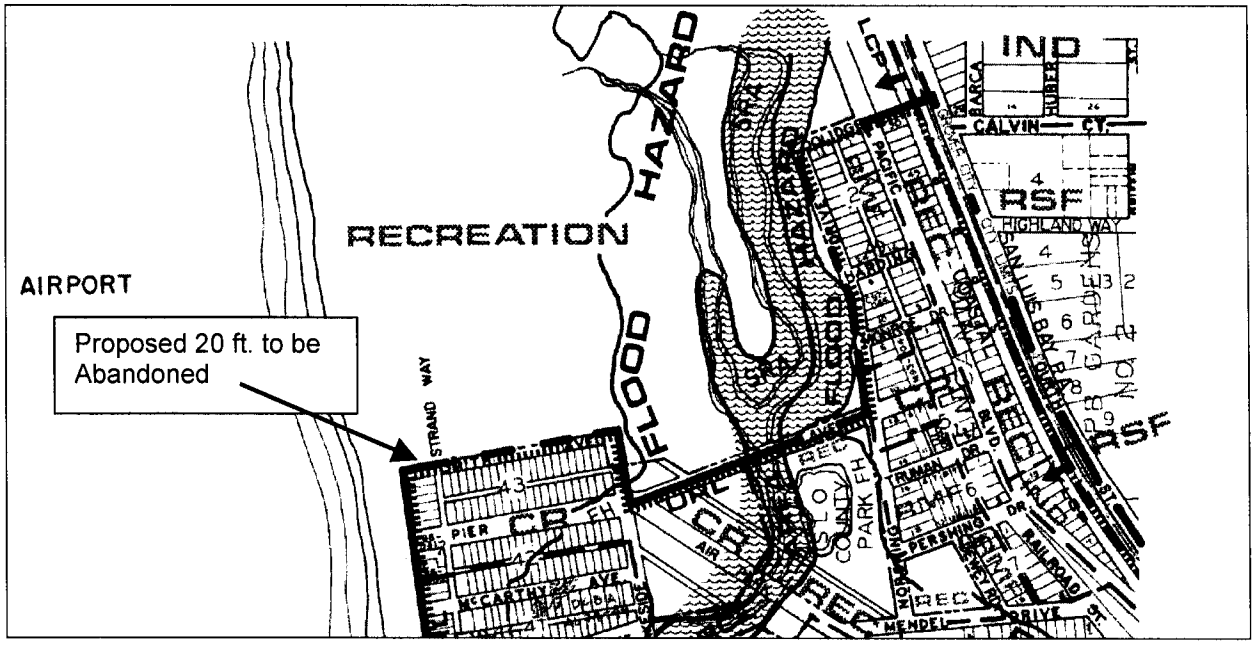


B-11

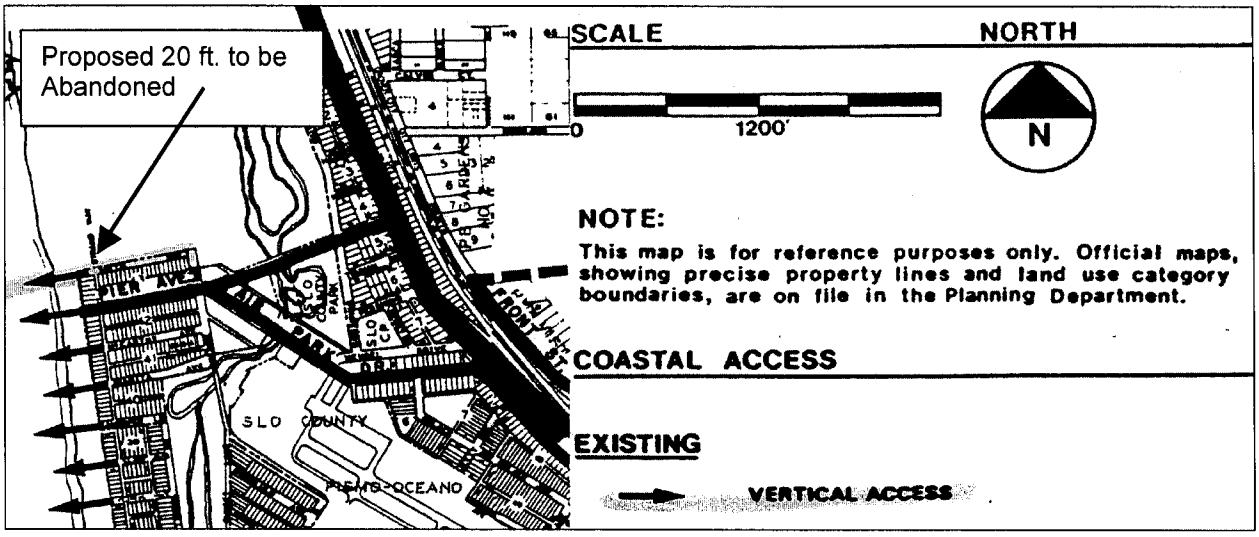
# Attachment C
# Assessors Parcel Map

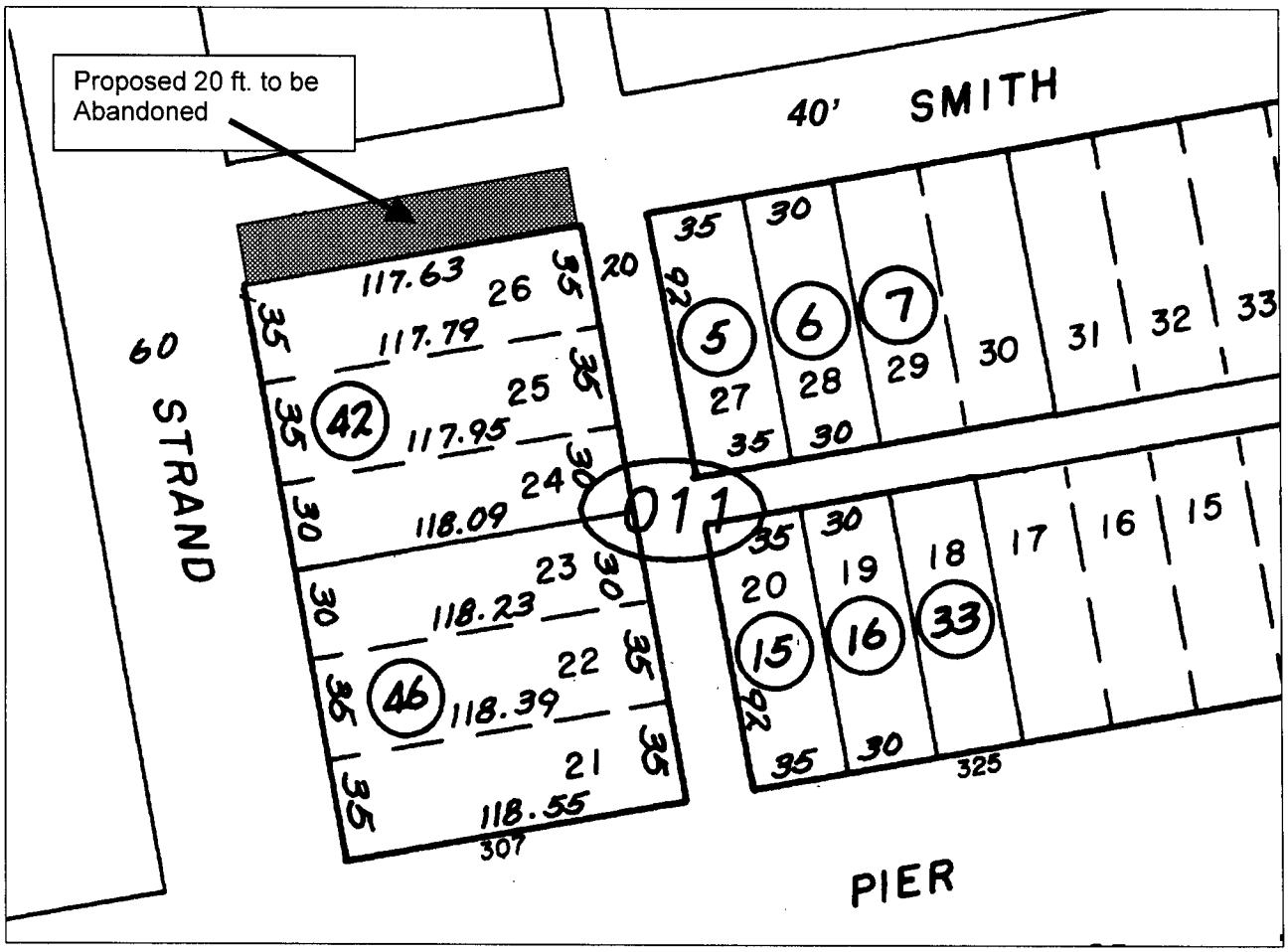


# Attachment D
## Land Use Category & Circulation Maps




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



# Attachment E
## Site of Proposed Road Abandonment

### Exhibit A