CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Richard A. Nyznyk

Mailing Address: 674 County Square Drive, Suite 208C

City: Ventura, Calilfornia Zip Code: 93003 Phone: 805.754.0587

SECTION II. Decision Being Appealed

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COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Los Osos Waste Water Treatment Project, approved September 29, 2009.

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

2198 Los Osos Valley Road, Los Osos, CA

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

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-09-055

DATE FILED: October 19, 2009

DISTRICT: Central Coast

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5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator

☒ City Council/Board of Supervisors

☐ Planning Commission

☐ Other

6. Date of local government's decision: September 29, 2009

7. Local government's file number (if any): DRC 2008-00103

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

County of San Luis Obispo
County Government Center
San Luis Obispo, California 93408

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Al Barrow

(2) Jeff Edwards

(3) Julie Tacker

(4) Chuck Cesena

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

I support a Waste Water Treatment System for the Los Osos Community. The County of SLO's recent development approval, however, fails to conform to the standards set forth in the certified Local Coastal Program for the area (the Estero Area Plan) and it also violates public access policies of the Coastal Act itself.

In particular, various conditions of approval and features of the approved project, including but not limited to condition numbers 5, 86 and 92, violate the Coastal Act's public access policies. The project, as approved, is unjust and inequitable, and violates the equal protection of the law to certain residents and property owners in Los Osos. AS APPROVED, A LARGE NUMBER OF CURRENT PROPERTY OWNERS are being forced to pay for benefits, designs, analyses and studies that THOSE SAME PROPERTY OWNERS ARE PRECLUDED from using without paying additional amounts for same again.

The conditions of approval that preclude participation in the Sewer Project by undeveloped AND UNDERdeveloped properties within the project area violate ALL notions of due process, equity and fair play in addition to running afoul of Coastal Act goals and policies identified throughout the Act, as touched on below.

Section 30001.5 (a): The legislature declared that the goals for the coastal zone include to protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources. A primary coastal resource is water availability and groundwater basin health and sustainability. In Los Osos, this is relevant especially for the lower acquifer. The Project, as approved, has an incomplete financing plan and effluent disposal plan. Completion of both of these is put off to an uncertain future date, itself dependent upon a future successful Proposition 218 assessment vote of undeveloped property owners, a Habitat Conservation Plan that will be recommenced at some future date PRIOR to the 218 vote, and another Local Coastal Program amendment FOLLOWING this project's completion to make the adjustments and changes NOW PLANNED ON.

Furthermore, this project has failed to consider all feasible alternatives for siting the project more efficiently for the benefit of the community and for the project's, environmental, efficient resource management and aesthetic values.

Moreover, Public Resources Code section 30254.5 precludes the imposition of any terms or conditions on a sewage treatment plant development, which condition applies to any future

development that can be accommodated by that plant. Several conditions imposed upon this project are specifically tailored to new development and an outright preclusion thereof without substantial additional actions by both the County individual property owners, including conditions 86 and 92, among others. All this is true notwithstanding the FACT that the approved project INCLUDES capacity for FULL LOS OSOS BUILDOUT to include ALL undeveloped AND underdeveloped lots in the service area.

The county is breaking 1 complete project (The LOWWP) into at least 2 parts, increasing cost and delaying (and possibly precluding) the environmental and systemic benefits which the wastewater system is designed to produce. And by breaking the project into two parts, the county is substantially increasing the overall cost of the completed project, delaying both complete funding for the Project and satisfaction of mitigation measures until after another assessment vote, the timing of which is uncertain, and several years away at best. Worse, they are squandering the opportunity to COMPLETE this ENTIRE project with a Section 7, federal nexus process, requiring ONLY NEW DEVELOPMENT TO PAY for the entire system's needs (vis a vis species mitigation, etc.) through a Section 10 process, further increasing costs of the overall project.

I seek de novo review of this project by the Coastal Commission. As de novo review is the functional legal equivalent of CEQA, the Commission's action to approve a more efficient project that more effectively satisfies goals and policies of the Act and of the Estero Area Plan can be complete by decisive Coastal Commission action.

In the alternative, I seek a denial of the project as submitted, with approval of the project conditioned upon the county's completion, with all due haste, of their contemplated Prop 218 vote to include ALL undeveloped AND UNDERdeveloped lot owners, and tract owners, as equal participants with all other property owners whether they have already been included within the recent Prop 218 vote for the Project or not.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: 10/13/09

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

Section VI. Agent Authorization

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

_____
Signature of Appellant(s)

Date: _____