

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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W16a



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Staff: SM-SC
Staff report prepared: 8/20/2003
Hearing date: 9/10/2003
Hearing item number: W16a

APPEAL STAFF REPORT
SUBSTANTIAL ISSUE DETERMINATION

Appeal number.....A-3-MCO-03-082, Moss Landing Harbor District RV Park Expansion
Applicants.....Moss Landing Harbor District (MLHD)
AppellantCommissioners Wan and Reilly
Local governmentMonterey County
Local decision.....Approved with conditions on July 9, 2003
Project location.....7881 Sandholdt Road, Moss Landing Harbor, Monterey County.
Project description.....Approximately 0.4 acre expansion of Recreational Vehicle (RV) Park, including 12 new RV spaces, utility extensions, manager’s residence, office/activities room, four new restrooms and showers, laundry room expansion, and approximately 200 cubic yards of grading.
File documents.....Monterey County Certified Local Coastal Program (LCP); Monterey County Coastal Development Permit PLN010264.
Staff recommendationSubstantial Issue

I. Recommended Findings and Declarations for Substantial Issue:

Monterey County’s approval of a Coastal Development Permit for the expansion of an existing RV Park in Moss Landing Harbor (project location and plans attached as Exhibit 1) has been appealed to the Coastal Commission on the basis that the loss of the harbor storage currently occupying the area is inconsistent with LCP policies identifying the need for, and location of, harbor storage space (Policies 5.2.1.H.3 and 5.3.3.4). The appeal further asserts that the local permit condition requiring the establishment of a temporary replacement storage area does not adequately address LCP requirements, because significant issues regarding the size and location of the replacement facility remain outstanding. Thus, the condition does not effectively ensure that the temporary replacement facility will provide adequate harbor storage, in a manner that protects the area’s scenic and natural resources. The submitted reasons for appeal are attached to this report as Exhibit 2.

Staff recommends that the Commission determine that the appeal raises a substantial issue regarding the project’s conformance to the Monterey County certified LCP. The North County Land Use Plan (NCLUP) specifically identifies the need for dry storage within Moss Landing Harbor, and states that such



California Coastal Commission
September 2003 Meeting in Eureka

Staff: S. Monowitz Approved by:

Appeal A-3-MCO-03-082
MLHD RV Park Expansion
Substantial Issue Staff Report
Page 2

facilities should be provided near the Harbor District office (i.e., in the area proposed for RV expansion) if space constraints prevent the establishment of storage areas south of Sandholdt Road Bridge. (Please see text of LUP Policies 5.2.1.H.3 and 5.3.3.4, attached to this report as Exhibit 3.) Storage areas have not been established south of the bridge, nor has a constraints analysis been conducted. Rather, it appears unlikely that an equivalent storage facility to that which has been removed by the RV Park could be established south of the bridge consistent with wetland setback requirements. Allowing the removal of the storage area near the Harbor District office prior to providing adequate replacement storage either south of the bridge, or elsewhere in the Harbor via LCP amendment, is inconsistent with these policies and raises a substantial issue.

Monterey County attempted to address this problem by requiring the Harbor District to provide a temporary location for dry storage, subject to permit approval, prior to the issuance of grading and building permits for the RV Park expansion. (County Findings and Conditions of Approval attached as Exhibit 4.) The condition states that the temporary facility must be sized to accommodate items in the current storage area, sited to have no significant effect on the environment (e.g., wetlands), and available for harbor storage until the Harbor District receives County approval for a permanent storage area. Although well intentioned, this condition does not resolve significant coastal resource issues associated with an adequately sized and appropriately sited replacement facility. Resource constraints such as wetlands and scenic corridors, combined with limited upland space available to provide convenient storage, must be addressed before it can be determined whether removal of the existing storage area is consistent with the LCP. As a result, the County's approval of an RV expansion in the harbor storage area designated by the LCP is premature, and raises a substantial issue regarding development priorities for Moss Landing Harbor established by the LCP.

II. Recommended Motion and Resolution

MOTION:

*I move that the Commission determine that Appeal No. A-3-MCO-03-082 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.



Appeal A-3-MCO-03-082
MLHD RV Park Expansion
Substantial Issue Staff Report
Page 3

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-3-MCO-03-082 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

III. Appeal Procedures:

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) 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 tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because it is between the first public road and the sea.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified LCP or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo coastal development permit hearing on an appealed project unless a majority of the Commission finds that “no substantial issue” is raised by such allegations. Under Section 30604(b), if the Commission conducts a de novo hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is located between the first public road and the sea and thus, this additional finding would need to be made in a de novo review in this case.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo stage of an appeal.

