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

**SUBDIVISION REVIEW BOARD**

<b>MEETING DATE</b> December 2, 2013		<b>CONTACT/PHONE</b> Megan Martin /(805) 781-4163 mamartin@co.slo.ca.us		<b>APPLICANT</b> Jon Stella		<b>FILE NO.</b> COAL13-0050 SUB2013-00021	
<b>SUBJECT</b> Hearing to consider a request by Jon Stella for a Lot Line Adjustment (COAL13-0050) to adjust the lot lines between two (2) parcels of 4,000 square feet and 8,000 square feet each, resulting in two (2) parcels of 4,240 square feet and 7,760 square feet. The adjustment request considers correcting lot lines to meet building setback requirements for one of the parcels. The project will not result in the creation of any additional parcels. The proposed project is within the Residential Single Family and Residential Multi Family land use category and is located at 1120 and 1150 Saint Mary Avenue, in the community of Cayucos. The site is in the Estero planning area.							
<b>RECOMMENDED ACTION</b> Approve Lot Line Adjustment COAL13-0050 based on the findings listed in Exhibit A and the conditions listed in Exhibit B.							
<b>ENVIRONMENTAL DETERMINATION</b> A Class 5 Categorical Exemption was issued on October 3, 2013.							
<b>LAND USE CATEGORY</b> Residential Single-Family & Residential Multi-Family		<b>COMBINING DESIGNATION</b> N/A		<b>ASSESSOR PARCEL NUMBER</b> 064-161-022 and 064		<b>SUPERVISOR DISTRICT(S)</b> 2	
<b>PLANNING AREA STANDARDS:</b> <i>Estero Area Plan – Chapter 7, Section V, Cayucos Urban Area Standards</i>							
<b>LAND USE ORDINANCE STANDARDS:</b> Title 23, Section 23.04.028 – Parcel Size Standards, Residential Single-Family; Title 21, Section 21.02.030 – Real Property Division Ordinance – Lot Line Adjustments							
<b>EXISTING USES:</b> Single family residence and vacant lot							
<b>SURROUNDING LAND USE CATEGORIES AND USES:</b> North: Residential Single-Family / Single Family Residence East: Residential Single-Family/Single Family Residence South: Residential Multi-Family/Single and Multi-Family Residence West: Residential Multi-Family/Single and Multi-Family Residence							
<b>OTHER AGENCY / ADVISORY GROUP INVOLVEMENT:</b> The project was referred to: Public Works, Cayucos Water, Cayucos Citizens Advisory Council, Cayucos Fire, Cayucos Sanitary, Paso Robles Beach Water Association, Coastal Commission							
<b>TOPOGRAPHY:</b> Moderately sloping to steeply sloping				<b>VEGETATION:</b> Vacant lot with scattered grasses and decorative landscaping			
<b>PROPOSED SERVICES:</b> Water supply: Community system Sewage Disposal: Community sewage disposal system Fire Protection: Cayucos Fire				<b>ACCEPTANCE DATE:</b> September 27, 2013			

ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT:  
COUNTY GOVERNMENT CENTER γ SAN LUIS OBISPO γ CALIFORNIA 93408 γ (805) 781-5600 γ FAX: (805) 781-1242

**ORDINANCE COMPLIANCE:**

The applicant is proposing to adjust the lot lines between two legal parcels as follows:

<b>EXISTING LOT SIZES (SQ. FT.)</b>	<b>ADJUSTED PARCEL SIZES (SQ. FT.)</b>
4,000 (Parcel 1)	4,240 (Parcel 1)
8,000 (Parcel 2)	7,760 (Parcel 2)

Section 21.02.030 of the Real Property Division Ordinance states that a lot line adjustment shall not be approved or conditionally approved unless the new parcels resulting from the adjustment will maintain a position which is better than, or equal to, the existing situation relative to the county's zoning and building ordinances.

Parcel 1 is located in the Residential Single-Family land use category. Parcel 2 has split zoning in the Residential Single-Family and Residential Multi-Family land use category. Parcel 1 has a single-family residence and Parcel 2 is vacant. The proposed lot line adjustment would configure Parcel 1 to conform to the minimum required side setback of three feet as set forth in the Estero Area Plan – Cayucos Urban Area Standards (Table 7-41 and Page 7-55) and Section 23.04.110 of the Coastal Zone Land Use Ordinance.

*Minimum Lot Size*

The Coastal Zone Land Use Ordinance, Section 23.04.028 establishes the minimum parcel size for new lots based upon three tests: the type of public road serving the property, terrain features, and the type of sewage disposal facilities to be used. The minimum parcel size allowed in the Residential Single-Family and Multi-Family land use category based upon the above tests is 6,000 square feet. Parcel 2 is legal conforming to the minimum parcel size as defined in Section 23.04.028 and will remain so after the proposed lot line adjustment.

Parcel 2 is a legal non-conforming lot as defined in Section 23.09.060, as it was created by means which were consistent with applicable legal requirements at the time the lot was created (see section Lot Legality below). Parcel 2 will be less than the minimum required parcel size before and after the adjustment (see Table above). The parcel resulting from the lot line adjustment will maintain a position which is equal to the existing situation relative to the county's zoning and building ordinances.

*Parcel Design*

The single-family dwelling located on Parcel 1 is located approximately 1.77 feet from the existing northwestern property line. The minimum required side setback as set forth in the Estero Area Plan and Section 23.04.110 of the Coastal Zone Land Use Ordinance is 3 feet. After the proposed lot line adjustment the single-family dwelling will be located approximately 4.57 feet from the northwestern property line and would conform to minimum setback requirements. The parcels resulting from the lot line adjustment will maintain a position which is "equal to or better" than the existing situation relative to the county's zoning and building ordinances.

The proposed adjustment for Parcel 1 will result in a 4,240 square foot parcel. Parcel 2 after the configuration will result in a 7,760 square foot parcel.

The adjustment will not result in the creation of any additional parcels and does not create any additional development potential than what exists today. The parcels resulting from the proposed to line adjustment will maintain a position which is better than the existing situation relative to the county's zoning and building ordinances.

#### SB 497

As of January 1, 2002, lot line adjustments are limited to four or fewer existing adjoining parcels. In addition, the new parcels must comply not only with zoning and building regulations, but also with the general plan and any applicable coastal plan. The County's local ordinance allows a determination to be made that the proposed situation is equal to or better than the existing situation. Because Parcel 1 is below the minimum parcel size (6,000 square feet) as set through the General Plan and will remain so after the adjustment, staff has concluded that the adjustment is consistent with both state and local law. Parcel 2, as adjusted is consistent with the minimum parcel size as set forth in the General Plan; staff has concluded that the adjustment is consistent with both state and local law.

#### COASTAL ZONE LAND USE ORDINANCE

##### Section 23.07.120 – Local Coastal Program

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

##### COASTAL PLAN POLICIES:

Shoreline Access: N/A

Recreation and Visitor Serving: N/A

Energy and Industrial Development: N/A

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

Environmentally Sensitive Habitats: N/A

Agriculture: N/A

Public Works: N/A

Coastal Watersheds: N/A

Visual and Scenic Resources: N/A

Hazards: N/A

Archeology: N/A

Air Quality: N/A

##### COASTAL PLAN POLICY DISCUSSION:

There are no relevant coastal plan policies essential to the discussion of this project.

COMMUNITY ADVISORY GROUP COMMENTS:  
Cayucos Citizens Advisory Council – No concerns as presented.

AGENCY REVIEW:  
Public Works – Map corrections are necessary, see attached comments.

*Staff Comments: The applicant submitted a revised map with corrections requested by Public Works. No further action is needed.*

Cayucos Water – No referral response received.

Cayucos Fire – No referral response received.

Cayucos Sanitary District – District will require new recorded easements reflecting the complete lot line adjustments for lots 23-26. Sanitary sewer easements located at southerly end of lots.

*Staff Comments: The applicant submitted a revised map which showed the recorded easements for lots 23-26 and the sanitary sewer easements located at the southerly end of all lots.*

Paso Robles Beach Water Association – No referral response received.

Coastal Commission – No referral response received.

#### LEGAL LOT STATUS:

After evaluation of the map information and the deed history found to date and consideration of relevant court case determinations (including Gardner v. County of Sonoma (2008) 29 Cal. 4<sup>th</sup> 990, and Witt Home Ranch, Inc. v. County of Sonoma (209) 173 Cal.App.4<sup>th</sup> 42), planning staff concluded that the filing for recordation of the Morro Rock View Subdivision No. 4 in Book 3, Page 114 of Maps on January 22, 1929, did not create separate legal lots. The map of the Morro Rock View Subdivision No. 4 was approved/ filed under the 1907 statutes.

In order to recognize the lots, notes on the map as separate legal lots under today's Subdivision Map Act, the grandfather provisions of Government Code sections 66499.30(d) and 66412.7 would need to be satisfied. Under these sections, a private subdivision map will be deemed to establish legal parcels recognizable under the modern Subdivision Map Act only if it is:

- (a) A final map or parcel map, as defined by statute,
- (b) A certificate of exemption, as defined by statute, or
- (c) A map that was otherwise subject to review and approval by the local agency.

The California Supreme Court has held that, at a minimum, that review and approval must extend to "the design and improvement" of the subdivision (Gardner v. County of Sonoma (2003) 29 Cal.4<sup>th</sup> 990, 1000). Furthermore, the case of Witt Home Ranch, Inc. v. County of Sonoma (165 Cal.App.4<sup>th</sup> 543 – filed July 29, 2008) held that a subdivision recorded under the 1915 statutes were not statutes which regulated the design and improvement of subdivisions for purposes of the grandfather clause set forth in Government Code section 66499.30, subdivision (d). In addition, the recent case of Abernathy Valley, Inc. v. County of Solano (173 Cal.App.4<sup>th</sup> 42 – filed April 17, 2009) followed the reasoning of the Witt Home Ranch, Inc. court and held

that a 1909 map filed under the 1907 statutes were not statutes that regulated the design and improvement of subdivisions for purposes of the grandfather clause set forth in Government Code section 66499.30, subdivision (d) [at pg. 51-53]. Therefore, the map of the Morro Rock View Subdivision No. 4 which was approved/filed under the 1907 statutes did not create separate legal lots.

One legal parcel consists of historical lots 3, 4, 25 and 26 (Parcel 2), and the other legal parcel (Parcel 1) consists of historical lots 23 and 24. Lots 23 and 24 are together one legal parcel per deed recorded in Volume 1003 of Official Records, Page 277.

Staff report prepared by Megan Martin  
and reviewed by Holly Phipps and Steve McMasters.