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STATE OF CALIFORNIA -- THE NATURAL RESOURCES AGENCY

## CALIFORNIA COASTAL COMMISSION

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## STAFF REPORT: APPEAL SUBSTANTIAL ISSUE DETERMINATION AND DE NOVO REVIEW

**LOCAL GOVERNMENT:** County of Santa Barbara  
**LOCAL DECISION:** Approval with Conditions  
**APPEAL NO.:** A-4-STB-09-009  
**APPLICANT:** D 3 Partners, LLC  
**APPELLANTS:** Commissioners Mary Shallenberger and Sara Wan  
**PROJECT LOCATION:** 6533 Trigo Road, Isla Vista (Santa Barbara County) (APNs 075-173-003 and -026)

**PROJECT DESCRIPTION:** Demolish a 893 sq. ft. service station and construct a 31,507 sq. ft. (net)/ 47,853 sq. ft. (gross) four-story 51 ft. high mixed-use development project including: 45 residential units, 8 of which will be affordable housing units, 2 commercial units, 22 on-site parking spaces, 19 off-site parking spaces, 49 secured bicycle parking spaces, and right-of-way encroachments along Trigo Road and Embarcadero del Norte for commercial door-swings, commercial outdoor seating, and building canopies at 6533 Trigo Road, Isla Vista, Santa Barbara County.

## SUMMARY OF STAFF RECOMMENDATION: SUBSTANTIAL ISSUE EXISTS AND DENIAL OF DE NOVO COASTAL DEVELOPMENT PERMIT

**PART 1:** Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal has been filed. The **motion** and **resolution** for a "substantial issue" finding are found on **page 5**. The appellants contend that the approved project is not consistent with policies and provisions of the certified Implementation Plan and applicable policies of the Land Use Plan and Coastal Act regarding community character, visual resources, public access, and recreation. The standard of review at this stage of an appeal requires the Commission to determine whether the project, as approved, raises a substantial issue with respect to its conformity to the standards set forth in the certified Local Coastal Program or the public access policies of the Coastal Act that the appellants raise in their appeal (see Page 9 for criteria).

**PART 2:** Staff recommends that the Commission proceed directly to its *de novo* review of the coastal development permit application and that it **deny** the application for the proposed mixed use project. The **motion** and **resolution** for denial of this project is on **page 6** of the staff report.

The standard of review for the proposed project is the certified County of Santa Barbara Local Coastal Program. Additionally, all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified LCP as guiding policies pursuant to Policy 1-1 of the LUP. The proposed project is not consistent with the certified LCP zoning ordinance because the site is designated for commercial uses, however the proposed project is primarily residential in form and function, with the residential area (26,265 sq. ft) representing approximately 85% of the total and the area designated for commercial uses (4,661 sq. ft.) representing approximately 15% of the total area. Additionally, the project does not satisfy parking requirements of the C-2 zone district, and does not meet the height and setback requirements for the C-2 zoning designation. Further, the project approved by the County would not conform to the policies and provisions of the LCP or the Coastal Act with regard to public access and recreation, or visual resources and community character. Findings for the permit denial can be found on page 26 of this report.

**STAFF NOTE:**

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. Since the staff is recommending substantial issue, unless there is a motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the de novo portion of the appeal hearing on the merits of the project will be held.

It takes a majority of Commissioners present to find that no substantial issue is raised. The only persons qualified to testify before the Commission on the substantial issue question are the applicant, appellant, and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

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## **EXHIBITS**

**Exhibit 1.** Santa Barbara County Final Local Action Notice, December 15, 2008  
(Including revisions to conditions, attachments A-E, and Coastal Development Permit and Conditions)

**Exhibit 2.** Appeal and Notification of Appeal

**Exhibit 3.** Vicinity Map and Project Plans

**Exhibit 4.** Ex-Parte Communication Disclosure from Commissioner Wan

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**SUBSTANTIVE FILE DOCUMENTS:** County of Santa Barbara Local Coastal Program; County of Santa Barbara Notice of Final Action on CDP No. 08CDP-00000-00173 (County Board approval dated December 3, 2008) (Includes: Attachment A, Findings; Attachment B, California Environmental Quality Act (CEQA) Notice of Exemption, 12/3/08; Attachment C, Tract Map Conditions of Approval; Attachment D, Development Plan Conditions of Approval; Attachment E, Conditions of Approval for Conditional Use Permit; Coastal Development Permit, Case No. 08-CDP-00000-00173 w/Attachment A, CDP Conditions of Approval); Santa Barbara County Planning Commission Coastal Zone Staff Report for The Loop Mixed Use Building, dated November 14, 2009.

## **I. APPEAL PROCEDURES**

### **A. APPEAL JURISDICTION**

Under Section 30603 of the Coastal Act, local government approvals of coastal development permits may be appealed to the Commission if the development authorized would be located within the appealable areas, such as the area between the sea and the first public road paralleling the sea, 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, whichever is greater, on state tidelands, or along or within 100 feet of any wetland, estuary, or

stream. Further, any development approved by a coastal county that is not designated as the principal permitted use within a zoning district may also be appealed to the Commission, irrespective of its geographic location within the coastal zone. Finally, any local government action on a proposal for development that constitutes major public works or major energy facilities may also be appealed to the Commission.

In this case, the County of Santa Barbara's final local action is appealable to the Commission pursuant to Section 30603(a)(4). The project is located in Isla Vista, a community of unincorporated Santa Barbara County. The subject site is not in the appealable jurisdiction for this area as shown in Post Local Coastal Program (LCP) Certification Permit and Appeal Jurisdiction map certified for the County of Santa Barbara (Adopted November 19, 1982). However, the development approved by the County is not designated as a principal permitted use within the subject zoning district and may, therefore, be appealed to the Commission irrespective of its geographic location within the Coastal Zone (Coastal Act Section 30603[a][4]). If the Commission finds that a substantial issue is raised by the appeal, the entire coastal development permit will be reviewed by the Commission de novo.

## B. APPEAL PROCEDURES

The Coastal Act provides that after certification of Local Coastal Programs, a local government's actions on Coastal Development Permits in certain areas and for certain types of development may be appealed to the Coastal Commission. Local governments must provide notice to the Commission of their coastal permit actions. During a period of 10 working days following Commission receipt of a notice of local permit action for an appealable development, an appeal of the action may be filed with the Commission.

### **1. Grounds for Appeal**

Pursuant to Section 30603(b)(1) of the Coastal Act, the grounds for appeal of development approved by the local government and subject to appeal to the Commission are limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in the Coastal Act (Sections 30210-30214 of the Public Resources Code).

### **2. Substantial Issue Determination**

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed. When Commission staff recommends that no substantial issue exists with respect to the grounds listed for an appeal, the Commission will hear arguments and vote on the issue of whether a substantial issue is raised. The only persons qualified to testify before the Commission at the substantial issue stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. A majority vote of the members of the Commission is required to determine that the Commission will not hear an appeal. If the Commission determines that no substantial issue exists, then the local government's coastal development permit action will be considered final.

### **3. De Novo Review Stage of the Hearing**

Should the Commission find that the appeal does raise a substantial issue, the Commission will consider the permit application *de novo*. The standard of review for the de novo review of the project is whether the proposed development is in conformity with the policies and provisions of the certified Local Coastal Program (LCP). In addition, all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified LCP as guiding policies pursuant to Policy 1-1 of the LUP. If a *de novo* review is conducted as part of the hearing, testimony may be taken from all interested persons.

In this case, should the Commission find the appeal to raise a substantial issue, the Commission may proceed to the *de novo* portion of the hearing on the merits of the project. The staff recommendation on *de novo* review of the project is on Page 6 of this report.

## **C. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL**

Commission staff received a Notice of Final Action for the County's approval of a Coastal Development Permit (08CDP-00000-00173), Tentative Tract Map (08TRM-00000-00004), Development Plan (08DVP-00000-00021), and Conditional Use Permit (08-00000-00033), all of which were issued by the County for the subject development on December 3, 2008. The Notice of Final Action for the project was received by Commission staff on January 12, 2009. A ten working day appeal period was set and notice was provided beginning January 13, 2009, and extending to January 27, 2009.

An appeal of the County's action was filed by Commissioners Sara Wan and Mary Shallenberger during the appeal period, on January 27, 2009. Commission staff notified the County of Santa Barbara, the applicant, and all interested parties that were listed on the appeals. The applicant waived its right, under Section 30621, to require the Commission to act within 49 days of the filing of the appeal, which would have been by March 17, 2009.

## **II. STAFF RECOMMENDATION FOR SUBSTANTIAL ISSUE AND DE NOVO PERMIT:**

### **A. MOTION AND RESOLUTION FOR SUBSTANTIAL ISSUE**

**MOTION:** *I move that the Commission determine that Appeal No. A-4-STB-09-009 raises NO substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.*

### **STAFF RECOMMENDATION:**

Staff recommends a **NO** vote. Following the staff recommendation will result in *de novo* review of 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 by a majority of the Commissioners present.

**RESOLUTION TO FIND SUBSTANTIAL ISSUE:**

The Commission hereby finds that Appeal No. A-4-STB-09-009 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified LCP.

**B. MOTION AND RESOLUTION FOR DE NOVO PERMIT**

Unless the Commission finds that the locally approved coastal development permit at issue in this matter raises No Substantial Issue with respect to the policies of the certified LCP, the Commission must consider the merits of the proposed project de novo. The Commission may approve, approve with conditions (including Conditions different than imposed by the County), or deny the application. The staff recommends that the Commission deny Coastal Development Permit A-4-STB-09-009, which it would do with the following motion.

**MOTION:** *I move that the Commission approve Coastal Development Permit No. A-4-STB-09-009 for the development proposed by the applicant.*

**STAFF RECOMMENDATION OF DENIAL:**

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by a majority of the Commissioners present.

**RESOLUTION TO DENY THE PERMIT:**

The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will not conform with the policies of the County of Santa Barbara certified Local Coastal Program. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the amended development on the environment.

**III. FINDINGS AND DECLARATIONS FOR FINDING  
SUBSTANTIAL ISSUE**

The Commission hereby finds and declares:

## A. PROJECT DESCRIPTION AND BACKGROUND

The final action undertaken by the County is the approval, with conditions, of a Development Plan, Conditional Use Permit, Tract Map and Coastal Development Permit to allow for the demolition of an existing 893 square foot service station building and the construction of a new, approximately 31,507 square foot (net)/47,853 square foot (gross), four-story, mixed-use building at 6533 Trigo Road in Isla Vista. The maximum height of the structure would be 51 feet. The building would include approximately 4,661 square feet (net) of general commercial space divided into two commercial condominiums, as well as 26,265 (net) square feet of residential area comprising 41 studio units, 4 two-bedroom units and a rooftop deck amenity and recreation room. The commercial space would be located on the ground floor and would utilize street frontage and allow for outdoor dining areas. The residential units would be on the upper stories and would range between approximately 400 and 850 square feet. Eight of the residential studio units would result from the County's Inclusionary Housing Program and be made available to residents meeting the County affordable housing requirements for low income residents, or families earning less than 75% of the Median Income. Those units would be income-restricted for 55-years, according to California Community Redevelopment Law. A lot merger is included as part of the project to facilitate construction of the building across the two commonly owned parcels.

The project would seek to obtain a LEED (Leadership in Energy and Environmental Design) rating upon build-out. This includes exceeding Title 24 requirements and innovative building and system designs, including the introduction of pervious paving materials to help reduce impacts to existing storm drain system. A car-sharing program (2 cars) would be provided for building residents to reduce the need for autonomous vehicles including use of the parking space located on the Trigo Road frontage.

Twenty-two (22) residential parking spaces would be provided on-site in the form of tuck-under parking. The project would also include nine (9) residential parking spots and ten (10) commercial spaces at an unidentified location off-site. The County intends to acquire these offsite parking spaces pursuant to the draft IV Master Plan's in Lieu Fee Parking Program, which has not yet been certified by the Commission. These offsite parking spaces could be provided in a surface parking lot which the County may acquire at some unknown point in the future by the Isla Vista Redevelopment Agency (RDA). The RDA is in negotiations with property owner(s) to acquire adjacent vacant lot(s) to be used for public parking in downtown Isla Vista, which would be made partially available for the commercial and residential uses of this project. Additionally, the project would provide forty-nine (49) secured bicycle parking spaces in the public street right of way to serve the public and employees of the commercial spaces. Further the project includes encroachments in the public right-of-way along both Trigo Road and Embarcadero del Norte for commercial door-wings, commercial outdoor seating areas, and building canopies.

Approximately 720 cubic yards of over-excavation and recompaction would be required to prepare the site for development. Construction and project site access will be via Trigo Road and Embarcadero del Norte. Eight existing trees, located both on site and on the adjacent public right-of-way will be removed and replaced with four new trees.

The development is proposed to be served by the Goleta Water District, the Goleta West Sanitary District, and the Santa Barbara County Fire Department.

## BACKGROUND

The subject site is approximately .38 acres (16,520 sq. ft.) and consists of two parcels (APNs 075-173-003 and 075-173-026) located in the southern portion the Isla Vista community that borders the University of California, Santa Barbara. Isla Vista is a seaside residential community, approximately ½ square mile in area, located in an unincorporated area of Santa Barbara County immediately west of the University of California, Santa Barbara and immediately east of the Coal Oil Point Natural Reserve. Development in the community is generally characterized as high-density residential within the majority of the program area with some single-family residential neighborhoods and a small commercial “downtown” district. The subject parcel is in the downtown commercial area of Isla Vista. Under the certified LCP, the land use designation of the subject site is “General Commercial” and the zoning code designation is “Retail Commercial” (C-2). Residential uses are allowed in the C-2 zone district, provided that they are a secondary use. The site is presently used for retail purposes, as a U-Haul moving truck rental center and was formerly used as a gas station and automobile repair facility. Leaking underground fuel tanks were removed from the site in the early 1990's. However, the site is currently contaminated with hydrocarbons and, according to Santa Barbara County, further remediation is necessary before any reconstruction of the site can take place. The surrounding uses include retail commercial businesses, a community park, and Isla Vista Theater to the north, residential rental housing to the south, retail businesses to the east, and a restaurant and parking lot to the south.

## **B. LOCAL PERMIT HISTORY**

### Santa Barbara County Planning Commission Approval

The County Planning Commission approved a Coastal Development Permit (08CDP-00000-00173), Tentative Tract Map (08TRM-00000-00004), Development Plan (08DVP-00000-00021), and Conditional Use Permit (08-00000-00033) for the subject development on December 3, 2008 (**attached as Exhibit 1**). The County ran a local appeal period for ten calendar days following the date of the Planning Commission's decision. No local appeals were filed.

### Pending LCP Amendment to County Code

Article II of the County Code is the existing zoning code that applies to the subject site within the Isla Vista Community. However, an LCP Amendment for the area, the Isla Vista Master Plan (IVMP), was submitted to the Coastal Commission on November 20, 2007, after it was approved by the Santa Barbara County Board of Supervisors on August 21, 2007. This amendment application remains incomplete, as the Commission is awaiting information from the County before the amendment can be processed and

full Commission review can be undertaken. The IVMP, if certified, will modify the zone districts and associated policies and provisions for the Isla Vista community, which includes the project site. The project, as approved by the County, is not consistent with the current zoning and land use plan designations for the subject site. The current zoning for the site is C-2, Commercial and, allows for mixed-use only if the residential portion of the project is secondary, as further described below. Under the IVMP, the zoning is proposed by the County to be changed to CM-40 (Community Mixed Use, 40 units per acre), which could allow the County to approve the proposed mixed-use development on site, which has significantly more residential square footage than commercial.

## C. APPELLANTS' CONTENTIONS

The appeal filed on January 27, 2009 by Commissioner Sara Wan and Commissioner Mary Shallenberger is attached as **Exhibit 2**. The appeal asserts that the mixed-use project is inconsistent with policies and implementation measures of the County of Santa Barbara's Local Coastal Plan because it will be incompatible with the Commercial zoning designation and land use plan designation of the site and LCP policies related to visual resources and community character, and public access and recreation.

The appellants contend that the proposed mixed use project is primarily residential in its present form given that the residential area (26,265 sq. ft) represents approximately 85% of the total project area, and the area designated for commercial uses (4,661 sq. ft.) represents approximately 15% of the total area. Therefore the proposed project does not conform with the site's Retail Commercial (C-2) zoning designation. Additionally, the project does not satisfy parking requirements of the C-2 zone district, and the Density Bonus Program, including associated allowable height and setback variations, does not apply to the C-2 zoning designation.

The appellants further contend that the project, as approved by the County, raises issues with respect to its consistency with the policies and provisions of the LCP relating to visual resources and community character; specifically, Land Use Plan (LUP) Policy 1-1 which incorporates Coastal Act Section 30251 by reference, LUP Policy 3-14, LUP Policy 4-4, and LUR-GV-6. Taken together, these policies require that visual qualities of coastal areas be considered and protected as a resource of public importance; that new development be sited and designed to be visually compatible with the character and scale of surrounding areas; and that development be designed to fit the site conditions. Pursuant to the provisions of the certified LCP, the height of new structures on the project site must be limited to no more than 35 ft.. However, in this case, the size and scale of the proposed building, with reduced setbacks and, at 51 feet tall, would exceed the allowable height restrictions of the LCP and would be significantly greater than the typical height of other buildings, and would be inconsistent with the scale and character of the surrounding community.

The third issue raised by appellants is that the project is not consistent with the policies and provisions of the Coastal Act and certified LCP with regard to protection of coastal access. The appellants cite Coastal Act Sections 30210-30214, Section 30223 of the Coastal Act as incorporated into the certified LCP, Section 30252 of the Coastal Act as

incorporated into the certified LCP, and LUP Policy 7-1. These policies serve to protect coastal access and recreation and outline provisions for new development to maintain and enhance public access to the coast. The ability to gain access to, and use, coastal access areas can be impacted by reductions in the available public parking supply, including on-street parking. In this case, the mixed use project will provide a total of only 22 on-site parking spaces (in addition, 19 off-site spaces may be provided in the future at an unspecified location), whereas the certified LCP requires a total of 109 parking spaces to serve the 45 residential and two commercial units being proposed. The insufficient amount of parking for residential occupants and business patrons can impact the public's ability to access the coast as residents and patrons of the mixed use development utilize the available on-street parking, which in turn reduces the amount of existing on-street parking currently available for public access to the coast. Given the site's proximity to coastal access points, the mixed use project, as approved, is inconsistent with the protection of coastal access.

## D. ANALYSIS OF SUBSTANTIAL ISSUE

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for this stage of the subject appeal is whether a substantial issue exists with respect to the grounds raised by the appellants relative to the project's conformity to the policies contained in the certified LCP.

Based on the findings presented below, the Commission finds that a substantial issue exists with respect to the grounds on which the appeal has been filed. The approved project is not consistent with the policies of the County of Santa Barbara certified LCP for the specific reasons discussed below.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs., title 14, section 13115(b)).

In evaluating the issue of whether the appeals raise a substantial issue, the Commission considers the following factors:

- (1) The degree of factual and legal support for the local government's decision that the development is consistent with the certified LCP;
- (2) The extent and scope of the development as approved by the local government;
- (3) The significance of coastal resources affected by the decision;
- (4) The precedential value of the local government's decision for future interpretation of its LCP; and
- (5) Whether the appeal raises only local issues, or those of regional or statewide significance.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the County raises a substantial issue with regard to the appellants' contentions.

Each issue and LCP Policy raised by the appellants is outlined below. Each issue is then discussed in relation to the degree of factual and legal support provided by the County to support its conclusion that the approved development is consistent with the County of Santa Barbara's certified LCP. Finally, after the discussion of the factual and legal support for the County's conclusions regarding the issues raised by the appellant, the other four factors used to determine whether a substantial issue exists will be discussed relating to the project as a whole, including the scope of the development, the resources on the site, the precedential value for interpretation of the County's LCP policies, and the broadness of the issues raised.

### **1. Project is Inconsistent with Retail Commercial Zone Designation**

The appeal raises issues with respect to the project's consistency with the Retail Commercial (C-2) zoning designation of the site because: 1) the primary use of the site, as approved by the County, would be residential, not Retail Commercial (C-2), 2) the project does not satisfy parking requirements of the C-2 zone district, and 3) it is unclear that the Density Bonus Program, which the County found would allow for the increased density on site, including associated allowable height and setback variations, can be applied to a residential use in a C-2 zone district, even if it were a legitimate "secondary" residential use.

The approved project is for a mixed-use development that allows both residential and commercial uses. The project site is designated "General Commercial" under the existing Land Use Plan and has a zoning code designation of Retail Commercial (C-2) in Article II of Chapter 35, Section 35-78 of the County Code. Under the C-2 zone district, Section 35-75.5.20, residential uses are permitted in a C-2 zone with a minor conditional use permit "provided the residential use is secondary to a permitted or conditionally permitted commercial use on the same lot." The certified LCP defines "secondary use" as follows (Section 35-58):

*a) a land use subordinate or accessory to a principal land use. b) When used in reference to residential use in conjunction with commercial and industrial uses in this Article, secondary shall mean two residential bedrooms per 1,000 sq. ft. of total gross floor area of commercial or industrial development. However, in no event shall the total gross floor area of the residential development exceed the total gross floor area of the commercial or industrial use.*

In this case, even though the Planning Commission issued a conditional use permit to allow residential use on the site, the extent of residential use was not in compliance with the LCP because the proposed residential use does not meet the certified definition of "secondary use" since the residential development will exceed the total gross floor areas of the commercial use. As proposed, the residential development will exceed the commercial development by 21,604 sq. ft. and therefore, the residential use is, in form

and effect, the primary use. The residential portion of the project will consist of 45 residential units (equivalent to 26,265 square feet of residential area), whereas the proposed commercial use will consist of only two commercial units (equivalent to 4,661 square feet). Thus, the residential use will comprise approximately 85% of this new development, while the commercial use will comprise only 15% of the development. Further, the number of bedrooms exceeds the limitation two residential bedrooms per 1,000 sq. ft. of total gross floor area of commercial. Therefore, the predominant use of the site will be dedicated to residential use and cannot be considered a "secondary use" to the commercial development on the site pursuant to Section 35-58 and Section 35-75.5.20 of the certified LCP. As a result, this project is inconsistent with the conditionally permitted uses of the C-2, Retail Commercial, zoning of the site.

Additionally, the approved project is inconsistent with the parking requirements in the zoning code for the Retail Commercial (C-2) Zone District because the code requires approximately 100 on-site spaces for a project of these dimensions, and only 22 on-site spaces were required by the County in its approval of the coastal permit for this project. Section 35-108.2.d of the certified zoning code requires that "development located within the radius of one mile of the boundaries of a college or university shall provide a minimum of two parking spaces per dwelling unit, of which one shall be covered." In this case, the project site is located approximately 500 feet from the University of California, Santa Barbara; therefore, a minimum of two parking spaces per dwelling unit must be provided pursuant to Section 35-108.2.d of the certified LCP. Additionally, Section 35-110 of the zoning code, which is part of the County's certified LCP, requires that retail business and general commercial uses have one space per 500 feet of gross floor area. Therefore, the certified zoning code would require a total of about 109 on-site parking spaces, including 90 on-site parking spaces for residents and approximately 10 on-site spaces for commercial uses, and 9 visitor spaces.

However, only 22 on-site residential parking spaces are proposed, in conflict with the requirements of the certified LCP. An additional 9 residential spaces and 10 commercial spaces are proposed to be located in an unidentified off-site location and are not required to be maintained for the residents or patrons of the project site. The County required the following project specific condition in CDP No. 08CDP-00000-00173:

*33. Nine (9) parking spaces shall be provided for the residents of the development in an off-site location within 1,000 feet of the project site. Requirements/Timing: The Redevelopment Agency and applicant shall complete the Owner Participation Agreement providing for the required 9 residential spaces. Prior to approval of the follow-on Land Use Permit, P&D and County Counsel shall review and approve parking provisions within the agreement. Monitoring: Prior to occupancy clearance, P&D shall verify the location and availability of all required parking spaces to ensure consistency with this condition.*

The County conditioned the project to provide only 9 residential spaces, although the project description proposes 9 offsite residential parking spaces and 10 offsite commercial spaces. In its approval of this permit, the County found that the 19 off-site parking spaces could be provided in association with the uncertified Isla Vista Master Plan's In Lieu Fee Parking Program. The In Lieu Fee Parking program is part of a pending separate LCP amendment application by the County and has not yet been

evaluated or certified by the Commission and is, therefore, not part of the certified LCP. Further, the failure to provide adequate parking spaces for residential occupants and business patrons will result in use of on-street parking spaces by customers and residents, thereby reducing the amount of existing on-street parking currently available for public access to the coast and resulting in adverse impacts to public access and recreation in contradiction to the public access and recreation policies of both the Coastal Act and the certified LCP, as further explained below.

The County determined that a reduction in the parking requirement was allowed in this case in order to provide a development incentive for the development of affordable housing under the County's Density Bonus Program. As discussed in detail below, it is not clear that the Density Bonus Program should be applied to a commercially-zoned site, given that residential development can only occur in the zone district if it is secondary to the commercial use and even then only with a conditional use permit. And in fact, language in the Density Bonus Program indicates that mixed use projects (such as this project) would require a rezone in order to participate in the Program. (Section 35-144C.4.2) Regardless of whether the Density Bonus Program is applicable, residential uses are only allowed on C-2 properties if a Conditional Use Permit is obtained and even then, only where specific findings can be made pursuant to Section 35-172.8 that the site is adequate to accommodate the type of use and level of development, and is not incompatible with the surrounding area, among other findings. It is not clear that the significant reduction in parking standards is warranted in this case. It does not appear that the site is adequate since it cannot meet the parking standards and, as detailed in Section E below, the lack of parking may have an adverse impact on coastal access which is incompatible with this coastal area.

Lastly, it is unclear that the Density Bonus Program in Section 35-144C of the certified zoning code applies to the proposed project. According to Section 35-144C, the intent of the density bonus program is to provide incentives, including modification of development standards, to developers to produce lower income housing units. A project is eligible for the density bonus program, under Section 35-144C.2., if it is "a new housing development of five or more dwelling units (excluding any density bonus units)."

Section 35-144C.3. provides:

*When a developer proposes a qualifying housing development within the jurisdiction of the County, the County shall provide one of the two following development incentives:*

- a. A density bonus of 25 percent over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use designation, plus at least one additional development incentive identified in Section 35-144.C.4. The additional incentive shall not be provided if the County makes the written finding as required by Government Code Sect. 65915 (B)(3).*
- b. Other incentives of equivalent financial value based upon the land cost per dwelling unit.*

Section 35-144.C.4.3. states that the following development incentive may be allowed if it is found consistent with applicable policies and provisions of the LCP:

**ADDITIONAL DENSITY BONUS:** *The approval of a density bonus which is greater than the maximum allowable density and may, when involved with standard density bonus projects, exceed the standard 25% density increase. This incentive shall be limited to a maximum density increase of no more than 50% above the base zoning density.*

The County determined that the project met the eligibility requirements for the density bonus program in Section 35-144C.2. because more than 20% of the units are proposed to be affordable. The County approved several development incentives, including exceptions for height, setbacks, and parking requirements. Exceptions to the zoning code approved by the County include: 1) a 51 ft. tall structure (the limit is 35 feet in Section 35.78.9 of the zoning code); 2) a zero front yard setback and a 10-foot rear yard setback abutting residential uses (Section 35-78.7 of Article II requires a front yard setback of 30 feet from centerline and 10 feet from the right-of-way; 3) a rear yard setback of 25 feet when adjacent to a residential use; and, 4) 22 on-site parking spaces (Section 35-108 and Section 35-110 of Article II would require more than 100 on-site parking spaces).

It is unclear that the Density Bonus Program for residential development can be appropriately applied to the C-2 zone district in this case because residential use is only approvable at all as a secondary use, requiring a minor conditional use permit. (Section 35-78.5) As outlined previously, a residential secondary use of a commercial development allows for two residential bedrooms per 1,000 sq. ft. of total gross floor area of commercial or industrial development, provided that the total gross floor area of the residential development *does not exceed total gross floor area of the commercial or industrial use*. Given that 4,661 square feet (net) of general commercial space is proposed, the allowable residential use, as a secondary use for the proposed project pursuant to a conditional use permit, would be no more than 4,661 square feet. If the Density Bonus Program is applied, then the allowable residential use would no longer be secondary since it would exceed the commercial use of the site. (For example, if a maximum of 50% increase in the 4,661 residential sq. ft. was permitted under the Density Bonus Program, then the residential floor area of 6,990.5 sq. ft. would exceed the commercial floor area by 2,239 sq. ft. and therefore the residential use would *no longer be secondary to the commercial use*.)

The LCP does not explicitly address whether the Density Bonus Program would apply to a residential secondary use in a commercially zoned district. However, language within the Density Bonus Program indicates that mixed use projects may require a rezone [and thus a corresponding LCP amendment] in order to participate in the Density Bonus Program. Specifically, Section 35-144C.4.2. states, as a potential development incentive, that:

***The County shall financially subsidize a rezone to allow mixed use development in conjunction with the housing project provided that the commercial, office, or other land uses are compatible with the proposed housing project and the existing development in the area.***

Therefore, though the LCP does not provide explicit language regarding the applicability of the Density Bonus Program to a secondary use in a district zoned Retail Commercial, the language describing the Density Bonus Program itself lends evidence that the intent was that mixed-use projects participating in the density bonus program would require a rezone [and thus an Local Coastal Plan Amendment] to change the zoning designation to a mixed-use. Regardless, even if the Density Bonus Program was determined to be applicable in this case, the proposed project would not be consistent with the provisions of the Density Bonus Program given that the residential development out-scales the commercial development by 21,604 sq. ft.

#### County's Factual Analysis for the Project's Conformance with Zoning Designation

The County made the following findings regarding the project's consistency with the zoning designation: (County of Santa Barbara, Findings for Approval, p.A-14)

*As discussed in Sections 6.2 and 6.3 of the staff report dated December 3, 2008, hereby incorporated by reference, the proposed project would be consistent with the applicable provisions of Article II and the policies contained within [sic] comprehensive plan including the Coastal Land Use Plan and the Goleta Community Plan with the following exceptions as allowed by Section 35-144C.4 (Development Incentives for Density Bonus Program) and as approved by the County Planning Commission.*

C-2 Zone District Standard	IVMP FBC Standard	Article II Ordinance Standard	Project Proposal
<b>Front Setback</b>	Build-to Line of 35 feet from centerline	30 feet from centerline and 10 feet from right-of-way line	Reduced to zero
<b>Rear Setback</b>	20 feet when adjacent to residential use	25 feet when adjacent to residential use	Reduced to 10 feet
<b>Building Height</b>	40 feet	35 feet	Increased to 51 feet
<b>Parking</b>	(41) Total Spaces  <u>Commercial-</u> (10) One Space per 500 sf.  <u>Residential-</u> (31) 0.6 spaces per studio unit (25) and 1.5 spaces per 2-bedroom unit (6)	(109) Total Spaces  <u>Commercial-</u> (10) One Space per 500 sf.  <u>Residential-</u> (99) 2 spaces per dwelling unit (45 units x 2=90) & Visitor Parking- (9) One space per five dwelling units	(41) Total Spaces  22 residential spaces would be provided on site  9 residential spaces and 10 commercial spaces (conjunctive use) would be provided off-site through RDA In-Lieu Fee Parking Program.
<b>Parking</b>	Off-site parking to be located within 1,000 feet of the project site, Developer may utilize In-Lieu Fee Parking Program	Off-site parking to be located within 500 feet of project site	Off-site parking to be located within 1,000 feet of the project site

*Because the project proposes the development of more than 20% of units as affordable units (8 of 32 base units or 25%), it is eligible for the State Density Bonus Program. The intent of the density bonus program is to provide incentives, not otherwise available, to developers to produce lower income housing units. Under this program, the applicant has requested the above-mentioned development incentives which would preclude project compliance with these Article II standards at the discretion of the Planning Commission.*

Additionally, the November 14, 2008 County staff report (p.23) provided the following analysis regarding the project's conformance with Article II base zone requirements:

*The project site is currently zoned C-2 under the Article II Coastal Zoning Ordinance. The proposed project would not be consistent with several base requirements of the C-2 zone district including those related to height, setbacks [sic] number of parking spaces and distance of offsite parking from the project site. However, because the project proposed the development of more than 20% of units as affordable units (8 of 32 base units or 25%), it is eligible State Density Bonus Program.*

The November 14, 2008 staff report (p.25) also stated that, with regard to mixed-use:

*Pursuant to Section 35-78.5 (Uses Permitted with a Minor Conditional Use Permit), a minor CUP is required to allow a residential use in the C-2 zone district, provided the residential use is secondary to a permitted or conditionally permitted commercial use on the same lot. Because the project proposes a first floor comprised of entirely permitted commercial uses(s), the residential use on the second, third and fourth floors is considered secondary.*

The County cited the following policy in the Background Information section of the November 14, 2008 staff report (p.8):

Section 35-169.4.3.k (Coastal Development Permits processed in conjunction with a Conditional Use Permit or Development Plan) of Article II, Coastal Zoning Ordinance states:

*If a Coastal Development Permit is requested for property subject to a resolution of the Board of Supervisors initiating a rezoning or amendment to this Article, a Coastal Development Permit shall not be approved or conditionally approved while the proceedings are pending on such rezoning or amendment, unless the proposed uses or structures conform to both the existing zoning and existing provisions of this Article and the rezoning or amendment initiated by the Board of Supervisors, or unless a Preliminary or Final Development Plan was approved by the County before the adoption of the said Board's resolution and the proposed uses or structure are in conformance with the approved Preliminary or Final Development Plan.*

In evaluating the issue of whether the appeal raises a substantial issue, the Commission considers the degree of factual and legal support for the local

government's decision that the development is consistent with the certified LCP. Here, the County has not provided a high degree of support for its decision that the mixed-use development is consistent with the certified Article II zoning designation of Retail Commercial. The County cited Section 35-169.4.3.k of the zoning ordinance, which requires development to conform to both the certified zoning ordinance, as well as any pending amendment. The factual analysis above demonstrates that the County did not thoroughly evaluate the project's conformance with the existing zoning code. The County did not provide an analysis of whether the residential use is, in fact, a secondary use of the site. The County merely mentioned that, because the first floor use would be commercial, it would be the primary use. Neither the County's findings nor the staff report provided an analysis of why the first floor use is the determining factor in evaluating what use is primary. For example, the County did not discuss the significance of the 45 residential units (26,265 sq. ft. (net)) as compared to only 2 units, or 4,661 sq. ft. of commercial use or how the residential units would change the fundamental use of the site from solely commercial to residential. Nor did it discuss its own definition of secondary use in section 35-58.

Furthermore, the County did not provide adequate support for its conclusion that the density bonus program applies to the project. The findings (p.A-14) only state that, because the project would designate 25% of the units for sale as affordable, the program is eligible for the density bonus program and associated zoning exceptions. The County did not explain or evaluate how the Density Bonus Program can appropriately be applied to the subject site, which has a commercial base zone district and only allows residential use as a secondary use.

## **2. Visual Resources and Community Character**

The project, as approved by the County, raises issues with respect to its consistency with the following policies and provisions of the County of Santa Barbara Local Coastal Plan and the Coastal Act relating to visual resources and community character.

LCP Policy 1-1, incorporating Section 30251 of the Coastal Act states:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

Coastal Plan Policy 3-14:

*All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features,*

*landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soils, geologic, flood, erosion, or other hazards shall remain in open space.*

Coastal Plan Policy 4-4:

*In areas designated as urban on the land use plan maps and in designated rural neighborhoods, new structures shall be in conformance with the scale and character of the existing community. Clustered development, varied circulation patterns, and diverse housing types shall be encouraged.*

Policy LUR-GV-6:

*In reviewing an affordable housing or bonus density project proposed for a site without an Affordable Housing Overlay designation, the County shall consider the project's effects on the character of the existing neighborhoods but shall mitigate any significant impacts only in compliance with Pub. Res. Code Section 21085.*

The proposed project is a 31,507 square foot (net)/ 47,853 (gross) square foot, four-story, primarily residential mixed-use development. The front setback has been reduced to zero, the rear setback has been reduced to 10 feet, and the building height has been increased to 51-feet, 16 feet higher than the current certified LCP requires. Article II of the certified zoning code requires a front setback of 30 feet from the centerline and 10 feet from right-of-way line setback, a rear setback of 25 feet when adjacent to residential use, and a building height of 35 feet. The project site is surrounded by a two-story commercial building, two-story residential buildings, and a one-story restaurant building. Several commercial structures of one and two stories, including two theater buildings and numerous two-story residential buildings are located nearby. The size and scale of the proposed building, with reduced setbacks and, at 51 feet tall, significantly taller than the typical height of other buildings, is inconsistent with the scale and character of the surrounding community and, thus, incompatible with the above policies and zoning standards. No other buildings exist nearby that are this height and bulk and such projects must be evaluated on a more comprehensive planning level for the community. Although the County has submitted an application for a related LCP Amendment for the Isla Vista Master Plan, which would allow for greater amount of mixed-use development on the subject site, the amendment application is still incomplete at this time. The pending amendment would comprehensively evaluate several substantial changes to the use and development standards (including substantially increasing allowable density and decreasing parking requirements for new development) of particular sites in the Isla Vista downtown area (including the subject site). The potential effects to coastal resources, including public access, public recreation, and visual resources resulting from the substantial increases in allowable density, while also reducing parking requirements in the seaside community of Isla Vista, would need to be fully evaluated as part of that related Local Coastal Program Amendment.

County's Factual Analysis for Conformance with Coastal Plan Policies relating to Visual Resources and Community Character

In evaluating the issue of whether the appeal raises a substantial issue, the Commission considers the degree of factual and legal support for the local government's decision that the development is consistent with the *certified LCP*. Here, the County has not provided a high degree of factual support that the project is consistent with character of the Isla Vista Community. The County made the following findings regarding the project's consistency with the visual resource and community character policies of the LCP: (County of Santa Barbara, Findings for Approval, p.A-15):

*As discussed in Section 6.2 of the staff report dated December 3, 2008 and hereby incorporated by reference, the proposed project is compatible with the physical scale of the area. Although the proposed structure would be developed with reduced setbacks, such development would be consistent with the easterly adjacent commercial structure and consistent with typical urban fabric of a downtown where buildings front sidewalks and frame the streetscape...With input from the Board of Architectural Review, the project has been designed to convey a sense of modern urbanism. Further the project conveys the appropriate scale and mass to be located at a prominent corner of the downtown core but is also in conformance with the scale and character of the surrounding Isla Vista Community.*

...

*While the structure would likely be the first of its kind in the downtown Isla Vista area, it is considered a "catalyst project" intended to spur further redevelopment of the surrounding area and act as a model for such development. In the future, it is anticipated that adjacent lots would redevelop to their full potential within the context set by this project.*

The November 14, 2008 County staff report (p.11) provided the following analysis (in addition to the analysis above) regarding the project's conformance with Coastal Plan Policy 4-4 and Coastal Act Policy 30251 (cited above) relating to visual resources and community character:

*The proposed project includes the demolition of an existing 893 square foot commercial building and the construction of a new, approximately 31,507 sf (net)/47,853 sf (gross) four-story mixed-use building in the downtown area of Isla Vista. The first level of the new building would contain approximately 4,661 square feet (gross) of commercial space. The remainder of the structure would contain 45 for-sale residential units. Units of this type are not currently available for purchase in the Isla Vista downtown core and the project would introduce for-sale housing stock to this area.*

...

*While the structure's height exceeds that allowed by the Article II provisions, the SBAR supports the proposed design in context. After two conceptual reviews (February 19, 2008 and June 20, 2008), the SBAR has given strong positive comments on the structure's design and asked the project to return for*

*preliminary approval. Final SBAR approval would be required prior to the issuance of the Coastal Development Permit.*

*Finally, because the project is intended to be a “catalyst project,” or a model for future development in the downtown area, the structure is intended to improve upon the existing neighborhood character.*

The County did not provide a high degree of factual support to show that the new building will be in conformance with the scale and character of the *existing* community, as the certified LCP requires. Specifically, the County did not sufficiently explain how the building compares to the *existing* scale and character of the surrounding downtown Isla Vista community, or evaluate such factors as height, site coverage, setbacks, or compatibility of uses in the vicinity of the proposed project. No analysis was provided to assess how the character of the community would change as a result of a large scale, 4-story, mixed use project on a site where the surrounding commercial buildings are a maximum of only two stories tall.

### **3. Impacts to Public Access and Recreation**

The project, as approved by the County, raises issues with respect to its consistency with the following policies and provisions of the County of Santa Barbara Local Coastal Plan and the Coastal Act relating to public access and recreation.

Policy 1-1: All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP.

Coastal Act Section 30210, as incorporated in the LCP, states that:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Coastal Act Section 30211, as incorporated in the LCP, states:

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Coastal Act Section 30212(a), as incorporated in the LCP, states:

*Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*

- (1) *it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources.*
- (2) *adequate access exists nearby, or,*

**(3) agriculture would be adversely affected. Dedicated access shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.**

Coastal Act Section 30212.5, as incorporated in the LCP, states:

***Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.***

Coastal Act Section 30213, as incorporated in the LCP, states:

***Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.***

Coastal Act Section 30214, as incorporated in the LCP, states:

**(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:**

**(1) Topographic and geologic site characteristics.**

**(2) The capacity of the site to sustain use and at what level of intensity.**

**(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.**

**(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.**

**(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.**

**(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.**

Section 30223 of the Coastal Act, as incorporated in the LCP, states:

***Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.***

Section 30252 of the Coastal Act, as incorporated in the LCP, states:

***The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.***

Finally, Policy 7-1 of the LUP states, in relevant part, that:

***The County shall take all necessary steps to protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline.***

Coastal access is generally viewed as an issue of physical supply, and is dependent not only on the provision of lateral access (access along a beach) and vertical access (access from an upland street, bluff or public park to the beach), but also the availability of public parking (including on-street parking). The availability of public parking (including on-street parking) constitutes a significant public access and recreation resource and is as important to coastal access as shoreline accessways.

The project that is subject to this appeal involves the construction of a 45 residential unit and 2 commercial unit, mixed-use complex with 22 on-site parking spaces for residents. As described above, the certified LCP requires that more than 100 on-site parking spaces be provided for a development project of this size. The project description indicates that an additional 9 residential parking spaces and 10 commercial spaces would be provided at an unspecified off-site location. However, these off-site spaces would apparently be provided pursuant to the uncertified Isla Vista Master Plan's In Lieu Fee Parking Program regardless of the fact that the Isla Vista Master Plan has not yet been evaluated or approved by the Commission as part of the certified Local Coastal Program. Moreover, the location of the off-site spaces has not been identified and there are no provisions currently in place to ensure that such parking spaces would be assured for the life of the proposed project. Regardless, the number of additional parking spaces, even assuming provision of 19 additional off-site spaces, would still be inadequate and would not meet the 100+ parking space requirement. An inadequate number of on-site parking spaces will most likely result in resident and business patron (of the 45 residential units and 2 commercial units) use of other on-street parking spaces, resulting in impacts to public access as public parking becomes less available.

Development in the Isla Vista community is generally characterized as high-density residential with some single-family residential neighborhoods and a small commercial “downtown” district. There are approximately 3,000 existing on-street parking spaces in the community, all of which are available for public use. There are five existing vertical access ways that provide public access from the Del Playa Drive to the sandy beach. The project site is less than 550 ft. from the closest vertical public access way. In general, users of on-street parking in the community include: residents, visitors to the area, customers to stores, shops, and restaurants, employees of businesses, students of the adjacent University; and beachgoers.

The on-street parking spaces within the Isla Vista community are heavily used. A parking survey was conducted by the Santa Barbara County Public Works Department on six separate weekdays over a two-week period in the months of September and October 2003. According to the County's survey, an average of 86–96 percent of on-street parking spaces were occupied at a given time within the study area. The highest percentage rates of occupancy were found to exist on the eastern end of Isla Vista adjacent to the University and commercial district while significantly lower rates of occupancy (with a corresponding increase in the percentage of vacant spaces) occurred on the western end of Isla Vista adjacent to Coal Oil Point Natural Reserve/Devereaux Slough. The proposed new mixed-use development will be located on Trigo Road in the eastern end of Isla Vista with the highest percentage rates of occupancy.

Thus, proposed project is inconsistent with the provisions of the above cited sections of the Coastal Act regarding public access and recreation, which have been included in the County's LCP pursuant to LUP Policy 1-1 and which require the protection of existing public access and public recreation resources in coastal areas. The insufficient amount of parking for residential occupants and business patrons will reduce the amount of existing on-street parking currently available for public access to the coast.

County's Factual Support for Conformance with Policies Relating to Public Access and Recreation

In evaluating the issue of whether the appeal raises a substantial issue, the Commission considers the degree of factual and legal support for the County's decision that the development is consistent with the public access and recreation policies in the County's Coastal Plan. Here, the County did not provide sufficient factual support that the project would comply with the public access and recreation policies of the LCP, including assuring maximum access to the coast.

The County made the following findings regarding the project's consistency with public access and recreation policies of the LCP: (County of Santa Barbara, Findings for Approval, p.A-15):

*The proposed project would comply with public access and recreation policies of Article II and the Comprehensive Plan including the Coastal Land Use Plan and the Goleta Community Plan. There are no easements for public access through the subject property. Therefore, the proposed project would not impact public access or recreational opportunities.*

In its approval of this project, the County found, as explained above, that the parking requirements of the certified zoning code are not met by the project. The County inappropriately justifies its approval by relying on the standards of the Isla Vista Master Plan which would allow for substantial increases in residential density while reducing parking requirements for new development. However, although the County has submitted an application to amend the certified LCP to include the Isla Vista Master Plan, the application is currently incomplete and has not yet been evaluated or certified by the Commission. The County does not provide an analysis of how the failure to provide the required number of parking spaces at the project site would impact the availability of downtown on-street parking currently available for public use. Nor did the County evaluate the impacts to public access to the nearby beach access points. Therefore, the County has provided no factual support that the project is consistent with the applicable LCP public access and recreation policies, outlined above.

#### **4. Additional Factors to Determine Whether the Appeal Raises a Substantial Issue**

In evaluating the issue of whether the appeal raises a substantial issue with respect to the project's consistency with the provisions and requirements of the certified Land Use Plan and Zoning Ordinance code requirements regarding community character, visual resources, public access, and recreation, the Commission regularly considers other factors in addition to the degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP. The Commission also considers the extent and scope of the development approved by the County, the significance of coastal resources affected by the decision, the precedential value of the local government's decision for future interpretation of its LCP, and whether the appeal raises only local issues, or those of regional or statewide significance.

First, the extent and scope of the development approved by the County of Santa Barbara is significant because the project consists of a mixed-use development project of a size and scale that is not currently present within this area of the community of Isla Vista. In this case, the project does not comply with the current zoning requirements, and is not consistent with the character of the existing surrounding development. Next, the Commission considers the significance of any coastal resources that are affected by the decision. Here, although no sensitive habitat resources will be impacted at the already developed project site, public access to the ocean will be impacted as a result of the failure to provide adequate parking on site. Public access to the ocean is an important coastal resource in the Isla Vista community and assuring maximum access has not been thoroughly evaluated by the County. As such, the County failed to address adverse impacts the public's access to the coast due to use of on-street parking areas by residents and customers that were previously available for public parking.

Additionally, the Commission looks at the precedential value of the local government's decision for future interpretation of its LCP. The County has not provided an adequate analysis of applicable *current* policies of the certified LCP in its November 14, 2008 staff report and associated findings because the County has, in some cases, relied on the policies and provisions of the uncertified Isla Vista Master Plan, which are in direct conflict with the zoning requirements of the certified LCP. As a result, the County has

not ensured that the project conforms to the policies and provisions of the certified LCP and has not provided sufficient evidence to support its approval. Therefore, the project will have adverse precedential value regarding interpretation of the County's LCP. The pending IVMP LCPA has not yet been evaluated by Commission staff and has not been brought before the Commission. Therefore, it is inappropriate to apply uncertified development standards and policies of the Isla Vista Master Plan, which are in direct conflict with the policies of the certified LCP, to new development projects. Therefore, regardless of the fact that the County has submitted a pending application to incorporate the Isla Vista Master Plan into the certified LCP, the application is currently incomplete and has not been evaluated or certified by the Commission. Thus, approval of a coastal development permit for a project based on standards of the uncertified Isla Vista Master Plan (which is not part of the certified LCP) in direct conflict with the specific requirements of the certified LCP would provide adverse precedent on a state-wide basis.

Finally, the last factor the Commission considers to determine whether the appeal raises a substantial issue, is whether the appeal raises only local issues, or those of regional or statewide significance. Here, explained above, the appeal raises issues of statewide significance because the project was approved by the County based on future development standards and policies not yet approved by the Commission. Although a LCP Amendment is pending to incorporate the Isla Vista Master Plan as part of the certified LCP, it is inappropriate to approve development projects based on the provisions of a plan that has not yet been comprehensively evaluated or approved by the Commission and which includes several components and provisions that are in direct conflict with the current provisions of the certified LCP. The County has informed Commission staff that additional redevelopment projects are proposed in Isla Vista which are designed to allow for greater densities and reduced parking standards than would be allowed by the certified LCP. The approval of such projects pursuant to separate coastal permits on a piecemeal basis, in nonconformance with the certified LCP, is a state-wide planning issue.

In sum, each of the factors listed above, used to evaluate whether a substantial issue exists, are satisfied in this case. Commission staff has met with County staff, and additionally with the project applicants, to attempt to address the issues raised in this appeal. However, the mixed-use project approved by the County is clearly not consistent with the certified LCP and, in some cases; the County justifies the development based only on standards in the uncertified Isla Vista Master Plan, rather than the actual certified LCP even when the provisions of the Isla Vista Master Plan and the certified LCP are in conflict. Thus, the appeal raises substantial issue with respect to the grounds on which it was filed pursuant to section 30603 – its consistency with the LCP. Therefore, given the analysis above of the five factors the Commission considers in determining whether the appeal raises a substantial issue with respect to conformance with LCP policies, the appeal raises substantial issues regarding conformity with zoning standards, community character and visual resources, and public access and recreation.

## E. CONCLUSIONS REGARDING SUBSTANTIAL ISSUE ANALYSIS

For the reasons discussed above, the appeal raises substantial issue with respect to the consistency of the approved development with the policies of the County's certified LCP regarding conformity with zoning standards, community character, visual resources, public access, and recreation. Applying the factors identified on page 10, the Commission finds that there is not adequate factual and legal support for the County's position that the proposed project complies with LCP policies. The project will have a significant adverse effect on significant coastal resources, including public access. Further, because the County has not ensured that the project conforms to the existing policies and provisions of the LCP and has not provided sufficient evidence to support its decision, the project will have adverse precedential value regarding interpretation of the County's LCP for future projects. Therefore, the Commission finds that the appeal filed by Commissioners Sara Wan and Mary Shallenberger raise a substantial issue as to the County's approval.

## IV. FINDINGS AND DECLARATIONS FOR DE NOVO REVIEW

The Commission hereby finds and declares:

### Incorporation of Substantial Issue Findings

The Commission hereby incorporates by reference the Substantial Issue Findings above as if set forth in full.

## A. PROJECT DESCRIPTION AND BACKGROUND

The final action undertaken by the County is the approval, with conditions, of a Development Plan, Conditional Use Permit, Tract Map and Coastal Development Permit to allow for the demolition of an existing 893 square foot service station building and the construction of a new, approximately 31,507 square foot (net)/47,853 square foot (gross), four-story, mixed-use building at 6533 Trigo Road in Isla Vista. The maximum height of the structure would be 51 feet. The building would include approximately 4,661 square feet (net) of general commercial space divided into two commercial condominiums, as well as 26,265 (net) square feet of residential area comprising 41 studio units, 4 two-bedroom units and a rooftop deck amenity and recreation room. The commercial space would be located on the ground floor and would utilize street frontage and allow for outdoor dining areas. The residential units would be on the upper stories and would range between approximately 400 and 850 square feet. Eight of the residential studio units would derive from the County's Inclusionary Housing Program and made available to residents meeting the County affordable housing requirements for low income residents, or families earning less than 75% of the Median Income. Those units would be income-restricted for 55-years, according to California Community Redevelopment Law. A lot merger is included as part of the project to facilitate construction of the building across the two commonly owned parcels.

The project would seek to obtain a LEED (Leadership in Energy and Environmental Design) rating upon build-out. This includes exceeding Title 24 requirements and innovative building and system designs, including the introduction of pervious paving materials to help reduce impacts to existing storm drain system. A car-sharing program would be provided for building residents to reduce the need for autonomous vehicles including use of the parking space located on the Trigo Road frontage.

Twenty-two (22) residential parking spaces would be provided on-site in the form of tuck-under parking. The project would also include nine (9) residential parking spots and ten (10) commercial spaces at an unidentified location off-site. The County intends to acquire these offsite parking spaces pursuant to the draft IV Master Plan's in Lieu Fee Parking Program, which has not yet been certified by the Commission. These offsite parking spaces could be provided in a surface parking lot which the County may acquire at some unknown point in the future by the Isla Vista Redevelopment Agency (RDA). The RDA is in negotiations with property owner(s) to acquire adjacent vacant lot(s) to be used for public parking in downtown Isla Vista, which would be made partially available for the commercial and residential uses of this project. Additionally, the project would provide forty-nine (49) secured bicycle parking spaces in the public street right of way to serve the public and employees of the commercial spaces. Further the project includes encroachments in the public right-of-way along both Trigo Road and Embarcadero del Norte for commercial door-wings, commercial outdoor seating areas, and building canopies.

Approximately 720 cubic yards of over-excavation and recompaction would be required to prepare the site for development. Construction and project site access will be via Trigo Road and Embarcadero del Norte. Eight existing trees, located both on site and on the adjacent public right-of-way will be removed and replaced with four new trees. The development is proposed to be served by the Goleta Water District, the Goleta West Sanitary District, and the Santa Barbara County Fire Department.

## BACKGROUND

The subject site is approximately .38 acres (16,520 sq. ft.) and consists of two parcels (APNs 075-173-003 and 075-173-026) located in the southern portion the Isla Vista community that borders the University of California, Santa Barbara. Isla Vista is a seaside residential community, approximately ½ square mile in area, located in an unincorporated area of Santa Barbara County immediately west of the University of California, Santa Barbara and immediately east of the Coal Oil Point Natural Reserve. Development in the community is generally characterized as high-density residential within the majority of the program area with some single-family residential neighborhoods and a small commercial "downtown" district. The subject parcel is in the downtown commercial area of Isla Vista. The site is presently used for retail, as a U-Haul moving truck rental center and was formerly used as a gas station and automobile repair facility. Leaking underground fuel tanks were removed from the site in the early 1990's. However, the site is currently contaminated with hydrocarbons and, according to Santa Barbara County, further remediation is necessary before any reconstruction of the site can take place. The surrounding uses include retail commercial businesses, a

community park, and Isla Vista Theater to the north, residential rental housing to the south, retail businesses to the east, and a restaurant and parking lot to the south.

## B. LOCAL PERMIT HISTORY

### Santa Barbara County Planning Commission Approval

The County Planning Commission approved a Coastal Development Permit (08CDP-00000-00173), Tentative Tract Map (08TRM-00000-00004), Development Plan (08DVP-00000-00021), and Conditional Use Permit (08-00000-00033) for the subject development on December 3, 2008 (**attached as Exhibit 1**) The County ran a local appeal period for ten calendar days following the date of the Planning Commission's decision. No local appeals were filed.

### Pending LCP Amendment to County Code

Article II is the existing zoning code that applies to the subject site within the Isla Vista Community. However, an LCP Amendment for the area, the Isla Vista Master Plan (IVMP), was submitted to the Coastal Commission on November 20, 2007 after it was approved by the Santa Barbara County Board of Supervisors on August 21, 2007. This amendment application remains incomplete, as the Commission is awaiting information from the County before the amendment can be processed and full Commission review can be undertaken. The IVMP, when certified, will modify the zone districts and associated policies and zoning provisions for the Isla Vista community, which includes the project site. The current zoning for the site is C-2, Commercial and, under the IVMP, would be rezoned to CM-40 (Community Mixed Use, 40 units per acre).

## C. ZONING CODE INCONSISTENCY

The proposed mixed-use residential project does not conform to the County's certified zoning code pursuant to Article II of the certified LCP. The project is not consistent with the Retail Commercial (C-2) zoning designation of the site because: 1) the primary use of the site, as approved by the County, would be residential, not Retail Commercial (C-2), 2) the project does not satisfy parking requirements of the C-2 zone district, and 3) it is unclear that the Density Bonus Program, which the County found would allow for the increased density on site, including associated allowable height and setback variations, can be applied to a residential use in a C-2 zone district, even if it were a legitimate "secondary" residential use.

The approved project is for a mixed-use development that allows both residential and commercial uses. The project site is designated "General Commercial" under the existing Land Use Plan and has a zoning code designation of Retail Commercial (C-2) in Article II of Chapter 35, Section 35-78 of the County Code. Under the C-2 zone district, Section 35-75.5.20, residential uses are permitted in a C-2 zone with a minor conditional use permit "provided the residential use is secondary to a permitted or conditionally permitted commercial use on the same lot." The certified LCP defines "secondary use" as follows (Section 35-58):

**a) a land use subordinate or accessory to a principal land use. b) When used in reference to residential use in conjunction with commercial and industrial uses in this Article, secondary shall mean two residential bedrooms per 1,000 sq. ft. of total gross floor area of commercial or industrial development. However, in no event shall the total gross floor area of the residential development exceed the total gross floor area of the commercial or industrial use.**

In this case, even though the Planning Commission issued a conditional use permit to allow residential use on the site, the extent of residential use was not in compliance with the LCP because the proposed residential use does not meet the certified definition of "secondary use" since the residential development will exceed the total gross floor areas of the commercial use. As proposed, the residential development will exceed the commercial development by 21,604 sq. ft. and therefore, the residential use is, in form and effect, the primary use. The residential portion of the project will consist of 45 residential units (equivalent to 26,265 square feet of residential area), whereas the proposed commercial use will consist of only two commercial units (equivalent to 4,661 square feet). Thus, the residential use will comprise approximately 85% of this new development, while the commercial use will comprise only 15% of the development. Further, the number of bedrooms exceeds the limitation two residential bedrooms per 1,000 sq. ft. of total gross floor area of commercial. Therefore, the predominant use of the site will be dedicated to residential use and cannot be considered a "secondary use" to the commercial development on the site pursuant to Section 35-58 and Section 35-75.5.20 of the certified LCP. As a result, this project is inconsistent with the conditionally permitted uses of the C-2, Retail Commercial, zoning of the site.

Additionally, the approved project is inconsistent with the parking requirements in the zoning code for the Retail Commercial (C-2) Zone District because the code requires approximately 109 on-site spaces for a project of these dimensions, and only 22 on-site spaces were required by the County in its approval of the coastal permit for this project. Section 35-108.2.d of the certified zoning code requires that "development located within the radius of one mile of the boundaries of a college or university shall provide a minimum of two parking spaces per dwelling unit, of which one shall be covered." In this case, the project site is located approximately 500 feet from the University of California, Santa Barbara; therefore, a minimum of two parking spaces per dwelling unit must be provided pursuant to Section 35-108.2.d of the certified LCP. Additionally, Section 35-110 of the zoning code, which is part of the County's certified LCP, requires that retail business and general commercial uses have one space per 500 feet of gross floor area. Therefore, the certified zoning code would require a total of about 109 on-site parking spaces, including 90 on-site parking spaces for residents and approximately 10 on-site spaces for commercial uses, and 9 visitor spaces.

However, only 22 on-site residential parking spaces are proposed, in conflict with the requirements of the certified LCP. An additional 9 residential spaces and 10 commercial spaces are proposed to be located in an unidentified off-site location. In its approval of this permit, the County found that the 19 off-site parking spaces could be provided in association with the uncertified Isla Vista Master Plan's In Lieu Fee Parking Program. The In Lieu Fee Parking program is part of a pending separate LCP amendment application by the County and has not yet been evaluated or certified by the

Commission and is, therefore, not part of the certified LCP. Further, the failure to provide adequate parking spaces for residential occupants and business patrons will result in use of on-street parking spaces by customers and residents, thereby reducing the amount of existing on-street parking currently available for public access to the coast and resulting in adverse impacts to public access and recreation in contradiction to the public access and recreation policies of both the Coastal Act and the certified LCP, as further explained below.

The County determined that a reduction in the parking requirement was allowed in this case in order to provide a development incentive for the development of affordable housing under the County's Density Bonus Program. As discussed in detail below, it is not clear that the Density Bonus Program should be applied to a commercially-zoned lot, given that residential development can only occur in the zone district if it is secondary to the commercial use and even then only with a conditional use permit. And in fact, language in the Density Bonus Program indicates that mixed use projects (such as this project) would require a rezone in order to participate in the Program. (Section 35-144C.4.2) Regardless of whether the Density Bonus Program is applicable, residential uses are only allowed on C-2 properties if a Conditional Use Permit is obtained and even then, only where specific findings can be made pursuant to Section 35-172.8 that the site is adequate to accommodate the type of use and level of development, and is not incompatible with the surrounding area, among other findings. It is not clear that the significant reduction in parking standards is warranted in this case. It does not appear that the site is adequate since it cannot meet the parking standards and, as detailed in Section E below, the lack of parking may have an adverse impact on coastal access which is incompatible with this coastal area.

Lastly, it is unclear that the Density Bonus Program in Section 35-144C of the certified zoning code applies to the proposed project. According to Section 35-144C, the intent of the density bonus program is to provide incentives, including modification of development standards, to developers to produce lower income housing units. A project is eligible for the density bonus program, under Section 35-144C.2., if it is "a new housing development of five or more dwelling units (excluding any density bonus units)."

Section 35-144C.3. provides:

***When a developer proposes a qualifying housing development within the jurisdiction of the County, the County shall provide one of the two following development incentives:***

- a. A density bonus of 25 percent over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use designation, plus at least one additional development incentive identified in Section 35-144.C.4. The additional incentive shall not be provided if the County makes the written finding as required by Government Code Sect. 65915 (B)(3).***
- b. Other incentives of equivalent financial value based upon the land cost per dwelling unit.***

Section 35-144.C.4.3. states that the following development incentive may be allowed if it is found consistent with applicable policies and provisions of the LCP:

**ADDITIONAL DENSITY BONUS:** *The approval of a density bonus which is greater than the maximum allowable density and may, when involved with standard density bonus projects, exceed the standard 25% density increase. This incentive shall be limited to a maximum density increase of no more than 50% above the base zoning density.*

The County determined that the project met the eligibility requirements for the density bonus program in Section 35-144C.2. because more than 20% of the units are proposed to be affordable. The County approved several development incentives, including exceptions for height, setbacks, and parking requirements. Exceptions to the zoning code approved by the County include: 1) a 51 ft. tall structure (the limit is 35 feet in Section 35.78.9 of the zoning code); 2) a zero front yard setback and a 10-foot rear yard setback abutting residential uses (Section 35-78.7 of Article II requires a front yard setback of 30 feet from centerline and 10 feet from the right-of-way; 3) a rear yard setback of 25 feet when adjacent to a residential use; and, 4) 22 on-site parking spaces (Section 35-108 and Section 35-110 of Article II would require more than 100 on-site parking spaces).

It is unclear that the Density Bonus Program for residential development can be appropriately applied to the C-2 zone district in this case because residential use is only approvable at all as a secondary use, requiring a minor conditional use permit. (Section 35-78.5) As outlined previously, a residential secondary use of a commercial development allows for two residential bedrooms per 1,000 sq. ft. of total gross floor area of commercial or industrial development, provided that the total gross floor area of the residential development *does not exceed total gross floor area of the commercial or industrial use*. Given that 4,661 square feet (net) of general commercial space is proposed, the allowable residential use, as a secondary use for the proposed project pursuant to a conditional use permit, would be no more than 4,661 square feet. If the Density Bonus Program is applied, then the allowable residential use would no longer be secondary since it would exceed the commercial use of the site. (For example, if a maximum of 50% increase in the 4,661 residential sq. ft. was permitted under the Density Bonus Program, then the residential floor area of 6,990.5 sq. ft. would exceed the commercial floor area by 2,239 sq. ft. and therefore the residential use would *no longer be secondary to the commercial use*.)

The LCP does not explicitly address whether the Density Bonus Program would apply to a residential secondary use in a commercially zoned district. However, language within the Density Bonus Program indicates that mixed use projects may require a rezone [and thus a corresponding LCP amendment] in order to participate in the Density Bonus Program. Specifically, Section 35-144C.4.2. states, as a potential development incentive, that:

***The County shall financially subsidize a rezone to allow mixed use development in conjunction with the housing project provided that the commercial, office, or other land uses are compatible with the proposed housing project and the existing development in the area.***

Therefore, though the LCP does not provide explicit language regarding the applicability of the Density Bonus Program to a secondary use in a district zoned Retail Commercial, the language describing the Density Bonus Program itself lends evidence that the intent was that mixed-use projects participating in the density bonus program would require a rezone [and thus an Local Coastal Plan Amendment] to change the zoning designation to a mixed-use. Regardless, even if the Density Bonus Program was determined to be applicable in this case, the proposed project would not be consistent with the provisions of the Density Bonus Program given that the residential development out-scales the commercial development by 21,604 sq. ft.

Thus, the Commission finds that the proposed mixed-use development project is inconsistent with the certified Santa Barbara County LCP zoning code requirements and Coastal Act provisions incorporated within those requirements.

## D. VISUAL RESOURCES AND COMMUNITY CHARACTER

The following policies and provisions of the County of Santa Barbara Local Coastal Plan and the Coastal Act relate to visual resources and community character.

LCP Policy 1-1, incorporating Section 30251 of the Coastal Act states:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

Coastal Plan Policy 3-14 explains:

*All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soils, geologic, flood, erosion, or other hazards shall remain in open space.*

Coastal Plan Policy 4-4 states:

*In areas designated as urban on the land use plan maps and in designated rural neighborhoods, new structures shall be in conformance with the scale and character of the existing community. Clustered development, varied circulation patterns, and diverse housing types shall be encouraged.*

Policy LUR-GV-6 (Goleta Community Plan) states:

***In reviewing an affordable housing or bonus density project proposed for a site without an Affordable Housing Overlay designation, the County shall consider the project's effects on the character of the existing neighborhoods but shall mitigate any significant impacts only in compliance with Pub. Res. Code Section 21085.***

Coastal Act Section 30251, as incorporated in the certified LCP, and the Coastal Plan policies cited above require that scenic and visual qualities of coastal areas be considered and protected as a resource of public importance. Permitted development is required to be sited and designed to protect views to and along the ocean and be visually compatible with the character of the surrounding area.

The proposed project is a 31,507 square foot (net)/ 47,853 (gross) square foot, four-story, primarily residential mixed-use development. The front setback has been reduced to zero, the rear setback has been reduced to 10 feet, and the building height has been increased to 51-feet, 16 feet higher than the current certified LCP requires. Article II of the certified Zoning Ordinance requires a front setback of 30 feet from the centerline and 10 feet from right-of-way line setback, a rear setback of 25 feet when adjacent to residential use, and a building height of 35 feet. The project site is located on a prominent corner in the downtown area of Isla Vista. The subject site is currently occupied by a small 893 sq. ft. commercial building and a parking lot. The site is surrounded by relatively low-profile buildings, including a two-story commercial building, two-story residential buildings, and a one-story restaurant building. Several commercial structures of one and two stories, including two theater buildings and numerous two-story residential buildings are located nearby. The size and scale of the proposed building, with reduced setbacks and, at 51 feet tall, is substantially taller than the height of other buildings in the area, and is inconsistent with the scale and character of the surrounding community. Thus, regardless of whether the development is considered to be of an architecturally desirable style, it would still not comply with the above cited policies of the certified LCP because it is out of character with the existing community. No other buildings of such height and bulk exist nearby.

Therefore, the Commission finds that the proposed mixed-use development project is out of character with the existing community and is not consistent with the visual resource policies of the certified LCP.

## **E. PUBLIC ACCESS AND RECREATION**

Several policies of both the Coastal Act and the certified Santa Barbara County Local Coastal Program require the Commission to protect public beach and recreation access. All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County Local Coastal Program as guiding policies pursuant to Policy 1-1 of the Local Coastal Program.

Section 30210 Coastal Act, as incorporated in the LCP by Policy 1-1, states:

***In carrying out the requirements of Section 4 of Article X of the California constitution, maximum access, which shall be conspicuously posted, and***

*recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Policy 7-1 of the LCP states, in relevant part, that:

***The County shall take all necessary steps to protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline.***

Section 30211, as incorporated in the LCP by Policy 1-1, states:

***Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.***

Coastal Act Section 30212(a), as incorporated in the LCP by Policy 1-1, states:

***Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:***

- (1) ***it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources.***
- (2) ***adequate access exists nearby, or,***
- (3) ***agriculture would be adversely affected. Dedicated access shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.***

Coastal Act Section 30212.5, as incorporated in the LCP by Policy 1-1, states:

***Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.***

Coastal Act Section 30213, as incorporated in the LCP by Policy 1-1, states:

***Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.***

Coastal Act Section 30214, as incorporated in the LCP by Policy 1-1, states:

***(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:***

- (1) ***Topographic and geologic site characteristics.***
- (2) ***The capacity of the site to sustain use and at what level of intensity.***

(3) *The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*

(4) *The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*

(b) *It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.*

(c) *In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.*

Section 30223 of the Coastal Act, as incorporated in the LCP by Policy 1-1, states:

***Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.***

Section 30252 of the Coastal Act, as incorporated in the LCP by Policy 1-1, states:

***The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.***

LCP Policy 1-2 states:

***Where policies within the land use plan overlap, the policy which is most protective of coastal resources shall take precedence.***

LCP Policy 1-3 states:

***Where there are conflicts between the policies set forth in the coastal land use plan and those set forth in any element of the County's Comprehensive Plan or existing ordinances, the policies of the coastal land use plan shall take precedence.***

LCP Policy 2-23 states:

**The County shall work with property owners in Isla Vista to identify vacant sites for the potential development of parking to serve existing residential units. The County may also explore the possibility of acquiring or developing public parking.**

In addition to the Coastal Act and Land Use Plan policies above, parking standards of the County's certified Implementation Plan (Article II Zoning Ordinance) also protect public access and recreation indirectly by requiring on-site parking for residents, thereby preventing parking for residents from supplanting parking availability for the public.

Article II, Zoning Code Section 35-108. Required number of Spaces: Residential.

***Parking spaces to be permanently maintained on the same building sit on which the dwelling(s) in [sic] located, except as provided in section 35-76, Medium Density Student Residential, and 35-77, High Density Student Residential:***

1. ***Single family and two family dwellings: two spaces per dwelling unit.***
2. ***Multiple Dwelling Units:***
  - a. ***Single bedroom or studio dwelling unit: one covered space per dwelling unit.***
  - b. ***Two bedroom dwelling: one covered space plus 0.5 spaces covered or uncovered per dwelling unit. Such spaces shall be located within 200 feet from the building served by such spaces.***
  - c. ***Three or more bedroom dwellings: one covered space plus one space covered or uncovered per dwelling unit. Such spaces shall be located within 200 feet from the building served by such spaces.***
  - d. ***Developments located within a radius of one mile of the boundaries of a college or university shall provide a minimum of two parking spaces per dwelling unit, of which one shall be covered.***
  - e. ***Visitor parking: one space per five dwelling units.***
3. ***Guest houses: one space per guest house.***
4. ***Mobile homes in mobile home parks: one covered space per site and one space per every three sites for guest parking.***
5. ***Fraternities, sororities, dormitories, and boarding and lodging houses: one space per four bed spaces and one space per two employees.***

6. ***Retirement and special care homes: one space per guest and one space per two employees.***

Article II, Zoning Code Section 35-110. 4. Required number of Spaces: Commercial.

3. ***Retail business and general commercial: one space per 500 square feet of gross floor area.***

The public possesses ownership interests in tidelands or those lands below the mean high tide line. These lands are held in the State's sovereign capacity and are subject to the common law public trust. The protection of these public areas and the assurance of access to them lies at the heart of Coastal Act policies requiring both the implementation of a public access program and the provision of maximum public access, where applicable, through the regulation of development. To carry out the requirement of Section 4 of Article X of the California Constitution, Section 30210 of the Coastal Act, as incorporated into the certified LCP, requires that maximum public access and recreational opportunities be provided in coastal areas. In addition, Section 30211 of the Coastal Act, also incorporated into the certified LCP, requires that development not interfere with public access to the sea where acquired through use or legislative authorization. Furthermore, Section 30212 of the Coastal Act, as incorporated in the LCP, requires that public access from the nearest public roadway to the shoreline and along the coast be provided in new development projects with certain exceptions such as public safety, military security, resource protection, and where adequate access exists nearby. Finally, LCP Policy 7-1 further highlights the County's duty to "protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline."

Coastal access is generally viewed as an issue of physical supply, and is dependent not only on the provision of lateral access (access along a beach) and vertical access (access from an upland street, bluff or public park to the beach), but also the availability of public parking (including on-street parking). The *availability of public parking* (including on-street parking) constitutes a significant public access and recreation resource and is as important to coastal access as shoreline accessways.

The project that is subject to this de novo review includes the construction of a 45 residential unit and 2 commercial mixed-use complex in the Isla Vista Community with 22 on-site parking spaces for residents. As described above, the certified LCP would require more than 100 on-site parking spaces for this development project. Although the project description includes an additional 9 residential parking spaces and 10 commercial spaces off-site through the future Isla Vista Master Plan's In Lieu Fee Parking Program, the Isla Vista Master Plan has not yet been evaluated or certified by the Commission. Additionally, it should be noted that the location of the off-site spaces have not been identified and there are no provisions currently in place to ensure that such parking spaces would be assured for the life of the proposed project. Regardless, the number of additional parking spaces would still be inadequate and would not meet the parking requirement of 109 on-site spaces. An inadequate number of on-site parking spaces will most likely result in residents and business patrons of the 45 residential

units and 2 commercial units vehicle occupying nearby on-street parking spaces, resulting in impacts to public access as public parking becomes less available.

Development in the Isla Vista community is generally characterized as high-density residential with some single-family residential neighborhoods and a small commercial “downtown” district. There are approximately 3,000 existing on-street parking spaces in the community, all of which are available for public use. There are five existing vertical access ways that provide public access from the Del Playa Drive to the sandy beach. In general, users of on-street parking in the community include: residents, visitors to the area, customers to stores, shops, and restaurants, employees of businesses, students of the adjacent University; and beachgoers.

The on-street parking spaces within the Isla Vista community are heavily used. A parking survey was conducted by the Santa Barbara County Public Works Department on six separate weekdays over a two-week period in the months of September and October 2003. According to the County’s survey, an average of 86–96 percent of on-street parking spaces were occupied at a given time within the study area. The highest percentage rates of occupancy were found to exist on the eastern end of Isla Vista adjacent to the University and commercial district while significantly lower rates of occupancy (with a corresponding increase in the percentage of vacant spaces) occurred on the western end of Isla Vista adjacent to Coal Oil Point Natural Reserve/Devereaux Slough. The proposed new mixed-use development will be located on Trigo Road in the eastern end of Isla Vista with the highest percentage rates of occupancy.

Section 30210 of the Coastal Act, as incorporated in the certified LCP, requires that new development be implemented in a manner consistent with the provision of maximum public access and recreational opportunities. In addition, Policy 7-1 of the LCP specifically requires that the County “take all necessary steps to protect and defend the public’s constitutionally guaranteed rights of access to and along the shoreline.” Further, Policy 2-23 of the LCP specifically addresses the problem of parking congestion in the community of Isla Vista and provides that the County shall work with property owners in Isla Vista to identify vacant sites for the potential development of parking to serve existing residential units. Policy 2-23 also states that the County should explore the possibility of acquiring or developing formal public parking facilities in Isla Vista which could include parking lots and structures. The provision of adequate public parking facilities would serve as a long-term solution to reduce on-street parking congestion in Isla Vista and this could be accomplished through a County LCP amendment. As discussed above, a LCP Amendment for the Isla Vista Community, the Isla Vista Master Plan, is pending. This amendment would ideally provide a comprehensive solution to assure that future developments in Isla Vista either have adequate parking, or parking impacts, are somehow mitigated for through alternative transportation options. However, the subject mixed-use development project would have only 22 on-site parking spaces, where more than 100 on-spaces are required under the LCP. This development, therefore, has the likely potential of displacing public parking and reducing public access to the coast.

Thus, proposed project is inconsistent with the provisions of the above cited sections of the Coastal Act regarding public access and recreation, which have been included in the County’s LCP pursuant to LUP Policy 1-1 and which require the protection of existing public access and public recreation resources in coastal areas. Therefore, the

Commission finds that the project approved by the County is not consistent with the above referenced public access and recreation policies of the County's LCP and the Coastal Act.

## F. ALTERNATIVES

Although the Commission is denying a coastal development permit for the mixed-use project as proposed, the Commission notes that the applicant is not barred from applying for a permit or pursuing an alternative proposal that would meet the requirements of the certified LCP. The site allows for commercial use and residential use if the residential use is "secondary" to the commercial use, as defined by the certified LCP. There are likely to be alternative designs that can provide for those uses as well as meet the height, setback, and parking standards. Further, a denial of the project does not preclude potential future LCP Amendments to modify the zoning requirements of the site, including the potential for a comprehensive LCP Amendment (such as the Isla Vista Master Plan) or a project-driven LCP Amendment to request a modification of zoning requirements on the subject site. Potential impacts to coastal resources from allowing increased density and reductions in parking standards on the subject site would need to be comprehensively evaluated as part of such an amendment.

## G. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to the preparation of the staff report. The Commission finds that the proposed project would result in significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970 and that there are feasible alternatives which would substantially reduce the project's adverse impacts on visual resources and community character and public access. Therefore, the proposed project is determined to be inconsistent with CEQA, the LCP, and the policies of the Coastal Act.



4-STB-09-007

# County of Santa Barbara Planning and Development

John Baker, Director

Dianne Black, Director Development Services

John McInnes, Director Long Range Planning

RECEIVED  
JAN 12 2009

## NOTICE OF FINAL ACTION

December 15, 2008

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

On December 3, 2008 Santa Barbara County took final action on the appealable development described below:

- Appealable Coastal Development Permit [case number]
- Appealable Coastal Development Permit 08CDP-00000-00173 following discretionary cases 08TRM-00000-00004, 08DVP-00000-00021 & 08CUP-00000-00033
- Discretionary action on a Tract Map, 08TRM-00000-00004, a Development Plan, 08DVP-00000-00021 and a Conditional Use Permit, 08CUP-00000-00033

**Project Architect:**

Conceptual Motion  
c/o Gerhard Mayer  
1501 Chapala Street  
Santa Barbara, CA 93101

**Property Applicant/Owner:**

D3 Partners, LLC  
c/o Neil Dipaola & Erik Vasquez  
P.O. Box 92251  
Santa Barbara, CA 93111

**Project Description:** Request of Neil Dipaola and Erik Vasquez, applicants, to consider the following:

- a) **08TRM-00000-00004** [application filed on June 10, 2008] for approval of a Tentative Tract Map (TM 14,750) in compliance with County Code Chapter 21 to provide for an airspace subdivision establishing 45 residential units and two commercial units, on property zoned C-2;
- b) **08DVP-00000-00021** [application filed on June 10, 2008] for approval of a Final Development Plan in compliance with Section 35-174 of the Article II Coastal Zoning Ordinance, to develop a 31,507 square foot (net) mixed-use structure, on property zoned C-2;
- c) **08CUP-00000-00033** [application filed on June 10, 2008] for a Conditional Use Permit to allow a residential use (secondary to commercial) in the C-2 zone district in compliance with Section 35-172 of the Article II Coastal Zoning Ordinance, on property zoned C-2;
- d) **08CDP-00000-00173** [application filed on October 17, 2008] for a Coastal Development Permit to develop a 31,507 square foot (net) mixed-use structure in

## Development Review

Building & Safety  
Energy, Administration  
123 E. Anapamu Street  
Santa Barbara, CA 93101  
Phone: (805) 568-2000  
FAX: (805) 568-2030

Long Range Planning  
30 E. Figueroa St, 2<sup>nd</sup> Floor  
Santa Barbara, CA 93101  
Phone: (805) 568-3380  
FAX: (805) 568-2076

Building & Safety  
185 West Hwy 246, Ste 101  
Buellton, CA 93427  
Phone: (805) 686-2227  
FAX: (805) 686-2227

Development Review  
Building & Safety  
Agricultural Planning

**EXHIBIT 1****A-4-STB-09-009****Notice of Final Action**

compliance with Section 35-169 of the Article II Coastal Zoning Ordinance, on property zoned C-2; and

to accept the exemption pursuant to Section 21090(b) of the State Guidelines for Implementation of the California Environmental Quality Act.

**Location:** The project involves AP Nos. 075-173-003 & 075-173-026, located at 6533 Trigo Road in the Isla Vista area, Third Supervisorial District, Santa Barbara County, California.

The receipt of this letter and the attached materials start the 10 working day appeal period during which the County's decision may be appealed to the Coastal Commission. Appeals must be in writing to the appropriate Coastal Commission district office.

Please contact Errin Briggs, the case planner at (805) 568-2047 if you have any questions regarding the County's action or this notice.



\_\_\_\_\_  
Errin Briggs, Project Planner



\_\_\_\_\_  
Date

Attachments:

Final Action Letter dated December 8, 2008  
Coastal Development Permit 08CDP-00000-00173

cc:

Conceptual Motion c/o Gerhard Mayer, 1501 Chapala Street, Santa Barbara, CA 93101  
D3 Partners, LLC, c/o Neil Dipaola & Erik Vasquez, P.O. Box 92251, Santa Barbara, CA 93111



# COUNTY OF SANTA BARBARA CALIFORNIA

## PLANNING COMMISSION

COUNTY ENGINEERING BUILDING  
123 E. ANAPAMU ST.  
SANTA BARBARA, CALIF. 93101-2058  
PHONE: (805) 568-2000  
FAX: (805) 568-2030

December 8, 2008

D3 Partners, LLC  
c/o Neil Dipaola & Erik Vasquez  
PO Box 92251  
Santa Barbara, CA 93111

PLANNING COMMISSION  
HEARING OF DECEMBER 3, 2008

**RE: The Loop Mixed Use Building; 08TRM-00000-00004, 08DVP-00000-00021,  
08CUP-00000-00033, 08CDP-00000-00173**

Hearing on the request of Neil Dipaola and Erik Vasquez, applicants, to consider the following:

- a) **08TRM-00000-00004** [application filed on June 10, 2008] for approval of a Tentative Tract Map (TM 14,750) in compliance with County Code Chapter 21 to provide for an airspace subdivision establishing 45 residential units and two commercial units, on property zoned C-2;
- b) **08DVP-00000-00021** [application filed on June 10, 2008] for approval of a Final Development Plan in compliance with Section 35-174 of the Article II Coastal Zoning Ordinance, to develop a 31,507 square foot (net) mixed-use structure, on property zoned C-2;
- c) **08CUP-00000-00033** [application filed on June 10, 2008] for a Conditional Use Permit to allow a residential use (secondary to commercial) in the C-2 zone district in compliance with Section 35-172 of the Article II Coastal Zoning Ordinance, on property zoned C-2;
- d) **08CDP-00000-00173** [application filed on October 17, 2008] for a Coastal Development Permit to develop a 31,507 square foot (net) mixed-use structure in compliance with Section 35-169 of the Article II Coastal Zoning Ordinance, on property zoned C-2; and

to accept the exemption pursuant to Section 21090(b) of the State Guidelines for Implementation of the California Environmental Quality Act. The application involves AP Nos. 075-173-003 & 075-173-026, located at 6533 Trigo Road in the Isla Vista area, Third Supervisorial District.

---

Dear Mr. Dipaola & Mr. Vasquez:

At the Planning Commission hearing of December 3, 2008, Commissioner Jackson moved, seconded by Commissioner Blough and carried by a vote of 5-0 to:

1. Adopt the required findings for the project specified in Attachment A of the staff report, dated November 14, 2008, including California Environmental Quality Act (CEQA) findings;

2. Accept the exemption pursuant to CEQA Statutes Section 21090(b) included as attachment B of the staff report, dated November 14, 2008; and
3. Approve the project, Case Nos. 08TRM-00000-00004, 08DVP-00000-00021, 08CUP-00000-00033 & 08CDP-00000-00173, subject to the conditions included as Attachments C, D, E & F of the staff report, dated November 14, 2008 and as revised at the hearing of December 3, 2008.

#### **REVISIONS TO THE CONDITIONS OF APPROVAL, 08TRM-00000-00004**

*Condition No. 23 was amended:*

- 23. Board of Architectural Review:** Exterior elevations, colors, materials and landscaping to conform to that approved by the SBAR as part of 08BAR-00000-00036. Final SBAR review and approval shall be obtained prior to Coastal Development Permit issuance. The project shall conform to final SBAR approval in all respects including landscaping. The project design shall be carried forward consistent with the SBAR's conceptual review comments. Any murals to be included with the project architecture shall be reviewed and approved by the Santa Barbara County Arts Commission.

*Condition No. 32 was amended:*

- 32.** The applicant shall provide eight (8) low income dwelling units available for sale or rent at prices affordable to households earning 75% of Area Median Income (AMI) consistent with the provisions of Government Code §65915-65918 (Density Bonus). **Plan Requirements and Timing:** Prior to final map clearance the applicant shall enter into and record an *Agreement to Provide Affordable Housing*, which shall include a model *Restrictive Covenant and Preemptive Right*. The *Covenant* shall be executed and recorded by each purchaser of an affordable unit. The *Agreement and Covenant* shall be based on the county's model documents, as they may be amended from time to time, and subject to the review and approval of P&D, CHCD and County Counsel. The units shall remain affordable for a period of thirty-55 years or longer if required by the financing, insurance or rental subsidy program used. In addition, the running of the covenant shall toll during any period of violation. If future amendments to the County Housing Element allow developers to pay fees in-lieu of constructing affordable units, and such amendments are consistent with Coastal Land Use Plan Policy 5-10 and State Density Bonus Law, the developer shall be able to utilize those amendments.

#### **REVISIONS TO THE CONDITIONS OF APPROVAL, 08DVP-00000-00021**

*Condition No. 23 was amended:*

- 23. Board of Architectural Review:** Exterior elevations, colors, materials and landscaping to conform to that approved by the SBAR as part of 08BAR-00000-00036. Final SBAR review and approval shall be obtained prior to Coastal Development Permit issuance. The project shall conform to final SBAR approval in all respects including landscaping. The project design shall be carried forward consistent with the SBAR's conceptual review comments. Any murals to be included with the project architecture shall be reviewed and approved by the Santa Barbara County Arts Commission.

*Condition No. 32 was amended:*

- 32.** The applicant shall provide eight (8) low income dwelling units available for sale or rent at prices affordable to households earning 75% of Area Median Income (AMI) consistent with the provisions of Government Code §65915-65918 (Density Bonus). **Plan Requirements and Timing:** Prior to final map clearance the applicant shall enter into and record an *Agreement to Provide Affordable Housing*, which shall include a model *Restrictive Covenant and Preemptive Right*. The *Covenant* shall be executed and recorded by each purchaser of an affordable unit. The

*Agreement and Covenant shall be based on the county's model documents, as they may be amended from time to time, and subject to the review and approval of P&D, CHCD and County Counsel. The units shall remain affordable for a period of thirty-55 years or longer if required by the financing, insurance or rental subsidy program used. In addition, the running of the covenant shall toll during any period of violation. If future amendments to the County Housing Element allow developers to pay fees in-lieu of constructing affordable units, and such amendments are consistent with Coastal Land Use Plan Policy 5-10 and State Density Bonus Law, the developer shall be able to utilize those amendments.*

## REVISIONS TO THE CONDITIONS OF APPROVAL, 08CUP-00000-00033

*Condition No. 23 was amended:*

**23. Board of Architectural Review:** Exterior elevations, colors, materials and landscaping to conform to that approved by the SBAR as part of 08BAR-00000-00036. Final SBAR review and approval shall be obtained prior to Coastal Development Permit issuance. The project shall conform to final SBAR approval in all respects including landscaping. *The project design shall be carried forward consistent with the SBAR's conceptual review comments. Any murals to be included with the project architecture shall be reviewed and approved by the Santa Barbara County Arts Commission.*

*Condition No. 32 was amended:*

**32.** The applicant shall provide eight (8) low income dwelling units available for sale or rent at prices affordable to households earning 75% of Area Median Income (AMI) consistent with the provisions of Government Code §65915-65918. (Density Bonus). **Plan Requirements and Timing:** Prior to final map clearance the applicant shall enter into and record an *Agreement to Provide Affordable Housing*, which shall include a model *Restrictive Covenant and Preemptive Right*. The *Covenant* shall be executed and recorded by each purchaser of an affordable unit. The *Agreement and Covenant* shall be based on the county's model documents, as they may be amended from time to time, and subject to the review and approval of P&D, CHCD and County Counsel. The units shall remain affordable for a period of thirty-55 years or longer if required by the financing, insurance or rental subsidy program used. In addition, the running of the covenant shall toll during any period of violation. *If future amendments to the County Housing Element allow developers to pay fees in-lieu of constructing affordable units, and such amendments are consistent with Coastal Land Use Plan Policy 5-10 and State Density Bonus Law, the developer shall be able to utilize those amendments.*

*The attached findings and conditions reflect the Planning Commission's actions of December 3, 2008.*

The action of the Planning Commission on this project may be appealed to the Board of Supervisors by the applicant or any aggrieved person adversely affected by such decision. To qualify as an aggrieved persons the appellant, in person or through a representative, must have informed the Planning Commission by appropriate means prior to the decision on this project of the nature of their concerns, or, for good cause, was unable to do so.

Appeal applications may be obtained at the Clerk of the Board's office. The appeal form must be filed along with any attachments to the Clerk of the Board. In addition to the appeal form a concise summary of fifty words or less, stating the reasons for the appeal, must be submitted with the appeal. The summary statement will be used for public noticing of your appeal before the Board of Supervisors. The appeal, which shall be in writing together with the accompanying applicable fee must be filed with the Clerk of the Board of Supervisors within the 10 calendar days following the date of the Planning Commission's decision. In the event that the last day for filing an appeal falls on a non-business of the County, the appeal may be timely filed on the next business day. This letter or a copy should be taken to

the Clerk of the Board of Supervisors in order to determine that the appeal is filed within the allowed appeal period. **The appeal period for this project ends on Monday, December 15, 2008 at 5:00 p.m.**

Final action by the County on this project may be appealed to the Coastal Commission by the applicant, an aggrieved person, as defined above, or any two members of the Coastal Commission within the 10 working days following the date the County's Notice of Final Action is received by the Coastal Commission.

Sincerely,



Dianne M. Black  
Secretary to the Planning Commission

cc: Case File: 08TRM-00000-00004, 08DVP-00000-00021, 08CUP-00000-00033, 08CDP-00000-00173  
Planning Commission File  
California Coastal Commission, 89 S. California Street, Suite 200, Ventura, CA 93001  
Architect: Conceptual Motion, c/o Gerhard Mayer, 1501 Chapala Street, Santa Barbara, CA 93101  
County Chief Appraiser  
County Surveyor  
Fire Department  
Flood Control  
Park Department  
Public Works  
Environmental Health Services  
APCD  
Brooks Firestone, Third District Supervisor  
C.J. Jackson, Third District Commissioner  
David Allen, Deputy County Counsel  
Errin Briggs, Planner

**Attachments:**      **Attachment A - Findings**  
**Attachment C - Tentative Tract Map Conditions of Approval with attached  
Departmental Letters**  
**Attachment D - Development Plan Conditions of Approval with attached  
Departmental Letters**  
**Attachment E - Conditional Use Permit Conditions of Approval with attached  
Departmental Letters**  
**Attachment F - Coastal Development Permit 08CDP-00000-00173**

DMB/jao

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## ATTACHMENT A: FINDINGS

### **1.0 CEQA FINDINGS**

Environmental review of the project under the California Environmental Quality Act (CEQA) has been adequately disclosed pursuant to CEQA Statute Section 21090(b) [Redevelopment Plan Deemed Single Project] as the environmental impact report for a redevelopment plan (IVMP EIR 03-EIR-008) is a project EIR and all public and private activities or undertaking pursuant to, or in furtherance of a redevelopment plan shall be deemed a single project. Additionally, the events specified in CEQA Statutes Section 21166 have not occurred with respect to The Loop Mixed Use Building project including:

- a. Substantial changes are not proposed in the project which will require major revisions of the environmental impact report.
- b. Substantial changes will not occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
- c. New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, has not become available.

Therefore, the Isla Vista Master Plan EIR satisfies the project's environmental review and the exemption under CEQA Statute Section 21090(b) is appropriate.

### **2.0 ADMINISTRATIVE FINDINGS**

#### ***2.1 Subdivision Map Act Findings***

*Pursuant to the Subdivision Map Act, the following Subdivision Map Act findings apply to any tentative parcel or tract map:*

***2.1.1 State Government Code §66473.1. The design of the subdivision for which a tentative map is required pursuant to §66426 shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.***

The project proposes the construction of a 31,507 square foot mixed-use building and the airspace subdivision of 45 residential units and 2 commercial units on one parcel of land. To the extent feasible, the project proposes to provide for future passive and natural heating and cooling opportunities in the subdivision by providing exterior living spaces (balconies) in a majority of the units which could allow airflow and by designing awning heights which block sunlight in the summer months and allow sunlight to enter the building in the winter months. Solar array panels may be feasible subject to obtaining the necessary permits. The airspace division of the property would not interfere with these opportunities. Therefore, this finding can be made.

***2.1.2 State Government Code §66473.5. No local agency shall approve a tentative map, or a parcel map for which a tentative map was not required, unless the legislative body finds that the proposed subdivision, together with the provisions for its design and improvement is consistent with the general plan required by Article 5 (commencing with §65300) of Chapter 3 of Division 1 or any specific plan adopted pursuant to Article 8 (commencing with §65450) of Chapter 3 of Division 1.***

As discussed in Section 6.2 of the staff report dated December 3, 2008, hereby incorporated by reference, the proposed project would be consistent with the applicable policies contained within Comprehensive Plan including the Coastal Land Use Plan and the Goleta Community Plan including those related to services, aesthetics, water resources, neighborhood compatibility, noise and traffic and circulation. The project would also be consistent with the policies contained within the intended Isla Vista Master Plan (IVMP). Because IVMP certification by the Coastal Commission has not yet occurred but is expected in 2009, Section

6.2 of the staff report dated December 3, 2008, includes discussion of policy consistency with the IVMP for reference purposes only. Therefore, this finding can be made.

**2.1.3 *State Government Code §66474. The following findings shall be cause for disapproval of a Tentative Parcel Map/Tract Map:***

**2.1.3.1 *The proposed map is not consistent with applicable general and specific plans as specified in §65451.***

As discussed in Section 6.2 of the staff report dated December 3, 2008, hereby incorporated by reference, the proposed map would be consistent with the applicable policies contained within Comprehensive Plan including the Coastal Land Use Plan and the Goleta Community Plan including those related to services, aesthetics, water resources, neighborhood compatibility, noise and traffic and circulation. The project would also be consistent with the policies contained within the intended Isla Vista Master Plan (IVMP). Because IVMP certification by the Coastal Commission has not yet occurred but is expected in 2009, Section 6.2 of the staff report dated December 3, 2008, includes discussion of policy consistency with the IVMP for reference purposes only.

The Comprehensive Plan land use designation for the project site is general commercial which does not specify a maximum density for residential development. Therefore, the residential density proposed by the project would be consistent with the Comprehensive Plan. Therefore, this finding cannot be made.

**2.1.3.2 *The design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.***

As discussed in Section 6.2 of the staff report dated December 3, 2008, hereby incorporated by reference, the design and improvements of the proposed subdivision would be consistent with the applicable policies contained within Comprehensive Plan including the Coastal Land Use Plan and the Goleta Community Plan. The project site was determined to be an appropriate location for mixed-use development in the IVMP consistent with the policy direction of the Goleta Community Plan (LUR-GV-1, LUC-GV-2, CIRC-GV-5, 7, 8, AQ-GV-3, 4) and the Coastal Land Use Plan (CLUP 5-9). The project would also be consistent with the policies contained within the intended Isla Vista Master Plan (IVMP). Because IVMP certification by the Coastal Commission has not yet occurred but is expected in 2009, Section 6.2 of the staff report dated December 3, 2008, includes discussion of policy consistency with the IVMP for reference purposes only. Therefore, this finding cannot be made.

**2.1.3.3 *The site is not physically suitable for the type of development proposed.***

The 0.38 acre project site is located in a densely developed urban area and is adequate in size, shape, location and physical characteristics to accommodate the construction of a new 31,507 square foot (net) mixed-use structure containing 45 residential units and 4,661 square feet of commercial space. Adequate services would be in place to serve the development including water supply to be provided by the Goleta Water District and sewer services to be provided by the Goleta West Sanitary District. Trigo Road and Embarcadero Del Norte would provide adequate emergency access to the site per County Fire Department requirements. Existing police protection services in the Isla Vista area would be adequate to serve the proposed project. Therefore, this finding cannot be made.

**2.1.3.4 *The site is not physically suited for the proposed density of development.***

The 0.38 acre project site is adequate in size, shape, location and physical characteristics to accommodate the construction of a new 31,507 square foot (net) mixed-use structure containing 45 residential units and 4,661 square feet of commercial space.

In order to serve the proposed residential units, 22 parking spaces would be provided on site and an additional 9 residential and 10 commercial spaces would be provided off site through the IVMP In-Lieu Fee Parking Program and made available prior to occupancy of the proposed development. Under the In-Lieu Fee Parking Program, fees are paid on a per space basis, depending on the proposed use. There is a \$15,000 fee per residential space and a \$5,000 fee per commercial space (\$185,000 total fee paid by the developer). The offsite commercial spaces would be available for conjunctive use by other downtown IV patrons and visitors. The RDA is currently seeking approval to construct a 45-space public parking lot in the downtown area. Further, the RDA currently owns several additional properties in Isla Vista which are intended to be developed as public parking lots. These parking lots would be available to serve new commercial development, as well as residents of downtown mixed-use projects including the proposed project.

The project site is located in the downtown area of Isla Vista where mixed-use development is appropriate and beneficial to the community. According to a September 16, 2008 trip generation study performed by the Public Works Department, the proposed project would increase the traffic generation rates (peak-hour trips and average daily trips) for the property by 30 AM Peak Hours trips and 43 PM Peak Hour trips over existing levels (automotive service center.) However, because of its close proximity to the University of California Santa Barbara, the project will enable residents to bike or walk to school and to satisfy most of their daily needs within the Isla Vista community. Also, the project's downtown location will enable other Isla Vista residents to bike or walk to the proposed commercial spaces. Both of these factors would reduce the need for residents and patrons to travel to and from the project site by automobile, thus reducing peak trips and parking demand in the surrounding neighborhood and the use of the surrounding street network. Therefore, this finding cannot be made.

**2.1.3.5    *The design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.***

The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage. Potential environmental impacts caused by the proposed project were analyzed and disclosed under the Isla Vista Master Plan EIR (03-EIR-08) incorporated herein by reference.

The project site is located in the downtown area of Isla Vista where mixed-use development is appropriate and beneficial to the community. Because of its close proximity to the University of California Santa Barbara, the project will enable residents to bike or walk to school and to satisfy most of their daily needs within the Isla Vista community. Also, the project's downtown location will enable other Isla Vista residents to bike or walk to the proposed commercial spaces. Both of these factors would reduce the need for residents and patrons to travel to and from the project site by automobile, thus reducing parking demand in the surrounding neighborhood and reducing vehicle trips in the surrounding street network.

The project site is not bordered by watercourses and is located within a completely urbanized area. A Stormwater Quality Management Plan (SWQMP) would be required to be reviewed and approved prior to issuance of the follow-on Land Use Permit to

ensure impacts to water quality are mitigated to the maximum extent feasible. Thus, the project would not substantially or avoidably injure fish or wildlife or their habitat. Therefore, this finding cannot be made.

**2.1.3.6 *The design of the subdivision or type of improvements is likely to cause serious public health problems.***

The proposed project would not cause serious public health problems. The project site was determined to be an appropriate location for mixed-use development in the JVMP consistent with the policy direction of the Goleta Community Plan (LUR-GV-1, LUC-GV-2, CIRC-GV-5, 7, 8, AQ-GV-3, 4) and the Coastal Land Use Plan (CLUP 5-9). The proposed development does not have the potential to generate factors such as smoke, odors or noise, which would be incompatible with the surrounding area or could affect the comfort and convenience of residents in the surrounding area.

The project site is currently used as a U-Haul rental center and for automobile storage but was previously used as a gas station and an automobile repair station. The gas station development and associated underground fuel tanks were removed in the early 1990's. However, while in use, the tanks leaked and contaminated the surrounding soils and groundwater with hydrocarbons. While the site has been excavated in an attempt to clean it up, hydrocarbon contamination associated with the historic fuel tanks persists and further remediation will be necessary. The County Fire Department Hazardous Materials Division has overseen past remediation efforts at the site and maintains all records in association with the site's cleanup. The Fire Department condition letter included with Attachments C, D, E and F requires the applicant to develop and implement a remedial action plan prior to construction of the proposed building.

A noise study (AMEC Earth & Environmental, Inc., July 8, 2008) was conducted to determine the noise levels projected at the property after occupancy of the building to ensure residents would not be exposed to ambient noise levels above County thresholds. It was determined that the future noise level at the project site would range up to, but not exceed 65dB CNEL along the property boundary adjacent to Embarcadero Del Norte/Trigo, consistent with County requirements.

Although the proposed structure would be developed with reduced setbacks, such development would be consistent with the easterly adjacent commercial structure and consistent with typical urban fabric of a downtown where buildings front sidewalks and frame the streetscape. Such is the objective of the Form-Based Code adopted locally with the JVMP. The existing community also includes several commercial structures of one and two stories, two-story theatre buildings and numerous two-story residential dormitories.

A Stormwater Quality Management Plan (SWQMP) would be required to be reviewed and approved prior to issuance of the follow-on Land Use Permit to ensure impacts to water quality are mitigated to the maximum extent feasible. Therefore, this finding cannot be made.

**2.1.3.7 *The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.***

There are no easements acquired by the public at large for access through, or use of, the subject property. Therefore, this finding cannot be made.

- 2.1.4 State Government Code §66474.4.** *The legislative body of a county shall deny approval of a tentative map or parcel map if it finds that the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 and that either the resulting parcels following a subdivision of that land would be too small to sustain their agricultural use or the subdivision will result in residential development not incidental to the commercial agricultural use of the land.*

The subject property is not subject to a contract entered into pursuant to the California Land Conservation Act of 1965. Therefore, this finding can be made.

- 2.1.5 State Government Code §66474.6.** *The governing body of any local agency shall determine whether discharge of waste from the proposed subdivision into an existing community sewer system would result in violation of existing requirements prescribed by a California Regional Water Quality Control Board pursuant to Division 7 (commencing with §13000) of the Water Code.*

Current and future development of the project site would be served by the Goleta West Sanitary District. Since District operation is consistent with the requirements of the Regional Water Quality Control Board and the existing commercial building is currently connected to the sewer system, discharge of waste into the existing public sewer system would not result in a violation of existing requirements prescribed by the California Regional Water Quality Control Board. Therefore, this finding can be made.

**In addition to the findings above, the following findings apply to subdivisions in the Coastal Zone per Article II, Section 35-130:**

- 2.1.6** *In order to obtain approval for a division of land, the subdivider shall demonstrate that adequate water is available to serve the newly created lots except for lots to be designated as "Not A Building Site" on the recorded subdivision or parcel map.*

The applicant has provided a Water Service Classification Notice from the Goleta Water District dated April 3, 2008 which states that the district has adequate water resources to serve the proposed project. Additionally, a Can & Will Serve letter is required by the Environmental Health Services Department prior to recordation of the subdivision map. Therefore, water service would be ensured prior to map recordation and this finding can be made.

- 2.1.7** *As a requirement for approval of any proposed land division of agricultural land designated as AG-I or AG-II, the County shall make a finding that the long-term agricultural productivity of the land will not be diminished by the proposed division.*

The project site is not designated for agricultural use.

## **2.2 Development Plan Findings**

Pursuant to Section 35-174.7.1, a Development Plan shall only be approved if all of the following findings are made:

- 2.2.1** *That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the density and level of development proposed.*

The 0.38 acre project site is adequate in size, shape, location and physical characteristics to accommodate the construction of a new 31,507 square foot (net) mixed-use structure containing 45 residential units and 4,661 square feet of commercial space.

In order to serve the proposed residential units, 22 parking spaces would be provided on site and an additional 9 residential and 10 commercial spaces would be provided off site through the IVMP In-Lieu Fee Parking Program and made available prior to occupancy of the proposed development. Under the In-Lieu Fee Parking Program, fees are paid on a per space basis, depending on the proposed use. There is a \$15,000 fee per residential space and a \$5,000 fee per commercial space (\$185,000 total fee paid by the developer). The offsite spaces would be available for conjunctive use by other downtown IV patrons and visitors. The RDA is currently seeking approval to construct a 45-space public parking lot in the downtown area. Further, the RDA currently owns several additional properties in Isla Vista which are intended to be developed as public parking lots. These parking lots would be available to serve new commercial development, as well as residents of downtown mixed-use projects including the proposed project.

The project site is located in the downtown area of Isla Vista where mixed-use development is appropriate and beneficial to the community. According to a September 16, 2008 trip-generation study performed by the Public Works Department, the proposed project would increase the traffic generation rates (peak-hour trips and average daily trips) for the property by 30 AM Peak Hours trips and 43 PM Peak Hour trips over existing levels (automotive service center.) However, because of its close proximity to the University of California Santa Barbara, the project will enable residents to bike or walk to school and to satisfy most of their daily needs within the Isla Vista community. Also, the project's downtown location will enable other Isla Vista residents to bike or walk to the proposed commercial spaces. Both of these factors would reduce the need for residents and patrons to travel to and from the project site by automobile, thus reducing vehicle trips and parking demand in the surrounding neighborhood and the use of the surrounding street network. Therefore, this finding can be made.

**2.2.2 *That adverse impacts are mitigated to the maximum extent feasible.***

Direct impacts of the project would be mitigated to the maximum extent feasible consistent with applicable policy direction. In order to serve the proposed residential units, 22 parking spaces would be provided on site and an additional 9 residential and 10 commercial spaces would be provided off site through the IVMP In-Lieu Fee Parking Program. Under the In-Lieu Fee Parking Program, fees are paid on a per space basis, depending on the proposed use. There is a \$15,000 fee per residential space and a \$5,000 fee per commercial space (\$185,000 total fee paid by the developer). The offsite spaces would be available for conjunctive use by other downtown IV patrons and visitors. The RDA is currently seeking approval to construct a 45-space public parking lot in the downtown area. Further, the RDA currently owns several additional properties in Isla Vista which are intended to be developed as public parking lots. These parking lots would be available to serve new commercial development, as well as residents of downtown mixed-use projects including the proposed project.

A noise study (AMEC Earth & Environmental, Inc., July 8, 2008) was conducted to determine the noise levels projected at the property after occupancy of the building to ensure residents would not be exposed to ambient noise levels above County thresholds. It was determined that the future noise level at the project site would range up to, but not exceed 65dB CNEL along the property boundary adjacent to Embarcadero Del Norte/Trigo, consistent with County requirements. Therefore, this finding can be made.

**2.2.3 *That streets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed use.***

As discussed in the traffic and circulation section of the previously adopted Isla Vista Master Plan EIR (August 21, 2007), herein incorporated by reference, the street system surrounding the project site includes roadway segments and intersections currently operating at less-than-acceptable levels-of-service (LOS D or worse). The future buildout of the Isla Vista area, as described in the IV Master Plan would exacerbate these conditions. According to a September, 2008 trip generation study, implementation of the project would add 30 AM Peak Hour trips and 43 PM Peak Hour trips over existing conditions. However, because of its close proximity to the University of California Santa Barbara, the project will enable residents to bike or walk to school and to satisfy most of their daily needs within the Isla Vista community. Also, the project's downtown location will enable other Isla Vista residents to bike or walk to the proposed commercial spaces. Both of these factors would reduce the need for residents and patrons to travel to and from the project site by automobile, thus reducing vehicle trips and parking demand in the surrounding neighborhood and the use of the surrounding street network.

Additionally, signalized intersections currently under construction with the El Colegio-Road Expansion Project (Case No. 07DVP-00000-00008) including the intersection with Embarcadero Del Norte, would improve traffic circulation throughout the Isla Vista area. Therefore, surrounding streets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed use and this finding can be made.

**2.2.4 *That there are adequate public services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.***

As discussed in Section 6.2 of the staff report dated December 3, 2008, incorporated herein by reference, adequate public services exist to serve the proposed development. The property would continue to be provided service through the Goleta Water District and the Goleta West Sanitary District. Trigo Road and Embarcadero Del Norte would provide adequate emergency access to the site per County Fire Department requirements. Existing police protection services in the Isla Vista area would be adequate to serve the proposed project, as identified in the IVMP EIR 03-EIR-008.

**2.2.5 *That the project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding area.***

The proposed project would not be detrimental to the health, safety, comfort, convenience, and general welfare of the surrounding neighborhood. The project site was determined to be an appropriate location for mixed-use development in the IVMP consistent with the policy direction of the Goleta Community Plan (LUR-GV-1, LUC-GV-2, CIRC-GV-5, 7, 8, AQ-GV-3, 4) and the Coastal Land Use Plan (CLUP 5-9). The proposed development does not have the potential to generate factors such as smoke, odors or noise, which would be incompatible with the surrounding area or could affect the comfort and convenience of residents in the surrounding area.

A noise study (AMEC Earth & Environmental, Inc., July 8, 2008) was conducted to determine the noise levels projected at the property after occupancy of the building to ensure residents would not be exposed to ambient noise levels above County thresholds. It was determined that the future noise level at the project site would range up to, but not exceed 65dB CNEL along the property boundary adjacent to Embarcadero Del Norte/Trigo, consistent with County requirements.

A Stormwater Quality Management Plan (SWQMP) would be required to be reviewed and approved prior to issuance of the follow-on Land Use Permit to ensure impacts to water quality are mitigated to the maximum extent feasible.

The Isla Vista Master Plan encourages mixed-use development through zoning changes in the downtown commercial district. The properties comprising this area, including the project site, would be rezoned to Community Mixed Use and have a height limit of 40 feet. The Master Plan states that "The 40-foot height limit is expected to result in buildings of varying height..." to avoid a uniform building skyline upon buildout and provide for variation in building design.

Although the proposed structure would be developed with reduced setbacks, such development would be consistent with the easterly adjacent commercial structure and consistent with typical urban fabric of a downtown where buildings front sidewalks and frame the streetscape. The project site is immediately surrounded by a two-story commercial building, two-story residential buildings and a one-story restaurant building. The existing community also includes several commercial structures of one and two stories, two two-story theatre buildings and numerous two-story residential dormitories. With input from the Board of Architectural Review, the project has been designed to convey a sense of modern urbanism. Further, the project conveys the appropriate scale and mass to be located at a prominent corner of the downtown core but is also in conformance with the scale and character of the surrounding Isla Vista community.

Zero-lot line development is a consistent theme in densely developed urban areas such as downtown Isla Vista where developable land is in short supply. In order to utilize available space to the maximum extent, the project is proposed with reduced setbacks. The proposed design is consistent with typical downtown urban development practices and would be subject to final Board of Architectural Review. While the structure would likely be the first of its kind in the downtown Isla Vista area, it is considered a "catalyst project" intended to spur further redevelopment of the surrounding area and act as a model for such development. In the future, it is anticipated that adjacent lots would redevelop to their full potential within the context set by this project as envisioned in the Master Plan. Such buildout would provide additional housing for the downtown area to help alleviate the present overcrowding conditions in the community.

#### ***2.2.6 That the project is in conformance with the applicable provisions of Article II and the Comprehensive Plan including the Coastal Land Use Plan.***

As discussed in Sections 6.2 and 6.3 of the staff report dated December 3, 2008, hereby incorporated by reference, the proposed project would be consistent with the applicable provisions of Article II and the policies contained within Comprehensive Plan including the Coastal Land Use Plan and the Goleta Community Plan with the following exceptions as allowed by Section 35-144C.4 (Development Incentives for Density Bonus Program) and as approved by the County Planning Commission:

C-2 Zone District Standard	IVYMP EBC Standard	Article II Ordinance Standard	Project Proposal
Front Setback	Build-to Line of 35 feet from centerline	30 feet from centerline and 10 feet from right-of-way line	Reduced to zero
Rear Setback	20 feet when adjacent to residential use	25 feet when adjacent to residential use	Reduced to 10 feet
Building Height	40 feet	35 feet	Increased to 51 feet
Parking	(41) Total Spaces	(109) Total Spaces	(41) Total Spaces

Commercial - (10) One Commercial - (10) One Space 22 residential spaces would

	Space per 500 sf.	per 500 sf.	be provided on site
	<u>Residential</u> - (31) 0.6 spaces per studio unit (25) and 1.5 spaces per 2-bedroom unit (6)	<u>Residential</u> - (99) 2 spaces per dwelling unit (45 units x 2 = 90) & Visitor Parking - (9) One space per five dwelling units	9 residential spaces and 10 commercial spaces (conjunctive use) would be provided off-site through RDA In-Lieu Fee Parking Program.
	Off-site parking to be located within 1,000 feet of the project site, Developer may utilize In-Lieu Fee Parking Program	Off-site parking to be located within 500 feet of project site	Off-site parking to be located within 1,000 feet of the project site

Because the project proposes the development of more than 20% of units as affordable units (8 of 32 base units or 25%), it is eligible for the State Density Bonus Program. The intent of the density bonus program is to provide incentives, not otherwise available, to developers to produce lower income housing units. Under this program, the applicant has requested the above-mentioned development incentives which would preclude project compliance with these Article II standards at the discretion of the Planning Commission.

**2.2.7 *That in designated rural areas the use is compatible with and subordinate to the scenic, agricultural and rural character of the area.***

The project site is not located in a rural area.

**2.2.8 *That the project will not conflict with any easements required for public access through, or public use of a portion of the property.***

There are no easements for public access through, or public use of the subject property.

### **2.3 Conditional Use Permit Findings**

Pursuant to Section 35-172.8, a Conditional Use Permit shall only be approved if all of the following findings are made:

**2.3.1. *That the site for the project is adequate in size, shape, location and physical characteristics to accommodate the type of use and level of development proposed.***

The 0.38 acre project site is adequate in size, shape, location and physical characteristics to accommodate the construction of a new 31,507 square foot (net) mixed-use structure containing 45 residential units and 4,661 square feet of commercial space.

In order to serve the proposed residential units, 22 parking spaces would be provided on site and an additional 9 residential and 10 commercial spaces would be provided off site through the IVMP In-Lieu Fee Parking Program and made available prior to occupancy of the proposed development. Under the In-Lieu Fee Parking Program, fees are paid on a per space basis, depending on the proposed use. There is a \$15,000 fee per residential space and a \$5,000 fee per commercial space (\$185,000 total fee paid by the developer). The offsite spaces would be available for conjunctive use by other downtown IV patrons and visitors. The RDA is currently seeking approval to construct a 45-space public parking lot in the downtown area. Further, the

RDA currently owns several additional properties in Isla Vista which are intended to be developed as public parking lots. These parking lots would be available to serve new commercial development, as well as residents of downtown mixed-use projects including the proposed project.

The project site is located in the downtown area of Isla Vista where mixed-use development is appropriate and beneficial to the community. According to a September 16, 2008 trip generation study performed by the Public Works Department, the proposed project would increase the traffic generation rates (peak-hour trips and average daily trips) for the property by 30 AM Peak Hours trips and 43 PM Peak Hour trips over existing levels (automotive service center.) However, because of its close proximity to the University of California Santa Barbara, the project will enable residents to bike or walk to school and to satisfy most of their daily needs within the Isla Vista community. Also, the project's downtown location will enable other Isla Vista residents to bike or walk to the proposed commercial spaces. Both of these factors would reduce the need for residents and patrons to travel to and from the project site by automobile, thus reducing vehicle trips and parking demand in the surrounding neighborhood and the use of the surrounding street network. Therefore, this finding can be made.

**2.3.2. *That adverse environmental impacts are mitigated to the maximum extent feasible.***

Direct impacts of the project would be mitigated to the maximum extent feasible consistent with applicable policy direction. In order to serve the proposed residential units, 22 parking spaces would be provided on site and an additional 9 residential and 10 commercial spaces would be provided off site through the IVMP In-Lieu Fee Parking Program. Under the In-Lieu Fee Parking Program, fees are paid on a per space basis, depending on the proposed use. There is a \$15,000 fee per residential space and a \$5,000 fee per commercial space (\$185,000 total fee paid by the developer). The offsite spaces would be available for conjunctive use by other downtown IV patrons and visitors. The RDA is currently seeking approval to construct a 45-space public parking lot in the downtown area. Further, the RDA currently owns several additional properties in Isla Vista which are intended to be developed as public parking lots. These parking lots would be available to serve new commercial development, as well as residents of downtown mixed-use projects including the proposed project.

A noise study (AMEC Earth & Environmental, Inc., July 8, 2008) was conducted to determine the noise levels projected at the property after occupancy of the building to ensure residents would not be exposed to ambient noise levels above County thresholds. It was determined that the future noise level at the project site would range up to, but not exceed 65dB CNEL along the property boundary adjacent to Embarcadero Del Norte/Trigo, consistent with County requirements. Therefore, this finding can be made.

**2.3.3. *That streets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed use.***

As discussed in the traffic and circulation section of the previously adopted Isla Vista Master Plan EIR (August 21, 2007), herein incorporated by reference, the street system surrounding the project site includes roadway segments and intersections currently operating at less-than-acceptable levels-of-service (LOS D or worse). The future buildout of the Isla Vista area, as described in the IV Master Plan would exacerbate these conditions. According to a September, 2008 trip generation study, implementation of the project would add 30 AM Peak Hour trips and 43 PM Peak Hour trips over existing conditions. However, because of its close proximity to the University of California Santa Barbara, the project will enable residents to bike or walk to school and to satisfy most of their daily needs within the Isla Vista community. Also, the project's downtown location will enable other Isla Vista residents to bike or walk to the proposed commercial spaces. Both of these factors would reduce the need for residents and patrons to travel

to and from the project site by automobile, thus reducing vehicle trips and parking demand in the surrounding neighborhood and the use of the surrounding street network.

Additionally, signalized intersections currently under construction with the El Colegio Road Expansion Project (Case No. 07DVP-00000-00008) including the intersection with Embarcadero Del Norte, would improve traffic circulation throughout the Isla Vista area. Therefore, surrounding streets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed use and this finding can be made.

**2.3.4. *That there are adequate public services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.***

As discussed in Section 6.2 of the staff report dated December 3, 2008, incorporated herein by reference, adequate public services exist to serve the proposed development. The property would continue to be provided service through the Goleta Water District and the Goleta West Sanitary District. Trigo Road and Embarcadero Del Norte would provide adequate emergency access to the site per County Fire Department requirements. Existing police protection services in the Isla Vista area would be adequate to serve the proposed project, as identified in the IVMP EIR 03-EIR-008.

**2.3.5. *That the project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding area.***

The proposed project would not be detrimental to the health, safety, comfort, convenience, and general welfare of the surrounding neighborhood. The project site was determined to be an appropriate location for mixed-use development in the IVMP consistent with the policy direction of the Goleta Community Plan (LUR-GV-1, LUC-GV-2, CIRC-GV-5, 7, 8, AQ-GV-3, 4) and the Coastal Land Use Plan (CLUP 5-9). The proposed development does not have the potential to generate factors such as smoke, odors or noise, which would be incompatible with the surrounding area or could affect the comfort and convenience of residents in the surrounding area.

A noise study (AMEC Earth & Environmental, Inc., July 8, 2008) was conducted to determine the noise levels projected at the property after occupancy of the building to ensure residents would not be exposed to ambient noise levels above County thresholds. It was determined that the future noise level at the project site would range up to, but not exceed 65dB CNEL along the property boundary adjacent to Embarcadero Del Norte/Trigo, consistent with County requirements.

A Stormwater Quality Management Plan (SWQMP) would be required to be reviewed and approved prior to issuance of the follow-on Land Use Permit to ensure impacts to water quality are mitigated to the maximum extent feasible.

The Isla Vista Master Plan encourages mixed-use development through zoning changes in the downtown commercial district. The properties comprising this area, including the project site, would be rezoned to Community Mixed Use and have a height limit of 40 feet. The Master Plan states that "The 40-foot height limit is expected to result in buildings of varying height..." to avoid a uniform building skyline upon buildout and provide for variation in building design.

Although the proposed structure would be developed with reduced setbacks, such development would be consistent with the easterly adjacent commercial structure and consistent with typical urban fabric of a downtown where buildings front sidewalks and frame the streetscape. The project site is immediately surrounded by a two-story commercial building, two-story residential buildings and a one-story restaurant building. The existing community also includes several commercial structures of one and two stories, two two-story theatre buildings and numerous two-

story residential dormitories. With input from the Board of Architectural Review, the project has been designed to convey a sense of modern urbanism. Further, the project conveys the appropriate scale and mass to be located at a prominent corner of the downtown core but is also in conformance with the scale and character of the surrounding Isla Vista community.

Zero-lot line development is a consistent theme in densely developed urban areas such as downtown Isla Vista where developable land is in short supply. In order to utilize available space to the maximum extent, the project is proposed with reduced setbacks. The proposed design is consistent with typical downtown urban development practices and would be subject to final Board of Architectural Review. While the structure would likely be the first of its kind in the downtown Isla Vista area, it is considered a "catalyst project" intended to spur further redevelopment of the surrounding area and act as a model for such development. In the future, it is anticipated that adjacent lots would redevelop to their full potential within the context set by this project as envisioned in the Master Plan. Such buildout would provide additional housing for the downtown area to help alleviate the present overcrowding conditions in the community.

**2.3.6. *That the project is in conformance with the applicable provisions and policies of Article II and the Coastal Land Use Plan.***

As discussed in Sections 6.2 and 6.3 of the staff report dated December 3, 2008, hereby incorporated by reference, the proposed project would be consistent with the applicable provisions of Article II and the policies contained within Comprehensive Plan including the Coastal Land Use Plan and the Goleta Community Plan with the following exceptions as allowed by Section 35-144C.4 (Development Incentives for Density Bonus Program) and as approved by the County Planning Commission:

C-2 District Standard	Zone IV-MP FBC Standard	Article II Standard	Ordinance	Project Proposal
Front Setback	Build-to Line of 35 feet from centerline	30 feet from centerline and 10 feet from right-of-way line		Reduced to zero
Rear Setback	20 feet when adjacent to residential use	25 feet when adjacent to residential use		Reduced to 10 feet
Building Height	40 feet	35 feet		Increased to 51 feet
Parking	(41) Total Spaces <u>Commercial</u> - (10) One Space per 500 sf. <u>Residential</u> - (31) 0.6 spaces per studio unit (25) and 1.5 spaces per 2-bedroom unit (6)	(109) Total Spaces <u>Commercial</u> - (10) One Space per 500 sf. <u>Residential</u> - (99) 2 spaces per dwelling unit (45 units x 2 = 90) & Visitor Parking - (9) One space per five dwelling units	(41) Total Spaces 22 residential spaces would be provided on site 9 residential spaces and 10 commercial spaces (conjunctive use) would be provided off-site through RDA In-Lieu Fee Parking Program.	
	Off-site parking to be located within 1,000 feet of the project site,	Off-site parking to be located within 500 feet of project site		Off-site parking to be located within 1,000 feet of the project site

	Developer may utilize In-Lieu Fee Parking Program		
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Because the project proposes the development of more than 20% of units as affordable units (8 of 32 base units or 25%), it is eligible for the State Density Bonus Program. The intent of the density bonus program is to provide incentives, not otherwise available, to developers to produce lower income housing units. Under this program, the applicant has requested the above-mentioned development incentives which would preclude project compliance with these Article II standards at the discretion of the Planning Commission.

**2.3.7 *That in designated rural areas the use is compatible with and subordinate to the scenic and rural character of the area.***

The project site is not located in a rural area.

**2.3.8. *That the project will not conflict with any easements required for public access through, or public use of the property.***

There are no easements within the subject property for public access through or public use of the property. Therefore, this finding can be made.

**2.3.9. *That the proposed use is not inconsistent with the intent of the zone district.***

The proposed project would be consistent with the purpose and intent of the existing [Retail Commercial (C-2)] zone district.

The intent of the C-2 zone district, as stated in Section 35-78.1 of Article II is:

*To provide areas for local retail business and commercial needs including stores, shops, and offices supplying commodities or performing services for the residents of the surrounding community.*

The proposed project would develop approximately 4,661 square feet of commercial space, possibly housing multiple businesses and thus providing an increase in diversification of retail businesses and an increase in commercial square footage to the downtown Isla Vista area. The project would provide for an increase of 3,768 square feet over the existing commercial structure containing only one business space.

Additionally, the project would provide 45 residential units (8 at affordable purchase price) for residents of the Isla Vista area. Because the demand for housing in the Isla Vista area is greater than the supply of available units, the residential component of the project would also greatly benefit the surrounding community. Approval of a conditional use permit is needed to allow the proposed residential use in the C-2 zone district. Therefore, the project is consistent with the purpose and intent of the existing (C-2) zone district.

**2.4 **Coastal Development Permit Findings** A Coastal Development Permit application shall be approved or conditionally approved only if the decision-maker first makes all of the following findings:**

**2.4.1 *The project will conform to the applicable provisions of the Comprehensive Plan, including any applicable community or area plan and with the applicable provisions of this Development Code.***

As discussed in Sections 6.2 and 6.3 of the staff report dated December 3, 2008, hereby incorporated by reference, the proposed project would be consistent with the applicable provisions of Article II and the policies contained within Comprehensive Plan including the Coastal Land Use Plan and the Goleta Community Plan with the following exceptions as allowed by Section 35-144C.4 (Development Incentives for Density Bonus Program) and as approved by the County Planning Commission:

C-2 Zone District Standard	IV MPTBC Standard	Article II Ordinance Standard	Project Proposal
<b>Front Setback</b>	Build-to Line of 35 feet from centerline	30 feet from centerline and 10 feet from right-of-way line	Reduced to zero
<b>Rear Setback</b>	20 feet when adjacent to residential use	25 feet when adjacent to residential use	Reduced to 10 feet
<b>Building Height</b>	40 feet	35 feet	Increased to 51 feet
<b>Parking</b>	(41) Total Spaces <u>Commercial</u> - (10) One Space per 500 sf. <u>Residential</u> - (31) 0.6 spaces per studio unit (25) and 1.5 spaces per 2-bedroom unit (6)	(109) Total Spaces <u>Commercial</u> - (10) One Space per 500 sf. <u>Residential</u> - (99) 2 spaces per dwelling unit (45 units x 2 = 90) & Visitor Parking - (9) One space per five dwelling units	(41) Total Spaces 22 residential spaces would be provided on site 9 residential spaces and 10 commercial spaces (conjunctive use) would be provided off-site through RDA In-Lieu Fee Parking Program.
	Off-site parking to be located within 1,000 feet of the project site, Developer may utilize In-Lieu Fee Parking Program	Off-site parking to be located within 500 feet of project site	Off-site parking to be located within 1,000 feet of the project site

Because the project proposes the development of more than 20% of units as affordable units (8 of 32 base units or 25%), it is eligible for the State Density Bonus Program. The intent of the density bonus program is to provide incentives, not otherwise available, to developers to produce lower income housing units. Under this program, the applicant has requested the above-mentioned development incentives which would preclude project compliance with these Article II standards at the discretion of the Planning Commission.

#### **2.4.2 *The proposed development is located on a legally created lot.***

The subject lots were created as Lots 26 & 27 of the Ocean Terrace Tract as shown in Assessor's Map Book 15, page 101.

#### **2.4.3 *The subject property is in compliance with all laws, regulations, and rules pertaining to zoning uses, subdivisions, setbacks, and any other applicable provisions of this Development Code, and any applicable zoning violation enforcement fees and processing fees have been paid. This Subsection shall not be interpreted to impose new requirements on legal***

***nonconforming uses and structures in compliance with Chapter 35.101 (Nonconforming Uses, Structures, and Lots).***

There are no current zoning violations associated with the subject lot and all existing development is in conformance with all provisions of the Article II Coastal Zoning Ordinance.

***2.4.4 The development will not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.***

The project site is located approximately 700 feet and three residential blocks north of the Pacific Ocean. Public views of the ocean are completely blocked by surrounding development in the project area. Therefore, the project would not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.

***2.4.5 The development is compatible with the established physical scale of the area.***

As discussed in Section 6.2 of the staff report dated December 3, 2008 and hereby incorporated by reference, the proposed project is compatible with the physical scale of the area. Although the proposed structure would be developed with reduced setbacks, such development would be consistent with the easterly adjacent commercial structure and consistent with typical urban fabric of a downtown where buildings front sidewalks and frame the streetscape. The project site is immediately surrounded by a two-story commercial building, two-story residential buildings and a one-story restaurant building. The existing community also includes several commercial structures of one and two stories, two theatre buildings and numerous two-story residential dormitories. With input from the Board of Architectural Review, the project has been designed to convey a sense of modern urbanism. Further, the project conveys the appropriate scale and mass to be located at a prominent corner of the downtown core but is also in conformance with the scale and character of the surrounding Isla Vista community.

Zero-lot line development is a consistent theme in densely developed urban areas such as downtown Isla Vista where developable land is in short supply. In order to utilize available space to the maximum extent, the project is proposed with reduced setbacks. The proposed design is consistent with typical urban development practices and would be subject to final Board of Architectural Review. While the structure would likely be the first of its kind in the downtown Isla Vista area, it is considered a “catalyst project” intended to spur further redevelopment of the surrounding area and act as a model for such development. In the future, it is anticipated that adjacent lots would redevelop to their full potential within the context set by this project.

***2.4.6 The development will comply with the public access and recreation policies of this Article and the Comprehensive Plan including the Coastal Land Use Plan.***

The proposed project would comply with public access and recreation policies of Article II and the Comprehensive Plan including the Coastal Land Use Plan and the Goleta Community Plan. There are no easements for public access through the subject property. Therefore, the project would not impact public access or recreational opportunities.

## **2.5 Density Bonus Program Findings**

Under state density bonus provisions, a finding must be made in order to grant any of the allowed waivers/modifications over and above current zoning requirements. Before granting any of the requested concessions, the decision-maker must make the following state mandated finding:

**2.5.1 *The applicant has shown that the waiver or modification of development standards is necessary to make the housing units economically feasible.***

The four waivers/modifications that the developer is seeking are: 1) Height (structure proposed to be 51 feet in height, Article II limit is 35 feet & IVMP FBC limit is 40 feet or 3 stories); 2) reduced setbacks including zero front yard setback and 10-foot rear yard setback (Article II requires front yard setback of 30 feet from centerline and 10 feet from R.O.W. and a rear yard setback of 25 feet when adjacent to residential, IVMP FBC requires a front yard build-to line which the project is consistent with and a 20-foot rear yard setback abutting residential); 3) reduced parking requirement (41 total spaces including 22 spaces to be provided on site and another 19 offsite spaces provided through the IVMP In-Lieu Fee Parking Program, 109 required by Article II and 41 spaces required by IVMP FBC); and 4) required distance from project site to off-site parking lot (1,000 feet proposed, 500 feet allowed by Article II).

By granting the developer reduced setbacks and increased height over what existing zoning provisions would allow, the construction of additional affordable units becomes economically feasible. If the project were required to observe the constrictive height and setback requirements of Article II, the developable area of the lot would be significantly reduced. This in turn would make the construction of the eight affordable units less economically feasible because the developer would realize less cost recovery from such units as a percentage of the total project.

A total of 41 spaces would be adequate to serve the proposed project, including the residential units due to the project site's location in the heart of downtown Isla Vista where the most utilized modes of transportation are bicycle and walking. Additionally, the site is located within one half mile of the University of California Santa Barbara, where residents of the project would likely work or seek education.

The applicant studied the possibility of providing underground parking for the project. Due to the irregular shape and curvature of the parcel along the Embarcadero Loop, vehicular turning radii severely impacted the feasibility of providing parking underground. In that study, the number of spaces would be limited to 10 spaces per underground parking level due to the traffic engineer's turning templates and entrance/exit ramps. The cost of providing such underground parking at the estimated +/- \$2-3 million would make the entire project economically infeasible.

By allowing the developer to build the project with reduced setbacks and increased height, and provide a reduced number of parking spaces (consistent with the IVMP) in an off-site location, construction of the project, including the 8 affordable units, becomes economically feasible. Thus the four requested waivers/modifications of development standards related to height, parking and setbacks are necessary to make the construction of the affordable housing units economically feasible.

## **ATTACHMENT B: NOTICE OF EXEMPTION**

**TO:** Santa Barbara County Clerk of the Board of Supervisors

**FROM:** Planning and Development Department, Division of Development Review

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

**APN(s):** 075-173-003 & 075-173-026

**Case Nos.:** 08TRM-00000-00004, 08DVP-00000-00021, 08CUP-00000-00033  
& 08CDP-00000-00173

**Location:** 6533 Trigo Road, Isla Vista area

**Project Title:** The Loop Mixed Use Building

**Project Description:**

The request is for a Development Plan, Conditional Use Permit, Tract Map and Coastal Development Permit to allow for the demolition of an existing 893 square foot service station building and the construction of a new, approximately 31,507 square foot (net), four-story, mixed-use building. The maximum height of the structure would be 51 feet. The building would include approximately 4,661 square feet (net) of general commercial space divided into two commercial condominiums, as well as 26,265 (net) square feet of residential area comprising 41 studio units, 4 two-bedroom units and a rooftop deck amenity and recreation room. The commercial space would be located on the ground floor and would utilize street frontage and outdoor dining areas. The residential units would be on the upper stories and would range between approximately 400 and 850 square feet. Eight of the residential studio units would derive from the County's Inclusionary Housing Program and made available to residents meeting the County affordable housing requirements for low income residents, or families earning less than 75% of the Area Median Income. Those units would be income-restricted for 55-years, according to California Community Redevelopment Law. A lot merger is included as part of the project to facilitate construction of the building across the two commonly owned parcels.

The project would seek to obtain a LEED (Leadership in Energy and Environmental Design) rating upon build-out. This includes exceeding Title 24 requirements and innovative building and system designs, including the introduction of pervious paving materials to help reduce impacts to existing storm drain system. A car-sharing program would be provided for building residents to reduce the need for autonomous vehicles including use of the parking space located on the Trigo Road frontage.

Twenty-two (22) residential parking spaces would be provided on-site in the form of tuck-under parking and an additional nine (9) residential parking spots and ten (10) commercial spaces would be provided off-site through the IV Master Plan's In Lieu Fee Parking Program. These

COUNTY OF SANTA BARBARA  
CLERK OF THE  
BOARD OF SUPERVISORS

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offsite parking spaces would be provided in a surface parking lot acquired by (or to be acquired by) the Isla Vista Redevelopment Agency (RDA). The RDA is in negotiations with property owner(s) to acquire adjacent vacant lot(s) to be used for public parking in downtown Isla Vista, which would be made partially available for the commercial and residential uses of this project. Additionally, the project would provide forty-nine (49) secured bicycle parking spaces for residential tenants and an additional eighteen (18) bicycle parking spaces in the public right of way to serve the public and employees of the commercial spaces. Further, the project includes right-of-way encroachments along both Trigo Road and Embarcadero del Norte for bicycle parking, commercial door-swings, commercial outdoor seating and building canopies.

Approximately 720 cubic yards of over-excavation and recompaction would be required to prepare the site for development. Construction and project access will be via Trigo Road and Embarcadero Del Norte. Eight existing (8) trees, located both on site and on the adjacent public right of way, would be removed to facilitate development. These trees would be replaced with four (4) new street trees consistent with the overall Isla Vista streetscape enhancement projects identified in the Isla Vista Master Plan. The development would be served by the Goleta Water District, the Goleta West Sanitary District and the Santa Barbara County Fire Department. The property is approximately .38 acres (16,520 square feet) and consists of 2 legal parcels, 075-173-003 and 075-173-026.

**Exempt Status:** (Check one)

- Ministerial
- Statutory
- Categorical Exemption
- Emergency Project
- No Possibility of Significant Effect [§15061(b,3)]
- CEQA Statute Section 21090(b)

**Cite specific CEQA Statute Section:** CEQA Statute Section 21090(b) [Redevelopment Plan Deemed Single Project].

**Reasons to support exemption findings:** CEQA Statute Section 21090(b) exempts projects "if the environmental impact report for a redevelopment plan (IVMP EIR) is a project EIR and all public and private activities or undertaking pursuant to, or in furtherance of a redevelopment plan shall be deemed a single project. Additionally, the events specified in CEQA Statutes Section 21166 shall not have occurred with respect to the project including:

- a) Substantial changes are not proposed in the project which will require major revisions of the environmental impact report.
- b) Substantial changes would not occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
- c) No new information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available."

Environmental review of the proposed project was undertaken and addressed within the Isla Vista Master Plan EIR, a program and project EIR. The project comprises a mixed-use, urban infill development with 45 residential units and 4,661 square feet (gross) of commercial space. Implementation of the project would not include any of the above-described substantial changes or new information which was not addressed in the Isla Vista Master Plan EIR.

*Eric Braga*

12/3/08

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Department/Division Representative

Date

Acceptance Date: 12/3/08

**Note: A copy of this form must be posted at P&D 6 days prior to a decision on the project. Upon project approval, this form must be filed with the County Clerk of the Board and posted by the Clerk of the Board for a period of 30 days to begin 35-day statute of limitations on legal challenges.**

distribution: Hearing Support Staff  
Project file

Date Filed by County Clerk



## ATTACHMENT C

### **TRACT MAP CONDITIONS OF APPROVAL**

1. This Tentative Tract Map is based upon and limited to compliance with the project description, Planning Commission Hearing Exhibits A-J, dated December 3, 2008, and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

**The request is for a Development Plan, Conditional Use Permit, Tract Map and Coastal Development Permit to allow for the demolition of an existing 893 square foot service station building and the construction of a new, approximately 31,507 square foot (net), four-story, mixed-use building. The maximum height of the structure would be 51 feet. The building would include approximately 4,661 square feet (net) of general commercial space divided into two commercial condominiums, as well as 26,265 (net) square feet of residential area comprising 41 studio units, 4 two-bedroom units and a rooftop deck amenity and recreation room. The commercial space would be located on the ground floor and would utilize street frontage and outdoor dining areas. The residential units would be on the upper stories and would range between approximately 400 and 850 square feet. Eight of the residential studio units would derive from the County's Inclusionary Housing Program and made available to residents meeting the County affordable housing requirements for low income residents, or families earning less than 75% of the Area Median Income. Those units would be income-restricted for 55-years, according to California Community Redevelopment Law. A lot merger is included as part of the project to facilitate construction of the building across the two commonly owned parcels.**

The project would seek to obtain a LEED (Leadership in Energy and Environmental Design) rating upon build-out. This includes exceeding Title 24 requirements and innovative building and system designs, including the introduction of pervious paving materials to help reduce impacts to existing storm drain system. A car-sharing program would be provided for building residents to reduce the need for autonomous vehicles including use of the parking space located on the Trigo Road frontage.

Twenty-two (22) residential parking spaces would be provided on-site in the form of tuck-under parking and an additional nine (9) residential parking spots and ten (10) commercial spaces would be provided off-site through the IV Master Plan's In Lieu Fee Parking Program. These offsite parking spaces would be provided in a surface parking lot acquired by (or to be acquired by) the Isla Vista Redevelopment Agency (RDA). The RDA is in negotiations with property owner(s) to acquire adjacent vacant lot(s) to be used for public parking in downtown Isla Vista, which would be made partially available for the commercial and residential uses of this project. Additionally, the project would provide forty-nine (49) secured bicycle parking spaces for residential tenants and an additional eighteen (18) bicycle parking spaces in the public right of way to serve the public and employees of the commercial spaces. Further, the project includes right-of-way encroachments along both Trigo Road and Embarcadero del Norte for bicycle parking, commercial door-swings, commercial outdoor seating and building canopies.

Approximately 720 cubic yards of over-excavation and recompaction would be required to prepare the site for development. Construction and project access will be via Trigo Road and Embarcadero Del Norte. Eight existing (8) trees, located both on site and on the adjacent public right of way, would be removed to facilitate development. These trees would be replaced with four (4) new street trees consistent with the overall Isla Vista streetscape enhancement projects identified in the Isla Vista Master Plan. The development would be served by the Goleta Water District, the Goleta

West Sanitary District and the Santa Barbara County Fire Department. The property is approximately .38 acres (16,520 square feet) and consists of 2 legal parcels, 075-173-003 and 075-173-026.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

## ISLA VISTA MASTER PLAN EIR MITIGATION MEASURES

The conditions under this section were developed as part of the Isla Vista Master Plan EIR for the downtown area. Because these conditions were drafted as mitigation measures, plan requirements/timing and monitoring provisions have been added to transform them into project specific conditions. Mitigation measures that did not directly apply to the proposed project were removed for clarity.

2. **Mitigation AES-4.1:** Construction and/or employee trash shall be prevented from blowing offsite. **Plan Requirements/Timing:** Covered receptacles shall be provided onsite prior to commencement of grading or construction activities. The applicant or their designee shall retain a clean-up crew to ensure that trash and all excess construction debris is collected daily and placed in provided receptacles throughout construction. **Monitoring:** Permit Compliance respond to complaints.
3. **Mitigation DT-AES-2.1:** The installation of street trees along with the Plan's proposed Form-Based Regulating Code will serve to break up massing and ensure that the increased massing would be architecturally integrated as the downtown buildings revitalize and redevelop during Plan build-out. **Requirements:** The applicant shall install the number and type of street trees consistent with those proposed in the Isla Vista Master Plan. **Timing:** Prior to occupancy clearance, street trees shall be installed and pursuant to the Public Works Department.
4. **Mitigation AIR-1:** Dust generated by project construction shall be kept to a minimum by following the dust control measures listed below:
  - a. Water trucks or sprinkler systems shall be used during construction to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, such areas shall be watered down in the late morning and after completion of work at the end of the day. The frequency of watering shall be increased when wind speeds exceed 15 miles per hour if soils are not completely wet. If wind speeds increase to the point that the dust control measures cannot prevent dust from leaving the site, construction activities shall be suspended. Reclaimed water shall be used whenever possible.
  - b. Vehicle speeds on the construction site shall be limited to 15 miles per hours or less.
  - c. Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads.
  - d. Trucks transporting fill material/soil to and from the site shall be tarped from the point of origin. Soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation.
  - e. After clearing, grading, earth moving, or excavation is completed, the disturbed area shall be treated by watering, revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
  - f. A person or persons shall be designated by the contractor or builder to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Such monitoring responsibilities shall include holiday and weekend periods when work may not be in

progress. The contractor shall provide the name and telephone number of such person to the APCD and the County prior to approval of any land use clearance for any project grading or construction activities.

**Plan Requirements:** All requirements shall be shown on grading and building plans. **Timing:** Condition requirements shall be adhered to throughout all grading and construction periods. **Monitoring:** Permit Compliance shall ensure measures are on plans. P&D Grading and Permit Compliance staff shall spot check and ensure compliance on-site. APCD inspectors shall respond to nuisance complaints.

5. **Mitigation Measure AIR-3.1:** The following energy conservation measures shall be incorporated into project building plans unless the applicant proves that incorporation of a specific measure is infeasible:
  - Will meet the California Title 24 Energy Code or exceed for all relevant applications.
  - Heat transfer modules shall be installed in all furnaces.
  - Installation of solar panels for water heating systems for residential and other facilities where feasible.
  - Passive solar cooling/heating design elements shall be included in building designs where feasible.
  - New development must include design elements that maximize the use of natural lighting where feasible.
  - New development must include provisions of the installation of energy efficient appliances and lighting.
6. **Mitigation AIR-3.2:** To reduce daily ROG, NOx and PM<sub>10</sub> emissions during winter days from combined project sources, only advanced combustion or natural gas fireplaces shall be allowed. **Plan Requirements/Timing:** This condition shall be printed on all building plans. **Monitoring:** P&D plan check staff shall check plans prior to issuance of Building Permits.
7. **Mitigation CH-1.1:** In the event archeological remains are encountered during grading, work shall be stopped immediately or redirected until a P&D qualified archeologist and Native American representative are retained by the applicant to evaluate the significance of the find pursuant to Phase 2 investigations of the County Archeological Guidelines. If remains are found to be significant, they shall be subject to a Phase 3 mitigation program consistent with County Archeological Guidelines and funded by the applicant. This mitigation measure will prevent the destruction of unknown, buried archeological resources during grading activities. **Plan Requirements/Timing:** This condition shall be printed on all building and grading plans. **Monitoring:** P&D shall check plans prior to approval of Land Use Permits and Permit Compliance staff shall spot check in the field.
8. **Mitigation DT-HAZ-1:** County P&D and the County Fire Department review and approval shall be required for any new mixed use project and for the addition of any residential units to existing businesses to ensure that materials present in the business would not create a hazard to occupants of the residence. **Plan Requirements and Timing:** Prior to occupancy clearance, the applicant shall submit a Hazardous Materials Business Plan (HMBP) to P&D and the Fire Department for review and approval. The plan shall be updated annually and shall include a monitoring section. The components of HMBP shall be implemented as indicated in the approved Business Plan. **Monitoring:** Fire Department will monitor as specified in the Business Plan.
9. **Mitigation HAZ-1.3:** If previously unknown soil and/or groundwater contamination is found to exist onsite during excavation and/or as a result of any assessment, work is to cease immediately in the impacted area and a workplan to determine the lateral and vertical extent of the contamination shall be submitted to FPD and a site remediation plan shall be submitted to the FPD or the

RWQCB for review and approval. **Plan Requirements/Timing:** Construction contingency plans and a Site Health and Safety Plan shall be prepared as necessary. The APCD shall be contacted to determine the permitting requirements. This requirement shall be noted on all grading and building plans. **Monitoring:** Permit Compliance personnel shall perform periodic inspections.

- 10. Mitigation HAZ-2.1:** Prior to remodeling/demolition activities of a residential building with less than four units or an institutional, industrial, or commercial building involving pre-1979 structures, the applicant shall determine whether the structure(s) proposed for demolition contains asbestos that is friable (i.e. brittle) during demolition or disposal. If the structure does contain friable asbestos, a contractor who is state-certified for asbestos removal shall remove the asbestos. **Plan Requirements/Timing:**
- 11. Mitigation HAZ-2.2:** Prior to demolition activities, an APCD Asbestos Demolition and Renovation Compliance Checklist shall be completed and a certified asbestos consultant shall conduct asbestos sampling and develop a plan for removal, as deemed necessary by the APCD and County Fire. Depending upon the amount and type of asbestos and the type of project, advanced notification to the APCD may required before asbestos is disturbed and/or removed. As determined necessary by APCD, notification requirements may also include notifying local residents and occupants of buildings where asbestos work is being done.
- 12. Mitigation HAZ-3.1:** Potential exposure of construction workers to LBP shall be minimized through disclosure of the potential presence of LBP for demolition and renovation of structures that were constructed prior to 1979. **Plan Requirements/Timing:** Prior to any demolition of any painted surfaces, a LBP survey shall be conducted by the applicant to determine the level of risk posed to construction workers, building occupants, business owners and their employees from exposure to the paints present. Results of the LBP survey shall be documented with the applicable County agencies. Any recommendations made in that survey related to the paints present at the project site shall be implemented prior to the demolition or renovation of the painted surfaces.
- 13. Mitigation HAZ-3.2:** If a determination is made that LBP is present in a building slated for demolition or renovation, the applicant shall implement a LBP abatement plan, which shall include the following components:
  1. A site Health and Safety Plan, as needed.
  2. Containment of all work areas to prohibit off-site migration of paint chip debris.
  3. Removal of all peeling and stratified lead-based paint on building surfaces and on non-building surfaces to the degree necessary to safely and properly complete demolition activities per the survey recommendations.**Plan Requirements/Timing:** Prior to the issuance of a demolition permit, the LBP abatement plan shall be prepared by a consulting firm certified in LBP removal and documented with the applicable County agencies (APCD). Undergoing this process will limit unnecessary exposure to construction workers and occupants present at the project site.
- 14. Mitigation HYD-1:** At a minimum, the following BMPs designed to reduce or eliminate construction site pollutants shall be incorporated into all project plans as a condition of approval and be implemented during construction:

*Construction Site Planning BMPs*, including but not limited to:

- a) the amount of cuts and fills shall be minimized.

- b) only the minimum amount of vegetation necessary for construction shall be removed.
- c) the clearing limits, setbacks, protected habitat areas, trees, drainage courses, and buffer zones shall be delineated on plans and in the field to prevent excessive or unnecessary soil disturbance and exposure.
- d) excavation and grading shall be avoided during the rainy season.
- e) grading operations shall be phased to reduce the extent of disturbed areas and length of exposure.
- f) impervious surface areas shall be minimized and permeable paving materials shall be used whenever possible.
- g) concrete, asphalt, and seal coat shall be applied during dry weather only; storm drains and manholes within the construction area shall be covered when paving or applying seal coat, slurry, fog seal, etc.

*BMPs to Minimize Soil Movement*, including but not limited to:

- a) exposed stockpiles of soil and other erosive materials shall be covered during the rainy season.
- b) soil stabilizers shall be employed, as appropriate.
- c) disturbed soils shall be restored and revegetated as soon as practicable.
- d) sediment and construction materials shall be dry-swept from finished streets the same day they are deposited.
- e) tire wash stations, gravel beds, and/or rumble plates will be installed at site entrance and exit points to prevent sediment from being tracked onto adjacent roadways.
- f) any sediment or other materials tracked off site shall be removed the same day as they are tracked using dry cleaning methods.
- g) site runoff control structures, such as earth berms, gravel bags, silt fences, drainage swales, and ditches that reduce erosion and convey surface runoff during construction into temporary or permanent sediment detention basins shall be installed and made operational in the initial phase of construction, as necessary.

*Good Housekeeping BMPs*, including but not limited to the following requirements:

- a) all storm drains, drainage patterns, and creeks located near the construction site prior to construction shall be identified to ensure that all subcontractors know their location to prevent pollutants from entering them.
- b) storm drain inlets shall be protected from sediment-laden waters for the duration of the grading period and until graded areas have been stabilized by structures, long-term erosion control measures or landscaping.
- c) all leaks, spills, drips shall be immediately cleaned up and disposed of properly.

- d) one or more emergency spill containment kits shall be placed on-site in easily visible locations and personnel will be trained in proper use and disposal methods.
- e) vehicles and heavy equipment shall be refueled and serviced in one designated site located at least 500 feet from creeks and drainage swales; vehicles and heavy equipment that are leaking fuel, oil, hydraulic fluid or other pollutants shall be immediately contained and either repaired immediately or removed from the site.
- f) temporary storage of construction equipment shall be limited to a 50- x 50-foot area and shall be located at least 100 feet from any water bodies.
- g) trash cans shall be placed liberally around the site and properly maintained.
- h) dry clean-up methods shall be used whenever possible.
- i) construction material and waste management practices shall be identified, including temporary borrow and waste disposal areas, temporary debris and garbage disposal, and chemical/fuel storage areas.
- j) washing of concrete trucks, paint, equipment, or similar activities shall be at least 100 feet from any storm drain, water body or sensitive biological resources and shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site; wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands.
- k) all subcontractors and laborers shall be educated about proper site maintenance and storm water pollution control measures through periodic “tailgate” meetings.

**Plan Requirements:** An erosion and sediment control plan shall be submitted to and approved by P&D and Flood Control prior to approval of Land Use Permits. The plan shall be designed to address erosion and sediment control during all phases of development of the site. **Timing:** The plan shall be implemented prior to the commencement of grading/construction. **Monitoring:** Permit Compliance staff shall perform site inspections throughout the construction phase.

**15. Mitigation DT-HYD-1:** Preliminary drainage plans shall be submitted to the County Public Works Department for review to determine if site runoff would impact storm drain capacity and whether BMP's to retain or detain runoff onsite would be required. **Plan Requirements:** A drainage study shall be submitted to and approved by P&D and Flood Control prior to approval of Land Use Permits. The study shall provide detailed calculations of expected site runoff for flood events as determined by Flood Control and the capacity of storm drains downstream of the site. **Timing:** Any on-site or off-site improvements to drainage infrastructure recommended in the plan shall be installed prior to occupancy clearance of the first residential/commercial unit. **Monitoring:** Permit Compliance/Flood Control staff shall ensure implementation of the study's recommendations prior to occupancy clearance.

**16. Mitigation DT-HYD-2:** Development plans shall provide for on-site retention of storm water runoff, infiltration, and recharge where feasible. Feasibility shall be determined by the P&D Registered Geologist and County Flood Control engineer during development permit review. **Plan Requirements/ Timing:** Drainage plans shall be submitted to and approved by P&D and Flood Control prior to approval of Land Use Permits. **Monitoring:** Permit Compliance staff shall perform site inspections throughout the construction phase.

- 17. Mitigation DT-HYD-3:** To reduce storm water runoff, one of the following driveway designs shall be used in new development and redevelopment projects: paving only under wheels, flared driveway, or use of permeable surfaces for temporary or non-permanent parking areas. The use of permeable surfaces prevents excess storm water runoff by allowing water to be absorbed through the soil while providing a usable surface for driveways, parking spots, and walkways.
- 18. Mitigation NSE-1:** Construction activity and equipment maintenance within 1,600 feet of sensitive receptors shall be limited to non-holiday weekdays between the hours of 8 AM and 5 PM only. Non-noise generating construction activities, such as interior painting, are not subject to these restrictions. **Plan Requirements:** Three (3) signs stating these restrictions shall be provided by the applicant and posted on site. **Timing:** Signs shall be in place prior to beginning of and throughout grading and construction activities. Violations may result in suspension of permits. **Monitoring:** Permit Compliance respond to complaints.
- 19. Mitigation NSE-2:** Construction equipment that generates noise exceeding 65 dBA at the nearest sensitive receptors shall be located the maximum feasible distance from nearby sensitive uses and shall be shielded with noise attenuation barriers or muffling devices to reduce to 65 dBA. **Monitoring:** Permit Compliance respond to complaints.
- 20. Mitigation NSE-3:** The project applicant shall provide a construction schedule to adjacent property owners at least seven days in advance of construction activities. **Plan Requirements:** A draft of the notice shall be submitted to and approved by P&D prior to approval of Land Use Permits. **Timing:** The notice shall be sent to adjacent property owners prior to the commencement of grading/construction.
- 21. Mitigation DT-SW-1:** Future and existing development (private and public) shall develop and implement a Solid Waste Program. The program shall include, but not be limited to, the following measures (as applicable to land use types):
- Implementation of a residential and parkland green waste source reduction program. The program shall include, but not be limited to, the creation of lot or common composting areas, and the use of mulching mowers for all common open space lawns.
  - Provision of a designated space or bins for storage of recyclable materials including office paper, cardboard, and beverage containers at residential, commercial, industrial, and public recreational areas.
- This mitigation measure serves to further reduce items that enter the solid waste stream. **Plan Requirements:** The Solid Waste Program plan shall be submitted to and approved by P&D and Public Works prior to approval of Land Use Permits. **Timing:** The plan shall be implemented for the life of the project. **Monitoring:** Permit Compliance staff shall confirm implementation prior to occupancy granted to the first residential or commercial unit.
- 22. Mitigation DT-FIRE-1:** New development in the downtown which requires a “Fire Protection Certificate” shall be required to install, or fund the installation of, fire hydrant improvements so that that said development is served by a fire hydrant within 500 feet that provides 1,250 GPM. Projects that require a “Fire Protection Certificate” includes, but are not limited to:
- New buildings, Additions to existing non-residential structures of more than 500 square feet, Additions that cause the total square footage to equal 5,000 square feet or more.

**Plan Requirements/Timing:** Fire Department shall ensure the necessary improvements are detailed on the building plans during plan check. **Monitoring:** Permit Compliance/Fire Department staff shall confirm installation of required infrastructure prior to occupancy granted to the first residential or commercial unit.

## PROJECT SPECIFIC CONDITIONS

- 23. Board of Architectural Review:** Exterior elevations, colors, materials and landscaping to conform to that approved by the SBAR as part of 08BAR-00000-00036. Final SBAR review and approval shall be obtained prior to Coastal Development Permit issuance. The project shall conform to final SBAR approval in all respects including landscaping. The project design shall be carried forward consistent with the SBAR's conceptual review comments. Any murals to be included with the project architecture shall be reviewed and approved by the Santa Barbara County Arts Commission.
- 24. Landscaping:** Landscaping shall be maintained for the life of the project. **Plan Requirements/Timing:** The applicant shall also submit three copies of a Final Landscape and Water-Conserving Irrigation Plan to P&D for review and approval. Prior to occupancy clearance, landscaping and water-conserving irrigation shall be installed.
- 25. Night Lighting:** Any exterior night lighting installed on the project site shall be of low intensity, low glare design, minimum height, and shall be fully hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent parcels. Applicant shall develop a Lighting Plan incorporating these requirements and provisions for dimming lights after 10:00 p.m. **Plan Requirements:** The locations of all exterior lighting fixtures and an arrow showing the direction of light being cast by each fixture and the height of the fixtures shall be depicted on a Lighting Plan to be reviewed and approved by P&D and the BAR. **Monitoring:** P&D and BAR shall review a Lighting Plan for compliance with this measure prior to approval of a Coastal Development Permit for structures. Building Inspectors shall inspect structures upon completion to ensure that exterior lighting fixtures have been installed consistent with their depiction on the final Lighting Plan.
- 26.** No signs of any type are approved with this permit action unless otherwise specified. All signs require a separate Coastal Development Permit and Board of Architectural Review approval and shall comply with the Santa Barbara County Code Chapter 35, Article I (Sign Regulations).
- 27. Wash-Out Area:** During construction, washing of concrete trucks, paint, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands. Areas designated for washing functions shall be at least 100 feet from any storm drain, waterbody or sensitive biological resources. The location(s) of the washout area(s) shall be clearly noted at the construction site with signs. **Plan Requirements:** The applicant shall designate a washout area, acceptable to P&D, and this area shall be shown on the construction and/or grading and building plans. **Timing:** The wash off area shall be designated on all plans prior to approval of Land Use Permits. The washout area(s) shall be in place and maintained throughout construction. **Monitoring:** P&D staff shall check plans prior to approval of Land Use Permits and compliance staff shall site inspect throughout the construction period to ensure proper use and maintenance of the washout area(s).
- 28.** The applicant shall provide a Traffic Control Plan for the construction vehicles associated with the project. **Plan Requirements:** The applicant shall provide a detailed plan describing the proposed access to the project site from U.S. 101, the construction staging area, flagman traffic control during deliveries, temporary parking restrictions, temporary construction zone and hazard signs, and the non-work hours storage location of construction equipment, and for maintaining pedestrian access and bike lane access along Embarcadero Del Norte and Trigo Road. The Plan shall specifically include the following measures:
- a. Truck haul routes shall be limited to Los Carneros/El Colegio/Embarcadero Del Norte. Truck traffic shall be prohibited through the UCSB Campus/Highway 217.

- b. Construction vehicles, materials and equipment shall be parked or stored during non-work hours (evenings and weekends) in the construction staging area approved by P&D and shall not be parked along Embarcadero Del Norte in parking areas designated for public use. This condition may be modified if demonstrated to the satisfaction of the Director of P&D that storage onsite for short periods on (i.e., a few days) is necessary to avoid other impacts including the lengthening of the total construction period.
- c. Heavy construction equipment and trucks delivering construction materials shall arrive in the project vicinity between 9:00 a.m. and 4:00 p.m. on weekdays only (Monday through Friday) unless prior approval by the Planning and Development Department (P&D) is obtained for operations outside of these hours due to an unforeseen hazardous situation. This condition applies to large truck traffic such as a concrete mixer but not pick-up trucks. Heavy equipment and trucks moving to and from the site from the staging area and pick-up trucks shall be subject to the general hours limitation (7:00 a.m. to 4:00 p.m.) for construction activities unless prior approval by the Planning and Development Department (P&D) is obtained.

**Timing:** The Traffic Control Plan shall be reviewed and approved by the Planning and Development Department and the Public Works Department Roads Division prior to the issuance of the Land Use Permit for the proposed construction. **Monitoring:** Permit Compliance shall conduct site inspections and respond to complaints as needed.

**29. Right of Way Encroachments:** Prior to the issuance of a Land Use Permit, the applicant shall obtain any necessary encroachment permits from the Public Works Department.

**30.** Prior to final map clearance the applicant shall enter into and record an *Agreement to Provide Affordable Housing*, which shall include a model *Restrictive Covenant and Preemptive Right*. The *Covenant* shall be executed and recorded by each purchaser of an affordable unit. The *Agreement* and *Covenant* shall be based on the county's model documents, as they may be amended from time to time, and subject to the review and approval of P&D, CHCD and County Counsel. These shall specify affordability terms described in Condition No. 32. In addition, the *Agreement* and *Covenant* shall include provisions describing marketing and lottery requirements for the initial sale/rental of unit; requiring income eligibility of prospective buyers/renter to be determined by the county or its designee; requiring prospective buyers/renter of the affordable unit to sign an *Intent to Reside* statement; requiring a *Notice of Default* and *Notice of Sale*, as well as the *Covenant*, be recorded with the original and all subsequent deeds, and stating that the maximum sales/rental rate for the affordable unit shall not exceed the maximum levels established by the Board of Supervisors, consistent with the provisions of the Housing Element and state law.

**31.** Affordable units shall be constructed concurrent with the construction of the market rate units in each phase of development. Occupancy clearance for no more than 50% of the market rate units in a given phase shall be allowed prior to occupancy clearance for the affordable unit for that same phase of development. **Plan Requirements & Timing:** Prior to final map clearance, this requirement shall be included in the *Agreement to Provide Affordable Housing* and shall be printed on all grading and building plans. **Monitoring:** Planning and Development staff shall ensure compliance during construction.

**32.** The applicant shall provide eight (8) low income dwelling units available for sale or rent at prices affordable to households earning 75% of Area Median Income (AMI) consistent with the provisions of Government Code §65915-65918 (Density Bonus). **Plan Requirements and Timing:** Prior to final map clearance the applicant shall enter into and record an *Agreement to Provide Affordable Housing*, which shall include a model *Restrictive Covenant and Preemptive Right*. The *Covenant* shall be executed and recorded by each purchaser of an affordable unit. The *Agreement* and *Covenant* shall be based on the county's model documents, as they may be amended

from time to time, and subject to the review and approval of P&D, CHCD and County Counsel. The units shall remain affordable for a period of 55 years or longer if required by the financing, insurance or rental subsidy program used. In addition, the running of the covenant shall toll during any period of violation. If future amendments to the County Housing Element allow developers to pay fees in-lieu of constructing affordable units, and such amendments are consistent with Coastal Land Use Plan Policy 5-10 and State Density Bonus Law, the developer shall be able to utilize those amendments.

33. Nine (9) parking spaces shall be provided for the residents of the development in an off-site location within 1,000 feet of the project site. **Requirements/Timing:** The Redevelopment Agency and applicant shall complete the Owner Participation Agreement providing for the required 9 residential spaces. Prior to approval of the follow-on Land Use Permit, P&D and County Counsel shall review and approve the parking provisions within the agreement. **Monitoring:** Prior to occupancy clearance, P&D shall verify the availability of all required parking spaces to ensure consistency with this condition and agreement.
34. **Landscape Requirements:** Two performance securities shall be provided by the applicant prior to issuance of Land Use Permits, one equal to the value of installation of all items listed in section (a) below (labor and materials) and one equal to the value of maintenance and/or replacement of the items listed in section (a) for 3 years of maintenance of the items. The amounts shall be agreed to by P&D. Changes to approved landscape plans may require a substantial conformity determination or an approved change to the plan. The installation security shall be released upon satisfactory installation of all items in section (a). If plants and irrigation (and/or any items listed in section (a) below) have been established and maintained, P&D may release the maintenance security 2 years after installation. If such maintenance has not occurred, the plants or improvements shall be replaced and the security held for another year. If the applicant fails to either install or maintain according to the approved plan, P&D may collect security and complete work on property. The installation security shall guarantee compliance with the provision below:
  - a. Installation of tree protection measures, landscaping, irrigation with timers in accordance with the approved landscape and tree protection plan prior to occupancy clearance.

**Monitoring:** P&D shall inspect landscaping and improvements for compliance with approved plans prior to authorizing release of both installation and maintenance securities.

## **TRACT MAP CONDITIONS**

35. Prior to recordation of the tentative map and subject to P&D approval as to form and content, the applicant shall include all of the mitigation measures, conditions, agreements and specific plans associated with or required by this project approval on a separate informational sheet to be recorded with the Final Map. All applicable conditions and mitigation measures of the project shall be printed on grading and/or building plans and shall be graphically illustrated where feasible. If Coastal Development Permits are obtained prior to recordation, Tentative Map conditions will not apply retroactively to the previously issued Land Use Permit. For any subsequent development on any parcels created by the project, each set of plans accompanying a Land Use/Coastal Development Permit shall contain these conditions.
36. If the proposed map is revised from the approved tentative map, or if changes to conditions are sought, approval shall be in the same manner as for the originally approved tentative map.
37. Three copies of the map to finalize the Tentative map and required review fees in effect at the time shall be submitted to Planning and Development (P&D) for compliance review of P&D conditions before P&D will issue Final map clearance to the County Surveyor. The map shall show statistics for net lot area (gross area less any public road right of way) and any open space.

38. If the subdivision is to be recorded by units, additional conditions on the tentative map may be imposed by the Planning Commission pursuant to Government Code Section 66456.1.
39. Title to the common spaces within the project shall be held by a non-profit association of homeowners or by any other non-profit group on such reasonable terms and conditions as the Planning Commission may prescribe. If the common open space is conveyed to a group other than the homeowners association, the rights to develop such property with anything except open space or noncommercial recreation shall be conveyed to the County of Santa Barbara.
40. Prior to recordation, the applicant shall record CC&R's which provide for shared maintenance responsibilities by all units for the common areas including appurtenant landscaping, fencing and access, subject to approvals from Flood Control, P&D and County Counsel. The CC&R's shall also include by reference responsibilities for all parcels to maintain property in compliance with all conditions of approval for the project.
41. If, prior to the Planning Commission action on the map, the water or sewer entities in which the proposed subdivision is located declares its inability to permit new water or sewer connections and has so notified the County or is operating under a connection ban by the California Water Quality Control Board Central Coast Region, the subdivider shall submit to the County Surveyor an "exemption letter" from the appropriate water or sewer entity stating that the lots in the subdivision have been granted or qualify for an exemption from the entity's or Water Board's prohibition on new service connections, subject to the rules, regulations, resolutions, and ordinances of the entity under which the exemption was granted, or letters from the County Health Department and P&D Building & Safety stating that the lots in the subdivision will be served by an approved potable source of water and an approved private sewage disposal system.
42. Prior to recordation, public utility easements shall be provided at the locations and of widths required by the serving utilities. The subdivider shall submit to the County Surveyor a set of prints of the final map accompanied by a letter from each utility and water and sewer district serving the property stating that the easements shown thereon are acceptable (Chapter 21, Sec. 21- 30; Ord. No. 2199, Sec. 13).
43. The Tentative Map shall expire three years after approval or conditional approval by the final decisionmaker unless otherwise provided in the Subdivision Map Act, Government Code §66452.6.

## COUNTY RULES AND REGULATIONS

44. **Mitigation Monitoring required:** The applicant shall ensure that the project complies with all approved plans and all project conditions including those which must be monitored after the project is built and occupied. To accomplish this the applicant agrees to:
  - a. Contact P&D compliance staff as soon as possible after project approval to provide the name and phone number of the future contact person for the project and give estimated dates for future project activities.
  - b. Contact P&D compliance staff at least two weeks prior to commencement of construction activities to schedule an on-site pre-construction meeting with the owner, compliance staff, other agency personnel and with key construction personnel.
  - c. Pay a \$1,500 deposit fee prior to issuance of Land Use Permits as authorized under ordinance and fee schedules to cover full costs of monitoring as described above, including costs for P&D to hire and manage outside consultants when deemed necessary by P&D staff (e.g. non-

compliance situations, special monitoring needed for sensitive areas including but not limited to biologists, archaeologists) to assess damage and/or ensure compliance. In such cases, the applicant shall comply with P&D recommendations to bring the project into compliance. The decision of the Director of P&D shall be final in the event of a dispute.

**45. Signed Agreement to Comply Required:** Prior to approval of follow-on Land Use Permits for the project, the owner shall sign and record an agreement to comply with the project description and all conditions of approval.

**46. Additional Permits Required:** Before using any land or structure, or commencing any work pertaining to the erection, moving, alteration, enlarging, or rebuilding of any building, structure, or improvement, the applicant shall obtain a Land Use and Building Permit from Planning and Development. These Permits are required by ordinance and are necessary to ensure implementation of the conditions required by the Planning Commission. Before any Permit will be issued by Planning and Development, the applicant must obtain written clearance from all departments having conditions; such clearance shall indicate that the applicant has satisfied all pre-construction conditions. A form for such clearance is available from Planning and Development.

**47. Fees:** Prior to issuance of follow-on Coastal Development Permits, the applicant shall pay all applicable P&D processing fees in full.

**48. Compliance with Departmental letters required as follows:**

- a. Air Pollution Control District dated July 22, 2008
- b. Fire Department dated July 31, 2008
- c. Flood Control District dated July 10, 2008
- d. Project Cleanwater dated September 29, 2008
- e. Parks Department dated October 27, 2008
- f. Environmental Health Services dated October 22, 2008
- g. Public Works Transportation Division dated November 13, 2008

**49.** Pursuant to the provisions of ordinances and resolutions adopted by the county, the applicant will be required to pay development impact mitigation fees to finance the development of facilities for libraries, public administration, and the County Sheriff. Based on the fee schedules in effect at the time of project approval, the library, public administration and Sheriff fees are estimated as follows:

<b>Estimated Goleta Development Plan Impact Mitigation Fees</b>			
<b>Fee Program</b>	<b>Base Fee (per unit or 1,000 sf)</b>	<b>Estimated Fee</b>	<b>Fee due at</b>
Recreation (Parks) Quimby Develop. Mitigation Comm. & Industrial	\$ N/A  \$9,874 per unit  \$1,568 per 1,000 sf	\$ N/A  \$444,330  \$7,308  Total: \$451,638	LUP or Map Recordation  Final Inspection  Final Inspection
Transportation	\$12,122 (Per peak hour trip 28 new PHT's)	\$339,416	LUP or Map Recordation
Fire Countywide (\$0.20/sf) Goleta Area Residential Commercial	(\$0.10/sf) x 47,853 sf (gross)  \$543 per residential unit  \$511 per 1,000 sf commercial or \$723 per 1,000 sf non-retail	\$4,785  \$24,435  TBD  TBD	Final Inspection
Library	\$294 Per residential unit  \$139 Per 1,000 sf retail	\$13,230  \$648	Final Inspection
Public Administration	\$1,255 Per residential unit	\$56,475	Final Inspection

	\$592 Per 1,000 sf retail	\$2,759	
Sheriff	\$335 Per residential unit \$316 Per 1,000 sf retail	\$15,075 \$1,473	Final Inspection

Fees shall be paid prior to final building permit inspection, and shall be based on the fee schedules in effect when paid. The fees are subject to yearly adjustments. Fees are payable to the County of Santa Barbara.

- 50. Print & illustrate conditions on plans:** All applicable final conditions of approval Board of Supervisors shall be printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
- 51. Indemnity and Separation Clauses:** Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of the *Development Plan*. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
- 52. Legal Challenge:** In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the County and substitute conditions may be imposed.



## ATTACHMENT D

### DEVELOPMENT PLAN CONDITIONS OF APPROVAL

1. This Final Development Plan is based upon and limited to compliance with the project description, Planning Commission Hearing Exhibits A-J, dated December 3, 2008, and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

**The request is for a Development Plan, Conditional Use Permit, Tract Map and Coastal Development Permit to allow for the demolition of an existing 893 square foot service station building and the construction of a new, approximately 31,507 square foot (net), four-story, mixed-use building. The maximum height of the structure would be 51 feet. The building would include approximately 4,661 square feet (net) of general commercial space divided into two commercial condominiums, as well as 26,265 (net) square feet of residential area comprising 41 studio units, 4 two-bedroom units and a rooftop deck amenity and recreation room. The commercial space would be located on the ground floor and would utilize street frontage and outdoor dining areas. The residential units would be on the upper stories and would range between approximately 400 and 850 square feet. Eight of the residential studio units would derive from the County's Inclusionary Housing Program and made available to residents meeting the County affordable housing requirements for low income residents, or families earning less than 75% of the Area Median Income. Those units would be income-restricted for 55-years, according to California Community Redevelopment Law. A lot merger is included as part of the project to facilitate construction of the building across the two commonly owned parcels.**

**The project would seek to obtain a LEED (Leadership in Energy and Environmental Design) rating upon build-out. This includes exceeding Title 24 requirements and innovative building and system designs, including the introduction of pervious paving materials to help reduce impacts to existing storm drain system. A car-sharing program would be provided for building residents to reduce the need for autonomous vehicles including use of the parking space located on the Trigo Road frontage.**

**Twenty-two (22) residential parking spaces would be provided on-site in the form of tuck-under parking and an additional nine (9) residential parking spots and ten (10) commercial spaces would be provided off-site through the IV Master Plan's In Lieu Fee Parking Program. These offsite parking spaces would be provided in a surface parking lot acquired by (or to be acquired by) the Isla Vista Redevelopment Agency (RDA). The RDA is in negotiations with property owner(s) to acquire adjacent vacant lot(s) to be used for public parking in downtown Isla Vista, which would be made partially available for the commercial and residential uses of this project. Additionally, the project would provide forty-nine (49) secured bicycle parking spaces for residential tenants and an additional eighteen (18) bicycle parking spaces in the public right of way to serve the public and employees of the commercial spaces. Further, the project includes right-of-way encroachments along both Trigo Road and Embarcadero del Norte for bicycle parking, commercial door-swings, commercial outdoor seating and building canopies.**

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of

approval hereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

## ISLA VISTA MASTER PLAN EIR MITIGATION MEASURES

The conditions under this section were developed as part of the Isla Vista Master Plan EIR for the downtown area. Because these conditions were drafted as mitigation measures, plan requirements/timing and monitoring provisions have been added to transform them into project specific conditions. Mitigation measures that did not directly apply to the proposed project were removed for clarity.

2. **Mitigation AES-4.1:** Construction and/or employee trash shall be prevented from blowing offsite. **Plan Requirements/Timing:** Covered receptacles shall be provided onsite prior to commencement of grading or construction activities. The applicant or their designee shall retain a clean-up crew to ensure that trash and all excess construction debris is collected daily and placed in provided receptacles throughout construction. **Monitoring:** Permit Compliance respond to complaints.
3. **Mitigation DT-AES-2.1:** The installation of street trees along with the Plan's proposed Form-Based Regulating Code will serve to break up massing and ensure that the increased massing would be architecturally integrated as the downtown buildings revitalize and redevelop during Plan build-out. **Requirements:** The applicant shall install the number and type of street trees consistent with those proposed in the Isla Vista Master Plan. **Timing:** Prior to occupancy clearance, street trees shall be installed and pursuant to the Public Works Department.
4. **Mitigation AIR-1:** Dust generated by project construction shall be kept to a minimum by following the dust control measures listed below:
  - g. Water trucks or sprinkler systems shall be used during construction to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, such areas shall be watered down in the late morning and after completion of work at the end of the day. The frequency of watering shall be increased when wind speeds exceed 15 miles per hour if soils are not completely wet. If wind speeds increase to the point that the dust control measures cannot prevent dust from leaving the site, construction activities shall be suspended. Reclaimed water shall be used whenever possible.
  - h. Vehicle speeds on the construction site shall be limited to 15 miles per hours or less.
  - i. Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads.
  - j. Trucks transporting fill material/soil to and from the site shall be tarped from the point of origin. Soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation.
  - k. After clearing, grading, earth moving, or excavation is completed, the disturbed area shall be treated by watering, revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
  - l. A person or persons shall be designated by the contractor or builder to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Such monitoring responsibilities shall include holiday and weekend periods when work may not be in progress. The contractor shall provide the name and telephone number of such person to the APCD and the County prior to approval of any land use clearance for any project grading or construction activities.

**Plan Requirements:** All requirements shall be shown on grading and building plans. **Timing:** Condition requirements shall be adhered to throughout all grading and construction periods. **Monitoring:** Permit Compliance shall ensure measures are on plans. P&D Grading and Permit Compliance staff shall spot check and ensure compliance on-site. APCD inspectors shall respond to nuisance complaints.

5. **Mitigation Measure AIR-3.1:** The following energy conservation measures shall be incorporated into project building plans unless the applicant proves that incorporation of a specific measure is infeasible:
  - Will meet the California Title 24 Energy Code or exceed for all relevant applications.
  - Heat transfer modules shall be installed in all furnaces.
  - Installation of solar panels for water heating systems for residential and other facilities where feasible.
  - Passive solar cooling/heating design elements shall be included in building designs where feasible.
  - New development must include design elements that maximize the use of natural lighting where feasible.
  - New development must include provisions of the installation of energy efficient appliances and lighting.
6. **Mitigation AIR-3.2:** To reduce daily ROG, NOx and PM<sub>10</sub> emissions during winter days from combined project sources, only advanced combustion or natural gas fireplaces shall be allowed. **Plan Requirements/Timing:** This condition shall be printed on all building plans. **Monitoring:** P&D plan check staff shall check plans prior to issuance of Building Permits.
7. **Mitigation CH-1.1:** In the event archeological remains are encountered during grading, work shall be stopped immediately or redirected until a P&D qualified archeologist and Native American representative are retained by the applicant to evaluate the significance of the find pursuant to Phase 2 investigations of the County Archeological Guidelines. If remains are found to be significant, they shall be subject to a Phase 3 mitigation program consistent with County Archeological Guidelines and funded by the applicant. This mitigation measure will prevent the destruction of unknown, buried archeological resources during grading activities. **Plan Requirements/Timing:** This condition shall be printed on all building and grading plans. **Monitoring:** P&D shall check plans prior to approval of Land Use Permits and Permit Compliance staff shall spot check in the field.
8. **Mitigation DT-HAZ-1:** County P&D and the County Fire Department review and approval shall be required for any new mixed use project and for the addition of any residential units to existing businesses to ensure that materials present in the business would not create a hazard to occupants of the residence. **Plan Requirements and Timing:** Prior to occupancy clearance, the applicant shall submit a Hazardous Materials Business Plan (HMBP) to P&D and the Fire Department for review and approval. The plan shall be updated annually and shall include a monitoring section. The components of HMBP shall be implemented as indicated in the approved Business Plan. **Monitoring:** Fire Department will monitor as specified in the Business Plan.
9. **Mitigation HAZ-1.3:** If previously unknown soil and/or groundwater contamination is found to exist onsite during excavation and/or as a result of any assessment, work is to cease immediately in the impacted area and a workplan to determine the lateral and vertical extent of the contamination shall be submitted to FPD and a site remediation plan shall be submitted to the FPD or the RWQCB for review and approval. **Plan Requirements/Timing:** Construction contingency plans and a Site Health and Safety Plan shall be prepared as necessary. The APCD shall be contacted to determine the permitting requirements. This requirement shall be noted on all grading and building plans. **Monitoring:** Permit Compliance personnel shall perform periodic inspections.
10. **Mitigation HAZ-2.1:** Prior to remodeling/demolition activities of a residential building with less than four units or an institutional, industrial, or commercial building involving pre-1979 structures, the applicant shall determine whether the structure(s) proposed for demolition contains asbestos that is friable (i.e. brittle) during demolition or disposal. If the structure does contain friable

asbestos, a contractor who is state-certified for asbestos removal shall remove the asbestos. **Plan Requirements/Timing:**

11. **Mitigation HAZ-2.2:** Prior to demolition activities, an APCD Asbestos Demolition and Renovation Compliance Checklist shall be completed and a certified asbestos consultant shall conduct asbestos sampling and develop a plan for removal, as deemed necessary by the APCD and County Fire. Depending upon the amount and type of asbestos and the type of project, advanced notification to the APCD may required before asbestos is disturbed and/or removed. As determined necessary by APCD, notification requirements may also include notifying local residents and occupants of buildings where asbestos work is being done.
12. **Mitigation HAZ-3.1:** Potential exposure of construction workers to LBP shall be minimized through disclosure of the potential presence of LBP for demolition and renovation of structures that were constructed prior to 1979. **Plan Requirements/Timing:** Prior to any demolition of any painted surfaces, a LBP survey shall be conducted by the applicant to determine the level of risk posed to construction workers, building occupants, business owners and their employees from exposure to the paints present. Results of the LBP survey shall be documented with the applicable County agencies. Any recommendations made in that survey related to the paints present at the project site shall be implemented prior to the demolition or renovation of the painted surfaces.
13. **Mitigation HAZ-3.2:** If a determination is made that LBP is present in a building slated for demolition or renovation, the applicant shall implement a LBP abatement plan, which shall include the following components:
  1. A site Health and Safety Plan, as needed.
  2. Containment of all work areas to prohibit off-site migration of paint chip debris.
  3. Removal of all peeling and stratified lead-based paint on building surfaces and on non-building surfaces to the degree necessary to safely and properly complete demolition activities per the survey recommendations.

**Plan Requirements/Timing:** Prior to the issuance of a demolition permit, the LBP abatement plan shall be prepared by a consulting firm certified in LBP removal and documented with the applicable County agencies (APCD). Undergoing this process will limit unnecessary exposure to construction workers and occupants present at the project site.

14. **Mitigation HYD-1:** At a minimum, the following BMPs designed to reduce or eliminate construction site pollutants shall be incorporated into all project plans as a condition of approval and be implemented during construction:

*Construction Site Planning BMPs*, including but not limited to:

- a) the amount of cuts and fills shall be minimized.
- b) only the minimum amount of vegetation necessary for construction shall be removed.
- c) the clearing limits, setbacks, protected habitat areas, trees, drainage courses, and buffer zones shall be delineated on plans and in the field to prevent excessive or unnecessary soil disturbance and exposure.
- d) excavation and grading shall be avoided during the rainy season.

- e) grading operations shall be phased to reduce the extent of disturbed areas and length of exposure.
- f) impervious surface areas shall be minimized and permeable paving materials shall be used whenever possible.
- g) concrete, asphalt, and seal coat shall be applied during dry weather only; storm drains and manholes within the construction area shall be covered when paving or applying seal coat, slurry, fog seal, etc.

*BMPs to Minimize Soil Movement*, including but not limited to:

- a) exposed stockpiles of soil and other erosive materials shall be covered during the rainy season.
- b) soil stabilizers shall be employed, as appropriate.
- c) disturbed soils shall be restored and revegetated as soon as practicable.
- d) sediment and construction materials shall be dry-swept from finished streets the same day they are deposited.
- e) tire wash stations, gravel beds, and/or rumble plates will be installed at site entrance and exit points to prevent sediment from being tracked onto adjacent roadways.
- f) any sediment or other materials tracked off site shall be removed the same day as they are tracked using dry cleaning methods.
- g) site runoff control structures, such as earth berms, gravel bags, silt fences, drainage swales, and ditches that reduce erosion and convey surface runoff during construction into temporary or permanent sediment detention basins shall be installed and made operational in the initial phase of construction, as necessary.

*Good Housekeeping BMPs*, including but not limited to the following requirements:

- a) all storm drains, drainage patterns, and creeks located near the construction site prior to construction shall be identified to ensure that all subcontractors know their location to prevent pollutants from entering them.
- b) storm drain inlets shall be protected from sediment-laden waters for the duration of the grading period and until graded areas have been stabilized by structures, long-term erosion control measures or landscaping.
- c) all leaks, spills, drips shall be immediately cleaned up and disposed of properly.
- d) one or more emergency spill containment kits shall be placed on-site in easily visible locations and personnel will be trained in proper use and disposal methods.
- e) vehicles and heavy equipment shall be refueled and serviced in one designated site located at least 500 feet from creeks and drainage swales; vehicles and heavy equipment that are leaking fuel, oil, hydraulic fluid or other pollutants shall be immediately contained and either repaired immediately or removed from the site.

- f) temporary storage of construction equipment shall be limited to a 50- x 50-foot area and shall be located at least 100 feet from any water bodies.
- g) trash cans shall be placed liberally around the site and properly maintained.
- h) dry clean-up methods shall be used whenever possible.
- i) construction material and waste management practices shall be identified, including temporary borrow and waste disposal areas, temporary debris and garbage disposal, and chemical/fuel storage areas.
- j) washing of concrete trucks, paint, equipment, or similar activities shall be at least 100 feet from any storm drain, water body or sensitive biological resources and shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site; wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands.
- k) all subcontractors and laborers shall be educated about proper site maintenance and storm water pollution control measures through periodic “tailgate” meetings.

**Plan Requirements:** An erosion and sediment control plan shall be submitted to and approved by P&D and Flood Control prior to approval of Land Use Permits. The plan shall be designed to address erosion and sediment control during all phases of development of the site. **Timing:** The plan shall be implemented prior to the commencement of grading/construction. **Monitoring:** Permit Compliance staff shall perform site inspections throughout the construction phase.

15. **Mitigation DT-HYD-1:** Preliminary drainage plans shall be submitted to the County Public Works Department for review to determine if site runoff would impact storm drain capacity and whether BMP's to retain or detain runoff onsite would be required. **Plan Requirements:** A drainage study shall be submitted to and approved by P&D and Flood Control prior to approval of Land Use Permits. The study shall provide detailed calculations of expected site runoff for flood events as determined by Flood Control and the capacity of storm drains downstream of the site. **Timing:** Any on-site or off-site improvements to drainage infrastructure recommended in the plan shall be installed prior to occupancy clearance of the first residential/commercial unit. **Monitoring:** Permit Compliance/Flood Control staff shall ensure implementation of the study's recommendations prior to occupancy clearance.
16. **Mitigation DT-HYD-2:** Development plans shall provide for on-site retention of storm water runoff, infiltration, and recharge where feasible. Feasibility shall be determined by the P&D Registered Geologist and County Flood Control engineer during development permit review. **Plan Requirements/ Timing:** Drainage plans shall be submitted to and approved by P&D and Flood Control prior to approval of Land Use Permits. **Monitoring:** Permit Compliance staff shall perform site inspections throughout the construction phase.
17. **Mitigation DT-HYD-3:** To reduce storm water runoff, one of the following driveway designs shall be used in new development and redevelopment projects: paving only under wheels, flared driveway, or use of permeable surfaces for temporary or non-permanent parking areas. The use of permeable surfaces prevents excess storm water runoff by allowing water to be absorbed through the soil while providing a usable surface for driveways, parking spots, and walkways.
18. **Mitigation NSE-1:** Construction activity and equipment maintenance within 1,600 feet of sensitive receptors shall be limited to non-holiday weekdays between the hours of 8 AM and 5 PM only. Non-noise generating construction activities, such as interior painting, are not subject to these restrictions. **Plan Requirements:** Three (3) signs stating these restrictions shall be provided by the

applicant and posted on site. **Timing:** Signs shall be in place prior to beginning of and throughout grading and construction activities. Violations may result in suspension of permits. **Monitoring:** Permit Compliance respond to complaints.

**19. Mitigation NSE-2:** Construction equipment that generates noise exceeding 65 dBA at the nearest sensitive receptors shall be located the maximum feasible distance from nearby sensitive uses and shall be shielded with noise attenuation barriers or muffling devices to reduce to 65 dBA. **Monitoring:** Permit Compliance respond to complaints.

**20. Mitigation NSE-3:** The project applicant shall provide a construction schedule to adjacent property owners at least seven days in advance of construction activities. **Plan Requirements:** A draft of the notice shall be submitted to and approved by P&D prior to approval of Land Use Permits. **Timing:** The notice shall be sent to adjacent property owners prior to the commencement of grading/construction.

**21. Mitigation DT-SW-1:** Future and existing development (private and public) shall develop and implement a Solid Waste Program. The program shall include, but not be limited to, the following measures (as applicable to land use types):

- Implementation of a residential and parkland green waste source reduction program. The program shall include, but not be limited to, the creation of lot or common composting areas, and the use of mulching mowers for all common open space lawns.
- Provision of a designated space or bins for storage of recyclable materials including office paper, cardboard, and beverage containers at residential, commercial, industrial, and public recreational areas.

This mitigation measure serves to further reduce items that enter the solid waste stream. **Plan Requirements:** The Solid Waste Program plan shall be submitted to and approved by P&D and Public Works prior to approval of Land Use Permits. **Timing:** The plan shall be implemented for the life of the project. **Monitoring:** Permit Compliance staff shall confirm implementation prior to occupancy granted to the first residential or commercial unit.

**22. Mitigation DT-FIRE-1:** New development in the downtown which requires a “Fire Protection Certificate” shall be required to install, or fund the installation of, fire hydrant improvements so that that said development is served by a fire hydrant within 500 feet that provides 1,250 GPM. Projects that require a “Fire Protection Certificate” includes, but are not limited to:

- New buildings, Additions to existing non-residential structures of more than 500 square feet, Additions that cause the total square footage to equal 5,000 square feet or more.

**Plan Requirements/Timing:** Fire Department shall ensure the necessary improvements are detailed on the building plans during plan check. **Monitoring:** Permit Compliance/Fire Department staff shall confirm installation of required infrastructure prior to occupancy granted to the first residential or commercial unit.

## PROJECT SPECIFIC CONDITIONS

**23. Board of Architectural Review:** Exterior elevations, colors, materials and landscaping to conform to that approved by the SBAR as part of 08BAR-00000-00036. Final SBAR review and approval shall be obtained prior to Coastal Development Permit issuance. The project shall conform to final SBAR approval in all respects including landscaping. The project design shall be carried forward consistent with the SBAR’s conceptual review comments. Any murals to be included with the project architecture shall be reviewed and approved by the Santa Barbara County Arts Commission.

- 24. Landscaping:** Landscaping shall be maintained for the life of the project. **Plan Requirements/Timing:** The applicant shall also submit three copies of a Final Landscape and Water-Conserving Irrigation Plan to P&D for review and approval. Prior to occupancy clearance, landscaping and water-conserving irrigation shall be installed.
- 25. Night Lighting:** Any exterior night lighting installed on the project site shall be of low intensity, low glare design, minimum height, and shall be fully hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent parcels. Applicant shall develop a Lighting Plan incorporating these requirements and provisions for dimming lights after 10:00 p.m. **Plan Requirements:** The locations of all exterior lighting fixtures and an arrow showing the direction of light being cast by each fixture and the height of the fixtures shall be depicted on a Lighting Plan to be reviewed and approved by P&D and the BAR. **Monitoring:** P&D and BAR shall review a Lighting Plan for compliance with this measure prior to approval of a Coastal Development Permit for structures. Building Inspectors shall inspect structures upon completion to ensure that exterior lighting fixtures have been installed consistent with their depiction on the final Lighting Plan.
- 26.** No signs of any type are approved with this permit action unless otherwise specified. All signs require a separate Coastal Development Permit and Board of Architectural Review approval and shall comply with the Santa Barbara County Code Chapter 35, Article I (Sign Regulations).
- 27. Wash-Out Area:** During construction, washing of concrete trucks, paint, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands. Areas designated for washing functions shall be at least 100 feet from any storm drain, waterbody or sensitive biological resources. The location(s) of the washout area(s) shall be clearly noted at the construction site with signs. **Plan Requirements:** The applicant shall designate a washout area, acceptable to P&D, and this area shall be shown on the construction and/or grading and building plans. **Timing:** The wash off area shall be designated on all plans prior to approval of Land Use Permits. The washout area(s) shall be in place and maintained throughout construction. **Monitoring:** P&D staff shall check plans prior to approval of Land Use Permits and compliance staff shall site inspect throughout the construction period to ensure proper use and maintenance of the washout area(s).
- 28.** The applicant shall provide a Traffic Control Plan for the construction vehicles associated with the project. **Plan Requirements:** The applicant shall provide a detailed plan describing the proposed access to the project site from U.S. 101, the construction staging area, flagman traffic control during deliveries, temporary parking restrictions, temporary construction zone and hazard signs, and the non-work hours storage location of construction equipment, and for maintaining pedestrian access and bike lane access along Embarcadero Del Norte and Trigo Road. The Plan shall specifically include the following measures:
- a. Truck haul routes shall be limited to Los Carneros/El Colegio/Embarcadero Del Norte. Truck traffic shall be prohibited through the UCSB Campus/Highway 217.
  - b. Construction vehicles, materials and equipment shall be parked or stored during non-work hours (evenings and weekends) in the construction staging area approved by P&D and shall not be parked along Embarcadero Del Norte in parking areas designated for public use. This condition may be modified if demonstrated to the satisfaction of the Director of P&D that storage onsite for short periods on (i.e., a few days) is necessary to avoid other impacts including the lengthening of the total construction period.

- c. Heavy construction equipment and trucks delivering construction materials shall arrive in the project vicinity between 9:00 a.m. and 4:00 p.m. on weekdays only (Monday through Friday) unless prior approval by the Planning and Development Department (P&D) is obtained for operations outside of these hours due to an unforeseen hazardous situation. This condition applies to large truck traffic such as a concrete mixer but not pick-up trucks. Heavy equipment and trucks moving to and from the site from the staging area and pick-up trucks shall be subject to the general hours limitation (7:00 a.m. to 4:00 p.m.) for construction activities unless prior approval by the Planning and Development Department (P&D) is obtained.

**Timing:** The Traffic Control Plan shall be reviewed and approved by the Planning and Development Department and the Public Works Department Roads Division prior to the issuance of the Land Use Permit for the proposed construction. **Monitoring:** Permit Compliance shall conduct site inspections and respond to complaints as needed.

**29. Right of Way Encroachments:** Prior to the issuance of a Land Use Permit, the applicant shall obtain any necessary encroachment permits from the Public Works Department.

**30.** Prior to final map clearance the applicant shall enter into and record an *Agreement to Provide Affordable Housing*, which shall include a model *Restrictive Covenant and Preemptive Right*. The *Covenant* shall be executed and recorded by each purchaser of an affordable unit. The *Agreement* and *Covenant* shall be based on the county's model documents, as they may be amended from time to time, and subject to the review and approval of P&D, CHCD and County Counsel. These shall specify affordability terms described in Condition No. 32. In addition, the *Agreement* and *Covenant* shall include provisions describing marketing and lottery requirements for the initial sale/rental of unit; requiring income eligibility of prospective buyers/renter to be determined by the county or its designee; requiring prospective buyers/renter of the affordable unit to sign an *Intent to Reside* statement; requiring a *Notice of Default* and *Notice of Sale*, as well as the *Covenant*, be recorded with the original and all subsequent deeds, and stating that the maximum sales/rental rate for the affordable unit shall not exceed the maximum levels established by the Board of Supervisors, consistent with the provisions of the Housing Element and state law.

**31.** Affordable units shall be constructed concurrent with the construction of the market rate units in each phase of development. Occupancy clearance for no more than 50% of the market rate units in a given phase shall be allowed prior to occupancy clearance for the affordable unit for that same phase of development. **Plan Requirements & Timing:** Prior to final map clearance, this requirement shall be included in the *Agreement to Provide Affordable Housing* and shall be printed on all grading and building plans. **Monitoring:** Planning and Development staff shall ensure compliance during construction.

**32.** The applicant shall provide eight (8) low income dwelling units available for sale or rent at prices affordable to households earning 75% of Area Median Income (AMI) consistent with the provisions of Government Code §65915-65918 (Density Bonus). **Plan Requirements and Timing:** Prior to final map clearance the applicant shall enter into and record an *Agreement to Provide Affordable Housing*, which shall include a model *Restrictive Covenant and Preemptive Right*. The *Covenant* shall be executed and recorded by each purchaser of an affordable unit. The *Agreement* and *Covenant* shall be based on the county's model documents, as they may be amended from time to time, and subject to the review and approval of P&D, CHCD and County Counsel. The units shall remain affordable for a period of 55 years or longer if required by the financing, insurance or rental subsidy program used. In addition, the running of the covenant shall toll during any period of violation. If future amendments to the County Housing Element allow developers to pay fees in-lieu of constructing affordable units, and such amendments are consistent with Coastal Land Use Plan Policy 5-10 and State Density Bonus Law, the developer shall be able to utilize those amendments.

33. Nine (9) parking spaces shall be provided for the residents of the development in an off-site location within 1,000 feet of the project site. **Requirements/Timing:** The Redevelopment Agency and applicant shall complete the Owner Participation Agreement providing for the required 9 residential spaces. Prior to approval of the follow-on Land Use Permit, P&D and County Counsel shall review and approve the parking provisions within the agreement. **Monitoring:** Prior to occupancy clearance, P&D shall verify the availability of all required parking spaces to ensure consistency with this condition and agreement.
34. **Landscape Requirements:** Two performance securities shall be provided by the applicant prior to issuance of Land Use Permits, one equal to the value of installation of all items listed in section (a) below (labor and materials) and one equal to the value of maintenance and/or replacement of the items listed in section (a) for 3 years of maintenance of the items. The amounts shall be agreed to by P&D. Changes to approved landscape plans may require a substantial conformity determination or an approved change to the plan. The installation security shall be released upon satisfactory installation of all items in section (a). If plants and irrigation (and/or any items listed in section (a) below) have been established and maintained, P&D may release the maintenance security 2 years after installation. If such maintenance has not occurred, the plants or improvements shall be replaced and the security held for another year. If the applicant fails to either install or maintain according to the approved plan, P&D may collect security and complete work on property. The installation security shall guarantee compliance with the provision below:

- b. Installation of tree protection measures, landscaping, irrigation with timers in accordance with the approved landscape and tree protection plan prior to occupancy clearance.

**Monitoring:** P&D shall inspect landscaping and improvements for compliance with approved plans prior to authorizing release of both installation and maintenance securities.

## **DEVELOPMENT PLAN CONDITIONS**

35. Approval of the Final Development Plan shall expire five (5) years after approval by the Planning Commission unless prior to the expiration date, substantial physical construction has been completed on the development or a time extension has been applied for by the applicant. The decisionmaker with jurisdiction over the project may, upon good cause shown, grant a time extension for one year.
36. No permits for development, including grading, shall be issued except in conformance with an approved Final Development Plan. The size, shape, arrangement, use, and location of buildings, walkways, parking areas, and landscaped areas shall be developed in conformity with the approved development plan marked Exhibit 1, dated December 3, 2008. Substantial conformity shall be determined by the Director of P&D.
37. On the date a subsequent Final Development Plan is approved for this site, any previously approved but un-built plans shall become null and void.
38. If the applicant requests a time extension for this permit/project, the permit/project may be revised to include updated language to standard conditions and/or mitigation measures and additional conditions and/or mitigation measures which reflect changed circumstances or additional identified project impacts. Mitigation fees shall be those in effect at the time of approval of a Land Use Permit.

## **COUNTY RULES AND REGULATIONS**

**39. Mitigation Monitoring required:** The applicant shall ensure that the project complies with all approved plans and all project conditions including those which must be monitored after the project is built and occupied. To accomplish this the applicant agrees to:

- d. Contact P&D compliance staff as soon as possible after project approval to provide the name and phone number of the future contact person for the project and give estimated dates for future project activities.
- e. Contact P&D compliance staff at least two weeks prior to commencement of construction activities to schedule an on-site pre-construction meeting with the owner, compliance staff, other agency personnel and with key construction personnel.
- f. Pay a \$1,500 deposit fee prior to issuance of Land Use Permits as authorized under ordinance and fee schedules to cover full costs of monitoring as described above, including costs for P&D to hire and manage outside consultants when deemed necessary by P&D staff (e.g. non-compliance situations, special monitoring needed for sensitive areas including but not limited to biologists, archaeologists) to assess damage and/or ensure compliance. In such cases, the applicant shall comply with P&D recommendations to bring the project into compliance. The decision of the Director of P&D shall be final in the event of a dispute.

**40. Signed Agreement to Comply Required:** Prior to approval of follow-on Land Use Permits for the project, the owner shall sign and record an agreement to comply with the project description and all conditions of approval.

**41. Additional Permits Required:** Before using any land or structure, or commencing any work pertaining to the erection, moving, alteration, enlarging, or rebuilding of any building, structure, or improvement, the applicant shall obtain a Land Use and Building Permit from Planning and Development. These Permits are required by ordinance and are necessary to ensure implementation of the conditions required by the Planning Commission. Before any Permit will be issued by Planning and Development, the applicant must obtain written clearance from all departments having conditions; such clearance shall indicate that the applicant has satisfied all pre-construction conditions. A form for such clearance is available from Planning and Development.

**42. Fees:** Prior to approval of follow-on Land Use Permits, the applicant shall pay all applicable P&D processing fees in full.

**43. Compliance with Departmental letters required as follows:**

- a. Air Pollution Control District dated July 22, 2008
- b. Fire Department dated July 31, 2008
- c. Flood Control District dated July 10, 2008
- d. Project Cleanwater dated September 29, 2008
- e. Park Department dated October 27, 2008
- f. Environmental Health Services dated October 22, 2008
- g. Public Works Transportation Division dated November 13, 2008

**44. Pursuant to the provisions of ordinances and resolutions adopted by the county, the applicant will be required to pay development impact mitigation fees to finance the development of facilities for libraries, public administration, and the County Sheriff. Based on the fee schedules in effect at the time of project approval, the library, public administration and Sheriff fees are estimated as follows:**

Estimated Goleta Development Plan Impact Mitigation Fees			
Fee Program	Base Fee (per unit or 1,000 sf)	Estimated Fee	Fee due at
Recreation (Parks) Quimby Develop. Mitigation Comm. & Industrial	\$ N/A \$9,874 per unit \$1,568 per 1,000 sf	\$ N/A \$444,330 \$7,308 Total: \$451,638	LUP or Map Recordation Final Inspection Final Inspection
Transportation	\$12,122 (Per peak hour trip 28 new PHT's)	\$339,416	LUP or Map Recordation
Fire Countywide (\$0.20/sf) Goleta Area Residential Commercial	(\$0.10/sf) x 47,853 sf (gross) \$543 per residential unit \$511 per 1,000 sf commercial or \$723 per 1,000 sf non-retail	\$4,785 \$24,435 TBD TBD	Final Inspection
Library	\$294 Per residential unit \$139 Per 1,000 sf retail	\$13,230 \$648	Final Inspection
Public Administration	\$1,255 Per residential unit \$592 Per 1,000 sf retail	\$56,475 \$2,759	Final Inspection
Sheriff	\$335 Per residential unit \$316 Per 1,000 sf retail	\$15,075 \$1,473	Final Inspection

Fees shall be paid prior to final building permit inspection, and shall be based on the fee schedules in effect when paid. The fees are subject to yearly adjustments. Fees are payable to the County of Santa Barbara.

- 45. Print & illustrate conditions on plans:** All applicable final conditions of approval Board of Supervisors shall be printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
- 46. Indemnity and Separation Clauses:** Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of the Development Plan. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
- 47. Legal Challenge:** In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the County and substitute conditions may be imposed.

## **ATTACHMENT E: CONDITIONS OF APPROVAL**

**PRELIMINARY DRAFT**  
**SANTA BARBARA COUNTY CONDITIONAL USE PERMIT**  
**COASTAL ZONING ORDINANCE, CHAPTER 35**  
**CASE NO. 07CUP-00000-00036**

**I. A Conditional Use Permit is Hereby Granted:**

**TO:** The Loop Mixed Use Building  
**APN:** 075-173-003  
**PROJECT ADDRESS:** 6533 Trigo Road  
**ZONE:** C-2  
**AREA/SUPERVISORIAL DISTRICT:** Isla Vista Area, Third Supervisorial District  
**FOR:** Residential use in the C-2 Zone District

**II. This permit is subject to compliance with the following condition(s):**

1. This Conditional Use Permit is based upon and limited to compliance with the project description, the Planning Commission exhibits marked A-J, dated December 3, 2008, and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the Planning & Development Department for conformity with this approval. Deviations may require modification to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

**The project description is as follows:**

The request is for a Development Plan, Conditional Use Permit, Tract Map and Coastal Development Permit to allow for the demolition of an existing 893 square foot service station building and the construction of a new, approximately 31,507 square foot (net), four-story, mixed-use building. The maximum height of the structure would be 51 feet. The building would include approximately 4,661 square feet (net) of general commercial space divided into two commercial condominiums, as well as 26,265 (net) square feet of residential area comprising 41 studio units, 4 two-bedroom units and a rooftop deck amenity and recreation room. The commercial space would be located on the ground floor and would utilize street frontage and outdoor dining areas. The residential units would be on the upper stories and would range between approximately 400 and 850 square feet. Eight of the residential studio units would derive from the County's Inclusionary Housing Program and made available to residents meeting the County affordable housing requirements for low income residents, or families earning less than 75% of the Area Median Income. Those units would be income-restricted for 55-years, according to California Community Redevelopment Law. A lot merger is included as part of the project to facilitate construction of the building across the two commonly owned parcels.

The project would seek to obtain a LEED (Leadership in Energy and Environmental Design) rating upon build-out. This includes exceeding Title 24 requirements and innovative building and system designs, including the introduction of pervious paving materials to help reduce impacts to existing storm drain system. A car-sharing program would be provided for

**building residents to reduce the need for autonomous vehicles including use of the parking space located on the Trigo Road frontage.**

Twenty-two (22) residential parking spaces would be provided on-site in the form of tuck-under parking and an additional nine (9) residential parking spots and ten (10) commercial spaces would be provided off-site through the IV Master Plan's In Lieu Fee Parking Program. These offsite parking spaces would be provided in a surface parking lot acquired by (or to be acquired by) the Isla Vista Redevelopment Agency (RDA). The RDA is in negotiations with property owner(s) to acquire adjacent vacant lot(s) to be used for public parking in downtown Isla Vista, which would be made partially available for the commercial and residential uses of this project. Additionally, the project would provide forty-nine (49) secured bicycle parking spaces for residential tenants and an additional eighteen (18) bicycle parking spaces in the public right of way to serve the public and employees of the commercial spaces. Further, the project includes right-of-way encroachments along both Trigo Road and Embarcadero del Norte for bicycle parking, commercial door-swings, commercial outdoor seating and building canopies.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

## **ISLA VISTA MASTER PLAN EIR MITIGATION MEASURES**

The conditions under this section were developed as part of the Isla Vista Master Plan EIR for the downtown area. Because these conditions were drafted as mitigation measures, plan requirements/timing and monitoring provisions have been added to transform them into project specific conditions. Mitigation measures that did not directly apply to the proposed project were removed for clarity.

2. **Mitigation AES-4.1:** Construction and/or employee trash shall be prevented from blowing offsite. **Plan Requirements/Timing:** Covered receptacles shall be provided onsite prior to commencement of grading or construction activities. The applicant or their designee shall retain a clean-up crew to ensure that trash and all excess construction debris is collected daily and placed in provided receptacles throughout construction. **Monitoring:** Permit Compliance respond to complaints.
3. **Mitigation DT-AES-2.1:** The installation of street trees along with the Plan's proposed Form-Based Regulating Code will serve to break up massing and ensure that the increased massing would be architecturally integrated as the downtown buildings revitalize and redevelop during Plan build-out. **Requirements:** The applicant shall install the number and type of street trees consistent with those proposed in the Isla Vista Master Plan. **Timing:** Prior to occupancy clearance, street trees shall be installed and pursuant to the Public Works Department.
4. **Mitigation AIR-1:** Dust generated by project construction shall be kept to a minimum by following the dust control measures listed below:
  - m. Water trucks or sprinkler systems shall be used during construction to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, such areas shall be watered down in the late morning and after completion of work at the end of the day. The frequency of watering shall be increased when wind speeds exceed 15 miles per hour if soils are not completely wet. If wind speeds increase to the point that the dust control measures cannot

prevent dust from leaving the site, construction activities shall be suspended. Reclaimed water shall be used whenever possible.

- n. Vehicle speeds on the construction site shall be limited to 15 miles per hours or less.
- o. Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads.
- p. Trucks transporting fill material/soil to and from the site shall be tarped from the point of origin. Soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation.
- q. After clearing, grading, earth moving, or excavation is completed, the disturbed area shall be treated by watering, revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
- r. A person or persons shall be designated by the contractor or builder to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Such monitoring responsibilities shall include holiday and weekend periods when work may not be in progress. The contractor shall provide the name and telephone number of such person to the APCD and the County prior to approval of any land use clearance for any project grading or construction activities.

**Plan Requirements:** All requirements shall be shown on grading and building plans. **Timing:** Condition requirements shall be adhered to throughout all grading and construction periods.

**Monitoring:** Permit Compliance shall ensure measures are on plans. P&D Grading and Permit Compliance staff shall spot check and ensure compliance on-site. APCD inspectors shall respond to nuisance complaints.

5. **Mitigation Measure AIR-3.1:** The following energy conservation measures shall be incorporated into project building plans unless the applicant proves that incorporation of a specific measure is infeasible:

- Will meet the California Title 24 Energy Code or exceed for all relevant applications.
- Heat transfer modules shall be installed in all furnaces.
- Installation of solar panels for water heating systems for residential and other facilities where feasible.
- Passive solar cooling/heating design elements shall be included in building designs where feasible.
- New development must include design elements that maximize the use of natural lighting where feasible.
- New development must include provisions of the installation of energy efficient appliances and lighting.

6. **Mitigation AIR-3.2:** To reduce daily ROG, NOx and PM<sub>10</sub> emissions during winter days from combined project sources, only advanced combustion or natural gas fireplaces shall be allowed.

**Plan Requirements/Timing:** This condition shall be printed on all building plans. **Monitoring:** P&D plan check staff shall check plans prior to issuance of Building Permits.

7. **Mitigation CH-1.1:** In the event archeological remains are encountered during grading, work shall be stopped immediately or redirected until a P&D qualified archeologist and Native American representative are retained by the applicant to evaluate the significance of the find pursuant to Phase 2 investigations of the County Archeological Guidelines. If remains are found to be significant, they shall be subject to a Phase 3 mitigation program consistent with County Archeological Guidelines and funded by the applicant. This mitigation measure will prevent the destruction of unknown, buried archeological resources during grading activities. **Plan Requirements/Timing:** This condition shall be printed on all building and grading plans. **Monitoring:** P&D shall check plans prior to approval of Land Use Permits and Permit Compliance staff shall spot check in the field.

8. **Mitigation DT-HAZ-1:** County P&D and the County Fire Department review and approval shall be required for any new mixed use project and for the addition of any residential units to existing businesses to ensure that materials present in the business would not create a hazard to occupants of the residence. **Plan Requirements and Timing:** Prior to occupancy clearance, the applicant shall submit a Hazardous Materials Business Plan (HMBP) to P&D and the Fire Department for review and approval. The plan shall be updated annually and shall include a monitoring section. The components of HMBP shall be implemented as indicated in the approved Business Plan. **Monitoring:** Fire Department will monitor as specified in the Business Plan.
9. **Mitigation HAZ-1.3:** If previously unknown soil and/or groundwater contamination is found to exist onsite during excavation and/or as a result of any assessment, work is to cease immediately in the impacted area and a workplan to determine the lateral and vertical extent of the contamination shall be submitted to FPD and a site remediation plan shall be submitted to the FPD or the RWQCB for review and approval. **Plan Requirements/Timing:** Construction contingency plans and a Site Health and Safety Plan shall be prepared as necessary. The APCD shall be contacted to determine the permitting requirements. This requirement shall be noted on all grading and building plans. **Monitoring:** Permit Compliance personnel shall perform periodic inspections.
10. **Mitigation HAZ-2.1:** Prior to remodeling/demolition activities of a residential building with less than four units or an institutional, industrial, or commercial building involving pre-1979 structures, the applicant shall determine whether the structure(s) proposed for demolition contains asbestos that is friable (i.e. brittle) during demolition or disposal. If the structure does contain friable asbestos, a contractor who is state-certified for asbestos removal shall remove the asbestos. **Plan Requirements/Timing:**
11. **Mitigation HAZ-2.2:** Prior to demolition activities, an APCD Asbestos Demolition and Renovation Compliance Checklist shall be completed and a certified asbestos consultant shall conduct asbestos sampling and develop a plan for removal, as deemed necessary by the APCD and County Fire. Depending upon the amount and type of asbestos and the type of project, advanced notification to the APCD may be required before asbestos is disturbed and/or removed. As determined necessary by APCD, notification requirements may also include notifying local residents and occupants of buildings where asbestos work is being done.
12. **Mitigation HAZ-3.1:** Potential exposure of construction workers to LBP shall be minimized through disclosure of the potential presence of LBP for demolition and renovation of structures that were constructed prior to 1979. **Plan Requirements/Timing:** Prior to any demolition of any painted surfaces, a LBP survey shall be conducted by the applicant to determine the level of risk posed to construction workers, building occupants, business owners and their employees from exposure to the paints present. Results of the LBP survey shall be documented with the applicable County agencies. Any recommendations made in that survey related to the paints present at the project site shall be implemented prior to the demolition or renovation of the painted surfaces.
13. **Mitigation HAZ-3.2:** If a determination is made that LBP is present in a building slated for demolition or renovation, the applicant shall implement a LBP abatement plan, which shall include the following components:
  1. A site Health and Safety Plan, as needed.
  2. Containment of all work areas to prohibit off-site migration of paint chip debris.
  3. Removal of all peeling and stratified lead-based paint on building surfaces and on non-building surfaces to the degree necessary to safely and properly complete demolition activities per the survey recommendations.

**Plan Requirements/Timing:** Prior to the issuance of a demolition permit, the LBP abatement plan shall be prepared by a consulting firm certified in LBP removal and documented with the applicable County agencies (APCD). Undergoing this process will limit unnecessary exposure to construction workers and occupants present at the project site.

**14. Mitigation HYD-1:** At a minimum, the following BMPs designed to reduce or eliminate construction site pollutants shall be incorporated into all project plans as a condition of approval and be implemented during construction:

*Construction Site Planning BMPs*, including but not limited to:

- a) the amount of cuts and fills shall be minimized.
- b) only the minimum amount of vegetation necessary for construction shall be removed.
- c) the clearing limits, setbacks, protected habitat areas, trees, drainage courses, and buffer zones shall be delineated on plans and in the field to prevent excessive or unnecessary soil disturbance and exposure.
- d) excavation and grading shall be avoided during the rainy season.
- e) grading operations shall be phased to reduce the extent of disturbed areas and length of exposure.
- f) impervious surface areas shall be minimized and permeable paving materials shall be used whenever possible.
- g) concrete, asphalt, and seal coat shall be applied during dry weather only; storm drains and manholes within the construction area shall be covered when paving or applying seal coat, slurry, fog seal, etc.

*BMPs to Minimize Soil Movement*, including but not limited to:

- a) exposed stockpiles of soil and other erosive materials shall be covered during the rainy season.
- b) soil stabilizers shall be employed, as appropriate.
- c) disturbed soils shall be restored and revegetated as soon as practicable.
- d) sediment and construction materials shall be dry-swept from finished streets the same day they are deposited.
- e) tire wash stations, gravel beds, and/or rumble plates will be installed at site entrance and exit points to prevent sediment from being tracked onto adjacent roadways.
- f) any sediment or other materials tracked off site shall be removed the same day as they are tracked using dry cleaning methods.
- g) site runoff control structures, such as earth berms, gravel bags, silt fences, drainage swales, and ditches that reduce erosion and convey surface runoff during construction into temporary or permanent sediment detention basins shall be installed and made operational in the initial phase of construction, as necessary.

*Good Housekeeping BMPs*, including but not limited to the following requirements:

- a) all storm drains, drainage patterns, and creeks located near the construction site prior to construction shall be identified to ensure that all subcontractors know their location to prevent pollutants from entering them.
- b) storm drain inlets shall be protected from sediment-laden waters for the duration of the grading period and until graded areas have been stabilized by structures, long-term erosion control measures or landscaping.
- c) all leaks, spills, drips shall be immediately cleaned up and disposed of properly.
- d) one or more emergency spill containment kits shall be placed on-site in easily visible locations and personnel will be trained in proper use and disposal methods.
- e) vehicles and heavy equipment shall be refueled and serviced in one designated site located at least 500 feet from creeks and drainage swales; vehicles and heavy equipment that are leaking fuel, oil, hydraulic fluid or other pollutants shall be immediately contained and either repaired immediately or removed from the site.
- f) temporary storage of construction equipment shall be limited to a 50- x 50-foot area and shall be located at least 100 feet from any water bodies.
- g) trash cans shall be placed liberally around the site and properly maintained.
- h) dry clean-up methods shall be used whenever possible.
- i) construction material and waste management practices shall be identified, including temporary borrow and waste disposal areas, temporary debris and garbage disposal, and chemical/fuel storage areas.
- j) washing of concrete trucks, paint, equipment, or similar activities shall be at least 100 feet from any storm drain, water body or sensitive biological resources and shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site; wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands.
- k) all subcontractors and laborers shall be educated about proper site maintenance and storm water pollution control measures through periodic “tailgate” meetings.

**Plan Requirements:** An erosion and sediment control plan shall be submitted to and approved by P&D and Flood Control prior to approval of Land Use Permits. The plan shall be designed to address erosion and sediment control during all phases of development of the site. **Timing:** The plan shall be implemented prior to the commencement of grading/construction. **Monitoring:** Permit Compliance staff shall perform site inspections throughout the construction phase.

- 15. Mitigation DT-HYD-1:** Preliminary drainage plans shall be submitted to the County Public Works Department for review to determine if site runoff would impact storm drain capacity and whether BMP's to retain or detain runoff onsite would be required. **Plan Requirements:** A drainage study shall be submitted to and approved by P&D and Flood Control prior to approval of Land Use Permits. The study shall provide detailed calculations of expected site runoff for flood events as determined by Flood Control and the capacity of storm drains downstream of the site. **Timing:** Any on-site or off-site improvements to drainage infrastructure recommended in the plan shall be

installed prior to occupancy clearance of the first residential/commercial unit. **Monitoring:** Permit Compliance/Flood Control staff shall ensure implementation of the study's recommendations prior to occupancy clearance.

**16. Mitigation DT-HYD-2:** Development plans shall provide for on-site retention of storm water runoff, infiltration, and recharge where feasible. Feasibility shall be determined by the P&D Registered Geologist and County Flood Control engineer during development permit review. **Plan Requirements/ Timing:** Drainage plans shall be submitted to and approved by P&D and Flood Control prior to approval of Land Use Permits. **Monitoring:** Permit Compliance staff shall perform site inspections throughout the construction phase.

**17. Mitigation DT-HYD-3:** To reduce storm water runoff, one of the following driveway designs shall be used in new development and redevelopment projects: paving only under wheels, flared driveway, or use of permeable surfaces for temporary or non-permanent parking areas. The use of permeable surfaces prevents excess storm water runoff by allowing water to be absorbed through the soil while providing a usable surface for driveways, parking spots, and walkways.

**18. Mitigation NSE-1:** Construction activity and equipment maintenance within 1,600 feet of sensitive receptors shall be limited to non-holiday weekdays between the hours of 8 AM and 5 PM only. Non-noise generating construction activities, such as interior painting, are not subject to these restrictions. **Plan Requirements:** Three (3) signs stating these restrictions shall be provided by the applicant and posted on site. **Timing:** Signs shall be in place prior to beginning of and throughout grading and construction activities. Violations may result in suspension of permits. **Monitoring:** Permit Compliance respond to complaints.

**19. Mitigation NSE-2:** Construction equipment that generates noise exceeding 65 dBA at the nearest sensitive receptors shall be located the maximum feasible distance from nearby sensitive uses and shall be shielded with noise attenuation barriers or muffling devices to reduce to 65 dBA. **Monitoring:** Permit Compliance respond to complaints.

**20. Mitigation NSE-3:** The project applicant shall provide a construction schedule to adjacent property owners at least seven days in advance of construction activities. **Plan Requirements:** A draft of the notice shall be submitted to and approved by P&D prior to approval of Land Use Permits. **Timing:** The notice shall be sent to adjacent property owners prior to the commencement of grading/construction.

**21. Mitigation DT-SW-1:** Future and existing development (private and public) shall develop and implement a Solid Waste Program. The program shall include, but not be limited to, the following measures (as applicable to land use types):

- Implementation of a residential and parkland green waste source reduction program. The program shall include, but not be limited to, the creation of lot or common composting areas, and the use of mulching mowers for all common open space lawns.
- Provision of a designated space or bins for storage of recyclable materials including office paper, cardboard, and beverage containers at residential, commercial, industrial, and public recreational areas.

This mitigation measure serves to further reduce items that enter the solid waste stream. **Plan Requirements:** The Solid Waste Program plan shall be submitted to and approved by P&D and Public Works prior to approval of Land Use Permits. **Timing:** The plan shall be implemented for the life of the project. **Monitoring:** Permit Compliance staff shall confirm implementation prior to occupancy granted to the first residential or commercial unit.

**22. Mitigation DT-FIRE-1:** New development in the downtown which requires a “Fire Protection Certificate” shall be required to install, or fund the installation of, fire hydrant improvements so that that said development is served by a fire hydrant within 500 feet that provides 1,250 GPM. Projects that require a “Fire Protection Certificate” includes, but are not limited to:

- New buildings, Additions to existing non-residential structures of more than 500 square feet, Additions that cause the total square footage to equal 5,000 square feet or more.

**Plan Requirements/Timing:** Fire Department shall ensure the necessary improvements are detailed on the building plans during plan check. **Monitoring:** Permit Compliance/Fire Department staff shall confirm installation of required infrastructure prior to occupancy granted to the first residential or commercial unit.

## PROJECT SPECIFIC CONDITIONS

**23. Board of Architectural Review:** Exterior elevations, colors, materials and landscaping to conform to that approved by the SBAR as part of 08BAR-00000-00036. Final SBAR review and approval shall be obtained prior to Coastal Development Permit issuance. The project shall conform to final SBAR approval in all respects including landscaping. The project design shall be carried forward consistent with the SBAR’s conceptual review comments. Any murals to be included with the project architecture shall be reviewed and approved by the Santa Barbara County Arts Commission.

**24. Landscaping:** Landscaping shall be maintained for the life of the project. **Plan Requirements/Timing:** The applicant shall also submit three copies of a Final Landscape and Water-Conserving Irrigation Plan to P&D for review and approval. Prior to occupancy clearance, landscaping and water-conserving irrigation shall be installed.

**25. Night Lighting:** Any exterior night lighting installed on the project site shall be of low intensity, low glare design, minimum height, and shall be fully hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent parcels. Applicant shall develop a Lighting Plan incorporating these requirements and provisions for dimming lights after 10:00 p.m. **Plan Requirements:** The locations of all exterior lighting fixtures and an arrow showing the direction of light being cast by each fixture and the height of the fixtures shall be depicted on a Lighting Plan to be reviewed and approved by P&D and the BAR. **Monitoring:** P&D and BAR shall review a Lighting Plan for compliance with this measure prior to approval of a Coastal Development Permit for structures. Building Inspectors shall inspect structures upon completion to ensure that exterior lighting fixtures have been installed consistent with their depiction on the final Lighting Plan.

**26. No signs of any type are approved with this permit action unless otherwise specified. All signs require a separate Coastal Development Permit and Board of Architectural Review approval and shall comply with the Santa Barbara County Code Chapter 35, Article I (Sign Regulations).**

**27. Wash-Out Area:** During construction, washing of concrete trucks, paint, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands. Areas designated for washing functions shall be at least 100 feet from any storm drain, waterbody or sensitive biological resources. The location(s) of the washout area(s) shall be clearly noted at the construction site with signs. **Plan Requirements:** The applicant shall designate a washout area, acceptable to P&D, and this area shall be shown on the construction and/or grading and building plans. **Timing:** The wash off area shall be designated on all plans prior to approval of Land Use Permits. The washout area(s) shall be in place and maintained throughout construction. **Monitoring:** P&D staff shall check plans prior to approval of

Land Use Permits and compliance staff shall site inspect throughout the construction period to ensure proper use and maintenance of the washout area(s).

28. The applicant shall provide a Traffic Control Plan for the construction vehicles associated with the project. **Plan Requirements:** The applicant shall provide a detailed plan describing the proposed access to the project site from U.S. 101, the construction staging area, flagman traffic control during deliveries, temporary parking restrictions, temporary construction zone and hazard signs, and the non-work hours storage location of construction equipment, and for maintaining pedestrian access and bike lane access along Embarcadero Del Norte and Trigo Road. The Plan shall specifically include the following measures:

- a. Truck haul routes shall be limited to Los Carneros/El Colegio/Embarcadero Del Norte. Truck traffic shall be prohibited through the UCSB Campus/Highway 217.
- b. Construction vehicles, materials and equipment shall be parked or stored during non-work hours (evenings and weekends) in the construction staging area approved by P&D and shall not be parked along Embarcadero Del Norte in parking areas designated for public use. This condition may be modified if demonstrated to the satisfaction of the Director of P&D that storage onsite for short periods on (i.e., a few days) is necessary to avoid other impacts including the lengthening of the total construction period.
- c. Heavy construction equipment and trucks delivering construction materials shall arrive in the project vicinity between 9:00 a.m. and 4:00 p.m. on weekdays only (Monday through Friday) unless prior approval by the Planning and Development Department (P&D) is obtained for operations outside of these hours due to an unforeseen hazardous situation. This condition applies to large truck traffic such as a concrete mixer but not pick-up trucks. Heavy equipment and trucks moving to and from the site from the staging area and pick-up trucks shall be subject to the general hours limitation (7:00 a.m. to 4:00 p.m.) for construction activities unless prior approval by the Planning and Development Department (P&D) is obtained.

**Timing:** The Traffic Control Plan shall be reviewed and approved by the Planning and Development Department and the Public Works Department Roads Division prior to the issuance of the Land Use Permit for the proposed construction. **Monitoring:** Permit Compliance shall conduct site inspections and respond to complaints as needed.

29. **Right of Way Encroachments:** Prior to the issuance of a Land Use Permit, the applicant shall obtain any necessary encroachment permits from the Public Works Department.
30. Prior to final map clearance the applicant shall enter into and record an *Agreement to Provide Affordable Housing*, which shall include a model *Restrictive Covenant and Preemptive Right*. The *Covenant* shall be executed and recorded by each purchaser of an affordable unit. The *Agreement* and *Covenant* shall be based on the county's model documents, as they may be amended from time to time, and subject to the review and approval of P&D, CHCD and County Counsel. These shall specify affordability terms described in Condition No. 32. In addition, the *Agreement* and *Covenant* shall include provisions describing marketing and lottery requirements for the initial sale/rental of unit; requiring income eligibility of prospective buyers/renter to be determined by the county or its designee; requiring prospective buyers/renter of the affordable unit to sign an *Intent to Reside* statement; requiring a *Notice of Default* and *Notice of Sale*, as well as the *Covenant*, be recorded with the original and all subsequent deeds, and stating that the maximum sales/rental rate for the affordable unit shall not exceed the maximum levels established by the Board of Supervisors, consistent with the provisions of the Housing Element and state law.

31. Affordable units shall be constructed concurrent with the construction of the market rate units in each phase of development. Occupancy clearance for no more than 50% of the market rate units in a given phase shall be allowed prior to occupancy clearance for the affordable unit for that same

phase of development. **Plan Requirements & Timing:** Prior to final map clearance, this requirement shall be included in the *Agreement to Provide Affordable Housing* and shall be printed on all grading and building plans. **Monitoring:** Planning and Development staff shall ensure compliance during construction.

32. The applicant shall provide eight (8) low income dwelling units available for sale or rent at prices affordable to households earning 75% of Area Median Income (AMI) consistent with the provisions of Government Code §65915-65918 (Density Bonus). **Plan Requirements and Timing:** Prior to final map clearance the applicant shall enter into and record an *Agreement to Provide Affordable Housing*, which shall include a model *Restrictive Covenant and Preemptive Right*. The *Covenant* shall be executed and recorded by each purchaser of an affordable unit. The *Agreement* and *Covenant* shall be based on the county's model documents, as they may be amended from time to time, and subject to the review and approval of P&D, CHCD and County Counsel. The units shall remain affordable for a period of 55 years or longer if required by the financing, insurance or rental subsidy program used. In addition, the running of the covenant shall toll during any period of violation. If future amendments to the County Housing Element allow developers to pay fees in-lieu of constructing affordable units, and such amendments are consistent with Coastal Land Use Plan Policy 5-10 and State Density Bonus Law, the developer shall be able to utilize those amendments.
33. Nine (9) parking spaces shall be provided for the residents of the development in an off-site location within 1,000 feet of the project site. **Requirements/Timing:** The Redevelopment Agency and applicant shall complete the Owner Participation Agreement providing for the required 9 residential spaces. Prior to approval of the follow-on Land Use Permit, P&D and County Counsel shall review and approve the parking provisions within the agreement. **Monitoring:** Prior to occupancy clearance, P&D shall verify the availability of all required parking spaces to ensure consistency with this condition and agreement.
34. **Landscape Requirements:** Two performance securities shall be provided by the applicant prior to issuance of Land Use Permits, one equal to the value of installation of all items listed in section (a) below (labor and materials) and one equal to the value of maintenance and/or replacement of the items listed in section (a) for 3 years of maintenance of the items. The amounts shall be agreed to by P&D. Changes to approved landscape plans may require a substantial conformity determination or an approved change to the plan. The installation security shall be released upon satisfactory installation of all items in section (a). If plants and irrigation (and/or any items listed in section (a) below) have been established and maintained, P&D may release the maintenance security 2 years after installation. If such maintenance has not occurred, the plants or improvements shall be replaced and the security held for another year. If the applicant fails to either install or maintain according to the approved plan, P&D may collect security and complete work on property. The installation security shall guarantee compliance with the provision below:
  - c. Installation of tree protection measures, landscaping, irrigation with timers in accordance with the approved landscape and tree protection plan prior to occupancy clearance.

**Monitoring:** P&D shall inspect landscaping and improvements for compliance with approved plans prior to authorizing release of both installation and maintenance securities.

## CONDITIONAL USE PERMIT CONDITIONS

35. This Conditional Use Permit is not valid until a Land Use Permit for the development and/or use has been obtained. Failure to obtain said Land Use Permit shall render this Conditional Use Permit null and void. Prior to the issuance of the Land Use Permit, all of the conditions listed in this Conditional Use Permit that are required to be satisfied prior to approval of Coastal Development Permits must be satisfied. Upon issuance of the Land Use Permit, the Conditional Use Permit shall

be valid. The effective date of this Permit shall be the date of expiration of the appeal period, or if appealed, the date of action by the Board of Supervisors.

36. If the Planning Commission determines at a noticed public hearing that the permittee is not in compliance with any permit condition(s), pursuant to the provisions of Sec. 35-172 of Article II of the Santa Barbara County Code, the Planning Commission is empowered, in addition to revoking the permit pursuant to said section, to amend, alter, delete, or add conditions to this permit.
37. Any use authorized by this Conditional Use Permit shall immediately cease upon expiration or revocation of this Conditional Use Permit. Any Land Use issued pursuant to this Conditional Use Permit shall expire upon expiration or revocation of the Conditional Use Permit. Conditional Use Permit renewals must be applied for prior to expiration of the Conditional Use Permit.
38. The applicant's acceptance of this permit and/or commencement of construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the permittee.
39. Within 5 years after the effective date of this permit, construction and/or the use shall commence. Construction or use cannot commence until a Land Use has been issued. Failure to commence the construction and/or use pursuant to a valid Land Use shall render the Conditional Use Permit null and void.
40. All time limits may be extended by the Planning Commission for good cause shown, provided a written request, including a statement of reasons for the time limit extension request is filed with Planning and Development prior to the expiration date.
41. If the applicant requests a time extension for this permit/project, the permit/project may be revised to include updated language to standard conditions and/or mitigation measures and additional conditions and/or mitigation measures which reflect changed circumstances or additional identified project impacts. Mitigation fees shall be those in effect at the time of issuance of a Land Use Permit.

## COUNTY RULES AND REGULATIONS

42. **Mitigation Monitoring required:** The applicant shall ensure that the project complies with all approved plans and all project conditions including those which must be monitored after the project is built and occupied. To accomplish this the applicant agrees to:
  - a. Contact P&D compliance staff as soon as possible after project approval to provide the name and phone number of the future contact person for the project and give estimated dates for future project activities.
  - b. Contact P&D compliance staff at least two weeks prior to commencement of construction activities to schedule an on-site pre-construction meeting with the owner, compliance staff, other agency personnel and with key construction personnel.
  - c. Pay a \$1,500 deposit fee prior to issuance of Coastal Development Permits as authorized under ordinance and fee schedules to cover full costs of monitoring as described above, including costs for P&D to hire and manage outside consultants when deemed necessary by P&D staff (e.g. non-compliance situations, special monitoring needed for sensitive areas including but not limited to biologists, archaeologists) to assess damage and/or ensure compliance. In such cases, the applicant shall comply with P&D recommendations to bring the project into compliance. The decision of the Director of P&D shall be final in the event of a dispute.

**43. Compliance with Departmental letters required as follows:**

- a. Air Pollution Control District dated July 22, 2008
- b. Fire Department dated July 31, 2008
- c. Flood Control District dated July 10, 2008
- d. Project Cleanwater dated September 29, 2008
- e. Park Department dated October 27, 2008
- f. Environmental Health Services dated October 22, 2008
- g. Public Works Transportation Division dated November 13, 2008

**44.** Pursuant to the provisions of ordinances and resolutions adopted by the county, the applicant will be required to pay development impact mitigation fees to finance the development of facilities for libraries, public administration, and the County Sheriff. Based on the fee schedules in effect at the time of project approval, the library, public administration and Sheriff fees are estimated as follows:

<b>Estimated Goleta Development Plan Impact Mitigation Fees</b>			
<b>Fee Program</b>	<b>Base Fee (per unit or 1,000 sf)</b>	<b>Estimated Fee</b>	<b>Fee due at</b>
Recreation (Parks) Quimby Develop. Mitigation Comm. & Industrial	\$ N/A \$9,874 per unit \$1,568 per 1,000 sf	\$ N/A \$444,330 \$7,308 Total: \$451,638	LUP or Map Recordation Final Inspection Final Inspection
Transportation	\$12,122 (Per peak hour trip 28 new PHT's)	\$339,416	LUP or Map Recordation
Fire Countywide (\$0.20/sf) Goleta Area Residential Commercial	(\$0.10/sf) x 47,853 sf (gross) \$543 per residential unit \$511 per 1,000 sf commercial or \$723 per 1,000 sf non-retail	\$4,785 \$24,435 TBD TBD	Final Inspection
Library	\$294 Per residential unit \$139 Per 1,000 sf retail	\$13,230 \$648	Final Inspection
Public Administration	\$1,255 Per residential unit \$592 Per 1,000 sf retail	\$56,475 \$2,759	Final Inspection
Sheriff	\$335 Per residential unit \$316 Per 1,000 sf retail	\$15,075 \$1,473	Final Inspection

Fees shall be paid prior to final building permit inspection, and shall be based on the fee schedules in effect when paid. The fees are subject to yearly adjustments. Fees are payable to the County of Santa Barbara.

**45. Print & illustrate conditions on plans:** All applicable final conditions of approval *Zoning Administrator* shall be printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.

**46. Change of Use:** Any change of use in the proposed building or structure shall be subject to environmental analysis and appropriate review by the County including building code compliance.

**47. Indemnity and Separation Clauses:** Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part,

the County's approval of the *Conditional Use Permit*. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.

**48. Legal Challenge:** In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the County and substitute conditions may be imposed.

**III.** This permit is issued pursuant to the provisions of Section 35-172 of the Coastal Zoning Ordinance of Santa Barbara County and is subject to the foregoing conditions and limitations; and this permit is further governed by the following provisions:

- a. If any of the conditions of the Conditional Use Permit are not complied with, the Planning Commission, after written notice to the permittee and a noticed public hearing, may in addition to revoking the permit, amend, alter, delete or add conditions to this permit at a subsequent public hearing noticed for such action.
- b. A Conditional Use Permit shall become null and void and automatically revoked if the use permitted by the Conditional Use Permit is discontinued for more than one year.
- c. Said time may be extended by the Planning Commission one time for good cause shown, provided a written request, including a statement of reasons for the time limit extension request is filed with Planning and Development prior to the expiration date.





COUNTY OF SANTA BARBARA

# Planning and Development

## COASTAL DEVELOPMENT PERMIT

Case No.: 08CDP-00000-00173

Project Name: The Loop Mixed Use Building

Project Address: 6533 Trigo Road

Assessor's Parcel No.: 075-173-003 & 075-173-026

Applicant Name: Neil Dipaola and Erik Vasquez

The County Planning Commission hereby approves this Coastal Development Permit for the development described below, based upon the required findings and subject to the attached terms and conditions.

Date of Approval: December 3, 2008

Associated Case No(s): 08TRM-00000-00004, 08DVP-00000-00021, 08CUP-00000-00033 & 08BAR-00000-00036

Project Description Summary: See Attached Description

Project Specific Conditions: See Attached Conditions

Permit Compliance Case: X Yes \_\_\_\_\_ No;

Permit Compliance Case No.: \_\_\_\_\_

**Appeals:** The approval of this Coastal Development Permit may be appealed to the Board of Supervisors by the applicant or an aggrieved person. The written appeal and accompanying fee must be filed with the Clerk of the Board of Supervisors at 105 Anacapa Street, Santa Barbara, 93101 by 5:00 p.m. on or before December 15, 2008.

The final action by the County on this Coastal Development Permit may be appealed to the California Coastal Commission after the appellant has exhausted all local appeals. Therefore a fee is not required to file an appeal of this Coastal Development Permit.

### Terms of Permit Issuance:

1. **Work Prohibited Prior to Permit Issuance.** No work, development, or use intended to be authorized pursuant to this approval shall commence prior to issuance of this Coastal Development Permit and/or any other required permit (e.g., Building Permit). **Warning! This is not a Building/Grading Permit.**
2. **Date of Permit Issuance.** This Permit shall be deemed effective and issued on December 15, 2008, provided an appeal of this approval has not been filed.
3. **Time Limit.** The approval of this Coastal Development Permit shall be valid for one year from the date of approval. Failure to obtain a required construction, demolition, or grading permit and to lawfully commence development within two years of permit issuance shall render this Coastal Development Permit null and void.

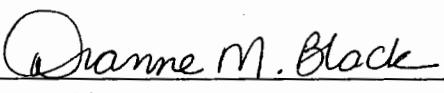
**NOTE:** Approval and issuance of a Coastal Development Permit for this project does not allow construction or use outside of the project description, terms or conditions; nor shall it be construed to be an approval of a violation of any provision of any County Policy, Ordinance or other governmental regulation.

**Owner/Applicant Acknowledgement:** Undersigned permittee acknowledges receipt of this pending approval and agrees to abide by all terms and conditions thereof.

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Print Name	Signature	Date
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**Planning and Development Department Approval by:**

Dianne M. Black		, 12/9/08
Print Name	Signature	Date

**Planning and Development Department Issuance by:**

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Print Name	Signature	Date
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**ATTACHMENT A: PROJECT SPECIFIC CONDITIONS**

1. This Coastal Development Permit is based upon and limited to compliance with the project description, the December 3, 2008 County Planning Commission hearing exhibits A-J, and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

**The project description is as follows:**

The request is for a Development Plan, Conditional Use Permit, Tract Map and Coastal Development Permit to allow for the demolition of an existing 893 square foot service station building and the construction of a new, approximately 31,507 square foot (net), four-story, mixed-use building. The maximum height of the structure would be 51 feet. The building would include approximately 4,661 square feet (net) of general commercial space divided into two commercial condominiums, as well as 26,265 (net) square feet of residential area comprising 41 studio units, 4 two-bedroom units and a rooftop deck amenity and recreation room. The commercial space would be located on the ground floor and would utilize street frontage and outdoor dining areas. The residential units would be on the upper stories and would range between approximately 400 and 850 square feet. Eight of the residential studio units would derive from the County's Inclusionary Housing Program and made available to residents meeting the County affordable housing requirements for low income residents, or families earning less than 75% of the Area Median Income. Those units would be income-restricted for 55-years, according to California Community Redevelopment Law. A lot merger is included as part of the project to facilitate construction of the building across the two commonly owned parcels.

The project would seek to obtain a LEED (Leadership in Energy and Environmental Design) rating upon build-out. This includes exceeding Title 24 requirements and innovative building and system designs, including the introduction of pervious paving materials to help reduce impacts to existing storm drain system. A car-sharing program would be provided for building residents to reduce the need for autonomous vehicles including use of the parking space located on the Trigo Road frontage.

Twenty-two (22) residential parking spaces would be provided on-site in the form of tuck-under parking and an additional nine (9) residential parking spots and ten (10) commercial spaces would be provided off-site through the IV Master Plan's In Lieu Fee Parking Program. These offsite parking spaces would be provided in a surface parking lot acquired by (or to be acquired by) the Isla Vista Redevelopment Agency (RDA). The RDA is in negotiations with property owner(s) to acquire adjacent vacant lot(s) to be used for public parking in downtown Isla Vista, which would be made partially available for the commercial and residential uses of this project. Additionally, the project would provide forty-nine (49) secured bicycle parking spaces for residential tenants and an additional eighteen (18) bicycle parking spaces in the public right of way to serve the public and employees of the commercial spaces. Further, the project includes right-of-way encroachments along both Trigo Road and Embarcadero del Norte for bicycle parking, commercial door-swings, commercial outdoor seating and building canopies.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above, the referenced exhibits, and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved exhibits and conditions of approval hereto. All plans (such as Landscape and Tree Protection Plans) shall be implemented as approved by the County.

## ISLA VISTA MASTER PLAN EIR MITIGATION MEASURES

The conditions under this section were developed as part of the Isla Vista Master Plan EIR for the downtown area. Because these conditions were drafted as mitigation measures, plan requirements/timing and monitoring provisions have been added to transform them into project specific conditions. Mitigation measures that did not directly apply to the proposed project were removed for clarity.

2. **Mitigation AES-4.1:** Construction and/or employee trash shall be prevented from blowing offsite.  
**Plan Requirements/Timing:** Covered receptacles shall be provided onsite prior to commencement of grading or construction activities. The applicant or their designee shall retain a clean-up crew to ensure that trash and all excess construction debris is collected daily and placed in provided receptacles throughout construction. **Monitoring:** Permit Compliance respond to complaints.
3. **Mitigation DT-AES-2.1:** The installation of street trees along with the Plan's proposed Form-Based Regulating Code will serve to break up massing and ensure that the increased massing would be architecturally integrated as the downtown buildings revitalize and redevelop during Plan build-out.  
**Requirements:** The applicant shall install the number and type of street trees consistent with those proposed in the Isla Vista Master Plan. **Timing:** Prior to occupancy clearance, street trees shall be installed and pursuant to the Public Works Department.
4. **Mitigation AIR-1:** Dust generated by project construction shall be kept to a minimum by following the dust control measures listed below:
  - a. Water trucks or sprinkler systems shall be used during construction to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, such areas shall be watered down in the late morning and after completion of work at the end of the day. The frequency of watering shall be increased when wind speeds exceed 15 miles per hour if soils are not completely wet. If wind speeds increase to the point that the dust control measures cannot prevent dust from leaving the site, construction activities shall be suspended. Reclaimed water shall be used whenever possible.
  - b. Vehicle speeds on the construction site shall be limited to 15 miles per hour or less.
  - c. Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads.
  - d. Trucks transporting fill material/soil to and from the site shall be tarped from the point of origin. Soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation.
  - e. After clearing, grading, earth moving, or excavation is completed, the disturbed area shall be treated by watering, revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
  - f. A person or persons shall be designated by the contractor or builder to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Such monitoring responsibilities shall include holiday and weekend periods when work may not be in

progress. The contractor shall provide the name and telephone number of such person to the APCD and the County prior to approval of any land use clearance for any project grading or construction activities.

**Plan Requirements:** All requirements shall be shown on grading and building plans. **Timing:** Condition requirements shall be adhered to throughout all grading and construction periods. **Monitoring:** Permit Compliance shall ensure measures are on plans. P&D Grading and Permit Compliance staff shall spot check and ensure compliance on-site. APCD inspectors shall respond to nuisance complaints.

**5. Mitigation Measure AIR-3.1:** The following energy conservation measures shall be incorporated into project building plans unless the applicant proves that incorporation of a specific measure is infeasible:

- Will meet the California Title 24 Energy Code or exceed for all relevant applications.
- Heat transfer modules shall be installed in all furnaces.
- Installation of solar panels for water heating systems for residential and other facilities where feasible.
- Passive solar cooling/heating design elements shall be included in building designs where feasible.
- New development must include design elements that maximize the use of natural lighting where feasible.
- New development must include provisions of the installation of energy efficient appliances and lighting.

**6. Mitigation AIR-3.2:** To reduce daily ROG, NO<sub>X</sub>, and PM10 emissions during winter days from combined project sources, only advanced combustion or natural gas fireplaces shall be allowed. **Plan Requirements/Timing:** This condition shall be printed on all building plans. **Monitoring:** P&D plan check staff shall check plans prior to issuance of Building Permits.

**7. Mitigation CH-1.1:** In the event archeological remains are encountered during grading, work shall be stopped immediately or redirected until a P&D qualified archeologist and Native American representative are retained by the applicant to evaluate the significance of the find pursuant to Phase 2 investigations of the County Archeological Guidelines. If remains are found to be significant, they shall be subject to a Phase 3 mitigation program consistent with County Archeological Guidelines and funded by the applicant. This mitigation measure will prevent the destruction of unknown, buried archeological resources during grading activities. **Plan Requirements/Timing:** This condition shall be printed on all building and grading plans. **Monitoring:** P&D shall check plans prior to approval of Land Use Permits and Permit Compliance staff shall spot check in the field.

**8. Mitigation DT-HAZ-1:** County P&D and the County Fire Department review and approval shall be required for any new mixed use project and for the addition of any residential units to existing businesses to ensure that materials present in the business would not create a hazard to occupants of the residence. **Plan Requirements and Timing:** Prior to occupancy clearance, the applicant shall submit a Hazardous Materials Business Plan (HMBP) to P&D and the Fire Department for review and approval. The plan shall be updated annually and shall include a monitoring section. The components of HMBP shall be implemented as indicated in the approved Business Plan. **Monitoring:** Fire Department will monitor as specified in the Business Plan.

**9. Mitigation HAZ-1.3:** If previously unknown soil and/or groundwater contamination is found to exist onsite during excavation and/or as a result of any assessment, work is to cease immediately in the

impacted area and a workplan to determine the lateral and vertical extent of the contamination shall be submitted to FPD and a site remediation plan shall be submitted to the FPD or the RWQCB for review and approval. **Plan Requirements/Timing:** Construction contingency plans and a Site Health and Safety Plan shall be prepared as necessary. The APCD shall be contacted to determine the permitting requirements. This requirement shall be noted on all grading and building plans. **Monitoring:** Permit Compliance personnel shall perform periodic inspections.

**10. Mitigation HAZ-2.1:** Prior to remodeling/demolition activities of a residential building with less than four units or an institutional, industrial, or commercial building involving pre-1979 structures, the applicant shall determine whether the structure(s) proposed for demolition contains asbestos that is friable (i.e. brittle) during demolition or disposal. If the structure does contain friable asbestos, a contractor who is state-certified for asbestos removal shall remove the asbestos. **Plan Requirements/Timing:**

**11. Mitigation HAZ-2.2:** Prior to demolition activities, an APCD Asbestos Demolition and Renovation Compliance Checklist shall be completed and a certified asbestos consultant shall conduct asbestos sampling and develop a plan for removal, as deemed necessary by the APCD and County Fire. Depending upon the amount and type of asbestos and the type of project, advanced notification to the APCD may required before asbestos is disturbed and/or removed. As determined necessary by APCD, notification requirements may also include notifying local residents and occupants of buildings where asbestos work is being done.

**12. Mitigation HAZ-3.1:** Potential exposure of construction workers to LBP shall be minimized through disclosure of the potential presence of LBP for demolition and renovation of structures that were constructed prior to 1979. **Plan Requirements/Timing:** Prior to any demolition of any painted surfaces, a LBP survey shall be conducted by the applicant to determine the level of risk posed to construction workers, building occupants, business owners and their employees from exposure to the paints present. Results of the LBP survey shall be documented with the applicable County agencies. Any recommendations made in that survey related to the paints present at the project site shall be implemented prior to the demolition or renovation of the painted surfaces.

**13. Mitigation HAZ-3.2:** If a determination is made that LBP is present in a building slated for demolition or renovation, the applicant shall implement a LBP abatement plan, which shall include the following components:

1. A site Health and Safety Plan, as needed.
2. Containment of all work areas to prohibit off-site migration of paint chip debris.
3. Removal of all peeling and stratified lead-based paint on building surfaces and on non-building surfaces to the degree necessary to safely and properly complete demolition activities per the survey recommendations.

**Plan Requirements/Timing:** Prior to the issuance of a demolition permit, the LBP abatement plan shall be prepared by a consulting firm certified in LBP removal and documented with the applicable County agencies (APCD). Undergoing this process will limit unnecessary exposure to construction workers and occupants present at the project site.

**14. Mitigation HYD-1:** At a minimum, the following BMPs designed to reduce or eliminate construction site pollutants shall be incorporated into all project plans as a condition of approval and be implemented during construction:

*Construction Site Planning BMPs, including but not limited to:*

- a) the amount of cuts and fills shall be minimized.
- b) only the minimum amount of vegetation necessary for construction shall be removed.
- c) the clearing limits, setbacks, protected habitat areas, trees, drainage courses, and buffer zones shall be delineated on plans and in the field to prevent excessive or unnecessary soil disturbance and exposure.
- d) excavation and grading shall be avoided during the rainy season.
- e) grading operations shall be phased to reduce the extent of disturbed areas and length of exposure.
- f) impervious surface areas shall be minimized and permeable paving materials shall be used whenever possible.
- g) concrete, asphalt, and seal coat shall be applied during dry weather only; storm drains and manholes within the construction area shall be covered when paving or applying seal coat, slurry, fog seal, etc.

*BMPs to Minimize Soil Movement*, including but not limited to:

- a) exposed stockpiles of soil and other erosive materials shall be covered during the rainy season.
- b) soil stabilizers shall be employed, as appropriate.
- c) disturbed soils shall be restored and revegetated as soon as practicable.
- d) sediment and construction materials shall be dry-swepted from finished streets the same day they are deposited.
- e) tire wash stations, gravel beds, and/or rumble plates will be installed at site entrance and exit points to prevent sediment from being tracked onto adjacent roadways.
- f) any sediment or other materials tracked off site shall be removed the same day as they are tracked using dry cleaning methods.
- g) site runoff control structures, such as earth berms, gravel bags, silt fences, drainage swales, and ditches that reduce erosion and convey surface runoff during construction into temporary or permanent sediment detention basins shall be installed and made operational in the initial phase of construction, as necessary.

*Good Housekeeping BMPs*, including but not limited to the following requirements:

- a) all storm drains, drainage patterns, and creeks located near the construction site prior to construction shall be identified to ensure that all subcontractors know their location to prevent pollutants from entering them.
- b) storm drain inlets shall be protected from sediment-laden waters for the duration of the grading period and until graded areas have been stabilized by structures, long-term erosion control measures or landscaping.
- c) all leaks, spills, drips shall be immediately cleaned up and disposed of properly.
- d) one or more emergency spill containment kits shall be placed on-site in easily visible locations and personnel will be trained in proper use and disposal methods.
- e) vehicles and heavy equipment shall be refueled and serviced in one designated site located at least 500 feet from creeks and drainage swales; vehicles and heavy equipment that are leaking fuel, oil, hydraulic fluid or other pollutants shall be immediately contained and either repaired immediately or removed from the site.
- f) temporary storage of construction equipment shall be limited to a 50- x 50-foot area and shall be located at least 100 feet from any water bodies.
- g) trash cans shall be placed liberally around the site and properly maintained.
- h) dry clean-up methods shall be used whenever possible.
- i) construction material and waste management practices shall be identified, including temporary borrow and waste disposal areas, temporary debris and garbage disposal, and chemical/fuel storage areas.

- j) washing of concrete trucks, paint, equipment, or similar activities shall be at least 100 feet from any storm drain, water body or sensitive biological resources and shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site; wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands.
- k) all subcontractors and laborers shall be educated about proper site maintenance and storm water pollution control measures through periodic "tailgate" meetings.

**Plan Requirements:** An erosion and sediment control plan shall be submitted to and approved by P&D and Flood Control prior to approval of Land Use Permits. The plan shall be designed to address erosion and sediment control during all phases of development of the site. **Timing:** The plan shall be implemented prior to the commencement of grading/construction. **Monitoring:** Permit Compliance staff shall perform site inspections throughout the construction phase.

**15. Mitigation DT-HYD-1:** Preliminary drainage plans shall be submitted to the County Public Works Department for review to determine if site runoff would impact storm drain capacity and whether BMP's to retain or detain runoff onsite would be required. **Plan Requirements:** A drainage study shall be submitted to and approved by P&D and Flood Control prior to approval of Land Use Permits. The study shall provide detailed calculations of expected site runoff for flood events as determined by Flood Control and the capacity of storm drains downstream of the site. **Timing:** Any on-site or off-site improvements to drainage infrastructure recommended in the plan shall be installed prior to occupancy clearance of the first residential/commercial unit. **Monitoring:** Permit Compliance/Flood Control staff shall ensure implementation of the study's recommendations prior to occupancy clearance.

**16. Mitigation DT-HYD-2:** Development plans shall provide for on-site retention of storm water runoff, infiltration, and recharge where feasible. Feasibility shall be determined by the P&D Registered Geologist and County Flood Control engineer during development permit review. **Plan Requirements/ Timing:** Drainage plans shall be submitted to and approved by P&D and Flood Control prior to approval of Land Use Permits. **Monitoring:** Permit Compliance staff shall perform site inspections throughout the construction phase.

**17. Mitigation DT-HYD-3:** To reduce storm water runoff, one of the following driveway designs shall be used in new development and redevelopment projects: paving only under wheels, flared driveway, or use of permeable surfaces for temporary or non-permanent parking areas. The use of permeable surfaces prevents excess storm water runoff by allowing water to be absorbed through the soil while providing a usable surface for driveways, parking spots, and walkways.

**18. Mitigation NSE-1:** Construction activity and equipment maintenance within 1,600 feet of sensitive receptors shall be limited to non-holiday weekdays between the hours of 8 AM and 5 PM only. Non-noise generating construction activities, such as interior painting, are not subject to these restrictions. **Plan Requirements:** Three (3) signs stating these restrictions shall be provided by the applicant and posted on site. **Timing:** Signs shall be in place prior to beginning of and throughout grading and construction activities. Violations may result in suspension of permits. **Monitoring:** Permit Compliance respond to complaints.

**19. Mitigation NSE-2:** Construction equipment that generates noise exceeding 65 dBA at the nearest sensitive receptors shall be located the maximum feasible distance from nearby sensitive uses and shall be shielded with noise attenuation barriers or muffling devices to reduce to 65 dBA. **Monitoring:** Permit Compliance respond to complaints.

**20. Mitigation NSE-3:** The project applicant shall provide a construction schedule to adjacent property owners at least seven days in advance of construction activities. **Plan Requirements:** A draft of the notice shall be submitted to and approved by P&D prior to approval of Land Use Permits. **Timing:** The notice shall be sent to adjacent property owners prior to the commencement of grading/construction.

**21. Mitigation DT-SW-1:** Future and existing development (private and public) shall develop and implement a Solid Waste Program. The program shall include, but not be limited to, the following measures (as applicable to land use types):

- Implementation of a residential and parkland green waste source reduction program. The program shall include, but not be limited to, the creation of lot or common composting areas, and the use of mulching mowers for all common open space lawns.
- Provision of a designated space or bins for storage of recyclable materials including office paper, cardboard, and beverage containers at residential, commercial, industrial, and public recreational areas.

This mitigation measure serves to further reduce items that enter the solid waste stream. **Plan Requirements:** The Solid Waste Program plan shall be submitted to and approved by P&D and Public Works prior to approval of Land Use Permits. **Timing:** The plan shall be implemented for the life of the project. **Monitoring:** Permit Compliance staff shall confirm implementation prior to occupancy granted to the first residential or commercial unit.

**22. Mitigation DT-FIRE-1:** New development in the downtown which requires a "Fire Protection Certificate" shall be required to install, or fund the installation of, fire hydrant improvements so that that said development is served by a fire hydrant within 500 feet that provides 1,250 GPM. Projects that require a "Fire Protection Certificate" includes, but are not limited to:

- New buildings, Additions to existing non-residential structures of more than 500 square feet, Additions that cause the total square footage to equal 5,000 square feet or more.

**Plan Requirements/Timing:** Fire Department shall ensure the necessary improvements are detailed on the building plans during plan check. **Monitoring:** Permit Compliance/Fire Department staff shall confirm installation of required infrastructure prior to occupancy granted to the first residential or commercial unit.

## PROJECT SPECIFIC CONDITIONS

**23. Board of Architectural Review:** Exterior elevations, colors, materials and landscaping to conform to that approved by the SBAR as part of 08BAR-00000-00036. Final SBAR review and approval shall be obtained prior to Coastal Development Permit issuance. The project shall conform to final SBAR approval in all respects including landscaping. The project design shall be carried forward consistent with the SBAR's conceptual review comments. Any murals to be included with the project architecture shall be reviewed and approved by the Santa Barbara County Arts Commission.

**24. Landscaping:** Landscaping shall be maintained for the life of the project. **Plan Requirements/Timing:** The applicant shall also submit three copies of a Final Landscape and Water-Conserving Irrigation Plan to P&D for review and approval. Prior to occupancy clearance, landscaping and water-conserving irrigation shall be installed.

**25. Night Lighting:** Any exterior night lighting installed on the project site shall be of low intensity, low glare design, minimum height, and shall be fully hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent parcels. Applicant shall develop a Lighting Plan incorporating these requirements and provisions for dimming lights after 10:00 p.m. **Plan Requirements:** The locations of all exterior lighting fixtures and an arrow showing the direction of light being cast by each fixture and the height of the fixtures shall be depicted on a Lighting Plan to be reviewed and approved by P&D and the BAR. **Monitoring:** P&D and BAR shall review a Lighting Plan for compliance with this measure prior to approval of a Coastal Development Permit for structures. Building Inspectors shall inspect structures upon completion to ensure that exterior lighting fixtures have been installed consistent with their depiction on the final Lighting Plan.

**26.** No signs of any type are approved with this permit action unless otherwise specified. All signs require a separate Coastal Development Permit and Board of Architectural Review approval and shall comply with the Santa Barbara County Code Chapter 35, Article I (Sign Regulations).

**27. Wash-Out Area:** During construction, washing of concrete trucks, paint, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands. Areas designated for washing functions shall be at least 100 feet from any storm drain, waterbody or sensitive biological resources. The location(s) of the washout area(s) shall be clearly noted at the construction site with signs. **Plan Requirements:** The applicant shall designate a washout area, acceptable to P&D, and this area shall be shown on the construction and/or grading and building plans. **Timing:** The wash off area shall be designated on all plans prior to approval of Land Use Permits. The washout area(s) shall be in place and maintained throughout construction. **Monitoring:** P&D staff shall check plans prior to approval of Land Use Permits and compliance staff shall site inspect throughout the construction period to ensure proper use and maintenance of the washout area(s).

**28.** The applicant shall provide a Traffic Control Plan for the construction vehicles associated with the project. **Plan Requirements:** The applicant shall provide a detailed plan describing the proposed access to the project site from U.S. 101, the construction staging area, flagman traffic control during deliveries, temporary parking restrictions, temporary construction zone and hazard signs, and the non-work hours storage location of construction equipment, and for maintaining pedestrian access and bike lane access along Embarcadero Del Norte and Trigo Road. The Plan shall specifically include the following measures:

- a. Truck haul routes shall be limited to Los Cameros/El Colegio/Embarcadero Del Norte. Truck traffic shall be prohibited through the UCSB Campus/Highway 217.
- b. Construction vehicles, materials and equipment shall be parked or stored during non-work hours (evenings and weekends) in the construction staging area approved by P&D and shall not be parked along Embarcadero Del Norte in parking areas designated for public use. This condition may be modified if demonstrated to the satisfaction of the Director of P&D that storage onsite for short periods on (i.e., a few days) is necessary to avoid other impacts including the lengthening of the total construction period.
- c. Heavy construction equipment and trucks delivering construction materials shall arrive in the project vicinity between 9:00 a.m. and 4:00 p.m. on weekdays only (Monday through Friday) unless prior approval by the Planning and Development Department (P&D) is obtained for operations outside of these hours due to an unforeseen hazardous situation. This condition applies to large truck traffic such as a concrete mixer but not pick-up trucks. Heavy equipment and trucks moving to and from

the site from the staging area and pick-up trucks shall be subject to the general hours limitation (7:00 a.m. to 4:00 p.m.) for construction activities unless prior approval by the Planning and Development Department (P&D) is obtained.

**Timing:** The Traffic Control Plan shall be reviewed and approved by the Planning and Development Department and the Public Works Department Roads Division prior to the issuance of the Land Use Permit for the proposed construction. **Monitoring:** Permit Compliance shall conduct site inspections and respond to complaints as needed.

29. **Right of Way Encroachments:** Prior to the issuance of a Land Use Permit, the applicant shall obtain any necessary encroachment permits from the Public Works Department.
30. Prior to final map clearance the applicant shall enter into and record an *Agreement to Provide Affordable Housing*, which shall include a model *Restrictive Covenant and Preemptive Right*. The *Covenant* shall be executed and recorded by each purchaser of an affordable unit. The *Agreement and Covenant* shall be based on the county's model documents, as they may be amended from time to time, and subject to the review and approval of P&D, CHCD and County Counsel. These shall specify affordability terms described in Condition No. 32. In addition, the *Agreement and Covenant* shall include provisions describing marketing and lottery requirements for the initial sale/rental of unit; requiring income eligibility of prospective buyers/renter to be determined by the county or its designee; requiring prospective buyers/renter of the affordable unit to sign an *Intent to Reside* statement; requiring a *Notice of Default* and *Notice of Sale*, as well as the *Covenant*, be recorded with the original and all subsequent deeds, and stating that the maximum sales/rental rate for the affordable unit shall not exceed the maximum levels established by the Board of Supervisors, consistent with the provisions of the Housing Element and state law.
31. Affordable units shall be constructed concurrent with the construction of the market rate units in each phase of development. Occupancy clearance for no more than 50% of the market rate units in a given phase shall be allowed prior to occupancy clearance for the affordable unit for that same phase of development. **Plan Requirements & Timing:** Prior to final map clearance, this requirement shall be included in the *Agreement to Provide Affordable Housing* and shall be printed on all grading and building plans. **Monitoring:** Planning and Development staff shall ensure compliance during construction.
32. The applicant shall provide eight (8) low income dwelling units available for sale or rent at prices affordable to households earning 75% of Area Median Income (AMI) consistent with the provisions of Government Code §65915-65918 (Density Bonus). **Plan Requirements and Timing:** Prior to final map clearance the applicant shall enter into and record an *Agreement to Provide Affordable Housing*, which shall include a model *Restrictive Covenant and Preemptive Right*. The *Covenant* shall be executed and recorded by each purchaser of an affordable unit. The *Agreement and Covenant* shall be based on the county's model documents, as they may be amended from time to time, and subject to the review and approval of P&D, CHCD and County Counsel. The units shall remain affordable for a period of 55 years or longer if required by the financing, insurance or rental subsidy program used. In addition, the running of the covenant shall toll during any period of violation. If future amendments to the County Housing Element allow developers to pay fees in-lieu of constructing affordable units, and such amendments are consistent with Coastal Land Use Plan Policy 5-10 and State Density Bonus Law, the developer shall be able to utilize those amendments.
33. Nine (9) parking spaces shall be provided for the residents of the development in an off-site location within 1,000 feet of the project site. **Requirements/Timing:** The Redevelopment Agency and applicant shall complete the Owner Participation Agreement providing for the required 9 residential

spaces. Prior to approval of the follow-on Land Use Permit, P&D and County Counsel shall review and approve the parking provisions within the agreement. **Monitoring:** Prior to occupancy clearance, P&D shall verify the location and availability of all required parking spaces to ensure consistency with this condition.

**34. Landscape Requirements:** Two performance securities shall be provided by the applicant prior to issuance of Land Use Permits, one equal to the value of installation of all items listed in section (a) below (labor and materials) and one equal to the value of maintenance and/or replacement of the items listed in section (a) for 3 years of maintenance of the items. The amounts shall be agreed to by P&D. Changes to approved landscape plans may require a substantial conformity determination or an approved change to the plan. The installation security shall be released upon satisfactory installation of all items in section (a). If plants and irrigation (and/or any items listed in section (a) below) have been established and maintained, P&D may release the maintenance security 2 years after installation. If such maintenance has not occurred, the plants or improvements shall be replaced and the security held for another year. If the applicant fails to either install or maintain according to the approved plan, P&D may collect security and complete work on property. The installation security shall guarantee compliance with the provision below:

- a. Installation of tree protection measures, landscaping, irrigation with timers in accordance with the approved landscape and tree protection plan prior to occupancy clearance.

**Monitoring:** P&D shall inspect landscaping and improvements for compliance with approved plans prior to authorizing release of both installation and maintenance securities.

## COUNTY RULES AND REGULATIONS

**35. Mitigation Monitoring required:** The applicant shall ensure that the project complies with all approved plans and all project conditions including those which must be monitored after the project is built and occupied. To accomplish this the applicant agrees to:

- a. Contact P&D compliance staff as soon as possible after project approval to provide the name and phone number of the future contact person for the project and give estimated dates for future project activities.
- b. Contact P&D compliance staff at least two weeks prior to commencement of construction activities to schedule an on-site pre-construction meeting with the owner, compliance staff, other agency personnel and with key construction personnel.
- c. Pay a \$1,500 deposit fee prior to issuance of Coastal Development Permits as authorized under ordinance and fee schedules to cover full costs of monitoring as described above, including costs for P&D to hire and manage outside consultants when deemed necessary by P&D staff (e.g. non-compliance situations, special monitoring needed for sensitive areas including but not limited to biologists, archaeologists) to assess damage and/or ensure compliance. In such cases, the applicant shall comply with P&D recommendations to bring the project into compliance. The decision of the Director of P&D shall be final in the event of a dispute.

**36. Compliance with Departmental letters required as follows:**

- a. Air Pollution Control District dated July 22, 2008
- b. Fire Department dated July 31, 2008
- c. Flood Control District dated July 10, 2008

- d. Project Cleanwater dated September 29, 2008
  - e. Park Department dated October 27, 2008
  - f. Environmental Health Services dated October 22, 2008
  - g. Public Works Transportation Division dated November 13, 2008
37. Pursuant to the provisions of ordinances and resolutions adopted by the county, the applicant will be required to pay development impact mitigation fees to finance the development of facilities for libraries, public administration, and the County Sheriff. Based on the fee schedules in effect at the time of project approval, the library, public administration and Sheriff fees are estimated as follows:

Estimated Goleta Development Plan Impact Mitigation Fees			
Fee Program	Base Fee (per unit or 1,000 sf)	Estimated Fee	Fee due at
Recreation (Parks) Quimby Develop. Mitigation Comm. & Industrial	\$ N/A \$9,874 per unit \$1,568 per 1,000 sf	\$ N/A \$444,330 \$7,308 Total: \$451,638	LUP or Map Recordation Final Inspection Final Inspection
Transportation	\$12,122 (Per peak hour trip 28 new PHT's)	\$339,416	LUP or Map Recordation
Fire Countywide (\$0.20/sf) Goleta Area Residential Commercial	(\$0.10/sf) x 47,853 sf (gross)  \$543 per residential unit \$511 per 1,000 sf commercial or \$723 per 1,000 sf non-retail	\$4,785  \$24,435 TBD TBD	Final Inspection
Library	\$294 Per residential unit \$139 Per 1,000 sf retail	\$13,230 \$648	Final Inspection
Public Administration	\$1,255 Per residential unit \$592 Per 1,000 sf retail	\$56,475 \$2,759	Final Inspection
Sheriff	\$335 Per residential unit \$316 Per 1,000 sf retail	\$15,075 \$1,473	Final Inspection

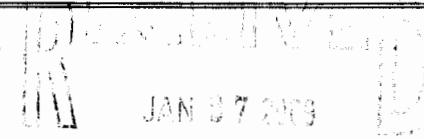
Fees shall be paid prior to final building permit inspection, and shall be based on the fee schedules in effect when paid. The fees are subject to yearly adjustments. Fees are payable to the County of Santa Barbara.

38. **Print & illustrate conditions on plans:** All applicable final conditions of approval Zoning Administrator shall be printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.

- 39. Change of Use:** Any change of use in the proposed building or structure shall be subject to environmental analysis and appropriate review by the County including building code compliance.
- 40. Indemnity and Separation Clauses:** Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of the Conditional Use Permit. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
- 41. Legal Challenge:** In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the County and substitute conditions may be imposed.
47. The applicant shall pay any applicable Development Impact Mitigation Fees that are required to be paid prior to final building permit inspection in accordance with the ordinances and resolutions in effect when paid.

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST DISTRICT OFFICE  
 89 SOUTH CALIFORNIA STREET, SUITE 200  
 VENTURA, CA 93001-4508  
 VOICE (805) 585-1800 FAX (805) 641-1732



JAN 8 7 2003

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT****Please Review Attached Appeal Information Sheet Prior To Completing This Form.****SECTION I. Appellant(s)**

Name: Sara Wan and Mary K. Shallenberger, California Coastal Commission

Mailing Address: c/o California Coastal Commission, 89 S. California Street, Suite 200

City: Ventura, CA

Zip Code: 93001

Phone: (805) 585-1800

**SECTION II. Decision BeingAppealed**

1. Name of local/port government:

Santa Barbara County

2. Brief description of development being appealed:

A Development Plan, Conditional Use Permit, Tract Map and Coastal Development Permit to allow for the demolition of an existing 893 square foot service station building and the construction of a new, approximately 31,507 square foot (net), four-story, mixed-use building. The maximum height of the structure would be 51 feet. The building would include approximately 4,661 square feet (net) of general commercial space divided into two commercial condominiums, as well as 26,265 (net) square feet of residential area comprising 41 studio units, 4 two-bedroom units and a rooftop deck amenity and recreation room. The commercial space would be located on the ground floor and would utilize street frontage and outdoor dining areas. The residential units would be on the upper stories and would range between approximately 400 and 850 square feet. Eight of the residential studio units would derive from the County's Inclusionary Housing Program and made available to residents meeting the County affordable housing requirements for low income residents, or families earning less than 75% of the Median Income. Those units would be income-restricted for 55-years, according to California Community Redevelopment Law. A lot merger is included as part of the project to facilitate construction of the building across the two commonly owned parcels.

The project would seek to obtain a LEED (Leadership in Energy and Environmental Design) rating upon build-out. This includes exceeding Title 24 requirements and innovative building and system designs, including the introduction of pervious paving materials to help reduce impacts to existing storm drain system. A car-sharing program would be provided for building residents to reduce the need for autonomous vehicles including use of the parking space located on the Trigo Road frontage.

Twenty-two (22) residential parking spaces would be provided on-site in the form of tuck-under parking and an additional nine (9) residential parking spots and ten (10) commercial spaces would be provided off-site through the IV Master Plan's in Lieu Fee Parking Program. These offsite parking spaces would be provided in a surface parking lot acquired by (or to be acquired by) the Isla Vista Redevelopment Agency (RDA). The RDA is in negotiations with property owner(s) to acquire adjacent vacant lot(s) to be used for public parking in downtown Isla Vista, which would be made partially available for the commercial and residential uses of this project. Additionally, the project would provide forty-nine (49) secured bicycle parking spaces in the public right of way to serve the public and employees of the commercial spaces. Further the project includes right-of-way encroachments along both Trigo Road and Embarcadero del Norte for bicycle parking, commercial door-wings, commercial outdoor seating and building canopies.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

<b>EXHIBIT 2</b>
<b>A-4-STB-09-009</b>
<b>Appeal and Notification of Appeal</b>

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST DISTRICT OFFICE  
89 SOUTH CALIFORNIA STREET, SUITE 200  
VENTURA, CA 93001-4508  
VOICE (805) 585-1800 FAX (805) 641-1732



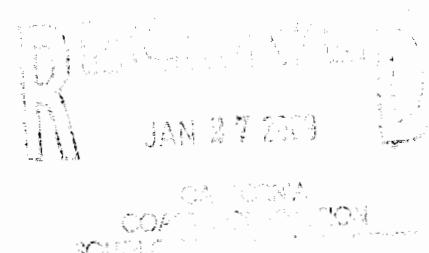
6533 Trigo Road, Goleta (Isla Vista)  
Assessor's Parcel Numbers 075-173-003 and 075-173-026

## 4. Description of decision being appealed (check one.):

- Approval; no special conditions  
 Approval with special conditions:  
 Denial

**Note:** For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

<b><u>TO BE COMPLETED BY COMMISSION:</u></b>	
APPEAL NO:	A-4-STB-09-009
DATE FILED:	1/27/09
DISTRICT:	So. Central Coast



**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)**

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: December 3, 2008

7. Local government's file number (if any): 08CDP-00000-00173

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

D3 Partners, LLC  
c/o Neil Dipaola & Erik Vasquez  
P.O. Box 92251  
Santa Barbara, CA 93111

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1)

(2)

(3)

(4)

JAN 27 2009  
COASTAL COMMISSION  
300 S. Spring Street, Suite 1000  
Los Angeles, California 90013

## **APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)**

## **SECTION IV. Reasons Supporting This Appeal**

## **PLEASE NOTE:**

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
  - State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
  - This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

See Attached Sheet (8 pages)

JAN 27 2003

CALIFORNIA  
COMMISSION  
ON EQUAL OPPORTUNITY

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: Mary K Schallenberger  
Appellant or Agent

Date: \_\_\_\_\_

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

(Document2)

RECEIVED  
JAN 27 2009

CALIFORNIA  
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SOUTH CENTRAL COAST DISTRICT

JAN 27 2003

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1954-1955

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT  
Page 5

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: Laur J. Wan  
Appellant or Agent

Date: \_\_\_\_\_

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

(Document 2)

JAN 27 2003  
CALIFORNIA  
COASTAL COMMISSION  
SOUTHERN CALIFORNIA REGION

1980 JAN 27 2003

2003-01-27

Issue is raised with regard to the project's consistency with the Santa Barbara County certified land use plan policies and zoning code provisions.

### **Zoning Code Inconsistencies**

First, the approved project is inconsistent with the zoning designation of the site. The approved project is for a mixed-use development that allows both residential and commercial uses. However, the project site is commercially zoned as Commercial Retail (C-2) in Article II of Chapter 35, Section 35-78 of the County's zoning ordinance. Under the C-2 zone district, Section 35-75.5.20, residential uses are permitted in a C-2 zone with a minor conditional use permit "provided the residential use is secondary to a permitted or conditionally permitted commercial use on the same lot." In this case, even though the Planning Commission issued a conditional use permit to allow residential use on the site, the approval of residential use was inappropriate because the proposed residential use will be the primary use. The residential portion of the project will consist of 45 residential units (equivalent to 26,265 square feet of residential area), whereas the proposed commercial use will consist of only two commercial units (equivalent to 4,661 square feet). Thus, the residential use will comprise approximately 85% of this new development while the commercial use will comprise only 15% of the development. Therefore, this primarily residential project is clearly inconsistent with the commercial zoning designation for the site.

Further, the subject site is designated "Commercial Retail" under the existing LCP, which allows for commercial uses that serve visitor needs. In this case, the subject site is located close to the beach, other recreation areas, and the commercial area of Isla Vista and is an appropriate location to serve visitors. The proposed change from commercial land use which allows visitor serving land uses and conversion of the majority of the site to new residential development will have an adverse effect on priority visitor serving opportunities in the coastal community of Isla Vista inconsistent with **Section 30222 and 30223** of the Coastal Act, as incorporated in the certified LCP. Section 30222 states:

*The use of private lands suitable for visitor-serving commercial recreation facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

**Section 30223** of the Coastal Act, as incorporated in the LCP, states:

*Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Next, the approved project is inconsistent with the parking requirements in the zoning code and inappropriately relies on mitigation measures in the uncertified Isla Vista Master Plan. Section 35-108.2.d of the certified zoning code requires

that "development located within the radius of one mile of the boundaries of a college or university shall provide a minimum of two parking spaces per dwelling unit, of which one shall be covered." Additionally, Section 35-110 of the zoning code requires that retail business and general commercial uses have one space per 500 feet of gross floor area. Although the certified zoning code would require a total of about 100 on-site parking spaces, including 90 on-site parking spaces for residents and approximately 10 on-site spaces for commercial uses, only 22 on-site residential parking spaces are proposed. An additional 9 residential spaces and 10 commercial spaces are proposed to be located off-site through the IV Master Plan's In Lieu Fee Parking Program. However, this program is part of a pending separate LCP amendment application by the County and has not yet been certified by the Commission and is, therefore, not part of the certified LCP. Regardless, the insufficient amount of parking for residential occupants and business patrons will reduce the amount of existing on-street parking currently available for public access to the coast resulting in adverse impacts to public access and recreation in contradiction to the public access and recreation policies of both the Coastal Act and the certified LCP, as further explained below.

Lastly, the project is inconsistent with the requirements of the Density Bonus Program in Section 35-144C of the zoning code. The Density Bonus Program provides development incentives for qualifying housing developments, which include modification of development standards, density bonuses, and other incentives. First, the Density Bonus Program is not applicable to the project site because the site is zoned for commercial, not residential uses. Section 35-144C.3, Section 35-144C.4.3 and Section 35-144C.5.1 directly link the base zone district to the calculation that determines the potential bonus density for a parcel. In this case, the underlying zone district is commercial. Residential development may only be allowed in the C-2 zone district pursuant to a Conditional Use Permit and even then, only where specific findings can be made pursuant to Section 35-172.8. As a result, there is no *maximum allowable residential density* in the C-2 zone district because the purpose and intent of C-2 is to provide areas for local retail businesses and commercial needs. Therefore, given that there is no residential maximum allowed in this zone district, it is not feasible to calculate, and thus allow, a bonus credit.

Further, as explained above, the proposed mixed-use project is inconsistent with the zoning designation for the site because the site is zoned for Commercial Use (C-2). The following sections of the Density Bonus Program make clear that the incentives for density bonus development and project modifications do not allow the project to override the site's zoning designation:

Section 35-144C.4.2. requires that, for mixed-use projects:

***The County shall financially subsidize a rezone to allow mixed use development in conjunction with the housing project provided that the commercial, office, or other land uses are compatible with the proposed housing project and the existing development in the area.***

Section 35-144C.5.1., Siting Criteria, requires that:

***All uses of land shall comply with the base zone district. In cases where conflict occurs between the regulations of the base zone district standards and the provision of the density bonus program, the conflict shall be resolved in accordance with the provisions of the Local Coastal Program.***

Rather than use the bonus density program, where a credit cannot be feasibly calculated, implementation of the proposed project would require rezoning to an appropriate mixed use zone district and an associated LCP amendment.

The project is inconsistent with the above policies because the site is only zoned for commercial uses and does not allow residential use as a primary use. Because the proposed project is for a primarily-residential mixed use development that is not permitted within a commercial (C-2) zone district, the project does not comply with all provisions of the Density Bonus Program.

Additionally, the reduced setbacks and increased height above the C-2 zone district requirements appear to be associated with the Section 35-144C Density Bonus Program. However, as described above, the Density Bonus Program is not applicable in this case. Therefore, the associated changes (bonus density incentives) to development standards and zone district requirements are not appropriate and in that regard, the project is inconsistent with Section 35-78.7 and 35-78.9.

### **Land Use Plan Inconsistencies**

#### **Goleta Community Plan**

The project raises issues with respect to its consistency with the certified Goleta Community Plan. The project is inconsistent with the land use designation of the parcel in the Goleta Community Plan. The Figure 6 of the Goleta Community Plan, Land Use Designations Central Section, identifies the land use for this parcel as General Commercial. Thus, this land use designation is not consistent with the primarily residential use for the subject lot approved by this permit.

The project also appears to be inconsistent with following policy of the Goleta Community Plan:

Policy LUR-GV-6:

***In reviewing an affordable housing or bonus density project proposed for a site without an Affordable Housing Overlay designation, the County shall consider the project's effects on the character of the existing neighborhoods but shall mitigate any significant impacts only in compliance with Pub. Res. Code Section 21085.***

As described above, this primarily residential mixed-use project will have impacts to parking and public access and no mitigation is proposed.

#### Visual Resources and Community Character

The project, as approved by the County, raises issues with respect to its consistency with the following policies and provisions of the County of Santa Barbara Local Coastal Plan and the Coastal Act relating to visual resources.

LCP Policy 1-1, incorporating Section 30251 of the Coastal Act states:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

Coastal Plan Policy 3-14:

*All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soils, geologic, flood, erosion, or other hazards shall remain in open space.*

Coastal Plan Policy 4-4:

*In areas designated as urban on the land use plan maps and in designated rural neighborhoods, new structures shall be in conformance with the scale and character of the existing community. Clustered development, varied circulation patterns, and diverse housing types shall be encouraged.*

The proposed project is a 31,507 square foot, four-story, primarily residential mixed-use development. The front setback has been reduced to zero, the rear setback has been reduced to 10 feet, and the building height has been increased to 51-feet beyond what the current certified LCP requires. Article II of the zoning code requires a front setback of 30 feet from the centerline and 10 feet from right-of-way line setback, a rear setback of 25 feet when adjacent to residential use, and a building height of 35 feet. The project site is surrounded by a two-story commercial building, two-story residential buildings, and a one-story

restaurant building. The existing community contains several commercial structures of one and two stories, including two theatre buildings and numerous two-story residential dormitories. The size and scale of the proposed building, with reduced setbacks and, at 51 feet tall, twice the typical height of other buildings, is inconsistent with the scale and character of the surrounding community and, thus, incompatible with the above policies.

#### Impacts to Public Access and Recreation

The project, as approved by the County, raises issues with respect to its consistency with the following policies and provisions of the County of Santa Barbara Local Coastal Plan and the Coastal Act relating to public access and recreation.

Policy 1-1: All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP.

Coastal Act Section 30210, as incorporated in the LCP, states that:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Coastal Act Section 30211, as incorporated in the LCP, states:

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Coastal Act Section 30212(a), as incorporated in the LCP, states:

*Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources.*
- (2) adequate access exists nearby, or,*
- (3) agriculture would be adversely affected. Dedicated access shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

Coastal Act Section 30212.5, as incorporated in the LCP, states:

***Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.***

Coastal Act Section 30213, as incorporated in the LCP, states:

***Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.***

Coastal Act Section 30214, as incorporated in the LCP, states:

***(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:***

- (1) Topographic and geologic site characteristics.***
- (2) The capacity of the site to sustain use and at what level of intensity.***
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.***
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.***

***(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.***

***(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.***

Section 30223 of the Coastal Act, as incorporated in the LCP, states:

***Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.***

Section 30252 of the Coastal Act, as incorporated in the LCP, states:

***The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.***

Finally, Policy 7-1 of the LUP states, in relevant part, that:

***The County shall take all necessary steps to protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline.***

Coastal access is generally viewed as an issue of physical supply, and is dependent not only on the provision of lateral access (access along a beach) and vertical access (access from an upland street, bluff or public park to the beach), but also the availability of public parking (including on-street parking). The availability of public parking (including on-street parking) constitutes a significant public access and recreation resource and is as important to coastal access as shoreline accessways.

The project that is subject to this appeal involves the construction of a 45 residential unit and 2 commercial mixed-use complex with 22 on-site parking spaces for residents. As described above, the certified LCP would require approximately 100 on-site parking spaces for this development project. Although the County proposes an additional 9 residential parking spaces and 20 commercial spaces off-site through the IV Master Plan's In Lieu Fee Parking Program, the IV Master Plan has not yet been certified by the Commission. The number of additional parking spaces would still be inadequate and would not meet the 100 parking space requirement. An inadequate number of on-site parking spaces will most likely result in residents and business patrons of the 45

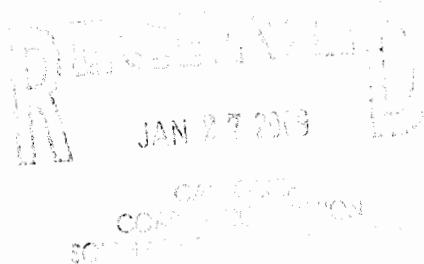
residential units and 2 commercial units use of other on-street parking spaces, resulting in impacts to public access as public parking becomes less available.

Development in the community is generally characterized as high-density residential for the majority of the program area with some single-family residential neighborhoods and a small commercial "downtown" district. There are approximately 3,000 existing on-street parking spaces in the community, all of which are available for public use. There are five existing vertical access ways that provide public access from the Del Playa Drive to the sandy beach. In general, users of on-street parking in the community include: residents; visitors to the area; customers to stores, shops, and restaurants; employees of businesses; students of the adjacent University; and beachgoers.

The approximately 3,000 on-street parking spaces within the boundaries of the program area are heavily used. A parking survey was conducted by the Santa Barbara County Public Works Department on six separate weekdays over a two-week period in the months of September and October 2003. According to the County's survey, an average of 86–96 percent of on-street parking spaces were occupied at a given time within the study area. The highest percentage rates of occupancy were found to exist on the western end of Isla Vista adjacent to the University and commercial district while significantly lower rates of occupancy (with a corresponding increase in the percentage of vacant spaces) occurred on the eastern end of Isla Vista adjacent to Coal Oil Point Natural Reserve/Devereaux Slough. The proposed new mixed-use development will be located on Trigo Road in the western end of Isla Vista with the highest percentage rates of occupancy.

Thus, proposed project is inconsistent with the provisions of the above cited sections of the Coastal Act regarding public access and recreation, which have been included in the County's LCP pursuant to LUP Policy 1-1 and which require the protection of existing public access and public recreation resources in coastal areas. The insufficient amount of parking for residential occupants and business patrons will reduce the amount of existing on-street parking currently available for public access to the coast.

Thus, for the reasons discussed above, the project, as approved by the County, raises substantial issues with regard to the consistency of the approved project with the certified zoning and land use designations for the subject site, the public access and recreation policies of the Coastal Act and certified LCP, and with the visual resource policies of the certified LCP.



**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST DISTRICT  
89 SOUTH CALIFORNIA STREET, SUITE 200  
VENTURA, CA 93001  
(805) 648-1800 FAX (805) 641-1732  
[www.coastal.ca.gov](http://www.coastal.ca.gov)

**NOTIFICATION OF APPEAL PERIOD**

DATE: January 15, 2009  
TO: Errin Briggs  
Santa Barbara County, Planning and Development  
123 E. Anapamu Street  
Santa Barbara, CA 93101  
FROM: Amber Tysor, Coastal Program Analyst  
RE: Application No. 4-STB-09-007

Please be advised that on January 12, 2009 our office received notice of local action on the coastal development permit described below:

Local Permit #: 08-CDP-00000-00173

Applicant(s): D 3 Partners, L L C, Attn: Neil Dipaola & Erik Vasquez

Description: The request is for a Development Plan, Conditional Use Permit, Tract Map and Coastal Development Permit to allow for the demolition of an existing 893 square foot service station building and the construction of a new, approximately 31,507 square foot (net), four-story, mixed-used building. The maximum height of the structure would be 51 feet. The building would include approximately 4,661 square feet (net) of general commercial space divided into two commercial condominiums, as well as 26,265 (net) square feet of residential area comprising 41 studio units, 4 two-bedroom units and a rooftop deck amenity and recreation room. The commercial space would be located on the ground floor and would utilize street frontage and outdoor dining areas. The residential units would be on the upper stories and would range between approximately 400 and 850 square feet. Eight of the residential studio units would derive from the County's Inclusionary Housing Program and made available to residents meeting the County affordable housing requirements for low income residents, or families earning less than 75% of the Median Income. Those units would be income-restricted for 55-years, according to California Community Redevelopment Law. A lot merger is included as part of the project to facilitate construction of the building across the two commonly owned parcels. The project would seek to obtain a LEED (Leadership in Energy and Environmental Design) rating upon build-out. This includes exceeding Title 24 requirements and innovative building and system designs, including the introduction of pervious paving materials to help reduce impacts to existing storm drain system. A car-sharing program would be provided for building residents to reduce the need for autonomous vehicles including use of the parking space located on the Trigo Road frontage. Twenty-two (22) residential parking spaces would be provided on-site in the form of tuck-under parking and an additional nine (9) residential parking spots and ten (10) commercial spaces would be provided off-site through the IV Master Plan's in Lieu

## SITE LOCATION

PACIFIC  
OCEAN

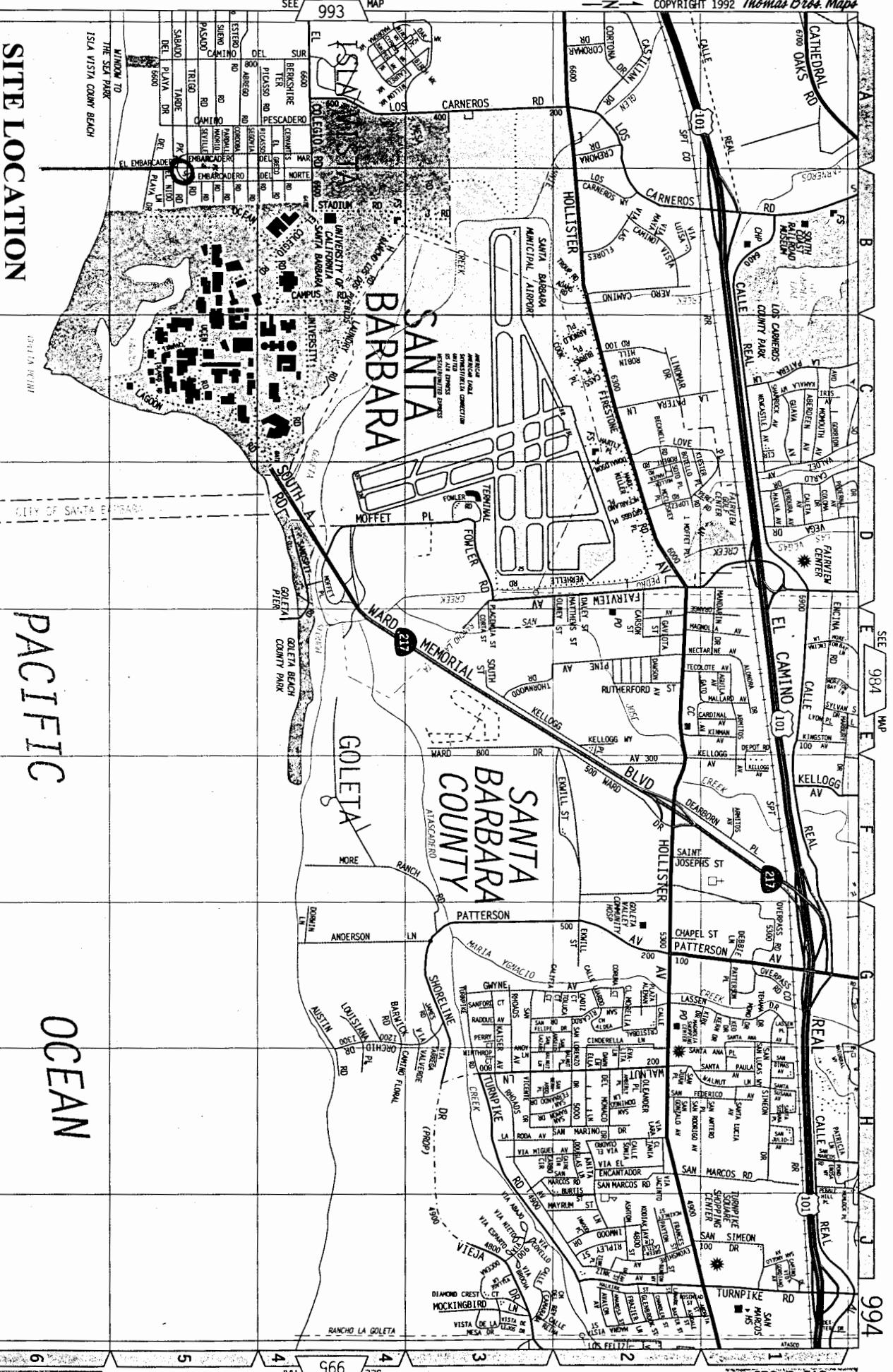
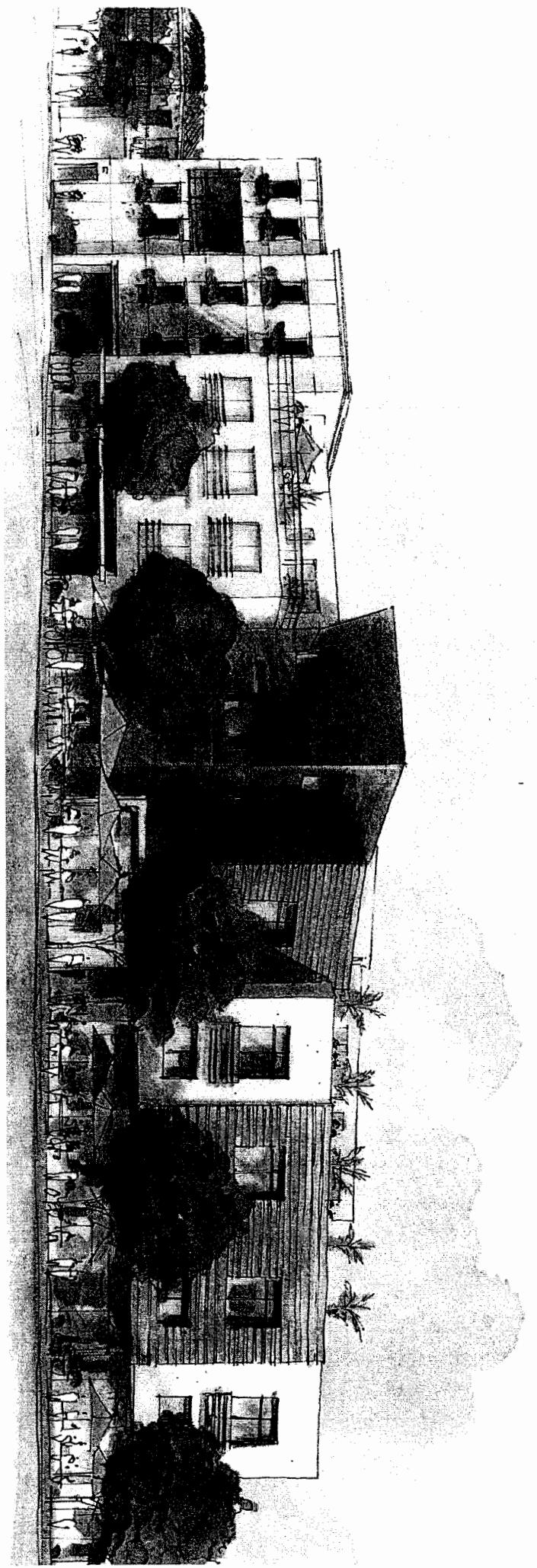


EXHIBIT 3

A-4-STB-09-009

Vicinity Map & Project Plans





RECEIVED  
MAR 25 2009

**FORM FOR DISCLOSURE OF  
EX-PARTE COMMUNICATIONS**

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Name or description of the project:

Time/Date of communication: 3/17/09, 4pm

Location of communication: UCSB, Bren 4003

Person(s) initiating communication: Neil Diapola

Person(s) receiving communication: Sara Wan

Type of communication: meeting

Neil wanted to discuss his project. Says that staff says it is a good project but can't approve it. He feels he is caught in a political disagreement between the City, UCSB and staff. I said that I was told that his project did not meet the standards of the current LCP. That it was a residential project in a commercial zone. He showed me a copy of the zoning code, or at least part of it, that showed that residential development was allowed in C-2 zone. However, I said that staff has told me that much of that is part of a new plan that has not been certified by the Commission. Regardless, his project is 85% residential. He said that came about because of the density bonus for affordable housing. I asked what that was, he said 50% bonus. I indicated that even with that he couldn't justify 85% and I didn't know how the 50% was to be applied. It also has other problems. The height limit for the area is 35'. He said his project was 45 feet however according to the appeal it is 51 feet. He said he was entitled to an increase in height because of the housing bonus. I indicated that I had no way of knowing what the basis was and how it was to be calculated under the current LCP. He also said that he was unable to meet with Jack Ainsworth. I explained about our staffing shortage and suggested that if he asked the County to meet with him and Jack to discuss the issues regarding the uncertified LCP amendment that might help. I also indicated he had the option to go for a project driven LCP amendment but he said the County said that would be futile and it would take too long. We also discussed that he might consider making revisions to the project to allow him to be consistent with the current LCP and if and when an amendment is certified to then modify his development to obtain more of what he wants.

Date: 3/20/09

Sara Wan

**EXHIBIT 4**

**A-4-STB-09-009**

**Ex-Parte Communication  
Disclosure**