



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

Promoting the wise use of land

**Tentative Notice of Action**

MEETING DATE May 2, 2014	CONTACT/PHONE Cody Scheel, Project Planner (805) 441-5157 cscheel@co.slo.ca.us	APPLICANT Robert Wisberg	FILE NO. DRC2013-00035
LOCAL EFFECTIVE DATE May 17, 2014			
APPROX FINAL EFFECTIVE DATE June 6, 2014			

**SUBJECT**  
A request by Robert Wisberg for a Minor Use Permit / Coastal Development Permit to allow a change in the use designation of an existing two-bedroom caretaker residence into a single family residence, and to allow the proposed single family residence to be used as a residential vacation rental. The two-bedroom residence is located on the second floor of a mixed use building, with two office suites on the second floor, and two retail suites on the first floor. The site also includes six carport parking spaces and one garage parking space, with all spaces located within the existing building footprint. The proposed project is within the Central Business District and in the Commercial Retail land use category and is located at 287 South Ocean Avenue, in the community of Cayucos. The site is in the Estero planning area.

**RECOMMENDED ACTION**  
Approve Minor Use Permit DRC2013-00035 based on the findings listed in Exhibit A and the conditions listed in Exhibit B.

**ENVIRONMENTAL DETERMINATION**  
A Class 3 Categorical Exemption was issued on April 1, 2014 (ED13-197).

LAND USE CATEGORY Commercial Retail	COMBINING DESIGNATION Local Coastal Plan, Coastal Special Community, Central Business District, Visitor Serving Area	ASSESSOR PARCEL NUMBER 064-125-052	SUPERVISOR DISTRICT(S) 2
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**PLANNING AREA STANDARDS:**  
Cayucos Urban Area Standards, Central Business District: Mixed-Use Development  
*Does the project meet applicable Planning Area Standards: Yes – see discussion*

**LAND USE ORDINANCE STANDARDS:**  
Local Coastal Plan, Appeals to the Coastal Commission, Required Number of Parking Spaces, Residential Uses in Office and Professional or Commercial Categories & Coastal Zone Land Use Ordinance Section 23.08.165 Residential Vacation Rentals  
*Does the project conform to the Land Use Ordinance Standards: Yes - see discussion*

**FINAL ACTION**  
This tentative decision will become the final action on the project, unless the tentative decision is changed as a result of information obtained at the administrative hearing or is appealed to the County Board of Supervisors pursuant to Section 23.01.042 of the Coastal Zone Land Use Ordinance; effective on the 10th working day after the receipt of the final action by the California Coastal Commission. The tentative decision will be transferred to the Coastal Commission following the required 14-calendar day local appeal period after the administrative hearing.  
  
The applicant is encouraged to call the Central Coast District Office of the Coastal Commission in Santa Cruz at (831) 427-4863 to verify the date of final action. The County will not issue any construction permits prior to the end of the Coastal Commission process.

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

EXISTING USES: Commercial/Retail & Caretaker Residence	
SURROUNDING LAND USE CATEGORIES AND USES: <i>North:</i> Residential Multi-Family/residences <i>South:</i> Commercial Retail/retail East: Commercial Retail/retail West: Commercial Retail/vacant	
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: Public Works & the Cayucos Citizens Advisory Council	
TOPOGRAPHY: Level to gently sloping	VEGETATION: Ornamental landscaping
PROPOSED SERVICES: Water supply: Community system Sewage Disposal: Community sewage disposal system Fire Protection: Cayucos Fire Department	ACCEPTANCE DATE: November 29, 2013

## DISCUSSION

### PROJECT HISTORY:

The project site is currently developed with a two story mixed use building approved under Minor Use Permit D020292P. The building consist of 1,128 square feet of retail on the first floor, and 746 square feet of office space and a 1,200 square foot two bedroom caretaker residence located on the second floor. The first floor also consists of seven parking spaces including one handicap parking space.

### ESTERO AREA PLAN – CAYUCOS URBAN AREA STANDARDS:

#### **Central Business District**

**Mixed use development.** The following standards are intended to encourage provision of a mixture of residential and non-residential uses on the same site in appropriate locations, consistent with the intent of this visitor-serving priority area. Such mixed-use development can increase opportunities for development of affordable housing. Development of non-visitor-serving uses in accordance with these standards will not prejudice the provision of adequate visitor-serving facilities to meet the foreseeable demand during the horizon of this plan. Residential development shall be subject to the standards in Chapter 23.08 of the Coastal Zone Land Use Ordinance. Residential uses in Office and Professional or Commercial categories- except that where those standards conflict with the following standards, the following standards shall prevail.

**Findings Required.** Before approving an application for a mixed-use development, the review authority shall make the findings, in addition to those required by Chapter 23.08 of the Coastal Zone Land Use Ordinance:

1. Mixed-use development will not remove or convert existing lower-cost visitor serving or recreational facilities unless replaced by a facility offering comparable opportunities.
2. Mixed-use development will not adversely affect parking and access for existing or future visitor-serving and recreational uses. In particular, new residential uses will not diminish opportunities for parking or existing or expanded visitor serving or recreational uses on the same site. This finding may be satisfied if new residential development is accompanied by new visitor serving or recreational development on the same site.

**Secondary Use.** Residential development shall be subordinate to the primary non-residential uses(s) on the same site. Residential development, excluding garages, shall comprise no more than 50% of the floor area of the primary non-residential use, except that where this results in a residential floor areas of less than 1,200 square feet, the review authority may approve a greater amount of residential floor area, up to the amount of the primary non-residential use and not to exceed 1,200 square feet.

**Location.** Residential development shall only be located on the second or upper story – above the primary non-residential use.

**Parking.** Residential development shall have one on-site parking space per bedroom, with a minimum of two spaces per unit.

**Residential Density.** Maximum residential density shall be 10 dwelling units per acre, calculated using the acreage of the entire mixed-use site.

**Total Residential Development.** The total amount of residential development, including caretaker residences, in the Commercial Retail category within the central business district shall not exceed 96 dwelling units.

*Staff Comments: The proposed project is in compliance with the standards mentioned above because it is simply a change in the use designation from an existing "Caretaker Residence" to a "Single Family Residence" that will also be used as a "Residential Vacation Rental". The change in designation does not remove the underlying residential use and therefore would not remove or convert visitor-serving or recreational uses. Additionally, neither the change in use designation nor the existing mixed-use development will have adverse effect on parking and/or access for existing or future visitor-serving and recreational uses. Two parking spaces are located on-site and are accessible for the proposed two bedroom residential use. Four additional parking spaces and one handicapped space for the commercial retail and office uses are also located on site. Additional visitor-serving and recreational parking is still accessible along South Ocean Avenue and Park Avenue.*

*The existing 1,200 square foot residence is located on the second story of the mixed use building, above the existing commercial retail use, and will remain subordinate to the primary non-residential uses on the site. The total floor area of the retail/office use is 1,874 square feet; and 50% of the total floor area for the retail/office use would be 937 square feet. The proposed residential unit, excluding garages, may be approved by the Review Authority if it is no greater than 1,200 square feet. The proposed project complies with this standard at 1,200 square feet of proposed residential use.*

*The proposed residential unit is a two bedroom unit. The project includes two on-site parking spaces for the two bedroom unit, complying with the minimum standard of two spaces per unit and one on-site parking space per bedroom.*

*The development of this single dwelling unit would bring the total number of dwellings in the Central Business District up to the 40-45 range, well below the 95 unit maximum.*

#### LAND USE ORDINANCE STANDARDS:

**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 Plan.

#### **Section 23.01.043c(3) – Appeals to the Coastal Commission**

**Appealable Development.** As set forth in the Public Resources Code Section 30603(a), and this title, an action by the County on a permit application, including any Variance, Exception or Adjustment granted, for any of the following project may be appealed to the California Coastal Commission:

- ii. Areas possessing significant recreational value, including any "V" (Visitor Serving designation) as shown in the Land Use Element and areas in or within 100 feet of a park or recreation area.

- v. Special Communities or Small-Scale Neighborhoods which are significant visitor destination areas as defined by Chapter 23.11 of this title.

*Staff Comments: The project is appealable to the Coastal Commission because the project site is located within a Visitor-Service section of Cayucos and is located within the Coastal Special Communities as defined by Chapter 23.11.*

**Section 23.04.166 – Required Number of Parking Spaces**

**Mixed function buildings and storage areas.** Where a building (or separate tenancy rental space within a building) occupied by a single use contains several functions (such as sales, office and storage areas), parking is to be as required for the principal use, for the gross floor area (total area of all internal functions), except where the parking standards in subsection c set special requirements for functional areas within a principal use (e.g., active use area and storage area). Where subsection c does not identify specific requirements for storage areas within a principal use and the principal use contains storage areas larger than 2,000 square feet, the parking requirement is to be determined separately for those areas, as specified for warehousing in subsection c(11) of this section.

**Shared on-site parking adjustment.** Where two or more nonresidential uses are on a single site, the number of parking spaces may be reduced through adjustment (Section 23.01.044) at a rate of five percent for each separate nonresidential use, up to a maximum of 20%; as long as the total of spaces is not less than required for the use requiring the largest number of spaces.

*Staff Comments: The total number of required parking spaces for the proposed project, including a 15% shared on-site parking adjustment (Section 23.04.162d), is seven (7) parking spaces (see table below).*

Use	Parking Calculation	Area Used for Calculation	Required Number of Spaces
<b>Retail (&amp; Retail Storage)</b>	1 per 300 square feet of sales area, 1 per 600 square feet of storage	1,128 square feet of sales area, 71 square feet of storage	3.76 0.12
<b>Office (other)</b>	1 per 400 square feet of floor area	746 square feet floor area	1.87
<b>Commercial Storage</b>	1 per 2000 square feet	365 square feet	0.18
<b>Proposed Residence</b>	1 space per bedroom (per Cayucos Urban Area Standards)	2 bedrooms	2.00
		<b>Total Parking</b>	7.93
		<b>Shared use reduction 15%</b>	(-1.19)
		<b>Total Required</b>	6.74 or 7.00
		<b>Proposed Total Parking</b>	<b>7.00</b>

*The proposed project meets the parking requirements since there are seven (7) existing parking spaces on site.*

**Section 23.08.162 – Residential Uses in Office and Professional or Commercial Categories:** Single Family and Multi-Family dwellings identified as S-8 uses in the Office and Professional or Commercial Retail categories are subject to the standards of this section; except for Caretaker Residences.

**Limitation on use – Commercial categories.**

Except where prohibited by the planning area standard the Land Use Element, new single family or multi-family dwellings are allowed in the commercial land use category provided that they are:

1. Located outside of any visitor serving “V” designation as shown on the land use element; and,
2. Located on either the second floor and/or the rear half of the site and structurally attached to the main building. The first floor or front part of the building shall be used for the principal retail, and
3. Subordinate to the primary commercial use of the site.

*Staff Comments: The proposed project complies with these standards. The proposed project site is located in the Visitor-Serving designation; however, the Estero Area Plan and Cayucos Urban Area Standards encourage mixed-use development, and allow residential development within the Central Business District. The residence will be secondary and subordinate to the commercial-retail primary use on the site.*

**Section 23.08.165 – Residential Vacation Rentals:** The Residential Vacation Rental is the use of an existing residence, or a new residential structure that has been constructed in conformance with all standards applicable to residential development, as a rental for transient use. This definition does not include the single tenancy rental of the entire residence for periods of thirty consecutive days or longer. Rental of a residence shall not exceed four individual tenancies per calendar month.

Within the Residential Single Family and Residential Suburban land use categories of Cayucos, no residential vacation rental shall be located within: (1) 100 linear feet of a parcel and on the same side of the street as the vacation rental; (2) 100 linear feet of the parcel on the opposite side of the street from the vacation rental; and (3) 50 foot radius around the vacation rental. These same distances apply to other types of visitor serving accommodation (i.e. Bed and Breakfast or Homestay). Within the Residential Multi-Family land use category of Cayucos, no parcel shall be approved for a residential vacation rental if it is within 50 feet of another parcel with a residential vacation rental and/or other visitor-serving accommodation. Distances shall be measured from the closest property line of the property containing the vacation rental and/or other visitor serving accommodation to the closest property line of the proposed residential vacation rental unit. In the case of condominium units, the property line shall be the wall of the individual unit. The location standards for residential vacation rentals within Residential Single Family, Residential Suburban and Residential Multi-Family land use categories of Cayucos can be modified through Minor Use Permit approval when a Development Plan is not otherwise required.

*Staff Comments: Coastal Zone Land Use Ordinance section 23.08.165 (Residential Vacation Rentals) establishes location standards of residential vacation rentals in the community of Cayucos. However, the location standards set forth in this section only apply to the Residential Single Family, Residential Suburban and Residential Multi-Family land use categories of*

*Cayucos. The proposed project is located in the Commercial Retail land use category and therefore the location standards do not apply. The applicant is proposing to change the use designation of an existing two-bedroom caretaker residence into a single family residence, and to allow the single family residence to be used as a residential vacation rental. The residential vacation rental is not to operate any different than as if it were a full time occupied single family residence, therefore conditions for residential vacation rental operational standards have been added to this permit. Because these standards set parking requirements, limit the number of occupants and designate a 24-hour property manager contact, potential impacts can be avoided. Given the visitor serving nature of the surrounding neighborhood in which the proposed residence is located, staff can support this Minor Use Permit to change the use designation of an existing two-bedroom caretaker residence into a single family residence, and to allow the single family residence to be used as a residential vacation rental, and as conditioned, the project will meet all the CZLUO operational standards for Residential Vacation Rentals in Cayucos.*

**COASTAL PLAN POLICIES:**

Following is a brief list of the Coastal Plan Policies (discussion of specific applicable policies following):

Shoreline Access: N/A

Recreation and Visitor Serving:  Policy No(s): 1 & 2

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:  Policy No(s): 7

Coastal Watersheds: N/A

Visual and Scenic Resources: N/A

Hazards: N/A

Archeology: N/A

Air Quality: N/A

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

**COASTAL PLAN POLICY DISCUSSION:**

***Recreation and Visitor Serving Facilities***

The Coastal Plan policies for Recreation and Visitor serving uses are focused primarily on commercial recreational uses and commercial lodging facilities such as hotels, motels, bed and breakfast establishments and recreational vehicle parks. These are all classified as transient lodging in Coastal Zone Framework for Planning, Table "O". Residential Vacation Rentals are single family residences by design (or occasionally multi-family residences) and are listed in the Residential use group in Table "O". Although they do serve visitors they are sometimes rented by the month or not rented at all subject to the desire of the property owner. While Coastal Plan Policies generally encourage visitor serving facilities in certain circumstances, residential vacation rentals are not discussed.

***Policy 1:*** Recreation Opportunities: Coastal recreational and visitor-serving facilities, especially lower-cost facilities, shall be protected, encouraged and where feasible provided by both public and private means. *The proposed project supports this policy by creating visitor serving lodging opportunities within a proposed residential unit. The proposed residential unit is within close proximity to many recreational*

*opportunities in the Central Business District of Cayucos, which encourages bicycle and pedestrian use. The proposed residential unit is within walking distance to the beach, Cayucos Pier, and other facilities for recreational uses. This project is consistent with this policy.*

**Policy 2:** Priority for Visitor Serving Facilities: Recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent use, but not over agriculture or coastal dependent industry in accordance with PRC 30222. All uses shall be consistent with protection of significant coastal resources. The Land Use Plan shall incorporate provisions for areas appropriate for visitor-serving facilities that are adequate for foreseeable demand. Visitor-serving commercial developments that involve construction of major facilities should generally be located within urban areas. Provisions for new facilities or expansion of existing facilities within rural areas shall be confined to selected points of attraction. *This project complies with this policy as it creates visitor lodging opportunities within the urban area of Cayucos and recognizes statewide priority to protect and enhance public opportunities for coastal recreation.*

**Public Works:**

**Policy 7:** Permit requirements: A permit is required for projects within the coastal zone. *The applicant is requesting approval of a Minor Use Permit / Coastal Development Permit, consistent with the requirements of this policy.*

**COMMUNITY ADVISORY GROUP COMMENTS:**

Move to support a change in the use designation of an existing two-bedroom caretaker residence into a single family residence, and to allow the proposed single family residence to be used as a residential vacation rental, for Mr. and Mrs. Wisberg, M.U.P. DRC2013-00035 with the following recommended conditions:

1. Vacation rental must be professionally managed by a licensed real estate professional experienced in Cayucos/San Luis Obispo County vacation rentals with a 24 hr. emergency phone, unless the owners live on the premises full time. In all cases T.O.T. is to be paid.
2. That 2 spaces in the car port be allocated for vacation renters when rented. Controlled access to car port.
3. That if continued violations occur (especially parking, noise, or overcrowding) that the Planning Director has the authority to revoke the permit DRC 2013-00035 after hearings.

*Staff Comments: Conditions for residential vacation rental operational standards have been added to this permit to address the Community Advisory recommended conditions. Such conditions include a local property manager or contact person be available 24 hours a day to respond to tenant and neighborhood questions or concerns, and the residential vacation rental is to meet the regulations and standards set forth in Chapter 3.08 of the County Code, including any required payment of transient occupancy tax for the residential vacation rental. There is also a condition that all parking associated with the residential vacation rental shall be entirely on-site, in a garage, driveway or otherwise out of the roadway. The tenants of the vacation rental are conditioned to not use on-street parking at any time, and for the purposes of this vacation rental, two (2) spaces in the existing car port shall be allocated for the residential*

*vacation rental when rented. Penalties for violation of the conditions of approval may include revocation of the Minor Use Permit, Zoning Clearance and/or Business License.*

#### AGENCY REVIEW

Public Works – No concerns

#### LEGAL LOT STATUS:

The single lot was legally created by a recorded map, Morro Rock View Sub. No. 3, R.M. Bk. 3, Bl. 2, Lt. 27, at a time when that was a legal method of creating lots.

Staff Report prepared by Cody Scheel and reviewed by Bill Robeson.