



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

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Helping build great communities

**Tentative Notice of Action**

MEETING DATE December 19, 2014	CONTACT/PHONE Xzandrea Fowler, Project Planner (805) 781-1172 xfowler@co.slo.ca.us	APPLICANT Pamela Rutledge & Morro Bay Legacy, LLC.	FILE NO. DRC2014-00030
LOCAL EFFECTIVE DATE January 2, 2015			
APPROX. FINAL EFFECTIVE DATE January 23, 2015			
SUBJECT A request by Pamela Rutledge and Morro Bay Legacy, LLC. for a Minor Use Permit / Coastal Development Permit to allow an existing single family residence to be used as a residential vacation rental. The proposed project is within the Residential Single Family land use category and is located at 656 Santa Lucia Avenue, at the intersection of Santa Lucia Avenue and 2 <sup>nd</sup> Street, in the community of Los Osos. The site is in the Estero planning area (South Bay).			
RECOMMENDED ACTION Approve Minor Use Permit / Coastal Development Permit DRC2014-00030 based on the findings listed in Exhibit A and the conditions listed in Exhibit B.			
ENVIRONMENTAL DETERMINATION A Class 1 Categorical Exemption was issued on November 10, 2014 (ED14-116).			
LAND USE CATEGORY Residential Single Family	COMBINING DESIGNATION Archeologically Sensitive, Coastal Access, Coastal Appealable Zone, Flood Hazard, Local Coastal Plan, Sensitive Resource Area, Wetlands	ASSESSOR PARCEL NUMBER 038-681-018	SUPERVISOR DISTRICT(S) 2
PLANNING AREA STANDARDS: None Applicable <i>Does the project meet applicable Planning Area Standards: N/A</i>			
LAND USE ORDINANCE STANDARDS: Local Coastal Program Area & Appeals to the Coastal Commission <i>Does the project conform to the Land Use Ordinance Standards: N/A</i>			
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 land use 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: Single Family Residence	
SURROUNDING LAND USE CATEGORIES AND USES: <i>North:</i> Recreation / Morro Bay Estuary <i>South:</i> Residential Single Family / Residences <i>East:</i> Residential Single Family / Residences <i>West:</i> Residential Single Family / Undeveloped Lot	
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: Public Works, Coastal Commission & Los Osos Community Advisory Council	
TOPOGRAPHY: Level to gently sloping	VEGETATION: Ornamental landscaping
PROPOSED SERVICES: Water supply: Los Osos Community Services District Sewage Disposal: Individual septic system Fire Protection: Cal Fire	ACCEPTANCE DATE: October 24, 2014

**DISCUSSION**

The applicant is proposing to use an existing single family residence as a residential vacation rental. The existing residence consists of two bedrooms, three bathrooms, an artist studio, and a two car garage. Through the planning application review process it was discovered that the artist studio was/has been used as a third bedroom and two of the existing bathrooms were constructed without building permits. The property owner has agreed to cease use of the artist studio as a third bedroom, and is working with Planning and Building Department staff to address the two unpermitted bathrooms. The residential vacation rental is not to operate differently than a full time occupied single family residence; therefore conditions for operational standards have been added to this permit. Since those operational standards set parking requirements, limit the number of occupants and designate a 24-hour property manager contact, potential impacts can be avoided.

PLANNING AREA STANDARDS:

The property is located within the Estero Planning Area. There are no planning area standards that are applicable to this project.

LAND USE ORDINANCE STANDARDS:

**Section 23.01.043c(1) – 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:

1. Developments approved between the sea and the first public road paralleling the sea, or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach.

*Staff Comments:* The project is appealable to the Coastal Commission because the project site is located between the sea and the first public road paralleling the sea.

**Section 23.04.420(b) – Coastal Access:** Development within the Coastal Zone between the first public road and the tidelands shall protect and/or provide coastal access as required by this

section. The intent of this standard is to assure public rights of access to the coast are protected as guaranteed by the California Constitution.

- b. Protection of existing coastal access. Development shall not interfere with public rights of access to the sea where such rights were acquired through use or legislative authorization. Public access rights may include but are not limited to the use of dry sand and rocky beaches to the first line of terrestrial vegetation.

*Staff Comments: The proposed project is will not result in a change of use to an existing residence. There are no proposed impacts to coastal access, therefore, the project is consistent with the standards of this section.*

### **Combining Designations**

**Section 23.07.060(c) – Flood Hazard Area:** All uses within a Flood Hazard combining designation are subject to the standards of Section 23.07.064 through 23.07.066, except:

- c. Existing uses: the continuance, operation, repair, or maintenance of any lawful use of land existing on the effective date of this title is permitted.

*Staff Comments: The proposed project is to allow an existing residence to be used as a residential vacation rental. This is consistent with the flood hazard standards because the residential vacation rental is not to operate any differently than a full time occupied single family residence.*

**Section 23.07.104 - Archeologically Sensitive Area:** The proposed project falls within the Archeologically Sensitive designation as delineated by the official maps of the Land Use Element. Before issuance of a land use or construction permit for development within an archaeologically sensitive area, a preliminary site survey shall be required.

*Staff Comments: A preliminary site survey is not required because there will be no site disturbance, new construction, or development.*

**Section 23.07.120 – Local Coastal Program Area:** 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.

**Section 23.07.160 – Sensitive Resource Area:** The purpose of this combining designation standard is to require that proposed uses be designed with consideration of the identified sensitive resources, and the need for their protection.

*Staff Comments: The proposed project is to allow an existing residence to be used as a residential vacation rental. This is consistent with the sensitive resource area standards because no new development is proposed that would threaten any sensitive resources and the residential vacation rental is not to operate differently than a full time occupied single family residence.*

**Section 23.07.172 – Wetlands:** Development proposed within or adjacent to a wetland area shall satisfy the requirements of this section.

*Staff Comments: The project does will not result in any new development or physical changes to the exterior or footprint of the existing residence; therefore, it is consistent with this requirement.*

### **Special Uses**

#### **Residential Vacation Rentals**

Coastal Zone Land Use Ordinance section 23.08.165 governs the establishment of residential vacation rentals in the coastal zone. However, the standards set forth in this section only apply to the urban areas of Cambria, Cayucos and Avila Beach.

*Staff Comments: The proposed project is located in the Community of Los Osos, therefore, the Residential Vacation Rental Ordinance standards do not apply. While those standards only apply to Zoning Clearances issued in Cambria, Cayucos and Avila Beach, they can be added to a discretionary permit if appropriate. The proposed residential vacation rental is not to operate differently than 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 to surrounding property owners can be avoided. The proposed conditions of approval have routinely been added to other minor use permits for establishment of residential vacation rentals.*

#### **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: Policy No(s): 7  
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.*

*Staff Comments: The proposed project supports this policy by creating visitor serving lodging opportunities within an existing single family residence. The existing residence is within close proximity to many recreational opportunities in the community of Los Osos. Such opportunities include Morro Bay State Park Beaches and Recreation Areas, Montana De Oro State Park, 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.*

*Staff Comments: This project complies with this policy as it creates visitor lodging opportunities within the urban area of Los Osos and recognizes statewide priority to protect and enhance public opportunities for coastal recreation.*

**Environmentally Sensitive Habitats:**

*Policy 7: Coastal wetlands are recognized as environmentally sensitive habitat areas. The natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved and where feasible, restored.*

*Staff Comments: This project complies with this policy because the project has been conditioned to include a rental tenant education in the form of an informational pamphlet or similar educational material that recognizes and identifies what individuals can do to minimize their impact to the environmentally sensitive habitat areas adjacent to the property.*

**Public Works:**

*Policy 7: Permit requirements: A permit is required for projects within the coastal zone.*

*Staff Comments: The applicant is requesting approval of a Minor Use Permit / Coastal Development Permit, consistent with the requirements of this policy.*

**COMMUNITY ADVISORY GROUP COMMENTS:**

The Los Osos Community Advisory Council (LOCAC) held a Special Meeting on October 9, 2014 regarding Vacation Rental Policies. LOCAC identified potential issues that they would like

to see addressed when processing Vacation Rentals in Los Osos. Below are a few of the issues LOCAC identified:

- Proximity to nature areas
- Number of Tenants
- Enforcement of conditions
- Proximity to other vacation rentals
- Probationary period for new vacation rentals
- Tenant education concerning environmentally sensitive habitats

Following their Special Meeting, LOCAC held their regular Land Use meeting where they reviewed and recommended the project for consent with the addition of a condition requiring the applicant to secure the services of local professional property management.

LOCAC met again on October 23, 2014 and recommended approval of the proposed vacation rental with the following recommended conditions:

1. That the property owners secure the services of a local professional property manager.
2. That the vacation rental occupancy shall be limited to two bedrooms with a maximum of six people.

*Staff Comments: In regards to the recommended condition #1, designation of a local property manager or contact person is required, therefore the designation of a professional property manager would serve as an additional level of assurance that the someone will be available 24 hours a day to respond to tenant and neighborhood questions or concerns and the condition has been included.*

*Regarding recommended condition #2, it was brought to LOCAC and staff's attention that the permitted artist studio was being used as a third bedroom, and that the residence was being advertised as a three bedroom/ three bathroom residential vacation rental. The residence was only permitted to have two bedrooms and one bathroom. Therefore, a condition has been included that limits the vacation rental to the two permitted bedrooms, and requires that the applicant either remove the two bathrooms that were constructed without permits or receives a waiver from the Regional Water Quality Control Board for the additional bathrooms, because the construction of additional bedrooms and bathrooms to existing residences are not currently permitted in the community of Los Osos due to the imposed moratorium on new sources of sewage discharge and increases under the prohibition zone.*

#### AGENCY REVIEW

Public Works – No concerns

#### LEGAL LOT STATUS:

APN: 038-681-018 – Tract 40 Block 1, Lot 13 is an existing lot that was legally created by a recorded map at a time when that was a legal method of creating lots.

Staff Report prepared by Xzandrea Fowler and reviewed by Bill Robeson.