



AGENDA NO: B-1
MEETING DATE: June 19, 2018

Staff Report

TO: Planning Commissioners

DATE: June 19, 2018

FROM: Nancy Hubbard, Contract Planner

SUBJECT: Continued review from January 3, 2017, for Coastal Development Permit (CP0-500), Conditional Use Permit (UP0-440) together with the updated (February 2018) Mitigated Negative Declaration for demolition and removal of tanks, piping, pump equipment, tank foundations and shotcrete at 3300 Panorama. A portion of the project is within the Coastal Commission Appeals Jurisdiction.

RECOMMENDATION:

CONDITIONALLY APPROVE THE PROJECT by adopting Planning Commission Resolution 15-18 which includes findings for CP0-500, UP0-440 and adoption of the February 2018 Mitigated Negative Declaration with conditions and mitigation measures for approval of the project.

APPLICANT: Chris Mathys, agent for owners, Rhine L.P. and CVI Group, LLC

ADDRESS/APN: 3300 Panorama Drive / 065-038-001

PROJECT DESCRIPTION:

The project application is for demolition and removal of two large fuel tanks, one water tank, and removal or decommission of all associated pumps and piping. The scope of work also includes the removal of the concrete foundations beneath the tanks and the shotcrete on the berms. Some grading will be necessary to provide equipment access through the 15-20-foot high berms to the area of the work. The work is anticipated to take approximately up to 3 months and given the work timeline restrictions related to sensitive areas, the work will likely take place between August and the end of November. (See also Project Timelines)

SUMMARY OF PUBLIC PROCESS TO DATE:

The applicant originally submitted for a CDP and CUP in February 2016. There have been 4 public hearings to date:

- September 6, 2016 – Continued to a date uncertain
- October 4, 2016 – applicant requested continuance to meet with neighbors
- December 6, 2016 – discussion/no action hearing
- January 3, 2017 – Continued to a date uncertain.

All four Planning Commission Hearings provided an opportunity for public testimony and extensive discussion between Planning Commission, staff and the applicant team. The applicant also held a neighborhood meeting in October 2017 to discuss the project with the public.

PERMITTING PROCESS REQUIRED:

The applicants have applied for a Coastal Development Permit and Conditional Use Permit. The Coastal Development Permit is required pursuant to Zoning Ordinance subsection 17.12.199 which includes demolition in the definition of development. Subject to the provisions of Chapter 17.58 *Coastal Development Permits and Procedures*, development in the coastal zone, which is not exempt from permitting or allowed with an administrative permit, requires a regular coastal development permit. Approval of a coastal development permit requires a finding of consistency with the certified local coastal program. The site is also located within a Planned Development (PD) area and as such requires approval of a conditional use permit.

In addition to the planning permits described above, the project will also require permits, approval or participation agreements from the following agencies prior to the start of any work on the site:

- City of Morro Bay – Demolition Permit
- Environmental Health Division of the County of SLO Public Health Department - Hazardous Materials Storage Tank Closure Permit
- SLO Air Pollution Control District
- U.S. Fish and Wildlife Service
- Regional Water Quality Control Board
- California Department of Toxic Substances Control
- California Department of Fish and Wildlife

To meet the requirements of the participating agencies, the applicant created a team of professionals to provide research, conduct studies and create a demolition plan that they believe addresses the requirements and concerns of the public and the involved agencies. The team includes the following firms, several of which have extensive experience with decommission and demolition of gas and oil tanks.

- Bedford Enterprises and Demolition, Santa Maria (Demo contractor)
- Terra-Verde Environmental, SLO (Biologist)
- Albion Environmental, SLO (Archaeological)
- Geo-Solutions, SLO (Geotechnical/dust mitigation)
- Diversified Project Services, SLO (Civil/Transportation Engineering)
- Analytical Consulting Group, Ventura (Industrial Hygienist)
- KM Acoustic Studies, SLO (Noise Studies)
- Greenvale Tree Company, SLO (Arborist)

PROJECT SETTING: The 10-acre project site is located at 3300 Panorama Drive, at the northeast corner of the City of Morro Bay (refer to Aerial below). The site was previously used by the Department of the Navy for jet fuel storage and distribution. The site is surrounded by single-family residential development and vacant agricultural land outside City limits.



The site is within the R-1/PD/ESH zoning district (Single-Family Residential / Planned Development / Environmentally Sensitive Habitat) and designated by the General Plan and Coastal Land Use Plan (CLUP) as Medium Density Residential / Planned Development. The site includes an ESH area surrounding a blue line stream on the United States Geologic Survey maps. The stream corridor and 100 feet on either side are in the Coastal Commission’s Appeals Jurisdiction.

Site Characteristics	
Project Site Area	Approximately 10 acres
Approximate ESH Area	Approximately .68 acres of ESHA plus .95 acres if a 50-foot buffer requirement is determined appropriate.
Existing Condition	Decommissioned U.S. Navy Jet Fuel Facility
Terrain	Hillside, formerly graded to accommodate tanks and bermed containment areas
Vegetation	Non-native grassland, some riparian vegetation
Access	Panorama at Sicily and Tahiti Streets

General Plan, Zoning Ordinance, & Local Coastal Plan Designations	
General Plan/Coastal Plan Land Use Designation	Medium Density Residential/Planned Development
Base Zone District	R-1/Single Family Residential
Zoning Overlay District	PD/Planned Development and ESH (stream corridor area)
Coastal Zone	ESH area is located inside the Coastal Appeals Jurisdiction

PROJECT DISCUSSION:

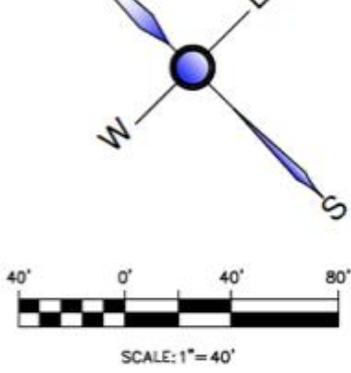
Background

The Estero Bay Defense Fuel Support Point, constructed by the Navy in the early 1960's, included an offshore tanker mooring point with a ½-mile long 16" diameter pipeline to shore, a .35-mile pipeline from the shore to the tank station at 3300 Panorama with on-site tanks and equipment, and a 98-mile long 6" pipeline from the tank site to the Lemoore Naval Air Station. The facility was closed in 1991. In 1992, the offshore mooring and undersea pipeline were removed and the fuel tanks and pipeline to Lemoore were cleared of fuel. The tank site was investigated and monitored over a period of 5 years for soil and groundwater pollution by jet fuel hydrocarbons.

In 1996 the Regional Water Quality Control Board and the California Department of Toxic Substances Control (DTSC) determined that the monitoring could cease and any remaining soil and groundwater contamination would continue to naturally biodegrade. The determination concluded that the site would not pose a health risk to any receptors under its use as a shuttered facility. In 2006, the property was declared surplus by the General Services Agency and in 2012, it was sold to the present owners / project applicants.

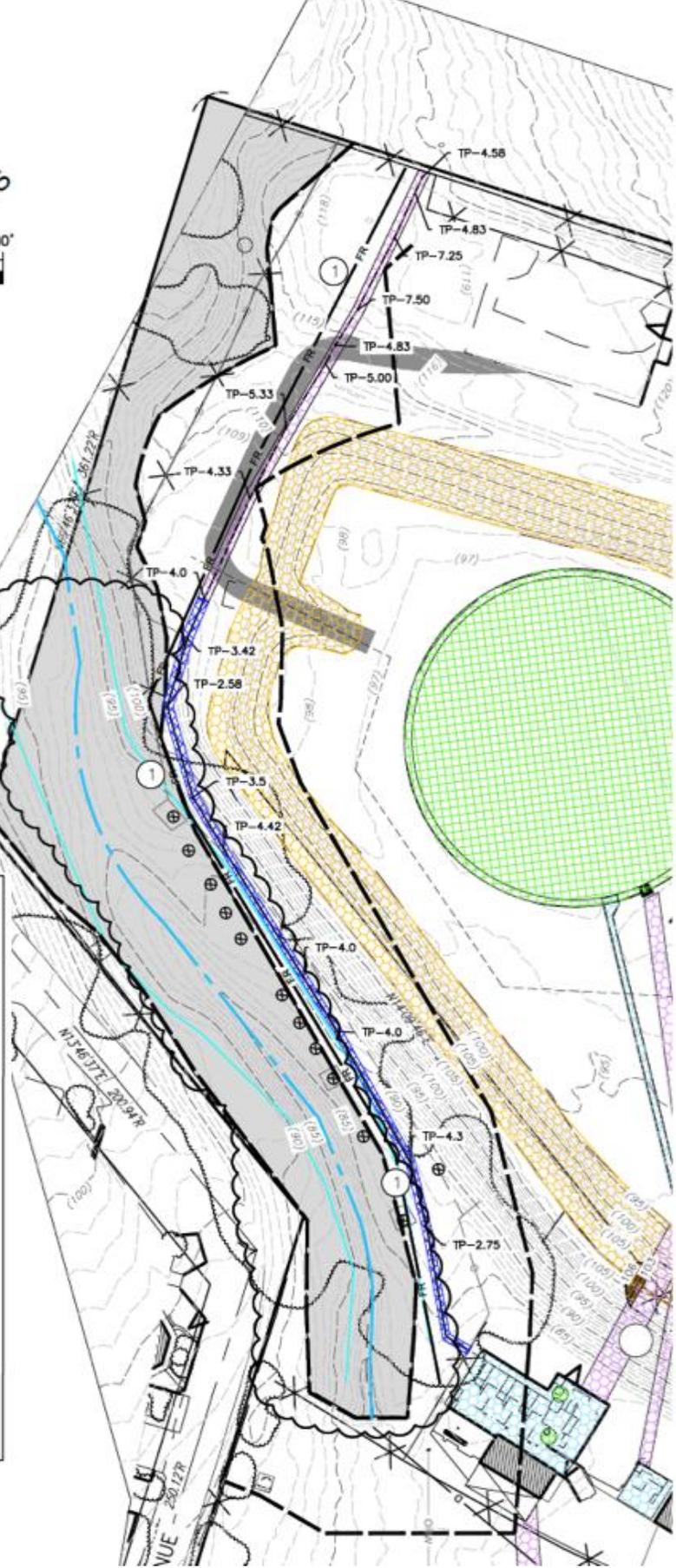
Environmentally Sensitive Habitat Overlay

The project site has an Environmentally Sensitive Habitat (ESH) Overlay designation along a coastal drainage at the northwest boundary of the site, shown on the United States Geological Survey Map as a blue-line stream. The environmentally sensitive habitat area is comprised of the stream channel and areas of adjacent riparian vegetation, collectively called the "stream corridor" and referred to as ESHA in the Mitigated Negative Declaration. A buffer area (typically 25 to 50 feet) is required along stream corridors in urban areas (Zoning Ordinance Section 17.40.040). The ESHA was mapped and staked by the Biologist to create a more precise determination of the ESHA and the related possible 50-foot buffer area recommended. Note that some of the necessary demolition construction, such as decommission and removal of the pipeline along the ESHA as well as use of the existing access road to the concrete foundation east of the bermed area, will occur within the 50-foot buffer at the northeasterly portion of the recommended buffer, but the intrusion will be short term and monitored during the duration to insure minimal impact. Following the work in that area, the fencing will be completed and no further intrusion in that area will occur. See ESHA map below.



LEGEND:

DEMO TANKS AND CONCRETE RING	
DEMO PIPING (ABOVE GROUND)	
DEMO PIPING (UNDER GROUND) AND ADD HYDROSEED. SEE DEMO NOTE 2, THIS SHEET	
DEMO BERM AND ADD HYDROSEED. SEE DEMO NOTE 2, THIS SHEET	
DEMO SHOT-CRETE AND ADD HYDROSEED. SEE DEMO NOTE 2, THIS SHEET	
ABANDON PIPELINE IN PLACE	
PATH OF TRAVEL FOR DEMO OF CONCRETE SLAB	
ESHA AREA	
FIBER ROLL	
ESHA FENCING	
FEMA 100-YEAR FLOOD ELEVATION	
CREEK CENTERLINE	



ENVIRONMENTAL DETERMINATION:

On February 28, 2018, the 30-day public review period began for the second Mitigated Negative Declaration (MND) of Environmental Impact (SCH#2016081001) prepared for this project; the first was dated July 2016. The February 2018 MND identifies potentially significant impacts associated with Air Quality, Biological Resources, Cultural Resources, Geology/Soils, Hazards/Hazardous Materials, Hydrology/Water Quality, Noise, and Transportation/Circulation. The MND recommends mitigation measures that, when incorporated into the project, reduce potential impacts to a less than significant level. The full text of the February 2018 MND is attached as Exhibit C and available on line at http://www.morrobay.ca.us/DocumentCenter/View/11541/Panorama-MND_Final_02_09_18.

July 2016 IS/MND: The initial IS/MND was prepared in July 2016 and circulated for public comment. Since that time, the project description has been revised to include removal of the concrete foundations beneath the two large tanks as well as the shotcrete on the berms surrounding the containment basins for each tank. The IS/MND was revised and updated to reflect changes in project scope and updates to technical reports resulting in recirculation of the document through the State Clearinghouse. For a comparison of the changes as reflected in the MND, please see the table on pages 18-20 of the February 2018 IS/MND (Exhibit C).

Mitigation Measures: Attachment 1 to the resolution for approval (Exhibit A) lists project mitigation measures and monitoring requirements pursuant to the February 2018 IS/MND. Mitigation measures reflected in the February 2018 IS/MND reflect previous Planning Commission direction and concerns expressed by members of the public.

SPECIFIC PROJECT CONCERNS:

The following is a summary of concerns addressed in the IS/MND as well as those voiced by the Planning Commission and the public in prior public hearings:

➤ Project Phasing:

The project will be phased by virtue of the testing requirements and the segregation of materials to be hauled off the site for disposal or recycle. Following removal of the metal materials (tank, piping, pumps), the soil beneath these components will be tested prior to removal of the concrete foundations. The basis of the test results will dictate if the project can continue to the next phase – removal of the concrete foundations and shotcrete along the berms, or follow soil remediation and/or removal recommendations. There will be further review of the site conditions upon removal of the concrete components and again, the contractor will follow the recommendations to comply with the permit requirements. The final stage of the work will be finish grading, erosion control, tree planting and seeding, and if this occurs between October 15 and April 15, they will have additional erosion control measures to implement.

➤ Insurance and Bonding

The public and the Planning Commission expressed concern regarding the liability for damage to the residential property in the area and along the truck routes and the City and Applicant have agreed to liability insurance requirement of \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The Applicant shall also maintain an all-risk public liability insurance policy written on a per occurrence basis (i.e. not claims made) in a combined single limit of \$5,000,000 in which the

City is named as an insured.

The City and the Applicant have also agreed that the applicant will provide a payment and performance bond in an amount equal to 150% of the estimated cost of the work. The bond will be in favor of the City and if there should be a work stoppage for more than 14 days, not caused by the City or weather related delays, the City may provide written notice to applicant to resume work, and the Applicant will have 5 days from receipt of the written notice to resume the work, or the City may make a claim against the bond. Legal actions may cause a tolling of the time periods. If there are unforeseen conditions that cause the cost of the remaining work to be greater than the coverage of the surety bond, the City will have the right to lien the property.

➤ **Erosion/Storm Water Management/ Geology and Soils**

The project is required to meet the erosion control measures including a Stormwater Pollution Prevention Plan (for project over 1 acre) through the State Water Resources Control Board. If the project is commencing land disturbance activities between October 15 and April 15, it will be subject to additional erosion control measures, and additional inspections. See also Mitigation Measure BR-4 for site management during demolition activities.

➤ **Noise:**

Noise from demolition activities will occur over the anticipated 3 months of construction activities. The contractor plans to have workers remove the metal (and later demo the concrete) for a day or two until they have a stockpile ready to haul off the site. They will work from the top of the tanks down, with the debris falling to the center of each tank. The tank and the berm will create some sound buffer. Once there is enough material to haul away, the trucks will come in and the workers will load the trucks with the materials to be hauled away. Depending on the amount of time to load the trucks, they may make only 1-2 trips per day. As such, there should not be continuous truck activities, but rather a rotation of work on site followed by loading trucks and hauling materials away. The MND Mitigation Measure N-1 limits the use of metal cutting shears, saws and other equipment that produces sound at a level greater than 60 dB to weekdays between 8:00am until 4:00 pm. Operation of trucks or vehicles greater than 10,000 in gross weight on the site or on public streets shall be limited to Monday through Friday between 8am and 5:30pm. Typical construction hours are 7am to 7pm. To ensure that the sound levels generated are within safe limits at and beyond the property boundary, Mitigation Measure N-2 requires the contractor to monitor noise levels during construction as well as implement noise reduction measures as necessary.

➤ **Air Quality:**

The Air Pollution Control District reviewed the project application and determined that the project, even with the additional work of concrete removal, is unlikely to exceed the APCD's air quality thresholds. In response to concerns regarding air quality impacts, the Applicant will follow a monitoring protocol for dust, lead, asbestos and Jet Fuel Hydrocarbons that includes visual observations at the point of disturbance by a member of the Industrial Hygienist's staff with the authority to make modifications in the work to avoid any contaminants from traveling outside of the immediate area. Additionally, there will be air sample monitoring locations along the perimeter of the site. See Mitigation Measure AQ7.

trips if time permits. Trucks will be staggered based on load times.

For the concrete loads, it will be similar in that trucks will only be called on site when there are enough materials to haul off. Concrete loading time is less than scrap metal, so there may be more trucks depending on the quantity of materials ready to haul. There may be 1-2 days of prep between the truck hauling days.

The first truck is a roll-off, three-axle with 10 wheels. Similar in size & weight to garbage trucks. The containers can be left on site to fill with material until they are ready to transport the materials off-site. This truck can also have a trailer with a second container, adding 2 more axles and 8 tires. Smaller loads (pump demo material) can be hauled effectively in the roll-off.



There are 2 types of 5 axle end-dump truck/trailers, both with 5 axles and 18 wheels. The high-sided end-dumps would be used for hauling scrap metal. These trucks can carry more material, requiring fewer trips. The low-sided end-dump truck/trailer would be used for concrete debris.



➤ **Biological Resources:**

The Applicant's Arborist provided an analysis of the existing trees and recommended removal of 6 trees that were either in poor condition or too close to the area of the tank removal to survive, plus recommendation for removal of an additional 7 trees that were diseased or dying. The 5 trees closest to the tanks identified for removal were 4 Monterey cypress trees and one large Myoporum shrub. The Applicant removed five of the trees in 2017 without a permit. See photo below for the location of the trees removed.



Mitigation measure BR-7 requires replacement planting at a minimum 2:1 ratio for trees removed for this project, as recommended by the arborist. Unpermitted tree removal outside of the ESH must be replaced with 15 gallon trees at a 2:1 ratio. Unpermitted tree removal within the ESH must be replaced with 15 gallon trees at a ratio of 5:1. (Major Vegetation Guidelines). Replacement planting for trees within the ESH is 3:1 for 5 gallon or 2:1 for 15 gallon size trees. The new trees shall be watered and managed for a 3 year period, followed by a letter confirming the watering and protection. These measures shall be incorporated into a Tree Restoration Plan as part of the Demo permit submittal.

There are also significant biological concerns on this site related to habitat, riparian habitat, wetlands (stream), fish and wildlife corridors and wildlife nursery sites. A primary concern was previous lack of clarity regarding the determination of the ESHA boundaries. The ESHA has since been clearly delineated and mapped to provide an accurate depiction on the Demolition Plan and provide guidance for determination of the buffer area and management of work that may need to occur within the buffer area (pipe removal/decommissioning and concrete foundation removal). Mitigation Measure BR-4 addresses the detailed requirements to fence and protect the ESHA during construction. A *Biological Assessment Letter Report and Monitoring Plan* (Terra Verde August, 2016) was prepared outlining required awareness training for on-site workers and areas to be surveyed, protected, and monitored in compliance with recommended environmental mitigation measures BR-1 through BR-7 in the MND. The updated topographic map and ESHA boundary

➤ **Hazardous Materials Monitoring:**

The tanks and pipelines were cleared of jet fuel in 1991 as part of the facility closure. Based on the *Risk-Based Closure Report* (Fluor Daniel GTI 1996) completed prior to the closure of the facility, hydrocarbons and benzene were identified in soil and groundwater samples. The report notes that the “distribution of hydrocarbons in the impacted groundwater has been monitored since 1991” and “data from the installation and monitoring of the wells indicates a rapid decrease in dissolved hydrocarbon concentrations downgradient from source areas, and relatively stable dissolved hydrocarbon concentrations near source areas.”

The report concluded that the impacts to potential groundwater receptors of hydrocarbons in groundwater migrating from the project site are considered negligible. Based on this report, the Department of Toxic Substances Control (DTSC) and the Regional Water Quality Control Board concurred that contamination left at the site does not pose a threat to the public health or the environment, and the site was delisted in June 1997. No further action was identified, as no further development was proposed at that time. The DTSC acknowledged that when the site is converted to residential use it should be reassessed for the presence of contaminants and the need for any additional remediation.

Where demolition is likely to disturb areas of previously documented hydrocarbon contamination, soils will be tested prior to beginning demolition activities in compliance with required Air Pollution Control District (APCD) permitting. The applicant is required to obtain an APCD Permit to Operate to address proper management of hydrocarbon contaminated soil before the start of any earthwork that may encounter subsurface contamination, in order to mitigate potential health and environmental hazards related to possible exposure. This permit will include conditions to minimize emissions from any excavation, disposal, or related process. The project must also comply with existing regulations regarding the handling and disposal of materials and soils containing, or potentially containing, lead and asbestos (both naturally occurring and demolition related).

Prior to issuance of a demolition permit the project must also meet stringent requirements for a Tank System Closure Permit from County Environmental Health. Among other things, the applicant must provide approved certification documents indicating the tanks and pipelines have been properly cleaned and rendered safe. The applicant is also required to do environmental sampling and have an approved Hazardous Waste Management Plan and Site Safety Plan. Plans are subject to approval by both the County Environmental Health Department and the City of Morro Bay Fire Department. Before demolition activities begin, fuel pipelines to and from the property will be sealed and inspected by County Environmental Health and City Fire Department personnel.

Potential airborne hazardous substances and related Mitigation Measures are also addressed in the discussion on Air Quality.

PROJECT TIMELINE RESTRICTIONS:

If the CUP, CDP and MND and related conditions and mitigation measures are approved by the Planning Commission, the applicant will complete all other permit requirements with the goal to

start the work late Summer 2018. For example, if the work was able to begin on August 15, the estimated completion date would be November 15, 2018. The following are the regulatory timeframes that will need to be considered in the various jurisdictional permits required:

- MBMC Section 12.08.070 – No tree trimming or tree removal during nesting season unless approved by the Community Development Director. Nesting Season: Feb 1 – June 30.
- FISH AND WILDLIFE: No demo, removal or earthwork during nesting season (Feb 1 to September 15) unless a Biologist determines that there are no active nests of sensitive species on the site. If nests are found (sensitive or non-sensitive species), the Biologist will determine an appropriate buffer and mitigation measures in consultation with the CA and US Fish and Wildlife Agencies.
- RAINY SEASON: October 31 to April 1. The Coastal Land Use Plan Policy 9.07 provides restrictions during this timeframe for hillside grading as well as grading with the potential for causing significant erosion or sedimentation of water bodies. SLO County identifies the rainy season as between October 15 to April 15 and grading and earthwork is not prohibited during this time, but requires more erosion control measures and an increased amount of inspections and monitoring. This will be further reviewed upon submittal of the plans for a demolition permit and possibly conditioned with additional measures in the event the work extends past October 31.

CONCLUSION:

The project is consistent with the General Plan and Local Coastal Program because, as conditioned, the demolitions will not have any substantial adverse effect on the environment or coastal resources. Furthermore, the demolition is consistent with the site's residential zoning as a first step in the potential transition from previous military use to civilian use. As conditioned, the project is also consistent with the stated goals of the zoning ordinance to promote the growth of the City in an orderly manner and to promote public health, safety and general welfare.

PUBLIC HEARING NOTICE:

Notice of a public hearing on this item was published in the San Luis Obispo Tribune newspaper on June 8, 2018, and all property owners and occupants of record within 1,000 feet of the project site were notified of the scheduled public hearing and invited to voice any concerns on this application. The project site was also posted with two public notice signs.

RECOMMENDATION:

Staff recommends the Planning Commission approve the requested Coastal Development Permit CP0-500 and Conditional Use Permit UP0-440 for the proposed demolition of tanks and associated pumps, piping, and concrete at 3300 Panorama Drive, as depicted in the demolition site plan submitted to the City on May 9, 2018, by adopting Planning Commission Resolution 15-18 which includes the Findings for adoption of the Mitigated Negative Declaration and Findings, Mitigation Measures, and Conditions of Approval for the project.

EXHIBITS:

Exhibit A: Planning Commission Resolution 15-18 including Attachment A *Mitigation and Monitoring Program*

Exhibit B: Demolition Site Plan

Exhibit C: Mitigated Negative Declaration

Exhibit D: Response to Comments on the Circulated IS/MND

Planning Commissioner packets include:

Full-sized plans