

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

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 10/4/2016	(3) CONTACT/PHONE James Caruso, Senior Planner/(805) 781-5702	
(4) SUBJECT Hearing to consider an appeal by Eileen Roach of the Planning Commission's approval of a request by Campbell-Sheppard/Dan Lloyd for a Tentative Tract Map and Development Plan/Coastal Development Permit to allow the following: 1) demolition of a single family dwelling; 2) subdivision of a 0.68 acre site into 7 residential parcels (2,432 to 3,311 square feet) and one open space parcel (21,090 square feet); 3) construction of 7 single family residences (2,013 to 2449 square feet); 4) abandonment of a portion of Cypress Glen Court; 5) adjustment to the Real Property Division Ordinance (section 21.03.010) to allow more than five lots to be accessed from a private easement and adoption of the proposed Mitigated Negative Declaration. District 2.			
(5) RECOMMENDED ACTION It is recommended that the Board adopt the resolution denying the appeal by Eileen Roach and affirming the decision of the Planning Commission.			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. 60 mins) <input type="checkbox"/> Board Business (Time Est. ___)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date: _____	
(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 / James Caruso, Senior Planner/(805) 781-5702

DATE: 10/4/2016

SUBJECT: Hearing to consider an appeal by Eileen Roach of the Planning Commission's approval of a request by Campbell-Sheppard/Dan Lloyd for a Tentative Tract Map and Development Plan/Coastal Development Permit to allow the following: 1) demolition of a single family dwelling; 2) subdivision of a 0.68 acre site into 7 residential parcels (2,432 to 3,311 square feet) and one open space parcel (21,090 square feet); 3) construction of 7 single family residences (2,013 to 2449 square feet); 4) abandonment of a portion of Cypress Glen Court; 5) adjustment to the Real Property Division Ordinance (section 21.03.010) to allow more than five lots to be accessed from a private easement and adoption of the proposed Mitigated Negative Declaration. District 2.

RECOMMENDATION

It is recommended that the Board adopt the resolution denying the appeal by Eileen Roach and affirming the decision of the Planning Commission.

DISCUSSION

Background

The Planning Commission considered this project at their hearings of March 24, 2016 and May 26, 2016. The Commission unanimously approved the project on May 26, 2016. The Commission's approval was appealed by Eileen Roach on June 7, 2016.

Appeal Issues

The appellant states the proposed project is inconsistent with the Local Coastal Program because,

"No land divisions in association with Environmentally Sensitive Habitats (Policy 4)."

Policy 4 of the Environmentally Sensitive Habitat Area (ESHA) states:

Policy 4: No Land Divisions in Association with Environmentally Sensitive Habitats

No divisions of parcels having environmentally sensitive habitats within them shall be permitted unless it can be found that the buildable area(s) are entirely outside the minimum standard setback required for that habitat (100 feet for wetlands, 50 feet for urban streams, 100 feet for rural streams). These building areas (building envelopes) shall be recorded on the subdivision or parcel map. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.170 OF THE CZLUO.]

c. Land divisions: No division of a parcel containing an Environmentally Sensitive Habitat shall be permitted unless all proposed building sites are located entirely outside of the applicable minimum setback required by Sections 23.07.172 through 23.07.178. Such building sites shall be designated on the recorded subdivision map.

Staff Response

The appellant cites the language of Policy 4 that addresses divisions of land "having environmentally sensitive habitats within them". According to the Coastal Act and as cited in the LCP, environmentally sensitive habitats are areas valuable to the ecosystem:

A basic goal of the California Coastal Act of 1976 is to "protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and man-made resources." To achieve this goal, the Local Coastal Program identifies and protects sensitive habitat areas through the designation of appropriate land uses and management techniques. Environmentally sensitive habitats are defined by the Coastal Act as "any area in which plant or animal life or their habitats are either rare or especially valuable because of their nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments."

The proposed project is located on Little Cayucos Creek. In this case, ESHA exists as the riparian corridor on either side of the creek. This corridor is generally wider than the bank-to-bank area of the creek. In Figure 1 below, the extent of ESHA on the site can be clearly seen as the upland edge of the riparian corridor.

Figure 1



This site on Little Cayucos Creek has a specific riparian setback in the Estero Area Plan. According to Table 7-2 (Coastal Stream Setbacks) in the Estero Area Plan, Little Cayucos Creek has a special setback for new development of 20 feet. Other creeks in the urban area have development setbacks ranging from 20 feet to 50 feet.

The appellant points out the Coastal Zone Land Use Ordinance (CZLUO) has a requirement to maintain a 50 foot setback from riparian corridors in urban areas (Section 23.07.170). The appellant also points out that ESHA Policy 4 addresses subdivisions in ESHA and requires 50 foot development setback for urban streams.

The appellant's assertion that the project is inconsistent with Policy 4 is not correct for two reasons:

1. The ESHA setback in the Planning Area standard of 20 feet takes precedence over the ESHA Policy and over the CZLUO ESHA setbacks or 50 feet; and

2. A close reading of the policy shows that ESHA is not being subdivided so that the project is not subject to Policy 4.

The relationship between policies (Coastal Policy Document) Coastal Zone Land Use Ordinance (CZLUO) and Area Plan standards (Estero Area Plan) is described below in Nos. 5 and 6 from the Coastal Policy Document:

Relationship of the Land Use Element, Local Coastal Plan Policy Document, and Coastal Zone Land Use Ordinance: The LCP Policy Document is part of the Local Coastal Program and Land Use Element. Many of the policies include programs and standards. Some of the policies have been implemented in the CZLUO and planning areas standards. The following procedures shall be utilized in implementing the policies:

5. When a planning area standard conflicts with a policy, the planning area standard shall prevail.
6. When a planning area standard conflicts with an ordinance section, the planning area standard shall prevail.

In the case of this site, the planning area standards of the Cayucos Area Plan requires a 20 foot riparian setback for projects along Little Cayucos Creek in lieu of the CZLUO's 50 foot requirement.

Figure 2



Figure 2 above shows the area of ESHA (riparian corridor), ESHA structural setback and ESHA grading setback on the site. Structures are setback 20 feet from ESHA as required by the Planning Area Standard. All of the land area within the ESHA designation plus the 20 foot setback area outside of ESHA are all part of an open space parcel. Policy 4c noted above states:

c. Land divisions: No division of a parcel containing an Environmentally Sensitive Habitat shall be permitted unless all proposed building sites are located entirely outside of the applicable minimum setback required by Sections 23.07.172 through 23.07.178. Such building sites shall be designated on the recorded subdivision map.

All buildable areas of the site are located outside of ESHA and outside the Planning Area Standard required 20 foot setback as required by Policy 4c above (see Figure 2).

The project is also subject to a special ESHA setback of 50 feet for grading from upland edge of the riparian vegetation pursuant to CZLUO Section 23.05.034. Figure 2 shows this 50 foot grading setback. The grading setback is separate from the 20 foot structural setback. The project complies with this standard.

OTHER AGENCY INVOLVEMENT/IMPACT

The project was referred to Public Works, Environmental Health, Cayucos Fire Department, Cayucos Sanitary District, California Department of Fish and Wildlife, and the Cayucos Citizens Advisory Committee (CCAC).

In addition, County Counsel has reviewed and approved the attached Resolution with findings and conditions.

FINANCIAL CONSIDERATIONS

This project is in the coastal zone and is not subject to an appeal fee. This appeal was processed using department allocated general fund support.

RESULTS

Affirming the Planning Commission's decision and denying the appeal will mean the Tentative Tract Map and Development Plan/Coastal Development Permit (SUB2015-0001/Tract 3074) is approved.

Upholding the appeal would mean the Planning Commission's approval of Tentative Tract Map and Development Plan/Coastal Development Permit (SUB2015-0001/Tract 3074) would be overturned and result in the project being denied. The project is appealable to the Coastal Commission.

This hearing is consistent with communitywide results of encouraging a safe, healthy, and livable community.

ATTACHMENTS

1. Attachment 1 - Board of Supervisors Resolution
2. Attachment 2 - Eileen Roach Appeal Letter
3. Attachment 3 - Planning Commission Resolution
4. Attachment 4 - Approved Tentative Map
5. Attachment 5 - May 26, 2016 Planning Commission minutes
6. Attachment 6 - May 26, 2016 Planning Commission Staff Report
7. Attachment 7 - March 24, 2016 Planning Commission Minutes
8. Attachment 8 - March 24, 2016 Planning Commission Staff Report