

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

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 12/9/2014	(3) CONTACT/PHONE Ryan Hostetter, Senior Planner\ (805) 788-2351	
(4) SUBJECT Hearing to consider an appeal by Kevin Elder on behalf of Ethel Pludow and Cynthia Sugimoto of the Planning Commission's approval of a Minor Use Permit/Coastal Development Permit and Environmental Impact Report to allow for the construction of a 2,374 square foot single family residence within the Residential Single Family land use category on the west side of Studio Drive in the community of Cayucos. Hearing continued from October 7, 2014. District 2.			
(5) RECOMMENDED ACTION It is recommended that the Board: 1. Hold the continued public hearing on the appeal of the approval by the Planning Commission as set forth in the attached Exhibits and staff report. 2. Adopt and instruct the chairman to sign the revised December 9, 2014 resolution affirming and modifying the decision of the Planning Commission, and certifying the Environmental Impact Report in accordance with the applicable provisions of CEQA, and approving Minor Use Permit/Coastal Development Permit DRC2005-00216 for a <u>revised project</u> based on the amended findings in Exhibits A and C and the amended conditions in Exhibit B.			
(6) FUNDING SOURCE(S) Department Budget	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT { } Consent { } Presentation { X } Hearing (Time Est. <u>120 min</u>) { } Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS { X } Resolutions { } Contracts { } Ordinances { } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: { } 4/5 Vote Required { X } N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY { } N/A Date: <u>June 3, 2014 & October 7, 2014</u>	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) District 2			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Ryan Hostetter, Senior Planner

VIA: Ellen Carroll, Planning Manager / Environmental Coordinator

DATE: 12/9/2014

SUBJECT: Hearing to consider an appeal by Kevin Elder on behalf of Ethel Pludow and Cynthia Sugimoto of the Planning Commission's approval of a Minor Use Permit/Coastal Development Permit and Environmental Impact Report to allow for the construction of a 2,374 square foot single family residence within the Residential Single Family land use category on the west side of Studio Drive in the community of Cayucos. Hearing continued from October 7, 2014. District 2.

RECOMMENDATION

It is recommended that the Board:

1. Hold the continued public hearing on the appeal of the approval by the Planning Commission as set forth in the attached Exhibits and staff report.
2. Adopt and instruct the chairman to sign the revised December 9, 2014 resolution affirming and modifying the decision of the Planning Commission, and certifying the Environmental Impact Report in accordance with the applicable provisions of CEQA, and approving Minor Use Permit/Coastal Development Permit DRC2005-00216 for a revised project based on the amended findings in Exhibits A and C and the amended conditions in Exhibit B.

DISCUSSION

Board Direction

On June 3, 2014 the Board continued the subject hearing and directed staff to explore issues and interpretations related to the project's consistency with the County's Local Coastal Program. Specifically, the Board continued the hearing in order to allow time for staff and the applicant to explore two items:

1. Work within the existing property boundaries to design a project that takes into consideration Coastal Commission staff and geologist's interpretations regarding the site containing a coastal bluff; and
2. Explore modifications to the project that could potentially involve a property exchange and/or County property (right of way) purchase in an effort to move the project closer to Studio Drive.

Meeting with Coastal Commission Staff

After the June 3 hearing, County Planning Staff coordinated a meeting on July 31, 2014 with Coastal Commission staff to better understand the Commission staff's interpretation and position on the definition of "coastal bluff" and coastal hazards. The meeting was attended by County and Coastal Commission staff, Coastal Commission Geologist Dr. Mark Johnsson, and the County's EIR consultants including, geologist Mike Phipps, CEG (Cotton Shires and Associates Inc.), EIR consultant Shawna Scott (SWCA Inc.) and coastal hazards expert David Skelly (GeoSoils Inc.). During this meeting Coastal Staff explained that:

1. The site contains a coastal bluff based on the definition in the State regulations (CCR Title 14 Sec. 13577(h)(1)). However, given the disturbed nature of the site due to the placement of fill from Highway 1 and Studio Drive construction, it is unclear as to the extent of that coastal bluff. Additional mapping and borings was recommended as a way to determine the extent of the bedrock underneath the fill in order to more accurately outline the location of the bluff.

It was recognized that these additional borings and mapping may involve the property (owned by State Parks) to the north of the subject site. Coastal staff also acknowledged that even if the bedrock bluff could be delineated, it would still be difficult to determine its extent as a "coastal bluff" due to the presence of the stabilized fill.

2. Construction of any structure within the area for potential wave run-up would be considered a shoreline structure or a seawall. This would include the area of wave run-up for the maximum assumed estimate for sea level rise. Coastal staff did recognize that the Coastal Commission may not have been consistent in this interpretation in consideration of projects in other areas of the state which have been approved within proximity to future wave run up.

County staff relayed the information from the July 31, 2014 meeting to the applicant and suggested that additional mapping of the bluff would be useful and ultimately may be required by the Coastal Commission Staff in the event this project is appealed to the Coastal Commission.

Additional Information Submitted by Applicant

The applicant has opted to not complete the additional mapping requested by Coastal Staff. However, the applicant's team has since put together an additional report including historic 1950s Caltrans aerial photography and review by a photogrammetrist of the information related to the historic bluff. The applicant's engineer Mr. Bruce Elster compiled this information into a report dated September 28, 2014 (Attachment 2). The applicant feels that this additional historic information supports the position that, the site does not contain a coastal bluff, and that the site was primarily subject to fluvial activity.

This information was reviewed by the County's EIR team geologist Mike Phipps, CEG (Cotton Shires and Associates Inc.). While Mr. Phipps identified some data gaps and areas of clarification, he concluded that the report generally supports the analysis found in the technical report prepared for the EIR. The conclusion of this report is that the "coastal bluff" termini is located generally at or near the western boundary of the Loperena site. The historic photo information does not support historic marine activity extending around the northern side of the historic bluff.

Recommendations and Options

The Board of Supervisors has several options in proceeding with the project:

1. Deny the Project. This option would not allow the project to continue and would not be appealable to the Coastal Commission. The Board would need to continue this item to allow staff to prepare findings for denial and should provide staff with direction as to the basis for these findings.

2. Continue the Project and require the applicant to prepare additional information. If the Board feels that it would be useful to consider the bedrock bluff mapping information suggested by Coastal Commission staff, the project could be continued until this information is submitted by the applicant. As was noted previously, preparation of this information may require borings or other investigative techniques to be conducted on the property to the north of the subject site, which is out of the ownership or control of the applicant. As such, access to the property cannot be guaranteed. However, as also noted previously, the physical determination of the extent of the bedrock bluff, would not resolve the issue of the determination of the extent of the "coastal bluff".

3. Deny the appeal and approve the project as presented on June 3 and as approved by the Planning Commission. This would include the findings and conditions determining that there is no coastal bluff within the bounds of the project site. This would likely result in an appeal to the Coastal Commission.

4. Affirm and modify the Planning Commission decision by approving a revised project. The revised project would recognize the existence of a coastal bluff on the western side of the subject property based on the additional photogrammetry information, and observation of marine influence. Consistent with that information and the analysis in the EIR the coastal bluff extent would not extend to the northern side of the parcel where the historic bedrock bluff is nearly perpendicular to the beach. This would require that the applicant revise their site plan to show the bluff line, and submit revised construction documents which indicates all construction and structures at least 25 feet from the edge of this coastal bluff line. This line is shown in Attachment 3 and includes acknowledgement of a fluvial bluff along the northern side of the property, and a coastal bluff on the western side of the property.

Staff Comments

Based on all the information submitted, staff recommends Option #4 and has prepared revised findings and conditions of approval that the Board could use to approve the revised project. This option takes into consideration the Board's direction, the comments submitted by the Coastal Commission staff, as well as balancing all of the information in the record. This revised project is appealable to the Coastal Commission.

OTHER AGENCY INVOLVEMENT/IMPACT

The project was referred to: Cayucos Citizens Advisory Council, Public Works, Cayucos Fire Protection District, Cayucos Sanitary District, Paso Robles Beach Water Association, California Coastal Commission, CA Department of Fish and Wildlife, CA State Lands Commission, Air Pollution Control District, County Counsel, CA Department of Conservation, Regional Water Quality Control Board, Native American Heritage Commission, CA Department of Parks and Recreation, Federal Emergency Management Agency, and the US Army Corps of Engineers.

FINANCIAL CONSIDERATIONS

This project is within the Coastal Zone, therefore no appeal fee was charged and funding for the appeal was processed using department general funds.

RESULTS

Affirming and modifying the Planning Commission decision by partially denying and partially approving the appeal will mean the Final Environmental Impact Report and Minor Use Permit/Coastal Development Permit DRC2005-00216 are approved. Upholding the appeal would mean the Minor Use Permit/Coastal Development Permit is denied. This action would be consistent with the countywide goals of providing livable and well governed communities.

ATTACHMENTS

- Attachment 1 Board Resolution
- Attachment 2 Revised California Environmental Quality Act (CEQA) Findings
- Attachment 3 Letter from Applicant
- Attachment 4 Bluff Line