



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

*Promoting the wise use of land
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 nd 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	
East: Residential Single Family / Residences West: 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.

Planning Department Hearing
 Minor Use Permit / Coastal Development Permit DRC2014-00030 / Rutledge & Morro Bay
 Legacy, LLC.
 Page 3

- 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.

Planning Department Hearing
 Minor Use Permit / Coastal Development Permit DRC2014-00030 / Rutledge & Morro Bay
 Legacy, LLC.
 Page 4

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.

Planning Department Hearing
 Minor Use Permit / Coastal Development Permit DRC2014-00030 / Rutledge & Morro Bay
 Legacy, LLC.
 Page 5

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

Planning Department Hearing
Minor Use Permit / Coastal Development Permit DRC2014-00030 / Rutledge & Morro Bay
Legacy, LLC.
Page 6

- 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.

Planning Department Hearing
 Minor Use Permit / Coastal Development Permit DRC2014-00030 / Rutledge & Morro Bay
 Legacy, LLC.
 Page 7

EXHIBIT A - FINDINGS

CEQA Exemption

- A. The project qualifies for a Categorical Exemption (Class 1) pursuant to CEQA Guidelines Section 15301 because the project consists of the operation and leasing of the existing residence as a residential vacation rental, involving negligible or no expansion of the use beyond that existing at the time of the lead agency's determination.

Minor Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the proposed residential vacation rental does not generate activity that presents a potential threat to the surrounding property and buildings. The operational standards for vacation rentals as set forth in Coastal Zone Land Use Ordinance section 23.08.165 have been added as conditions to this project. Because these standards further limit parking requirements, number of occupants and the designation of 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 vacation rentals. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the existing residence will not change and, as conditioned, the residential vacation rental will not conflict with the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on Santa Lucia Avenue, at the intersection of Santa Lucia Avenue and 2nd Street, and no additional traffic is associated with the project because it is using an existing approved residence as a residential vacation rental. Additionally, the proposed residential vacation rental will include 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.

Coastal Access

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is directly adjacent to the coast of Morro Bay and the project will provide direct access to the coastal waters and recreation areas associated with the bay and the estuary.

CONDITIONS OF APPROVAL

Authorized Use

1. This permit authorizes a Minor Use Permit / Coastal Development Permit to allow the existing single residence to be used as residential vacation rental as follows:
 - a. The permitted artist studio shall not be used or marketed as a third bedroom for the purpose of vacation rental occupancy.
 - b. The unpermitted bathrooms located in the master bedroom and the artist studio shall be removed and all plumbing (drains and water lines) shall be capped within the wall. Demolition of those restrooms requires issuance of building permits. Inspection and verification of condition compliance is required prior to the issuance of a business license for the residential vacation rental. In the event that the applicant is able to secure a waiver from the Regional Water Quality Control Board which would allow for the issuance of as-built building permits for the two additional bathrooms, this condition shall no longer be applicable.

Residential Vacation Rental Operational Conditions

2. Rental of the single family residence shall not exceed four individual tenancies per calendar month. The first day of each tenancy determines the month assigned to that tenancy. No additional occupancy of the residence (with the exception of the property owner and private non-paying guests) shall occur. A residential vacation rental shall only be used for the purposes of occupancy as a vacation rental or as a full time occupied residence. No other use (i.e.: home occupation, temporary event, homestay) shall be allowed on the site.
3. The maximum number of occupants allowed in the residential vacation rental shall not exceed the number of occupants that can be accommodated consistent with the onsite parking requirement, and shall not exceed two persons per bedroom plus two additional persons, or six persons total. It should be noted that the artist studio is not permitted to be used as a 3rd bedroom for the residence.
4. The residential vacation rental is not to change the residential character of the outside appearance of the building, either by the use of colors, materials, lighting, or by the construction of accessory structures or garages visible from off-site and not of the same architectural character as the residence; or by the emission of noise, glare, flashing lights, vibrations or odors not commonly experienced in residential areas.
5. Availability of the rental unit to the public shall not be advertised on site.
6. Vehicles used and traffic generated by the residential vacation rental shall not exceed the type of vehicles or traffic volume normally generated by a home occupied by a full time resident in a residential neighborhood. Normal residential traffic volume means up to 10 trips per day.

Planning Department Hearing

Minor Use Permit / Coastal Development Permit DRC2014-00030 / Rutledge & Morro Bay Legacy, LLC.

Page 9

7. All parking associated with the residential vacation rental shall be entirely on-site, in a garage, driveway or otherwise out of the roadway. Tenants of the vacation rental shall not use on-street parking at any time.
8. The residential vacation rental shall comply with the standards of Section 23.06.040 et seq. (Noise Standards). No residential vacation rental is to involve on-site use of equipment requiring more than standard household electrical current at 110 or 220 volts or that produces noise, dust, odor or vibration detrimental to occupants of adjoining dwellings. The property owners and/or property managers shall insure that the occupants of the residential vacation rental do not create loud or unreasonable noise that disturbs others and is not in keeping with the character of the surrounding neighborhood. Loud and unreasonable noise shall be evaluated through field observations by a County Sheriff, County Code Enforcement or other official personnel, based upon a threshold of noise disturbance related to the residential vacation rental use that is audible from a distance of 50 feet from the property lines of the rental property.
9. An informational pamphlet or similar educational material that identifies what rental tenants can do to minimize their impact to the environmentally sensitive habitat areas adjacent to the property shall be permanently posted in the rental unit in a prominent location.
10. The property owner shall designate a local professional property manager. The local property manager shall be available 24 hours a day to respond to tenant and neighborhood questions or concerns. The following requirements shall apply:
 - a. A notice shall be submitted to the Department of Planning and Building, the local Sheriff Substation, the main county Sheriff's Office; the local fire agency and supplied to the property owners within a 200 foot radius of the proposed residential vacation rental site. Distances shall be measured as a radius from the exterior property lines of the property containing the residential vacation rental unit. This notice shall state the property owner's intention to establish a residential vacation rental and shall include the name, address and phone number of the local contact person and the standards for noise, parking and maximum number of occupants. A copy of the notice, a form certifying that the notice has been sent and a list of the property owners notified shall be supplied to the Planning and Building Department at the time of application for the Business License and Transient Occupancy Tax Certificate for the residential vacation rental.
 - b. The name, address and telephone number(s) of the professional property manager shall be permanently posted in the rental unit in a prominent location(s). Any change in the professional property manager's address or telephone number shall be promptly furnished to the agencies and neighboring property owners. In addition, the standards for parking, maximum occupancy and noise shall be posted inside the residential vacation rental unit and shall be incorporated as an addendum to the vacation rental contracts.
11. The residential vacation rental shall 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. The Transient Occupancy Tax Certificate number shall be included in all advertising for the residential vacation rental.

Planning Department Hearing

Minor Use Permit / Coastal Development Permit DRC2014-00030 / Rutledge & Morro Bay Legacy, LLC.

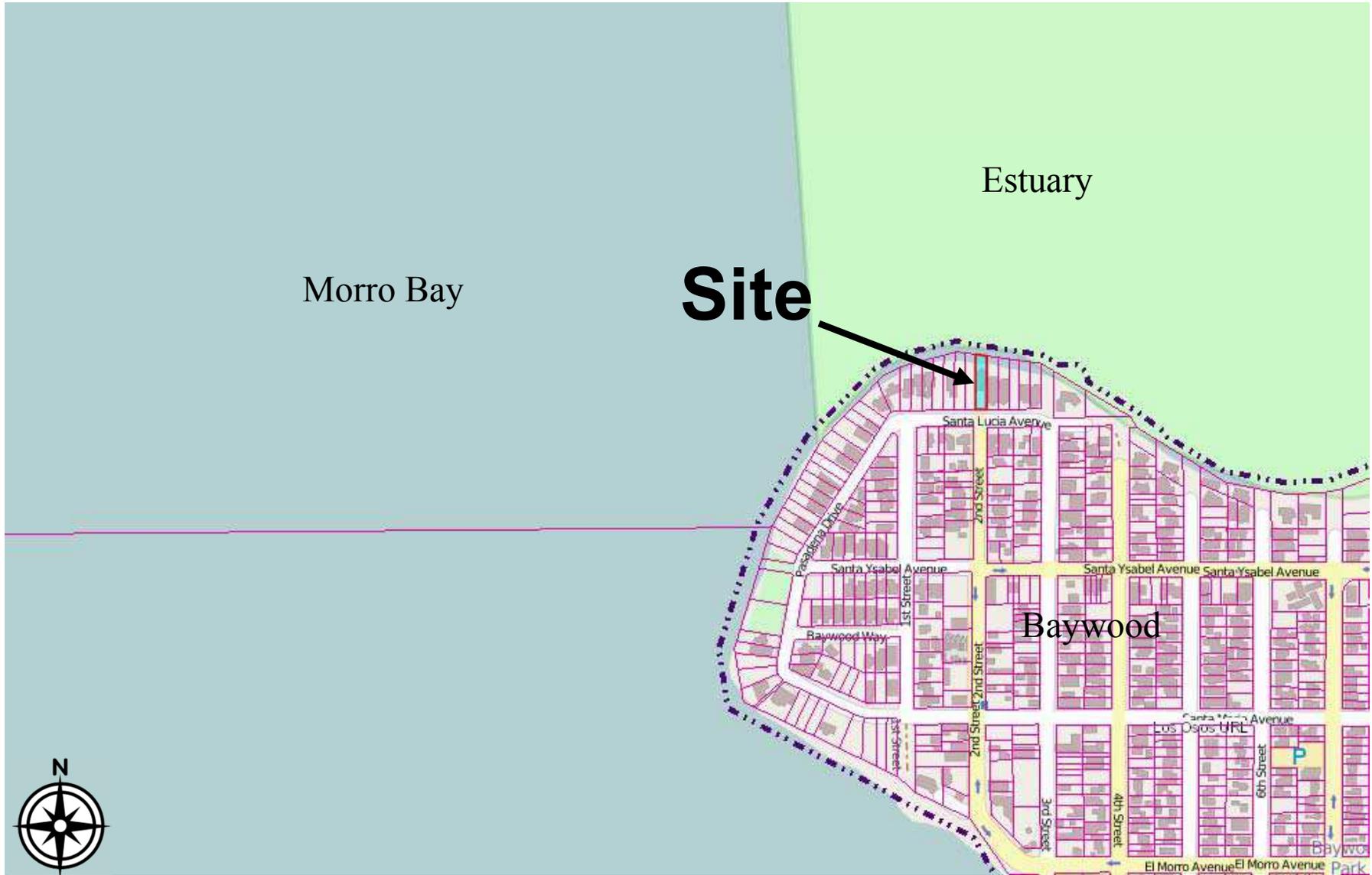
Page 10

12. If the Business License issued for the residential vacation rental expires pursuant to Title 6 of the County Code, a new Zoning Clearance and/or Business License shall be required and shall be subject to all standards as set forth in the Residential Vacation Rental Ordinance (Section 23.08.165).
13. Penalties for violation of these conditions of approval may include revocation of the Minor Use Permit, Zoning Clearance and/or Business License. Violations that will cause the processing of revocation include:
 - a. Failure to notify County staff when the contact person, or contact information, changes.
 - b. Violation of the residential vacation rental tenancy standards.
 - c. Violation of the residential vacation rental maximum occupancy, parking and noise requirements.
 - d. The inability of County staff or the Sheriff's Dispatch to reach a contact person.
 - e. Failure of the local contact person, or property owner, to respond the complaint.

Three verified violations, as determined by a County Planning and Building staff person, within any consecutive six month period, shall be grounds for revocation of the Minor Use Permit, Zoning Clearance and/or Business License. Signed affidavits by members of the community may be used to verify violations. Revocation of the Minor Use Permit, Zoning Clearance and/or Business License shall follow the same procedure used for land use permit revocation as set forth in Section 23.10.160 of the Coastal Zone Land Use Ordinance. The Director of Planning and Building will hold the initial revocation hearing.

On-going conditions of approval (valid for the life of the project)

14. The land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once proof of Transient Occupancy Tax payment to the County Tax Collector is submitted to the Department of Planning and Building within 24 months of approval.
15. Any and all advertising for this vacation rental shall be consistent with these conditions of approval.
16. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Coastal Zone Land Use Ordinance.



PROJECT
 Rutledge Vacation Rental – MUP/CDP
 DRC2014-00030



EXHIBIT
 Vicinity Map



PROJECT
 Rutledge Vacation Rental – MUP/CDP
 DRC2014-00030



EXHIBIT
 Land Use Category Map



PROJECT
Rutledge Vacation Rental - MUP/CDP
DRC2014-00030



EXHIBIT
Aerial Photograph

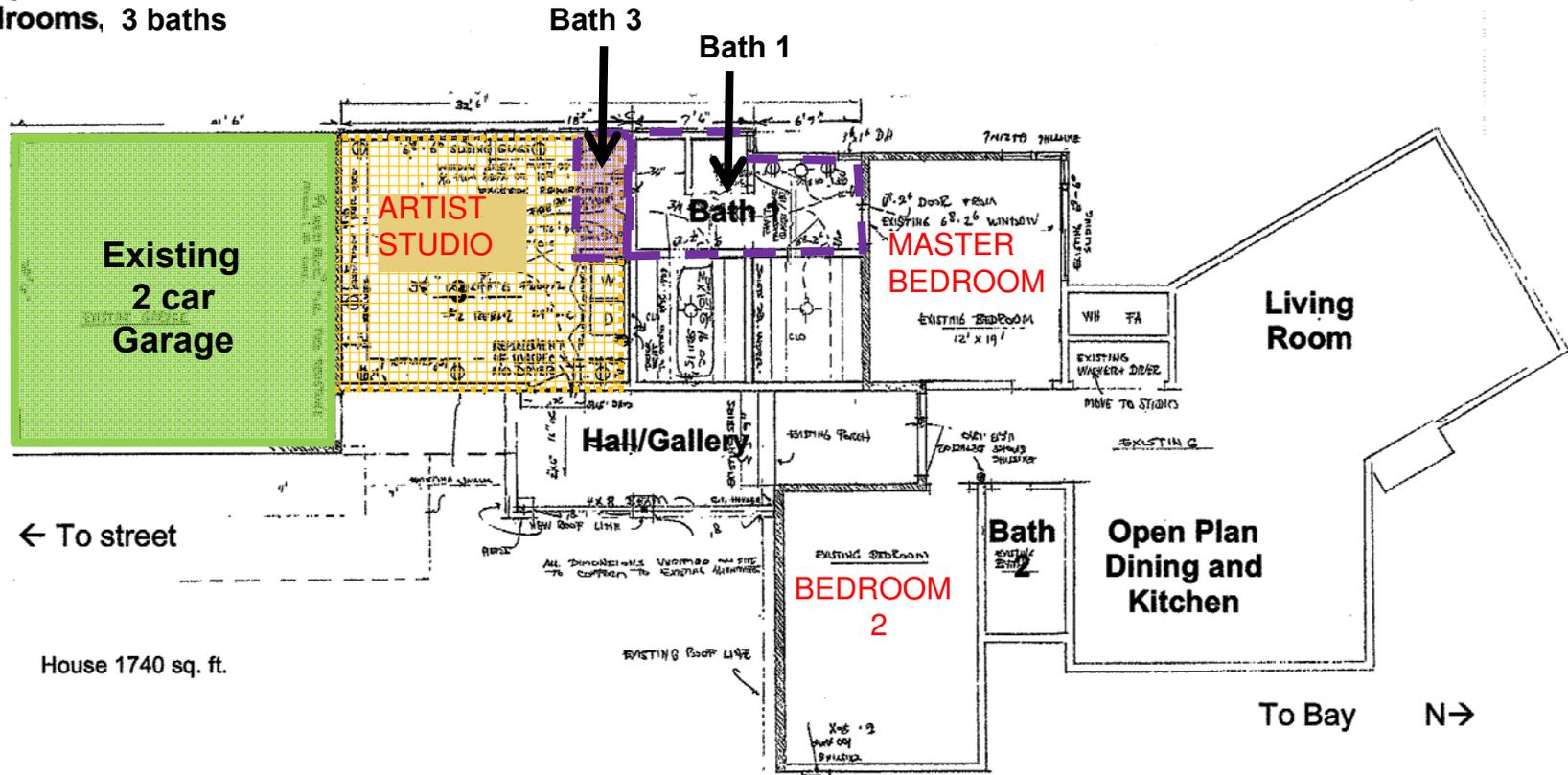


PROJECT
Rutledge Vacation Rental - MUP/CDP
DRC2014-00030



EXHIBIT
Enlarged Aerial Photograph

Floor plan:
3 bedrooms, 3 baths



PROJECT

Rutledge Vacation Rental – MUP/CDP
DRC2014-00030



EXHIBIT

Floor Plan



PROJECT
Rutledge Vacation Rental - MUP/CDP
DRC2014-00030



EXHIBIT
Photograph of the site and residence