



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

**Tentative Notice of Action**

*Promoting the wise use of land  
Helping build great communities*

MEETING DATE	CONTACT/PHONE	APPLICANT	FILE NO.
November 13, 2015	Terry Wahler, Project Manager	Darryl Freedman	DRC2011-00015
LOCAL EFFECTIVE DATE	805-781-5621		
November 30, 2015			
APPROX FINAL EFFECTIVE DATE			
December 18, 2015			

**SUBJECT**  
A request by **DARRYL FREEDMAN** for a Minor Use Permit/Coastal Development Permit (DRC2011-00015) to allow remodeling of an existing residence including an 82 square foot first floor addition, a 366 square foot garage replacement and a 501 square foot second story addition. The total resulting gross structural area proposed is 1,759 square feet. The project will result in approximately 200 square feet of site disturbance within an approximately 3,320 square foot parcel. The proposed project is within the Residential Single Family land use category, within the Small Scale Design Neighborhood, and is located at 3390 Studio Drive, on the west side of Studio Drive, in the community of Cayucos. The site is in the Estero planning area.

**RECOMMENDED ACTION**  
Approve Minor Use Permit/ Coastal Development Permit DRC2011-00015 based on the findings listed in Exhibit A and the conditions listed in Exhibit B.

**ENVIRONMENTAL DETERMINATION**  
A Class 1 and Class 3 Categorical Exemption (Sections 15301 and 15303) was issued on October 2, 2015 (ED15-089).

LAND USE CATEGORY	COMBINING DESIGNATION	ASSESSOR PARCEL NUMBER	SUPERVISOR DISTRICT(S)
Residential Single Family	Local Coastal Plan Area, Geologic Study Area, Coastal Appealable Zone, Coastal Access, Small Scale Design Neighborhoods	064-422-005	2

**PLANNING AREA STANDARDS:**  
Small Scale Neighborhood  
*Does the project meet applicable Planning Area Standards: Yes - see discussion*

**LAND USE ORDINANCE STANDARDS:**  
Local Coastal Plan Area  
*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 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: Single family residence	
SURROUNDING LAND USE CATEGORIES AND USES: <i>North:</i> Residential Single Family/ residences <i>East:</i> Residential Single Family/ residences <i>South:</i> Residential Single Family/ residences <i>West:</i> Recreation/Pacific Ocean	
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: Public Works, Cayucos Fire Department, Cayucos Sanitary District, County Service Area 10A, and the California Coastal Commission.	
TOPOGRAPHY: Gentle slope & coastal bluff	VEGETATION: Grasses and ornamentals
PROPOSED SERVICES: Water supply: Community system Sewage Disposal: Community sewage disposal system Fire Protection: Cayucos Fire Department	ACCEPTANCE DATE: September 25, 2015

**DISCUSSION**

The proposed project is within the Residential Single Family land use category, and within the Small Scale Design Neighborhood on a bluff-top lot on Studio Drive. A public access way to the beach is located approximately 150 feet south of the property.

This request includes the remodeling of an existing residence with an 82 square foot first floor addition, a 366 square foot garage replacement and a 501 square foot second story addition. Total resulting gross structural area is proposed to be 1,759 square feet. (The project is conditioned to reduce the addition to comply with the 50% expansion limitation for properties with non-conforming bluff setbacks, discussed below.) The project will involve approximately 200 square feet of site disturbance beyond the existing building footprint outside of the bluff setback within an approximately 3,320 square foot parcel.

**Existing Non-conforming Residence**

A portion of the existing residence does not comply with the minimum bluff setback of 25 feet. The project is not proposing any remodeling or additional square footage in the portion of the residence that is non-conforming to the bluff setback.

The existing residence is also non-conforming to the side setback on the southern side and does not meet the 4 foot side setback requirement. The wall alignment for the proposed second story is designed with a 6 ½ side setback (and required) to comply with the planning area standard which requires the second story wall to be setback of 2 ½ feet from the lower wall setback.

**History**

Prior to applying for this minor use permit two enforcement cases were opened on the property by the Department of Planning and Building Resource Protection Section. The first (COD2011-00269) involved the landowner’s alteration of the bluff top area to replace and expand the impervious patio area located between the bluff edge and the existing residence. This case was resolved by having the landowner remove portions of the patio that extended over the bluff edge and exceeded the previously existing patio footprint. (New impervious surfaces such as concrete or stonework are not allowed because they increase runoff over the bluff face and increase erosion.)

The second case (COD2013-00248) involved the landowner's alteration of the bluff to place steps on the bluff face. New staircases, steps or retaining walls/terraces are not allowed on bluff faces. The landowner removed this unauthorized work and restored the bluff face to the pre-existing condition.

### **Existing Building Condition**

Portions of this older residence are in poor condition which will make the remodeling of the residence and the integration of the new construction with the older building challenging for the architect, structural engineer and contractor.

Non-conforming walls and foundation sections may not be removed outright and repair to non-conforming walls is limited. The building permit is subject to newly established non-conforming building protocols. Should any non-conforming wall sections be inadvertently demolished, the reconstructed wall must conform to Title 23 and Planning Area Standards, and will be subject to additional permits (or revisions to permits) as applicable.

## **PROJECT REVIEW**

PLANNING AREA STANDARDS:

### **Esteros Areawide Standards**

**E. Coastal Access and Recreation.** Opportunities for public access to and along the coast shall be maximized as follows:

1. New development shall be required to provide public access and improvements to and along the coast, and shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization.

*Staff comments: The project is consistent with this standard. Vertical access exists north and south of the site, the nearest one being approximately 150 feet to the south. The boundaries of the lot extend onto the bluff but do not include the sandy beach. Lateral access is not being required because the applicant does not own the land along the beach (Section 23.04.420).*

**G. Cayucos Planning Impact Area.** Within the planning impact area shown in Figure 7-5, applications for land divisions, general plan amendments, Minor Use Permits, and Development Plans shall be referred to the Cayucos Citizen Advisory Council or its successor for review and comment.

*Staff comments: The project was referred to the Cayucos Citizen Advisory Council and the Land Use Committee discussed the project at the September 30, 2015 meeting. The Land Use Committee recommended that the project be approved subject applicable Planning Area Standards and Ordinance requirements.*

**I. Shoreline Development.** New development or expansion of existing uses proposed to be located on or adjacent to a beach or coastal bluff is subject to the following standards:

#### **3. Application Content:**

a. An analysis of beach erosion, wave run-up, inundation and flood hazards prepared by a licensed civil engineer with expertise in coastal engineering and a slope stability analysis,

prepared by a licensed Certified Engineering Geologist and/or Geotechnical Engineer or Registered Civil Engineer with expertise in soils, in accordance with the procedures detailed by Appendix G of the Estero Area Plan. The report shall include an alternatives analysis to avoid or minimize impacts to public access.

*Staff comments: A Geologic Report was prepared by GeoSolutions, Inc. entitled Geologic Coastal Bluff Evaluation, 3390 Studio Drive, APN: 064-422-005, Cayucos Area, San Luis Obispo County, California, Project SLO2360-3 (September 27, 2013). The report found that the site is geologically suitable for the proposed development. The report was reviewed by the County Geologist who determined that the report met the county requirements and agreed with the assessment and conclusions. (Landset Engineers, Inc. October 25, 2013).*

- b. On lots with a legally established shoreline protective device, the analysis shall describe the condition of the existing seawall; identify any impacts it may be having on public access and recreation, scenic views, sand supplies, and other coastal resources; and evaluate opportunities to modify or replace the existing armoring device in a manner that would eliminate or reduce these impacts. The analysis shall also evaluate whether the development, as proposed or modified, could be safely established on the property for a one hundred year period without a shoreline protective device.

*Staff comment: A portion of the site has an existing shoreline protective device as noted and reviewed in the above mentioned Geologic Report. The report concluded that no new bluff armament was needed, however the report did recommend periodic maintenance to the existing rock rip rap based on evaluation by an engineering geologist.*

- c. Measurements for the form, mass, scale, and roofing and yard features (such as fencing). To the maximum extent feasible, new development shall be compatible with the character of the surrounding neighborhood.

*Staff comments: The existing neighborhood consists of single family dwellings, with a variety of architectural styles and characteristics. The project will involve relatively small additions to the first floor but will also include a second story addition. The resulting roof height, colors and materials will be compatible with surrounding residences. Overall, the proposed additions to the existing residence will be consistent with the character of the neighborhood.*

- d. Surveyed location of all property lines and the mean high tide line by a licensed surveyor along with written evidence of full consent of any underlying land owner, including, but not limited to the County, State Parks, and State Lands. If application materials indicate that development may impact or encroach on tidelands or public trust lands, the County shall consult with Coastal Commission staff regarding the potential need for a Coastal Development Permit from the Coastal Commission.

*Staff comment: The project will not impact the County, State Parks, or State Lands.*

- e. A preliminary drainage, erosion, and sedimentation plan which demonstrates that no stockpiling of dirt or construction materials will occur on the beach; erosion, runoff, and sedimentation measures to be implemented at the end of each day's work; all construction debris will be removed from the beach daily and at the completion of development; and no

machinery will be allowed in the intertidal zone. If there is no feasible way to keep machinery out of the intertidal zone, authorization from the Coastal Commission is required.

*Staff comment: The project is conditioned to meet this requirement.*

#### **4. Bluff Setbacks.**

The bluff setback is to be determined by the engineering geology analysis required in I 3.a. above adequate to withstand bluff erosion and wave action for a period of 100 years. In no case shall bluff setbacks be less than 25 feet. Alteration or additions to existing development that is non-conforming with respect to bluff setbacks that equals or exceeds 50 percent of the size of the existing structure, on a cumulative basis beginning July 10, 2008, shall not be authorized unless the entire structure is brought into conformance with this setback requirement and all other policies and standards of the LCP. On parcels with legally established shoreline protective devices, the setback distance may account for the additional stability provided by the permitted seawall, based on its existing design, condition, and routine repair and maintenance that maintain the seawall's approved design life. Expansion and/or other alteration to the seawall shall not be factored into setback calculations.

*Staff comments: A portion of the existing residence is located within the 25 foot bluff setback and considered non-conforming with respect to the bluff setback. The proposed project as currently designed exceeds the 50% expansion limitations for properties with non-conforming bluff setbacks by approximately 110.5 square feet. The project has been conditioned to reduce the overall square footage by this amount so that it will conform to this planning area standard.*

#### **5. Seawall Prohibition.**

Shoreline and bluff protection structures shall not be permitted to protect new development. All permits for development on bluff top or shoreline lots that do not have a legally established shoreline protection structure shall be conditioned to require that prior to issuance of any grading or construction permits, the property owner record a deed restriction against the property that ensures that no shoreline protection structure shall be proposed or constructed to protect the development, and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235 and the San Luis Obispo County certified LCP.

*Staff comments: The proposed project consists of first and second story additions to the existing residence. Neither addition extends the residence closer to the bluff edge. No new bluff protection structures or expansion of the existing one are needed to protect the additions.*

#### **6. Liability.**

As a condition of approval of development on a beach or shoreline which is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, the property owner shall be required to execute and record a deed restriction which acknowledges and assumes these risks and waives any future claims of damage or liability against the permitting agency and agrees to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.

*Staff comment: The project is conditioned to meet this requirement*

## **Cayucos Urban Area Standards**

### **Communitywide**

#### **A. Resource Capacity and Service Availability.**

- 2. Land Divisions and Land Use Permits: Application Content.** All applications for new land divisions and land use permits for new development shall be accompanied by letters from the applicable water purveyor and the Cayucos Sanitary District stating their intent to serve the proposed project.

*Staff comment: This project complies with this standard because the residence is currently being served with water and sewer and updated letters are required as conditions of approval to address the additions.*

#### **F. Setbacks - Communitywide.**

*Staff comment: The required setbacks for the residence are set by **Small Scale Neighborhood Design Standards**, discussed under that section of this report.*

### **D. Community Small Scale Design Neighborhoods**

#### **Community Small Scale Design Neighborhoods Standards:**

A portion of the existing residence does not comply with the minimum bluff setback of 25 feet as noted above. The project is not proposing any remodeling or additional square footage in the portion of the residence non-conforming as to bluff setback.

Front Setback: For two story construction, the minimum front lower floor setback on the west side of Studio Drive is 0, the minimum front second floor setback is an additional 3 feet from the lower wall except open rail, uncovered decks are excluded from this additional setback and may extend to the lower floor wall.

*Staff comments: The addition complies with the required setback along Studio Drive. The existing second story is designed to comply with the additional 3 foot setback for second stories. A staircase is proposed within this three foot setback however it is designed (and conditioned) to be less than 12 feet in height.*

Side Setbacks: For two-story construction, the minimum side setback for the lower floor is 4 feet. On corner lots the street-side setback is 10 feet. For the second floor side setbacks, a minimum of 2 ½ feet greater than the lower floor setback is required. Thirty percent of the upper story sidewall may align with the lower floor wall provided it is within the rear two-thirds of the structure.

*Staff comments: This existing residence is non-conforming as to side setback on the southern side. The second story addition is conforming as to setback at 6 & ½ feet. The wall alignment on the northern wall face is consistent with this standard.*

Rear Setback: For bluff top parcels, the minimum bluff setback shall be 25 feet.

*Staff comments: A portion of the existing residence protrudes into the 25 foot bluff setback and is nonconforming. However the addition is located at the street side of the residence, and is consistent with the 25 foot setback.*

Height: Heights shall be measured from the center line of the fronting street at a point midway between the two side property lines projected to the street center line, to the highest point of the roof. For ocean front lots, maximum height shall be 15 feet. The maximum height of structures on the ocean front is 15 feet.

*Staff comments: The addition, including the roof deck is proposed at a height of 15 feet above a line projected from the center line of Studio Drive.*

Gross Structural Area: One story development, and all development on bluff top sites is limited to a maximum gross structural area, including the area of all garages, of 3,500 square feet.

*Staff comments: The development is proposed at 1,759 square feet, less than the 3,500 square foot limitation. However, the residence exceeds the 50% expansion provision for non-conforming bluff setback properties and is conditioned to reduce the square footage to comply.*

Deck Rail Height: Rail heights for decks above the ground floor shall not exceed 36 inches. A maximum additional height of 36 inches of untinted, transparent material with minimal support members is allowable.

*Staff comments: The project is conditioned to comply with this standard.*

Parking: At least one off-street parking space shall be enclosed with an interior space a minimum size of 10 feet by 20 feet, and a maximum of one required off-street parking space may be located in the driveway within the required front yard setback area.

*Staff comments: Two parking spaces are proposed one within the proposed garage, one in the front/side yard.*

Driveway Widths: Driveway widths may not exceed 18 feet.

*Staff comments: The project has been conditioned to be consistent with this standard (virtually no driveway is located on the site due to 0 foot front setback, consistent with the intent of this standard).*

Streetscape Plan: A scale drawing showing the front exterior elevation (view) of the proposed project, and the front elevations of the adjacent buildings, is required as part of the application submittal.

*Staff comments: A copy of the streetscape plan is in file. The proposed project is compatible with the character of the neighborhood.*

Topographic Map: A topographic map including the elevation of the fronting street, site contours, and existing and proposed drainage patterns is required as part of the application submittal.

*Staff comments: A copy of the topographic map is in the file.*

## **COASTAL ZONE LAND USE ORDINANCE STANDARDS:**

### **Section 23.04.420: Coastal Access Required**

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 these standards is to assure

public rights of access to the coast are protected as guaranteed by the California Constitution. Coastal access standards are also established by this section to satisfy the intent of the California Coastal Act.

*Staff comments: The project is consistent with this standard. Vertical access exists north and south of the site, the nearest one being approximately 150 feet to the south. The boundaries of the lot extend onto the bluff but do not include the sandy beach. Lateral access is not being required because the applicant does not own the land along the beach (Section 23.04.420).*

### **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 23.07.080 – Geologic Study Area**

All land use permit applications for projects located within a Geologic Study Area (except those exempted by Section 23.07.082) shall be accompanied by a report prepared by a certified engineering geologist and/or registered civil engineer (as to soils engineering), as appropriate.

*Staff Comments: See above discussion regarding the Geologic Report.*

### **Section 23.07.104(b): Archaeologically Sensitive Areas**

*Staff Comments: The project site is not located within a mapped Archaeologically Sensitive Area.*

### **COASTAL PLAN POLICIES:**

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

Shoreline Access: <input checked="" type="checkbox"/>	Policy No(s): 2
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: <input checked="" type="checkbox"/>	Policy No(s): 1
Coastal Watersheds: <input checked="" type="checkbox"/>	Policy No(s): 7, 8 and 10
Visual and Scenic Resources: <input checked="" type="checkbox"/>	Policy No(s): 1, and 6
Hazards: <input checked="" type="checkbox"/>	Policy No(s): 1, 2 and 6
Archeology: <input checked="" type="checkbox"/>	Policy No(s): 1
Air Quality: <input checked="" type="checkbox"/>	Policy No(s): 1

### **Shoreline Access**

*Policy 2: New Development: Provide Vertical Access if appropriate and not already provided in proximity to the project site. Provide Lateral Access along the sandy beach if property extends to the sandy beach. The boundaries of the lot extend onto the bluff but do not include the sandy beach.*

### **Public Works**

*Policy 1: Availability of Service Capacity: The applicant has demonstrated that adequate public service capacities are available to serve the proposed project because services already exist for the structure and will serve letters are required.*

### **Coastal Watersheds**

- Policy 7:** Siting of new development: *The proposed project is consistent with this policy because the residence already exists and the “new development”, the addition, will be located on an existing lot of record in the Residential Single Family category on a slope less than 20 percent.*
- Policy 8:** Timing of new construction: *The proposed project is consistent with this policy because the project is required to have an erosion and sedimentation control plan and all slope and erosion control measures will be in place before the start of the rainy season.*
- Policy 10:** Drainage Provisions: *The proposed project is consistent with this policy because the project is required to have a drainage plan that shows the construction of the addition will not increase erosion or runoff*

### **Visual and Scenic Resources:**

- Policy 1:** Site Selection for new development: *The proposed project is consistent with this policy because the small addition will not worsen the current public views to and along the ocean.*
- Policy 6:** Special Communities and Small-Scale Neighborhoods: *The proposed project is consistent with this policy because the development has been designed and sited to complement and be visually compatible with existing characteristics of the community.*

### **Hazards**

- Policy 1:** New Development: All new development proposed within areas subject to hazards from geologic or flood conditions (including beach erosion) shall be located and designed to minimize risks to human life and property. *The proposed project is consistent with this policy because the additions to the existing residence are located outside of the 25 foot bluff setback area and structure is required to be designed to ensure structural stability.*
- Policy 2:** Erosion and Geologic Stability. New development shall ensure structural stability while not creating or contributing to erosion or geological instability. *The proposed project is consistent with this policy because the structure is required to be designed to ensure structural stability while not creating or contributing to erosion of geological instability.*
- Policy 6:** Bluff Setbacks. New development or expansion on existing bluff tops shall be designed and set back adequately to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years without construction of shoreline protection structures which would require substantial alterations to the natural landforms along bluffs and cliffs. *The proposed project is consistent with this policy because the remodeling and additions to the residence will not require alteration to the bluff and are located outside of the required bluff setback.*

### **Air Quality**

- Policy 1:** The County will provide adequate administration and enforcement of air quality programs and regulations to be consistent with the county’s Air Pollution Control District and the State Air Resources Control Board. *Staff comment: This project involves the demolition of a pre-1978 structure and is conditioned to contact APCD to determine the applicability of federal asbestos regulations.*

**Archaeology**

**Policy 1:** The County shall provide for the protection of both known and potential archaeological resources. *Staff comment: This project site is not located in an area designated as Archaeologically Sensitive and no known sites are located in close proximity to the site. The Coastal Zone Land Use Ordinance requires protection of resources if discovered in the course of construction.*

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

**COMMUNITY ADVISORY GROUP COMMENTS:**

The Land Use Committee of the Cayucos Citizens' Advisory Council reviewed the proposed project and recommended approval of the project at the October 7, 2015 Advisory Council meeting.

**AGENCY REVIEW:**

Public Works – Provided recommended conditions of approval (included with conditions of approval)  
Cayucos Fire Department – No concerns (further review required with building permit)  
Cayucos Sanitary District – New will-serve letter required for new development/addition  
County Service Area 10A – No response.  
California Coastal Commission – No response.

**LEGAL LOT STATUS:**

The existing lot was legally created by a recorded map at a time when that was a legal method of creating lots.

Staff report prepared by Terry Wahler and reviewed by Karen Nall.