

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE DETERMINATION & DE NOVO COASTAL PERMIT

LOCAL GOVERNMENT: County of Santa Cruz

DECISION: Approval with Conditions (See Exhibit 2)

APPEAL NO.: A-3-SCO-98-101

APPLICANT: **FRED BAILEY AND GREG STELTENPOHL**

PROJECT LOCATION: 3500 Highway 1 (opposite the highway's intersections with Davenport Avenue and Center Street), Davenport, Santa Cruz County. APN 58-121-04 (see Exhibit 1)

PROJECT DESCRIPTION: Remodel a 13,127 sq. ft. building and add 9,796 sq. ft. for a three-phased, mixed use project (commercial/residential/manufacturing); grade for and construct a new parking area (see Exhibit 3)

APPELLANTS: (a) Susan Young, Citizens for Responsible North Coast Planning; (b) George Jammal, Sierra Club; (c) David S. Kossack (see Exhibit 5)

FILE DOCUMENTS: Santa Cruz County Coastal Development Permit 95-0685 file; Santa Cruz County Certified Local Coastal Program (LCP) consisting of 1994 *General Plan and Local Coastal Program for the County of Santa Cruz* and portions of the *County Code and Zoning Map*; aerial photographs; *Davenport Beach and Bluffs Addendum to the General Plan for the*

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission determine that a **substantial issue exists** with respect to the project's conformance with LCP policies concerning visual resource protection, preservation of community character, promotion of visitor-serving land uses, protection of public access, adequate water and sewer supply, nonpoint source pollution control, and cumulative impacts. **Staff further recommends that the Commission approve a coastal development permit for a modified and substantially reduced project.** Major issues are summarized below; detail is provided in the substantive findings of this report.

Project Description

This project proposes to renovate and expand a former agricultural packing shed to support a mixed use development of a restaurant, retail shops, conference meeting rooms, micro-juicery, warehouse, offices, five overnight accommodations, and a spa. The project is located between Highway One and the ocean, in the Town of Davenport in northern Santa Cruz County – a town of approximately 200 people surrounding for the most part by rural agricultural lands. The town is dominated by the presence of the Davenport Cement Plant, but is also a popular whale watching location and visitor-destination. Apart from the cement plant industrial facility, there are approximately 20,000 square feet of commercial, warehousing and manufacturing uses on the inland side of the highway; the existing building to be expanded is the only significant structure seaward of the Highway. Prior to this proposal, it was used for juice manufacturing and distribution.

The expansion would increase the total usable square footage of the building from 13,127 to 22,918 square feet, although the footprint of the building would only be increased by 234 square feet. It would also increase the profile of the building from 3-6 feet and thus the overall mass of the building as well. Finally, the County approved the construction of a 66-car parking lot on an open blufftop field, adjacent to the existing building, to support the new mixture of approved uses. This field has been used informally for parking for many years by people who stop to visit Davenport, or to access the beach, coastal bluffs, and enjoy the views of the ocean provided at this location. Overall, the proposed expansion raises a substantial issue with respect to Santa Cruz County LCP policies for a variety of reasons.

Community Character and Visual Resources

First, a substantial issue is raised with respect to policies that require the preservation of public ocean vistas to the "maximum extent possible"; and the "protection of public vistas," particularly from Highway One, by minimizing the disruption of landform and aesthetic character from grading, structure design, and other development. The LCP also requires the preservation and enhancement of existing community character in "special communities" such as Davenport; and requires that new development be consistent with existing development: "generally small scale, one or two story structures of wood construction." By increasing the height and bulk of the existing building, the approved project would intensify the developed character of Davenport between the highway and the sea, and raise the threshold of the appropriate scale of

development in this "small-scale" community. It also would increase the amount of development visible from the beach.

The approved parking lot is equally problematic because it would detract significantly overall from existing seaward public views from Highway One, and will partially block whitewater views below a distant cliff. In addition, what is now an open, undeveloped field with some informal parking – part and parcel of Davenport's "rustic" character and the foreground of existing ocean vistas – will be converted to formalized, greatly expanded parking lot. The foreground of the views at this location will be dominated by a mass of automobiles, and will inevitably alter the dusty informality of the existing lot.

Overall, the approved the development does not preserve ocean vistas to the "maximum extent possible" and as a whole, does not fit within the parameters of Davenport's existing community character. These inconsistencies may be resolved, though, through conditions of approval that limit the reuse of the existing building to its current footprint and profile; limit new formalized parking on the adjacent blufftop to approximately one third of that approved by the County; require the lowering and screening of any parking lot construction that does occur on the blufftop; and that place an open space restriction on the remainder of the coastal bluff (and on a riparian zone to the south of the building). This will protect the existing shoreline vista as seen from Highway One, and as nearly as feasible maintain the visual "status quo" of the community's character and scale. (*Conditions ID, IIIC, IVA, VIB*)

Visitor-serving Development

Second, appellants challenge both the "special use" zoning use by the County to approve the various uses for the site, as well as the uses themselves. The procedure used by the County is not inconsistent with the LCP. In addition, most of the uses approved by the County are consistent with the intent of the Land Use Plan, particularly the visitor-serving uses of the restaurant, overnight rooms, etc. The LCP "encourages" the provision of visitor-serving commercial services in Davenport and also establishes such uses as priority development, second only to agriculture and coastal-dependent industry. However, given the need to reduce the scale and intensity of the development otherwise, there is no guarantee that the mix of uses will continue to observe the LCP and Coastal Act policies that establish visitor-serving development as a priority on locations such as the project site. Therefore, a substantial issue is raised. This LCP conflict may be resolved with the condition that requires that the mix of uses ultimately pursued, particularly the proposed offices, maintains an adequate visitor-serving component. (*Conditions IIIH, VIA*)

Public Access

Third, the Coastal Act and the Santa Cruz County LCP require the protection of existing public access to the sea. The LCP designates the Davenport bluffs and beach for primary public access. Historically, the public has accessed these areas across the bluffs, including the project site and, as mentioned, has used the project site for informal blufftop parking. While the approved project provides various public access amenities, including trail easements and a stairway to support vertical access, several substantial issues remain with respect to the design details of the these amenities -- as well as with

the impact of the proposed parking lot on existing informal public access parking that occurs on the site. There are no guarantees that the approved parking lot would be generally available for the type of parking that appears to have been occurring for at least 30 years. These inconsistencies may be addressed through conditions that widen the required access easements but that essentially affirm the County public access conditions. In addition, another condition preserves the ability for the public to continue parking on the site. (*Conditions III, IVA2, VD*)

Water and Sewer

Fourth, the project is not strictly in compliance with LCP policies that require a showing of adequate water and sewer prior to issuance of a building permit. This is important because both the water and sewer systems in Davenport require improvements to maintain their adequacy for existing and new development. Currently, there is limited water filtration capacity for the town, and the LCP describes the San Vicente and Mill creeks, which provide Davenport's supply, as being utilized at full capacity. These creeks support riparian habitat for California red legged frog and steelhead.

As for wastewater, although there is adequate processing capacity, old collection lines into which excess water infiltrates have led to raw wastewater discharges into the Pacific Ocean. Therefore, any increase in flows, even the estimated eight percent from this project, is significant until the system is upgraded. As approved by the County, the project would contribute its fair share to the necessary improvements to the wastewater collection lines, which is a community-wide problem, but there were no assurances that those improvements would be in place prior to the issuance of the building permit as required by the LCP. Similarly, although the County-approved project would use much less water than has been historically used at the project site (5,300 gpd compared to 10,000 gpd), the project was not required to provide guarantees that improvements would be in place for delivering potable water above the current amount for which a water connection has been paid (4,216gpd) Therefore, staff recommends approval of the project with conditions that require the applicants to either design a project that could be served by their existing water and wastewater service amounts or to provide guarantees that the necessary improvements will be in place prior to the issuance of their building permits, consistent with the County's LCP policies. (*Conditions VB, IVC*)

Nonpoint Source Pollution

Fifth, as approved by the County, the project does not minimize impervious surfaces, inconsistent with the LCP. With the conditions that require a substantial reduction in the size of the parking lot, though, the project is consistent with the LCP policies concerning nonpoint source runoff. (*Conditions IIIG, VB, VIC, VIII B*)

Cumulative Impacts

Finally, a substantial issue is raised by the potential cumulative impacts of the approved project. In conjunction with other anticipated development in Davenport, the approved project could lead to adverse cumulative impacts to visual resources (because of future potential parking adjacent to the parcel); water and sewer availability (to the extent that approval is given prior to necessary improvements); and general redevelopment patterns in and around Davenport. Although the issue of future public parking will be

addressed through future planning efforts, other cumulative impact concerns are addressed through the implementation of development conditions that together, limit the scale and intensity of development with respect to visual resources, community character, water and sewer supply, and nonpoint source pollution.

Conclusion

Overall, as conditioned herein, the approved project would preserve significant public ocean vistas as well as the special character of the Town of Davenport. It would also give flexibility to the applicants to pursue a mixed-use, visitor-serving development within the context of the existing structure, while minimizing the impact of new parking development on the undeveloped adjacent bluff. It will be the applicants' responsibility to revise the proposed building design, uses, and parking lot configuration in a manner consistent with the permit conditions. It appears that approximately 33-45 spaces can fit in the delineated area, but the exact number will depend on such factors as location and number of loading zones and whether any of the lower lawn area (where the proposed greenhouse and boat house are shown) or lower floor of the building are utilized. The applicants can still have a two-story building, but may elect to have only one or only a partial second story. To the extent that they elect to retain the more intensively permitted uses (i.e., meeting rooms and restaurant that generate greater parking demands), then the less square footage of building space they will be able to occupy. One example of use allocations that would stay within the required parking would include a 2,000 square foot restaurant, four offices, 1,100 sq. ft. of retail, the boathouse, and 10 to 15 inn rooms.

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EXHIBITS:

1. Location Maps
2. County Findings and Conditions
3. Selected Exhibits from County Approval
 - Exhibit A . Architectural Plans prepared by Franks Brenkwitz and Associates dated March 4, 1998 consisting of 9 sheets:
 - Sheet A-1 - Title Sheet (not reproduced in this report)
 - Sheet A-2 - Site Plan

Sheet A-3 - Landscape of Entire Site (not in this report)
Sheet A-3.1 - Landscape Plan of New Parking Lot (not in this report)
Sheet A-4 - Existing Floor Plan of Building (not in this report)
Sheet A-5 - Lower Floor Plan
Sheet A-6 - Upper Floor Plan
Sheet A-7 - Exterior Elevations
Sheet A-8 - Exterior Elevations

Exhibit B - Preliminary Grading and Drainage Plans prepared by Bowman and Williams dated March 4, 1998 consisting of 3 sheets:

Sheet C-1 - Plan View of Northwestern Portion of Site (not in this report)
Sheet C-2 - Plan View of Central Portion of Site (not in this report)

4. Revisions to Plans Required
 5. Appellants' Contentions
 - a. Susan Young, Citizens for Responsible North Coast Planning
 - b. George Jammal, Sierra Club
 - c. David Kossack
 6. Correspondence
-

I. APPELLANTS' CONTENTIONS

There are three appellants: (a) Susan Young, Citizens for Responsible North Coast Planning (RNCP); (b) George Jammal, Sierra Club (SC); (c) David S. Kossack (DK). The first two appeals are identical, except that the Sierra Club's adds two contentions not in the Citizens' appeal. Because of the length of the appeals, they are only briefly summarized here into seven categories. The full contentions are in Exhibit 5.

Special Coastal Community and Visual Concerns:

- The proposed parking lot would pave over the traditional whale-watching site historically used by tourists and residents alike. (RNCP; SC)
- The proposed parking lot would visually block access and detract from motorists' viewing of whales. (RNCP; SC)
- The project does not adequately protect the public vista and aesthetic values. (RNCP; SC)
- Proposed mitigation to lower parking lot three feet is inadequate as cars will impede visual access, and impact the aesthetics of historic Davenport and its whale-viewing site. (RNCP; SC)
- Grading will alter the landform. (RNCP; SC)
- The proposed project does not protect the Special Community of Davenport as it is inconsistent with other Davenport development in terms of height, bulk and physical scale. (RNCP; SC)

- The proposed 65 plus space parking lot will front nearly the entire length of Davenport and destroy the visual focus along Highway 1. (RNCP; SC)
- Davenport should be designated as a sensitive coastal resource area because it is a highly scenic area, it is a special community, which is a significant visitor destination, and it is an archaeological site. (SC)
- The project fails to conform with the Local Coastal Program in that it does not preserve ocean vistas. (DK)
- The project does not provide for the restoration of the Davenport Bluffs Scenic Area. (DK)

Type of Land Uses Concerns:

- Santa Cruz County approved a change in use from Neighborhood –Commercial (C-1) zoning to Special Use (SU) without amending the Local Coastal Program as required by Public Resources Code Sections 30510-30514. (RNCP; SC)
- The proposal fits none of the criteria for SU zoning. (RNCP; SC)
- The zoning change violates the Local Coastal Program as it allows for Visitor accommodations, which are not listed as a Neighborhood Commercial use. (RNCP; SC)
- Zoning change from its current "C-1" (Neighborhood Commercial) zone district to a "SU" (Special Use) violates the Coastal Act. (DK)
- To rezone the present project to a "SU" (Special Use) mixed-use commercial zone district from its currently approved land use as an agriculture related structure does not conform with the Local Coastal Program as it converts priority agricultural use to non-priority mixed use commercial. (DK)
- The conversion around 1983 to the building's present use as a juice manufacturing facility has apparently never been approved by the County suggesting that the most appropriate approved use for the structure remains a Brussels sprout packing shed. (DK)
- Visitor accommodations will displace opportunity for legitimate Neighborhood Commercial uses to serve the community of Davenport. (DK)

Parking, Circulation, and Public Access Concerns:

- Increased traffic on a highway already severely impacted by logging trucks, cement trucks, visitor traffic, and peak summer month traffic was not adequately addressed. (RNCP; SC)
- The project does not provide clear, coordinated, safe circulation. (RNCP; SC)

- Pedestrian access to the ocean will be impeded by increased traffic on Highway 1 caused by an estimated 466 extra daily trips. (SC)
- The myoporum trees planted further impede physical access. (SC)
- Physical access is further impeded by the developers' proposed stairway to the beach because pedestrians must walk through a 65+ car parking lot to reach the stairway, and at the bottom of the proposed stairway pedestrians must walk along the railroad track for an extra 220 yards before reaching a path down to the beach. (SC)
- The present project's parking formula does not provide for the necessary parking facilities identified in General Plan Figure 2-5 and thus limits access to these Davenport priority sites. (DK)
- The Variance to the 10 foot minimum front yard set back does not conform with the Local Coastal Plan because it is inconsistent with the character of Davenport in addition to contributing to a hazardous condition along Highway 1. (DK)
- The present project fails to provide necessary on-site recreational transit facilities, including parking spaces for buses and shuttle services to accommodate additional tour and whale watching excursion buses generated by the development's visitor services. (DK)

Public Service Concerns:

- There is a question as to whether public services are adequate to accommodate the project. (RNCP; SC)
- The Davenport sewage system is not capable of serving the project's sewage needs. (RNCP; SC)
- There is a question as to whether the project will negatively impact Davenport's water source, San Vicente Creek, and thus potentially impact the habitat of state endangered species, such as coho salmon; and federal threatened species, including the red-legged frog, steelhead trout, and coho salmon. (RNCP; SC)
- The project will have tremendous cumulative impacts on water and sewer. (DK)
- The present project does not conform to the Local Coastal Program because it did not acquire, and does not have on record, a letter demonstrating the availability of adequate water supply for the proposed development nor address its cumulative and growth-inducing impacts. (DK)
- The present project does not have a letter from the Davenport Water and Sewer District stating that the required level of service for sewer discharge will be available *prior to issuance of building permits*. (DK)

Archaeological Concerns:

- The archaeological reconnaissance for the project was limited to surface inspection. (RNCP; SC)

Non-point Source Pollution Concerns

- The present project does not address the additional surface runoff generated by installing impervious surfaces (e.g., parking lots) as the surface runoff leaving the grease traps is released onto an adjacent parcel. (DK)

Cumulative and Growth-Inducing Impact Concerns:

- The County did not address the project in terms of its cumulative impacts on current and probable future development. (RNCP; SC)
- The County did not address the cumulative impacts of the potential development of packing sheds on the west side of Highway 1 created by this precedential decision. (RNCP; SC)
- The project would be the only visitor-serving commercial development on the west side of Highway 1 from Pigeon Point in San Mateo County to the City of Santa Cruz and would have precedential impacts that open up coast to development and cumulatively impact the visual qualities of this scenic road. (RNCP; SC)
- The project will encourage development on three adjacent parks and recreation parcels, which will individually and cumulatively significantly degrade the coastal view and is, thus, incompatible with the continuance of the adjacent recreation areas. (RNCP; SC)
- The project induces expansion outside the Rural Services Line. (DK)
- The cumulative and growth inducing impacts of identifying adjacent oceanside parcels for development and specifically providing vehicular access to them does not conform with the Master Plan Requirement for priority sites. (DK)
- Since the project is the first commercial retail on the west side of Highway 1 between Santa Cruz and Half Moon Bay, it is not unreasonable to assume that the additional developments will be of equivalent magnitude of the present project. (DK)
- The present project does not conform with the Local Coastal Program because of its cumulative impacts on water and sewer and other infrastructures and native habitats. (DK)

II. LOCAL GOVERNMENT ACTION

The Santa Cruz County Board of Supervisors approved a coastal development permit with 58 conditions on October 20, 1998 in conjunction with other related actions: findings for a Commercial Development Permit to amend Permit 74-124-U and 84-0230, a Variance to reduce the minimum 10 foot front yard setback to 0 feet, and Preliminary Grading Approval (see Exhibit 2). The County concurrently rezoned the property from the C-1 Neighborhood Commercial zone district to the "SU" (Special Use) zone district. The County's certified local coastal program provides that this type of rezoning is not considered a local coastal program amendment. A Mitigated Negative Declaration was approved for compliance with the California Environmental Quality Act (CEQA). The County's complete final action was received by the Coastal Commission on October 29, 1998, triggering an appeal period running from October 30, 1998 through November 13, 1998.

III. STANDARD OF REVIEW FOR APPEALS

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

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

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission first determine that **substantial issue** exists with respect to some of the grounds on which the appeal was filed, pursuant to Coastal Act Section 30603. (Note: unless the Commission wishes to debate substantial issue, no formal vote is required. Substantial issue is presumed and the hearing on the de novo permit can immediately commence.)

MOTION: Staff recommends a "NO" vote on the following motion:

"I move that the Commission determine that Appeal No. A-3-SCO-98-101 raises no substantial issue with respect to the grounds on which the appeal has been filed."

A majority of the Commissioners present is required to pass the motion.

V. STAFF RECOMMENDATION ON COASTAL PERMIT

The staff recommends that the Commission, after public hearing, **approve** the Bailey-Steltenpohl coastal development permit with conditions.

MOTION: Staff recommends a "YES" vote on the following motion:

"I move that the Commission APPROVE coastal development permit A-3-SCO-98-101, subject to the conditions below."

A majority of Commissioners present is required to pass the motion.

RESOLUTION:

The Commission hereby **grants** a permit for the proposed development as conditioned below, on the grounds that, as conditioned, it will be in conformity with the certified Santa Cruz County Local Coastal Program, that it is in conformity with the public access and recreation policies of Chapter Three of the Coastal Act, and that there are no additional feasible mitigation measures that would lessen any significant adverse effects on the environment within the meaning of the California Environmental Quality Act (CEQA).

VI. RECOMMENDED CONDITIONS

Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

Special Conditions

Note: Changes to County conditions are shown with ~~strikeout~~ and underline. Conditions in italics are imposed by the local government pursuant to an authority other than the Coastal Act and remain in full force and effect. No changes shall be made to those conditions in italics that change the effect of any of the other conditions in plain text, without a coastal permit amendment.

- I. The development approved by this permit and the special reporting requirements are specified below.
 - A. This permit authorizes the construction of a commercial mixed use building with up to two residential dwelling units to be constructed in up to three phases and associated parking areas according to Exhibit A; and the grading necessary to construct the ~~new~~ parking area in accordance with a

full set of revised plans (see I.D below). ~~Exhibit B.~~ The permit includes a Variance to reduce the front yard setback to 0 feet for a 53 lineal foot portion of the building. ~~The construction phases are as follows:~~

~~Phase 1 Reconstruction of the northwest half of the existing building to include restaurant/cafe, retail shops and conference meeting rooms on the upper floor and micro juicery and warehouse and 3 offices on the lower floor and the new 66 vehicle space parking lot.~~

~~Phase 2 Reconstruction of the southeast half of the existing building to include 1 office and 3 visitor accommodation units on the upper floor and 1 office, a day spa, 2 visitor accommodation units and 1 dwelling (for caretaker) on the lower floor and renovation of the existing parking lot to provide for 13 vehicle spaces~~

~~Phase 3 Construction of a detached greenhouse of 750 square foot greenhouse and "boat house" dwelling as shown on sheet A 3 of Exhibit A.~~

~~Phases 1 and 2 may be implemented either separately or simultaneously. However, separate implementation will require total completion of phase 1 before commencing phase 2. In any case, phase 3 shall not occur until phases 1 and 2 are completed.~~

B. This permit supersedes all previous discretionary permits approved for this parcel.

C. *If the applicants elect to construct the project in phases, ~~this~~ permit shall be reviewed by the Planning Commission at the end of each development phase to determine if all permit conditions have been adequately implemented. In the case of simultaneous implementation of phases 1 and 2, the Planning Commission shall review the project initially, upon completion of the ~~66 vehicle~~ parking lot and sequentially after the completion of all phase 1 and 2 requirements. The Planning Commission shall schedule the public hearing review of this permit if, during the Commission's review of a status report prepared by Planning staff, it is determined that a public hearing will facilitate compliance with the requirements of this permit.*

D. The entire set of plans in Exhibit A, Architectural Plans and Exhibit B Grading Plans must be revised as follows and submitted for Executive Director review and approval, PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT:

1. All structural improvements shall be made within the existing footprint and profile of the main building, except for decks and outbuildings. The footprint shall be reduced to conform to the plans

in Exhibit 2 and the Variance approval, removing the portion in the Caltrans right-of-way to a setback of four feet at ground floor level. The profile of the main building is established by the existing elevation of the highest point of the roof above sea level.

2. Parking must be shown within the lower area of the property, as depicted on Exhibit 4, (the lower floor of the building may be used for parking). If additional parking is necessary, it must be shown within the upper portion of the property as depicted on Exhibit 4. All parking spaces on the surface of this upper area shall be recessed a minimum of five feet below the existing profile of the southern (seaward) edge of Highway One (as shown on Exhibit B). If retaining walls are utilized to achieve this final grade, they shall be located or screened so as not to be visible from Highway One. The perimeter of this upper parking lot must be physically delineated (e.g., with split rail fencing, boulders). Unpaved areas beyond shall be revegetated in a manner that protects views and restricts parking in the undesignated area. Loading, bicycle parking, handicapped parking, access thereto and to the building must also occur within either the upper or lower areas depicted on Exhibit 4.
3. All detached structures, including the proposed greenhouse, boat house, and storage shed, must be shown on the final plans, including elevations.

- II. Prior to exercising any rights granted by this permit, including without limitation, any construction or site disturbance, the applicant/ owner shall provide evidence to the Executive Director that the following have occurred:
 - A. *Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.*
 - B. *Obtain a Building Permit for ~~Phase 1~~ of the project from the Santa Cruz County Building Official. ~~Construction drawings for phase 1 shall conform to Exhibit A. Building Permits for phases 2 and 3 of the project shall be required. Construction drawings for these two phases shall also conform to Exhibit A. Building Permits for these construction phases shall be issued after the Building Permit for phase 1 has been finalized if phases 1 and 2 are constructed separately.~~*
 - C. *Obtain a Grading Permit from the County of Santa Cruz Planning Department. This requires submittal of a grading permit application to the building counter of the Planning Department, including two copies of complete grading, drainage, and erosion control plans in conformance with minimum County standards. The permit fee in effect at the time of*

submittal shall be paid. Final Grading Plans shall conform to Exhibit B, as will be revised. (Refer to Condition ~~III.E~~IV.A.11). Submit final engineered drainage plans to County Planning for review and approval as part of the Grading Permit application submittal.

- D. *Pay a Negative Declaration filing fee of \$25.00 to the Clerk of the Board of the County of Santa Cruz as required by the California Department of Fish and Game mitigation fees program.*

III. Prior to issuance of a ~~Building Permit~~ coastal development permit for phase 1 of the project the applicant/owner shall:

- A. Execute and record a document, in a form and content acceptable to the Executive Director, which shall dedicate to Santa Cruz County two permanent public easements for public pedestrian access toward the shoreline. The first area of dedication shall consist of a corridor at least ten feet wide encompassing the existing trail located southeast of the existing building extending from the northern to southern property line as shown on Exhibit 4. The second area of dedication shall consist of a corridor at least ten feet wide extending from the northern to southern property line northwest of the permitted parking lot as shown on Exhibit 4. The recorded document shall include legal descriptions of both the applicants' entire parcel and the area of dedication. The document shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed. ~~Dedicate a permanent public easement for pedestrian beach access over the existing trail located southeast of the existing building. The easement document shall be reviewed and approved by County Planning staff and County Counsel prior to recordation of the document.~~
- B. ~~Dedicate a permanent public easement over the existing trail paralleling the coastal side of the rail road tracks and a route that joins this trail to Highway 1 that includes the new stairway described in conditions III.E and V.D for pedestrian beach access. This easement will include 4 foot wide strip of land across the parking lot from the stairway to the Highway 1 right-of-way.~~ Execute and record a document, in a form and content acceptable to the Executive Director, which shall dedicate to Santa Cruz County a permanent public easement for public pedestrian access parallel to the shoreline. The area of dedication shall consist of a corridor at least ten feet wide immediately adjacent to the seaward boundary of the parcel from the northerly to southerly property line as shown on Exhibit 4. The recorded document shall include legal descriptions of both the applicants' entire parcel and the area of dedication. The document shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed. *The easement document shall be reviewed and approved by County Planning staff and County Counsel prior to recordation.*

- C. ~~Dedicate a permanent right of way over the driveway entrance to the 66 vehicle parking lot and a connecting route of a least 20 feet in width to adjoin with A.P.N. 58 121 03 for the purpose of providing shared vehicle access with A.P.N. 58 121 03 if that parcel is developed in the future. The right of way document shall be reviewed and approved by County Planning staff and County Counsel prior to document recordation. Execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the following restriction on development, in the designated riparian and view corridor open space as shown in Exhibit 4. The riparian corridor and its associated buffer area to be protected is shown in Exhibit 4; alternatively, that area may be more precisely delineated by a qualified biologist and submitted to the Executive Director for review and approval. Such delineation shall be in accordance with the provisions of County Code Section 16.30.030 (definitions of riparian corridor and riparian woodland).~~

No development, other than specifically authorized by these permit conditions, as defined in section 30106 of the Coastal Act, shall occur in the open space area except for: vegetation removal for fire management, removal of non-native vegetation, or planting of native vegetation. Rail transport and public access improvements and use are permitted within the open space area.

The deed restriction shall include legal descriptions of both the applicant's entire parcel and the open space area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

- D. Obtain an Encroachment Permit from Caltrans for the installation and maintenance of landscaping as shown on sheet A-3.1 of Exhibit A as may be revised.
- E. ~~Obtain a Building Permit for~~ Include on the submitted plans the construction of a public pedestrian stairway to traverse the slope at the northwestern portion corner of the site as shown on sheet A-3.1 of Exhibit 4 A. The construction drawings shall be reviewed and approved by a geotechnical engineer.
- F. ~~Obtain a Grading Permit. This requires submittal of a grading permit application to the building counter of the Planning Department, including two copies of complete grading, drainage, and erosion control plans in conformance with minimum County standards. The plans shall conform to Exhibit B of this permit. The permit fee in effect at the time of submittal shall be paid. To prevent any soil or bluff instability problems on the project site, all project development shall follow the recommendations of~~

~~the geotechnical report prepared for this project by Reynolds and Associates dated May 5, 1997 and its addendum report, including the requirement that all grading and paving associated with the new parking lot be set back a minimum of 25 feet from the edge of the bluff that borders the southwestern edge of the parcel. All requirements of the approved Grading Permit are, by reference, hereby incorporated into the conditions of this permit.~~

No land clearing, grading or excavating shall take place between October 15 and April 15 unless a separate winter erosion-control plan is approved by the Planning Director.

G. ~~Submit final engineered drainage plans to County Planning for review and approval as part of the Grading Permit application submittal. Final grading plans shall conform to Exhibit B of this permit. Include on the submitted plans provisions to accomplish the following:~~ To prevent discharges from carrying silt, grease and other parking lot contaminants, the final drainage plan shall incorporate a silt and grease trap at the most downstream inlet of the parking lot drainage facilities.

H. Execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the restriction on uses limited to those specified in Condition VI.A. The deed restriction shall include a legal description of the applicants' entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

IV. Prior to the issuance of a coastal development permit and a Building Permit ~~for any of the 3 construction phases~~, the owner/applicant shall:

A. Submit construction drawings that are in substantial conformance with Exhibit A, as will be modified and which include the following:

1. Exterior elevations identifying finish materials and colors in conformance with condition IV.A.12 of this permit.

2. Floor plans identifying each room and its dimensions, the intended use (from the list in condition VI.A), and the required parking. The building plans and uses shall not generate a parking demand greater than the amount of parking allowed by condition I.D.2 and shown on the revised site plan. Public uses of the site, beyond those attributable to other specific building uses, shall be factored in as requiring at least five parking spaces.

3. Provide complete screening from public view of all rooftop mechanical and electrical equipment.
4. A site plan showing the location of all site improvements, including but not limited to, points of ingress and egress, parking areas, loading areas, turnarounds, trash and recycling enclosures, utility connections, easements ~~and pedestrian trail routes, and other access-related features.~~
5. All new electrical power, telephone and cable television service connections shall be installed underground. Pad mounted transformers shall not be located in the front setback or in any area visible from public view unless they are completely screened by walls and/or landscaping or installed in underground vaults. Utility meters, such as gas meters and electrical panels shall not be visible from public streets or building entries.
6. A final sign plan showing dimensions, location, material and colors. No sign illumination is allowed. Plastic shall not be used as a sign material. Commercial signage shall be limited to one freestanding sign at each project entrance. Both signs shall be designed to be consistent with the architectural character of the main building and as an integral part of the landscape area. Both signs must be set back 5 feet from the edge of the Highway 1 right-of-way and shall not obstruct sight distance of motorists or pedestrians. The maximum height of each sign is 7 feet above grade. The maximum total aggregate sign area of both signs is 50 square feet.
7. Parking, loading and circulation areas shall be surfaced with a minimum of 2 inches of concrete finished as colorized stamped concrete ~~as specified in Exhibit C of this permit. The pedestrian route from the edge of Highway 1 to the stairway described in condition III.F shall be defined with another type of paving material such as interlocking concrete paver block.~~
8. The ~~two~~ parking areas shall include ~~79~~ sufficient parking spaces (of which 40% may be designed to compact car standards) to meet the requirements of the County Code Section 13.10.552 (i.e., 1 space per 1000 sq. ft. of restaurant/café; 1 space per 600 ft. of manufacturing; 1 space per 1000 sq. ft of warehouse; 1 space per 200 sq. ft. of office; 1 space per 33 sq. ft. of conference and seminar meeting rooms; 1 space per 200 sq. ft. of retail sales; 1 space per 200 sq. ft. of public buildings and grounds, 2 spaces per one bedroom residential dwelling unit and 1 space per Type A overnight accommodation habitable room) . ~~Four~~ One of the spaces at each lot must be designed as a handicapped accessible parking space. These spaces shall be ~~located as shown on the~~

required revision of Exhibit A. ~~Twenty-three~~ b Bicycle parking spaces shall also be provided as and shown on Exhibit A according to Code Section 13.10.552. All spaces and loading berth(s) shall be ~~delineated by a variation in the color and pattern of the stamped concrete surfacing and~~ defined by wheel stops. The size of each standard parking space shall be not less than 18' X 8-1/2'. Compact spaces shall be at least 16' X 7-1/2'. Handicapped accessible spaces shall be 18' X 14'. Each bicycle space shall be 6' X 2' in size and equipped with a parking rack to support the bicycle and be of sufficient material and strength to prevent vandalism and theft.

9. ~~At least 2~~ Loading spaces (sized 45' X 14') shall be provided, if necessary (i.e., if retail or warehouse use is included) and designed in accordance with sections 13.10.570 -.571 of the County Code.
10. The lighting of all parking and circulation areas shall be limited to pedestrian oriented lighting not to exceed 3 feet in height. This lighting shall be minimized to the amount necessary for safety purposes. One such light standard on each side of each driveway entrance to the project shall be permitted. Other lighting shall be located where necessary to allow safe pedestrian use of the parking area at night. All lighting shall be designed so it does not produce any glares off-site.
11. Follow all recommendations of the geotechnical report prepared by Reynolds and Associates for this project dated May 5, 1997 and its addendum, regarding the construction and other improvements on the site, including the requirement that all grading and paving associated with the parking lot be setback a minimum of 25 feet from the edge of the bluff that borders the southwestern edge of the parcel. All pertinent geotechnical report recommendations shall be included in the construction drawings submitted to the Executive Director of the Coastal Commission and the County for a Building Permit. All recommendations contained in the County acceptance letter(s) dated November 3, 1997, shall be incorporated into the final design. A plan review letter from the geotechnical engineer shall be submitted with the plans stating that the plans have been reviewed and found to be in compliance with the recommendations of the geotechnical engineer.
12. To further minimize the visual impact of the main project building to insignificant levels and allow ocean vistas to be retained at the northwest portion of the parcel, these features shall be incorporated into the project:

- a. The exterior colors at the main project building shall be earthen tone colors that blend with the surrounding landscape or corrugated metal siding replicating an agricultural building, ~~both of which have been approved by County Planning;~~
- b. The landscape plan prepared for this project prepared by Franks Brenkwitz and Associates dated March 4, 1998 (sheet A-3.1 of Exhibit A) and as modified to conform to the required revised design shall be implemented prior to final inspection and clearance of the Building Permit for phase 1 of the project;
- c. Any fencing in the vicinity of the parking lot shall be limited to the rustic split rail fencing shown on the landscape plan that restricts access to the edge of the bluff southwest of the parking lot.

13. *Final plans shall note that Davenport Water and Sanitation District will provide water service and sewer service and shall meet all requirements of the District including payment of any connection and inspection fees as specified in the two following conditions below. Final engineered plans for water and sewer connection shall be reviewed and accepted by the District.*

- B. ~~To prevent over utilization of the Davenport Water and Sanitation District's domestic water supply, the owner/applicant shall~~ Provide revised calculations of water use based on the required revised plans and provide the necessary improvements to the District water treatment plant as determined by the District for an the additional 3,000 number of gallons/day of domestic water use that is calculated. The installation of improvements may be spread over a time period specified by the District. as long as, at least one half of the necessary improvements are installed prior to the final inspection and clearance of the Building Permit for phase 1 of the project and all remaining improvements are completed prior to the final inspection and clearance for phase 2 occupancy If the revised calculations result in a projected water use greater than 4,216 gpd (as verified by County Public Works Department), then the applicants shall submit a revised, updated written commitment from the water purveyor guaranteeing that the required level of service for the project will be available prior to the issuance of building permits. Alternatively, the permittee may construct the project in phases, with Phase 1 uses limited to requiring an estimated water use of 4,216 gpd and subsequent phases linked to updated written service commitments for the corresponding amount of projected additional water use.
- C. To prevent over capacity problems from being exacerbated from project sewage discharges into the Davenport Water and Sanitation District's

sewer system, the owner/applicant shall pay the appropriate sewer connection charges, as calculated by the District, to pay for the necessary sewer system upgrades. The applicants shall provide revised wastewater calculations based on the revised water calculations. If the revised calculations result in a projected wastewater generation of greater than 1,455 gpd (as verified by County Public Works Department), then the applicants shall submit a revised, updated written commitment from the wastewater agency guaranteeing that the required level of service for the project will be available prior to the issuance of building permits. Alternatively, the permittee may construct the project in phases, with Phase 1 uses limited to generating an estimated 1,455 gpd and subsequent phases linked to updated written service commitments for the corresponding amount of projected additional wastewater generation. ~~At least 50% of the total fee charges shall be paid prior to the issuance of a Building Permit for phase 1 of the project. An additional payment of at least 43% of the total charges shall be paid prior to issuance of the Building Permit for phase 2 construction. The remaining 7% of the total charges shall be paid prior to issuance of the Building Permit the phase 3 construction.~~ A Certificate of Occupancy shall not be issued by County Planning for any construction phase until the planned sewage system improvements have been completed by the Davenport Water and Sanitation District.

D. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall provide evidence that the following measures have been satisfied:

1. Meet all requirements and pay the appropriate plan check fee of the California Department of Forestry and Fire Protection.

~~E. 2.—Pay the Santa Cruz County Park Dedication fee in effect at the time of Building Permit issuance for phase 3. On March 25, 1998, this fee would total \$ 538.00 for a 1 bedroom single-family dwelling.~~

~~E. 3.—Pay the Santa Cruz County Child Care fee in effect at the time of Building Permit issuance. On March 25, 1998 the fee is calculated as follows:~~

~~a. \$0.12/square foot of warehouse floor area;~~

~~2.b \$0.23/square foot of floor area for all other approved commercial and visitor-serving uses; and~~

~~3.c \$109.00/bedroom for single-family dwellings (phase 3).~~

~~G. 4.— Meet all requirements of the Department of Public Works and pay all fees for Zone 4 Santa Cruz County Flood Control and Water~~

Conservation District including plan check and permit processing fees.

~~H. 5.~~ Submit a written statement signed by an authorized representative of the Pacific School District and the Santa Cruz High School District in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district in which the project is located.

V. All construction shall conform to the approved plans ~~issued for a Grading Permit and separate Building Permits.~~ The following requirements shall be met during all grading and construction activities:

- A. To prevent this project from contributing to accelerated filling of either the City or County of Santa Cruz landfills, the owner/applicant shall have the all excess fill material from grading activities that is removed from the site transported to Big Creek Lumber Company on Highway 1 for use as 6 inch cover on the surface of their staging yard or transported to another County approved fill site. If the fill site is in the coastal zone, then its use for receiving fill must be authorized by a coastal development permit or by a valid County permit that predates the California Coastal Act.
- B. To control all surface drainage and prevent erosion impacts, the owner/applicant shall implement an engineered drainage plan that conforms to the preliminary engineered drainage plan prepared for the project by Bowman and Williams dated March 4, 1998 (Exhibit B). The final approved plan shall be implemented as part of the Grading Permit for this project. A silt and grease trap shall be installed as discussed in condition III.G above at the same time other drainage improvements are installed. All improvements specified in the approved plan shall be installed prior to final inspection and clearance of the Building Permit for phase 1 of the project.
- C. To minimize dust impacts to surrounding properties ~~during excavation for the new parking lot,~~ the owner/applicant shall have a water truck on the site during all major grading activities and shall have all exposed earthen surfaces water sprayed at frequencies that prevent significant amount of dust from leaving the project site.
- D. To prevent increased erosion of the steep bluff face that borders the southwestern edge of the parcel from increased pedestrian traffic, the owner/applicant shall construct a pedestrian stairway to traverse this bluff face and repair the three areas of pedestrian induced erosion on the bluff face prior to occupancy final inspection and clearance of the Building Permit for phase 1 of this project. The stairway shall be located within the required easement area and to provide access from the southwest corner of the new parking lot. ~~The stairway~~ shall be constructed according to the

approved ~~Building Permit~~ plans for this improvement (Refer to condition III.E)

- E. *To minimize noise impacts to insignificant levels to users of the project building, all building construction shall meet noise insulation requirements for residential and commercial buildings as specified in the Uniform Building Code.*
- F. To prevent operational conflicts from occurring from project generated traffic, the owner/applicant shall make the following improvements ~~prior to completion of phase 2 of the project:~~
 - a. Realign the south project entrance driveway to be located directly opposite Davenport Avenue to create a "4-legged" intersection with Highway 1 according to Caltrans specifications; and
 - b. ~~Provide striping and signage on Highway 1 as approved by Caltrans which advises northbound motorists that northbound left turns into the south driveway entrance to the project are disallowed.~~ comply with any additional CALTRANS requirements.
- G. All new electrical power, telephone, and cable television service connections shall be installed underground.
- H. *All improvements shall comply with applicable provisions of the Americans With Disabilities Act and/or Title 24 of the State Building Regulations.*
- I. Pursuant to Sections 16.40.040 and 16.42.100 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.100 shall be observed.
- J. All construction shall be performed in accordance with the approved plans. The applicant shall provide evidence to the Executive Director (within 5 days of their completion) that the following conditions have been satisfied. Prior to final building inspection and building occupancy for each construction phase, the owner/applicant shall meet the following conditions:
 - 1. All site improvements shown on the final approved Building Permit plans shall be installed;

2. *All inspections required by the Building Permit shall be completed to the satisfaction of the County Building Official; and*
3. The project geotechnical engineer shall submit a letter to the Planning Department verifying that all construction has been performed according to the recommendations of the accepted geotechnical report. A copy of the letter shall be kept in the project file for future reference.

VI. Operational Conditions.

- A. This permit constitutes a Master Occupancy Program for the project site. Those "C-1" and "CT" zone district uses specified below shall be authorized to occupy the subject building provided that a Level 1 Change of Occupancy Permit is issued by the County of Santa Cruz Planning Department. No use or combination of uses will be allowed which requires more parking than available on site confined to the areas designated for parking pursuant to condition I.A and consistent with the limitation of condition IV.A.2. In no case shall more that 50% of the occupied square footage be allocated to non-visitor serving uses. The "C-1" and "CT" zone district uses allowed on the site are as follows:
 1. Restaurant/cafe
 2. Micro-juicery and warehouse associated with a restaurant and/or café in Davenport
 3. Offices, not to exceed 50% of the floor area of the building, and associated with the permitted restaurant/café, conference, seminar, visitor-oriented retail, spa, or visitor accommodation uses or associated with agricultural or marine products.
 4. Conference and seminar facilities
 5. Neighborhood scale retail sales (See County Code Section 13.10.332)
 7. Two residential dwelling units
 8. Day spa, sauna, hot tub uses
 9. "Type A" overnight visitor accommodations (See County Code Section 13.10.332)
- B. All landscaping shall be permanently maintained with the species specified on the landscape plan. Replacement of any tree or shrub fatalities shall be done with the same species as shown on the plan or a

species with nearly identical characteristics as approved by County Planning. Parking lot landscaping shall always be limited to ground cover and low growing (~~less than 2 1/2 feet in height~~) shrubs. The shrubs shall be maintained in good condition to provide maximum screening, but at no time shall they block the view of the shoreline at the base of the cliffs as seen from Highway One. All hedges surrounding the project buildings shall be permanently maintained as follows. The Monterey cypress hedge at the southeast and northwest ends of the building shall be maintained with a cut height of 7 feet and a maximum growth height of 9 feet. The *Myoporum* hedge parallel to Highway 1 shall be maintained with a maximum height that does not exceed the height of the main building. The maintenance of landscaping shall include the following practices:

1. Soil Conditioning. In new planting areas, soil shall be tilled to a depth of 6 inches and amended with six cubic yards of organic material per 1,000 square feet to promote infiltration and water retention. After planting, a minimum of 2 inches of mulch shall be applied to all non-turf areas to retain moisture, reduce evaporation and inhibit weed growth.
2. Irrigation Management. All required landscaping shall be provided with an adequate, permanent and nearby source of water which shall be applied by an installed irrigation, or where feasible, a drip irrigation system. Irrigation systems shall be designed to avoid runoff, overspray, low head drainage, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways or structures.
3. Appropriate irrigation equipment, including the use of a separate landscape water meter, pressure regulators, automated controllers, low volume sprinkler heads, drip or bubbler irrigation systems, rain shutoff devices, and other equipment shall be utilized to maximize the efficiency of water applied to the landscape.
4. Plants having similar water requirements shall be grouped together in distinct hydrozones and shall be irrigated separately.
5. The irrigation plan shall show the location, size and type of components of the irrigation system, the point of connection to the public water supply and designation of hydrozones. The irrigation schedule shall designate the timing and frequency of irrigation for each station and list the amount of water, in gallons or hundred cubic feet, recommended on a monthly and annual basis.
6. Landscape irrigation should be scheduled between 6:00 p.m. and 11:00 a.m. to reduce evaporative water loss.

- C. All installed drainage facilities shall be permanently maintained. The silt and grease trap shall be maintained on a regular basis according to the following monitoring and maintenance procedures:
1. The trap shall be inspected to determine if it needs to be cleaned out or repaired at the following minimum frequencies:
 - a. Prior to October 15 each year;
 - b. Prior to April 15 each year; and
 - c. During each month it rains between November 1 and April 1.
 2. A brief annual report shall be prepared by the trap inspector at the conclusion of each October 15 inspection and submitted to the property owner and to County Public Works staff within 15 days of this inspection. This monitoring report shall specify any repairs that have been done or that are needed to allow the trap to function adequately.
- D. The stairway discussed in condition V.D above shall be permanently maintained in good condition by the property owner. Similarly, the earthen pedestrian trails described in conditions III.A and III.B above shall be maintained free from erosion and obstructions by the property owner.
- E. *Any live or recorded music played on the premises shall not be heard beyond the subject property. No music shall be played within the 66-vehicle parking lot.*
- F. *The hours for retail and public food serving uses shall be limited to 6:00 a.m. to 9:00 p.m.*
- G. *Busses must park in the lower parking lot and only use the ~~now 66 vehicle~~ upper parking lot to discharge passengers. The operators of the premises may also direct other vehicles to use the lower lot, such as visibly large vehicles or vehicles associated with longer-term parking. Otherwise, except for the marked disabled space, the upper parking lot's use shall not be restricted, nor have specific reservations of spaces. A separate coastal permit or amendment to this permit is required for any additional development of the upper parking lot, including any fencing or gating or change in access thereto.*
- H. *In the event that there is non-compliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.*

VII. As a condition of this development approval, the holder of this development approval ("Development Approval Holder"), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys' fees), against the COUNTY, its officers, employees, and agents to attack, set aside, void, or annul this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.

A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.

B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:

1. COUNTY bears its own attorney's fees and costs; and
2. COUNTY defends the action in good faith.

C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement with regard to the County unless such Development Approval Holder has approved the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.

D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor(s) in interest, transferee(s), and assign(s) of the applicant.

E. Within 30 days of the issuance of this development approval, the Development Approval Holder shall record in the office of the Santa Cruz County Recorder an agreement which incorporates the provisions of this condition, or this development approval shall become null and void.

VIII. Mitigation Monitoring Program

The mitigation measures listed under this heading have been incorporated into the conditions of approval for this project in order to mitigate or avoid significant effects on the environment. As required by Section 21081.6 of the California Public Resources Code, a monitoring and reporting program for the above mitigations is hereby adopted as a condition of approval for this project. This monitoring program is specifically described following each mitigation measure listed below. The purpose of this monitoring is to ensure compliance with the environmental mitigations during project implementation and operation. Failure to comply with the conditions of approval, including the terms of the adopted monitoring program, may result in permit revocation pursuant to Section 18.10.462 of the Santa Cruz County Code.

A. Mitigation Measure: Conditions III.F and IV.A.11 (Prevention of Soil Instability)

Monitoring Program: The Grading Permit and Building Permit for phase 1 will not be issued by County Planning until a geotechnical engineer's review and approval letter is submitted specifying plan conformance with the geotechnical report. Planning staff inspection for the Grading Permit will include verification of the required 25-foot setback from the top of the steep slope. Neither the Building Permit nor the Grading Permit will be finalized without a final inspection and approval letter from the project geotechnical engineer. All review letters shall be permanently retained in the project file.

B. Mitigation Measure: Conditions III.G, V.B. and VI.C (Provide and Monitor Silt and Grease Traps)

Monitoring Program: The Grading Permit and Building Permit for phase 1 will not be issued by County Planning without the appropriate number of silt and grease traps identified on the final drainage plan. Planning staff inspection of the Grading Permit and sign-off for the Building Permit will not occur until the traps have been installed according to the approved plans. The owner/applicant shall submit monitoring reports, as specified by condition VI.C to the Drainage Section of the County Public Works Department. Public Works will advise County Planning of any problems with trap maintenance or non-receipt of monitoring reports. In that case, Planning will contact the property owner and take appropriate enforcement action to correct the problem.

C. Mitigation Measure: Condition IV.A.12 (Minimization of Visual Impacts)

Monitoring Program: The requirements of this condition will be checked during plan review ("Zoning Plan Check") of the construction drawings submitted for Building Permits. A Building Permit for phase 1 and subsequently phase 2 will not be issued until the drawings conform with the requirements of this permit condition. Planning staff will verify all

requirements have been met in the construction of the project before holds on the Building Permits for each construction phase have been released. Photos of each completed phase of the project will be taken at the time the hold is released and permanently retained in the project file.

- D. **Mitigation Measure: Condition IV.B (Improvements to the Water Treatment facilities of the Davenport Water and Sanitation District)**

Monitoring Program: The owner/applicant shall enter into an agreement with the DWSD to provide the needed improvements to the domestic water system as required by condition IV.B. The Building Permit for each phase of construction will not be issued by County Planning until a written notification from the DWSD staff has been received specifying that an agreement between the owner/applicant and DWSD has been approved. Requirements to implement the agreement shall be specified in this notification. Final inspection and clearance of the Building Permit for each phase shall not be granted until all requirements have been adequately implemented to the satisfaction of the DWSD staff. Another written notification shall be submitted to Planning by DWSD when all improvements required at each construction phase are completed. All notifications from DWSD shall be permanently retained in the project file.

- E. **Mitigation Measure: Condition IV.C (Improvements to sewer facilities of the Davenport Water and Sanitation District)**

Monitoring Program: The Building Permit for each construction phase shall not be issued by County Planning until all fees are paid as required by condition IV.C. DWSD shall notify County Planning in writing when the appropriate fees have been paid. This notification shall be permanently retained in the project file. These fees will be added to other monies secured by the DWSD to finance sewer replacements. DWSD will advise County Planning and the owner/applicant in writing when the sewer improvements are completed.

- F. **Mitigation Measure: Condition V.A (Transport of Excess Fill to Approved Fill Site)**

Monitoring Program: The owner/applicant shall inform Big Creek Lumber at least 30 days prior to making an application for a Grading Permit to confirm that the excess fill material can be deposited at Big Creek's lumber yard. If Big Creek no longer wants the material, the owner/applicant shall find another appropriate fill site to propose to County Planning. The Grading Permit shall not be approved until written permission from the fill recipient is provided and the site has been approved by County Planning for inclusion into the Grading Permit. If the fill site is in the coastal zone, then its use for receiving fill must be authorized by a coastal development permit or by a valid County permit

that predates the California Coastal Act. The owner/applicant shall submit written verification from the fill material recipient (Big Creek Lumber or other approved fill site) to County Planning staff specifying the approximate volume of fill material received from the project during phase 1 construction. The hold on the Building Permit for phase 1 will not be released nor the Grading Permit finalized by County Planning until this letter is received. This documentation shall be permanently retained in the project file.

- G. *Mitigation Measure: Condition V.B. (Installation of Drainage Improvements)*

Monitoring Program: The hold on the Building Permit for phases 1 and 2 shall not be released by Planning staff until all drainage improvements have been installed according to the approved plans.

- H. *Mitigation Measure: Condition V.C (Minimization of Dust During Construction)*

Monitoring Program: County Planning staff, including the area Building Inspector, shall observe dust containment measures on the site during construction at all regular inspections. Any observed problems will be communicated immediately to the work crew and owner/applicant for rectification in 24 hours. A follow-up inspection will occur in 24 hours to verify the problem has been corrected.

- I. *Mitigation Measure: Condition V.D (Construction of Pedestrian Stairway and Prevention of Erosion on Slope).*

Monitoring Program: The owner/applicant shall submit engineered plans and a geotechnical report for a Building Permit application to construct the stairway described in condition V.D. The plans and geotechnical report shall be approved and the Building Permit issued before any other Building Permits are issued for this site. The construction of the stairway shall be completed and a final inspection letter from the geotechnical engineer submitted to County Planning before the hold on phase 1 construction is released.

- J. *Mitigation Measure: Condition V.E (Noise Insulation)*

Monitoring Program: The owner/applicant shall include information of the construction drawings for phases 1, 2 and 3 describing how highway noise reduction will be achieved for interior spaces. Building Permits for each phase shall not be issued until noise insulation measures have been approved by Building Plan Check staff. The area Building Inspector shall verify that noise insulation/reduction measures have been adequately

installed during regular construction inspections. The Building Permit will not be finalized without noise reduction measures being approved.

K. Mitigation Measure: Condition V.F (Improvements to Avoid Traffic Conflicts)

Monitoring Program: The construction drawings ~~for phase 2~~ shall include the improvements specified by condition V.F as well as a letter from Caltrans demonstrating that the agency has reviewed and approved the plans for these improvements. The Building Permit will not be issued until these requirements have been met. Planning staff will inspect the site to verify that the improvements have been installed as approved. The hold on the Building Permit ~~for phase 2~~ will not be released until the improvements have been adequately installed. Photos documenting the improvements will be taken and permanently retained in the project file.

L. Mitigation Measure: Condition VI.B (Maintenance of Landscaping)

Monitoring Program: Planning staff shall observe the condition of landscaping during each site inspection. Enforcement staff shall respond to citizen complaints regarding landscape maintenance. Any problems shall be immediately communicated to the owner/applicant with follow-up inspections to verify resolution of problems.

~~Minor variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.~~

VII. RECOMMENDED FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Background

1. Setting

The proposed development is on the seaward side of Highway 1 in the unincorporated Town of Davenport, approximately ten miles north of the City of Santa Cruz. The site is located on the coastal terrace overlooking Davenport Beach and the Pacific Ocean. The subject 3.04 acre parcel is a long rectangle (approximately 140 ft. by 900 feet) with its eastern length contiguous to Highway 1 (see Exhibit 1). A Union Pacific railroad easement crosses the parcel at its western boundary extending the length of the parcel. The southerly third of the parcel, at elevations of 30-60 feet Mean Sea Level (MSL), is a portion of the upper slope of San Vicente Creek and is vegetated with riparian species. The center of the parcel, at elevations of 65-72 feet MSL, contains an existing 13,127 square foot building and associated parking (referred to as the "lower level" in this report). The northerly third of the parcel at elevations of 80-94 feet

currently is comprised of an open field on the southern half and an informal dirt parking area used by the general public on the northern half; (referred to as the "upper level" in this report).

Davenport is a small coastal town in Santa Cruz County's North Coast planning area. Other than an abandoned building owned by RMC Lonestar north of the project site, the existing building on the project site is the only development on the coastal side of Highway 1 in Davenport. The town's residential population of approximately 200 generally live in modest single-family dwellings. Aside from the cement plant industrial facility, there are approximately 20,000 square feet of commercial, warehousing and manufacturing uses on the inland side of the Highway. Restaurants, a grocery, and a bed and breakfast currently serve visitors traveling the scenic coastline. Davenport is overshadowed by the RMC Lonestar Cement Plant, a major industrial facility to the north of town.

The development surrounding the subject site on the oceanside of the Highway includes a vacant property northwest of the site owned by RMC Lonestar where many people park informally to view the ocean or access various trails that meander across the adjacent coastal bluffs. The land to the southeast of the riparian portion of the site rises to a marine terrace and is also vacant. Farther to the southeast this bluff top area is farmed in row crops. To the west beyond the railroad right-of-way are a vacant marine terrace, Davenport Beach, and the Pacific Ocean.

Access trails crisscross the coastal bluffs. An existing trail to the southeast of the applicants' building on the subject site is used by pedestrians to access the beach. A less direct route to the beach is achieved by traversing one of four eroded foot trails from the vacant northwest portion of the site down a steep slope to the railroad. These trails converge at a trail that parallels the railroad tracks which continues to the beach.

2. Project Approved by County

The proposed project is to remodel an existing 13,127 square foot commercial residential structure and to construct a 9,791 square foot addition on the structure. The additional 9,791 square feet of floor area is primarily achieved by converting the existing mezzanine to a full second story. The height of the building is increased by three to six feet to achieve the interior clearance for a second story floor space within a portion of the building. The structure was a former agricultural packing shed that was converted to a dwelling and several workshops in 1974 under County Use Permit 74-124-U. The County permit was amended in 1984 to allow a juice manufacturing and wholesaling business to locate on the site. A portion of the building is currently leased to the juice company for use as a regional distribution facility. The building also continues to provide residential use.

The County approval includes a Master Occupancy Program for a mixed use project of 22,918 square feet; a permit for excavation of 1,350 cubic yards of earth to construct a parking lot on the northern site to serve the proposed use; a rezoning of the property from the "C-1" (Neighborhood Commercial) Zone district to the "SU" (Special Use) zone district to allow mixed uses on the site; and a Variance to reduce the front yard setback to 0 feet for a 53 lineal foot

portion of the building. Also approved were a separate greenhouse, boat-shaped residence, shower building, and tool shed.

The County approval is for a specific, three-phase project that includes exact uses and interior partitions (see Exhibit 2). The following phases are approved under the County permit (as specified in Condition I.A):

Phase 1- Reconstruction of the northwest half of the existing building to include restaurant/café, retail shops and conference meeting rooms on the upper floor and micro-juicery and warehouse and three offices on the lower floor and the new 66 vehicle space parking lot [on the northerly third of the parcel].

Phase 2 -Reconstruction of the southeast half of the existing building to include one office and three visitor accommodation units on the upper floor (studio units) and one office, a day spa, two visitor accommodation units and one caretaker dwelling unit on the lower floor (two rooms with kitchens) and renovation of the existing parking [adjacent to the building] to provide for 13 vehicle spaces.

Phase 3 - Construction of a detached greenhouse of 750 square foot "boat house" [in the form of a] dwelling.

In addition, the County also approved Master Occupancy Program (Permit Condition VI.) that specifies more generally the range of uses allowed by the permit over time: (1) restaurant/café; (2) micro-juicery and warehouse associated with a restaurant or café; (3) offices not to exceed 50% of the floor area of the building; (4) conference and seminar facilities; (5) neighborhood scale retail sales; (6) two residential dwelling units; (7) day spa, sauna, hot tub uses; (8) Type A overnight visitor accommodations (which are hotels, inns, pensions, lodging houses, bed and breakfast inns, motels, and recreational housing units). Thus, the exact mix and location of uses listed in the three phases above and shown on the approved plans could change in the future. An administrative permit (but no coastal permit amendment) is required to allow changes that fit within these parameters of the Master Occupancy Program.

Finally, as approved by the County, the project includes dedication of two existing access trails, construction of an access stairway, provision of benches on the west side of the parking lot for public viewing use, and granting of a right of way for a possible future connection from the parking lot to the adjacent parking area.

B. Analysis of Project Consistency with Local Coastal Program and Coastal Act

As discussed above, the appellants' contentions cover a range of coastal zone issue categories. For purposes of analysis these have been grouped into the following categories: 1. Special Coastal Community and Visual Resources; 2. Land Use Types; 3. Parking, Circulation, and Public Access; 4. Public Services; 5. Nonpoint Source Pollution; 6. Archaeological Resources; and 7. Cumulative and Growth-Inducing Impacts. Since all the appeals are similar, the following discussion does not differentiate as to which party made

each contention. The following contentions are a mix of direct quotes and paraphrases, in order to summarize the full text of the appeals, which are found in Exhibit 5.

1. Special Coastal Community and Visual Issues

a. Appellants' Contentions:

The appellants raise a variety of claims about the impact of the approved building and parking lot on Davenport's community character and visual resources ((see Exhibit 5 for complete contentions). In particular, the appellants assert that the project will adversely impact the Davenport's character as an historic whale watching site and its "stunning ocean vistas of Monterey Bay." They also cite policies that require new development in Davenport to be consistent with height, bulk, scale, materials, and setbacks of existing development and that require that visible development be obscured or screened by landforms and vegetation. They claim:

The proposed project is inconsistent with other Davenport development in terms of height, bulk and physical scale. The project building will be 30 feet at its highest point, 6 feet higher than the Davenport Cash store, the highest building fronting Davenport. The proposed building at 22,918 sq. ft. will nearly double the size of the current packing shed, and Highway 1 visitor serving space will increase from 14,400 to 37,000.

In addition, the proposed 65 plus space parking lot will front nearly the entire length of Davenport and destroy the visual focus along Highway 1. The proposed parking lot would pave over the traditional whale-watching site historically used by tourists and residents alike. The proposed parking lot will block pedestrian and motorist visual access to the ocean and beaches and detract from motorists' viewing of whales.

The appellants also cite policies that call out Highway 1 as a scenic road that should be protected; and that require the protection of public vistas and aesthetic values. Additionally, the appellants assert that the impacts of the project on visual resources have not been adequately mitigated and that the project does not provide for the restoration of the Davenport Bluffs Scenic Area.

Furthermore, the appellants raise a concern about sensitive areas:

Under Public Resources Code 30116, 30502, sensitive coastal resource areas are those areas within the coastal zone of vital interest and sensitivity. Sensitive coastal resources areas include areas possessing significant recreation value, highly scenic areas, archaeological sites referenced in the California Coastline and Recreation Plan, and special communities which are significant visitor destinations. Davenport should be designated as a sensitive coastal resource area because it is a highly scenic area, it is a special community which is a significant visitor destination, and it is an archaeological site referenced in the California Coastline and Recreation Plan. If Davenport is so designated, a separate

report should have been made which contains a "specific list of significant adverse impacts that could result from development where zoning regulations alone may not adequately protect coastal resources or access." (PRC 30502) The LCP should include the implementing actions. The LCP should include the implementing actions. (PRC 30502; LCP 5.11.5, Designation of Resource Conservation Lands).

b. Applicable Local Coastal Program Provisions:

The following provisions of the *1994 General Plan and Local Coastal Program for the County of Santa Cruz* are especially applicable to these contentions:

8.8.2 Coastal Special Community Designation: Maintain a Coastal Special Community Designation for...Davenport...

2.13.4 Expansion of Neighborhood Commercial Designation: Only allow Neighborhood Commercial uses that are small scale, and appropriate to a Neighborhood or visitor service and will not have an adverse traffic, noise and aesthetic impacts on the adjacent residential areas...

2.13.6 Compatibility with Adjacent Development: Ensure compatibility between Neighborhood Commercial development and adjacent areas through Commercial Development Permit procedures to regulate siting, design, landscaping, signage, parking and circulation, drainage, and access. (See Chapter 8 Community Design).

2.16.7 Design of Visitor Accommodations: Ensure quality of design for visitor accommodations through Commercial Development Permit procedures, including the Zoning ordinance, to regulate density, signage, landscaping, buffering, on-site circulation and access, parking, and site and building design.

5.10.10 Designation of Scenic Roads: The following roads and highways are valued for their vistas. The public vistas from these roads shall be afforded the highest level of protection. State Highways: Route 1 – from San Mateo County to Monterey County...

5.10.2 Development Within Visual Resource Areas. Recognize that visual resources of Santa Cruz County possess diverse characteristics....Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks and design to protect these resources consistent with the objectives and policies of this section. Require discretionary review for all development within the visual resource area of Highway One, outside the Urban/Rural boundary, as designated on the GP/LCP Visual Resources Map and apply the design criteria of Section 13.20.130 of the County's zoning ordinance to such development.

5.10.3 Protection of Public Vistas. Protect significant public vistas...from all publicly used roads and vistas points by minimizing disruption of landform and aesthetic character caused by grading operations,... inappropriate landscaping and structure design.

5.10.6 Preserving Ocean Vistas. Where public ocean vistas exist, require that these vistas be retained to the maximum extent possible as a condition of approval for any new development.

5.10.9 Restoration of Scenic Areas. Require on-site restoration of visually blighted conditions as a mitigating condition of permit approval for new development. The type and amount of restoration shall be commensurate with the size of the project for which the permit is issued. Provide technical assistance for restoration of blighted areas.

Objective 5.11 Open Space Preservation: To identify and preserve in open space uses those areas which are not suited to development due to the presence of natural resource values or physical development hazards.

Objective 8.8, Villages, Towns and Special Communities: To recognize certain established urban and rural villages as well as Coastal Special Communities for their unique characteristics and/or popularity as visitor destination points; to preserve and enhance these communities through design review ensuring the compatibility of new development with the existing character of these areas.

8.8.4. Davenport Character: Require new development to be consistent with the height bulk, scale, materials and setbacks of existing development: generally small scale, one or two story structures of wood construction.

Program (p. 8-12): Enhance Davenport as a visual focus along Highway 1. Prepare a landscaping and design plan, in accordance with the policies of this section, to achieve the following objectives: Clear, coordinated circulation including: Clear definition of stopping spaces (parking) along the highway frontage for both cars and bicycles; Clearly articulated pedestrian crossings; Adequate parking off Highway 1, nearby, for existing and new uses, and for visitors; Bicycle parking facilities to make the town a more attractive bicycle destination/stop over point. Landscaping to enhance commercial areas, and to assist in definition of parking spaces and walkways, and in screening of parking as appropriate. Emphasis on the area's whaling history and whale viewing opportunities. Elimination of visually intrusive overhead wires. Screening of the cement plant and its parking lot from the residential area to the north.

Additionally, for the Davenport Bluffs Priority Sites (058-0723-01,02,03) which are adjacent to the subject site **Figure 2-5 Coastal Priority Sites – North Coast** has Special Development Standards: to depress and landscape parking areas to limit visibility from Highway 1 and to

maintain unobstructed coastal views; to use low growing vegetation that will not obstruct views; to eliminate roadside parking along the property frontage; and to provide interior pedestrian circulation to separate pedestrians from Highway 1.

Implementing provisions are found in the *County Code*. *County Code* Section 13.20.143 contains "Davenport Special Community Design Criteria," including:

(c) Highway 1 Frontage: Development along Davenport's Highway 1 frontage shall conform to the following objectives;

1. Davenport shall be emphasized as a rural community center and as a visitor serving area including:

(i) Site design shall emphasize the historic assets of the town, its whaling history and whale viewing opportunities;...

(iii) Landscaping shall tie together and accent the commercial uses, and assist in the definition of walkways and parking areas, and/or screens parking.

2. Clear, coordinated circulation shall be developed including:...

(iii) adequate parking off Highway 1, for existing and new uses, and for visitors...

County Code Section 13.20.130d specifies:

Beach Viewsheds: The following Design Criteria shall apply to all projects located on bluffs and visible from beaches.

1. **Blufftop Development.** Blufftop development and landscaping...in rural areas shall be set back from the bluff edge a sufficient distance to be out of sight from the shoreline, or if infeasible, not visually intrusive.

County Code Section 13.101.383 contains "Development Standards for the Special Use "SU" District" and states in part:

...For structures other than single-family dwellings and accessory structures, the building height limits, required site area, required yards, and other regulations for any use shall be in keeping with the requirements, restrictions or regulations provided in this Chapter (13.10) for the most restrictive district within which the use is allowed.

The following are the proposed project's non-residential uses, the most restrictive zoning district in which they are allowed, and the associated "maximum average height:"

Restaurant/café	PR	28'
Micro-juicery (manufacturing) & warehouse	M-1,PA,VA,CT,C-1,C-2	35'

Offices	VA,CT,C-1,C-2,C-4	35'
Conference and seminar facilities	PR, R-A, R-R, R-1, R-M	28'
Retail sales, neighborhood-scale	PR (not full range of uses)	28'
	VA,CT,C-1,C-2,C-4	35'
Day spa, sauna, hot tub	PR	28'
Type A overnight visitor accommodations	PR	28'

Similarly, Section 13.10.384, also pertaining to the "SU" district, states that , "The design criteria for all other [than residential] uses shall be as provided in this Chapter for the most restrictive district within which the use is allowed."

Chapter 13.11 contains general "Site, Architectural and Landscaping Design Review." Of special relevance is the first part of Section 13.11.074(b):

It shall be an objective to reduce the visual impact and scale of interior driveways, parking and paving

(1) Parking Lot Design

(i) The site design shall minimize the visual impact of pavement and parked vehicles. Parking design shall be an integral element of the site design. Siting building toward the front or middle portion of the lot and parking areas to the rear or side of the lot is encouraged...

(ii) parking areas shall be screened from public streets using landscaping, berms, fences, walls, buildings, and other means...

(iii) Variation in pavement width, the use of texture and color variation in paving materials, such as stamped concrete, stone, brick, pavers, exposed aggregate, or colored concrete is encouraged in parking lots to promote pedestrian safety and to minimize the visual impact of large expanses of pavement.

c. County's Action/Response

The County approval was for a two-story 22,918 square foot building with two parking lots totaling approximately 37,000 square feet. Development permit Finding 5 states:

The proposed commercial mixed use/residential project will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects, land use intensities, and dwelling unit densities of the neighborhood in that visitor-serving commercial uses will continue to be provided on the Highway 1 frontage of Davenport as encouraged by the General Plan and County Code. The design of the project continues to limit structural development on that portion of the parcel where the existing building is located. This design preserves coastal and marine views as well as avoids other visual impacts

that could be created by a project with more structural development on the site...

In a December 18, 1998 letter, the County responded to the appellants' contentions (see Exhibit 6 for complete letter):

The appellants imply the project is much larger than in reality. Their statement that the 22,918 square foot building will nearly double the size of the existing building is factually correct but misleading. The floor measurement of the existing 9,791-sq. ft. building does not include the existing mezzanine space. By increasing the height by 3-6 feet, the mezzanine can be converted to a complete second story and the floor measurements will then be applied to both stories... The footprint will only be expanded by 737 square feet. Similarly, their statement that the project parking lot "will front nearly the entire length of Davenport" is not true. The segment of Highway 1 traversing the core of Davenport is three times the length of the 375-foot long project lot. However, the size of the parking area would be a substantial change for the town and motorists traveling on scenic Highway 1.

With regard to the increased height, the County staff report of March 25, 1998 notes,

The site standards for the "SU" zone district use the site standards of the zoning most closely corresponding to the site's General Plan designation. In this case, the site standards of the "C-1" zone district would be used even with a rezoning to "SU". The maximum height of structures is 35 feet.

The County letter further notes that the visual analysis shows that the project building has been designed to result in minimal change to the visual environment. It references condition IV.A. 12 which requires earthen tone exterior building colors or corrugated metal siding replicating an agricultural building. Also, regarding the parking lot, permit condition IV.A.7 requires a colorized stamped concrete surface and IV.A.10 limits lighting of parking and circulation areas to pedestrian oriented lighting not to exceed 3 feet in height. In addition the parking lot has been recessed three feet below grade to minimize visual impacts. The County letter observes that currently the public park their vehicles and stand on the northwest vacant portion of the parcel to watch for whales and enjoy the coastal views. This portion of the site will be developed with formal parking. A band of a minimum of 25-foot width along the (southern) oceanward side of the lot will be maintained as open space with three viewing benches for the public. Hence, the County letter maintains that whale watching opportunities will be continued.

With regard to grading, the County letter notes that the natural landform proposed for alteration is a relatively level coastal terrace without significant topographic features. The approximate 1,350 cubic yards of grading is for the purpose of recessing the parking lot to minimize disruption of coastal views and to allow for gravity controlled drainage. The County letter

maintains that the grading will not alter the basic topographic form of the bluff. Therefore, it is clear that any landform alteration is not significant.

Finally, the County letter notes that development of adjacent parcels is limited by their General Plan/LCP and Zoning designations of Parks and Open Space and Agriculture. Thus, visual impacts will be limited to the uses allowed.

d. Substantial Issue Determination:

The project approved by the County raises a substantial issue with respect to the community character and visual resource protection policies of the certified local coastal program. First, the County's Land Use Plan policies taken together require in effect that the impacts of new development in view of Highway 1 be minimized, and that new development in Davenport conform to existing community character. More specifically, Policy 2.13.4 requires that new neighborhood commercial development be small scale. Other policies require that new development be designed and integrated into the existing community character and aesthetic. In addition, with respect to rural beaches, Section 13.20.130d of the zoning ordinance requires that blufftop development be located out of sight from the shoreline.

What is "small-scale"? And what is this village's "community character"? Currently, the immense Lone Star Industries cement plant dominates Davenport. The character of the adjacent, tightly clustered residential and commercial development reflects its working heritage: whaling industry, agricultural shipping and processing, cement manufacture. In its layout and simplicity of architecture-- devoid of pretense--it is strongly reminiscent of other "company" mining or logging towns in the West. Today, the quarrying and processing of limestone for the manufacture of cement remain the economic backbone of the community. Some diversification is offered by small-scale artisan industries (e.g., glassblowing). And, the two-block commercial strip along the highway frontage continues the process of awakening to the opportunities afforded by the tourist industry.

Ignoring the overbearing presence of the cement plant, this commercial frontage could be described as "eclectic frontier rustic" in character. There is a variety of building styles, mostly two stories or equivalent height, none looking architect-designed. Within the County's defined Davenport urban enclave, the project site contains the only significant existing building on the seaward side of the highway.

When evaluating the character of an individual building as it relates to other buildings in a community, a number of factors need to be considered, including the building's proportions, layout, exterior finish and any architectural embellishments. Equally important are height, bulk, and other considerations of scale.

In this case, the existing building--which until recently housed the Odwalla juice works--is a long, low-profile wooden structure built as a railroad shipping shed and formerly in use as an agricultural packing and processing plant. It is visible in public views from the highway as well as the beach below. The exterior of the building reflects its industrial purpose. It presents a totally functional, straightforward, unadorned appearance. As such, it is entirely consistent with--and contributes to--the previously-described community character.

In terms of scale, the building's "footprint" (13,127 sq. ft.) combined with its height (24 feet above grade) make it the largest existing building (outside the Lone Star cement plant) along Davenport's Highway 1 frontage. Therefore, in both architectural style and in scale, this building plays an important role in defining Davenport's special character. In particular, as the biggest building of its kind, it establishes the appropriate limits of scale in this small-scale community.

Building Enlargement Raises Substantial Issue: The approved project raises a substantial issue because it would enlarge the existing building and intensify development on the relatively undeveloped coastal bluffs of Davenport. The proposed development would rehabilitate and modify the existing structure to accommodate (mostly) new uses--some of which would be visitor-serving uses. The rebuilt structure will occupy for the most part the existing building footprint and will be limited to two stories in height--consistent with the prevailing two-story equivalence of the Davenport commercial frontage. It will be sheathed in wood siding or corrugated metal, and as approved by the County would maintain the overall exterior architectural character of the former agricultural packing shed. Such adaptive reuse of older buildings--especially those that contribute to community character in this way--is generally encouraged and welcomed.

However, in order to accommodate the new uses, certain exterior architectural modifications are proposed. The County-approved plans show that these modifications include increasing the roof height at the north end of the structure by three to six feet, resulting in a somewhat bulkier appearance and an increased "skyprint" (i.e., profile against the sky). Also, the footprint of the existing structure would be increased by 234 sq. ft.

Thus the effort to accommodate the new and increased level of uses results in a somewhat larger building profile, which in turn increases the amount of development between Highway 1 and the scenic shoreline of the Santa Cruz County coast. Additionally, the higher profile would result in a slight increase in the amount of development visible from the beach.

Two fundamental strategies for protecting the coast's scenic resources, as reflected in the LCP policies cited above, are to 1) minimize the amount of new development seaward of Highway 1, and 2) insure that new development is appropriately scaled to fit into existing small-scale coastal communities. A substantial issue is raised because the rebuilt, somewhat enlarged structure represents increased development between the highway and the sea, and because it would "raise the threshold" with respect to what should be the maximum scale for new visitor-oriented commercial buildings in the small-scale community of Davenport. And, to the extent that the increased profile of the building would result in [additional] development visible from a rural beach, the project is inconsistent with the LCP's Beach Viewshed protection ordinance (County Code Section 13.20.130d) as well.

Furthermore, there is a technical issue with regard to height limit. The County staff report says that the zoning which most closely corresponds to the General Plan designation applies. However, the cited *Code* section actually requires use of the most restrictive zoning district. The *Code* section is not explicit in addressing which most restrictive district to use in the case of multiple uses with varying most restrictive districts. It can be read as directing that the most restrictive of the zoning districts for any of the uses applies. In this case, the predominant uses

are permitted in the PR district, which has the most restrictive height limit of 28 feet. (The lower portion of the property where the riparian corridor is and adjacent properties to the south and east are also designated "PR.") The building is currently at 24 feet. The County approved a 30 foot height without a variance, based on using the standards of the "C-1" district, which are not the most restrictive for the uses in question. Therefore, a substantial issue is raised with regard to allowed height in the County's local coastal program.

Commercial Parking Lot Development Raises Substantial Issue: In addition to the issues of building design and scale *per se*, substantial issue arises due to the kinds and intensities of the proposed uses and attendant parking requirements. Specifically, the project needs to meet County parking standards. Therefore, in order to accommodate the proposed new types of use, the County's approval provided for expanded parking facilities. These facilities include approximately 13 spaces on the already-paved lower level, and a larger (66-space) parking lot on the upper level.

The first consideration is that the County-required upper-level parking facility will significantly impact Davenport's community character. At present, the upper level is an unpaved, undeveloped fragment of coastal terrace, on part of which the owner allows informal public parking. The project as approved by the County would result in this vacant area being converted to a formal, paved, landscaped parking lot paralleling the seaward side of Highway 1. This is in contrast to the extremely informal rural look of parking that exists in the rest of the town.

While mitigations (recessing, landscaping, lighting limitations, and stamped concrete) are required, they are not sufficient to conceal the assembled mass of motor vehicles and will inevitably alter the dusty informality of the existing parking lot. Such upscale improvements are driven by the need to accommodate the increased intensity of use, but will also tend to change the existing community character. This alteration of community character will result both from substituting a prettified "improved" landscape for one which is rough, dirty, and therefore "rustic"—and from increasing the collected presence of parked motor vehicles in public view. In other words, the County's parking standards for the proposed kinds and intensities of uses dictate that the entire usable Highway 1 frontage of the parcel be converted to a formal parking lot. Because the project does not minimize this paving and the associated visual and community character impact, a substantial issue is raised by this contention with respect to the cited policies.

Second, the local coastal program dictates that public view protection is paramount at this site. Again, there are elements of the project, especially lowering of the upper parking lot and the proposed and required landscape screening, that attempt to satisfy this policy directive. However, the project does not adequately conform with the policy 5.10.6 requirement to retain public ocean views to the maximum extent possible.

Specifically, the proposed parking lot, when occupied by vehicles, will detract from the overall seaward view enjoyed by southbound travelers and will partially block significant ocean views as seen from Highway 1 as it passes through Davenport. This southbound public view includes distant cliff faces to the south, glimpses of whitewater where the surf crashes against

the shoreline, and a broad expanse of bluewater representing the outer reaches of Monterey Bay.

While the finished grade of the lot will be partially recessed below the existing dirt surface and entirely below the adjacent profile of the highway, the parked cars will still be in plain sight. Reflective glare from the sun shining on the vehicles will especially detract from the visitor experience. In addition, the amassed vehicles in the parking lot, when full, will directly impede the whitewater component of this vista. Thus, the public viewshed will be impaired both by the "visual clutter" effect of the parked automobiles, and by direct blockage of the line of sight to the shoreline.

In summary, the proposed project looked at as a whole does not fit within the parameters of Davenport's existing community character; and, public ocean views will not be retained "to the maximum extent possible." Therefore, the project as approved by the County does not conform with Local Coastal Program policy 5.10.6. Accordingly, a substantial issue is raised.

With regard to the contention about sensitive resource areas, the Coastal Act is not the standard of review for this appeal. Neither the Coastal Commission nor the County have so designated the site. Therefore, there is no substantial issue as far as sensitive resource areas are concerned.

e. De Novo Coastal Permit Conditions

In order to approve a coastal permit for the project, all of the cited local coastal program policies have to be satisfied. With regard to the main building, the primary way to accomplish this objective is to not enlarge its size. It is already large by Davenport standards and intrudes somewhat into the beach and Highway viewshed. Therefore, any changes to the main building should be of a rustic appearance with earthen tone colors that blend with the surrounding landscape or corrugated metal siding replicating an agricultural building. This can be accomplished by retaining County Conditions IV.A.1 and IV.A.12.a. Additionally, other specific design measures that the County required are necessary. Night lighting shall be minimized, signing shall be controlled, and landscaping shall shield the structure and parking area, while being maintained so that it does not become overgrown and further block shoreline views. Also, new utility services shall be undergrounded, and rooftop equipment and trash receptacles should be screened. These measures can be accomplished by retaining County conditions IV.A.10, IV.A.6, IV.A.12.b, VI.B, V.G, IV.A3, and IV.A.4 respectively.

With regards to signing, the substantial issue findings indicate that the standards of the "PR" district, not the "C-1" district govern. The former limit signs to 12 sq. ft., rather the 50 sq. ft. of the C-1 district, as indicated in condition I.V.A.6. Therefore, a variance is needed to allow up to 50 sq. ft. of signage. That amount of signage is appropriate for several reasons. There are two building entrances, so a sign for each can average 25 sq. ft. That size sign is reasonable since the allowed uses are visitor-oriented commercial, not just public recreational; there are potentially multiple uses; the site was previously zoned C-1; and the building itself is largely hidden. Thus, the variance will be in harmony with the general intent and purpose of zoning objectives and will not be materially detrimental to public health, safety, or welfare or injurious to property or improvements in the vicinity. The variance is also appropriate because there are special circumstances applicable to the property and because it does not constitute a grant of

special privileges for the same reasons as indicated in the County setback variance findings (see Exhibit 2), which are incorporated by reference in this approval (with the substitution of the "PR" standards for the "C-1 standards, and the greater sign area for the setback).

With respect to the upper portion of the site where the parking lot is proposed, there are two visual imperatives. One is the necessity to protect the view corridor to the rocky shoreline from where it is visible from Highway One. The second is the general necessity to protect the blufftop's open space character. Together, these suggest a reduction in the visibility that the parking lot will have (including the parked vehicles) as well as its overall size.

These objectives can be met (1) by allowing for a reduced parking area to approximately the size it is currently (as delineated by boulders and logs), (2) by relocating it to the least visible portion of the site, and (3) by further lowering it below the vantage point of Highway 1. The County approval required the final level of the parking lot to be about three feet below the elevation at the edge of Highway One. And, in discussions with Commission staff, the applicants indicated that they could grade another 18 inches. This information, together with a review of submitted topographical information showing the highway profile, demonstrates that the parking area can be further recessed below the surface of the bluff. Excavation to an elevation approximately five feet below the existing profile of the seaward edge of the highway appears feasible.

The County also required screening vegetation to be no more than 2 ½ feet tall. However, if the surface of the parking area is dropped to an elevation 5 feet below the highway, some taller shrubbery may be appropriate without blocking views. While not all vehicles (especially large ones) can be totally concealed, the combination of recessing the reduced parking area by up to five feet combined with screening vegetation should result in the parked vehicles being mostly hidden from the Highway. However, given that some of the parking area will unavoidably be visible through the entry ramp and the parking lot and vehicles will still be visible to pedestrians, keeping the County condition for colorized concrete is necessary to partially mitigate its visual impacts. Also, if a retaining wall is needed for the parking lot, then it too should be designed, colorized, and landscaped to be unobtrusive.

Reducing the size of the parking lot allows a larger portion of this upper meadow to retain its open space character. Also, by remaining free of structural development, the important view corridor to the shoreline can be preserved. In order to ensure that objectives for maximum vista retention (5.10.6) and open space preservation (5.11) are implemented, placing most of the meadow encompassing the view corridor under protective easement is appropriate (see Exhibit 4). This would also serve to implement the geotechnical recommendations for a 25-foot bluff setback (see Finding #8). Access improvements, such as the proposed benches, trails, and stairs, that do not interfere with and do allow people to enjoy the vistas can be allowed in the easement area. The remaining meadow area at the northwest corner should be landscaped in a manner that prevents vehicular use and promotes site restoration pursuant to policy 5.10.9. This area, not necessary to be within a permanent easement, may be re-examined as part of a community-wide planning process as to possible additional improvements that would carry out policies related to Davenport's community character and public access opportunities (see Finding #7).

As so conditioned, the proposed project is consistent with the cited visual resource and special community policies of the *1994 General Plan and Local Coastal Program for the County of Santa Cruz* and the Local Coastal Program development standards contained in the *County Code*.

2. *Types of Land Use*

a. Appellants' Contentions Regarding Zoning Change From Neighborhood Commercial To Special Use and Priority Use

Appellants raise both procedural and substantive claims concerning appropriate land use at the site (see Exhibit 5 for complete contentions). First, they claim the County inappropriately rezoned the property from "C-1" (Neighborhood Commercial) to "SU" (Special Use). In particular, appellants assert that the County rezoned the property to allow uses, such as visitor serving, that would not otherwise be allowed in the C-1 zoning.

The appellants are also contending that the County's rezoning sets a "terrible precedent contrary to logical and orderly planning and development." The appellants challenge the particular use approved by the County, "This is not a small-scale project, but a mini resort and shopping mall. Visitor accommodations will displace opportunity for legitimate Neighborhood Commercial uses to serve the community of Davenport."

Furthermore, the appellants' contend that the conversion around 1983 to the building's present use as a juice manufacturing facility has "apparently never been approved by the County." This building was originally a Brussels sprout packing shed. The appellants assert that to rezone the present project to a "SU" (Special Use) mixed-use commercial zone district from its currently approved land use as an agriculture related structure does not conform with the Local Coastal Program that requires the maintenance of a hierarchy of land use priorities with agriculture being the highest priority.

b. Applicable Local Coastal Program Land Use Plan Policy Provisions:

The governing *1994 General Plan and Local Coastal Program for the County of Santa Cruz* land use plan map designates the site as "Neighborhood Commercial" within the "Rural Services Line." In addition to the Special Community provisions cited above, the following provisions are applicable to this issue:

Objective 2.13, Neighborhood Commercial Designation To provide compact, conveniently-located, and well-designed shopping and service uses to meet the needs of individual urban neighborhoods, rural communities and visitors.

2.13.2 Location of Visitor Serving Neighborhood Commercial Uses: Designate on the General Plan and LCP Land Use Maps Neighborhood Commercial areas specifically suitable for visitor serving commercial uses,

based on: proximity to public beaches, the yacht harbor, state parks, or other tourist or recreational attractions.

2.13.3 Allowed Uses in the Neighborhood Commercial Designation: Allow a variety of retail and service facilities, including neighborhood or visitor oriented retail sales, recreational equipment sales, personal services, limited offices, restaurants, community facilities including child care facilities, schools and studios, rental services, and similar types of retail and service activities.

2.13.4 Expansion of Neighborhood Commercial Designation. Allow only uses that are small scale and appropriate to a neighborhood or visitor service area, and will not have an adverse traffic, noise and aesthetic impacts on the adjacent residential areas. Allow the expansion of Neighborhood Commercial land use designations only where: A need and market exists, and the use will not adversely affect adjacent residential neighborhoods.

2.13.5 Visitor Services within Coastal Special Communities. Encourage the provisions of visitor serving commercial services within Coastal Special Communities as follows: (a) Davenport: Highway 1 frontage...

2.16.1 Location of Visitor Accommodation Designations: Designate on the General Plan LCP Land Use Maps those areas existing as or suitable for Visitor Accommodations. Require all visitor serving facilities to be located where adequate access and public services and facilities are available, to be designed and operated to be compatible with adjacent land uses, including residential uses, to utilize and complement the scenic and natural setting of the area, and to provide proper management and protection of the environment.

2.16.4 Allowed Visitor Accommodations in Urban Residential Areas: Allow small scale Visitor Accommodations such as inns or bed and breakfast accommodations in urban residential areas and within the Rural Services Line where the use would be compatible with neighborhood character, surrounding densities, and adjacent land uses.

2.22.1 Priority of Uses Within the Coastal Zone: Maintain a hierarchy of land use priorities within the Coastal Zone: First Priority: Agriculture and coastal-dependent industry; Second Priority: Recreation; visitor serving commercial uses; and coastal recreation facilities; Third Priority: Private residential, general industrial, and general commercial uses.

2.22.2 Maintaining Priority Uses. Prohibit the conversion of any existing priority use to another use, except for another use of equal or higher priority.

8.8.3 Tourist Commercial Concessions: Encourage the provision of tourist commercial services with Coastal Special Communities, as follows:
 (a) Davenport: Highway 1 frontage...

c. Applicable Local Coastal Program Implementing Regulations:

County Code Section 13.10.331(e) provides:

Specific "C-1" Neighborhood Commercial District Purposes. To provide compact and conveniently located shopping and service uses to meet the limited needs within walking distance of individual urban neighborhoods or centrally located to serve rural communities. Neighborhood Commercial uses and facilities are intended to be of a small scale, with a demonstrated local need or market, appropriate to a neighborhood service area, and to have minimal adverse traffic, noise, or aesthetic impacts on the adjacent residential areas.

Uses allowed include gas stations, banks, meeting halls and conference rooms, barber and beauty shops, community facilities, offices, fitness centers and spas, retail shops, schools, and the like (Code Section 13.10.332).

The Code also contains the following rezoning standards:

Consistent Zone Districts. ...Rezoning of property to a zone district which is shown in the following Zone Implementation Table as implementing the designation applicable to the property, shall not constitute an amendment of the Local Coastal Program. (Code Section 13.10.170(d))

Land Use Designation	Implementing District	Zon	Principal Permitted Uses
C-N Commercial	Neighborhood C-1 Commercial	Neighborhood	Neighborhood – serving small scale commercial services and retail uses
	CT Tourist Commercial	Visitor	Serving uses and facilities
	PA Professional administrative offices	a	Professional and Administrative Offices.
All Land Use Designations	PF Public Facilities		Various public uses
	SU Special Use		No principal permitted uses in SU

Zoning Plan Amendment ...The Planning Commission shall recommend approval of a rezoning only if it determines that:

1. The proposed zone district will allow a density of development and types of uses which are consistent with ...the adopted General Plan;
2. The proposed district is appropriate to the level of utilities and community services available to the land; and
3. One or more of the following findings can be made:
 - i) the character of development in the area where the land is located has changed or is changing to such a degree that the public interest will be better served by a different zone district;
 - ii) the proposed rezoning is necessary to provide for a community related use which was not anticipated when the zoning plan was adopted; or,
 - iii) the present zoning is the result of an error; or,
 - iv) the present zoning is inconsistent with the designation shown on the General Plan. (Section 13.10.215)

Section 13.10.170 further provides:

- zoning and regulations shall be in harmony with and compatible with the Local Coastal Program Land Use Plan and implement its objectives, policies, and programs; and
- zoning and regulations shall not be amended out of conformance with the General Plan.

The following *Code* sections, in part, govern the SU Special Use district:

Purposes of the Special Use "SU" District ...

(a) **General.** To provide for and regulate the use of land for which flexibility of use and regulation are necessary to ensure consistency with the General Plan, and to encourage the planning of large parcels to achieve integrated design of major developments, good land use planning, and protection of open space, resource, and environmental values...

(c) **Mixed Uses.** To provide for the development of lands which are designated on the General Plan for mixed uses, and where the specific portions of the land reserved for each use have not yet been specified or determined in detail. (*Code* Section 13.10.381)

Uses in the Special Use "SU" District

(a) **Allowed Uses...**

1. All uses allowed in the RA and R-1 Zone District shall be allowed in the Special Use "SU" Zone District. Where consistent with the General Plan...
2. All uses allowed in Zone Districts other than RA and R-1 shall be allowed in the Special Use "SU" Zone District where consistent with the General Plan and when authorized at the highest Approval Level...

(b) **Principal Permitted Uses.** The allowed uses in the Special Use "SU" District are not principal permitted uses...for purposes of Coastal Zone appeals pursuant to Chapter 13.20, Coastal Zone Regulations, of the County Code. Actions to approve any uses in "SU" Zone District in the Coastal Zone are appealable to the Coastal Commission...(Code Section 13.10.382)

d. County's Action/Response:

The County approved a specific, phased, mixed use project as well as a slightly broader range and mix of uses which could occur in the building upon issuance of a "change of occupancy permit," as described in Finding 1(b) above. Concurrent with the County action to approve the subject coastal permit, the County approved a rezoning of the subject site to "SU Special Use."

The Santa Cruz County Staff Report to the Board of Supervisors for the October 20, 1998 hearing discusses the rezoning to "SU" and resulting land uses to be approved:

The project property is designated as "Neighborhood Commercial" by the General Plan/Local Coastal Program. General Plan policies 2.1.3.5 and 8.8.2 encourage visitor serving commercial services within coastal special communities, such as the Highway 1 frontage of Davenport. General Plan/LCP objective 2.12 (Mixed Use Development) "allows a mixture of different types of commercial, residential and public facilities in appropriate locations where the combination of uses are complimentary and contribute to established centers of community activity and commerce." In the Planning Commission's judgment, the project meets these General Plan/LCP policies.

The property is zoned "C-1" Neighborhood Commercial, which is one of the three zonings that implement the General Plan designation of "Neighborhood Commercial". C-1 zoning allows all the uses proposed by the project except the visitor accommodation units. Such visitor units are allowed in the "CT" (Commercial Tourist) zone district, one of the other zonings that is consistent with the parcel's General Plan designation. However, "CT" zoning does not allow micro-juicerries and most offices. The third zoning which is consistent with the General Plan designation, "PA" (Professional-Administrative), does not allow many of the proposed uses. The existing zoning is not consistent with most proposed uses of the site

that would be oriented to meet the visitor-serving aspects of policies 2.13.5 and 8.8.2.

A rezoning to the "SU" (Special Use) zone district is necessary to allow the proposed uses on the property and to provide better overall consistency with the General Plan designation. The "SU" zoning can be used with any General Plan designation and can allow all uses permitted by the several zone districts that implement the designation. One of the purposes of the "SU" zone is to provide land use regulation "for which flexibility of use and regulation are necessary to ensure consistency with the General Plan. Another purpose is "to provide for the development of lands which are designated by the General Plan for mixed uses". A rezoning to "SU" zone will allow a variety of visitor serving uses that are encouraged by the General Plan for this location while allowing for other small scale commercial uses. The range of uses can be restricted to those which are compatible with each other and the site by a Master Occupancy Program. Uses that would be prohibited, such as automobile service station and recycling centers, have been so specified in the Master Occupancy Program that is included in the recommended permit conditions (Condition VI.A). "SU" zoning in combination with a Master Occupancy Program operated much the same way as Planned Unit Developments do in other jurisdictions where carefully planned mixed uses are desired on the same site.

Since the "SU" zoning does not have its own site standards (setbacks, etc.), the site standards of the zoning that most closely corresponds to proposed land uses are used. In this case, the "C-1" zoning site standards would be applied to the site. The project can meet all standards of the "C-1" zone district with the exception of an encroachment into a portion of the frontyard setback... The residential/visitor unit density analysis that was conducted for this site concludes that the 5 visitor units and 2 dwellings are well within the density limits prescribed by applicable provisions of the County Code. These 7 units requires a minimum site area of 19,000 square feet of developable land and, ... the site contains 1.45 acres of developable area.

In a December 18, 1998 letter, the County responded to the appellants' contentions (see Exhibit 6 for complete letter):

Much of the appeal is based on the appellants' beliefs that the rezoning to "SU" (Special Use) is subject to certification by the Coastal Commission, and secondly that the General Plan/Local Coastal Program (LCP) designation of the property of "Neighborhood Commercial" does not allow the visitor accommodation uses approved by this project. These two beliefs are inaccurate. First, County of Santa Cruz Code Section 13.10.170 specifies the "SU" zone district as being consistent with all General Plan/LCP land use designations, and as such, a rezoning to the "SU" shall not constitute an amendment of the Local Coastal Program. This code

section is one of the LCP implementing ordinances that has been certified by the Coastal Commission....

Overnight visitor accommodations, a priority use in the Coastal Zone, is appropriate for this site due to its near coast location, spectacular coastal views and access via Highway 1. Early in the permit process, Planning staff considered a rezoning from "C-1" to "CT". But this zoning while allowing overnight accommodations, would restrict the site for many "C-1" uses that are not permitted in "CT" zoning, such as a bank, an ATM machine or a barber shop, all of which could benefit local residents and visitors alike.

...the County recognized that the project was an infill project on a parcel of record and that the project was compatible with the pattern of existing development as specified by policy 5.10.7. The project continues commercial uses on the Highway 1 frontage of Davenport...

With the site rezoned to SU, the County coastal zone permit findings include:

- that the project is a use allowed in one of the basic zone districts, other than the special use (SU) district, listed in section 13.10.170(d) as consistent with the general plan and local coastal program LUP designation.
- The mixed uses of visitor accommodations, restaurant, micro-juicery, offices (of less than 50% the total floor space of the project building) and ancillary residential units are allowed in the implementing zone districts of the parcel's General Plan designation of "Neighborhood Commercial".

With regard to the building conversion, the County responded as follows in its December 18, 1998 letter:

The building has not been used for agricultural related uses for at least 24 years and past code violations have been resolved. The existing building was originally constructed and used as an agricultural packing shed when the property was zoned for agricultural uses prior to 1974. The 2.9 acre parcel has limited use for agriculture by itself due to the majority of the site being covered by either the existing building or riparian habitat. On May 21, 1974 the Board of Supervisors rezoned the parcel to "UBS-1" (Unclassified Building Site with 1 acre minimum parcel size. This zoning has been replaced with "SU"). At the same time the Board approved Use Permit 74-124-U to convert the packing shed to artisans' workshops and studios and a caretaker's dwelling unit. This use continued until the building was converted to a juice bottling plant in 1983 without the benefit of building or planning permits. The County posted a Violation Notice during the time the non-permitted conversion was occurring. By this time, the County's LCP was certified by the Coastal Commission and Coastal Zone Permit authority was transferred from the Commission to the County (January 13, 1983). The new County LCP land use maps designated the property as "Mt. Residential" and "Priority Site

2" which was identified by former LCP policy 7.2.2 as a warehouse with a tourist service/coastal commercial priority use designation for future uses. The property was zoned "CC" (Coastal Commercial). The property owner responded to the Violation Notice by applying for the appropriate permits. Coastal Zone/Development Permit 84-0230 was approved on May 8, 1984 to allow a juice manufacturing business in conjunction with the previous permitted uses on the property. Building permits for the stopped conversion were obtained shortly thereafter. One of the conditions of Permit 84-0230 was that "any future use shall meet the LCP definition of tourist serving".

On October 19, 1995 the current permit holders applied for permits for the current project. The 1994 General Plan/LCP (certified by the Commission on 12/15/94) changed the land use designation of the site to "Neighborhood Commercial" and rezoned the property "C-1". The mixed commercial project, which includes overnight visitor accommodations and small restaurant, is consistent with the 1984 permit requirement for future uses.

e. Substantial Issue Determination:

Rezoning to SU: The appellants raise the issue of the procedural legality of amending a zoning designation without direct review by the Coastal Commission. As the cited policies above show, the Santa Cruz County Local Coastal Program allows for a change in zoning to SU Special Use without Commission review. This is because the Coastal Commission has already certified that the SU district (in addition to the Neighborhood Commercial, Tourist Commercial, and Office districts) is an implementing zone for the Neighborhood Commercial designations of the land use plan. In retrospect, the Commission finds this provision overly permissive, but the proper forum to address it is through the periodic review process and a local coastal program amendment. The Commission would concur that the uses allowed under the SU zone are potentially too broad. However, there is a safeguard, in that there are no "principal permitted uses" in the SU zone (13.10.382). This means that any approved development in the SU district is appealable to the Coastal Commission.

Furthermore, the SU district appears to be a good choice since it allows a range and mix of uses that other zoning districts do not allow, including visitor accommodations. Under the LCP, a visitor serving use has a high priority for such a shoreline location.

Appropriate Uses: The next issue to examine in this case is the appropriateness of the uses permitted. Because of the nature and structure of the SU zone, one must rely on the land use plan to determine appropriate uses. All of the relevant land use plan policies have to be read together. It is true that there is a separate Visitor Accommodation designation, which could leave the impression that visitor uses are not appropriate on this Neighborhood Commercial-designated site. But the many other cited policies (e.g., 2.13.3, 2.13.5; 8.8.3) clearly contemplate visitor uses for such an area. Also, given that the local coastal program is based on the Coastal Act and its support for visitor uses, and given the historic designations on the site, the approved inclusion of a visitor component is appropriate. About half can be considered visitor serving including the restaurant, five overnight accommodations, spa, and

possibly the meeting rooms and shops. Although the spa is for the use of the overnight guests and not the general public, it would still be considered visitor-serving.

Of the remaining uses, the three offices fall within the list of appropriate neighborhood uses, although there is nothing in the approval to limit them to neighborhood-oriented or visitor-serving purposes. Residential uses are not listed as a Neighborhood Commercial use in the land use plan, but residences are allowed in most zoning districts. The warehouse and manufacturing do not appear as appropriate neighborhood commercial uses. However, they are a continuation of the previously-approved use. To the extent that the juicery supplies the restaurant and/or store and is available for public tours, it could be considered visitor-serving.

There are two concerns about the resultant permitted mix of uses: intensity and future alteration. The overall mix of uses could be found appropriate under the Neighborhood Commercial designation, as discussed above. But the approved mix results in an intensity of use that may be problematic, as discussed under the previous Community Character and Visual findings, and the following Traffic and Parking findings. Because the intensity needs to be lessened in order to reduce parking needs in order to mitigate visual impacts, then a reexamination of the mix of uses is in order to ensure that visitor-serving uses are proportionally maintained.

Furthermore, under the approved permit, the mix of uses can change, pursuant to only a County Level 1 (administrative) permit, that would not be subject to further public hearing nor possible Commission review. For example, the plans show five overnight accommodation units. The offices, microjuicery, and warehouse could be reduced or eliminated to allow more visitor units in the future. If they were completely eliminated, there could be up to 21 more overnight rooms at 330 square feet each. On the other hand, the five planned visitor units could be converted to manufacturing and/or warehousing (they could not be completely converted to restaurant or retail because that would generate excessive parking). Thus, there is not a guarantee of the future mix of uses being in keeping with the mandate of the land use plan. Therefore, a substantial issue is raised by this aspect of the cited contention.

Previous Permit: Appellants' also allege that the previous conversion of the building to allow juice manufacturing and selling was unpermitted. The appellants' contentions are not entirely accurate. An after-the-fact permit was issued by the County in 1984 for the conversion. (There appears to have been a procedural flaw in that it was termed a coastal permit, but was not processed according to all the coastal permit regulations; i.e., no public hearing and not forwarded to the Commission.) That permit was conditioned to make the facility more visitor-serving by having on-site juice retail sales and any future uses be tourist-serving. There is a reference to a master plan being completed in two to five years (i.e., by 1989), but there is no apparent sunset for the juice manufacturing use -- the approved and until recently current use. Although procedurally inadequate, the appropriate time to address this concern was circa 1984 when the new (juicery) use was permitted and began. Since the new permit is conditioned to supercede all previous permits, will result in new uses, and can be conditioned to require appropriate uses, no substantial issue is raised by this aspect of the cited contention.

Priority Use: The proposed visitor-serving use of part of the project is a second priority use, after agriculture, under the County land use plan. The certified land use plan map shows the

site within an urban enclave and designated for commercial use. The site is not suitable for agricultural use of the soil due to its small size, building coverage, and rural service area location. A 1974 County Use Permit allowed the conversion of an agricultural use (packing shed) to work shops, studios, and watchman's living quarters. Therefore, this aspect of the appellants' contention does not lead to a substantial issue.

f. De Novo Coastal Permit Conditions

In order to approve a coastal permit for this site, the proposed project must be consistent with all of the governing local coastal program policies cited in subsections "b" and "c" above. It also must be consistent with Coastal Act Chapter 3 Public Recreation policies. These relevant policies include:

30221: Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

30222: The use of private lands suitable for visitor-serving commercial recreational 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.

30223: Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

It is clear from a reading of all of these local and state policies that visitor uses should be emphasized. As found above, in general the mix of allowed uses satisfies these policies.

As discussed in the visual resources finding, this project needs to be scaled back to reduce adverse scenic impacts. The result will be an approximately 33 to 45 car parking lot to serve the main building in addition to the outbuildings (consisting of a boat house, greenhouse, and shed). The exact number of parking spaces will depend on a revised configuration that the applicant will have to prepare consistent with County standards. Thus, there will have to be a commensurate scaling back of the intensity of uses. The least intensive of these uses from a parking perspective are warehousing (1 space/1000 sq. ft.) and manufacturing (1 space/600 sq. ft.). However, these uses are not necessarily appropriate for the subject oceanfront location, under the local coastal program or Coastal Act. The County approved them only in conjunction with a (visitor-serving) restaurant and juice bar operation. However, such food service operations require substantial parking (1 space/100 sq. ft.).

In determining an appropriate and achievable overall mix of uses for the building, the applicants will have to decide if a restaurant could still be included (e.g., they may opt for more overnight units instead, see below). Given the existing size of the building, its historic and permitted manufacturing and warehousing uses, and the associated low parking requirement, the continuance of some mix of warehousing and manufacturing uses may be desirable to maintain in the building, despite their

low priority. This will allow for more intensive visitor-serving use of the remainder of the building. But, because maintaining some warehousing and/or manufacturing does not guarantee that there will be sufficient parking spaces for a viable restaurant and/or juice bar, the County's condition on linking the uses could be modified to apply anywhere in Davenport; i.e., manufacturing and warehousing could continue to occur on this site to support another restaurant in Davenport, not necessarily one that has to be on-site. By retaining the condition that the otherwise non-priority warehousing and manufacturing uses be linked to visitor-serving uses, the priority of use objectives of the local coastal program and Coastal Act are achieved.

The other proposed non-priority uses are residential and, potentially, office. One residence is proposed in a separate small structure (a boat) and hence does not affect overall project mix. It only requires one parking space. The other residence is proposed in the main building to be a caretaker unit. Thus, it is related to the priority uses. By retaining the County condition to limit to the site two residential dwelling units, overall priority use of the site should not be compromised. There is the slim possibility that under the conditions the applicants could decide to develop the property only with two residences (e.g., eliminate the boat house and convert the building into two very large townhouses). While this would eliminate priority uses of the structure, it would greatly reduce other impacts (e.g. grading, visual, traffic, water use) and leave opportunities for more public access on the remainder of the site.

With regard to offices, the County condition to limit them to not exceed 50% of the floor area of the building helps ensure that priority uses are maintained. Further assurance can be gained by tying allowed offices to only those that support priority uses, either the other permitted visitor uses or agricultural or maritime uses, which are also priorities under the Coastal Act. Finally, requiring at least 50% of the occupied square footage to be visitor serving assures that the overall mix of uses will be oriented toward LCP priority uses for the site. As so conditioned, the proposed project is consistent with the cited local coastal program and Coastal Act policies.

3. Parking, Circulation and Public Access

a. Appellants' Contentions:

Appellants cite Land Use Plan policies 2.1.4 and 2.1.5 as needing to be followed (see Exhibit 5 for complete contentions). They claim that the project will create new traffic and pedestrian patterns both across Highway 1 and through the residential streets of Davenport and by Pacific Elementary School. According to the appellants, the Caltrans traffic reports did not study the consequence of increased traffic on a highway already severely impacted by logging trucks, cement trucks, and visitor traffic. The report did not study traffic during the peak summer months of July and August, and did not study the cumulative effect of other commercial projects planned. Because no EIR was done, the individual and cumulative impacts were not properly determined in the appellants' opinion.

The appellants further charge that the project does not provide clear, coordinated, safe circulation; that the project does not provide safe pedestrian access across Highway 1; does not address tour bus circulation; and does not adhere to the Caltrans model of 75 feet for penetration into parking areas at its south and north lots (see Attachment to Appeal in Exhibit 5a). According to appellants, highway signs disallowing those driving north on Highway 1 a left

turn into the southern parking lot will confuse drivers and encourage them to circle through residential street in order to enter the parking lot.

The appellants also claim as follows:

The present project's parking formula does not provide for the necessary parking facilities identified in GP Figure 2-5, titled Conservation of Coastal Land Resources, Coastal Priority Sites, North Coast - Davenport Bluffs [GP 2.23 (LCP)]. As identified under the heading 'Circulation and Public Access Requirement', parking for the Davenport priority sites 058-072-01, -02 and -03 is to be on parcel 058-121-04, the present project site. The failure of the present project to provide this necessary parking limits access to these Davenport priority sites.

The present project fails to provide necessary on-site recreational transit facilities, including parking spaces for buses and shuttle services to accommodate additional tour and whale watching excursion buses generated by the development's visitor services.

The Variance in the 10 foot minimum front yard setback does not conform with the Local Coastal Plan because it is inconsistent with the character of Davenport in addition to contributing to a hazardous condition along Highway 1.

With respect to beach access, the appellants cite Coastal Act policy 30210 and *General Plan* policies 7.7.b, 7.7.c and 7.10-12 as supporting their positions. Furthermore, they fear:

If the project proceeds, pedestrian access to the ocean will be impeded by increased traffic on Highway 1 caused by an estimated 466 extra daily trips. Physical access is further impeded by the *myoporum* trees planted by Mr. Bailey without an encroachment permit in the highway right-of-way. The *myoporum* trees dangerously restrict pedestrians' sightline when crossing Highway 1. Further pedestrians already on the west side of Highway 1 are imperiled when they try to walk north along Highway 1 to the overlook area because the trees crowd them into Highway 1 traffic. (See GP 3.10.1, 3.10.4, 3.10.5) Physical access is further impeded by the developers' proposed stairway to the beach: pedestrians must walk through a 65+ car parking lot to reach the stairway, and at the bottom of the proposed stairway pedestrians must walk along the railroad track for an extra 220 yards before reaching a path down to the beach (the current path developed through prescriptive use requires that a pedestrian cross the railroad track and walk for 100 yards)...Thus the development fails to provide adequate physical and visual access and interferes with such use.

b. Applicable Coastal Act Provisions

For projects, such as the subject one, which are located seaward of the nearest public road, the Coastal Act's access policies, as summarized below, are germane to an appeal:

Section 30210. 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.

Section 30211. 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.

Section 30212. (a) 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,...

Section 30212.5. 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.

Section 30213. Lower cost visitor and recreational facilities shall be protected, -encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred...

c. *Applicable Local Coastal Program Land Use Plan Provisions:*

The following 1994 General Plan and Local Coastal Program for the County of Santa Cruz provisions are especially applicable to this contention:

Objective 3.3 Balanced Parking Supply. To require sufficient parking to meet demand, but limit parking supply and use available parking as efficiently as possible to support trip reduction objectives.

3.6.1 Transit Friendly Design. Locate and design public facilities and new development to facilitate transit access, both within the development and outside it.

3.6.2. Recreational Transit Facilities. Require new recreation and visitor-serving development to support special recreation transit service where appropriate, including but not limited to, construction of bus turnouts and shelters, parking spaces for buses and shuttle service, and bus passes for employees and subsidies for visitor serving transit services.

3.10.1 Pathways: Require pathways for pedestrian and bicycle use through cul-de-sac and loop streets where such access will encourage these modes of travel as part of new development.

3.10.4 Pedestrian Traffic. Require dedication and construction of walkways for through pedestrian traffic and internal pedestrian circulation in new developments where appropriate.

3.10.5 Access. Ensure safe and convenient pedestrian access to the transit system, where applicable in new developments.

3.10.7 Parking Lot Design. Provide for pedestrian movement in the design of parking areas.

7.6.2 Trail Easements. Obtain trail easements by private donation of land, by public purchase, or by dedication of easements...

7.7.1 Coastal Vistas. Encourage pedestrian enjoyment of ocean areas and beaches by the development of vista points and overlooks with benches and railings, and facilities for pedestrian access to the beaches...

7.7.15 Areas Designated for Primary Public Access. The following are designated as primary public access, subject to policy 7.6.2: North Coast...Davenport bluff, Davenport Beach...

7.7.10 Protecting Existing Beach Access. Protect existing pedestrian...access to all beaches to which the public has a right of access, whether acquired by grant or through use, as established...Protect such beach access through permit conditions such as easement dedications...

7.7.11 Vertical Access. Determine whether new development may decrease or otherwise adversely affect the availability of public access to...beaches and/or increases the recreational demand. If such impact will occur, the County will obtain as a condition of new development approval, dedication of vertical access easements adequate to accommodate the intended use, as well as existing access patterns, if adverse environmental impacts and use conflicts can be mitigated, under the following conditions:
(a) Outside the Urban Services Line: to pocket beaches if there is not other dedicated vertical access; ...; to bluffs which are large enough and of a physical character to accommodate safety improvements and provide room for public use as a vista point...

d. Applicable Local Coastal Program Implementation Program Provisions

County Code Section 13.10.552 requires the following amount of vehicular parking spaces:

- 1 per 200 sq. feet of office, retail

- 1 per 100 sq. feet of restaurant plus .3 per employee
- 1 per habitable room of a visitor accommodation
- 1 per 1,000 sq. feet of warehouse
- 1 per 600 sq. feet of manufacturing with a minimum of 2
- 1 per 33 sq. feet of meeting room
- 1 space per 200 sq. ft. of public buildings and grounds
- 2 per one-bedroom residence.

Bicycle parking, loading facilities, and handicapped parking are also required.

The following Code Section 13.10.553 allows a variance to these standards:

(b) **Reductions in Required Parking** Parking facilities for two or more uses that participate in a parking agreement may be shared thereby reducing the overall parking requirement for the uses if their entrances are located within three hundred (300) feet of the parking facility, if their hours of peak parking do not coincide, and /or it can be demonstrated that the nature or number of uses of the facilities will result in multipurpose trips.

Reductions in the total number of parking spaces may be made according to the following table:

<u>Number of independent property users</u>	<u>Reduction allowed</u>
2-4	10%
5-7	15%
8 or more	20%

Code Section 15.01.060(b) provides:

Trail and Beach Access Dedication: As a condition of approval for any permit for a residential, commercial, or industrial project, an owner shall be required to dedicate an easement for trail or beach access if necessary to implement the General Plan or the Local Coastal Program Land Use Plan.

The following Section 15.01.070(b)1 sets the standards:

- (i) Shoreline access easement shall be a minimum of five feet wide.
- (ii) Easements along proposed trail corridors or adopted trail corridors of for bluff top lateral access shall be a minimum of ten feet wide.

Code Section 13.11.074(a)2 provides:

Standard for Pedestrian Travel Paths: (i) on-site pedestrian pathways shall be provided from street, sidewalk and parking areas to the central use area. These areas should be delineated from the parking areas by walkways, landscaping, changes in paving materials, narrowing of roadways, or other techniques.

e. County's Action/Response:

The approved project plans show an entranceway in the Highway One right-of-way connecting the highway to an upper 66 space parking lot, a lower 13 space parking lot, two pedestrian trails, and three benches on the bluff seaward of the upper parking lot.

Traffic: With regard to traffic, County Development Permit Finding No. 4 states that the proposed use

will not generate more than the acceptable level of traffic on the streets in the vicinity... The increase in traffic generated by the project at build-out will be 28 vehicle trips/weekday peak hour and 35 vehicle trips/weekend peak hour. These increases in peak hour volumes will not change the operational level of service on this segment of Highway from its current LOS rating of "C".

In a December 18, 1998 letter, the County responded to the appellants' contentions noting that Caltrans approved the traffic study (see Exhibit 6 for complete letter):

The traffic study prepared by Higgins and Associates dated November 15, 1996 was based on traffic counts conducted on Saturday, September 28, 1996 and Tuesday, October 1... According to Caltrans Highway 1 traffic volumes on these dates are 3% below annual average traffic volumes and therefore the counts were accepted by Caltrans qualitatively representing annual average conditions for peak hour traffic.

The County letter further notes that some operational conflicts were identified by Caltrans at the entrances to both project parking lots in large part because, as originally designed, they were offset from the proximate street intersections. To mitigate such conflicts, the project was redesigned to align the parking lot entrances so they are directly opposite Ocean Avenue and Davenport Avenue. Permit condition #V.F.a. requires that the intersection design be consistent with Caltrans specifications. The design of the two entrances has been reviewed and approved in concept by Caltrans.

The County staff report to the Board of Supervisors for October 20, 1998 notes:

Due to a vertical curve that restricts good sight visibility near the Davenport Avenue intersection no north bound left turns will be permitted into the existing, southerly parking lot.

Highway 1 signage will advise the motorist. (Permit condition V.F.b.) The County staff report further notes that there is a flashing caution light at the Ocean Avenue/Highway 1 and the speed limit through Davenport is reduced to 45 MPH. Caltrans staff conducted a pedestrian safety analysis for the segment of Highway 1 in Davenport (summer 1998) and concluded that there is not enough vehicular nor pedestrian traffic at any Davenport intersection to warrant a traffic signal. The analysis found that the town has "a very good pedestrian safety record" and did not recommend identifying crosswalks across Highway 1 in any manner since it could provide a false sense of security to pedestrians.

According to the County staff report, Caltrans identified two problems: the 45 MPH speed limits not being obeyed nor enforced and tour busses being parked facing the wrong direction in unsafe locations where they discharge visitors who are unfamiliar with traffic conditions but have a false sense of security. To minimize the traffic circulation problems the project parking lots are large enough to allow tour busses to turn around rather than park illegally. Permit Condition VI.G. requires busses to only use the new 66 vehicle parking lot to discharge passengers. Regarding speeding, greater enforcement by the Highway Patrol is needed.

Parking: The approved project includes two parking lots: a lower one of 13 spaces and an upper one 66 of spaces. 79 parking spaces are required (up to 40% may be compact, and four must be for handicapped), based on a 20% reduction due to the mixed-use nature of the proposed project. Two loading spaces and 23 bicycle parking spaces are also required. Under condition VI.G buses must only park in the lower lot.

Regarding the appellants' contention that the project fails to provide parking for the adjacent Davenport Bluff priority sites, the County December 18, 1998 letter explains:

...[General Plan/LCP] policy 2.23 requires that the design of future parking on the project parcel must be coordinated with future parking on the adjoining parcels to the north, or vice versa, depending on which parcel is developed first. This policy is met by condition IIC which requires the entrance to the new Bailey/Steltenpohl lot shall become the common entrance for the project parcel and any future parking on the adjoining parcel to the north if that parcel is ever developed in the future. A non-revocable right-of-way will be granted to the adjoining parcel over the common driveway and a 20 foot wide connecting route to the common property line of the two parcels...

Pedestrian Paths: With regard to public access, the County's approval requires the dedication of a permanent pedestrian easement (1) over the trail south of the building, (2) over the trail route from the proposed northern parking lot, and (3) construction of an access stairway from the parking lot down the railroad bluff cut to the railroad right of way where it meets an existing trail that parallels the railroad tracks to join the southern beach access trail. The 4 foot pedestrian easement across the parking lot will be delineated by a different type of paving material. The stairway will replace less formal trails where the public now scrambles down the bluff at several locations generating erosion gullies.

In a December 18, 1998 letter, the County responded to the appellants' contentions by explaining that the *Myoporum laetum* shrubs currently exist and are maintained under a 1974 permit (#74-124-U) as a requirement to screen the existing building. The approved project requires the continued maintenance of the shrubs.

Only the trail located south of the building is proximate to the *Myoporum laetum* shrubs. Currently this trail is the most heavily used access to Davenport Beach... County staff does not understand how any reasonable assessment of pedestrians crossing Highway 1 would conclude that the

shrubs would limit traffic visibility for pedestrians. A site inspection will confirm this.

Condition #IIID requires the applicant to obtain an Encroachment Permit from Caltrans for the installation and maintenance of landscaping within the State right-of-way.

As to the setbacks, the December 18, 1998 County letter indicates:

The County approval included a Variance to reduce the normal 10 foot front yard setback to 0 feet for a 53 lineal foot section of the 202 foot long building. The remainder of the building would be setback from the front property line a significantly greater distance than 10 feet and meet all other zoning site standards...Included in the findings is the fact that the approved reconstruction of the building removes a portion of the existing building from extending into the undeveloped edge of the Highway 1 right-of-way and moving this portion of the building back to a 0 foot setback from the property line will still result in a substantial separation between this part of the building and the paved road shoulder...

Viewing Area: The December 18, 1998 County letter responded to the appellants' contentions regarding view areas for whale watching as follows:

Currently, people park their vehicles and stand on the vacant portion of this privately owned parcel to watch for whales and enjoy coastal views. This portion of the property will become a formal parking lot with an open space viewing area at the entire southern (coastward) edge of the parking area. The open space area must be a minimum of 25 feet in width and will include 3 viewing benches for the public...this viewing area will contain meadow grasses and forbs.

f. Substantial Issue Determination:

Traffic: The Commission accepts the County's findings with regard to traffic. First, the Commission notes that under the Coastal Act, visitor traffic has priority for use of highway capacity. Second, while the proposed project may generate some additional pedestrian travel across Highway One, the problem of conflict with moving vehicles already exists and is not the applicants' to solve. If the flashing light is not effective enough, then there are other traffic calming measures that Caltrans can take to slow vehicles travelling through Davenport. Similarly, if some vehicles destined for the proposed project use local streets as a convenience, then the County can take measures to discourage this practice.

However, the issue with the screening vegetation in the Caltrans right-of-way and the zero setback is some cause for concern for two reasons. First, if Caltrans ever decides it does not want the landscaping, then most of the screening will be lost as there is little room on the parcel for landscaping, especially where the building abuts the property line. Second, the zero setback blocks the opportunity to create a pathway along Highway One. Although County staff explained that sidewalks are not in keeping with the semi-rural environment of Davenport and are never required for any development project in the town (1/15/99 Tschantz to Hyman),

some type of pathway or boardwalk along the highway would appear to be an option to not foreclose.

Parking: Contentions regarding adequate parking have some merit. As noted, the local coastal program provisions for parking are met through use of a reduction allowed for mixed use. Without the reduction, 99 spaces (20 more) would have been required. The Commission must assume that this latter standard will address parking needs. The problem is that if the various uses draw different users, then the 20% reduction may not be justified and there would be little room on-site to add more spaces.

Another problem is the loss of overlook and beach parking. A portion of the site contains an unpaved area on which the public has long and continuously parked without restriction. Although counts are not available, site inspections and aerial photo review (1967, 1978, 1987, 1990) reveal the continuous pattern of use on this parking area. The appellants indicated, and staff has observed, that between three and ten cars is common; whether they are all on the subject site or partially on the adjacent site is unknown. The *Davenport Beach and Bluffs Addendum to the General Plan for the North Coast Beaches* estimates 40 vehicles parked in the area during summer weekends.

Coastal Act Section 30211 requires that new development not interfere with public access rights acquired through historic use. Such "prescriptive rights" must be formally determined by court decision. While no such formal legal determination of prescriptive rights has been made for this site, the established pattern of long term use could potentially give rise to such rights. Absent a formal determination of prescriptive rights, in cases where there is a potential for such rights, new development needs to be designed and located to protect existing public access opportunities and to avoid prejudice to a future determination of public rights. At this site, a sign is currently posted informing the public that their right to pass is by permission of the property owner under Civil Code section 1008. The effect of this posting, again, ultimately would have to be decided by the courts.

As approved by the County, the proposed project theoretically needs every one of the designated 79 spaces, including spaces on the upper bluff level historically used by the public. None would be left over for the public who do not patronize the project. Only some of the uses proposed are visitor-serving and whether they will cater to the drive-by public is uncertain. There is nothing in the County approval to prevent site owners from privatizing the parking; e.g., requiring all who park there to patronize the establishment. Furthermore, with all possibility of public parking potentially precluded, the motoring public who wishes to stop will have to park elsewhere, thereby, generating a cumulative parking and visual issue, as discussed in other findings. Thus, a substantial issue is raised by the parking contentions.

Pedestrian Access: The contentions with regard to pedestrian access are of some concern. As noted, public pedestrian access is being provided by the proposed project. While it may not be the most convenient, the ownerships and terrain render it logical. The subject site is on a bluff, with a steep grade to the railroad track below. Seaward is a separately owned parcel. More functional access may be available on adjacent parcels to the north and south and seaward of the subject site. Nevertheless, the permit could have accounted for the possibility that rail use (which is only a few times per week) may cease and should have required a wider

easement offer (at least 10 feet as specified in the *Code*) along the tracks that traverse the subject site.

With regard to access through the site, the approval follows one *Code* option to differentiate the pavement treatment through the parking lot. Nevertheless, the approved design is bound to lead to conflicts between pedestrians traversing the site from Highway One to reach the stairs down the bluff and vehicular traffic in the lot. It is also one foot short of the minimum required five foot width. Thus, the provision of pedestrian access raises a substantial issue.

g. De Novo Coastal Permit Findings

In order to approve a coastal permit, the cited access, parking, and traffic provisions have to be met.

Public Access Trails: As noted, the project included two trails from the Highway and one connecting trail along the railroad tracks, as approved by the County. One of the trails shown on the plans and specified in Condition III.C is located in the lower portion of the property south of the building. This trail already exists and provides a key link for accessing Davenport Beach from Highway One. A previous County permit requirement (County permit 74-124-U, condition #6) for this site required permanent, unobstructed public access. However, that condition did not actually require a recorded dedication and that earlier permit will be superceded by this new permit. Therefore the County required a legal dedication pursuant to the cited access provisions, specifically mentioning policy 7.7.15 in its findings and concluding, "the project has been conditioned to require that a permanent pedestrian easement be placed over this trail to ensure that public access along the trail continues in perpetuity."

The plans show and the County also required an access dedication on the upper, northern portion of the property from Highway One, down the bluff, and along the railroad tracks. Requiring this pathway as mitigation is also appropriate, given that this new permit will result in intensified commercial use of the site, and this intensified use will now extend to this upper portion of the property, which has some historic level of public use already. With the required revised parking lot design, this accessway can be located so as not to have to cross a parking lot (see Exhibit 4). The Commission concurs with the County that it is desirable to consolidate the four existing trails down the bank with one formalized stairway in order to minimize erosion (which could become more severe with more intensive site use), as shown on the applicants' plans. The County found,

To solve the erosion problem and provide a second trail access to the beach, the project has been conditioned to require that the applicant construct a stairway down the steep slope to replace the four damaged trail routes. The condition includes placing the stairway and a connecting trail under a permanent pedestrian easement as well as a route that connect the stairway to Highway 1 so that complete pedestrian access is provided from Highway 1 to the beach without causing erosion problems on the steep slope.

The stairway leads to an existing path along the railroad tracks at the western property boundary. Although there is already an easement for the railroad use in this area, there is the future potential to convert that area into a pedestrian pathway. Thus, the County appropriately required an easement for trail use here as well. The easement widths shall be ten feet minimum as called for in the County Code. Also, the Commission has made nonsubstantive changes to the conditions imposed by the County to conform the conditions to the Commission's practices concerning document recording. With regard to the building setback variance, the current building is significantly non-conforming under the County Code because it extends beyond the property line. No major reconstructions are allowed to significantly non-conforming structures without specific findings being made under section 13.10.265.j. Given that the right-of-way into which the current building intrudes may be needed in the future for public or vehicular access purposes, it would be difficult to make such findings. Instead, the County granted a variance to allow for a "0" setback, thereby requiring the portion of the building within the Caltrans right-of-way to be removed, as shown on the applicants' plans. Actually, the County-approved plans show about a four foot setback from the property line at the Highway One right-of-way to the base of the structure. The roof of the building extends closer. This leaves some room for an accessway on the property by the building, if necessary. Therefore, with a condition that there be a four foot setback from the property line, the variance is appropriate for the reasons stated in the County's findings (see Exhibit 2). These are incorporated by reference with the substitution of the "PR" setback of 30 feet being varied, not the "C-1" district's 10 foot setbacks.

Parking: In order to meet the visual policies, staff is recommending conditions to reduce the area available for parking. Therefore, a corresponding condition is necessary to ensure that the uses of the project do not generate a parking demand (based on County standards) that exceeds the available parking area. This will involve a two-step process. First, the applicant will have to redesign the parking area, based on County standards and calculate the amount of spaces available. Then, these will have to be allocated among uses. The essence of County conditions IV. A.7, IV.A.8, IV.A.9 regarding parking lot requirements can be retained; however, the required bicycle spaces, loading areas, etc., have to be recalculated based on the final approved uses of the permit.

Ideally, the existing parking area that the public has used to enjoy the Davenport coast should be retained. Since, the parking lot must be formalized to support the new uses of the building, the public nature of the historic and future uses must be factored into the final design. There are three complementary ways to achieve this objective.

First, there should be no reduction in the amount of spaces typically required by the LCP, as the County permit allowed based on multiple uses (20%). This reduction is discretionary under Code Section 13.10.553(b) and is not appropriate for this project. While this conditioned approval leaves the final mix and amount of uses up to the applicants, it emphasizes visitor-serving uses. For such uses, there is a high likelihood that at times they will occupy all of the required parking spaces. Therefore, allowing a parking reduction based on an assumption that one vehicle's occupants will access several uses on-site is not appropriate.

Second, the calculations need to account for all associated public use of the site. It can be surmised that the existing level of public use on the site will continue if given the opportunity.

The existing parking area on the site holds approximately 15 vehicles, with more autos often parking in the adjacent Caltrans right-of-way. Unfortunately, parking counts are not available, but Commission staff observations over the years and other information in the record indicate that the area does receive significant use. The County-approved project plans show outdoor paths and benches and building decks, corridors, and restrooms available to the general public. This means that public use of the site not directly associated with the new commercial uses is even likely to increase.

The County Code requires one parking space per 200 square feet of public buildings and grounds. Since the project plans require revision (and hence the final general public square footage, if any, is unknown) and since the ordinance does not provide detailed guidance as to what would constitute "public grounds" for purposes of calculating parking, setting a reasonable allocation at this time is preferable. Assuming there will be at least 1,000 square feet of public available space (i.e., requiring five parking spaces) and assuming that at least one-third of the existing parking area (i.e., fitting about five cars) is typically occupied during winter whale watching and summer weekends, allocating five spaces to general public uses as part of the determination of allowed uses versus parking availability is appropriate.

Third, applying these calculations will theoretically ensure that some parking spaces continue to be available to the general public. However, the parking formulas represent averaged circumstances. Depending on many factors, including the time of day and the exact nature of the uses, the proposed parking lot, as conditioned, will likely have a varying number of vehicles in it and may even be full on occasion. That, of course, is the current case as well; however, there is little competition among broad user groups (i.e., all of the parking in the upper area is available to the general public and the parking associated with the private building uses has been generally confined to the lower area).

Ensuring that there is no specific reservation of spaces nor other management technique that precludes the historic use of the upper site, as conditioned, is necessary for the following reasons. The site uses will be intensified, some of the new uses may not be visitor-serving, and the other new uses, while visitor-serving, will be oriented indoors, as opposed to the trails to the beach and overlooks. Furthermore, not only is an area the equivalent of about 15 spaces on the applicants' site being formalized under this proposal, but also some additional area within the Caltrans' right of way that is now available for and used for public parking will become unavailable due to the new formalized entrance to the applicants' new parking lot. By not over-allocating the new parking spaces to building uses (i.e., by not providing for a reduction from the number of required spaces), by allocating five spaces to the non-specific, public uses of the building and site, and by retaining the first-come, first-serve situation on the upper lot, as conditioned, the Commission's action will be consistent with the various applicable local coastal program and Coastal Act public access policies including those that require that approval not prejudice any potential public rights that might exist on the upper portion of the property with regard to vehicular parking to view or otherwise enjoy the Davenport coast.

Traffic: The conditioned reduction in project intensity will serve to reduce the amount of traffic generated on the site. This will mean somewhat less traffic on Highway One than projected for

the project as originally proposed. And, this greater amount did not result in any policy inconsistency. The Commission, thus, incorporates the County finding that, "These increases in peak hour volumes will not change the operational level of service on this segment of Highway One from its current LOS rating of 'C.'" Furthermore, to ensure smooth traffic flow and minimize impacts, County conditions II.D, V.F and VI.G, developed in consultation with Caltrans regarding encroachments and a "4-legged" intersection with Highway One, can be retained.

Conclusion: As so conditioned in the manners described, the proposed project is consistent with the cited local coastal program provisions and with Coastal Act Chapter 3 public access policies.

In approving this permit for a modified project, the Commission recognizes that there is a need for continued and improved public parking in the Davenport area. While the project as proposed provided a possible entrance to a future lot, there is no assurance at this time that such a lot will, or should, be built particularly in light of its visual impacts. In addition to public parking provisions being built into specific project reviews, the current Davenport Town Planning exercise under the official auspices of the Board of Supervisors needs to be completed. In particular, there should be a focus on reexamining the *North Coast Beaches Plan* proposals together with other possible parking strategies, including the use of areas across the railroad tracks where automobiles might be hidden. Based on the conclusions of such an exercise, a future coastal permit could revisit the issue of parking for this particular site.

4. Public Services: Sewer and Water

a. Appellants' Contentions

Wastewater: The appellants contend with regard to sewer service (see Exhibit 5 for complete contentions):

Davenport is within the Rural Services Line (LCP 2.3.5). Sanitation facilities within the Rural Services Line should provide for adequate sewage collection, treatment and disposal (LCP 7.20). Community sewage disposal systems shall be sized to serve only the buildout densities for lands within the Rural Services Line (LCP 7.20.1).

The appellants further contend that the Davenport sewage system is not capable of serving the project's sewage needs; the system is over 70 years old; the pipes are in dire need of replacement; the County has applied for a grant to replace the system; but no funds have been appropriated. Additionally, they claim that the funds are to replace the existing system, not to enlarge the system. They believe that the Negative Declaration did not adequately address whether the system could provide for existing vacant parcels within the Rural Services Line.

Furthermore, the appellants' state:

The present project does not have a letter from the Davenport Water and Sewer District stating that the required level of service for sewer discharge

will be available *prior to issuance of building permits*. In addition, the present project does not conform with the Local Coastal Program because the County decision making body did not, and could not, considering the cumulative impacts of the project, determine that the present project has adequate sewage treatment plant capacity.

Water: The appellants' state with regard to water supply:

There is a question as to whether the project will negatively impact Davenport's water source, San Vicente Creek.

There is concern that the project will significantly impact the watershed. Fish and Game has questioned the completeness of the Initial Study regarding water availability, water quality, and water quantity (i.e., maintaining the natural runoff – when one puts in impervious surfaces, the run-off needs to be retained). Fish and Game also has questioned the cumulative impact of present and future projects utilizing San Vicente Creek and thus potential impacting the habitat of state endangered species, such as coho salmon; and federal threatened species, including the red-legged frog, steelhead trout, and coho salmon. If an EIR had been conducted, all of these issues would have been addressed.

The present project does not conform with the Local Coastal Program because it did not acquire, and does not have on record, a letter demonstrating the availability of adequate water supply for the proposed development or addresses its cumulative and growth inducing impacts (LCP 7.18.2).

b. Applicable Local Coastal Program Provisions:

The following *1994 General Plan and Local Coastal Program for the County of Santa Cruz* provisions are applicable to these contentions:

2.1.4 Siting of New Development. Locate new residential, commercial, or industrial development, within, next to, or in close proximity to existing developed areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on environmental and natural resources, including coastal resources.

2.2.2 Public Infrastructure (Facility and Service) Standards for General Plan and Local Coastal Program Amendments and Rezonings: For all...rezonings that would result in an intensification of...land use, consider the adequacy of the following services, in addition to those services required by policy 2.2.1 [water, sewer, etc.] when making findings for approval. Allow intensification of land use only in those areas where all service levels are adequate, or where adequate services will be provided concurrent with development...

5.6.1 Minimum Stream Flows for Anadromous Fish Runs. Pending a determination based on a biologic assessment, preserve perennial stream flows at 95% of normal levels during summer months, and at 70% of the normal winter baseflow levels. Oppose new water rights applications and time extensions, change petitions, or transfer of existing water rights which would individually diminish or cumulatively contribute to the diminishment of the instream flows necessary to maintain anadromous fish runs and riparian vegetation below the 95%/70% standard.

5.6.2 Designation of Critical Water Supply Streams Designate the following streams, currently utilized at full capacity, as Critical Water Supply Streams: Laguna, Majors, Liddell, San Vicente, Mill, and Reggiardo Creeks;... Oppose or prohibit as legal authority allows, new or expanded water diversion from Critical Water Supply Streams. Prohibit new riparian or off stream development or increases in the intensity of use, which require an increase in water diversions from Critical Water Supply Streams. Seek to restore in-stream flows where full allocation may harm the full range of beneficial uses.

Program G [under Chapter 5.6] Develop more detailed information on streamflow characteristics, water use, sediment transport, plant and soil moisture requirements, and habitat needs of Critical Water Supply Streams and streams located in the coastal zone. Use this information to formulate a more detailed strategy for maintenance and enhancement of streamflows on Critical Water Supply Streams and to better understand the role of streamflows in watershed ecosystems and provide a basis for cooperative management of watershed ecosystems/

Objective 7.18b Water Supply Limitations. To ensure that the level of development permitted is supportable within the limits of the County's available water supplies and within the constraints of community-wide goals for environmental quality.

7.18.1 Linking Growth to Water Supplies. Coordinate with all water purveyors and water management agencies to ensure that land use and growth management decisions are linked directly to the availability of adequate, sustainable public and private water supplies.

7.18.2 Written Commitments Confirming Water Service Required for Permits. Concurrent with project application require a written commitment from the water purveyor that verifies the capability of the system to serve the proposed development. Project shall not be approved in areas that do not have a proven, adequate water supply. A written commitment is a letter from the purveyor guaranteeing that the required level of service for the project will be available prior to the issuance of building permits. The County decision making body shall not approve any development project unless it determines that such project has adequate water supply available.

7.18.3 Impacts of New Development on Water Purveyors. Review all new development proposals to assess impacts on municipal water systems, County water districts, or small water systems. Require that either adequate service is available or that the proposed development provide for mitigation of its impacts as a condition of project approval.

7.19.1 Sewer Service to New Development: Concurrent with project application, require a written commitment from the service district. A written commitment is a letter, with appropriate conditions, from the service district guaranteeing that the required level of service for the project will be available prior to issuance of building permits... The County decision making body shall not approve any development project unless it determines that such project has adequate sewage treatment plant capacity.

7.20.1 Community Sewage Disposal Systems, ...Within the Rural Services Line. ...Community sewage disposal systems should be sized to serve only the buildout densities for lands within the RSL.

c. County's Action/Response:

The proposed project is estimated to daily use 5,300 gallons of water and generate 4,792 gallons of wastewater , which is an eight percent increase in the district's wastewater generation, according to the County staff report.

In a December 18, 1998 letter, the County responded to the appellants' contentions by noting that environmental evaluations during the public process acknowledged the limitations in the water and sewer systems of the Davenport Water and Sanitation District which is operated by the County Public Works Department (see Exhibit 6 for complete letter). The processing for upgrading both systems has begun:

The U.S. Department of Agriculture has already approved \$663,750 towards a \$885,000 project to upgrade the sewer system...Public Works has secured a grant for 5% of the cost from the Small Communities Grant Program and has also a loan for 20% of the cost from the State Revolving Fund.

County permit condition IV.C requires:

To prevent over capacity problems from being exacerbated from project sewage discharges into the Davenport Water and Sanitation District's sewer system, the owner/applicant shall pay the appropriate sewer connection charges, as calculated by the District, to pay for the necessary sewer system upgrades. At least 50% of the total fee charges shall be paid prior to the issuance of a Building Permit for phase 1 of the project. An additional payment of at least 43% of the total charges shall be paid prior to issuance of the Building Permit for phase 2 construction. The remaining 7% of the total charges shall be paid prior to issuance of the Building Permit

the phase 3 construction. A Certificate of Occupancy shall not be issued by County Planning for any construction phase until the planned sewage system improvements have been completed by the Davenport Water and Sanitation District.

The County letter goes on to explain:

Regarding domestic water service, the DWSD has repeatedly stated that the volume of water is not the constraining factor for the system; rather the limited capacity of the treatment facilities is what needs to be improved to serve the existing demand. The DWSD is presently negotiating with the largest industry in the Davenport area, RMC Lonestar Cement Company, on a mutually beneficial plan to upgrade the water treatment facilities.

County permit condition IV.B provides:

To prevent over utilization of the Davenport Water and Sanitation District's domestic water supply, the owner/applicant shall provide the necessary improvements to the District water treatment plant as determined by the District for an additional 3,000 gallons/day of domestic water use. The installation of improvements may be spread over a time period specified by the District as long as, at least one-half of the necessary improvements are installed prior to the final inspection and clearance of the Building Permit for phase 1 of the project and all remaining improvements are completed prior to the final inspection and clearance for phase 2.

d. Substantial Issue Determination

Although the County has tried to balance the need to upgrade the wastewater and water systems with the policy requirements, technical violations of the policies have occurred. Apparently in return for allowing the project to proceed if the applicants pay for system upgrades, the County has disregarded the policy stipulations that upgrades be in place before the building permit for project construction is issued.

Wastewater: With regard to wastewater, a written commitment to serve was issued by the Davenport Water and Sanitation District, but noted that only limited sewer service was available. Thereafter, an agreement was reached whereby the applicants would pay a connection fee that would be earmarked to help pay for system upgrades. The County permit approval (condition VI.C) requires the project's applicants to pay for part of the necessary sewer system upgrades (the fee could be paid in three installments tied to three separate phases of project construction). The approval allows the building permits for the project to be issued without the service improvements being completed; instead, the County's permit postponed project occupancy until the wastewater system upgrade is completed. Thus, there is not a clear guarantee that the required level of service for the project would be in place **prior to issuance of the building permit** (as required by policy 7.19.1).

The obvious basis for the policy restriction is that once buildings are completed, there is pressure to actually allow occupancy whether or not service upgrades have been completed.

In this case, the systems and connections are in place and there are no moratoria in effect. Therefore, the permit condition could easily be amended to allow occupancy and its attendant increase in wastewater generation.

Wastewater capacity problems in Davenport in previous years (due to old collection lines into which excess water infiltrates) have led to raw wastewater discharges into the Pacific Ocean. Therefore, any increase in flows, even the estimated eight percent from this project, is significant until the system is upgraded. The Sanitation District is pursuing grant funding for a project to replace leaky sewer mains.

Water: Water is provided by the Davenport Water and Sanitation District. A written commitment from the District to serve was issued, but again noting that limited capacity was available absent needed system upgrades. The water system suffers from limited water filter capacity at the water treatment plant, meaning customers may not be receiving adequately treated drinking water. Therefore, the applicants had discussions with County officials and negotiated an agreement which would allow their project to go forward. In this case, rather than require a fee, the County required the applicants to actually install the water system improvements. As with wastewater, the County conditioned the permit for the proposed project in a way that allows the building permits to be issued and ties project occupancy to water system improvement completion (condition IV.B). Thus, there is not a clear guarantee that the required level of service for the project would be in place **prior to issuance of the building permit** (as required by policy 7.18.2).

The District gets its water from Lone Star Industries, whose sources of water are San Vicente Creek and the tributary Mill Creek. While Lone Star has a riparian right, the District lacks an appropriate right for the water it diverts. No stream flow information was provided in the County permit record. USGS has calculated average annual runoff in the San Vicente watershed at 6,800 acre-feet per year. The cited land use plan policy 5.6.2 (written in the early 1980's before the juice plant was in operation) designates San Vicente and Mill Creeks as "currently utilized at full capacity." Since that policy was written the cojo salmon and the California red-legged frog, which inhabit the creek, have been federally listed as "threatened." The California Fish and Game Commission has designated San Vicente Creek as an endangered coho salmon spawning stream. Whether continued and increased water withdrawals will adversely impact the habitat and what mitigation measures might be taken is unclear. Further uncertainty is added to the overall water picture by the fact that the residential uses in the system are not metered. There is little in the County permit record, nor is there a San Vicente Creek watershed or stream management plan in place to address these issues. The Department of Fish and Game will likely be pursuing this issue as a measure to restore the cojo salmon populations (see Department's 11/24/98 letter in Exhibit 6).. In addition the District will need to perfect its water rights. These actions will be the appropriate junctures to address LCP policies regarding the protection of in-stream flows and the associated riparian habitats. .

The County's permit condition requires the applicant to provide necessary improvements to the water system in order to add 3,000 gallons to the current 2,300 gallons per day of water use. This would supply the estimated consumption of 5,300 gallons per day from the proposed uses (5.3 af/yr). It is uncertain whether or not the County's approval will result in an increased

stream diversion because the amount of water that the District is agreeing to provide represents an actual decrease in the amount of water previously supplied to this site when the building housed the juice plant. It is possible that as part of the District's obtaining the necessary water rights and addressing endangered stream habitat, additional system improvements may be required beyond upgrading the filters.

Conclusion: A substantial issue is raised with regard to compliance with the cited local coastal program policies requiring service commitments.

e. De Novo Coastal Permit Findings

In order to approve a coastal permit for the project, the cited local coastal program policies have to be satisfied. As conditioned to limit the intensity of use (by the parking limitations discussed above), the amount of water used and wastewater generated will likely be less than projected in the county permit file. For example, if the use of the building was comprised of a 2,000 sq. ft. restaurant, four offices, 1,100 sq. ft. of retail, the boat house, and 10 to 15 inn rooms with a day spa, then water use would be approximately 4,130 gpd. Another example would be a bed and breakfast or motel of some 25 to 35 rooms (some "units" may be comprised of more than one room). If there were 35 beds and a day spa, then projected water use would be approximately 4,400 gpd instead of the projected 5,293 gpd. Wastewater generation would be correspondingly reduced. (It would be about 500 gpd less, which is the amount of water use projected for irrigation.)

When the juice plant was in operation in the late 1980's and early 1990's, average daily water use was in the range of 10,000 gallons per day, since then, as noted, it has been 2,300 gpd. Therefore, the project will result in more water use than recently, but much less than in the previous period. According to the County permit file, the owners actually have paid for a water connection for 4,216 gpd. As illustrated above, they may be able to stay within this amount of use under the noted permit conditions. If not, then to comply with *1994 General Plan and Local Coastal Program* policy 7.18.2, they will need an updated written commitment from the Davenport Water and Sanitation District guaranteeing that the required level of service for the project will be available prior to the issuance of building permits, as conditioned.

With regard to wastewater the County permit file indicates that the property owners paid a sewer service connection fee for 1,405 gpd (prior to that time the parcel utilized an on-site septic system). The Sanitation District estimated that the proposed project would generate 4,792 gpd and thus required a connection fee (equaling \$43,038) based on the difference, after a 50 gpd credit for one residential unit. Just as for water, the applicants will need an updated service commitment letter for any amount of wastewater to be generated above the 1,405 gpd in order to satisfy policy 7.19.1, as conditioned.

The County conditioned the project to be completed in three phases. Such phasing seems unnecessary, especially with the required revisions to the project. But, if the revised water calculations exceed the 4,216 gpd figure or the revised wastewater calculations exceed the 1,405 gpd figure, then phasing the project and hence the building permits, would be a way of allowing some construction to occur before all the system improvements are completed. The essence of County conditions IV.A.13, IV.B, and IV.C regarding paying for the water and wastewater system improvements can be retained; the required payments would have to be

recalculated based on this conditional approval. Furthermore, County condition VI.B can be retained to require water conservation practices for landscape irrigation. As so conditioned in all of these manners, the project is consistent with the relevant local coastal program policies.

5. Nonpoint Source Pollution

a. Appellants' Contentions

The appellants contend (see Exhibit 5 for complete contentions):

The present project does not address the additional surface runoff generated by installing impervious surfaces e.g., parking lots. While the project provides grease traps, however effective they might be, the surface runoff leaving the traps is released onto an adjacent parcel with no further discussion. The present parcel is part of a Primary Groundwater Recharge Area.

b. Applicable Local Coastal Program Provisions

The following 1994 *General Plan and Local Coastal Program for the County of Santa Cruz* provisions are applicable to this contention:

5.4.14 Water Pollution from Urban Runoff. Review proposed development projects for their potential to contribute to water pollution via increased storm water runoff. Utilize erosion control measures, on-site detention and other appropriate storm water best management practices to reduce pollution from urban runoff.

5.7.4 Control Surface Runoff. New development shall minimize the discharge of pollutants into surface water drainage by providing the following improvements or similar methods which provide equal or greater runoff control: (a) include curbs and gutters on arterials, collectors and locals consistent with urban street designs; and (b) oil, grease and silt traps for parking lots...or commercial ...development.

5.7.5 Protecting Riparian Corridors and Coastal Lagoons. Require drainage facilities, including curbs and gutters in urban areas, as needed to protect water quality for all new development within 1000 feet of riparian corridors or coastal lagoons.

7.23.1 New Development. ...Require runoff levels to be maintained at predevelopment rates for a minimum design storm as determined by Public Works Design Criteria to reduce downstream flood hazards and analyze potential flood overflow problems. Require on-site retention and percolation of increased runoff from new development in Water Supply Watersheds and Primary Groundwater Recharge Areas, and other areas as feasible.

7.23.2 Minimizing Impervious Surfaces. Require new development to limit coverage of lots by parking areas and other impervious surfaces, in order to minimize the amount of post-development surface runoff.

7.23.5 Control Surface Runoff: Require new development to minimize the discharge of pollutants into surface water drainage by providing the following improvements or similar methods which provide equal or greater runoff control:...(b) construct oil, grease and silt traps from parking lots...or commercial ...development. Condition development project approvals to provide ongoing maintenance of oil, grease and silt traps.

c. County's Action/Response

In a December 18, 1998 letter, the County responded to the appellants' contentions (see Exhibit 6 for complete letter):

No development will occur within the...riparian habitat at the south end of the parcel. San Vicente Creek...is located 1,000 feet southeast of the project parcel. New surface water discharge from impervious surface...will occur 460 feet northwest of the parcel's riparian habitat and 1,460 feet from San Vicente Creek...

Permit conditions require: grading, drainage and erosion control plan; 25 foot bluff setback (#III.F); silt and grease trap for the parking lot (#III.G); and monitoring and maintenance of the grease trap (#VI-C).

The County letter concludes that these measures will assure that surface drainage will not be contaminated. And, because of the distance, the runoff will percolate into the soil before it reaches San Vicente Creek.

d. Substantial Issue Determination:

Analyzed in isolation, the County's conditions would seem to adequately address runoff concerns. But, policy 7.32.2 calls for minimizing impervious surfaces. And as noted, there are other concerns with regard to the size of the parking lot, such as it's visual impact. Therefore, a substantial issue is raised with regard to this contention.

e. De Novo Coastal Permit Findings

In order to approve a coastal permit for the project, all of the cited local coastal program policies have to be satisfied. This can be accomplished by retaining the County conditions III.G, V.B, and VI.C regarding drainage and erosion control. Also, as conditioned to reduce the parking lot size, policy 7.32.2's call for minimizing impervious surfaces is met. Therefore, as conditioned, the proposed project is consistent with the relevant local coastal program policies.

6. *Archaeological Resources*

a. Appellants' Contentions:

The appellants note that local coastal program section 5.19 provides that the county should protect and preserve archaeological resources for their scientific, educational and cultural values, and for their value as local heritage (see Exhibit 5 for complete contentions). They observe that the archaeological reconnaissance done for the negative declaration was limited to surface inspection. The appellants impart that the Department of Parks and Recreation (DPR) notes that Davenport is both a Coastal Indian site and an area where site information is deficient. DPR recommends that "representative areas or site should be preserved, especially in northern Santa Cruz County." Finally, the appellants state that a school employee found an arrowhead on a neighboring Lonestar oceanside parcel.

b. Applicable Local Coastal Program Provisions:

The following 1994 *General Plan and Local Coastal Program for the County of Santa Cruz* provisions are applicable to this contention:

5.19 Archaeological Resources Objective: To protect and preserve archaeological resources for their scientific, educational and cultural values, and for their value as a local heritage.

5.19.2 Site Surveys: Require an archaeological site survey as part of the environmental review process for all projects with very high site potential as determined by the inventory of archaeological sites, within the Archaeological Sensitive Areas, as designed on General Plan and LCP Resources and Constraints Maps filed in the Planning Department.

5.19.4 Archaeological Evaluations: Require the applicant for development proposals on any archaeological site to provide an evaluation, by a certified archaeologist, of the significance of the resource and what protective measures necessary to achieve General Plan and LCP Land Use Plan objectives and policies.

Regarding Implementation, *County Code* Chapter 16.40 has detailed provisions to protect "Native American Cultural Sites."

c. County's Action/Response:

In a December 18, 1998 letter, the County responded to the appellants' contentions by noting that two archaeological reconnaissances were conducted for the site: one by qualified County Planning staff in June 1997 and a second one, including literature research, by Archaeological Consulting, Inc. in July 1997 (see Exhibit 6 for complete letter). Both surveys concluded that there is no evidence of archaeological resources on the site. The County letter notes that additional investigations are required only when such surveys show indications of archaeological resources. In addition, consistent with the archaeological survey recommendations and with Sections 16.40.040 and 16.42.100 of the County Code, if during

site preparation any artifact or other evidence of archaeological resources are discovered, work shall cease and the appropriate archaeological mitigation undertaken.

The County's approval incorporated such a condition (see Exhibit 2).

d. Substantial Issue Determination:

The County has adequately addressed its local coastal program archaeology provisions. The Commission concurs with the analysis in the County letter cited above. Therefore, no substantial issue is raised by this contention.

e. De Novo Coastal Permit Conditions

In order to approve a coastal permit for the project, the cited local coastal program policies have to be satisfied. This can be accomplished by retaining the County condition V.I regarding ceasing work if archaeological resources are found. As so conditioned, the project is consistent with the relevant local coastal program policies.

7. Cumulative & Growth-Inducing Impacts

a. Appellants' Contentions

The appellants have concerns with the cumulative impacts on the Davenport community, the growth-inducing impacts immediately along the Davenport bluffs, and the growth-inducing impacts along the entire region's coastline (see Exhibit 5 for complete contentions). They contend:

The County did not address the Steltenpohl-Bailey project in terms of its cumulative impacts on current and probable future development.

The appellants list a number of future developments that they assert the County is aware of and should have considered in reviewing cumulative impacts on Davenport's sewer and water system, traffic, and scenic and historic resources. They indicate that each concern mentioned earlier in this report will be exacerbated by these additional projects.

The appellants further contend that the proposed development will provide vehicle access through the subject parcel to three adjacent parcels to facilitate their development in violation of Coastal Act policy 30240 and not in conformance with the Master Plan Requirement for priority sites.. These parcels include the RMC Lonestar parcel on the Davenport bluffs; the parcel northwest of the present project, owned by Union Pacific RR and the required dedication of an easement for access to A.P.N. 058-121-03 to the southwest of the project (also owned by Union Pacific). These parcels are outside of the Rural Service Line. One appellant contends:

Assuming development of the additional parcels at level of intensity first established by the present project infrastructure, each parcel would consume an additional 5293 gallons/day (gpd) [of water] over existing conditions. Based upon the ratios of water to sewerage discharge used for

the present parcel there will be an increase of greater than 14% in wastewater load dumped in the Davenport sewerage system per parcel. If the present project and the three adjacent parcels are developed to the level of the present project, not unreasonable..., there would be a 18,879 gpd increase in water consumption over existing conditions and greater than 50% increase in wastewater load...

The appellants claim that Davenport's coastal vista will be blocked by one continuous parking lot since the General Plan for the North Coastal Beaches, Davenport Beach and Bluffs already plans a parking lot further north on the adjacent parcels. They believe that these parking lots individually and cumulatively will significantly degrade the coastal view and are thus incompatible with the continuance of the adjacent recreation areas. The appellants favor public acquisition of bluff top property, citing the *California Coastline Preservation and Recreation Plan*.

Beyond the immediate Davenport bluff area, the appellants are concerned that the proposed project would be the only visitor serving commercial development on the west side of Highway 1 from Pigeon Point in San Mateo County to the City of Santa Cruz. They fear that the project would have precedential impacts that open up the coast to development and cumulatively impact the visual qualities of this scenic road. The appellants are also concerned that the County did not address the cumulative impacts of the potential redevelopment of other former packing sheds on the west side of Highway 1.

b. Applicable Local Coastal Program Policies

The following 1994 *General Plan and Local Coastal Program for the County of Santa Cruz* provisions are applicable to this contention:

2.1.3 Maintaining a Rural Services Line. Maintain a Rural Services Line to serve as a distinct boundary between rural areas and existing enclaves with urban densities. Prohibit the expansion of the Rural Services Line.

2.1.4 Siting of New Development. Locate new residential, commercial or industrial development, within, next to, or in close proximity to existing developed areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on environmental and natural resources, including coastal resources.

2.3.5 Areas Within the Rural Service Line: Utilize a Rural Services Line (RSL) to recognize and delineate Davenport, Boulder Creek, ...as areas which exist outside the Urban Services Line but have services and densities of an urban nature. Allow infill development consistent with designated urban densities only where served by a community sewage disposal system...

2.23.2 Designation of Priority Sites: Reserve the sites listed in Figure 2-5 for coastal priority uses as indicated. Apply use designations, densities, development standards, access and circulation standards as indicated.

2.23.3 Master Plan Requirements for Priority Sites. Require a master plan for all priority sites. Where priority use sites include more than one parcel, the master plan for any portion shall address the issues of site utilization, circulation, infrastructure improvements, and landscaping, design and use compatibility for the remainder of the designated priority use site. The Master Plan shall be reviewed as part of the development permit approval for the priority site.

Figure 2-5 Coastal Priority Sites – North Coast:

- Identifies the Davenport Bluffs, Parcels 058-072-01,02,03, as a priority use site.
- The Designated Priority Use is existing Parks, Recreation and Open Space with development of coastal access overlook, parking and supporting facilities.
- Special Development Standards require depression and landscaping of parking areas to limit visibility from Highway 1 and to maintain unobstructed coastal views and the use of low growing vegetation that will not obstruct views. Eliminate all roadside parking along the property frontage and provide interior pedestrian circulation to separate pedestrians from Highway 1.
- **Circulation and Public Access Requirements** Coordinate improvements with the parking on parcel 058-121-04. Provide safety improvements for pedestrians crossing Highway 1 and the railroad right-of-way, improved trails to the beach and bluffs including safety barriers on the bluffs and near the railroad tracks.

The *North Coast Beaches Unified Plan*, which is contained in the *County General Plan* also discusses this property adjacent to the subject site. Its Enhancement Plan for Davenport Bluffs shows a 23 -26 space unpaved parking lot directly adjacent to the subject project's proposed parking lot. Also shown is a loop trail (along the edge of the bluff and along the railroad tracks) on the property seaward of the subject site.

Regarding Implementation, *County Code* Section 13.11.072(a)2(i) provides:

Coordinated Development: Coordinated site design (including shared parking and circulation systems...) shall be encouraged on adjacent parcels with similar uses. In such cases, mutual access easements granted to each property owner are necessary. Site plans which allow for future shared use between adjacent parcels are encouraged,,,

c. County's Action/Response:

In a December 18, 1998 letter, the County responded to the appellants' contentions regarding precedent and cumulative impacts (see Exhibit 6 for complete letter). County staff notes that the project parcel is the only property on the coastal side of Highway 1 in the area that is designated by the General Plan/LCP for commercial use. Other nearby coastal parcels have land use designations of "Agriculture" or "Parks and Recreation." The County letter indicates that any future development that could occur on the adjoining vacant parcels to the north is limited to the allowable uses in the zoning district, Parks and Recreation. These uses do not include the variety of more intense uses allowed in commercial land use designations and

therefore, the proposed development would not initiate a series of new development demands on Davenport's public services and facilities.

The County letter further argues:

The appellants state that the environmental analysis should have included a cumulative impact analysis of certain other possible future developments...[i.e.,] David Leur barn reconstruction, relocation of Davenport's U.S. post office and expansion of RMC Lonestar cement plant. ..None of the projects...had commenced Environmental Review.... In addition, neither the Luers nor RMC projects had been deemed as complete applications by the County during the time that the Bailey/Steltenpohl project was being processed. Therefore, the concept and density of both proposals are not yet clearly defined. No permit application had been made for a relocation of the post office.

The County concluded that CEQA case law states that a cumulative impact analysis only needs to include those projects that have been deemed complete and commenced Environmental Review.

d. Substantial Issue Determination:

This contention raises the specter of various growth-inducing and cumulative impacts associated with the project, some of which are realistic to expect. They do not encompass new issues beyond those covered in the previous findings, but rather serve to emphasize the previous conclusions of substantial issue being raised with regard to visual impact, land use, and public services.

The appellants are concerned with development that may occur on the adjacent Davenport Bluffs priority sites (parcels APNs 058-072-1, 2, and 3). The project does pave the way for the adjacent site to developed for a parking lot and public access, by virtue of the common accessway being created and the potential loss of public parking on the subject site. In some senses this is positive and will help carry out local coastal program policies. Site patrons may use the proposed parking and trails to access the adjacent bluff top and beach parcels. Also, the County has required that the subject parking lot and its entrance be designed to serve and connect to a future public parking lot on the adjacent site. This may facilitate development of the planned parking lot to serve the traveling public. However, it will also lead to adverse, cumulative visual impacts. Approval of the subject project and its obtrusive parking lot will be precedential for approving additional adjacent parking that would be similarly obtrusive. And the combination of both parking lots, with no break between them, will unalterable change the view of and character of the bluff. In making this finding, the Commission is not downplaying the need for public parking, but rather indicating that more sensitive design treatment needs to be explored and proposed locations need to be reexamined.

With regard to services it is unlikely that the appellants' assertions that the demands generated on these three parcels will be equivalent to those generated by the subject project. Any future development that could occur is limited to the allowable uses under the

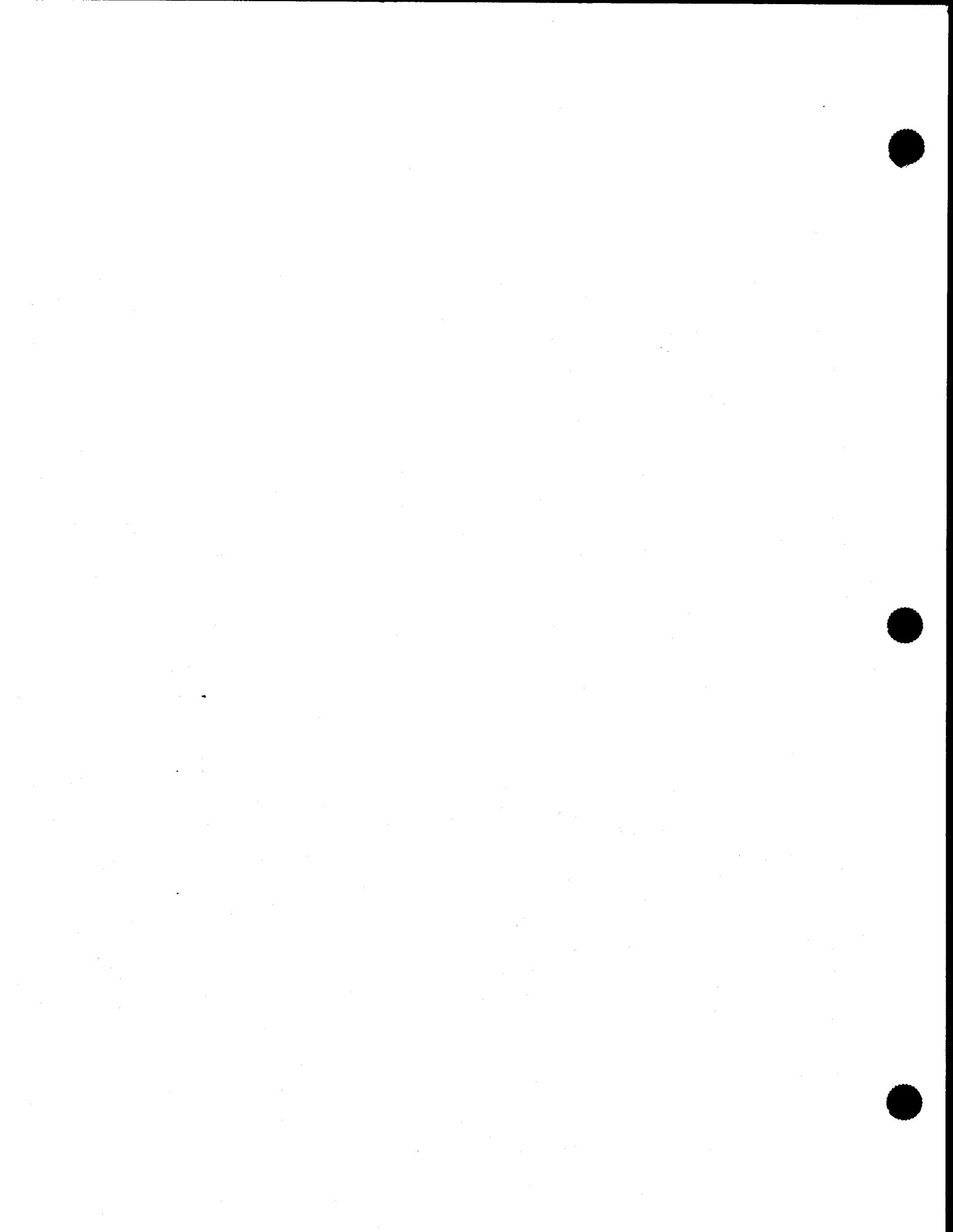
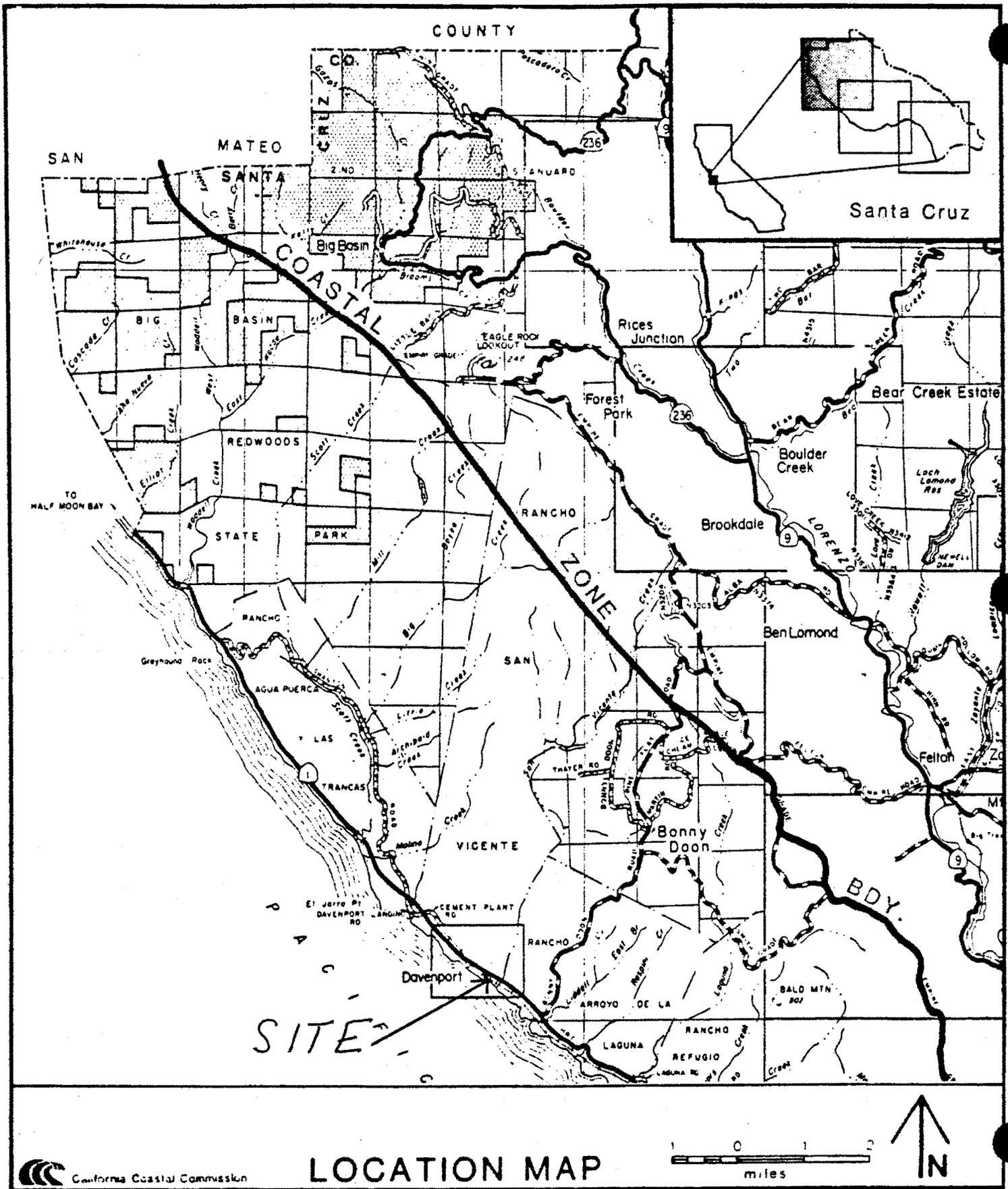


EXHIBIT 1

LOCATION MAPS

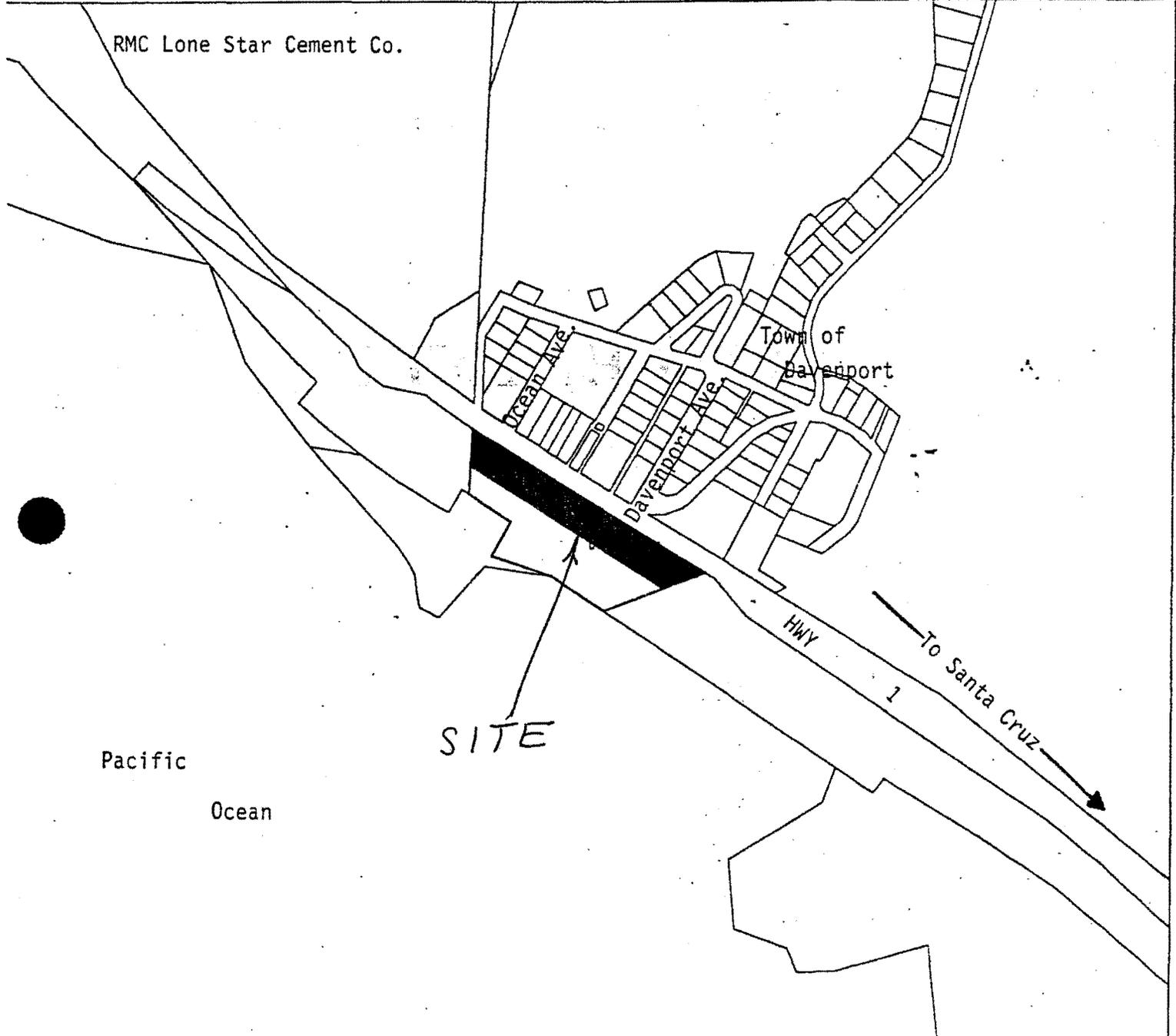


LOCATION OF THE PROJECT PARCEL
A.P.N. 058-121-04 (BAILEY)

SCALE (FT/INCH) = 523
WIDTH IN FEET = 4,149.70
DEPTH IN FEET = 3,649.83

REQUEST ID: location

RMC Lone Star Cement Co.



Pacific
Ocean

SITE

HWY 1
To Santa Cruz

83 ASSESSOR PARCELS

N ↑

EXHIBIT 2

COUNTY ACTION

INCLUDING

**CONDITIONS OF APPROVAL
REZONING FINDINGS
COASTAL ZONE PERMIT FINDINGS
DEVELOPMENT PERMIT FINDINGS
VARIANCE FINDINGS**

Greg Steltenpohl and Fred Bailey
Permit 95-0685
A.P.N. 58-121-04

**FINAL LOCAL
ACTION NOTICE**

REFERENCE # 3-SCO-98-070
APPEAL PERIOD 10/30-11/13/98

CONDITIONS OF APPROVAL

Commercial Development Permit No. 95-0685

Applicant and Property Owner: Greg Steltenpohl and Fred Bailey

Assessor's Parcel No. 58-121-04

Property location and address: Southwest side of Highway 1 opposite the highway's intersections with Davenport Avenue and Center street (3500 Coast Highway 1, Davenport) in the North Coast Planning Area

EXHIBITS

Exhibit A - Architectural Plans prepared by Franks Brenkwitz and Associates dated March 4, 1998 consisting of 9 sheets:

- Sheet A-1 - Title Sheet
- Sheet A-2 - Site Plan
- Sheet A-3 - Landscape of Entire Site
- Sheet A-3.1 - Landscape Plan of New Parking Lot
- Sheet A-4 - Existing Floor Plan of Building
- Sheet A-5 - Lower Floor Plan
- Sheet A-6 - Upper Floor Plan
- Sheet A-7 - Exterior Elevations
- Sheet A-8 - Exterior Elevations

Exhibit B - Preliminary Grading and Drainage Plans prepared by Bowman and Williams dated March 4, 1998 consisting of 3 sheets:

- Sheet C-1 - Plan View of Northwestern Portion of Site
- Sheet C-2 - Plan View of Central Portion of Site
- Sheet C-3 - Cross-sections

RECEIVED

OCT 29 1998

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

CONDITIONS

I. The development approved by this permit and the special reporting requirements are specified below.

A. This permit authorizes the construction of a commercial mixed use building with two residential dwelling units to be constructed in three phases and associated parking areas according to Exhibit A; and the grading necessary to construct the new parking area in accordance with Exhibit B. The permit includes a Variance to reduce the front yard setback to 0 feet for a 53 lineal foot portion of the building. The construction phases are as follows:

Phase 1 - Reconstruction of the northwest half of the existing building to include restaurant/cafe, retail shops and conference meeting rooms on the upper floor and micro-juicery and warehouse and 3 offices on the lower floor and the new 66 vehicle space parking lot.

Phase 2 - Reconstruction of the southeast half of the existing building to include 1 office and 3 visitor accommodation units on the upper floor and 1 office, a day spa, 2 visitor accommodation units and 1 dwelling (for caretaker) on the lower floor and renovation of the existing parking lot to provide for 13 vehicle spaces

Phase 3 - Construction of a detached greenhouse of 750 square foot greenhouse and "boat house" dwelling as shown on sheet A-3 of Exhibit A.

Phases 1 and 2 may be implemented either separately or simultaneously. However, separate implementation will require total completion of phase 1 before commencing phase 2. In any case, phase 3 shall not occur until phases 1 and 2 are completed.

B. This permit supersedes all previous discretionary permits approved for this parcel.

C. This permit shall be reviewed by the Planning Commission at the end of each development phase to determine if all permit conditions have been adequately implemented. In the case of simultaneous implementation of phases 1 and 2, the Planning Commission shall review the project initially, upon completion of the 66 vehicle parking lot and sequentially after the

completion of all phase 1 and 2 requirements. The Planning Commission shall schedule the public hearing review of this permit if, during the Commission's review of a status report prepared by Planning staff, it is determined that a public hearing will facilitate compliance with the requirements of this permit.

- II. Prior to exercising any rights granted by this permit, including without limitation, any construction or site disturbance, the applicant/ owner shall:
 - A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.
 - B. Obtain a Building Permit for Phase 1 of the project from the Santa Cruz County Building Official. Construction drawings for phase 1 shall conform to Exhibit A. Building Permits for phases 2 and 3 of the project shall be required. Construction drawings for these two phases shall also conform to Exhibit A. Building Permits for these construction phases shall be issued after the Building Permit for phase 1 has been finalized if phases 1 and 2 are constructed separately.
 - C. Obtain a Grading Permit from the County of Santa Cruz Planning Department. Final Grading Plans shall conform to Exhibit B. (Refer to Condition III.F).
 - D. Pay a Negative Declaration filing fee of \$25.00 to the Clerk of the Board of the County of Santa Cruz as required by the California Department of Fish and Game mitigation fees program.
- III. Prior to issuance of a Building Permit for phase 1 of the project the applicant/owner shall:
 - A. Dedicate a permanent public easement for pedestrian beach access over the existing trail located southeast of the existing building. The easement document shall be reviewed and approved by County Planning staff and County Counsel prior to recordation of the document.
 - B. Dedicate a permanent public easement over the existing trail paralleling the coastal side of the rail road tracks and a route that joins this trail to Highway 1 that includes the new stairway described in conditions III.E and V.D for pedestrian beach access. This easement will include 4 foot wide strip of land across the parking lot from the stairway to the Highway 1

right-of-way. The easement document shall be reviewed and approved by County Planning staff and County Counsel prior to recordation.

- C. Dedicate a permanent right-of-way over the driveway entrance to the 66 vehicle parking lot and a connecting route of a least 20 feet in width to adjoin with A.P.N. 58-121-03 for the purpose of providing shared vehicle access with A.P.N. 58-121-03 if that parcel is developed in the future. The right-of-way document shall be reviewed and approved by County Planning staff and County Counsel prior to document recordation.
- D. Obtain an Encroachment Permit from Caltrans for the installation and maintenance of landscaping as shown on sheet A-3.1 of Exhibit A.
- E. Obtain a Building Permit for the construction of a public pedestrian stairway to traverse the slope at the northwest corner of the site as shown on sheet A-3.1 of Exhibit A. The construction drawings shall be reviewed and approved by a geotechnical engineer.
- F. Obtain a Grading Permit. This requires submittal of a grading permit application to the building counter of the Planning Department, including two copies of complete grading, drainage, and erosion control plans in conformance with minimum County standards. The plans shall conform to Exhibit B of this permit. The permit fee in effect at the time of submittal shall be paid.

To prevent any soil of bluff instability problems on the project site, all project development shall follow the recommendations of the geotechnical report prepared for this project by Reynolds and Associates dated May 5, 1997 and its addendum report, including the requirement that all grading and paving associated with the new parking lot be set back a minimum of 25 feet from the edge of the bluff that borders the southwestern edge of the parcel. All requirements of the approved Grading Permit are, by reference, hereby incorporated into the conditions of this permit.

No land clearing, grading or excavating shall take place between October 15 and April 15 unless a separate winter erosion-control plan is approved by the Planning Director.

- G. Submit final engineered drainage plans to County Planning for review and approval as part of the Grading Permit application submittal. Final grading plans shall conform to Exhibit B of this permit. To prevent discharges from carrying silt, grease and other parking lot contaminants,

the final drainage plan shall incorporate a silt and grease trap at the most downstream inlet of the parking lot drainage facilities.

IV. Prior to the issuance of a Building Permit for any of the 3 construction phases, the owner/applicant shall:

A. Submit construction drawings that are in substantial conformance with Exhibit A and which include the following:

1. Exterior elevations identifying finish materials and colors in conformance with condition IV.A.12 of this permit.
2. Floor plans identifying each room and its dimensions.
3. Provide complete screening from public view all rooftop mechanical and electrical equipment.
4. A site plan showing the location of all site improvements, including but not limited to, points of ingress and egress, parking areas, loading areas, turnarounds, trash and recycling enclosures, utility connections, easements and pedestrian trail routes.
5. All new electrical power, telephone and cable television service connections shall be installed underground. Pad mounted transformers shall not be located in the front setback or in any area visible from public view unless they are completely screened by walls and/or landscaping or installed in underground vaults. Utility meters, such as gas meters and electrical panels shall not be visible from public streets or building entries.
6. A final sign plan showing dimensions, location, material and colors. No sign illumination is allowed. Plastic shall not be used a sign material. Commercial signage shall be limited to one freestanding sign at each project entrance. Both signs shall be designed to consistent with the architectural character of the main building and as an integral part of the landscape area. Both signs must be set back 5 feet from the edge of the Highway 1 right-of-way and shall not obstruct sight distance of motorists or pedestrians. The maximum height of each sign is 7 feet above grade. The total aggregate sign area of both signs is 50 square feet.
7. Parking, loading and circulation areas shall be surfaced with a

minimum of 2 inches of concrete finished as colorized stamped concrete as specified in Exhibit C of this permit. The pedestrian route from the edge of Highway 1 to the stairway described in condition III.F shall be defined with another type of paving material such as interlocking concrete paver block.

8. The two parking areas shall include 79 parking spaces (of which 40% may be designed to compact car standards). Four of the spaces must be designed as handicapped accessible parking spaces. These spaces shall be located as shown on Exhibit A. Twenty-three bicycle parking spaces shall also be provided as shown on Exhibit A. All spaces and loading berth shall be delineated by a variation in the color and pattern of the stamped concrete surfacing and defined by wheel stops. The size of each standard parking space shall be not less than 18' X 8-1/2'. Compact spaces shall be at least 16' X 7-1/2'. Handicapped accessible spaces shall be 18' X 14'. Each bicycle space shall be 6' X 2' in size and equipped with a parking rack to support the bicycle and be of sufficient material and strength to prevent vandalism and theft.
9. At least 2 loading spaces (sized 45' X 14') shall be provided and designed in accordance with sections 13.10.570-.571 of the County Code.
10. The lighting of all parking and circulation areas shall be limited to pedestrian oriented lighting not to exceed 3 feet in height. This lighting shall be minimized to the amount necessary for safety purposes. One such light standard on each side of each driveway entrance to the project shall be permitted. Other lighting shall be located where necessary to allow safe pedestrian use of the parking area at night. All lighting shall be designed so it does not produce any glares off-site.
11. Follow all recommendations of the geotechnical report prepared by Reynolds and Associates for this project dated May 5, 1997 and its addendum, regarding the construction and other improvements on the site, including the requirement that all grading and paving associated with the parking lot be setback a minimum of 25 feet from the edge of the bluff that borders the southwestern edge of the parcel. All pertinent geotechnical report recommendations shall be included in the construction drawings submitted to the

County for a Building Permit. All recommendations contained in the County acceptance letter(s) dated November 3, 1997, shall be incorporated into the final design. A plan review letter from the geotechnical engineer shall be submitted with the plans stating that the plans have been reviewed and found to be in compliance with the recommendations of the geotechnical engineer.

12. To minimize the visual impact of the main project building to insignificant levels and allow ocean vistas to be retained at the northwest portion of the parcel, these features shall be incorporated into the project:
 - a. The exterior colors at the main project building shall be earthen tone colors that blend with the surrounding landscape or corrugated metal siding replicating an agricultural building, both of which have been approved by County Planning;
 - b. The landscape plan prepared for this project prepared by Franks Brenkwitz and Associates dated March 4, 1998 (sheet A-3.1 of Exhibit A) shall be implemented prior to final inspection and clearance of the Building Permit for phase 1 of the project;
 - c. Any fencing in the vicinity of the parking lot shall be limited to the rustic split rail fencing shown on the landscape plan that restricts access to the edge of the bluff southwest of the parking lot.
 13. Final plans shall note that Davenport Water and Sanitation District will provide water service and sewer service and shall meet all requirements of the District including payment of any connection and inspection fees as specified in the two following conditions below. Final engineered plans for water and sewer connection shall be reviewed and accepted by the District.
- B. To prevent over utilization of the Davenport Water and Sanitation District's domestic water supply, the owner/applicant shall provide the necessary improvements to the District water treatment plant as determined by the District for an additional 3,000 gallons/day of domestic water use. The installation of improvements may be spread over a time period specified by the District as long as, at least one-half of the

necessary improvements are installed prior to the final inspection and clearance of the Building Permit for phase 1 of the project and all remaining improvements are completed prior to the final inspection and clearance for phase 2.

- C. To prevent over capacity problems from being exacerbated from project sewage discharges into the Davenport Water and Sanitation District's sewer system, the owner/applicant shall pay the appropriate sewer connection charges, as calculated by the District, to pay for the necessary sewer system upgrades. At least 50% of the total fee charges shall be paid prior to the issuance of a Building Permit for phase 1 of the project. An additional payment of at least 43% of the total charges shall be paid prior to issuance of the Building Permit for phase 2 construction. The remaining 7% of the total charges shall be paid prior to issuance of the Building Permit the phase 3 construction. A Certificate of Occupancy shall not be issued by County Planning for any construction phase until the planned sewage system improvements have been completed by the Davenport Water and Sanitation District.
- D. Meet all requirements and pay the appropriate plan check fee of the California Department of Forestry and Fire Protection
- E. Pay the Santa Cruz County Park Dedication fee in effect at the time of Building Permit issuance for phase 3. On March 25, 1998, this fee would total \$ 538.00 for a 1 bedroom single-family dwelling.
- F. Pay the Santa Cruz County Child Care fee in effect at the time of Building Permit issuance. On March 25, 1998 the fee is calculated as follows:
 - 1. \$0.12/square foot of warehouse floor area;
 - 2. \$0.23/square foot of floor area for all other approved commercial and visitor-serving uses; and
 - 3. \$109.00/bedroom for single-family dwellings (phase 3).
- G. Meet all requirements of the Department of Public Works and pay all fees for Zone 4 Santa Cruz County Flood Control and Water Conservation District including plan check and permit processing fees.
- H. Submit a written statement signed by an authorized representative of the Pacific School District and the Santa Cruz High School District in which

the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district in which the project is located.

- V. All construction shall conform to the approved plans issued for a Grading Permit and separate Building Permits. The following requirements shall be met during all grading and construction activities:
- A. To prevent this project from contributing to accelerated filling of either the City or County of Santa Cruz landfills, the owner/applicant shall have the all excess fill material from grading activities that is removed from the site transported to Big Creek Lumber Company on Highway 1 for use as 6 inch cover on the surface of their staging yard or transported to another County approved fill site.
 - B. To control all surface drainage and prevent erosion impacts, the owner/applicant shall implement an engineered drainage plan that conforms to the preliminary engineered drainage plan prepared for the project by Bowman and Williams dated March 4, 1998 (Exhibit B). The final approved plan shall be implemented as part of the Grading Permit for this project. A silt and grease trap shall be installed as discussed in condition III.G above at the same time other drainage improvements are installed. All improvements specified in the approved plan shall be installed prior to final inspection and clearance of the Building Permit for phase 1 of the project.
 - C. To minimize dust impacts to surrounding properties during excavation for the new parking lot, the owner/applicant shall have a water truck on the site during all major grading activities and shall have all exposed earthen surfaces water sprayed at frequencies that prevent significant amount of dust from leaving the project site.
 - D. To prevent increased erosion of the steep bluff face that borders the southwestern edge of the parcel from increased pedestrian traffic, the owner/applicant shall construct a pedestrian stairway to traverse this bluff face and repair the three areas of pedestrian induced erosion on the bluff face prior to final inspection and clearance of the Building Permit for phase 1 of this project. The stairway shall be located to provide access from the southwest corner of the new parking lot. The stairway shall be constructed according to the approved Building Permit plans for this improvement (Refer to condition III.E)

- E. To minimize noise impacts to insignificant levels to users of the project building, all building construction shall meet noise insulation requirements for residential and commercial buildings as specified in the Uniform Building Code.
- F. To prevent operational conflicts from occurring from project generated traffic, the owner/applicant shall make the following improvements prior to completion of phase 2 of the project:
 - a. Realign the south project entrance driveway to be located directly opposite Davenport Avenue to create a "4-legged" intersection with Highway 1 according to Caltrans specifications; and
 - b. Provide striping and signage on Highway 1 as approved by Caltrans which advises northbound motorists that northbound left turns into the south driveway entrance to the project are disallowed.
- G. All new electrical power, telephone, and cable television service connections shall be installed underground.
- H. All improvements shall comply with applicable provisions of the Americans With Disabilities Act and/or Title 24 of the State Building Regulations.
- I. Pursuant to Sections 16.40.040 and 16.42.100 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.100, shall be observed.
- J. All construction shall be performed in accordance with the approved plans. Prior to final building inspection and building occupancy for each construction phase, the owner/applicant shall meet the following conditions:
 - 1. All site improvements shown on the final approved Building Permit plans shall be installed;

2. All inspections required by the Building Permit shall be completed to the satisfaction of the County Building Official; and
3. The project geotechnical engineer shall submit a letter to the Planning Department verifying that all construction has been performed according to the recommendations of the accepted geotechnical report. A copy of the letter shall be kept in the project file for future reference.

VI. Operational Conditions.

A. This permit constitutes a Master Occupancy Program for the project site. Those "C-1" and "CT" zone district uses specified below shall be authorized to occupy the subject building provided that a Level 1 Change of Occupancy Permit is issued by the County of Santa Cruz Planning Department. No use will be allowed which requires more parking than available on site. The "C-1" and "CT" zone district uses allowed on the site are as follows:

1. Restaurant/cafe
2. Micro-juicery and warehouse associated with a restaurant and or cafe
3. Offices, not to exceed 50% of the floor area of the building
4. Conference and seminar facilities
5. Neighborhood scale retail sales (See County Code Section 13.10.332)
7. Two residential dwelling units
8. Day spa, sauna, hot tub uses
9. "Type A" overnight visitor accommodations (See County Code Section 13.10.332)

B. All landscaping shall be permanently maintained with the species specified on the landscape plan. Replacement of any tree or shrub fatalities shall be done with the same species as shown on the plan or a species with nearly identical characteristics as approved by County

Planning. Parking lot landscaping shall always be limited to ground cover and low growing (less than 2-1/2 feet in height) shrubs. All hedges surrounding the project buildings shall be permanently maintained as follows. The Monterey cypress hedge at the southeast and northwest ends of the building shall be maintained with a cut height of 7 feet and a maximum growth height of 9 feet. The Myoporum hedge parallel to Highway 1 shall be maintained with a maximum height that does not exceed the height of the main building. The maintenance of landscaping shall include the following practices:

1. Soil Conditioning. In new planting areas, soil shall be tilled to a depth of 6 inches and amended with six cubic yards of organic material per 1,000 square feet to promote infiltration and water retention. After planting, a minimum of 2 inches of mulch shall be applied to all non-turf areas to retain moisture, reduce evaporation and inhibit weed growth.
2. Irrigation Management. All required landscaping shall be provided with an adequate, permanent and nearby source of water which shall be applied by an installed irrigation, or where feasible, a drip irrigation system. Irrigation systems shall be designed to avoid runoff, overspray, low head drainage, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways or structures.
3. Appropriate irrigation equipment, including the use of a separate landscape water meter, pressure regulators, automated controllers, low volume sprinkler heads, drip or bubbler irrigation systems, rain shutoff devices, and other equipment shall be utilized to maximize the efficiency of water applied to the landscape.
4. Plants having similar water requirements shall be grouped together in distinct hydrozones and shall be irrigated separately.
5. The irrigation plan shall show the location, size and type of components of the irrigation system, the point of connection to the public water supply and designation of hydrozones. The irrigation schedule shall designate the timing and frequency of irrigation for each station and list the amount of water, in gallons or hundred cubic feet, recommended on a monthly and annual basis.
6. Landscape irrigation should be scheduled between 6:00 p.m. and

11:00 a.m. to reduce evaporative water loss.

- C. All installed drainage facilities shall be permanently maintained. The silt and grease trap shall be maintained on a regular basis according to the following monitoring and maintenance procedures:
1. The trap shall be inspected to determine if it needs to be cleaned out or repaired at the following minimum frequencies:
 - a. Prior to October 15 each year;
 - b. Prior to April 15 each year; and
 - c. During each month it rains between November 1 and April 1.
 2. A brief annual report shall be prepared by the trap inspector at the conclusion of each October 15 inspection and submitted to the property owner and to County Public Works staff within 15 days of this inspection. This monitoring report shall specify any repairs that have been done or that are needed to allow the trap to function adequately.
- D. The stairway discussed in condition V.D above shall be permanently maintained in good condition by the property owner. Similarly, the earthen pedestrian trails described in conditions III.A and III.B above shall be maintained free from erosion and obstructions by the property owner.
- E. Any live or recorded music played on the premises shall not be heard beyond the subject property. No music shall be played within the 66 vehicle parking lot.
- F. The hours for retail and public food serving uses shall be limited to 6:00 a.m. to 9:00 p.m.
- G. Busses must park in the lower parking lot and only use the new 66 vehicle parking lot to discharge passengers.
- H. In the event that there is non-compliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including

permit revocation.

- VII. As a condition of this development approval, the holder of this development approval ("Development Approval Holder"), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys' fees), against the COUNTY, its officers, employees, and agents to attack, set aside, void, or annul this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.
- A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.
 - B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:
 - 1. COUNTY bears its own attorney's fees and costs; and
 - 2. COUNTY defends the action in good faith.
 - C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.
 - D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor(s) in interest, transferee(s), and assign(s) of the applicant.
 - E. Within 30 days of the issuance of this development approval, the Development Approval Holder shall record in the office of the Santa Cruz

County Recorder an agreement which incorporates the provisions of this condition, or this development approval shall become null and void.

VI. Mitigation Monitoring Program

The mitigation measures listed under this heading have been incorporated into the conditions of approval for this project in order to mitigate or avoid significant effects on the environment. As required by Section 21081.6 of the California Public Resources Code, a monitoring and reporting program for the above mitigations is hereby adopted as a condition of approval for this project. This monitoring program is specifically described following each mitigation measure listed below. The purpose of this monitoring is to ensure compliance with the environmental mitigations during project implementation and operation. Failure to comply with the conditions of approval, including the terms of the adopted monitoring program, may result in permit revocation pursuant to Section 18.10.462 of the Santa Cruz County Code.

A. Mitigation Measure: Conditions III.F and IV.A.11 (Prevention of Soil Instability)

Monitoring Program: The Grading Permit and Building Permit for phase 1 will not be issued by County Planning until a geotechnical engineer's review and approval letter is submitted specifying plan conformance with the geotechnical report. Planning staff inspection for the Grading Permit will include verification of the required 25 foot setback from the top of the steep slope. Neither the Building Permit nor the Grading Permit will be finalized without a final inspection and approval letter from the project geotechnical engineer. All review letters shall be permanently retained in the project file.

B. Mitigation Measure: Conditions III.G, V.B. and VI.C (Provide and Monitor Silt and Grease Traps)

Monitoring Program: The Grading Permit and Building Permit for phase 1 will not be issued by County Planning without the appropriate number of silt and grease traps identified on the final drainage plan. Planning staff inspection of the Grading Permit and sign-off for the Building Permit will not occur until the traps have been installed according to the approved plans. The owner/applicant shall submit monitoring reports, as specified by condition VI.C to the Drainage Section of the County Public Works Department. Public Works will advise County Planning of any problems with trap maintenance or non-receipt of monitoring reports. In that case,

Planning will contact the property owner and take appropriate enforcement action to correct the problem.

C. Mitigation Measure: Condition IV.A.12 (Minimization of Visual Impacts)

Monitoring Program: The requirements of this condition will be checked during plan review ("Zoning Plan Check") of the construction drawings submitted for Building Permits. A Building Permit for phase 1 and subsequently phase 2 will not be issued until the drawings conform with the requirements of this permit condition. Planning staff will verify all requirements have been met in the construction of the project before holds on the Building Permits for each construction phase have been released. Photos of each completed phase of the project will be taken at the time the hold is released and permanently retained in the project file.

D. Mitigation Measure: Condition IV.B (Improvements to the Water Treatment facilities of the Davenport Water and Sanitation District)

Monitoring Program: The owner/applicant shall enter into an agreement with the DWSD to provide the needed improvements to the domestic water system as required by condition IV.B. The Building Permit for each phase of construction will not be issued by County Planning until a written notification from the DWSD staff has been received specifying that an agreement between the owner/applicant and DWSD has been approved. Requirements to implement the agreement shall be specified in this notification. Final inspection and clearance of the Building Permit for each phase shall not be granted until all requirements have been adequately implemented to the satisfaction of the DWSD staff. Another written notification shall be submitted to Planning by DWSD when all improvements required at each construction phase are completed. All notifications from DWSD shall be permanently retained in the project file.

E. Mitigation Measure: Condition IV.C (Improvements to sewer facilities of the Davenport Water and Sanitation District)

Monitoring Program: The Building Permit for each construction phase shall not be issued by County Planning until all fees are paid as required by condition IV.C. DWSD shall notify County Planning in writing when the appropriate fees have been paid. This notification shall be permanently retained in the project file. These fees will be added to other monies secured by the DWSD to finance sewer replacements. DWSD will advise

County Planning and the owner/applicant in writing when the sewer improvements are completed.

F. Mitigation Measure: Condition V.A (Transport of Excess Fill to Approved Fill Site)

Monitoring Program: The owner/applicant shall inform Big Creek Lumber at least 30 days prior to making an application for a Grading Permit to confirm that the excess fill material can be deposited at Big Creek's lumber yard. If Big Creek no longer wants the material, the owner/applicant shall find another appropriate fill site to propose to County Planning. The Grading Permit shall not be approved until written permission from the fill recipient is provided and the site has been approved by County Planning for inclusion into the Grading Permit. The owner/applicant shall submit written verification from the fill material recipient (Big Creek Lumber or other approved fill site) to County Planning staff specifying the approximate volume of fill material received from the project during phase 1 construction. The hold on the Building Permit for phase 1 will not be released nor the Grading Permit finalized by County Planning until this letter is received. This documentation shall be permanently retained in the project file.

G. Mitigation Measure: Condition V.B. (Installation of Drainage Improvements)

Monitoring Program: The hold on the Building Permit for phases 1 and 2 shall not be released by Planning staff until all drainage improvements have been installed according to the approved plans.

H. Mitigation Measure: Condition V.C (Minimization of Dust During Construction)

Monitoring Program: County Planning staff, including the area Building Inspector, shall observe dust containment measures on the site during construction at all regular inspections. Any observed problems will be communicated immediately to the work crew and owner/applicant for rectification in 24 hours. A follow-up inspection will occur in 24 hours to verify the problem has been corrected.

I. Mitigation Measure: Condition V.D (Construction of Pedestrian Stairway and Prevention of Erosion on Slope)

Monitoring Program: The owner/applicant shall submit engineered plans and a geotechnical report for a Building Permit application to construct the stairway described in condition V.D. The plans and geotechnical report shall be approved and the Building Permit issued before any other Building Permits are issued for this site. The construction of the stairway shall be completed and a final inspection letter from the geotechnical engineer submitted to County Planning before the hold on phase 1 construction is released.

J. Mitigation Measure: Condition V.E (Noise Insulation)

Monitoring Program: The owner/applicant shall include information of the construction drawings for phases 1, 2 and 3 describing how highway noise reduction will be achieved for interior spaces. Building Permits for each phase shall not be issued until noise insulation measures have been approved by Building Plan Check staff. The area Building Inspector shall verify that noise insulation/reduction measures have been adequately installed during regular construction inspections. The Building Permit will not be finalized without noise reduction measures being approved.

K. Mitigation Measure: Condition V.F (Improvements to Avoid Traffic Conflicts)

Monitoring Program: The construction drawings for phase 2 shall include the improvements specified by condition V.F as well as a letter from Caltrans demonstrating that the agency has reviewed and approved the plans for these improvements. The Building Permit will not be issued until these requirements have been met. Planning staff will inspect the site to verify that the improvements have been installed as approved. The hold on the Building Permit for phase 2 will not be released until the improvements have been adequately installed. Photos documenting the improvements will be taken and permanently retained in the project file.

L. Mitigation Measure: Condition VI.B (Maintenance of Landscaping)

Monitoring Program: Planning staff shall observe the condition of landscaping during each site inspection. Enforcement staff shall respond to citizen complaints regarding landscape maintenance. Any problems shall be immediately communicated to the owner/applicant with follow-up inspections to verify resolution of problems.

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Minor variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

**PLEASE NOTE: THIS PERMIT EXPIRES TWO YEARS FROM DATE OF APPROVAL
UNLESS YOU OBTAIN YOUR BUILDING PERMIT AND COMMENCE
CONSTRUCTION.**

Gregf&c.wpd/pin453

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Affects to this property were not considered when this rezoning occurred. Therefore this rezoning is necessary to allow the uses encouraged by the General Plan.

COASTAL ZONE PERMIT FINDINGS:

1. THAT THE PROJECT IS A USE ALLOWED IN ONE OF THE BASIC ZONE DISTRICTS, OTHER THAN THE SPECIAL USE (SU) DISTRICT, LISTED IN SECTION 13.10.170(d) AS CONSISTENT WITH THE GENERAL PLAN AND LOCAL COASTAL PROGRAM LUP DESIGNATION.

The mixed uses of visitor accommodations, restaurant, micro-juicery, offices (of less than 50% the total floor space of the project building) and ancillary residential units are allowed in the implementing zone districts of the parcel's General Plan designation of "Neighborhood Commercial".

2. THAT THE PROJECT DOES NOT CONFLICT WITH ANY EXISTING EASEMENT OR DEVELOPMENT RESTRICTIONS SUCH AS PUBLIC ACCESS, UTILITY, OR OPEN SPACE EASEMENTS.

The project has been designed so that it will not encroach or otherwise impact the existing 30 foot wide rail road right-of-way located along the southwestern edge of the parcel. Caltrans has given preliminary approval for a minor encroachment into the Highway 1 right-of-way to maintain project landscaping along the highway side of the new parking lot because it will be located in a part of the right-of-way that is not planned for traffic use nor development.

3. THAT THE PROJECT IS CONSISTENT WITH THE DESIGN CRITERIA AND SPECIAL USE STANDARDS AND CONDITIONS OF THIS CHAPTER PURSUANT TO SECTION 13.20.130 et seq.

Subject to the concurrent approval of the proposed rezoning, the project is consistent with the design criteria and special use standards and conditions of this chapter pursuant to Section 13.20.130 et seq., in that the project does not involve excessive grading, is visually compatible with the character of the surrounding Highway 1 commercial frontage of Davenport, has been designed to not block views of the shoreline from public areas, has been sited and designed to place the main structure within the basic footprint of the existing building thereby making the new building subordinate to the character of the site. The project complies with the special standards of Section 13.20.143 (Davenport Special Community Design Criteria) in that the project provides visitor serving uses, as encouraged by that Section and will provide

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adequate parking as determined by Sections 13.10.552 and .553. The project will provide for bicycle parking and will also provide low growing landscaping that will help screen recessed parking without obstructing ocean views.

4. THAT THE PROJECT CONFORMS WITH THE PUBLIC ACCESS, RECREATION, AND VISITOR-SERVING POLICIES, STANDARDS AND MAPS OF THE GENERAL PLAN AND LOCAL COASTAL PROGRAM LAND USE PLAN, SPECIFICALLY CHAPTER 2: FIGURE 2.5 AND CHAPTER 7, AND, AS TO ANY DEVELOPMENT BETWEEN AND NEAREST PUBLIC ROAD AND THE SEA OR THE SHORELINE OF ANY BODY OF WATER LOCATED WITHIN THE COASTAL ZONE, SUCH DEVELOPMENT IS IN CONFORMITY WITH THE PUBLIC ACCESS AND PUBLIC RECREATION POLICIES OF CHAPTER 3 OF THE COASTAL ACT COMMENCING WITH SECTION 30200.

The project site, located between the shoreline and the first public road, contains one public pedestrian trail to the beach that will not be affected by this project. General Plan/Local Coastal Program policy 7.7.15 identifies Davenport Bluff and Davenport Beach as areas designated for primary public access. The project has been conditioned to require that a permanent pedestrian easement be placed over this trail to ensure that public access along the trail continues in perpetuity.

Four other less used trails are located to the northwest of the trail described above. These four trails traverse the steep bluff and have resulted in accelerated erosion on this unstable slope. The continued use of any of these four trails would exacerbate the continued erosion problem. To solve the erosion problem and provide a second trail access to the beach, the project has been conditioned to require that the applicant construct a stairway down the steep slope to replace the four damaged trail routes. The condition includes placing the stairway and a connecting trail under a permanent pedestrian easement as well as a route that connects the stairway to Highway 1 so that complete pedestrian access is provided from Highway 1 to the beach without causing erosion problems on the steep slope.

The project design includes a coastal/marine viewing area on the coastal side of the new parking lot so people can utilize this area for whale watching or similar passive recreational pursuits as now occur at the site. All of these provisions and design features comply with General Plan/LCP policies 7.6.2, 7.7.1, 7.7.11 and 7.7c regarding coastal recreation and beach access.

5. THAT THE PROPOSED DEVELOPMENT IS IN CONFORMITY WITH THE CERTIFIED LOCAL COASTAL PROGRAM.

The proposed project is in conformity with the County's certified Local Coastal Program

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in that:

- a. The project has been sited and designed to minimize visual impacts as much as possible as discussed in detail in the Initial Study and staff report;
- b. No development will occur within the riparian corridor thereby protecting this significant natural resource;
- c. Pedestrian access to the beach will be provided and improved from the existing situation and public trail easements will be secured for the public's permanent use;
- d. The project will provide visitor serving uses in accordance with the policies and standards of the Davenport Special Community.

DEVELOPMENT PERMIT FINDINGS:

1. THAT THE PROPOSED LOCATION OF THE PROJECT AND THE CONDITIONS UNDER WHICH IT WOULD BE OPERATED OR MAINTAINED WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY, OR WELFARE OF PERSONS RESIDING OR WORKING IN THE NEIGHBORHOOD OR THE GENERAL PUBLIC, OR BE MATERIALLY INJURIOUS TO PROPERTIES OR IMPROVEMENTS IN THE VICINITY.

The location of the project and the conditions under which it would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, and will not result in inefficient or wasteful use of energy, and will not be materially injurious to properties or improvement in the vicinity in that the project is located in an area designated for commercial uses and project development will be located on areas of the site not encumbered by physical constraints to development. Construction will comply with prevailing building technology, the Uniform Building Code, and the County Building ordinance to insure the optimum in safety and the conservation of energy and resources. In addition, the project was issues a Mitigated Negative Declaration on February 24, 1998. All 11 mitigation measures to avoid or significantly minimize environmental impacts have been incorporated into the permit conditions for this project.

2. THAT THE PROPOSED LOCATION OF THE PROJECT AND THE CONDITIONS UNDER WHICH IT WOULD BE OPERATED OR MAINTAINED WILL BE CONSISTENT WITH ALL PERTINENT COUNTY ORDINANCES AND THE PURPOSE OF THE ZONE DISTRICT IN WHICH THE SITE IS LOCATED.

Upon rezoning the project as proposed, the project site will be located in the "SU" zone district. One of the purposes of the "SU" zone district is to accommodate mixed uses allowed by the parcel's General Plan designation, but would not be permitted in any other zoning district; such is the case with this commercial mixed use project. The conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the "SU" zone district in that the primary use of the property will be those commercial uses consistent with the General Plan land use designation of the site of "Neighborhood Commercial".

3. THAT THE PROPOSED USE IS CONSISTENT WITH ALL ELEMENTS OF THE COUNTY GENERAL PLAN AND WITH ANY SPECIFIC PLAN WHICH HAS BEEN ADOPTED FOR THE AREA.

The project is located in the "Neighborhood Commercial" land use designation. The proposed mixed commercial and residential use is consistent with all elements of the

General Plan in that all the uses are conditionally permitted in the "C-1" and "VA" zone districts which are both underlying zoning districts that correspond to the General Plan designation of the property. The project is consistent with the General Plan in that the project is required to provide the needed upgrades to domestic water and sanitation service so the project can be adequately provided with these services without impacting these services for other customers of the Davenport Water and Sanitation District. Further, the use is not located in a hazardous or environmentally sensitive area and the proposal protects natural resources by expanding in an area designated for this type of development.

The project is consistent with the North Coast Beaches Master Plan in that the project has been conditioned to maintain and enhance public pedestrian access to Davenport Beach, as well as, facilitate safe and coordinated vehicular access to the adjoining vacant parcel now owned by RMC Lonestar if that parcel is ever developed in the future.

4. THAT THE PROPOSED USE WILL NOT OVERLOAD UTILITIES AND WILL NOT GENERATE MORE THAN THE ACCEPTABLE LEVEL OF TRAFFIC ON THE STREETS IN THE VICINITY.

The use will not overload utilities and will not generate more than the acceptable level of traffic on the streets in the vicinity in that the commercial and residential uses of this project will not use an inordinate amount of electricity or natural gas. Further, the increase of traffic generated by the project at build-out will be 28 vehicle trips/weekday peak hour and 35 vehicle trips/weekend peak hour. These increase in peak hour volumes will not change the operational level of service on this segment of Highway from its current LOS rating of "C"..

5. THAT THE PROPOSED PROJECT WILL COMPLEMENT AND HARMONIZE WITH THE EXISTING AND PROPOSED LAND USES IN THE VICINITY AND WILL BE COMPATIBLE WITH THE PHYSICAL DESIGN ASPECTS, LAND USE INTENSITIES, AND DWELLING UNIT DENSITIES OF THE NEIGHBORHOOD.

The proposed commercial mixed use/residential project will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects, land use intensities, and dwelling unit densities of the neighborhood in that visitor-serving commercial uses will continue to be provided on the Highway 1 frontage of Davenport as encouraged by the General Plan and County Code. The design of the project continues to limit structural development on that portion of the parcel where the existing building is located. This design preserves coastal and marine views as well avoids other visual impacts that could be created by a project with more structural development on the site. The project will increase the

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number of dwelling units from 1 dwelling to 2 dwellings at build-out. Both dwellings will be accessory to the visitor-serving uses and other commercial uses of the project. All services can be provided to both dwellings in addition to the mixed commercial uses on the site.

6. THE PROPOSED DEVELOPMENT PROJECT IS CONSISTENT WITH THE DESIGN STANDARDS AND GUIDELINES (SECTIONS 13.11.070 THROUGH 13.11.076), AND ANY OTHER APPLICABLE REQUIREMENTS OF THIS CHAPTER.

The proposed development is consistent with the Design Standards and Guidelines of the County Code in that the development:

- a. Will be compatible with existing land use patterns as discussed in finding 5 above;
- b. Includes architectural elements, exterior materials and colors that comply with the "Coastal Special Communities" standards of the General Plan/LCP and the County Code;
- c. Includes a requirement for a right-of-way over the new project entrance to benefit the adjoining parcel to the northwest so coordinated parking lot design may occur with that parcel if it is ever developed in the future;
- d. Will maintain the natural site amenity of a marine viewing area on the bluff through incorporating a public open space with benches between the top of the bluff slope and the new parking lot; and
- e. Has been designed to maintain coastal and marine views from public streets and private properties with minimal effects;

In accordance with Section 13.11.053, an exception to the parking lot landscaping standards of the Design Review Ordinance has been made to allow only low growing shrubs and ground cover as proposed by the applicant instead of trees and high growing shrubs which are the standard for commercial parking lots. This exception recognizes the significant visual resource location of the site which provide coastal and marine views for the public even when the viewing is done from Highway 1 or other properties beyond the site. This exception will allow landscaping to be installed in the parking lot that does not obstruct views of the ocean and coastline.

VARIANCE FINDINGS:

1. THAT BECAUSE OF SPECIAL CIRCUMSTANCES APPLICABLE TO THE PROPERTY, INCLUDING SIZE, SHAPE, TOPOGRAPHY, LOCATION, OR SURROUNDINGS, THE STRICT APPLICATION OF THE ZONING ORDINANCE DEPRIVES SUCH PROPERTY OF PRIVILEGES ENJOYED BY OTHER PROPERTY IN THE VICINITY AND UNDER IDENTICAL ZONING CLASSIFICATION.

The 2.9 acre project parcel contains several constraints that reduce the net developable area of the site and reduce its 140 foot width to a lesser width for development purposes. The parcel has a long narrow semi-rectangular shape that is encumbered by a 30 foot wide rail road right-of-way along the entire coastward edge of the parcel. Much of this right-of-way is bordered by a steep undevelopable slope that further restricts the developable width of the parcel. The southeastern 33% of the parcel contains a riparian corridor and is not developable land. These characteristics result in parcel with about 1.45 acre of developable land. In addition, the property is located between Highway 1, a designated scenic roadway, and the coast and therefore occupies a significant visual resource area. Views of the coast and ocean are maximized when development is clustered on such properties.

2. THAT THE GRANTING OF THE VARIANCE WILL BE IN HARMONY WITH THE GENERAL INTENT AND PURPOSE OF ZONING OBJECTIVES AND WILL NOT BE MATERIALLY DETRIMENTAL TO PUBLIC HEALTH, SAFETY, OR WELFARE OR INJURIOUS TO PROPERTY OR IMPROVEMENTS IN THE VICINITY.

The granting of the Variance will be in harmony with the general intent and purpose of zoning objectives and will not be materially detrimental to public health, safety, or welfare or injurious to property or improvements in the vicinity in that the Variance will allow the main project building to be located within the footprint area of the existing building thereby avoiding a northwestern projection of the building that could impact some coastal views. The reduction of the front yard setback to 0 feet for the reconstruction of the main project building will actually be an improvement over the current situation where the existing building encroaches into the Highway 1 right-of-way by at least 8 feet. A 0 foot front yard setback will be limited to a 53 foot long portion of the main building, which is a part of the building with the least visual impact. A substantial separation occurs between the site's front property line and the roadbed of Highway 1. Caltrans does not have any plans to widen the roadway in the foreseeable future. Therefore, the separation that occurs between the front property line of the subject parcel and the travel lanes/shoulder of the highway will continue into the foreseeable future, and this separation will provide a buffer similar to a front yard setback between the building and traffic traveling on Highway 1.

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3. THAT THE GRANTING OF SUCH VARIANCES SHALL NOT CONSTITUTE A GRANT OF SPECIAL PRIVILEGES INCONSISTENT WITH THE LIMITATIONS UPON OTHER PROPERTIES IN THE VICINITY AND ZONE IN WHICH SUCH IS SITUATED.

The granting of the Variance to reduce the front yard setback to 0 feet for a 53 lineal foot portion of the structure will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such is situated in that the physical characteristics and rail road right-of-way discussed in finding 1 above result in development limitations that are not common with other parcels in the area. In addition, the location of this property between Highway 1 and the coast results in it occupying a more significant visual resource area than most other properties in the area. The Variance will allow structural development to be clustered within the area where the existing building is located and therefore minimize visual effects to the scenic highway and coastline.

EXHIBIT 3

SELECTED EXHIBITS FROM COUNTY APPROVAL

EXHIBIT A . ARCHITECTURAL PLANS PREPARED BY FRANKS
BRENKWITZ AND ASSOCIATES DATED MARCH 4, 1998
CONSISTING OF 9 SHEETS:

SHEET A-1 - TITLE SHEET (NOT REPRODUCED IN THIS
REPORT)

SHEET A-2 - SITE PLAN

SHEET A-3 - LANDSCAPE OF ENTIRE SITE (NOT IN THIS
REPORT)

SHEET A-3.1 - LANDSCAPE PLAN OF NEW PARKING LOT
(NOT IN THIS REPORT)

SHEET A-4 - EXISTING FLOOR PLAN OF BUILDING (NOT IN
THIS REPORT)

SHEET A-5 - LOWER FLOOR PLAN

SHEET A-6 - UPPER FLOOR PLAN

SHEET A-7 - EXTERIOR ELEVATIONS

SHEET A-8 - EXTERIOR ELEVATIONS

EXHIBIT B - PRELIMINARY GRADING AND DRAINAGE PLANS
PREPARED BY BOWMAN AND WILLIAMS DATED MARCH 4, 1998
CONSISTING OF 3 SHEETS:

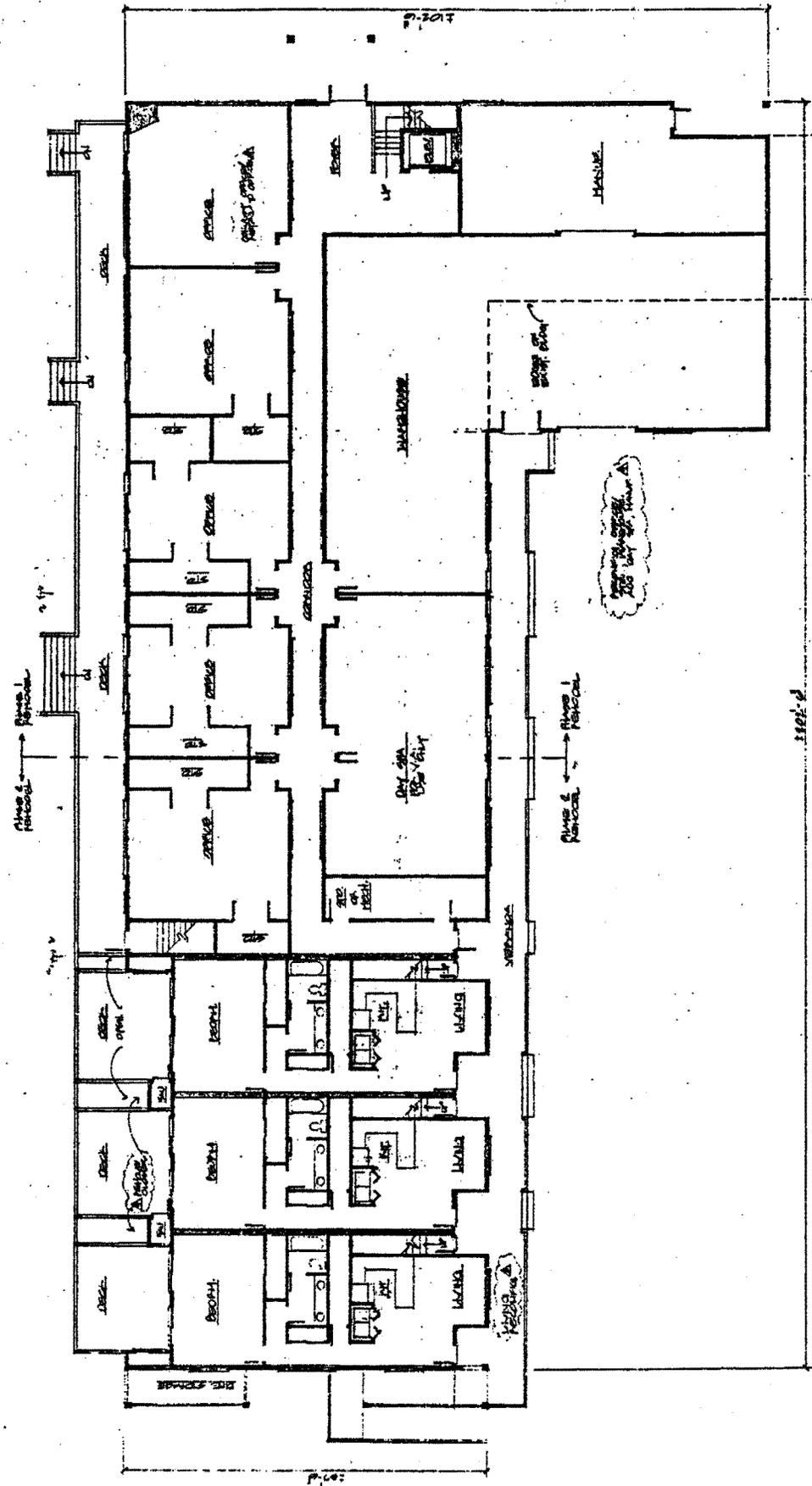
SHEET C-1 - PLAN VIEW OF NORTHWESTERN PORTION OF
SITE (NOT IN THIS REPORT)

SHEET C-2 - PLAN VIEW OF CENTRAL PORTION OF SITE
(NOT IN THIS REPORT)

NOTES: FULL SET OF PLANS AVAILABLE FOR REVIEW AT
THE COMMISSION'S SANTA CRUZ OFFICE

PURSUANT TO RECOMMENDED CONDITIONS, THIS
COMPLETE SET OF PLANS WILL HAVE TO BE REVISED

EXHIBIT A
PERMIT NO. 2500AS



Handwritten note:
 RECORD
 THIS PLAN IS TO BE
 FILED IN THE
 RECORDS OF THE
 CITY OF DAVENPORT

Area: 115,501 sq ft

202 San Jose Avenue, California, CA 95012 HOBBY-904
 Charles J. Franks
 and Associates
 Member American Institute of Architects

DAVENPORT COMMERCIAL
 3500 COAST HIGHWAY 1
 DAVENPORT, CALIF. 95017

UPPER FLOOR PLAN

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Highway

EXTERIOR TREE CONDITION IIA-12-10

TRUNK NOSE 121-10

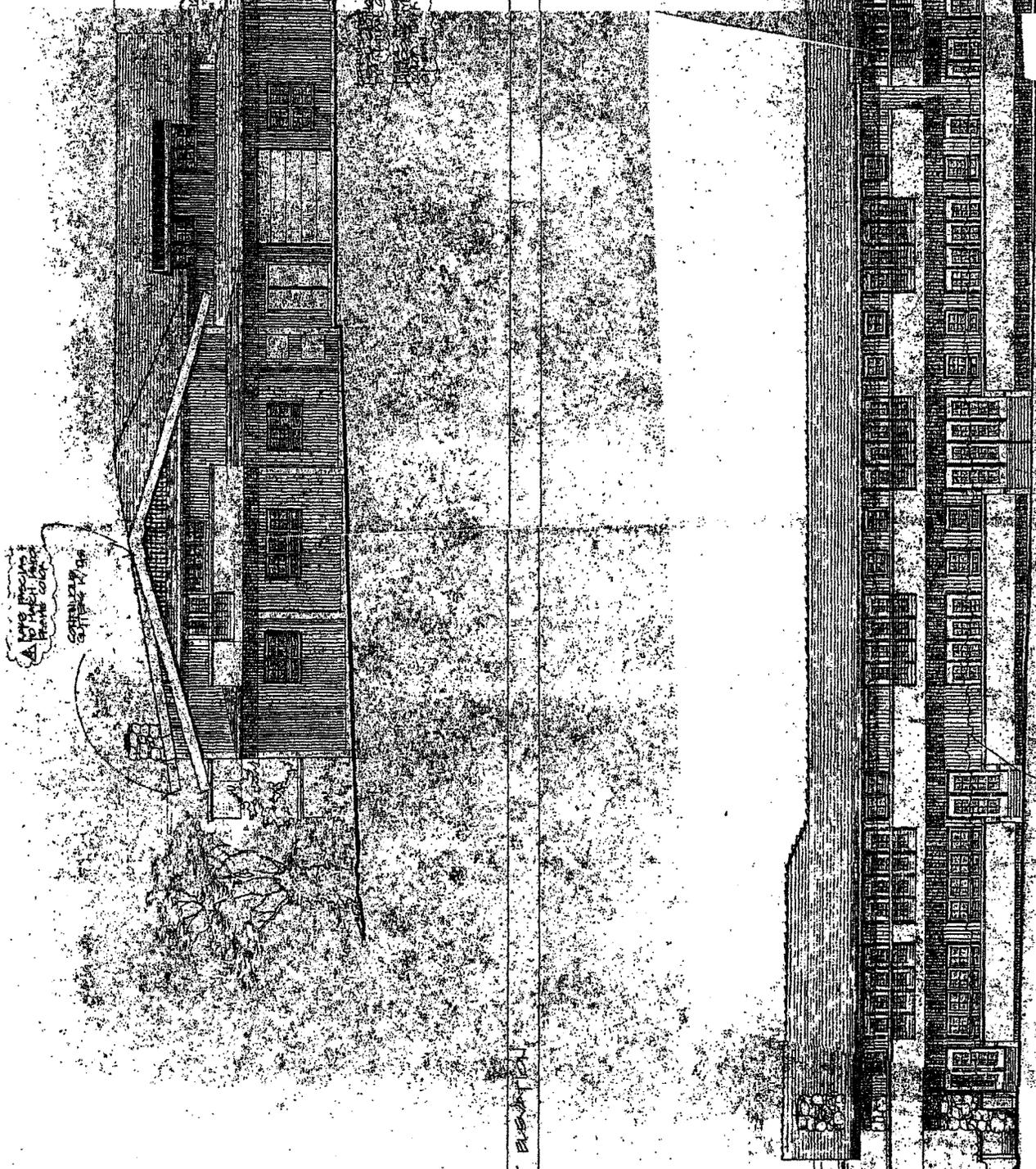
WALL PANELS TO BE
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HORIZONTAL SLATS
AS SHOWN IN
SECTION A

REPLACE CONCRETE
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SECTION A

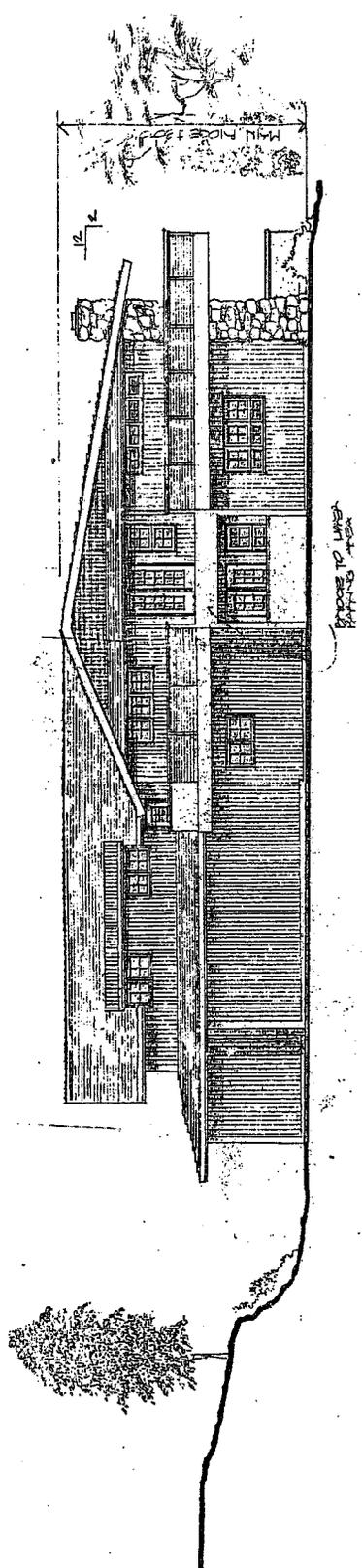
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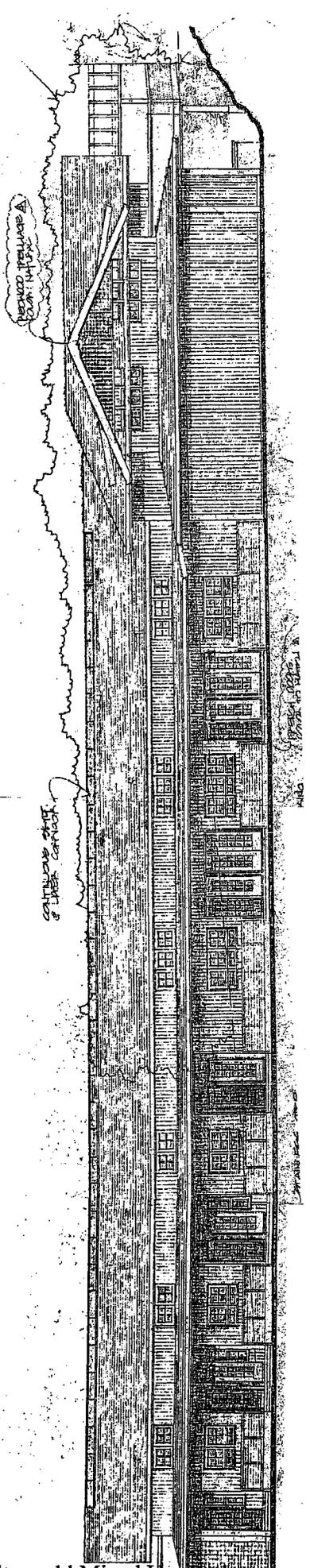


SOUTH ELEVATION



WEST ELEVATION

APPROX LEVEL OF VEGETATION
SCREENING BUILDING
FROM HIGHWAY

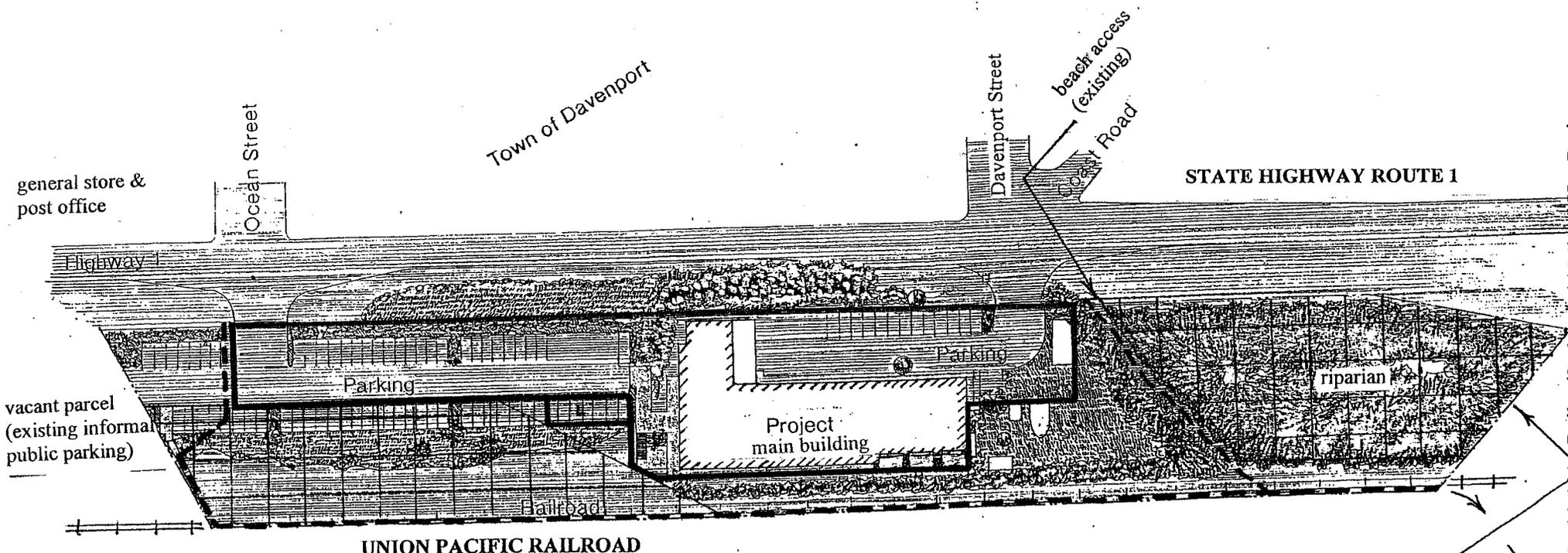


NORTH ELEVATION

EXHIBIT 4

REVISIONS TO PLANS

**THE FOLLOWING NEED TO BE INCORPORATED INTO ALL RELEVANT
SHEETS OF THE FINAL PLANS**



NOTE: The limits of this open space area may be more precisely delineated by a qualified biologist, but in no case shall it restrict the use of the existing beach access trail.

LEGEND

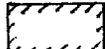
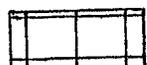
-  Maximum limits for main building
-  Maximum limits for development of parking facilities
-  Loading area, reserved for drop off/pick up only
-  Open space dedication
-  10 ft. public access corridors

EXHIBIT 5

APPELLANTS' CONTENTIONS

- A. SUSAN YOUNG, CITIZENS FOR RESPONSIBLE NORTH COAST PLANNING
- B. GEORGE JAMMAL, SIERRA CLUB
- C. DAVID KOSSACK

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

725 FRONT STREET, STE. 300

SANTA CRUZ, CA 95060

(408) 427-4863

HEARING IMPAIRED: (415) 904-5200

RECEIVED

NOV 13 1998

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENTCALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREAPlease Review Attached Appeal Information Sheet Prior To Completing
This Form.SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Susan Young of Citizens for Responsible North Coast
Planning (also, Marilyn Favel and Karen McNally)
P.O. Box 252 Davenport, CA 95017 (831) 457-0872
 Zip Area Code Phone No.

SECTION II. Decision Being Appealed1. Name of local/port
government: County of Santa Cruz2. Brief description of development being
appealed: Construction of a three-phased commercial mixed-
use building with two residential dwelling units; and
grading necessary to construct new parking area.3. Development's location (street address, assessor's parcel
no., cross street, etc.): 3500 Highway 1, Davenport, Santa Cruz
County (A.P.N. 058-121-04)

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: rezoning inconsistencies with LCP rec. Denial: construction of commercial mixed use building w/ two
residential dwelling units; and grading of parking
areaNote: 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.TO BE COMPLETED BY COMMISSION:APPEAL NO: A-3-560-98-101DATE FILED: APPEAL Originally Filed 11/12/98DISTRICT: Central Coast

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

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

- a. Planning Director/Zoning Administrator c. Planning Commission
b. City Council/Board of Supervisors d. Other _____

6. Date of local government's decision: 10/20/98

7. Local government's file number (if any): 3-SCO-98-070 (Local ID: 95-0685)

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:
Fred Bailey } 5500 Hwy. 1, Davenport, CA 95017
Greg Steltenpohl }

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) Patricia Anderson, California Fish + Game, Monkey office

- (2) David Kossack
P.O. Box 268
Davenport, CA 95017
- (3) John Barnes
Box 89
Davenport, CA 95017
- (4) David Perasso
34 Marine View Ave.
Davenport, CA 95017

SECTION IV. Reasons Supporting This Appeal

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, which continues on the next page.

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.)

Please see attached.

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.

Susan Yang
Signature of Appellant(s) or Authorized Agent

Date November 13, 1998

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize Bill Parkin to act as my/our representative and to bind me/us in all matters concerning this appeal.

Susan Yang
Signature of Appellant(s)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Reasons Supporting This Appeal

The Project approved by the Santa Cruz County Board of Supervisors (the "County") is inconsistent with the California Coastal Act; with the Santa Cruz County Local Coastal Program ("LCP"); and the General Plan for the North Coast Beaches, County of Santa Cruz, Davenport Beach and Bluffs ("GPDBB") as it applies to permanent protection of the state's natural and scenic resources, including future development (Public Resources Code § 30001).

Review by the Coastal Commission is Mandatory

This appeal is mandatory and a finding of substantial issue is not necessary. The California Coastal Commission shall review any amendment to the Local Coastal Program that allows a change in "the kind, location, intensity, or density of use." (See Public Resources Code (PRC) §§ 30510-30514.)

Here, the Santa Cruz County Board of Supervisors approved a change in use for the Bailey-Steltenpohl project ("Project"), from Neighborhood-Commercial (C-1) zoning to Special Use (SU), and so the Coastal Commission is obligated to review this zoning change.

1. Zoning Change Violates the Local Coastal Program

Even if review by the Coastal Commission is not mandatory, appellants have raised a substantial issue because the zoning change for the Project violates the Local Coastal Program ("LCP").

The Santa Cruz County General Plan/LCP designates the project site as "Neighborhood Commercial." General Plan policy 2.13 lists the types of uses that are contemplated under the Neighborhood Commercial designation. These uses do not include "visitor accommodation." (Visitor accommodations are contemplated under Objective 2.16 of the General Plan/LCP, the Visitor Accommodation Designation.) The proposed project includes visitor accommodations.

The project site is zoned "C-1" (Neighborhood Commercial). This zoning is consistent with the Neighborhood Commercial designation pursuant to the County General Plan/LCP. As part of the project approval, the County Board of Supervisors rezoned the proposed project site to "SU" (Special Use). The rationale for such rezoning was that the zoning designations permitted under the General Plan/Local Coastal Program Designation of the site, which is "Neighborhood Commercial," would not allow the proposed uses. The County further contends that "SU" rezoning was "necessary to allow the proposed uses on the property and to provide better overall consistency with the General Plan designation." However, the County Code does not allow this type of subterfuge to justify a project that would otherwise not be permitted on the site.

Despite the contentions of the County, the rezoning of the project site to "SU" is an attempt to shoehorn uses into the site that are not permitted under the General Plan/Local Coastal Program. While "neighborhood or visitor-oriented retail sales," and "shopping and service uses to meet the needs of rural communities and visitors" are contemplated under the Neighborhood Commercial Designation in the General Plan/LCP, visitor accommodations are not.

All uses allowed under "SU" zoning must also be consistent with the General Plan/LCP. Santa Cruz County Code Section 13.10.382. Since the proposed project contemplates visitor accommodations, the project is inconsistent with the General Plan/LCP. Furthermore, the visitor accommodation uses will displace the opportunity for legitimate neighborhood commercial uses to serve the citizens of Davenport and Bonny Doon.

Finally, "SU" zoning was never contemplated as a means to approve projects that would otherwise not be permitted under existing zoning or the General Plan/LCP. The approval of the proposed project by the County sets a terrible precedent contrary to logical and orderly planning and development in Santa Cruz County.

"SU" zoning is to be used in only limited circumstances as follows:

- 1) where the flexibility is necessary to ensure consistency with the General Plan, and encourage planning of large parcels to achieve integrated design, good land use planning and protection of open space and the environment;
- 2) to provide for development of lands with a variety of physical hazard constraints or where some unusual feature prevents effective use of the land under current zoning; and
- 3) to provide for development of lands which are designated for mixed uses where the specific portions of the land reserved for each use has not been specified. Santa Cruz County Code Section 13.10.381.

The proposed project does not fit within any of the above referenced categories which would allow the project site to be rezoned "SU." Accordingly, rezoning of the project site is illegal.

For all of the foregoing reasons, the proposed rezoning is inconsistent with the County's LCP and its implementing ordinances.

2. Cumulative Impact:

The Legislature also declared that California's goals for the coastal zone included protecting the overall quality of the coastal zone, and coordinating the planning and development in the coastal zone. (PRC §§ 30001, 30001.5) "Cumulative effect" means that the "incremental effects of an individual project shall be reviewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." (PRC § 30105.5)

According to the Stanson court, Stanson v. San Diego Coast Regional Commission (App. 4 Dist. 1980) 101 Cal. App. 3d 38, the coast regional commission properly considered cumulative environmental impact of future restaurants when a landowner applied to remodel the landowner's commercial building to change the present second floor storage area into a restaurant. Id.; see also PRC § 30006.5.

Here, the County did not address the Steltenpohl-Bailey project (Project) in terms of its cumulative impact on current and probable future development. The County knows that the David Leur barn project on Highway 1 is pending, the County should know that the Licursis are planning to replace the Foresters' Hall on Highway 1, the County should know that plans are in discussion for the Post Office to relocate on Highway 1, the County should be aware that the owners of the building where the Post Office is presently located will probably redevelop, the County is aware of RMC Lonestar's plans to expand its facilities, and the County is aware that the land surrounding Davenport has been acquired by a Land Trust. All of this development will provide an attendant impact on Davenport's sewer and water system, will impact the already dangerous traffic and pedestrian safety situation on Highway 1, and will impact Davenport's future as a scenic and historic destination.

The County also did not address the possible development of adjacent parcels on the west side of Highway 1, even though it was pointed out to the County in the Planning Department's October 20, 1998 Staff Report that such development might occur in the future.¹ According to

¹ See Planning Department's Staff Report for Board of Supervisors Agenda of October 20, 1998; Attachment 1, Rezoning Ordinance; Development Permit Findings, 3 ("[Project has been conditioned to] facilitate safe and coordinated vehicular access to the adjoining vacant parcel now owned by RMC Lonestar if that parcel is ever developed in the future") and 6. c. ("Includes a requirement for a right-of-way over the new project entrance to benefit the adjoining parcel to the northwest so coordinated parking lot design may occur with that parcel if it is ever developed in the future"); and Conditions III. C. ("Dedicate a permanent right-of-way over the driveway entrance to the 66 vehicle parking lot and a connecting route of a [sic] least 20 feet in

the Stanson court, the coast regional commission properly considered cumulative environmental impact of future restaurants when a landowner applied to change a second floor storage area into a restaurant. Similarly, here the landowners are applying to build a second floor and install a restaurant. Thus, it is appropriate for the Coastal Commission to consider the cumulative environmental impact of future restaurants.

Moreover, also similar to Stanson, the County did not consider the cumulative impact of other owners of packing sheds² up and down the coast of California arguing the right to develop restaurants and visitor accommodations on the west side of Highway 1 if this decision is left unchallenged.

A. New development³ and its impact:

New commercial development shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or in areas with adequate public services and "where it will not have significant adverse effects, either individually or cumulatively, on coastal resources." (PRC § 30250; LCP 2.1.4, 2.1.6)

The court in Bel Mar Estates v. California Coastal Commission (App. 2 Dist. 1981) 115 Cal. App. 3d 936, held that an application for real estate development within the coastal zone was properly denied in view of prospective major increase in traffic using Pacific coast highway and showing that, without proposed development, the highway was already overused, and in view of the prospect that natural vegetation would be removed, that hills would be leveled and that a natural and scenic canyon would be destroyed.

Here, the Project is a new commercial development because it exceeds floor area by more than 10%. The Project, located across Highway 1 from other commercial development is split from those existing developed areas. Because of this, the Project will create new traffic and pedestrian patterns both across Highway 1 and through the residential streets of Davenport and by Pacific elementary school. The traffic report prepared by Caltrans did not study these effects, nor did it study the consequence of increased traffic on a highway already severely impacted by logging trucks, cement trucks from nearby RMC Lonestar, and current visitor traffic. Caltrans did not study the effect on both pedestrians and drivers of poor sight lines north of Davenport on Highway 1 (due to vertical curve). Caltrans did not study Davenport/Highway 1 traffic during Davenport's peak summer months of July and August. Caltrans did not study the cumulative effect of other commercial projects currently being

width to adjoin with A.P.N. 58-121-03 for the purpose of providing shared vehicle access with A.P.N. 58-121-03 if that parcel is developed in the future.").

² Prior to May 28, 1976 the Project parcel on which a packing shed was sited was zoned agricultural use (A-20). On May 28, 1976, the parcel changed to UBS-1AC (unclassified) because the owner, Mr. Bailey, wished to convert the packing shed to artisan workshops. Instead, in succession, Mr. Bailey operated a waterbed factory on the premises, a T-shirt factory, and then in the early 1980's a juice factory. In 1983 the County discovered the illegal conversion of the packing shed to a juice factory and issued the first of 18 reg tags on the property. The violation was never corrected and active work on correcting the illegal conversion did not begin until 1995, when developers submitted an application for the current Project, in an area by then zoned Neighborhood Commercial. The developers have now requested and been granted a zoning change to Special Use.

³ According to the court in Nollan v. California Coastal Com'n (App. 2 Dist. 1986) 177 Cal. App. 3d 719, review denied, probable jurisdiction noted 107 S. Ct. 312, , dismissal denied 107 S. Ct. 665, reversed on other grounds 107 S. Ct. 3141, coastal owners' replacement of old house with new house was a "new development" where reconstructed residence would exceed floor area, height or bulk of former structure by more than 10% and was in same location on property as former structure.

planned in Davenport and north of Davenport.⁴ If an EIR had been conducted these new conditions would have been properly studied.

Because of these reasons, the Project will have significant adverse effects both individually and cumulatively on coastal resources. If an EIR had been conducted, the individual and cumulative impact of the Project would have been properly determined.

3. Protection of Public Vistas and Preservation of Ocean Vistas. Scenic Road Vistas:

The issue is whether the Project adequately protects the public vista and the aesthetic values of visual resources.

Under PRC § 30251, 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 form, to be visually compatible with the character of surrounding areas," (See also LCP 5.10.2, Development Within Visual Resource Areas; LCP 5.10.3, Protection of Public Vistas; LCP 5.10.6, Preserving Ocean Vistas.)

Under LCP 5.10.10 "scenic roads" are roads and highways valued for their vistas. Highway 1 from San Mateo County to Monterey County is such a scenic road (LCP 5.10; see also PRC § 30254). Development visible from rural scenic roads are required to be sited out of public view, obscured by natural landforms and/or existing vegetation. (LCP 5.10.11) Where proposed structures are unavoidably visible from scenic roads, visual qualities worthy of protection should be identified and Project should be required to mitigate the impacts of those visual qualities. (LCP 5.10.11)

In fact, the California Department of Parks and Recreation recommends that the California Division of Highways "should acquire all land seaward of all coastal highways where the distance is 300 feet or less, thus preserving the scenic open space and coastal vistas so valuable to the sightseeing motorist." (California Coastline Preservation and Recreation Plan, 1971, p. 94; located in Santa Cruz Public Library: R 333.917 C12; cited by PRC § 30251)

Here, Highway 1 has been designated a scenic road (LCP 5.10.5). Although the Project attempts to mitigate the destruction of Davenport's viewshed and the scenic view along Highway 1 by lowering the parking lot by 3 feet, the mitigation is not adequate because 1) it will still impede visual access to the shore significantly and undermine Davenport as a visual focus both aesthetically and as an historic whale-viewing site; 2) the parking lot will be above ground at the south end of the parking lot; and 3) grading will alter a natural land form. (See PRC § 30251; GP 8.2.2)

The proposed Project is currently the only commercial visitor-serving space on the west side of Highway 1 from Pigeon Point in San Mateo County to the City of Santa Cruz. Allowing the Project to proceed will open up adjacent parcels for development, and encourage other development on the west side of Highway 1, thus destroying Highway 1 as a scenic road.

The Project fails to protect the public view from Highway 1 and from a recreational area to, and along, the coast. Grading the parking lot to lower part of it by 3 feet will not mitigate the visual impact on the Highway 1 scenic highway viewshed. Currently, Davenport's coastal bluff provides Davenport and visitors driving down scenic Highway 1 with a spectacular panoramic ocean view of the Monterey Bay. In this way, Davenport truly acts as a gateway to the Monterey Bay Sanctuary. Paving this bluff and substituting the glare off automobile chrome and windshields for this beautiful view would be a travesty.

4. Protection of Davenport as a Special Community

Under PRC § 30253, new development shall neither create nor contribute significantly to the destruction of a site, and it shall protect special communities as appropriate, since special communities are popular visitor destination points for recreational uses.

⁴ An RV park is currently being built at Cascade Ranch on the east side of Highway 1 in San Mateo County.

Coastal Special Communities include rural villages, recognized for their unique characteristics and/or popularity as a visitor destination point. (LCP 8.8.2) It is Santa Cruz County's objective to promote coherent community design and enhancement of the unique characteristics of the village areas and community centers as focal points for living, working, shopping, and visiting. (GP 2.24; Davenport is designated for such a plan)

Davenport is a Coastal Special Community, known for its unique character as an historic whale-watching site and for its stunning ocean vistas of the Monterey Bay. (LCP 8.8.2) New development in Davenport is required to be consistent with the height, bulk, scale, materials, and setbacks of existing development: generally small scale, one- to two-story structures of wood construction. (LCP 8.8.4; GP 8.4.1, Neighborhood Character)

The LCP program for Davenport recommends that Davenport be enhanced "as a visual focus along Highway 1, with clear, coordinated circulation and an emphasis on the area's whaling history and whale-viewing opportunities. (GP, page 8-12; see also GP 8.2.5)

Here, the proposed Project is inconsistent with other Davenport development in terms of height, bulk, and physical scale. The Project building will be 30 feet high at its highest point, 6 feet higher than the Davenport Cash Store, which is the highest building fronting Davenport. More importantly, the new 22,918 square foot building would nearly double the size of the current packing shed, and Highway 1 visitor-serving space would grow from 14,400 to 37,000 square feet. The Project is incompatible with the established physical scale of existing development and thus does not fit the character of Davenport.

Moreover, the Project is inconsistent with the LCP Program in that the proposed 65+ car parking lot, which fronts nearly the entire length of Davenport, will destroy Davenport's visual focus along Highway 1. (See Section 3 above.)

The Project is also inconsistent with both the GP and the LCP Program in that the Project does not provide for clear, coordinated, safe circulation: 1) safe pedestrian access across Highway 1 has not been addressed; 2) the Project does not adhere to the Caltrans model of 75' for penetration into parking areas in its south and north lots (See Attachment 1); 3) myoporum trees planted in the highway right-of-way cut off pedestrian access along the front of the Project, forcing pedestrians to cross to the east side of Highway 1 and then back to the west side again after passing the trees; 4) the Project does not address tour bus circulation; 5) highway signs disallowing those driving north on Highway 1 a left turn into the southern parking lot will confuse drivers and encourage them to circle through the residential streets of Davenport in order to enter the Project parking lot. (See GP 3.13.3)

The Project thus is not in character with the village of Davenport.

5. Adequacy of Public Services:

There is a question as to whether Davenport's public services are adequate to accommodate the Project.

New commercial development should be located in close proximity to existing developed areas with adequate public service capacity. (LCP 2.1.4) Public services include, but are not limited to, sewer, water, roads, access, and pattern of existing land use in the neighborhood. (LCP 2.1.6)

A. Sewage: There is a question as to whether the Project will negatively impact Davenport's sewage system.

Davenport is within the Rural Services Line ("RSL"). (LCP 2.3.5) Sanitation facilities within the Rural Services Line should provide for adequate sewage collection, treatment, and disposal. (LCP 7.20) Community sewage disposal systems shall be sized to serve only the buildout densities for lands within the RSL. (LCP 7.20.1)

Here, the Davenport sewage system is not capable of serving the Project's sewage needs. The Davenport sewage system is a disaster waiting to happen. The system is over 70 years old and the pipes in particular are in dire need of replacement. Although the County of Santa Cruz, through Public Works, has applied for a grant from the USDA to replace the antiquated system,

no funds have been appropriated and thus there is no grant.⁵ In addition, even if the funds do come through, the grant proposal only asks to replace the existing system, *not* enlarge the system. The negative declaration does not adequately address whether the sewage system is adequate to provide for existing vacant parcels within the RSL.

If an EIR had been required, the impact of this project, other present projects, and future projects would have been adequately determined.

B. Water resources: There is a question as to whether the Project will negatively impact Davenport's water source, San Vicente Creek ("Creek").⁶

Under PRC § 30231, the biological productivity and quality of coastal streams shall be maintained by, among other means, controlling runoff, preventing depletion of ground water and substantial interference with surface water flow, and minimizing the alteration of natural streams. (See also LCP 5.4.14; LCP 5.7.4) Davenport's San Vicente and Mill Creeks are designated as Critical Water Supply Streams. (LCP 5.6.2) According to LCP 5.62, the County should "[o]ppose or prohibit as legal authority allows, new or expanded water diversion from Critical Water Supply Streams. Prohibit new riparian or off stream development, or increases in the intensity of use, which require an increase in water diversions from Critical Water Supply Streams." (See also LCP 5.7.5)

The LCP objectives regarding water supply are to ensure a dependable supply of high quality domestic water to meet community needs and to ensure that the level of development permitted is supportable within the available water supply. (LCP 7.18) Projects shall not be approved in areas that do not have a proven, adequate water supply. (LCP 7.18.2) All new development proposals shall be reviewed to assess impact on the water system. (LCP 7.18.3)

According to LCP 5.6.1, the County should "[o]ppose new water rights applications . . . which would individually or cumulatively contribute to the diminishment of the instream flows necessary to maintain anadromous fish runs"

In regards to the Project, there is concern that the Project will significantly impact the watershed. Fish and Game has questioned the completeness of the County's Initial Study regarding water availability, water quality, and water quantity (i.e., maintaining the natural runoff--when one puts in impervious surfaces, the run-off needs to be retained). Fish and Game also has questioned the cumulative impact of present and future projects utilizing San Vicente Creek and thus potentially impacting the habitat of state endangered species, such as coho salmon; and federal threatened species, including the red-legged frog, steelhead trout, and coho salmon. If an EIR had been conducted, all of these issues would have been addressed.

6. Development adjacent to parks and recreation areas:

Under PRC § 30240, development in areas adjacent to parks and recreation areas "shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those . . . recreation areas."

⁵ In an October 20, 1998 memo to Supervisor Jan Beautz, District Engineer John A. Fantham reports that "A telephone conversation today with the USDA indicates that this grant was approved by the state office of the USDA last week." It was on this basis that the Board of Supervisors on October 20, 1998 agreed that "an operating certificate of occupancy not be approved until the sewage system improvements have been completed as presently proposed under the terms of the grant that has been applied for and *apparently* received." [emphasis added] However, in consultation with Civil Engineer Drew Byrne on October 30, 1998, Mr. Byrne said that it was an overstatement to say that the grant was approved because Public Works has received nothing official and no money has been appropriated for the replacement of the current 6" pipes with new 6" pipes.

⁶ California Fish and Game representative Patricia Anderson spoke before the Board of Supervisors regarding these issues and the Board of Supervisors did not adequately address her concerns.

Under PRC § 30525, "sensitive resource values" means those fragile or unique natural resources which are particularly susceptible to degradation resulting from surrounding development, the adverse effects of which have not been carefully evaluated, mitigated, or avoided. Examples include "specific public recreation areas where the quality of the recreational experience is dependent on the character of the surrounding area." (See PRC §1115 for grants to acquire less than fee title in land areas identified as having sensitive resource values.)

Here, the Project will encourage development on three adjacent parks and recreation parcels. The Project facilitates coordinated vehicular access to those adjoining vacant parcels for their future development.⁷ Moreover, with the addition of the Project's proposed private parking lot, Davenport's coastal vista will be blocked by one continuous parking lot since the General Plan for the North Coast Beaches, Davenport Beach and Bluffs already plans parking lots further north on adjacent parcels. (See Map 13 showing Davenport Beach and Bluffs Area.)

These parking lots, individually and cumulatively, will significantly degrade the coastal view and is thus incompatible with the continuance of the adjacent recreation areas.

7. Preservation of Costanoan Tribal Area/Archaeological Resources:

Under PRC § 30244, where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measure shall be required.

According to objective 5.19 of the LCP, the County should "protect and preserve archaeological resources for their scientific, educational and cultural values, and for their value as local heritage."

Here, the archaeological survey prepared for the negative declaration was limited to a visual inspection of the parcel surface and peering down gopher holes. There was no major vegetation removal or excavation. (See Attachment 6 of the Initial Study.) However, the California Department of Parks and Recreation notes that Davenport is both a Coastal Indian site and an area where site information is deficient. (CCPRP, plate E-2; cited in PRC § 30251; see Attachment 2) Furthermore, the Department recommends that "representative areas or sites should be preserved, especially in northern Santa Cruz County." (CCPRP, 81; also, "One or more representative sites in the following areas should be added to the State Park System": in the Costanoan Tribal Area (San Mateo and Santa Cruz Counties). (CCPRP, p. 106) Furthermore, arrowheads have been found nearby. For example, Jerry Adame, employed by Pacific School in Davenport, found an arrowhead just south of the old hospital on a neighboring Lonestar oceanside parcel.

A casual reconnaissance of the Project site as part of associated review for the Project was inadequate. An EIR would have provided a more thorough investigation of the importance of this parcel in terms of Costanoan tribal activity.

8. Preservation of Whale-Watching Site/Historic Resources:

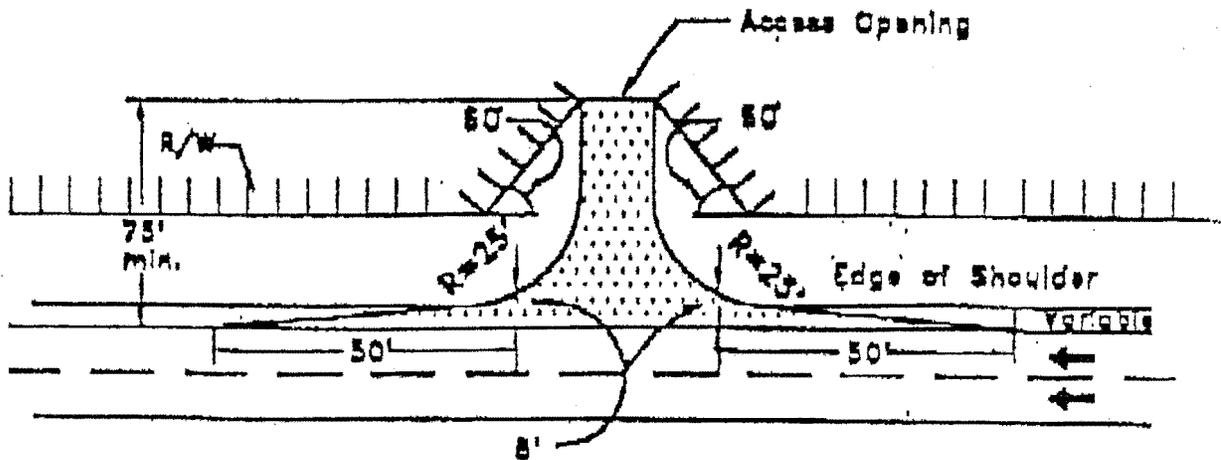
According to objective 5.20 of the LCP, the County should protect sites of historic significance to preserve the rich cultural heritage of the community. Specifically, the County's LCP has directed that Davenport be enhanced "as a visual focus along Highway 1," and that the area's "whaling history and whale viewing opportunities" be emphasized.

The Project parcel fronts the entire viewshed of Davenport. The Project's proposed parking lot would pave over the traditional whale-watching site historically used by tourists and residents alike. In addition, Highway 1 is a scenic corridor, and the proposed parking lot would visually block access and detract from motorists' viewing of whales. (See LCP 5.10.10: "The public vistas from these roads shall be afforded the highest level of protection.")

⁷ See footnote 1.

Figure 205.1

Access Openings on Expressways



RECESSED OPENING

205.2 Private Road Connections

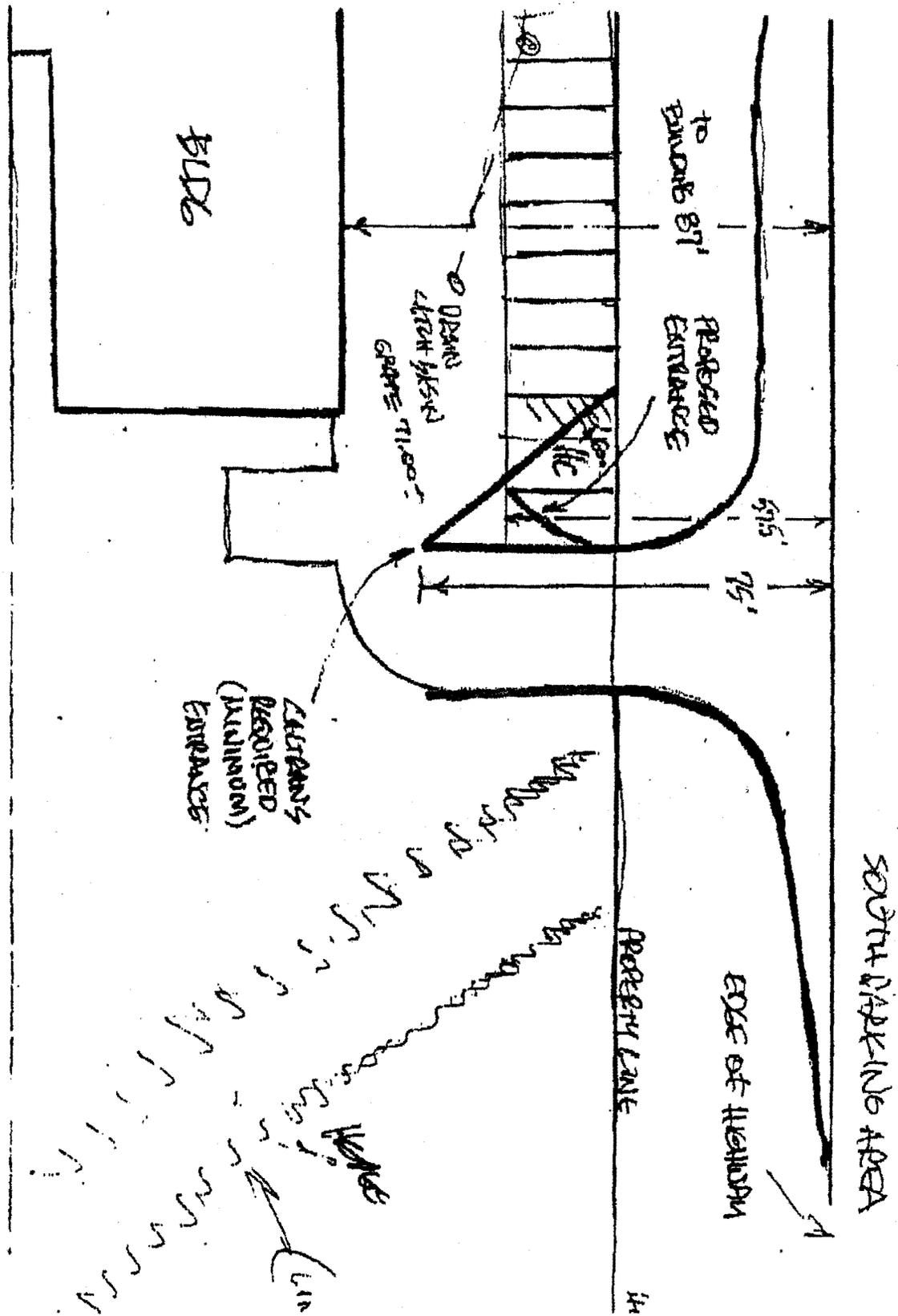
The minimum private road connection design is shown on Figure 205.1. Sight distance requirements for the minimum private road connection are shown on Figure 405.7 (see Index 405.1).

Source: Highway Design Manual.
Caltrans, Fourth Edition, 2/13/95.

EXHIBIT 10 --
RECOMMENDED
DRIVEWAY FLARES

KIM B. HIGGINS & ASSOCIATES, INC.

11



10

BLDG

to BUILDING 87'

PROPOSED ENTRANCE

DEMAND
LITIGATION
SPACE 71,000'

59.5'

75'

75'

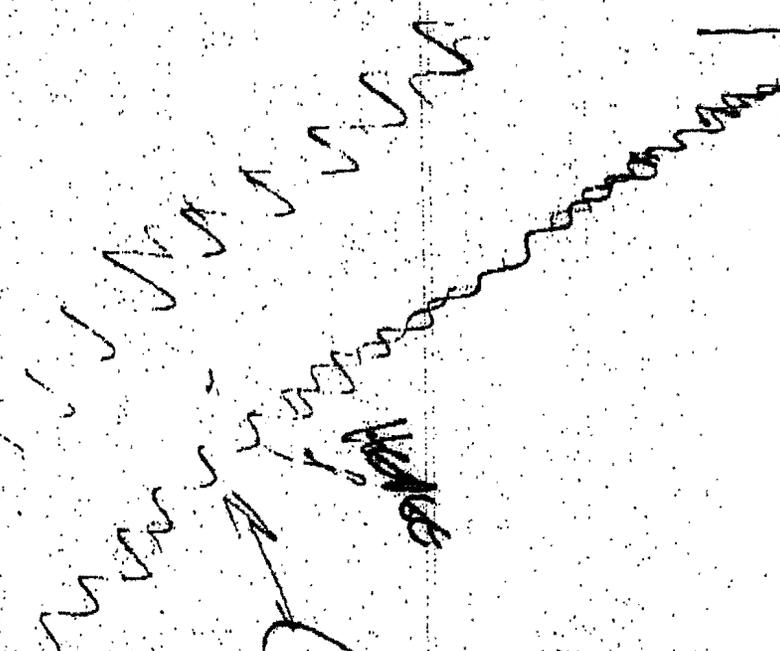
28'

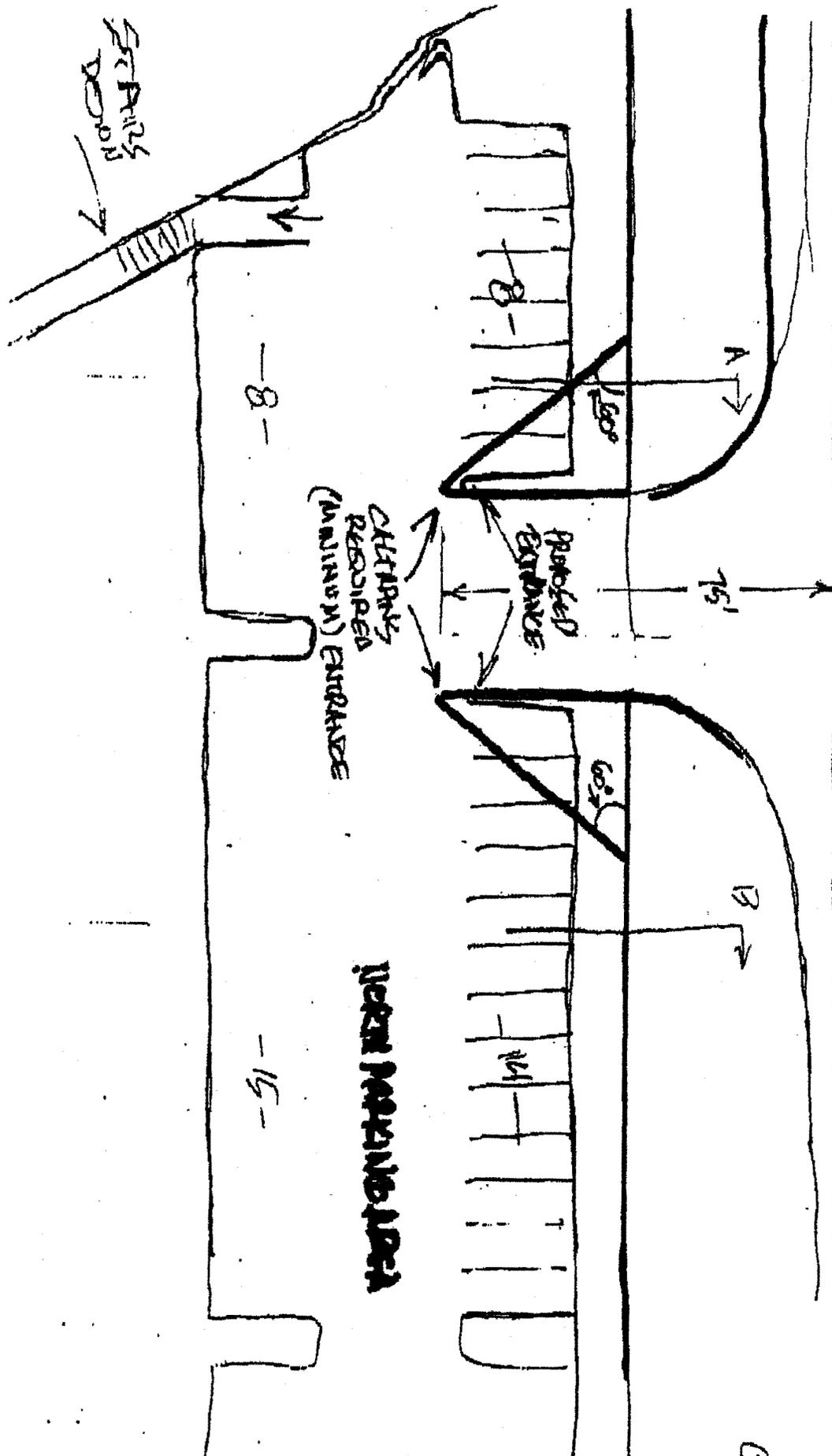
CAUTIONS
REQUIRED
(MAXIMUM)
ENTRANCES

IF EDGE OF
PROPERTY
IS AT 28'
RECONSTRUCTION
WILL EXTEND
TO HERE

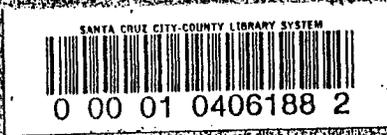
EDGE OF MAXIMUM
(AS SHOWN ON
DRAWINGS)

PROPERTY LINE





AAQ 9748



R
333 911
012

CALIFORNIA COASTLINE PRESERVATION AND RECREATION PLAN

JUNE 1971

Handwritten initials and scribbles

OCT 26 72

RONALD REAGAN
Governor of
California

NORMAN B. LIVERMORE, JR.
Secretary for
Resources

WILLIAM PENN MOTT, JR.
Director
Department of Parks
and Recreation

Reference

SANTA CRUZ PUBLIC LIBRARY
SANTA CRUZ, CALIFORNIA

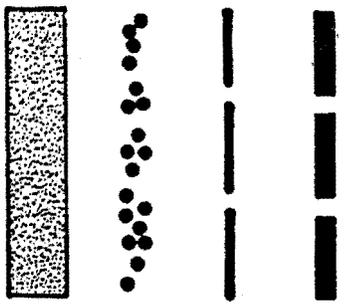
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STATE OF CALIFORNIA THE RESOURCES AGENCY
DEPARTMENT OF PARKS AND RECREATION
P.O. BOX 2390 SACRAMENTO 95811

Attachment 2



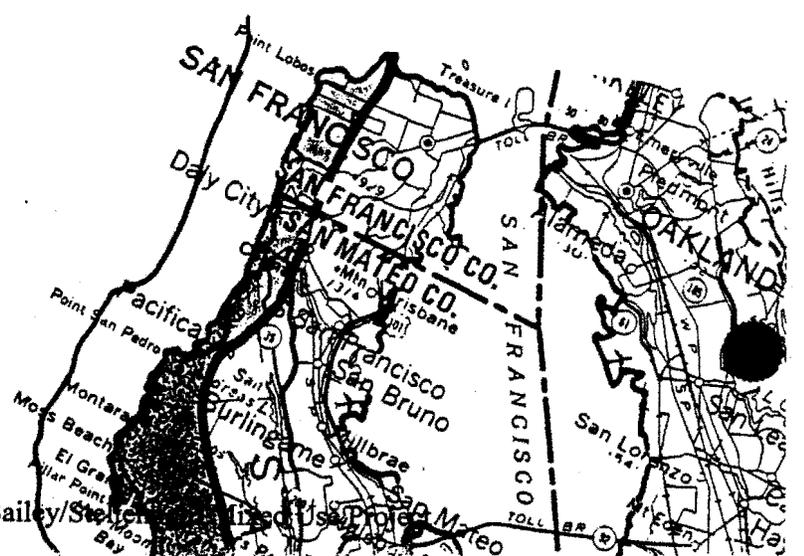
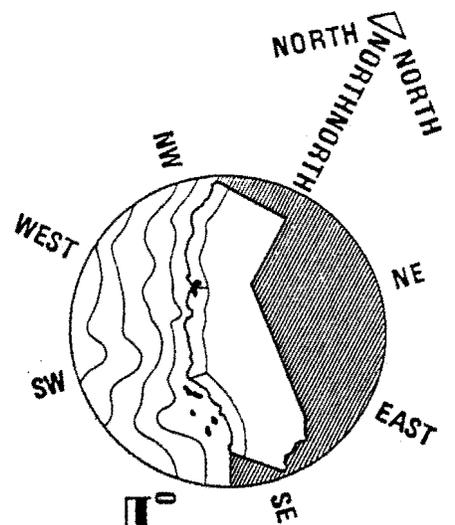
AREAS WHERE SITE INFORMATION IS DEFICIENT

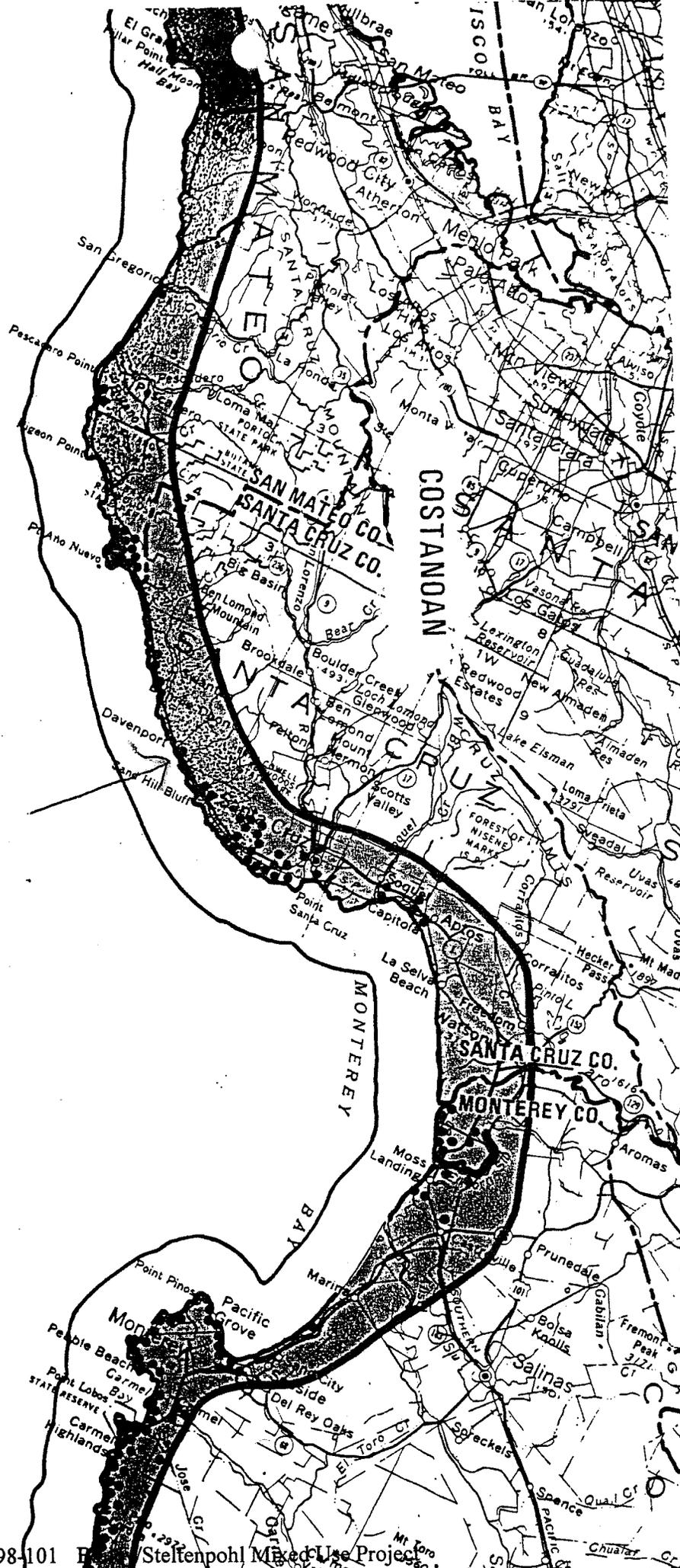
ARCHEOLOGICAL SITES

TRIBAL AREA BOUNDARY

CULTURAL AREA BOUNDARY

LEGEND





RECEIVED



CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
25 FRONT STREET, STE. 300
SANTA CRUZ, CA 95060
(408) 427-4863

NOV 13 1998

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

HEARING IMPAIRED: (415) 904-5200

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

George Jammal for Sierra Club
P.O. Box 604, Santa Cruz, CA 95061
(831) 426-4453
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: County of Santa Cruz

2. Brief description of development being appealed: Construction of a three-phased commercial mixed-use building with two residential dwelling units; and grading necessary to construct new parking area.

3. Development's location (street address, assessor's parcel no., cross street, etc.): 3500 Highway 1, Davenport, Santa Cruz County (A.P.N. 058-121-04)

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: rezoning, inconsistencies with LCP re construction of commercial mixed use building w/ two residential dwelling units; and grading of parking area.

c. 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.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SCO-98-101

DATE FILED: 11/12/98 (original Appeal File Date)

DISTRICT: Central Coast

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

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

- a. Planning Director/Zoning Administrator c. Planning Commission
b. City Council/Board of Supervisors d. Other _____

6. Date of local government's decision: 10/20/98

7. Local government's file number (if any): 3-SCO-98-070 (Local ID: 95-0685)

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:
Fred Bailey / 3500 Hwy. 1, Davenport, CA 95017
Greg Steltenpohl /

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) Patricia Anderson, California Fish & Game, Monterey office
- (2) David Kossack
P.O. Box 268
Davenport, CA 95017
- (3) David Perasso
34 Marine View Ave.
Davenport, CA 95017
- (4) David Thiermann
1725 Seabright
Santa Cruz, CA 95060

SECTION IV. Reasons Supporting This Appeal

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, which continues on the next page.

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.)

Please see attached.

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.

[Signature]
Signature of Appellant(s) or
Authorized Agent

Date 11/13/98

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize Mark Masara to act as my/our representative and to bind me/us in all matters concerning this appeal.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Reasons Supporting This Appeal

The Project approved by the Santa Cruz County Board of Supervisors (the "County") is inconsistent with the California Coastal Act; with the Santa Cruz County Local Coastal Program ("LCP"); and the General Plan for the North Coast Beaches, County of Santa Cruz, Davenport Beach and Bluffs ("GPDBB") as it applies to permanent protection of the state's natural and scenic resources, including future development (Public Resources Code § 30001).

Review by the Coastal Commission is Mandatory

This appeal is mandatory and a finding of substantial issue is not necessary. The California Coastal Commission shall review any admendment to the Local Coastal Program that allows a change in "the kind, location, intensity, or density of use." (See Public Resources Code (PRC) §§ 30510-30514.)

Here, the Santa Cruz County Board of Supervisors approved a change in use for the Bailey-Steltenpohl project ("Project"), from Neighborhood-Commercial (C-1) zoning to Special Use (SU), and so the Coastal Commission is obligated to review this zoning change.

1. Zoning Change Violates the Local Coastal Program

Even if review by the Coastal Commission is not mandatory, appellants have raised a substantial issue because the zoning change for the Project violates the Local Coastal Program ("LCP").

The Santa Cruz County General Plan/LCP designates the project site as "Neighborhood Commercial." General Plan policy 2.13 lists the types of uses that are contemplated under the Neighborhood Commercial designation. These uses do not include "visitor accommodation." (Visitor accommodations are contemplated under Objective 2.16 of the General Plan/LCP, the Visitor Accommodation Designation.) The proposed project includes visitor accommodations.

The project site is zoned "C-1" (Neighborhood Commercial). This zoning is consistent with the Neighborhood Commercial designation pursuant to the County General Plan/LCP. As part of the project approval, the County Board of Supervisors rezoned the proposed project site to "SU" (Special Use). The rationale for such rezoning was that the zoning designations permitted under the General Plan/Local Coastal Program Designation of the site, which is "Neighborhood Commercial," would not allow the proposed uses. The County further contends that "SU" rezoning was "necessary to allow the proposed uses on the property and to provide better overall consistency with the General Plan designation." However, the County Code does not allow this type of subterfuge to justify a project that would otherwise not be permitted on the site.

Despite the contentions of the County, the rezoning of the project site to "SU" is an attempt to shoehorn uses into the site that are not permitted under the General Plan/Local Coastal Program. While "neighborhood or visitor-oriented retail sales," and "shopping and service uses to meet the needs of rural communities and visitors" are contemplated under the Neighborhood Commercial Designation in the General Plan/LCP, visitor accommodations are not.

All uses allowed under "SU" zoning must also be consistent with the General Plan/LCP. Santa Cruz County Code Section 13.10.382. Since the proposed project contemplates visitor accommodations, the project is inconsistent with the General Plan/LCP. Furthermore, the visitor accommodation uses will displace the opportunity for legitimate neighborhood commercial uses to serve the citizens of Davenport and Bonny Doon.

Finally, "SU" zoning was never contemplated as a means to approve projects that would otherwise not be permitted under existing zoning or the General Plan/LCP. The approval of the proposed project by the County sets a terrible precedent contrary to logical and orderly planning and development in Santa Cruz County.

"SU" zoning is to be used in only limited circumstances as follows:

- 1) where the flexibility is necessary to ensure consistency with the General Plan, and encourage planning of large parcels to achieve integrated design, good land use planning and protection of open space and the environment;
- 2) to provide for development of lands with a variety of physical hazard constraints or where some unusual feature prevents effective use of the land under current zoning; and
- 3) to provide for development of lands which are designated for mixed uses where the specific portions of the land reserved for each use has not been specified. Santa Cruz County Code Section 13.10.381.

The proposed project does not fit within any of the above referenced categories which would allow the project site to be rezoned "SU." Accordingly, rezoning of the project site is illegal.

For all of the foregoing reasons, the proposed rezoning is inconsistent with the County's LCP and its implementing ordinances.

2. Cumulative Impact:

The Legislature also declared that California's goals for the coastal zone included protecting the overall quality of the coastal zone, and coordinating the planning and development in the coastal zone. (PRC §§ 30001, 30001.5) "Cumulative effect" means that the "incremental effects of an individual project shall be reviewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." (PRC § 30105.5)

According to the Stanson court, Stanson v. San Diego Coast Regional Commission (App. 4 Dist. 1980) 101 Cal. App. 3d 38, the coast regional commission properly considered cumulative environmental impact of future restaurants when a landowner applied to remodel the landowner's commercial building to change the present second floor storage area into a restaurant. Id.; see also PRC § 30006.5.

Here, the County did not address the Steltenpohl-Bailey project (Project) in terms of its cumulative impact on current and probable future development. The County knows that the David Leur barn project on Highway 1 is pending, the County should know that the Licursis are planning to replace the Foresters' Hall on Highway 1, the County should know that plans are in discussion for the Post Office to relocate on Highway 1, the County should be aware that the owners of the building where the Post Office is presently located will probably redevelop, the County is aware of RMC Lonestar's plans to expand its facilities, and the County is aware that the land surrounding Davenport has been acquired by a Land Trust. All of this development will provide an attendant impact on Davenport's sewer and water system, will impact the already dangerous traffic and pedestrian safety situation on Highway 1, and will impact Davenport's future as a scenic and historic destination.

The County also did not address the possible development of adjacent parcels on the west side of Highway 1, even though it was pointed out to the County in the Planning Department's October 20, 1998 Staff Report that such development might occur in the future.¹ According to

¹ See Planning Department's Staff Report for Board of Supervisors Agenda of October 20, 1998; Attachment 1, Rezoning Ordinance; Development Permit Findings, 3 ("[Project has been conditioned to] facilitate safe and coordinated vehicular access to the adjoining vacant parcel now owned by RMC Lonestar if that parcel is ever developed in the future") and 6. c. ("Includes a requirement for a right-of-way over the new project entrance to benefit the adjoining parcel to the northwest so coordinated parking lot design may occur with that parcel if it is ever developed in the future"); and Conditions III. C. ("Dedicatè a permanent right-of-way over the driveway entrance to the 66 vehicle parking lot and a connecting route of a [sic] least 20 feet in

the Stanson court, the coast regional commission properly considered cumulative environmental impact of future restaurants when a landowner applied to change a second floor storage area into a restaurant. Similarly, here the landowners are applying to build a second floor and install a restaurant. Thus, it is appropriate for the Coastal Commission to consider the cumulative environmental impact of future restaurants.

Moreover, also similar to Stanson, the County did not consider the cumulative impact of other owners of packing sheds² up and down the coast of California arguing the right to develop restaurants and visitor accommodations on the west side of Highway 1 if this decision is left unchallenged.

A. New development³ and its impact:

New commercial development shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or in areas with adequate public services and "where it will not have significant adverse effects, either individually or cumulatively, on coastal resources." (PRC § 30250; LCP 2.1.4, 2.1.6)

The court in Bel Mar Estates v. California Coastal Commission (App. 2 Dist. 1981) 115 Cal. App. 3d 936, held that an application for real estate development within the coastal zone was properly denied in view of prospective major increase in traffic using Pacific coast highway and showing that, without proposed development, the highway was already overused, and in view of the prospect that natural vegetation would be removed, that hills would be leveled and that a natural and scenic canyon would be destroyed.

Here, the Project is a new commercial development because it exceeds floor area by more than 10%. The Project, located across Highway 1 from other commercial development is split from those existing developed areas. Because of this, the Project will create new traffic and pedestrian patterns both across Highway 1 and through the residential streets of Davenport and by Pacific elementary school. The traffic report prepared by Caltrans did not study these effects, nor did it study the consequence of increased traffic on a highway already severely impacted by logging trucks, cement trucks from nearby RMC Lonestar, and current visitor traffic. Caltrans did not study the effect on both pedestrians and drivers of poor sight lines north of Davenport on Highway 1 (due to vertical curve). Caltrans did not study Davenport/Highway 1 traffic during Davenport's peak summer months of July and August. Caltrans did not study the cumulative effect of other commercial projects currently being

width to adjoin with A.P.N. 58-121-03 for the purpose of providing shared vehicle access with A.P.N. 58-121-03 if that parcel is developed in the future.").

² Prior to May 28, 1976 the Project parcel on which a packing shed was sited was zoned agricultural use (A-20). On May 28, 1976, the parcel changed to UBS-1AC (unclassified) because the owner, Mr. Bailey, wished to convert the packing shed to artisan workshops. Instead, in succession, Mr. Bailey operated a waterbed factory on the premises, a T-shirt factory, and then in the early 1980's a juice factory. In 1983 the County discovered the illegal conversion of the packing shed to a juice factory and issued the first of 18 reg tags on the property. The violation was never corrected and active work on correcting the illegal conversion did not begin until 1995, when developers submitted an application for the current Project, in an area by then zoned Neighborhood Commercial. The developers have now requested and been granted a zoning change to Special Use.

³ According to the court in Nollan v. California Coastal Com'n (App. 2 Dist. 1986) 177 Cal. App. 3d 719, review denied, probable jurisdiction noted 107 S. Ct. 312, , dismissal denied 107 S. Ct. 665, reversed on other grounds 107 S. Ct. 3141, coastal owners' replacement of old house with new house was a "new development" where reconstructed residence would exceed floor area, height or bulk of former structure by more than 10% and was in same location on property as former structure.

planned in Davenport and north of Davenport.⁴ If an EIR had been conducted these new conditions would have been properly studied.

Because of these reasons, the Project will have significant adverse effects both individually and cumulatively on coastal resources. If an EIR had been conducted, the individual and cumulative impact of the Project would have been properly determined.

3. Protection of Public Vistas and Preservation of Ocean Vistas, Scenic Road Vistas:

The issue is whether the Project adequately protects the public vista and the aesthetic values of visual resources.

Under PRC § 30251, 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 form, to be visually compatible with the character of surrounding areas," (See also LCP 5.10.2, Development Within Visual Resource Areas; LCP 5.10.3, Protection of Public Vistas; LCP 5.10.6, Preserving Ocean Vistas.)

Under LCP 5.10.10 "scenic roads" are roads and highways valued for their vistas. Highway 1 from San Mateo County to Monterey County is such a scenic road (LCP 5.10; see also PRC § 30254). Development visible from rural scenic roads are required to be sited out of public view, obscured by natural landforms and/or existing vegetation. (LCP 5.10.11) Where proposed structures are unavoidably visible from scenic roads, visual qualities worthy of protection should be identified and Project should be required to mitigate the impacts of those visual qualities. (LCP 5.10.11)

In fact, the California Department of Parks and Recreation recommends that the California Division of Highways "should acquire all land seaward of all coastal highways where the distance is 300 feet or less, thus preserving the scenic open space and coastal vistas so valuable to the sightseeing motorist." (California Coastline Preservation and Recreation Plan, 1971, p. 94; located in Santa Cruz Public Library: R 333.917 C12; cited by PRC § 30251)

Here, Highway 1 has been designated a scenic road (LCP 5.10.5). Although the Project attempts to mitigate the destruction of Davenport's viewshed and the scenic view along Highway 1 by lowering the parking lot by 3 feet, the mitigation is not adequate because 1) it will still impede visual access to the shore significantly and undermine Davenport as a visual focus both aesthetically and as an historic whale-viewing site; 2) the parking lot will be above ground at the south end of the parking lot; and 3) grading will alter a natural land form. (See PRC § 30251; GP 8.2.2)

The proposed Project is currently the only commercial visitor-serving space on the west side of Highway 1 from Pigeon Point in San Mateo County to the City of Santa Cruz. Allowing the Project to proceed will open up adjacent parcels for development, and encourage other development on the west side of Highway 1, thus destroying Highway 1 as a scenic road.

The Project fails to protect the public view from Highway 1 and from a recreational area to, and along, the coast. Grading the parking lot to lower part of it by 3 feet will not mitigate the visual impact on the Highway 1 scenic highway viewshed. Currently, Davenport's coastal bluff provides Davenport and visitors driving down scenic Highway 1 with a spectacular panoramic ocean view of the Monterey Bay. In this way, Davenport truly acts as a gateway to the Monterey Bay Sanctuary. Paving this bluff and substituting the glare off automobile chrome and windshields for this beautiful view would be a travesty.

4. Protection of Davenport as a Special Community

Under PRC § 30253, new development shall neither create nor contribute significantly to the destruction of a site, and it shall protect special communities as appropriate, since special communities are popular visitor destination points for recreational uses.

⁴ An RV park is currently being built at Cascade Ranch on the east side of Highway 1 in San Mateo County.

Coastal Special Communities include rural villages, recognized for their unique characteristics and/or popularity as a visitor destination point. (LCP 8.8.2) It is Santa Cruz County's objective to promote coherent community design and enhancement of the unique characteristics of the village areas and community centers as focal points for living, working, shopping, and visiting. (GP 2.24; Davenport is designated for such a plan)

Davenport is a Coastal Special Community, known for its unique character as an historic whale-watching site and for its stunning ocean vistas of the Monterey Bay. (LCP 8.8.2) New development in Davenport is required to be consistent with the height, bulk, scale, materials, and setbacks of existing development: generally small scale, one- to two-story structures of wood construction. (LCP 8.8.4; GP 8.4.1, Neighborhood Character)

The LCP program for Davenport recommends that Davenport be enhanced "as a visual focus along Highway 1, with clear, coordinated circulation and an emphasis on the area's whaling history and whale-viewing opportunities. (GP, page 8-12; see also GP 8.2.5)

Here, the proposed Project is inconsistent with other Davenport development in terms of height, bulk, and physical scale. The Project building will be 30 feet high at its highest point, 6 feet higher than the Davenport Cash Store, which is the highest building fronting Davenport. More importantly, the new 22,918 square foot building would nearly double the size of the current packing shed, and Highway 1 visitor-serving space would grow from 14,400 to 37,000 square feet. The Project is incompatible with the established physical scale of existing development and thus does not fit the character of Davenport.

Moreover, the Project is inconsistent with the LCP Program in that the proposed 65+ car parking lot, which fronts nearly the entire length of Davenport, will destroy Davenport's visual focus along Highway 1. (See Section 3 above.)

The Project is also inconsistent with both the GP and the LCP Program in that the Project does not provide for clear, coordinated, safe circulation: 1) safe pedestrian access across Highway 1 has not been addressed; 2) the Project does not adhere to the Caltrans model of 75' for penetration into parking areas in its south and north lots (See Attachment 1); 3) myoporum trees planted in the highway right-of-way cut off pedestrian access along the front of the Project, forcing pedestrians to cross to the east side of Highway 1 and then back to the west side again after passing the trees; 4) the Project does not address tour bus circulation; 5) highway signs disallowing those driving north on Highway 1 a left turn into the southern parking lot will confuse drivers and encourage them to circle through the residential streets of Davenport in order to enter the Project parking lot. (See GP 3.13.3)

The Project thus is not in character with the village of Davenport.

5. Adequacy of Public Services:

There is a question as to whether Davenport's public services are adequate to accommodate the Project.

New commercial development should be located in close proximity to existing developed areas with adequate public service capacity. (LCP 2.1.4) Public services include, but are not limited to, sewer, water, roads, access, and pattern of existing land use in the neighborhood. (LCP 2.1.6)

A. Sewage: There is a question as to whether the Project will negatively impact Davenport's sewage system.

Davenport is within the Rural Services Line ("RSL"). (LCP 2.3.5) Sanitation facilities within the Rural Services Line should provide for adequate sewage collection, treatment, and disposal. (LCP 7.20) Community sewage disposal systems shall be sized to serve only the buildout densities for lands within the RSL. (LCP 7.20.1)

Here, the Davenport sewage system is not capable of serving the Project's sewage needs. The Davenport sewage system is a disaster waiting to happen. The system is over 70 years old and the pipes in particular are in dire need of replacement. Although the County of Santa Cruz, through Public Works, has applied for a grant from the USDA to replace the antiquated system,

no funds have been appropriated and thus there is no grant.⁵ In addition, even if the funds do come through, the grant proposal only asks to replace the existing system, *not* enlarge the system. The negative declaration does not adequately address whether the sewage system is adequate to provide for existing vacant parcels within the RSL.

If an EIR had been required, the impact of this project, other present projects, and future projects would have been adequately determined.

B. Water resources: There is a question as to whether the Project will negatively impact Davenport's water source, San Vicente Creek ("Creek").⁶

Under PRC § 30231, the biological productivity and quality of coastal streams shall be maintained by, among other means, controlling runoff, preventing depletion of ground water and substantial interference with surface water flow, and minimizing the alteration of natural streams. (See also LCP 5.4.14; LCP 5.7.4) Davenport's San Vicente and Mill Creeks are designated as Critical Water Supply Streams. (LCP 5.6.2) According to LCP 5.62, the County should "[o]ppose or prohibit as legal authority allows, new or expanded water diversion from Critical Water Supply Streams. Prohibit new riparian or off stream development, or increases in the intensity of use, which require an increase in water diversions from Critical Water Supply Streams." (See also LCP 5.7.5)

The LCP objectives regarding water supply are to ensure a dependable supply of high quality domestic water to meet community needs and to ensure that the level of development permitted is supportable within the available water supply. (LCP 7.18) Projects shall not be approved in areas that do not have a proven, adequate water supply. (LCP 7.18.2) All new development proposals shall be reviewed to assess impact on the water system. (LCP 7.18.3)

According to LCP 5.6.1, the County should "[o]ppose new water rights applications . . . which would individually or cumulatively contribute to the diminishment of the instream flows necessary to maintain anadromous fish runs"

In regards to the Project, there is concern that the Project will significantly impact the watershed. Fish and Game has questioned the completeness of the County's Initial Study regarding water availability, water quality, and water quantity (i.e., maintaining the natural runoff--when one puts in impervious surfaces, the run-off needs to be retained). Fish and Game also has questioned the cumulative impact of present and future projects utilizing San Vicente Creek and thus potentially impacting the habitat of state endangered species, such as coho salmon; and federal threatened species, including the red-legged frog, steelhead trout, and coho salmon. If an EIR had been conducted, all of these issues would have been addressed.

6. Development adjacent to parks and recreation areas:

Under PRC § 30240, development in areas adjacent to parks and recreation areas "shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those . . . recreation areas."

⁵ In an October 20, 1998 memo to Supervisor Jan Beautz, District Engineer John A. Fantham reports that "A telephone conversation today with the USDA indicates that this grant was approved by the state office of the USDA last week." It was on this basis that the Board of Supervisors on October 20, 1998 agreed that "an operating certificate of occupancy not be approved until the sewage system improvements have been completed as presently proposed under the terms of the grant that has been applied for and *apparently* received." [emphasis added] However, in consultation with Civil Engineer Drew Byrne on October 30, 1998, Mr. Byrne said that it was an overstatement to say that the grant was approved because Public Works has received nothing official and no money has been appropriated for the replacement of the current 6" pipes with new 6" pipes.

⁶ California Fish and Game representative Patricia Anderson spoke before the Board of Supervisors regarding these issues and the Board of Supervisors did not adequately address her concerns.

Under PRC § 30525, "sensitive resource values" means those fragile or unique natural resources which are particularly susceptible to degradation resulting from surrounding development, the adverse effects of which have not been carefully evaluated, mitigated, or avoided. Examples include "specific public recreation areas where the quality of the recreational experience is dependent on the character of the surrounding area." (See PRC §1115 for grants to acquire less than fee title in land areas identified as having sensitive resource values.)

Here, the Project will encourage development on three adjacent parks and recreation parcels. The Project facilitates coordinated vehicular access to those adjoining vacant parcels for their future development.⁷ Moreover, with the addition of the Project's proposed private parking lot, Davenport's coastal vista will be blocked by one continuous parking lot since the General Plan for the North Coast Beaches, Davenport Beach and Bluffs already plans parking lots further north on adjacent parcels. (See Map 13 showing Davenport Beach and Bluffs Area.)

These parking lots, individually and cumulatively, will significantly degrade the coastal view and is thus incompatible with the continuance of the adjacent recreation areas.

7. Protection of Davenport as a Sensitive Coastal Resource Area

Under PRC §§ 30116, 30502, sensitive coastal resource areas are those areas within the coastal zone of vital interest and sensitivity. Sensitive coastal resource areas include areas possessing significant recreation value, highly scenic areas, archaeological sites referenced in the California Coastline and Recreation Plan, and special communities which are significant visitor destinations. (PRC § 30116)

Davenport should be designated as a sensitive coastal resource area because it is a highly scenic area, it is a special community which is a significant visitor destination, and it is an archaeological site referenced in the California Coastline and Recreation Plan. If Davenport is so designated, a separate report should have been made which contains a "specific list of significant adverse impacts that could result from development where zoning regulations alone may not adequately protect coastal resources or access." (PRC § 30502) The LCP should include the implementing actions. (PRC § 30502; LCP 5.11.5, Designation of Resource Conservation Lands)

8. Preservation of Costanoan Tribal Area/Archaeological Resources:

Under PRC § 30244, where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measure shall be required.

According to objective 5.19 of the LCP, the County should "protect and preserve archaeological resources for their scientific, educational and cultural values, and for their value as local heritage."

Here, the archaeological survey prepared for the negative declaration was limited to a visual inspection of the parcel surface and peering down gopher holes. There was no major vegetation removal or excavation. (See Attachment 6 of the Initial Study.) However, the California Department of Parks and Recreation notes that Davenport is both a Coastal Indian site and an area where site information is deficient. (CCPRP, plate E-2; cited in PRC § 30251; see Attachment 2) Furthermore, the Department recommends that "representative areas or sites should be preserved, especially in northern Santa Cruz County." (CCPRP, 81; also, "One or more representative sites in the following areas should be added to the State Park System": in the Costanoan Tribal Area (San Mateo and Santa Cruz Counties). (CCPRP, p. 106) Furthermore, arrowheads have been found nearby. For example, Jerry Adame, employed by Pacific School in Davenport, found an arrowhead just south of the old hospital on a neighboring Lonestar oceanside parcel.

⁷ See footnote 1.

A casual reconnaissance of the Project site as part of associated review for the Project was inadequate. An EIR would have provided a more thorough investigation of the importance of this parcel in terms of Costanoan tribal activity.

9. Preservation of Whale-Watching Site/Historic Resources:

According to objective 5.20 of the LCP, the County should protect sites of historic significance to preserve the rich cultural heritage of the community. Specifically, the County's LCP has directed that Davenport be enhanced "as a visual focus along Highway 1," and that the area's "whaling history and whale viewing opportunities" be emphasized.

The Project parcel fronts the entire viewshed of Davenport. The Project's proposed parking lot would pave over the traditional whale-watching site historically used by tourists and residents alike. In addition, Highway 1 is a scenic corridor, and the proposed parking lot would visually block access and detract from motorists' viewing of whales. (See LCP 5.10.10: "The public vistas from these roads shall be afforded the highest level of protection.")

10. Access to Davenport Beach:

✓ Access shall be provided for all the people consistent with public safety needs and the need to protect public rights. (PRC § 30210; LCP 7.7b; LCP 7.10-12.) Development should not interfere with the public's right of access to the sea where acquired through use. (PRC § 30211.)

Under LCP 7.7c, shoreline access includes visual access, "to every beach to which a granted access exists or to which the public has acquired a right of access through use, . . ." Moreover, the County encourages "pedestrian enjoyment of ocean areas and beaches by the development of vista points and overlooks with benches and railings, and facilities for pedestrian access to the beaches. . . ." (LCP 7.7.1, Coastal Vistas)

Davenport Beach is an area designated for primary public access. (LCP 7.7.15)

If the Project proceeds, pedestrian access to the ocean will be impeded by increased traffic on Highway 1 caused by an estimated 466 extra daily trips.⁸ Physical access is further impeded by the myoporum trees planted by Mr. Bailey without an encroachment permit in the highway right-of-way.⁹ The myoporum trees dangerously restrict pedestrians' sightline when crossing Highway 1. Further, pedestrians already on the west side of Highway 1 are imperiled when they try to walk north along Highway 1 to the overlook area because the trees crowd them into Highway 1 traffic. (See GP 3.10.1, 3.10.4, 3.10.5) Physical access is further impeded by the developers' proposed stairway to the beach: pedestrians must walk through a 65+ car parking lot to reach the stairway, and at the bottom of the proposed stairway pedestrians must walk along the railroad track for an extra 220 yards before reaching a path down to the beach (the current path developed through prescriptive use requires that a pedestrian cross the railroad track and walk for 100 yards).

Furthermore, visual access will be impeded by the Project in that the proposed parking lot will block pedestrians and motorists visually from the ocean and beaches.

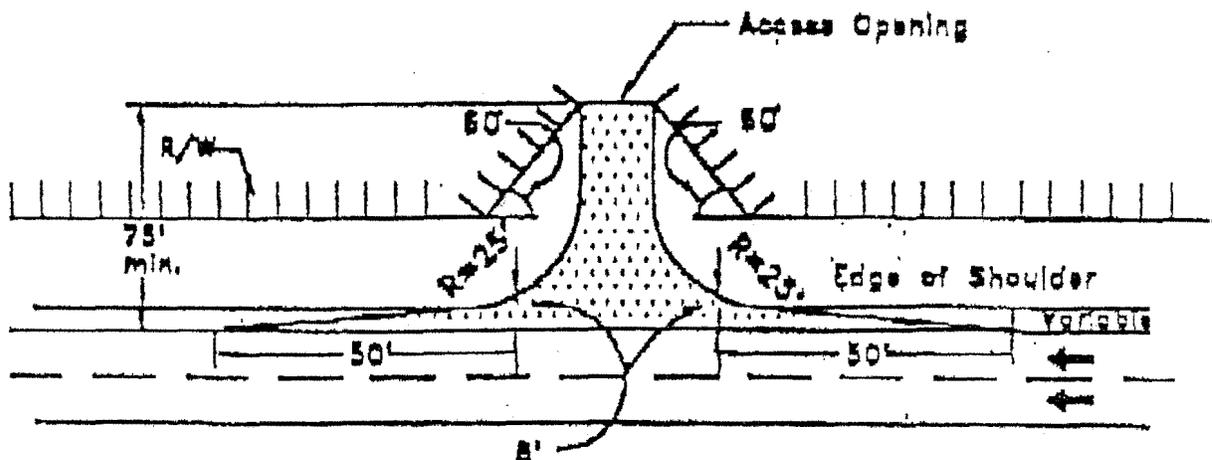
Thus, the development fails to provide adequate physical and visual access and interferes with such use.

⁸ See Initial Report, Attachment 9: Odwalla Distribution Center Reuse Plan Traffic Analysis Report, p. 6. This estimate is probably low due to the inadequate traffic analysis conducted. See discussion above under New Development and Its Impact.

⁹ Caltrans has requested that an encroachment permit be filed for this planting; Caltrans requires that the developers specifically address biological and archaeological impacts on the state's right-of-way. See comment "c" of September 25, 1997 Department of Transportation letter to County Planner Kim Tschantz.

Figure 205.1

Access Openings on Expressways



RECESSED OPENING

205.2 Private Road Connections

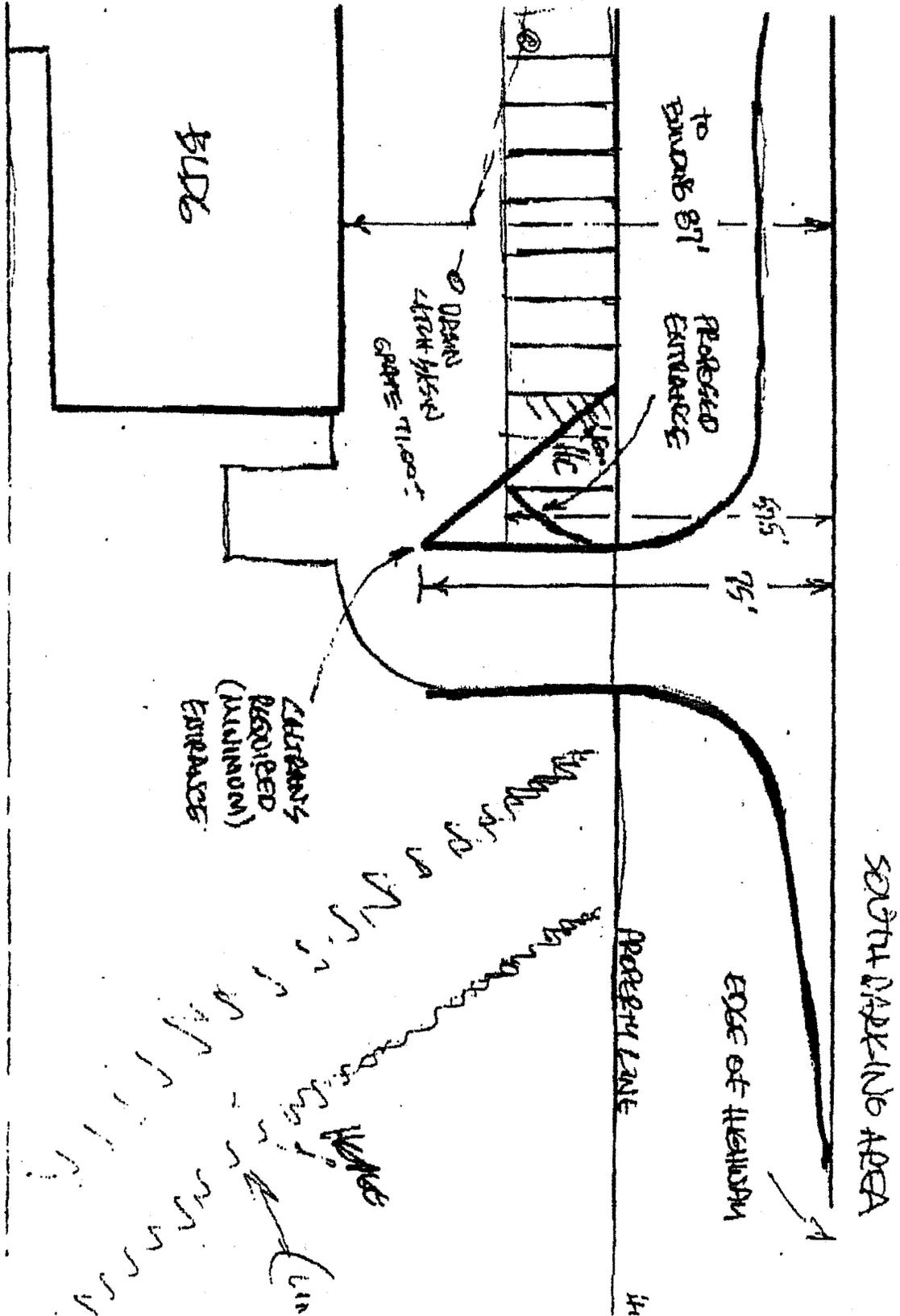
The minimum private road connection design is shown on Figure 205.1. Sight distance requirements for the minimum private road connection are shown on Figure 405.7 (see Index 405.1).

Source: Highway Design Manual.
Caltrans, Fourth Edition, 2/13/95.

EXHIBIT 10 -
RECOMMENDED
DRIVEWAY FLARES

KIM B. HIGGINS & ASSOCIATES, INC.

11



10

BUILD

to
BUILDING 871

PROPOSED
ENTRANCE

DEMAND
LITIGATION
GATE 11,000'

59.5'

75'

75'

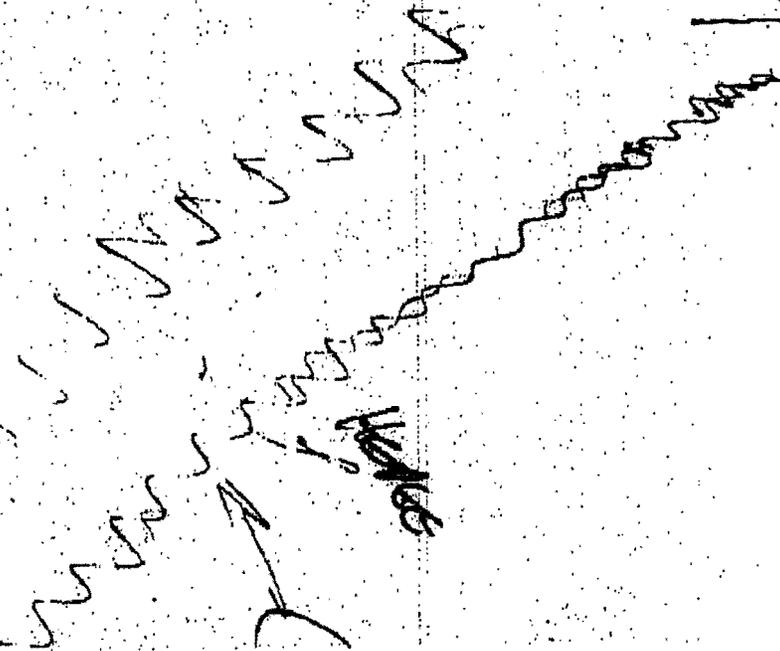
28'

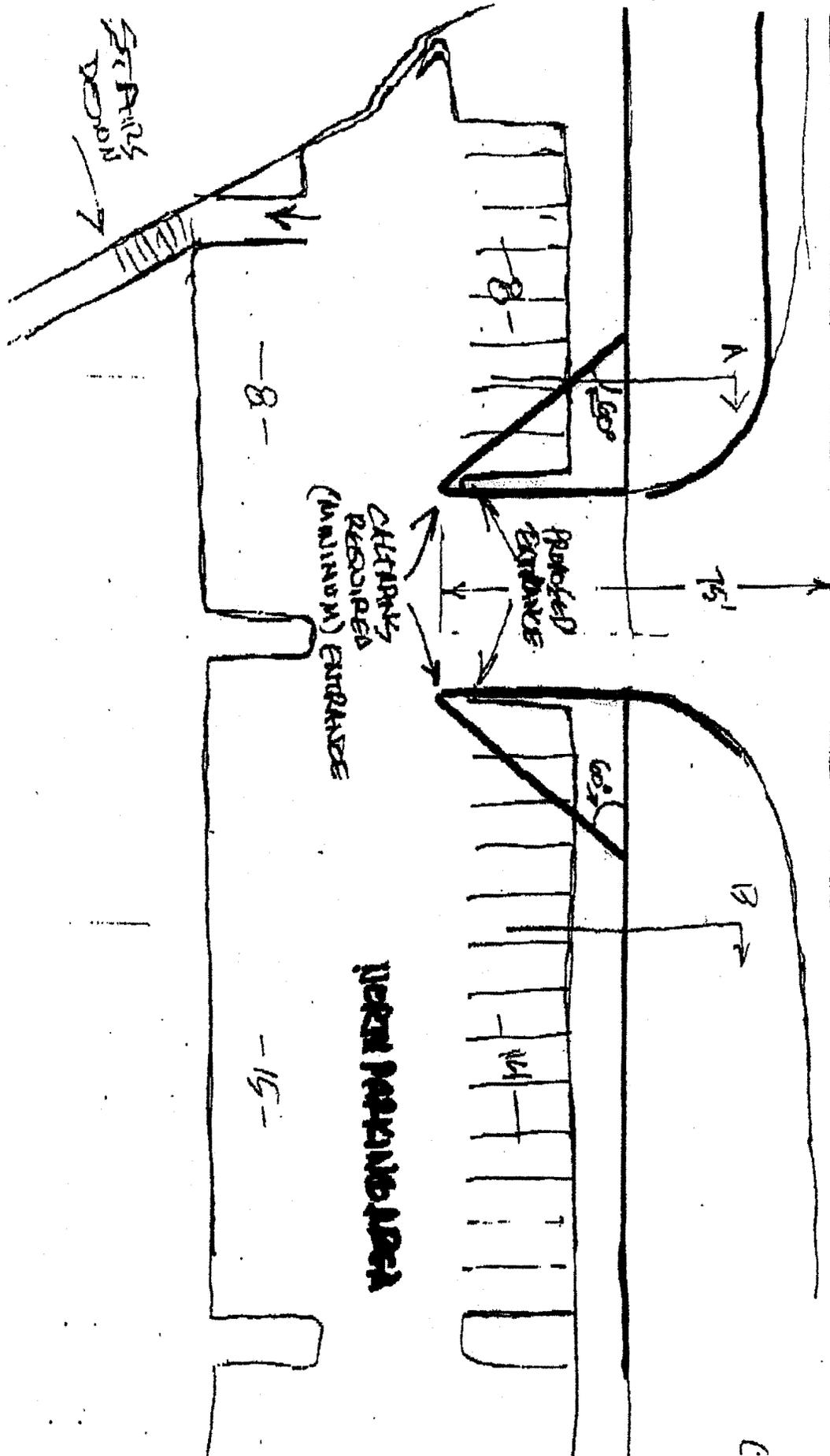
CLEARANCE
REQUIRED
(MINIMUM)
ENTRANCE

IF EDGE OF
THE STORY
IS AT 28'
PLACEMENT
WILL BE
TO HERE

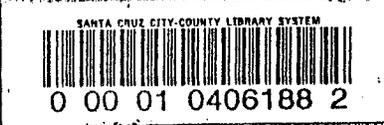
PROPERTY LINE

EDGE OF HEIGHTENED
(AS SHOWN ON
DRAWINGS)





AAQ 9748



CALIFORNIA COASTLINE PRESERVATION AND RECREATION PLAN

JUNE 1971

Handwritten initials/signature
C58

OCT 26 72

RONALD REAGAN
Governor of
California

NORMAN B. LIVERMORE, JR.
Secretary for
Resources

WILLIAM PENN MOTT, JR.
Director
Department of Parks
and Recreation

Reference

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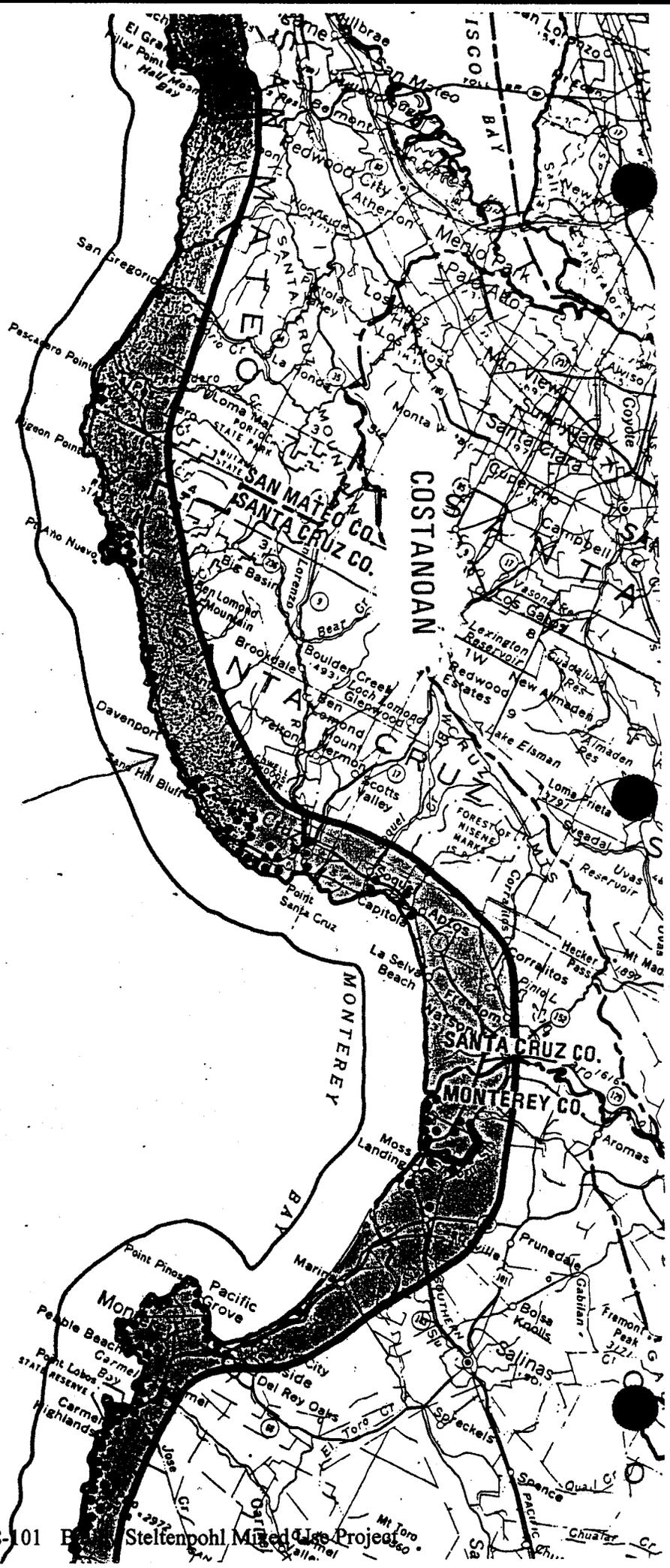
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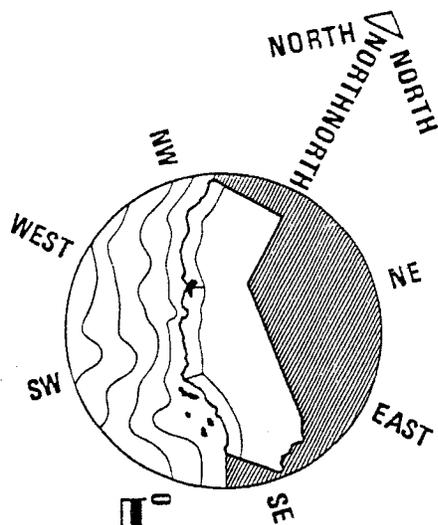


STATE OF CALIFORNIA THE RESOURCES AGENCY
DEPARTMENT OF PARKS AND RECREATION
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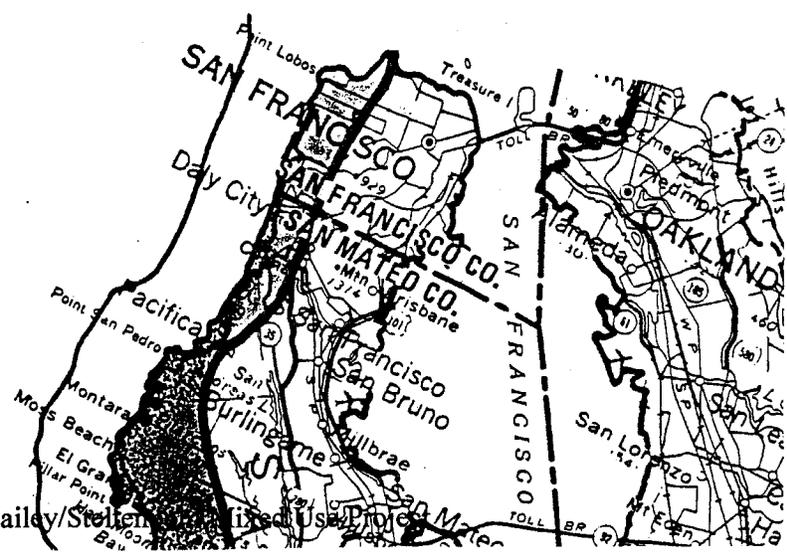
Attachment 2

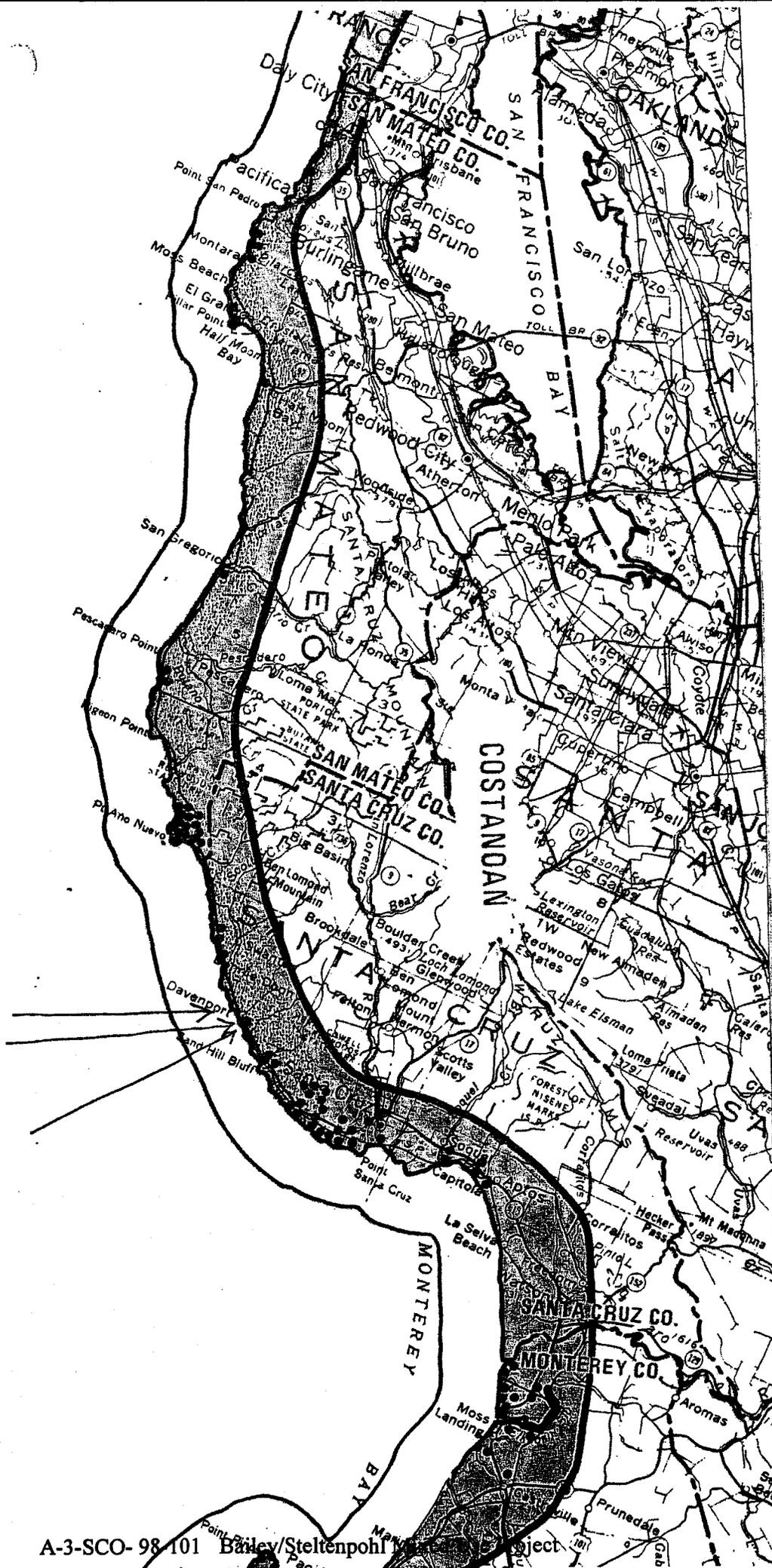




LEGEND

-  CULTURAL AREA BOUNDARY
-  TRIBAL AREA BOUNDARY
-  ARCHEOLOGICAL SITES
-  AREAS WHERE SITE INFORMATION IS DEFICIENT





Sites In Davenport

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COASTAL COMMISSION
CENTRAL COAST AREA

Page 39 of Exhibit 5

A-3-SCO-98-101 Bailey/Steltenpohl Project

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION I. Appellant(s)

David S. Kossack
 P. O. Box 268
 Davenport, CA 95017 (831) 427-3733

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SECTION II. Decision Being Appealed

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1. Name of local/port government: County of Santa Cruz, CA
2. Brief description of development being appealed:

The Santa Cruz Board of Supervisors approved (3-2) an amendment to Chapter 13.10 of the Santa Cruz County Code rezoning parcel 058-121-04, a variance in the front yard set back requirement, an initial study and a Mitigated Negative Declaration for a proposal to develop a mixed-use facility in the Special Community of Davenport. The facility proposes visitor-serving accommodations, caretaker's residence, restaurant, microjuicery, offices and retail uses. The project would be the first commercial retail on the west side of Highway 1 between the City of Santa Cruz and Half Moon Bay in San Mateo County.

The existing structure on the parcel was a Brussels sprout packing shed converted to a juice processing plant and warehouse in, or about, 1983. The County of Santa Cruz placed a "red tag" on the property in late 1983 for the illegal conversion and the issue has not been resolved. The present project intends to expand the current size of the structure from 13,127 square feet to 22,918 square feet. The set back variance approved by the Board as part of this project reduces the minimum 10 foot front yard set back present throughout Davenport to 0 feet. The variance will affect 53 feet of the building's frontage.

Ordinance No. 4515 amends Chapter 13.10 of the Santa Cruz County Code changing the present zoning of the parcel from the "C-1" (Neighborhood Commercial) zone district to a "SU" (Special Use) zoning. The zoning change provided by Ordinance No. 4515 permits 'visitor-serving accommodations', a land use unavailable under the existing zoning district. The SU zoning also allows for a mixed use project, which allows a reduction in the number of parking spaces required to service the project on the tightly configured parcel.

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

APN: 058-121-04
 Site Address: 3500 Coast Highway 1, Davenport
 Location: West side of Highway 1 opposite the intersection with Center Street in the town of Davenport, CA.

4. Description of decision being appealed:

- a. Approval; no special conditions: "Mitigated Negative Declaration"
 Ordinance No. 4515; Ordinance Amending Chapter 13.10 of the Santa Cruz County Code Changing property from one zone district to another.
 Coastal Zone Permit

5. Decision being appealed was made by:

- b. City Council/ Board of Supervisors

6. Date of local government's decision: October 20, 1998.
7. Local government's file number (if any): Application No.: 95-0685

SECTION III. Identification of Other Interested Persons

- a. Name and mailing address of permit applicant:

Bailey/Steltenpohl/Odwalla Juice Company
3500 Coast Highway 1
Davenport, CA 95017

- b. Names and mailing addresses as available of other interested parties.

Citizens for Responsible North Coast Planning
c/o The Law Offices of
William P. Parkin
5540 Glen Haven Road
Soquel, CA 95073

David Paraso
34 Marine View Ave.
Davenport, CA 95017

David Thiermann
1725 Seabright Avenue
Santa Cruz, CA 95060

California Department of Fish and Game
Monterey Office

SECTION IV. Reasons Supporting This Appeal

In the following discussion citations are from the 1994 General Plan and Local Coastal Program for the County of Santa Cruz, California (GP). (LCP) indicate the language which is part of the Local Coastal Program, certified by the California Coastal Commission, 12/15/94. Added emphasis are my own.

Attachment 1: Re: Application 95-0685 (Bailey/Steltenpohl/Odwalla Juice Company Mixed Use Project), APN: 058-121-04, comments submitted to the Santa Cruz County Board of Supervisors October 20, 1998.

Attachment 2: Memorandum Re: Odwalla Project, permit/red tag history.

The present development, 95-0685 on parcel 058-121-04, fails to conform to the standards set forth in the certified Santa Cruz County Local Coastal Program on a variety of issues. Of particular concern are the project's deficiencies that are the result of an inappropriate change of zoning as well as the projects individual and cumulative impacts affecting water, sewerage, viewshed and access.

Zoning:

The amendment to Chapter 13.10 of the Santa Cruz County Code rezoning parcel 058-121-04 from its current "C-1" (Neighborhood Commercial) zone district to a "SU" (Special Use) zoning represents a Program Amendment under § 30514 of the Public Resource Code (PRC) addressing the implementation of the California Coastal Act. The present project's changes in land use, water use, and changes in allowable uses of the property preclude designation of these changes as *de minimis*. As pointed out in §

30514(b) "Any proposed amendments to a certified local coastal program shall be submitted to, and processed by, the commission in accordance with the applicable procedures and time limits specified in Sections 30512 and 30513..." In the present project the rezoning amendment is consistent with § 30513, Zoning; approval; grounds for rejection... and a public hearing before the California Coastal Commission.

Existing conditions were poorly documented for the present project. The parcel 058-121-04 described in the initial study appears to be of different size and dimension than descriptions of this parcel found elsewhere, for example, in the County's Assessor Parcel Maps. This has made it difficult to place the project in proper perspective within the Community of Davenport. In addition, the current uses presented for the structure on the parcel appear to be inconsistent with the uses that have been previously approved by the County for this structure. This building was originally a Brussels sprout packing shed. The conversion around 1983 to the building's present use as a juice manufacturing facility has apparently never been approved by the County (Attachment 2). This suggests that the most appropriate approved use for the structure remains a Brussels sprout packing shed. Therefore to rezone the present project to a "SU" (Special Use) mixed-use commercial zone district from its currently approved land use as an agriculture related structure does not conform with the Local Coastal Program.

GP 2.22.1 (LCP) Maintain a hierarchy of land use priorities within the Coastal Zone:
 First Priority: Agriculture and coastal-dependent industry
 Second Priority: Recreation; visitor serving commercial uses; and coastal recreation facilities.
 Third Priority: Private residential, general industrial, and general commercial uses.

GP 2.22.2 (LCP) Maintaining Priority Uses. Prohibit the conversion of any existing priority use to another use, except for another use of equal or higher priority.

The "SU" (Special Use) zoning requested by the project applicant claims to represent the "C-1" (Neighborhood Commercial), "PA" (Professional Administrative) and "CT" (Tourist Commercial) zoning districts which implement the Neighborhood Commercial zoning Designation, (C-N). However "Visitor-Serving Accommodations", which the present project proposes, is not a use allowed in the Neighborhood Commercial Designation, [GP 2.13.3 (LCP)], in fact visitor accommodations are specifically sequestered under their own zoning designation, Visitor Accommodations (C-V) [GP 2.16 (LCP)].

This is not a small scale project, but a mini resort and shopping mall. Visitor accommodations will displace opportunity for legitimate Neighborhood Commercial uses to serve the community of Davenport.

2.13.4 (LCP) Expansion of the existing Neighborhood Commercial Designation. Allow only uses that are small scale and appropriate to a Neighborhood. Or visitor service and will not have an adverse *traffic*, noise and *aesthetic* impacts on the adjacent residential areas. Allow the expansion of Neighborhood Commercial land use designations only where:

- A need and market exists, and
- the use will not adversely affect adjacent residential neighborhoods

The Variance in the 10 foot minimum front yard set back does not conform with the Local Coastal Plan because it is inconsistent with the character of Davenport in addition to contributing to a hazardous condition along Highway 1.

8.8.4 (LCP) Davenport Character. Require new development in Davenport to be consistent with the height, bulk, scale, materials and *setbacks* of existing development: generally small scale, one to two story structures of wood construction.

Parking:

The present project's parking formula does not provide for the necessary parking facilities identified in GP Figure 2-5, titled Conservation of Coastal Land Resources, Coastal Priority Sites, North Coast - Davenport Bluffs [GP 2.23 (LCP)]. As identified under the heading 'Circulation and Public Access

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Greg Steltenpohl and Fred Bailey
Permit 95-0685
A.P.N. 58-121-04

OCT 22 1998

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REZONING FINDINGS:

1. THE PROPOSED ZONE DISTRICT WILL ALLOW A DENSITY OF DEVELOPMENT AND TYPES OF USES WHICH ARE CONSISTENT WITH THE OBJECTIVES AND LAND-USE DESIGNATIONS OF THE ADOPTED GENERAL PLAN; AND,

Rezoning this parcel to the "SU (Special Use) zone district will limit the density of development and types of uses to those permitted by the three implementing zone districts of the General Plan land use designation of "Neighborhood Commercial". These three zonings are "C-1" (Neighborhood Commercial), "CT" (Tourist Commercial) and "PA" (Professional Administrative) zoning districts.

2. THE PROPOSED ZONE DISTRICT IS APPROPRIATE OF THE LEVEL OF UTILITIES AND COMMUNITY SERVICE AVAILABLE TO THE LAND; AND,

Rezoning this parcel to the "SU" zone district will not change the utility and community services generated by this parcel if the existing "C-1" zoning was retained. As discussed in finding 1 above, the rezoning will result in the types of uses allowed in the three commercial zone districts that implement the "Neighborhood Commercial" designation. All three zonings have similar utility and community service needs.

3.
 - a) THE CHARACTER OF DEVELOPMENT IN THE AREA WHERE THE LAND IS LOCATED HAS CHANGED OR IS CHANGING TO SUCH A DEGREE THAT THE PUBLIC INTEREST WILL BE BETTER SERVED BY A DIFFERENT ZONE DISTRICT; OR,
 - b) THE PROPOSED REZONING IS NECESSARY TO PROVIDE FOR A COMMUNITY RELATED USE WHICH WAS NOT ANTICIPATED WHEN THE ZONING PLAN WAS ADOPTED; OR,
 - c) THE PRESENT ZONING IS THE RESULT OF AN ERROR; OR,
 - d) THE PRESENT ZONING IS INCONSISTENT WITH THE DESIGNATION SHOWN ON THE GENERAL PLAN.

A rezoning to the "SU" zone district will allow the visitor accommodation uses permitted in the "CT" zone district which are not permitted under the parcel's current zoning. General Plan policies 2.13.5 and 8.8.2 encourage the provision of visitor-serving commercial services within the Highway 1 frontage of Davenport, where this site is located. Prior to the adoption of the 1994 General Plan, this parcel was zoned "CC" (Coastal Commercial). This zoning district has since been eliminated and parcels previously zoned "CC" were rezoned to the "C-1" zone district on a County-wide basis.

Requirement', parking for the Davenport priority sites 058-072-01, -02 and -03 is to be on parcel 058-121-04, the present project site. The failure of the present project to provide this necessary parking limits access to these Davenport priority sites.

The present project fails to provide necessary on-site recreational transit facilities, including parking spaces for buses and shuttle services to accommodate additional tour and whale watching excursion buses generated by the development's visitor services.

3.6.2. (LCP) Recreational Transit Facilities. Require new recreation and visitor-serving development to support special recreation transit service where appropriate, including but not limited to, construction of bus turnouts and shelters, parking spaces for buses and shuttle service, and bus passes for employees and subsidies for visitor serving transit services.

The present project does not address the additional surface runoff generated by installing impervious surfaces e.g., parking lots. While the project provides grease traps, however effective they might be, the surface runoff leaving the traps is released onto an adjacent parcel with no further discussion. The present parcel is part of a Primary Groundwater Recharge Area.

GP 7.23.1 New Development. Require runoff levels to be maintained at predevelopment rates for a minimum design storm as determined by Public Works Design Criteria to reduce downstream flood hazards and analyze potential flood overflow problems. Require on-site retention and percolation of increased runoff from new development in Water Supply Watersheds and Primary Groundwater Recharge Areas, and other areas as feasible.

GP 7.23.2 Minimizing Impervious Surfaces. Require new development to limit coverage of lots by parking areas and other impervious surfaces, in order to minimize the amount of post-development surface runoff.

Cumulative and Growth Inducing impacts:

2.3.5 (LCP) Areas Within the Rural Services Line (RSL) include Davenport.

The applicant claims that the present project is consistent with all elements of the County General Plan (Development Permit Findings, #3) then proceeds to identify three adjacent parcels that will be provided vehicle access through the present parcel by the present project to the facilitate their development. These parcels include the RMC parcel on the Davenport bluffs (Development Permit Findings, #3); the parcel Northwest of the present project, owned by Union Pacific RR (Development Permit Findings, #6c); and the required dedication of an easement for access to A.P.N. 058-121-03 to the southwest of the project, which is also owned by Union Pacific (Conditions of Approval, III. C.). All three of these parcels are outside of the Rural Service Line.

GP 2.1.3 (LCP) Maintaining a Rural Services Line. Prohibit the expansion of the Rural Services Line.

In addition, the cumulative and growth inducing impacts of identifying these parcels for development and specifically providing vehicular access to them does not conform with the Master Plan Requirement for priority sites

2.23.2 (LCP) Designation of Priority Sites: Figure 2-5, Davenport Bluffs (058-072-01,02,03)

By identifying parcels within the Davenport Bluffs Priority Site for development the present project needs to address all parcels within the priority site.

2.23.3 (LCP) Master Plan Requirements for priority Sites. Require a master plan for all priority sites. Where priority use sites include more than one parcel, the master plan for any portion shall address the issues of site utilization, circulation, infrastructure improvements, and

landscaping, design and use *compatibility for the remainder of the designated priority use site*. The Master Plan shall be reviewed as part of the development permit approval for the priority site.

In proposing and facilitating development on these adjacent parcels the present project fails to conform with the Local Coastal Program in that it does not preserve ocean vistas.

GP 5.10.6 (LCP) Preserving Ocean Vistas. Where public ocean vistas exist, require that these vistas be retained to the maximum extent possible as a condition of approval for any new development.

The present project does not provide for the restoration of the Davenport Bluffs Scenic Area.

GP 5.10.9 (LCP) Restoration of Scenic Areas. Require on-site restoration of visually blighted conditions as a mitigating condition of permit approval for new development. The type and amount of restoration shall be commensurate with the size of the project for which the permit is issued. Provide technical assistance for restoration of blighted areas.

The present project also fails to meet the criteria of GP 2.1.4 (LCP) in that the present project will have tremendous cumulative impacts on water, sewer and native habitats.

2.1.4 (LCP) Siting of New Development. Locate new residential, commercial or industrial development, within, next to, or in close proximity to existing developed areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on environmental and natural resources, including coastal resources.

The present project is the first commercial retail on the west side of Highway 1 between Santa Cruz and Half Moon Bay. The project was approved by a Negative Declaration, a claim that the project will not have a significant effect on the environment. Included in the approval was a change in zoning for this single parcel, spot zoning, and an expansion of the existing structure that will almost double its current size and more than doubled its impact on Davenport's infrastructure. Based upon this precedence it is not unreasonable to assume that the additional developments identified by the Development Permit Findings and Conditions of Approval will be of equivalent magnitude of the present project. Using the level of intensities established for present project's infrastructure, each parcel would consume an additional 5293 gallons/day (gpd) over existing conditions. Assuming similar ratios of water to sewerage discharge used for the present parcel there will be an increase of greater than 14% in wastewater load dumped into the Davenport sewerage system per parcel. If the present project and the three adjacent parcels are developed to the level of the present project, not unreasonable because after all this is only a negative declaration, there would be a 18,879 gpd increase in water consumption over existing conditions and greater than 50% increase in wastewater load dumped into the Davenport sewerage system.

The present project does not conform with the Local Coastal Program because of its cumulative impacts on water and sewer and other infrastructures. All of Davenport's water comes from San Vicente Creek. San Vicente Creek is habitat for Coho Salmon, Steelhead, Red legged frogs and other endangered, threatened or sensitive species and ecosystems.

GP 5.6.1 (LCP) Minimum Stream Flows for Anadromous Fish Runs. Oppose new water rights applications and time extensions, change petitions, or transfer of existing water rights which would individually diminish or cumulatively contribute to the diminishment of the instream flows necessary to maintain anadromous fish runs and riparian vegetation below the 95%/70% standard.

GP 5.6.2 (LCP) Designation of Critical Water Supply Streams Designate the following streams, **currently utilized at full capacity**, as Critical Water Supply Streams: Laguna, Majors, Liddell, San Vicente, Mill and Reggiardo Creeks;... *Oppose or prohibit as legal authority allows, new or expanded water diversion from Critical Water Supply Streams. Prohibit new*

riparian or off stream development or increases in the intensity of use, which require an increase in water diversions from Critical Water Supply Streams. Seek to restore in-stream flows where full allocation may harm the full range of beneficial uses.

The present project does not conform with the Local Coastal Program because it did not acquire, and does not have on record, a letter demonstrating the availability of adequate water supply for the proposed development or addresses its cumulative and growth inducing impacts.

GP 7.18.2 (LCP) Written Commitments Confirming Water Service Required for Permits. Concurrent with project application require a written commitment from the water purveyor that verifies the capability of the system to serve the proposed development. Project shall not be approved in areas that do not have a proven, adequate water supply. A written commitment is a letter from the purveyor guaranteeing that the required level of service for the project will be available *prior to the issuance of building permits*. The County decision making body shall not approve any development project unless it determines that such project has adequate water supply available.

The present project did not quantitatively assess the impacts of the development or its cumulative impacts on the Davenport Sewer and Water District.

GP 7.18.3 (LCP) Impacts of New Development on Water Purveyors. Review all new development proposals to assess impacts on municipal water systems, County water districts, or small water systems. Require that either adequate service is available or that the proposed development provide for mitigation of its impacts as a condition of project approval.

The present project does not have a letter from the Davenport Water and Sewer District stating that the required level of service for sewer discharge will be available *prior to issuance of building permits*. In addition, the present project does not conform with the Local Coastal Program because the County decision making body did not, and could not considering the cumulative impacts of the project, determine that the present project has adequate sewage treatment plant capacity.

GP 7.19.1 (LCP) Sewer Service to New Development, Concurrent with project application, require a written commitment from the service district. A written commitment is a letter, with appropriate conditions, from the service district guaranteeing that the required level of service for the project will be available *prior to issuance of building permits*... The County decision making body shall not approve any development project unless it determines that such project has adequate sewage treatment plant capacity.

In promoting the development of parcels outside the Rural Service Line the present project does not conform with the Local Coastal Plan.

GP 7.20.1 (LCP) Community Sewage Disposal Systems, Within the Rural Services Line. ...Community sewage disposal systems should be sized to serve only the buildout densities for lands within the RSL.

SECTION V. Certification

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


Signature of Appellant

Attachment 1

David S. Kossack, Ph. D.
P. O. Box 268
Davenport, CA 95017

Wednesday, October 14, 1998
(408) 427-3733
dkossack@igc.org

Members of the Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

Re: Application 95-0685 (Bailey/Steltenpohl/Odwalla Juice Company Mixed Use Project)
APN: 058-121-04

Dear Supervisors:

I respectfully submit the following comments on Application 95-0685, Bailey/Steltenpohl/Odwalla Juice Company, Mixed Use Project for the public record.

I am concerned that the project proposed for the A.P.N. 058-121-04 is neither appropriate for its location nor provides the documentation necessary to address its growth inducing and cumulative impacts.

The project requests a rezoning to allow the first commercial retail on the west side of Highway 1 between Santa Cruz and Half Moon Bay. The applicant, with the assistance of the Planning department, erroneously refers to the rezoning as a "zone district" when it is actually a request to rezone a single parcel, "spot zoning". Rezoning Findings #2 claims that the 'proposed zone district' is appropriate to the level of utilities and community service available to the land, then requires mitigation to expand water and sewer capacity to meet the needs of the present project, and implicitly others. The County uses the approval of the present project to generate the County's fees for Davenport's water and/or sewer upgrades, which were previously identified as necessary to meet existing conditions without considering the additional burden of the present project. This is inappropriate mitigation under CEQA case law (e.g., Dolan).

The applicant rationalizes their need to disrupt the region's existing zoning by claiming, "Affects to the property were not considered when this rezoning occurred"(Rezoning Findings #3). However it is reasonable to assume that the Board of Supervisors carefully considered the 1994 General Plan, which established the present C-1 zoning, before its adoption. Its also reasonable to assume that the applicant, as owner of the property, had an opportunity to review and comment on the General Plan within its comment period and pursue available remedies if the County did not provide a suitable response. The window of opportunity to address this zoning issue expired a long time ago, therefore this rezoning is neither necessary nor appropriate.

This project does not complement or harmonize with existing land uses. Commercial land uses in Davenport and the North County are on the east side of Highway 1. This project also invites a new pattern of pedestrian use across Highway 1, a arterial highway not considered by the traffic analysis provided. The need for Special Use (SU) rezoning to make this project work speaks to the project's inconsistency with the General Plan and County Code. The applicant does not request either "C-1" (Neighborhood Commercial), or "CT" (Tourist Commercial) or "PA" (Professional Administrative) but rather all three zoning designations simultaneously in the form of "SU" (Special Use). The simplest explanation for the mixture of zonings is to allow a mixture of uses that will reduce the number of parking spaces required so that this inappropriately located project can fit on a small, awkwardly shaped parcel, and slide by on a negative declaration. The request for a variance from the required 10 foot minimum street side/front yard setback also illustrates that this project does not complement or harmonize with existing land uses or fit into the town character as set forth in the General Plan. In fact its clear that meeting the criteria of the set back will jeopardize the project's present parking calculations

either through an inability to promote significant multiple uses for the needed reductions if the building size is reduced or a loss of parking spaces if the building foot print is moved to meet the 10' set back. While the applicant claims a wide variety of multiple uses to obtain their parking space reductions, there is no mechanism provided by this document to enforce its implementation.

The growth inducing and cumulative impacts of this project are overwhelming. This document identifies three separate parcels that the present project either promotes the development or permits the development of previously inaccessible parcels. These parcels include the RMC parcel on the Davenport bluffs (Development Permit Findings, #3, pg. 18); the parcel Northwest of the present project, owned by Union Pacific RR (Development Permit Findings, #6c); and the required dedication of an easement for access to A.P.N. 058-121-03 to the southwest of the project, which is also owned by Union Pacific (Conditions of Approval, III. C.). In claiming that the present project is consistent with the General Plan or County Codes because it facilitates development on these adjacent parcels the County offers an invitation to these parcel owners to develop using the criteria established under the present project including a negative declaration.

The impacts of developing four parcels on the Davenport bluffs is staggering. Based upon the incomplete information provided in the present documents the present project's water consumption will increase by 230% over its current use. This project will also contribute an 8% increase in the total wastewater flow discharged into the existing Davenport sewer system. Assuming development of the additional parcels at the level of intensity first established by the present proposal, each parcel would consume an additional 5293 gallons/day (gpd) over existing conditions. Based upon the ratios of water to sewerage discharge used for the present parcel there will be an increase of greater than 14% of wastewater load dumped into the Davenport sewerage system per parcel. If all four parcels are developed to the level of the present parcel, not unreasonable because after all this is only a negative declaration, there would be a 18,179 gpd increase in water consumption over existing conditions and a 50% increase in wastewater load dumped into the Davenport sewerage system.

The present document does not provide any information or discussion from the appropriate responsible agencies as to the source of the water for the development of these additional parcels, their sewerage, the impacts on traffic or the impact on the viewsheds of this region. In addition, the water supply for Davenport comes from San Vicente Creek. Clearly an increase in the water consumption from this source of this magnitude will have a significant degrading impact on the fish and wildlife species of this watershed. The present document is meaningless without the information necessary to quantify these impacts, establish credible mitigations and determine qualitatively whether this project is appropriate.

Respectfully



David S. Kossack

Attachment 2

APN: 058 121 04 PERMIT NO.: STAFF NAME: ALANIZ
OWNER: BAILEY FRED & BREN H/W ETAL : DISASTER ID:
SITUS: NO SITUS ON FILE : UPDATED: 101497 CAM C
REDTAGGED
CONTACT DATE: 120783 INVEST.CODE: B60 INTERIOR REMODEL W/OUT PE

RESOLUTION DATE: STATUS: I8 Recorded Red Tag
FOLLOW-UP DATE: 111597 FOLLOW-UP: F6 Will Check Compliance
ARCHIVE DATE: PRIORITY: A
ALLEGED VIOLATION/INVESTIGATION:
: 1) REMODELING/CONSTRUCTION/CONVERSION OF WAREHOUSE :
PLANNING STATUS: A
: TO JUICE PROCESSING. : TAX STATUS: A
: : SUPERVISORIAL DIST: 3
:

HISTORY:

01/30/91 The Status Code was I6.
RECORDED 6.13.86(BOOK 3991,BOOK 829),VIOL EXPGD 2.17.88(BK
4286,PG
671) VIOL RECD'D 2.17.88(BK 4286,PG 670)

05/01/95 The Status Code was Recorded Red Tag. Added by RWN
STATUS CODE CHANGED, THE OLD CODE WAS (Sent Letter).

05/01/95 The Status Code was Recorded Red Tag. Added by RWN
letter from RICHARD BEALE ASSOC advising that he is working for the
owner to develop a Master Site Plan for this property in conjunc-
tion with the General Plan revision approved in 1994. This letter
was in response to "outreach" letter...

07/21/95 The Status Code was Recorded Red Tag. Added by DL
Beale requested an additional 90 days, i.e. October 17th, to com-
plete application legalizing this illegal conversion. Laughlin con-
tacted Beale and agreed to 90 day extension. DLaughlin.

10/12/95 BILLING HOURS 1.46 FOR Complaint Investigation. Added by RWN

prepared dynaplan cost recovery sheet and calculated enforcement
costs at 11.46 hours = \$ 255.03

10/17/95 The Status Code was Recorded Red Tag. Added by DMM
Richard Beale, Planning Consultant, Fred Bailey and Greg Stelten-

pohl, property owners and Brett Brenkwetz, Architect submitted an application for Discretionary Permit No. 95-0685, for remodeling and addition to existing commercial building to be used for juice distribution warehouse use, office/retail, restaurant, residential uses, parking area and incidental accessory structures to be developed in three phases.

=====

COMMENTS RECORDED FOR 058 121 04 CONTACT DATE 831207 PAGE 3
OF 3

10/14/97 The Status Code was Recorded Red Tag. Added by CAM
Owner in to obtain reroof permit. Discretionary application
#95-0685 to address violation shows in progress. Planner assigned
Document not found: #95-0685 TO ADD ERROR
is K. Tschantz who approved zoning review for DMJ. If zoning is
satisfied, cc will approve with 'hold' to notify when final. CAM

10/14/97 The Status Code was Recorded Red Tag. Added by CAM
BP application # for reroof is 25619C. CAM

10/14/97 The Status Code was Recorded Red Tag. Added by CAM
FOLLOW-UP CODE CHANGED, THE OLD CODE WAS (). FOLLOW-UP
DATE CHANGED, THE OLD DATE WAS ().

EXHIBIT 6

CORRESPONDENCE

INCLUDING LETTERS:

FROM COUNTY STAFF DECEMBER 18, 1998
FROM DEPARTMENT OF FISH AND GAME
FROM SUSAN YOUNG, APPELLANT
FROM OTHER PARTIES TO THE COASTAL COMMISSION
SUBMITTED BY APPLICANTS THAT WERE SUPPORTIVE OF PROJECT AT
COUNTY HEARINGS

NOT INCLUDED ARE CORRESPONDENCE AND PETITIONS PREVIOUSLY
SENT TO THE COMMISSION REGARDING PREFERRED HEARING DATES
(THESE ARE ON FILE AT THE COMMISSION'S SANTA CRUZ OFFICE)

PLANNING DEPARTMENT

GOVERNMENTAL CENTER



COUNTY OF SANTA CRUZ
CENTRAL COAST AREA
COASTAL COMMISSION
CALIFORNIA

701 OCEAN STREET SANTA CRUZ, CALIFORNIA 95060
(831) 454-2580 FAX (831) 454-2123

DEC 18 1998

RECEIVED

December 18, 1998

California Coastal Commission
Central Coast Area Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

SUBJECT: Appeal A-3-SCO-98-101 (Bailey/Steltenpohl Project)

Dear Members of the Coastal Commission,

Planning staff has reviewed the letters of the appellants and would like to provide you with the County's position on several of points made by the appellants. I hope the information contained in this letter will be useful in your review of project materials I earlier submitted to your office and towards the preparation of the Commission staff report on this item. Since you are already in possession of the administrative record materials for this project, I have not attached certain documents referred to in this letter. Unless otherwise specified, the comments below address the allegations of appellants George Jamal (Sierra Club) and Susan Young (Citizens for Responsible North Coast Planning). As you are aware, the text of the appeal of these two appellants is identical.

Rezoning of the Property

Much of the appeal is based on the appellants' beliefs that the rezoning to "SU" (Special Use) is subject to certification by the Coastal Commission, and secondly that the General Plan/Local Coastal Program (LCP) designation of the property of "Neighborhood Commercial" does not allow the visitor accommodation uses approved by this project. These two beliefs are inaccurate. First, County of Santa Cruz Code Section 13.10.170 specifies the "SU" zone district as being consistent with all General Plan/LCP land use designations, and as such, a rezoning to the "SU" zone "shall not constitute an amendment of the Local Coastal Program". This code section is one of the LCP implementing ordinances that has been certified by the Coastal Commission.

The "Neighborhood Commercial" land use designation is implemented by three zoning districts, "C-1" (Neighborhood Commercial), "CT" (Tourist Commercial) and "PA" (Professional-Administrative). As discussed above, the "SU" zone also implements any land use designation. The project included a rezoning to the "SU" zone district, in part, to allow a mixture of uses that are permitted or conditionally permitted in both the "C-1" and "CT" zone districts. One of the purposes of the "SU" zone district is to provide for a flexibility of land uses that are consistent with the General Plan/LCP on those sites where carefully planned mixed uses are desired. "CT" zoning allows overnight visitor accommodations which are not permitted in the "C-1" zone. Therefore, a rezoning to "SU" allows visitor accommodations that would otherwise be prohibited

if the zoning remained "C-1". Overnight visitor accommodations, a priority use in the Coastal Zone, is appropriate for this site due to its near coast location, spectacular coastal views and access via Highway 1. Early in the permit process, Planning staff considered a rezoning from "C-1" to "CT". But this zoning, while allowing overnight accommodations, would restrict the site for many "C-1" uses that are not permitted in "CT" zoning, such as a bank, an ATM machine or a barber shop, all of which could benefit local residents and visitors alike. The "SU" zoning of this site will allow these types of uses. The rezoning to "SU" also complies with General Plan/LCP policy 2.13.5 which "encourages the provision of visitor serving commercial services within Coastal Special Communities, as follows: Davenport; Highway 1 frontage..." because visitor accommodations will now be allowed on the site. The "C-1" zoning of the site actually conflicted with this policy. The rezoning corrected this internal LCP inconsistency.

Cumulative Impact

The appellants state that the environmental analysis should have included a cumulative impact analysis of certain other possible future development projects in the area. The potential projects so named are the David Leur barn reconstruction, relocation of Davenport's U.S. post office and expansion of RMC Lonestar cement plant. CEQA case law, however, states that a cumulative impact analysis only needs to include those other projects that have been deemed complete and commenced Environmental Review. None of the projects named by the appellants had commenced Environmental Review during the time the Bailey/Steltenpohl project was going through the permit process and Environmental Review has not even commenced on any of these projects to date. In addition, neither the Luers nor RMC projects had been deemed as complete applications by the County during the time the Bailey/Steltenpohl project was being processed. Therefore, the concept and density of both proposals are not yet clearly defined. No permit application had been made for a relocation of the post office during the processing of Bailey/Steltenpohl and no such application has been made to date. In *San Franciscans for Responsible Growth v. The City and County of San Francisco* (1984, 151 Cal. App. 3d 61) the court recognized the fact that permit applications are constantly being submitted to public agencies and many applications become substantially revised before they are ready to enter the more formal stages of permit processing (e.g. Environmental Review, Design Review). Therefore, the court drew the line at those projects which have entered or completed Environmental Review as those which should be included in a cumulative impact analysis. The County has followed this case law direction in its CEQA evaluation of the project.

Protection of Public and Ocean Vistas

Both the County General Plan/LCP and County Code contain policies and regulations to protect views of the ocean and coastline. The protection of this visual amenity was a primary issue that was analyzed during Environmental Review of the project and subsequently discussed at each public hearing on the project. An extensive visual analysis was conducted as part of Environmental Review. The report detailing the results of that analysis is included in the environmental Initial Study. The appellants argue that mitigations to protect visual resources are inadequate for three reasons. We believe that their reasons do not have merit. First, their contentions that the project will impede visual access to the shore and will undermine Davenport

as a whale watching site are incorrect. The visual analysis shows that the project building has been designed to result in minimal change to the visual environment. (Refer to the photo simulations in Attachment 8 of the Initial Study). Except for three commercial properties located on the Highway 1 frontage, views of the ocean will not be blocked. In the case of the three commercial properties, this view obstruction is limited to a coastal bluff and distant ocean views to the southwest. More expansive and proximate views of the ocean directly west of these properties will be maintained. (Refer to the simulations for locations 3 and 6 in the visual analysis in the Initial Study). Whale watching will be able to continue on the site after completion of the project. Currently, people park their vehicles and stand on the vacant portion of this privately owned parcel to watch for whales and enjoy coastal views. This portion of the property will become a formal parking lot with an open space viewing area at the entire southern (coastward) edge of the parking area. The open space area must be a minimum of 25 feet in width and will include 3 viewing benches for the public. The bench closest to the lot's handicapped parking spaces will be wheelchair accessible. Hardscape material will be provided between the handicapped spaces and this bench according to ADA requirements. Otherwise, this viewing area will contain meadow grasses and forbs. This same open space area will contain a new stairway to improve public access to a coastal trail. Other issues regarding visual and coastal access are discussed later in this letter.

Second, the statement by the appellants that the parking lot will be above ground at the south end of the parking lot is correct but misleading. Actually the entire new parking lot will be above ground, but most of it will be recessed below existing grade to minimize its impact as seen from Highway 1, a County designated scenic roadway. Two feet of fill or less will be added to both the north and south ends of this parking lot to allow for gravity controlled surface drainage flow. However, of more significance is the fact that even with these fills, the entire parking lot will be recessed below the grade of Highway 1, which is the objective of the mitigation measure applied to the project's grading and parking lot plan. This fact can be more easily understood by viewing sheets C-1 and C-3 of the project plans.

The third visual issue of the appellants is that grading will alter the natural landform. It is important to understand that all grading, by its nature, alters natural landforms and therefore the County agrees with the appellants' basic statement in this regard. But when evaluating grading impacts to natural landforms, the test to apply to any grading project is twofold:

- ~ Will the land alteration be significant?
- ~ Is the grading being done on a significant topographical feature?

In both cases the answer is "no" for this project. Project grading is limited to that required for the new parking lot as discussed above. This grading will lower the existing grade of a portion of a coastal bluff by 1-3 feet as one required technique to minimize the visual impact of vehicles parked in the lot. This grading will not alter the basic topographic form of the bluff. In other words, a new landform will not result from the project. The plateau-like form of the portion of this area of the site will remain. In addition, it should be understood that this area of the site is the "back side" of the bluff. A substantial area of this bluff formation occurs as a separate parcel between the project property and the beach. The project site is separated from the coastal side of the bluff by an old grading cut done to build the Southern Pacific rail road (now owned by Union Pacific). Lastly, no part of the project site, including the area where parking lot grading will



occur contains a special topographic feature, such as a significant pinnacle, butte or unusual formation, that will be affected by the project. Therefore, it is clear that any landform alteration is not significant.

The review of the project resulted in some modifications from the original proposal in order to meet the visual policies of the General Plan/LCP. In accordance with policy 5.10.2 the County determined the most important visual resources in the area were ocean and coastal vistas and therefore permit conditions IV.A.1, IV.A.6, IV.A.7 and IV.A.12 have been required to protect those resources. (Please refer to permit). The project has been designed protect public vistas from Highway 1 as specified in policy 5.10.3 and to retain ocean vistas as required by policy 5.10.6. Lastly, the County recognized that the project was an infill project on a parcel of record and that the project was compatible with the pattern of existing development as specified by policy 5.10.7. The project continues commercial uses on the Highway 1 frontage of Davenport in a manner that uses architecture compatible with the town and minimizes visual impacts. This is discussed in more detail in Coastal Zone finding #3 and Commercial Development Permit finding #5.

Protection of Davenport as a Special Community

Much of the appellants' discussion under this heading revolves around the characterization of the existing building on the project site as an agricultural packing shed with County Code violations. It is important that the Commission understand the facts of this matter. The building has not been used for agricultural related uses for at least 24 years and past code violations have been resolved. The existing building was originally constructed and used as an agricultural packing shed when the property was zoned for agricultural uses prior to 1974. The 2.9 acre parcel has limited use for agriculture by itself due to the majority of the site being covered by either the existing building or riparian habitat. On May 21, 1974 the Board of Supervisors rezoned the parcel to "UBS-1" (Unclassified Building Site with 1 acre minimum parcel size. This zoning has been replaced with "SU"). At the same time the Board approved Use Permit 74-124-U to convert the packing shed to artisans' workshops and studios and a caretaker's dwelling unit. This use continued until the building was converted to a juice bottling plant in 1983 without the benefit of building or planning permits. The County posted a Violation Notice during the time the non-permitted conversion was occurring. By this time, the County's LCP was certified by the Coastal Commission and Coastal Zone Permit authority was transferred from the Commission to the County (January 13, 1983). The new County LCP land use maps designated the property as "Mt. Residential" and "Priority Site 2" which was identified by former LCP policy 7.2.2 as a warehouse with a tourist service/coastal commercial priority use designation for future uses. The property was zoned "CC" (Coastal Commercial). The property owner responded to the Violation Notice by applying for the appropriate permits. Coastal Zone/Development Permit 84-0230 was approved on May 8, 1984 to allow a juice manufacturing business in conjunction with the previous permitted uses on the property. Building permits for the stopped conversion were obtained shortly thereafter. One of the conditions of Permit 84-0230 was that "any future use shall meet the LCP definition of tourist serving".

On October 19, 1995 the current permit holders applied for permits for the current project. The

1994 General Plan/LCP (certified by the Commission on 12/15/94) changed the land use designation of the site to "Neighborhood Commercial" and rezoned the property "C-1". The mixed commercial project, which includes overnight visitor accommodations and small restaurant, is consistent with the 1984 permit requirement for future uses.

The appellants also state that the traffic generated by the project will be excessive and allege that Caltrans and the traffic consultant did not perform adequate studies. These statements are not correct. The traffic study prepared by Higgins and Associates dated November 15, 1996 was based on traffic counts conducted on Saturday, September 28, 1996 and Tuesday, October 1. (See Attachment 9 in the Initial Study). According to Caltrans, Highway 1 traffic volumes on these dates are 3% below annual average traffic volumes and therefore the counts were accepted by Caltrans as qualitatively representing annual average conditions for peak hour traffic. The conclusion of the traffic study, as approved by Caltrans, is the project increase in traffic would not change the existing level of service rating of "C" on the affected segment of Highway 1. The report did identify potential operational problems at the two project entrances. Permit condition V.F has been required to address that impact. The design of the entrances to the two parking lot have been reviewed and approved in concept by Caltrans. Prior to construction, the permit holders will have to obtain an Encroachment Permit from Caltrans for construction of the new driveway entrances since they will connect to a State maintained highway.

The appellants also imply the project is much larger than in reality. Their statement that the 22,918 square foot building will nearly double the size of the existing building is factually correct but misleading. The floor area measurement of the existing 9,791 square foot building does not include the existing mezzanine space. By increasing the height the building by 3-6 feet, the mezzanine can be converted to a complete second story and floor area measurements will then be applied to both stories. A review of sheet A-2 of the project plans show that there will be minimal change in the existing footprint of the building. The footprint will only be expanded by 737 square feet. Similarly, their statement that the project parking lot will "front nearly the entire length of Davenport" is not true. The segment of Highway 1 traversing the core of Davenport is three times the length of the 375 foot long project lot. The County, however, recognized that this size of a parking area would be a substantial change for the town and motorists traveling on scenic Highway 1. Permit conditions IV.A.7 and IV.A.10 and Exhibit A of the permit mitigate the visual effects of the new parking lot. Of particular mention is the requirement for a colorized stamped concrete surface for the lot rather than standard asphalt. This project represents the first commercial project in Santa Cruz County where this proven material has been required. Stamped concrete, which has the appearance of cobblestones, will be more in keeping with the rural community and scenic characteristics of the town. The colorization of the material to a stone-like tan will blend with the surrounding physical environment to a much higher degree than asphalt used on other parking lots in the town. Grading to recess the surface of this parking lot has been discussed previously as another visual mitigative technique the County has required for this project.

Adequacy of Public Services - Sewer and Water

Domestic water and sewer service adequacy were analyzed extensively as part of the

Environmental Review and public hearing process of the project. These analyses acknowledged limitations in the water and sewer systems of the Davenport Water and Sanitation District (DWSD) which is operated by the County Public Works Department. DWSD staff was a major participant in the evaluation of project impacts on domestic water and sewer. Upgrading both systems are on the list of projects to be implemented by Public Works and grant applications have been made to State and federal agencies to fund large parts of the costs necessary to upgrade both systems to serve existing customers. The U. S. Department of Agriculture has already approved \$663,750 towards a \$885,000 project to upgrade the sewer system. The USDA grant program for small rural communities requires that the local agency secure the remaining 25% of the cost for upgrading the system. Public Works has secured a grant for 5% of the cost from the Small Communities Grant Program and has also secured a loan for the remaining 20% of the cost from the State Revolving Fund. The loan is dependent upon the County Board of Supervisors passing a resolution promising to repay the loan in yearly installments of \$12,000. The Board is scheduled to adopt this resolution in January. Regarding domestic water service, the DWSD has repeatedly stated that the volume of water is not the constraining factor for the system; rather the limited capacity of the treatment facilities is what needs to be improved to serve the existing demand. The DWSD is presently negotiating with the largest industry in the Davenport area, RMC Lonestar Cement Company, on a mutually beneficial plan to upgrade the water treatment facilities.

Permit conditions IV.B and IV.C require both public service systems be upgraded by the permit holders PRIOR TO issuance of a Building Permit for any of the three construction phases of the project. In accordance with the Nollan and Dolan court decisions, the project proponents are responsible for providing upgrades proportional to the project's impact on each system. The County believes that project upgrades to the systems, in addition to the County initiated upgrades, will provide adequate service for both existing customers and the project alike. In some cases the initiation of both upgrades will result in a symbiotic benefit. For example, the \$43,038 required from the project to mitigate the sewer system impact could be used to repay the first four years of the loan from the State Revolving Fund.

Regarding the appellants' assertion that the California Department of Fish and Game (CDFG) has questions about the project, the Commission should know the following facts. The County submitted multiple copies of the 142 page Initial Study to the State Clearinghouse (Governor's Office of Planning and Research or OPR) on August 13, 1998 to initiate the CEQA mandated 30 day review and comment period. Documentation from OPR shows that a copy of the Initial Study were forwarded to CDFG on August 18, 1997. However, no written comments were made by CDFG to OPR or directly to the County during the CEQA review period nor during the following 13 months during the continued processing of the project. No member of CDFG staff has ever contacted County staff by phone or meeting to voice any concerns about this project.

On the project site, no development will occur within the 33,375 square foot riparian habitat at the south end of the parcel. San Vicente Creek, which is cited by the appellants as potential anadromous fish habitat, is located 1,000 feet southeast of the project parcel. New surface water discharge from impervious surface (the new parking lot) will occur 460 feet northwest of parcel's riparian habitat and 1,460 feet from San Vicente Creek. The permit requires this runoff to be

initially discharged into a silt and grease trap. Conditions VI.C.1 and VI.C.2 require a monitoring and maintenance program for the trap that includes several inspections and maintenance activities each year with monitoring reports submitted to the County at the conclusion of the annual October 15 inspection. The trap together with the monitoring program will ensure that surface drainage will not contain parking lot contaminants when it is discharged from the lot. County staff believes the purified drainage will percolate into the soil well before reaching San Vicente Creek.

Archaeology

An EIR would not have provided any additional archaeology analysis as suggested by the appellants. The County's archaeological evaluation was done according to accepted CEQA practices for EIRs and Negative Declarations. The first step in such evaluations, where maps indicate a potential for archaeological resources to exist, is a surface reconnaissance of the area of the site proposed for development with corresponding literature research. Additional investigations are required only when such surveys show indications of archaeological resources. In this case, not one but two reconnaissances were conducted. One such survey was conducted by the County Planning staff person qualified to conduct archaeological surveys in June 1997. A second survey, which also included literature research, was conducted by the firm, Archaeological Consulting, in July 1997. Both surveys concluded that there is no evidence of archaeological resources on the site. This same information would be included in an EIR (if one was prepared) in support of a determination as to why no further archaeological analysis was needed.

Access to Davenport Beach

Increasing access to Davenport Beach is one of the primary public benefits of the approval of this project. Rather than recognizing this benefit, the appellants complain that beach access will be impeded by traffic, shrubs and a beach access stairway. Their discussion of public access is perplexing. First, they state that pedestrians will have visual access restricted by the existing *Myoporum laetum* shrubs on the parcel's Highway 1 frontage. Contrary to the statement made in the appellants' footnote #9, these tall shrubs are maintained under an existing Encroachment Permit issued several years ago by Caltrans. The maintenance of the shrubs was required by the 1974 approval of Permit 74-124-U to visually screen the existing building from off-site views. The recent approval of the new project requires the continued maintenance of these shrubs as part of the project landscaping plan for the same purpose.

Two beach trail access connections to Highway 1 are provided by the project approval. Pedestrians can choose the existing trail located south of the building or the route across the new parking area several feet north of the building. Only the trail located south of the building is proximate to the *Myoporum laetum* shrubs. Currently, this trail is the most heavily used pedestrian access to Davenport Beach. The possibility of these shrubs restricting visual access was never cited as an issue during the CEQA review and comment period nor in any of the public hearings held on the project. County staff does not understand how any reasonable assessment of pedestrians crossing Highway 1 would conclude that the shrubs would limit traffic visibility for pedestrians. A site inspection will confirm this.

Previous Permit 74-124-U required the property owners to maintain the existing trail south of the building for public use but never required a permanent pedestrian easement over the trail. The County's approval of Permit 95-0685 this past October requires the property owners to dedicate a permanent pedestrian easement over this trail as well as a second trail route to the beach. (Refer to sheet A-2 of the approved project plans). The second route begins at Highway 1 and traverses west across the northwest end of the parcel down the bluff and then turns south traversing 720 feet before joining the last segment of the existing trail down to Davenport Beach. This second trail route follows a route used by some pedestrians to access the beach presently, although no prescriptive easement rights were ever granted at this location. One of the problems identified with using this route in its present form was the severe erosion generated by pedestrians traversing down the steep slope prior to the route turning into a southerly direction. To correct the existing erosion problem and to provide increased safety for pedestrians, Permit 95-0685 is conditioned to require the construction of a beach access stairway on the slope by the permit holders. The existing gullies generated by pedestrian induced erosion are to be rehabilitated. The provision of the stairway will make the old way of running down the steep slope far less attractive to beach users. The segment of this trail route between Highway 1 and the new stairway will cross the new parking lot. The permit requires the stamped concrete surfacing of the lot to include a different type of paving material to delineate the 4 foot wide pedestrian easement across the northwest end of the lot. The permit conditions that address pedestrian access are found as conditions III.A, III.B, III.E, IV.A.7 and V.D.

Visual access to the coastline is also provided for people that do not wish to walk down to the beach. As discussed earlier in this letter, the construction of the new parking lot must include a setback area from the edge of the bluff which will be landscaped with native grasses and include coastal viewing benches in three locations. The most southerly bench will be wheelchair accessible. This setback/viewing area is best shown on sheets A-3 and A-3.1 of the project plans (Exhibit A of the permit). In requiring all of the pedestrian and visual access items described above, the County was guided by General Plan/LCP policies & 7.7.10 and 7.7.11 which requires protection of existing access and/or provision of new access when appropriate as long as environmental and land use conflicts can be mitigated.

David Kossack Appeal Issues

The majority of the appeal letter of David Kossack discusses issues which are addressed above in this letter, and therefore will not be restated here. Rather, the remainder of this letter will be limited to those issues in the Kossack letter which bring up new issues not previously discussed. These issues are the Variance approval, LCP policy on parking lot design and the appellant's speculation on possible cumulative development.

The County approval included a Variance to reduce the normal 10 foot front yard setback to 0 feet for a 53 lineal foot section of the 202 foot long building. The remainder of the building would be setback from the front property line a significantly greater distance than 10 feet and meet all other zoning site standards. The Variance findings discuss the special circumstances which make approval of the Variance justified. Included in the findings is the fact that the approved reconstruction of the building removes a portion of the existing building from extending

into the undeveloped edge of the Highway 1 right-of-way and moving this portion of the building back to a 0 foot setback from the property line will still result in a substantial separation between this part of the building and the paved road shoulder. This substantial separation will provide a *de facto* setback of 33 feet from any portion of the travel lanes or road shoulder of Highway 1. This distance is a far greater distance than occurs between other commercial buildings and the edge of the paved Highway 1 roadway in Davenport. No LCP policies are affected by this Variance.

Mr. Kossack has misinterpreted General Plan/LCP policy 2.23 in his discussion of parking lot design. The policy does not require all parking needs on the adjoining undeveloped parcels must be met on the Bailey/Steltenpohl parcel, as stated by this appellant. Rather, policy 2.23 requires that the design of future parking on the project parcel must be coordinated with future parking on the adjoining parcels to the north, or vice versa, depending on which parcel is developed first. This policy is met by permit condition III.C which requires the entrance to the new Bailey/Steltenpohl lot shall become the common entrance for the project parcel and any future parking on the adjoining parcel to the north if that parcel is ever developed in the future. A non-revocable right-of-way will be granted to the adjoining parcel over the common driveway and a 20 foot wide connecting route to the common property line of the two parcels to ensure that this requirement will be met in the future. (See sheet A-2 of the approved plans). It should also be noted that the two project parking lots are designed to accommodate turn-around movements of tour busses. Caltrans and local residents have observed existing problems with the way several private tour busses park on their brief stops in the town. On several occasions busses are parallel parked on the wrong side of Highway 1, are not fully parked out of the Highway 1 travel lanes or they are parked in a manner that blocks local streets. The two project parking lots will provide designated parking areas that are large enough to accommodate busses for the first time in Davenport. Therefore, the project will remedy an existing problem.

Lastly, the appellant states that approval of the project will create a precedence allowing more commercial development on the coastal side of Highway 1. This speculation is not justified. The project parcel is the only property on the coastal side of Highway 1 in the area that is designated by the General Plan/LCP for commercial use. Other nearby coastal parcels have land use designations of "Agriculture" or "Parks and Recreation". Any future development that could occur on the adjoining vacant parcel to the north must be those uses allowed in zone districts which are consistent with a "Park and Recreation" designation. These uses do not include the variety of more intense uses allowed in commercial land use designations and therefore Mr. Kossack's assertion that the project will initiate a series of new developments with water and sewage demands similar to that of the project are unfounded.

I hope this information is helpful towards your review of the County's approval of this project. Please contact me at (831) 454-3170 if you have questions about the content of this letter or any questions about the project.

Sincerely,



Kim Tschantz, CEP
Deputy Environmental Coordinator

cc: Coastal Commissioners
Charles Lester
Rick Hyman
Dwight Herr, County Counsel
Fred Bailey
Greg Steltenpohl

DEPARTMENT OF FISH AND GAME



November 24, 1998

Mr. Kim Tschantz
Deputy Planner
Santa Cruz County Planning Department
701 Ocean Street, 4th Floor
Santa Cruz, California 95060

Dear Mr. Tschantz:

Bailey/Steltenpohl Negative Declaration
Davenport, Santa Cruz County

Department of Fish and Game personnel have reviewed the subject Negative Declaration and have some concerns pursuant to the California Endangered Species Act. San Vicente Creek is an endangered species watershed due to the presence of coho salmon. Coho salmon is a State endangered species and a Federally threatened species. San Vicente Creek is also listed as one of the recovery streams in the Department's coho salmon recovery plan, which will hopefully be released in February 1999. There are four issues which require additional clarification in order to adequately determine a level of no significant impact. These are as follows:

1. **Water Availability.** The water requirements of this project should not adversely impact streamflow in the creek. A water availability analysis should be conducted to determine whether there is enough water available, especially during periods of low flow, to protect the fishery in San Vicente Creek. This analysis must include all water diversions including appropriative and riparian water rights, and wells. The State Water Resources Control Board may also be involved in this decision. It is our understanding that this project will be doubling its current level of intake from the creek. This may result in significant impacts to coho salmon.
2. **Water Quality.** Water quality in the creek should not be degraded as a result of this project. The proposed sediment and grease traps only partially protect water quality and are subject to high flow and maintenance problems. One alternative method of cleaning the water prior to release into the creek is to create retention/wetland basins which further clean the water prior to release into the stream. The

Mr. Kim Tschantz
November 24, 1998
Page Two

Regional Water Quality Control Board may also play a part in this decision as any project greater than five acres must have a stormwater discharge permit. We suggest that further consideration be given to this alternative solution for mitigating water quality impacts.

3. **Water Quantity.** The project must maintain natural stormwater run-off conditions to mitigate for loss of percolation and to maintain the rate and volume of stormwater entering the creek. Impervious surfaces can reduce subsurface flow to creeks, can contribute to streambank degradation because the stream channel does not have the capacity to handle additional flows, and can make it more difficult for fish to migrate through the tunnels at the mouth of San Vicente Creek. The implementation of a retention/wetland basin may address both water quality and water quantity issues.
4. **Cumulative Impacts.** It is not clear whether cumulative impacts from existing projects and from proposed projects have been adequately addressed. Please provide verification that cumulative impacts from the project were fully considered.

The Department will require detailed information on water availability, water quality, water quantity, and cumulative impacts for all projects proposed in coho watersheds. Please provide the Department with additional information and clarification regarding these issues. We look forward to working with you to protect this important watershed. If these potential impacts are truly not significant or cannot be mitigated to a level of insignificance, then a 2081 Permit to allow "take" may be required.

If you have any questions or require additional information, please contact Ms. Patricia Anderson, Associate Fishery Biologist, at (831) 724-7130; or Mr. Carl Wilcox, Environmental Services Supervisor, at (707) 944-3525.

Sincerely,

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Brian Hunter
Regional Manager
Central Coast Region

cc: See Next Page

Mr. Kim Tschantz
November 24, 1998
Page Three

cc: Mr. Jeff Almquist
Board of Supervisors
701 Ocean Street, 5th Floor
Santa Cruz, California 95060

Mr. Steve Herrera
State Water Resources Control Board
Post Office Box 2000
Sacramento, California 95812-2000

Mr. Howard Kolb
Regional Water Quality Control Board
81 Higuera Street, Suite 200
San Luis Obispo, California 93401-5427

bc: Pat Coulston, Patricia Anderson, Jennifer Nelson

PA/pm

RECEIVED

April 20, 1999

APR 21 1999

California Coastal Commission
Central Coast Area Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

SUBJECT: Appeal A-3-SCO-98-101; rebuttal to appeal review by Kim Tschantz,
Santa Cruz County Planner for Bailey-Steltenpohl Project

Dear Members of the Coastal Commission:

Citizens for Responsible North Coast Planning would like to respond to the
County's rebuttal.

Rezoning of the Property

• The County claims that according to County of Santa Cruz Code § 13.10.170, the Special Use ("SU") zone district is consistent with all General Plan/LCP land use designations, and as such, a rezoning to the "SU" zoning "shall not constitute an amendment of the Local Coastal Program."

1) If one follows the County's interpretation of this section, anything except a parcel zoned Agriculture can be changed to SU without being an amendment to the Local Coastal Program ("LCP"). Such an interpretation would render the system meaningless since any parcel's zoning (except those zoned Agriculture) could be changed without needing to be certified by the Coastal Commission by slapping an SU designation on it.

2) In any case, the developers have benefited from incremental spot zoning, i.e., changing the zoning to fit the project instead of changing the project to fit the zoning. This type of zoning is invalid on its face. The Bailey-Steltenpohl parcel zoning has been changed four times since 1974, from Agriculture¹ to Unclassified to Neighborhood Commercial to Special Use. (See attached Richard Beale letters to County Planning Department and County Planning Commission, where Land Use Planner Beale discusses how he and the developers' lawyer Lloyd Williams lobbied for zoning changes.)

3) As discussed in our appeal, the SU zoning is in error because the Project does not fit any of the circumstances specified by County Code § 13.10.381.

• The County claims that the Project needs the flexibility that the SU zoning provides. However, SU zoning is limited to "where the flexibility is necessary to ensure consistency with the General Plan, and encourage planning of large parcels to achieve integrated design, good land use planning and protection of open space and the environment." (Santa Cruz County Code § 13.10.381) Here, the parcel is not a large parcel, and certainly the Project does not protect open space and the environment when it calls for paving over a coastal bluff in order to build a parking lot for 65+ cars. Although the County claims that to be consistent with the General Plan the Project should be able to provide Visitor Accommodations to serve visitors, it is not the developers' intention to

¹ Agriculture is the first priority along the coast, and agriculture is still highly viable in Davenport. Artichoke and Brussels sprouts fields surround Davenport. See attached *New York Times* article from March of 1999, entitled "From Out of the Mists, the Artichoke," dateline Davenport, by Amanda Hesser.

primarily serve the public. They intend to use the Visitor Accommodations primarily to house their conference/workshop instructors--not the public driving down scenic Highway 1.²

• Santa Cruz County Supervisor Jan Beautz, Chair of the Board of Supervisors, voted against this project specifically because of the zoning change to SU. Beautz said that the SU change would be precedent-setting, and that when the Supervisors were reviewing the 1994 General Plan they discouraged SU zonings. She was concerned that developers could just tack on visitor accommodations whenever they wanted with this kind of zoning easily available.³ Indeed, this change would be precedent-setting--in Davenport alone, existing businesses on the east side of Highway 1 could justifiably request the same SU zoning for their parcels; and legitimate neighborhood commercial uses in Davenport could be displaced.

Cumulative Impact

• The County misinterprets CEQA case law (San Franciscans v. City & Cty. of San Francisco, 151 Cal. App. 3d 61, 1984) regarding cumulative impact of "closely related past, present, and reasonabl[y] foreseeable "probable" future projects. Id. at 73. The County claims that CEQA case law states that a cumulative impact analysis only needs to include those other projects that have been deemed

² See footnote 6 below.

³ Beautz's comments were made during the Board of Supervisors meeting concerning the Project, on October 20, 1998: "I remember when we did the General Plan and we went through these zoning districts very, very carefully; and I don't think this is [looked on?] by the State, that we put Visitor Accommodations tacked onto every other kind of commercial . . . I think this *is* precedent-setting. I think it will mean that people that are developing in the coastal areas, other areas, that want to add on a couple overnight units could do that, and I don't know why, maybe you could explain to me why it's not precedent-setting, but I think [when] we do the General Plan we recognize there will be certain places that were Visitor Accommodations. I think there's some issues in Visitor Accommodations where what becomes an apartment becomes truly visitor--it's hard, once these are built. . . . Now any use permitted in C-1 and C-T . . . can come in for a Level 1. Level 1 doesn't give any notice to anybody; it's just an-over-the-counter change, and by making it SU, it went from C-1 to a whole additional C-T . . . To start kind of adding some kind of overnight units to projects, that's the only thing that's not allowed in here, . . . I don't think this is what we contemplated when we talked about Mixed Uses in the General Plan. . . I was here when we went through all this, the mixed uses are *in* the zoning. You look at C-1 zoning, there's a lot of different uses; there's a mix there. I'm not sure, since we had a *lot* of discussion during the General Plan about disfavoring SU zoning . . . we changed a lot of staff recommendations where there was going to be SU, you may recall, . . . we actually came to a zoning. I think there was a lot of feeling, actually, that SU was something that we weren't really encouraging more of, and . . . it seems to me to start *doing* these kinds of mixes is something that is going to set precedent, not just in Davenport, but other places. . . . I didn't anticipate when we left the SU, that just because you wanted some extra things that the zoning didn't have that we would [use] SU so we could add some more in. And I think there was a *reason* we didn't put Visitor Accommodations in with the C-1 zoning . . ."

complete and commenced environmental review. To the contrary, the Court in San Franciscans (the case the County cites) held that the San Francisco Planning Commission abused its discretion by giving such requirements (omitting projects under environmental review) an "unreasonably narrow scope, thereby omitting information that it would have been both [sic] reasonable, feasible and practical to include." Id. at 81. The Court specifically rejected the argument that the Commission could ignore projects that have not passed all regulatory hurdles, id. at 75, and further noted that discussion of projects outside the control of the agency were necessary to an adequate discussion of cumulative impacts. Id. at 73. Here, the County had easy access to the information: the Luers project and the RMC Lonestar expansion had applications on file; and the Real Property Division in the Santa Cruz County Department of Public Works knew that the Davenport Post Office was planning to relocate within Davenport, and thus the space it would vacate would be open to development. Santa Cruz County also was very aware that the 7,000 + acres surrounding Davenport was intended to become park land by the new owners, the Trust for Public Land. Even if the County did not know of these "probable" future projects, citizens standing before the Santa Cruz County Planning Commission and the Santa Cruz County Board of Supervisors repeatedly told these bodies of these projects and their fears regarding cumulative impact on Davenport and the North Coast.

- The Project will create a precedent to allow more commercial development on the west side of Highway 1. Although the adjoining parcels to the Project (which LCP Policy 2.23 addresses) are currently zoned "Parks and Recreation," the frequent rezoning of the parcel in question (four times since the 1970s, from Agriculture to Special Use) shows how little zonings can mean in a General Plan. As noted above, Public Works (Real Property Division) recently considered one of the adjacent parcels, zoned Parks and Recreation, for a new post office. While this idea has been jettisoned in favor of a site on the east side of Highway 1, the concern is real that the Project will initiate new development with water, sewage, and traffic impacts similar to that of the Project.

- Parcels 059-023-07 and 08 on the west side of Highway 1 have recently been optioned by developer Brian Sweeney (there are farm buildings on one of the parcels). This demonstrates further the potential impact of the Project, which is based on an old farm packing shed on the west side of Highway 1.

Protection of Public and Ocean Vistas

- Contrary to the County's claims, the Project would impede visual access to the shore, and undermine Davenport's fame as a whale-watching site. The applicants' visual analysis was faulty (the analysis used manipulative wide-angle lenses to minimize the visual impact). The view of the ocean is framed by a meadow--the meadow is part of the ocean view.

- The recessed parking lot will not mitigate this degradation of the view. A sea of car roofs is not a minimal change; watching whales from a parking lot severely diminishes the experience. Landscaping of the parking lot will further erode public views. Also, the County incorrectly states that the degraded view only affects three commercial properties--this is not so; the degraded view affects anyone driving down scenic corridor Highway 1, the people who walk through the town and across the meadow (residents and visitors alike).

- The County claims that more expansive views will be maintained on adjacent properties. First, we have seen how quickly zoning changes can be made, and

so do not look at Parks and Recreation zoning as necessarily protective. As noted above, the County already considered the northern site as a Post Office site before finally selecting another site. Second, the Davenport Beach and Bluffs plan (July, 1989) has slated the adjacent parcel north of the Project to become a parking lot--if this remains the case, there would be a continuous parking lot across all of Davenport (See Map 13, Davenport Beach and Bluffs Area).

- People have used the meadow proposed as a parking lot for over 50 years to watch whales, arguably a prescriptive easement.
- Altering the natural landform is significant--this is a natural meadow on a coastal bluff with a gorgeous view; and it is one of the few areas along the North Coast in Santa Cruz County where visitors and residents may walk across level ground a short distance to a spectacular whitewater view, as well as a view of Monterey across the Monterey Bay, which is a Marine Sanctuary. In fact, the California Department of Parks and Recreation recommended that the State purchase any land along Highway 1 that was less than 300 feet wide.⁴ This is such a parcel.

Protection of Davenport as a Special Community

- This parcel is an example of the dangers of spot zoning--here, incremental spot zoning. Since the owners/developers obtained this property (the building in the mid-1970s, the land in 1987), the parcel has been rezoned four times, each time to accommodate the owner, not to best serve the community, County, or State. (See "Rezoning of the Property" discussion above.)
- The Caltrans traffic report was inherently faulty: The report did not investigate the impact on pedestrian safety by both the increased trips and the awkward ingress/egress to the Project's two parking lots. Caltrans did not investigate circulation problems that the Project will cause in the residential streets of Davenport and did not investigate the effect the Project's traffic will have on Davenport's Pacific School. The Caltrans study did not address tour bus circulation. Nor did it address the effect of the myoporum trees planted by the developers in the Caltrans right-of-way, thus affecting pedestrian safety by forcing pedestrians either to re-cross Highway 1 or to move out into the path of traffic.
- The Project's current building is private, and is not visitor-serving. The developers should not be able to use the existing square footage to claim that there will be no increased traffic or other impacts.
- Please look at the aerial map of Davenport (attached to our January 20, 1999 letter) to see how completely the Project will front the length of Davenport. (The Project is overlaid onto an aerial photograph; the Project includes the Project buildings as well as the parking lot.)
- A colorized stamped concrete surface on a 65+ vehicle parking lot is not adequate to retain the characteristics of Davenport as a rural community and as a Special Community. Visitors and residents will still see a sea of car roofs across the town's coastal view. Proposed landscaping to mitigate the parking lot will only work to further impede the public's view.
- Furthermore, the Project will not protect or enhance Davenport as a Special Community. (Public Resources Code, § 30253). Under the County General Plan, development must fit the small-scale, rural nature of Davenport, "[e]nhance Davenport as a visual focus along Highway 1" and "emphasize . . . whale

⁴ See California Department of Parks and Recreation's *California Coastline Preservation and Recreation Plan*, 1971, p. 94.

viewing opportunities." (GP, Program, p. 8-12) Here,⁵ the Project is inappropriate to the Davenport neighborhood service area because it is too large, both in terms of scale and bulk; the Project is inappropriate in Davenport because it does not primarily serve either residents or visitors on Highway 1 (44.5% of the Project is non-visitor-serving business, warehouse, or manufacturing; in addition, the visitor accommodations/day spa are intended to be used for the applicants' workshop/conference instructors and will be open to the public only on weekends as space is available⁶); and the Project will have significant adverse traffic, noise, and aesthetic impacts on Davenport. The Project will greatly degrade whale-viewing opportunities.

Adequacy of Public Services--Sewer and Water

- Davenport Water and Sanitation District (DWSD, operated by the Santa Cruz County Public Works Department) must legalize its appropriative water rights to San Vicente Creek to serve Davenport customers, let alone to serve new developments. Steve Herrera, who oversees the environmental section of the State Water Resources Control Board [tel. (916) 653-0435], has informed DWSD that it needs to apply for appropriative water rights to San Vicente Creek. DWSD should not agree to divert additional water to serve new development until it perfects its water right. The process of applying for appropriative water rights requires a CEQA process in order to determine impacts and prevent degradation. Specifically, the applicant must determine impacts from the water diversion by completing a water availability analysis during the most critical time period for coho salmon and steelhead; the study must provide assurance that the creek habitat will remain in good condition.
- San Vicente Creek has been designated as a Critical Water Supply Stream, and as such, has been identified as "currently used at full capacity." (GP 5.6.2 (LCP).) With the watershed at capacity, there is no water right to appropriate for additional development. No studies have been conducted to determine water availability during times of drought, low summer flow, when continual recharge is necessary.

⁵ See our January 20, 1999 to you that defines "small-scale" for complete discussion.

⁶ See attached 11/22/95 Inter-Office Correspondence to County Planner Kim Tschantz ("Discussions with the applicant's representative indicate that what they really would like is some limited visitor accommodations"); and June 26, 1997 *San Jose Mercury News* article by Lee Quarnstrom (the lodging units "would be used for the "faculty" at conferences and could be available for rent as "romantic getaways" on weekends when no workshops or meetings were scheduled"). The County Code for the type of hotel applicants seek does not address whether the hotel must be open to the public for a certain percentage of the week. (County Code 13.10.332, Type A uses; see also 13.10.335 for Permit Conditions.) According to County Code § 13.10.335, visitor accommodations projects on Priority Sites "shall primarily provide accommodations available to the general public." It is worth noting that the Applicants/developers successfully lobbied County Planning in 1993 to remove their parcel from Coastal Priority Sites--North Coast. If their lobbying had not been successful, the developers would have been unable to make their so-called visitor accommodations semi-private. (See attached Richard Beale letter to the County Planning Commission, dated October 1, 1993, where Land Use Planner Beale requests that the Project parcel be removed as a Coastal Priority Site.)

- DWSD's request to install a new filter to treat additional water suggests that there is not water available for this development. The expansion of the water system has growth-inducing and cumulative impact on the watershed and the community of Davenport. This requires an environmental review.

- Fish and Game:

- 1) In spite of the County's assertion that the volume of water is not the constraining factor for the system, the California Department of Fish and Game has questioned water availability for the Project (see attached letter to County Planner Kim Tschantz from Fish and Game, dated November 24, 1998)⁷. Fish and Game is concerned that the Project may result in significant impacts to coho salmon, a State endangered species and a Federally threatened species. The County has conducted no complete water availability studies. (See GP 7.18.2 (LCP).)

- 2) Fish and Game is also concerned that the proposed sediment and grease traps only partially protect water quality and are subject to high flow and maintenance problems. Better solutions to protect water quality should be investigated.

- 3) Further, Fish and Game is concerned about water quantity, i.e., that the Project maintain natural stormwater run-off conditions to mitigate for loss of percolation (due to paved bluff parking lot) and to maintain the rate and volume of stormwater entering San Vicente Creek. Although County staff "believes" that the drainage will percolate into the soil well before reaching San Vicente Creek, it is a fact that there is already a run-off ditch that clearly approaches San Vicente Creek from the applicants' property, and during storms run-off can be observed running across adjacent property owned by RMC Lonestar (in the midst of a trade to Trust for Public Land).

- 4) Finally, Fish and Game has expressed the concern that the cumulative impact of the Project and other proposed projects has not been adequately addressed. (See GP 7.18.3 (LCP).)

- The sewer upgrades are not an upgrade to expand the system; instead the County is only replacing existing 6" pipes with 6" pipes.

- Permit conditions IV.B and IV.C do not require the Davenport water and sewer systems be upgraded by the permit holders prior to issuance of a Building Permit as the County claims. Permit condition IV.B. requires that only one-half of the improvements to the water system be installed prior to the final inspection and clearance of the Building Permit for phase 1 of the Project. Permit condition IV.C. allows the entire Project to be built without the sewage system improvements being completed. Although a Certificate of Occupancy shall not be issued by County Planning until the improvements have been completed, County Supervisor Jan Beautz, who voted against the Project, noted that the pressure to allow occupancy of the completed buildings will be enormous.

⁷ Fish and Game Associate Fishery Biologist Patricia Anderson responded with concerns at the October 20, 1998 Board of Supervisors meeting. These concerns were brushed aside by County Planner Kim Tschantz during questioning by Supervisor Jeff Almquist: "I don't see how her issues are germane to the project. Number one, there was concerns about effects on San Vicente Creek as I showed in my presentation. San Vicente Creek and the habitat associated with it will not be affected by this project." (Mr. Almquist consequently voted to approve the Bailey-Steltenpohl project.) Fish and Game subsequently sent the November 24, 1998 letter to Planner Kim Tschantz to reiterate their concerns.

- The County describes San Vicente Creek as a "potential" anadromous fish habit. It is far more than that. Fish and Game did a survey in July of 1996,⁸ and found coho salmon, young of year. Adults have been observed as well. Steelhead are present in the stream also, and they are a species of special state concern and listed as federally threatened. San Vicente Creek has been described as a healthy steelhead stream.

Archaeology

- No test pits were done to determine if further archaeological analysis was needed.
- The California Department of Parks and Recreation maps indicate Coastanoan Indian activity in Davenport. (See map attached to our appeal, *California Coastline and Recreation Plan*, plate E-2.)

Access to Davenport Beach

- Caltrans has approved no new encroachment permits for the Project. The myoporum trees fronting the Project building are dangerous, impeding access when visitors want to walk north along the west side of the highway in front of the myoporum in order to reach the coastal bluff. There are no sidewalks in front of the Project.
- The view to the ocean needs to be restored at the south end of the Project. The existing cypress hedge now blocks visual access from the town of Davenport and scenic Highway 1, and needs to be maintained at fence level (6' high). Moreover, the proposed greenhouse and boat residence will further block this view. (See attachment to our January 20, 1999 letter to you.)
- Visual access will be impeded by the private parking lot. Visitors who even determine that there might be a way down to the beach through a busy private parking lot will have to walk through the lot to get to the proposed new stairway.
- The proposed upper parking lot destroys two current functions that take place on the bluff: besides the historic whale-watching site on the south half of the bluff, there is currently public parking on the northern section. Unlike the proposed private parking lot, the current public parking is casual, brief, and the cars are not massed together. Removing the public parking will force more pedestrians to cross busy Highway 1 to the ocean, and will impact the town of Davenport with more cars.
- Benches at the edge of the bluff do not substitute for Davenport's historic ocean whale-watching view framed by the meadow.

Variance Approval

- There should be shoulder clearance along Highway 1. Removing a portion of the existing building from extending into the undeveloped edge of Highway 1 right-of-way does not mean the Project should be granted a zero-foot setback. A zero-foot setback is still dangerous for pedestrians trying to cross Highway 1. There are no sidewalks fronting the Project.

LCP Policy on Parking Lot Design and Its Impact on Cumulative Development

- Policy 2.23, which requires that the parking lot be coordinated with future parking on adjoining parcels, encourages development on those parcels.

⁸ July 9, 1996, "Habitat Inventory Data Form"; inventory performed by A. Renger and D. Fisher on San Vicente Creek.

- The County does not explain how bus turnarounds are possible if the Caltrans model of 75' for penetration requirements is not met in either of the Project's parking lots.

Issues the County did not rebut:

- The County did not discuss the fact that the Project is adjacent to areas zoned Parks and Recreation (PRC §§ 30240, 30525, 1115).
- The County did not discuss the protection of Davenport as a Sensitive Coastal Resource Area (PRC §§ 30116, 30502, 30116).
- The County did not discuss the scale of the Project as it relates to the Special Community of Davenport. Please see our January 20, 1999 letter to you regarding the overwhelming scale of this Project in relation to the small town of Davenport.

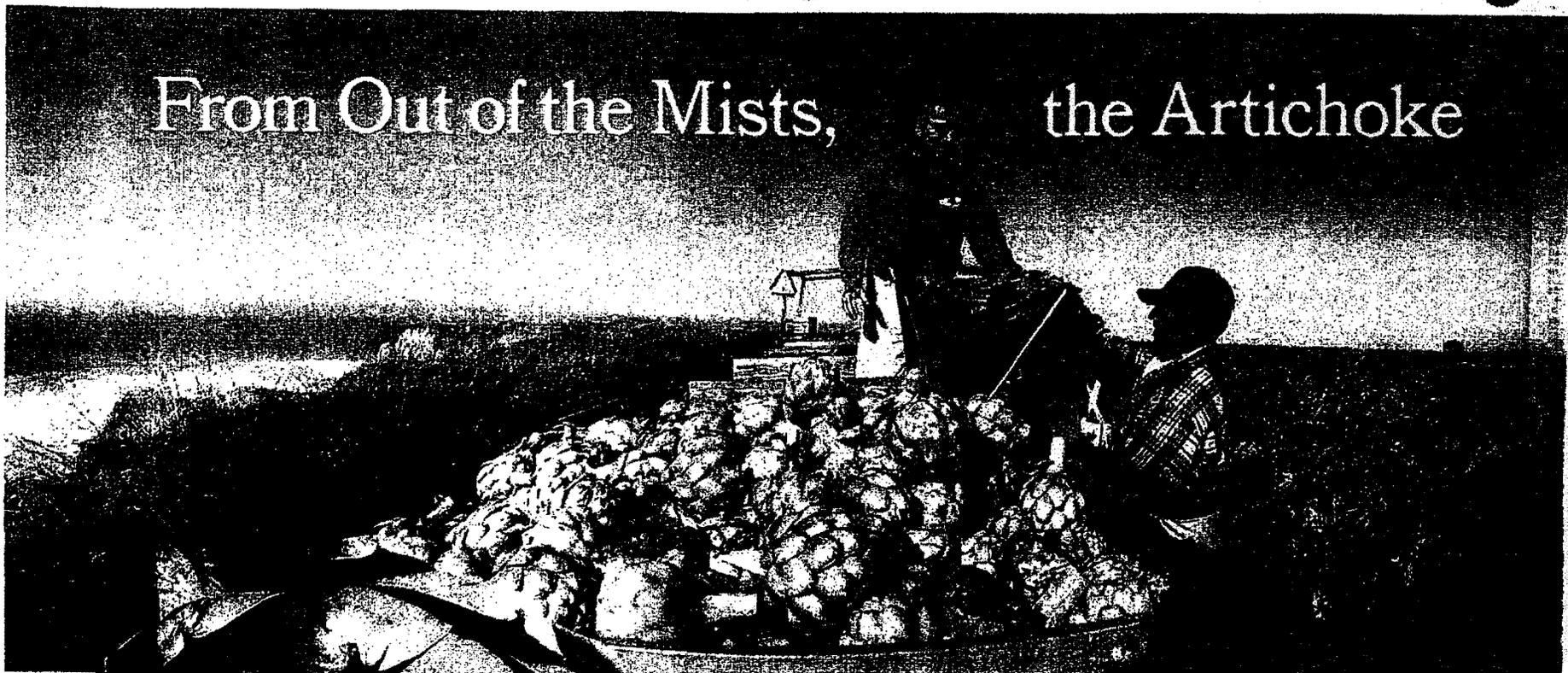
Thank you very much for addressing these concerns.

Sincerely,



Susan Young, member
Davenport Citizens for
Responsible North Coast Planning

From Out of the Mists, the Artichoke



Photographs by Mark Richards for The New York Times

Majestic land, majestic crop: Steve Bontadelli, atop truck, harvesting artichokes in his fields north of Santa Cruz, Calif.

NATIONAL ORIGINS *California's Central Coast*

By AMANDA HESSER

DAVENPORT, Calif. — Standing at the edge of the jagged cliffs that run along Highway 1, you can hear the violence down below, the powerful Pacific shattering itself on the rocky shoreline. But what you feel is gentleness, a light briny mist that suffuses the air.

This is the rough-hewn far edge of America that has drawn painters and movie makers, surfers and tourists. But it is also, as it turns out, the domain of the artichoke, which flourishes in the mild mist here — particularly in the stretch just north of Santa Cruz — as it does nowhere else. The land is covered with the lush, green bushy plants, a shag rug that stops just where the land drops off into the Pacific. Here, Steve Bontadelli, a man with meaty hands and a handlebar mustache, tends 400 acres of the thistle plants.

"The old-timers say in April you can grow an artichoke on a telephone pole here," Mr. Bontadelli said as he drove a two-and-a-half-ton flatbed truck through his fields.

Unfortunately for growers like Mr. Bontadelli, that hasn't been the case lately. In the 1990's, the artichoke crops in California — where almost all artichokes in the United States are grown — have been

pounded to bits like the waves on the shore below. In 1990, Mr. Bontadelli's fields were hit with frost. In 1995, a tornado ripped through, flattening the plants like pancakes. Then in 1998, rains from El Niño — which artichoke growers refer to as "the N-word" — drowned the

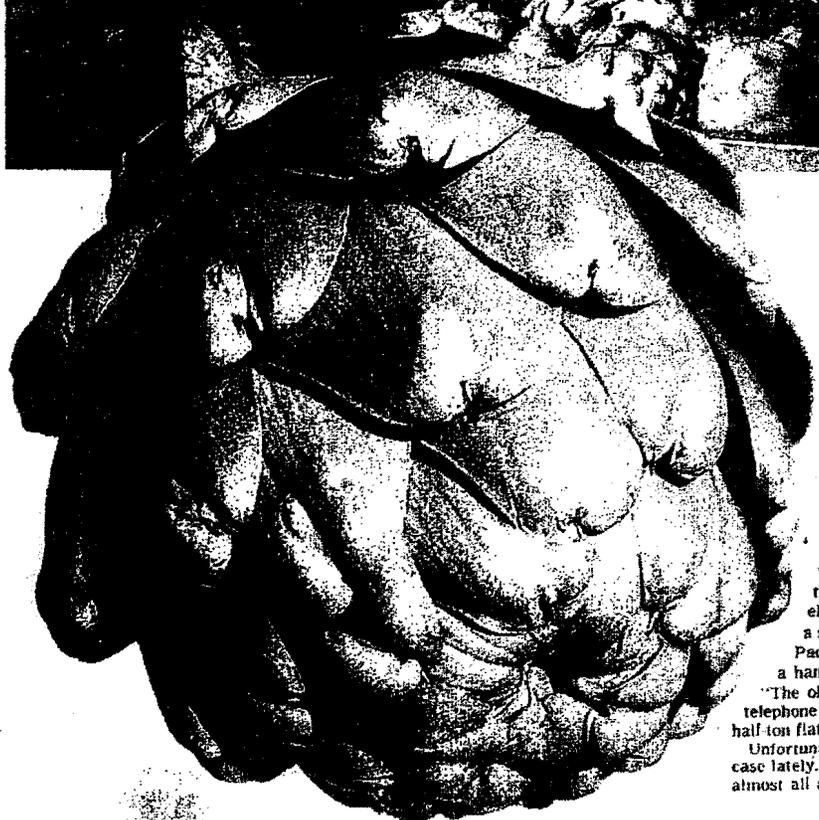
roots.

The 1999 crop promises to be different. In fact it looks as if this just might be one of those Aprils. In a harvest that began in late February, the artichokes are already coming in bountifully. And when artichokes are good, they are glorious. The large-petaled bulb that is eaten is actually the plant's flower bud. It is as dense as a potato, nutty and sweet, a flavor both unique and perplexing. And though you can buy artichokes all year round, none compare to the ones harvested in the cool, dewy spring months.

The abundance is all thanks to a light frost the day before Christmas, which set the plant's buds. Then a long, cool winter with temperatures never much lower than 40 degrees or higher than 60 allowed the buds to develop slowly, making them meaty and succulent.

The plant itself is stunningly beautiful, with large silvery green leaves that spout up from the base like a fountain. A single plant can cover 45 square feet in a field. What space it demands in the field, though, the artichoke makes up for in generosity to the cook. Every artichoke plant offers three different-size buds. A single large one

Continued on Page B12



RICHARD BEALE

Land Use Planning
Incorporated

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(408) 425-5999
(FAX) 425-1565

Masters of Architecture
Univ. of CA, Berkeley

April 18, 1995

Mr. Daniel Shaw, AICP
Director, Planning Department
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

RE: Bailey/Odwalla Davenport Parcel; APN 058-121-04

Dear Mr. Shaw:

This letter is in response to a County form letter dated January 27, 1995. The letter indicates that a building or zoning violation may be on the property.

As you know, Lloyd Williams and I represent this property. We worked with County staff in preparing a General Plan and zoning designation for this parcel. The Board of Supervisors approved the General Plan in December 1994.

Since the approval, the owners of this parcel have been working with us to develop a site master plan. Realistically, it will take us about another ninety (90) days to prepare the amendment application for this parcel.

I hope this letter will suffice as a response to the County letter.

Please call me if you have any questions.

Sincerely,


RICHARD BEALE

cc: Fred Bailey
Greg Steltenpohl
Lloyd Williams
Charlie Franks

RICHARD BEALE

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NEED

October 1, 1993

Planning Commission
c/o County Planning Department
701 Ocean Street
Santa Cruz, CA 95060

GP = C-T, R-M, PP
ZON = PCC-PF
PR

5.0 acres
Fred's Warehouse

RE: BAILEY PROPERTY IN DAVENPORT APN 058-121-04

Dear Commissioners:

We have met with John Warren of the Planning Department on the future use of the Bailey warehouse property in Davenport. He requested that we submit to the Planning Commission a letter detailing the discussion we had with him at that meeting regarding the future use of the property. The following is a recapitulation of that discussion:

The Baileys request that the Davenport Warehouse Site (APN 058-121-04) be deleted as a coastal priority use site. This would mean removing it completely from the chart on Page 2-37, Figure 2-5, Coastal Priority Sites - North Coast.

The issues involved we believe are:

I. GENERAL PLAN DESIGNATION:

Designate the property as Neighborhood Commercial, as proposed, but do not further designate the site as a coastal priority use "visitor serving commercial" site. The Neighborhood Commercial designation will allow both visitor serving and neighborhood serving uses while the property use is being phased from manufacturing to commercial. Policy 2.13.5 would meet the County's desire to encourage visitor serving commercial services within Coastal Special Communities. The Baileys need the flexibility of having tenants whose uses are visitor serving, as well as those whose uses are non-visitor serving but allowed by the C-1 zone district.

2. DEVELOPMENT STANDARDS:

The pedestrian circulation, landscaping, parking lot visibility and other development design issues can be handled through the normal Commercial Development Permit process. The Commercial Design Guidelines and Special Community Design Guidelines can be applied through that process.

3. CIRCULATION AND PUBLIC ACCESS REQUIREMENTS:

We believe that the Bailey site is not large enough to provide 25% public parking as well as enough parking for the future commercial uses in the 12,500 sq ft building. Estimates of the parking available indicate that approximately 60 - 75 spaces could be accommodated on site if the entire vacant area is used. This is only enough for retail and some restaurant (perhaps a juice bar) use of the existing building.

Any public parking should be provided on the Lonestar/SPRR property to the north (APN 058-072-03; see the next item in Figure 2-5). Access to the beach is already provided by the Baileys at the south end of their property as required by their current Use Permit. Further access to the bluffs and beach is located to the north on the Lonestar property and could be improved in that location.

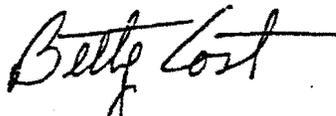
Safe pedestrian crossing of Highway 1 is a community issue which cannot be solved by the Baileys. CALTRANS has already rejected a pedestrian signal due to traffic speed. A reduction in speed limit by CALTRANS to 35mph (suggested by the community), speed bumps, and installation of a median (suggested by Supervisor Patton), are ideas that have been suggested to deal with the problem. However, we believe that the Baileys' use does not contribute to this problem. Their property has its own parking and so does not require anyone to cross the highway. It is a community problem which should be solved by the community.

We ask that you and the Board of Supervisors consider this change. Thank you for your help in this matter.

Sincerely,



Richard Beale



Betty Cost, AICP

Attachments: Map of property
 Proposed General Plan text

cc: Gary Patton
 John Warren
 Baileys
 Steltenpohl

COUNTY OF SANTA CRUZ

INTER-OFFICE CORRESPONDENCE

DATE: 11-22-95
TO: Kim Tschantz
FROM: John Warren, Mark Deming 
SUBJECT: GENERAL PLAN REVIEW OF APPLICATION 95-0685: BAILEY

The 1994 General Plan and Local Coastal Program designates the property as Neighborhood Commercial. The zoning of the site is C-1 (Neighborhood Commercial). The Neighborhood Commercial zone district applied to this site was revised and expanded in 1994 to absorb and replace the previous C-C zone district, and to provide for the visitor serving activities in addition to the neighborhood commercial uses.

Policy 8.8.3 of the General Plan/LCP encourages the provision of tourist commercial services within the Coastal Special Community (Davenport), along the Highway 1 frontage (see attached). Policy 8.8.4 requires that new development be consistent with the "height, bulk, scale, materials, and setbacks of existing development: generally small scale, one to two story structures of wood construction."

Findings of consistency with these policies may be difficult given the size and uses proposed. The collection of uses proposed by this application are individually allowable under the County's zoning regulations. However, the project approval being requested could result in a utilization of the property that is not consistent with the intent of the GP/LCP, which is to provide for neighborhood commercial services and visitor serving uses on this site.

Warehouse: The continuation of a warehouse use is allowable pursuant to County Code Section 13.10.260(b) based on a continuation of this current lawful non-conforming use of the property (current non-conforming status should be documented).

Housing: The five private residential units proposed as part of this project are allowable under the provisions of the C-1 zone district, up to 50% of the total floor area of the development. Discussions with the applicant's representative indicate that what they really would like is some limited visitor accommodations. While this would certainly be consistent with the intent of the GP/LCP, the Zoning Ordinance was intentionally amended to preclude these higher intensity uses in the C-1 zone district, a primarily neighborhood-level commercial zoning. The C-2 zone district, while allowing visitor accommodations, also allows a wider range of commercial uses, some of which would be inappropriate for the site and community. A zoning of (gasp) SU would allow sufficient flexibility to allow the office, retail, and visitor uses (including accommodations) envisioned by the GP/LCP.

Conference center proposal raises concerns in Davenport

■ DAVENPORT

from Page 1B

floor and converting a mezzanine into a second floor, will double the size of the facility with only a small change to the "footprint" on the property.

"We're thinking of it as a place where local companies in the Santa Cruz area can have conferences and where Odwalla can have workshops," he said.

Four proposed lodging units, he said, would be used for the "faculty" at conferences and could be available for rent as "romantic getaways" on weekends when no workshops or meetings were scheduled.

Tschantz said the few retail spaces proposed in the plan would be designed so artisans in the Davenport area could show and sell their crafts and wares. A small "juice-bar-type of restaurant" would be included, he said. He compared the concept to a tiny combination of Nepenthe and Esalen.

Tschantz noted that the proposal, which includes a zoning change to allow the conference center, would go to the county planning commission and board of supervisors before any permits would be issued.

Steltenpohl said McDougal's fears that the changes would eliminate views from much of the Davenport community fronting Highway 1 across the road are groundless. He said computer models have indicated the only impaired views would be from the outdoor tables at the Whale City Bakery bar and grill, owned

by the McDougals.

He said the view from the couple's Davenport Cash Store, a restaurant and import store combined with a bed and breakfast would not be blocked.

Tschantz said, in fact, that the county will reverse its usual landscaping requirements, if the plan is approved, and demand that only low shrubs, and no trees, be planted around the parking lot just north of the Odwalla building. That site, which Marcia McDougal refers to as "the meadow," had previously been used as a parking area, Tschantz said.

"Ordinarily," he said, "we require screening of those sorts of things by shrubbery and trees. But here, there is the overriding consideration of protecting ocean views, which would be spoiled by trees around the parking lot."

McDougal remained unconvinced.

"Davenport," she said, "is such a special community. It is a very innocent town. I don't think the people who live here can visualize what might happen across the highway when they look out and see the ocean beyond."

"My husband and I love the innocence of Davenport, and we feel protective of it."

The truth of the matter is that what Odwalla and Fred Bailey are proposing over there would actually benefit our businesses. The more people who park over there, the more people who'll visit our store and restaurants.

"But it's so scary to think that somehow, some day, Davenport could lose its innocence."

6/26/97

San Jose Mercury News

DEPARTMENT OF FISH AND GAME



November 24, 1998

Mr. Kim Tschantz
Deputy Planner
Santa Cruz County Planning Department
701 Ocean Street, 4th Floor
Santa Cruz, California 95060

Dear Mr. Tschantz:

Bailey/Steltenpohl Negative Declaration
Davenport, Santa Cruz County

Department of Fish and Game personnel have reviewed the subject Negative Declaration and have some concerns pursuant to the California Endangered Species Act. San Vicente Creek is an endangered species watershed due to the presence of coho salmon. Coho salmon is a State endangered species and a Federally threatened species. San Vicente Creek is also listed as one of the recovery streams in the Department's coho salmon recovery plan, which will hopefully be released in February 1999. There are four issues which require additional clarification in order to adequately determine a level of no significant impact. These are as follows:

1. **Water Availability.** The water requirements of this project should not adversely impact streamflow in the creek. A water availability analysis should be conducted to determine whether there is enough water available, especially during periods of low flow, to protect the fishery in San Vicente Creek. This analysis must include all water diversions including appropriative and riparian water rights, and wells. The State Water Resources Control Board may also be involved in this decision. It is our understanding that this project will be doubling its current level of intake from the creek. This may result in significant impacts to coho salmon.
2. **Water Quality.** Water quality in the creek should not be degraded as a result of this project. The proposed sediment and grease traps only partially protect water quality and are subject to high flow and maintenance problems. One alternative method of cleaning the water prior to release into the creek is to create retention/wetland basins which further clean the water prior to release into the stream. The

Mr. Kim Tschantz
November 24, 1998
Page Two

Regional Water Quality Control Board may also play a part in this decision as any project greater than five acres must have a stormwater discharge permit. We suggest that further consideration be given to this alternative solution for mitigating water quality impacts.

3. **Water Quantity.** The project must maintain natural stormwater run-off conditions to mitigate for loss of percolation and to maintain the rate and volume of stormwater entering the creek. Impervious surfaces can reduce subsurface flow to creeks, can contribute to streambank degradation because the stream channel does not have the capacity to handle additional flows, and can make it more difficult for fish to migrate through the tunnels at the mouth of San Vicente Creek. The implementation of a retention/wetland basin may address both water quality and water quantity issues.
4. **Cumulative Impacts.** It is not clear whether cumulative impacts from existing projects and from proposed projects have been adequately addressed. Please provide verification that cumulative impacts from the project were fully considered.

The Department will require detailed information on water availability, water quality, water quantity, and cumulative impacts for all projects proposed in coho watersheds. Please provide the Department with additional information and clarification regarding these issues. We look forward to working with you to protect this important watershed. If these potential impacts are truly not significant or cannot be mitigated to a level of insignificance, then a 2081 Permit to allow "take" may be required.

If you have any questions or require additional information, please contact Ms. Patricia Anderson, Associate Fishery Biologist, at (831) 724-7130; or Mr. Carl Wilcox, Environmental Services Supervisor, at (707) 944-5525.

Sincerely,



Brian Hunter
Regional Manager
Central Coast Region

cc: See Next Page

Mr. Kim Tschantz
November 24, 1998
Page Three

cc: Mr. Jeff Almquist
Board of Supervisors
701 Ocean Street, 5th Floor
Santa Cruz, California 95060

Mr. Steve Herrera
State Water Resources Control Board
Post Office Box 2000
Sacramento, California 95812-2000

Mr. Howard Kolb
Regional Water Quality Control Board
81 Higuera Street, Suite 200
San Luis Obispo, California 93401-5427

bc: Pat Coulston, Patricia Anderson, Jennifer Nelson

PA/pm

RECEIVED

JAN 25 1999

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

P.O. Box 252
Davenport, CA 95017
January 20, 1999

Mr. Rick Hyman
California Coastal Commission
725 Front Street, Ste. 300
Santa Cruz, CA 95060

Re: A-3-SCO-98-101; small scale/character of Bailey-Steltenpohl project in relation to town of Davenport

Dear Mr. Hyman:

This letter is to clarify our objections to the Bailey-Steltenpohl Project (Project) on the grounds of its contravention of "small scale" and thus "character," as these criteria are established by the Santa Cruz County General Plan, Davenport Special Community (policy 8.8.4).

Policy 8.8.4, which defines Davenport Character, directs the County to "[r]equire new development in Davenport to be consistent with the height, bulk, scale, materials, and setbacks of existing development: generally small scale, one to two story structures of wood construction."

In our meeting you indicated that the meaning of "small scale" needed to be clarified, perhaps through the use of an old EIR. The Project's main building is indeed a two-story building and so at first glance seems to fit within the guidelines of Policy 8.8.4.. However, the building is a huge two-story building, higher than any other building in town, and with a far, far greater square footage than any other building in town. Santa Cruz County Supervisor Mardi Wormhoudt quoted a letter that said that the "scale of [the Project's] parking lot in terms of spaces compared to residents in the community would be like building a parking structure for 20,000 cars in the city of Santa Cruz. She found this a "pretty interesting comparison in scale."¹

Enclosed please find an aerial map of Davenport, with the Project site marked in color (structures in yellow; myoporum and cypress hedge in green; parking lots and non-structure areas in red). Accompanying the map is item 7.1.15 from the County of Santa Cruz Local Coastal Program Land Use Plan (LCP 1988, revised 1/85, p. 155).

Definition of "Small Scale"

The 1988 LCP² provides the basis of the General Plan intentions in using these criteria, by defining the term "small scale" as it applies to neighborhood developments: "Allow only such neighborhood commercial uses that are of a small scale, i.e., appropriate to a neighborhood service area, and which will

¹ Board of Supervisors meeting; October 20, 1998

² Later also adopted by the 1994 General Plan/LCP, 2.13.4.

not have significant adverse traffic, noise, and aesthetic impacts on the adjacent residential areas."

The Project is inappropriate to the Davenport neighborhood service area because it is too large.

The map demonstrates, even more clearly than words could, how the Project, which is part of Davenport but also separates the rest of the town from the ocean, overwhelms both the town and its commercial district on Highway 1. It does so in terms of both scale and bulk (volume). The Project nearly doubles the existing visitor-serving space and blocks the entire frontage of Davenport along scenic Highway 1. The Project's main building is highly visible because it sits where the terrain is flat. The Project calls for a 6' increase in height, making it 6' taller than the tallest structure in Davenport. This sets a precedent for higher and larger structures both on the west side of Highway 1 and within Davenport. Such a project is not of a size "appropriate to a neighborhood service area," i.e., is not small scale. (LCP 1988, 7.1.14)

The Project is also inappropriate in Davenport because it does not primarily serve either residents or visitors on Highway 1.

Only the comparatively small restaurant and two retail shops serve the residents of Davenport (13.65% of the Project area, not including space left for circulation). Residents are not allowed to use the day spa. Visitor-serving development is a priority along the California coast; here, visitors additionally may enjoy the use of five visitor accommodations (one is for a caretaker) and a day spa. However, nearly half (44.5%) of the Project serves neither the residents of Davenport nor visitors on Highway 1. This includes a large warehouse and manufacturing site (3700 square feet; 18.5%),³ several private offices and meeting rooms (5203 square feet; 26%). These latter uses do not satisfy the intent of "visitor-serving" objectives--they serve business people. Moreover, the visitor accommodations are either equipped with kitchens or have the capacity to contain kitchens. These units can be easily converted to exclusive private one or two-story ocean-view condos. If this occurs, Davenport may find itself with a development that primarily serves neither the residents nor their visitors on Highway 1.

There is no solid commitment in the Project's plan to preventing what it could easily become, namely, an elite ocean-view clubhouse. Such a result would be entirely out of character with the town.

³ See GP Objective 2.18, Non-Conforming Commercial or Light Industrial Development, Policy 2.18.1, Continuation of Non-Conforming Commercial or Light Industrial Use: The GP recommends continuation of existing commercial or light industrial uses if certain criteria are met. However, the criteria are not met. The existing business is *not* contained within a structure originally built for commercial or light industrial use (the original structure is a packing shed for agricultural purposes); the property does *not* have a continuous history of commercial or light industrial use (it was zoned agriculture, had an agricultural use--the developers received 18 red tags for their illegal use of the building); the use is *not* compatible with adjacent land uses (adjacent land is zoned Parks and Recreation); and the use *does* create a nuisance to area residents.

The Project will have significant adverse traffic, noise, and aesthetic impacts on Davenport.

Such a large project will necessarily add adverse traffic, noise, and aesthetic impacts on the adjacent residential areas.

Traffic and noise impacts:

Because of the large-scale nature of the Project the traffic and attendant noise (generated by the increased traffic and the intensification of use on the Project parcel) will increase significantly, adversely impacting the rural village of Davenport. Even if one accepts the developers' traffic study, an extra 306 vehicle trips per day are predicted (Project-generated trips = 466 vehicle trips/day).⁴ Moreover, the traffic study did not investigate the impact on pedestrian safety by both the increased trips and the awkward ingress/egress to the Project's two parking lots.⁵ Caltrans did not investigate circulation problems that the Project will cause in the residential streets of Davenport and did not investigate the effect the Project's traffic will have on Davenport's Pacific School. The Caltrans study does not address tour bus circulation. Nor does it address the effect of the myoporum trees planted by the developers in the Caltrans right-of-way, thus affecting pedestrian safety by forcing pedestrians either to re-cross Highway 1 or to move out into the path of traffic. There are no sidewalks required for the Project.

Aesthetic impact:

1. A 65+ vehicle parking lot blocking a spectacular ocean view of the Monterey Bay will destroy Davenport's essential identity. This bluff is one of the few ocean front vistas and white water views where people may walk along a level meadow from Highway 1 to appreciate the view. Part of Davenport's aesthetic attraction is whale watching--something for which the town is famous.⁶ Although the developers plan a bench behind their parking

⁴ The design of the traffic study was fundamentally inadequate. Caltrans surveyed only Highway 1 traffic on four off-season days.

⁵ The Project does not adhere to the Caltrans model of 75' for penetration into parking areas.

⁶ See attached printout from Santa Cruz County Conference & Visitors Council web page (<http://www.scccvc.org/about/dav.html>), which begins: "'Thar she blows!' is a cry long heard off Davenport's craggy coast. Originally famous for its whaling industry, Davenport today is favored for its excellent whale watching. From January to May you can see migrating Gray Whales spouting and playing just offshore."

In line with the Visitors Council, the General Plan directs the County to emphasize Davenport's "whaling history and whale viewing opportunities." This should not be commercialized by one business, but should remain open as a public vista. See GP/LCP 5.10.6, Preserving Ocean Vistas: "Where public ocean vistas exist, require that these vistas be retained to the maximum extent possible as a condition of approval for any new development." See GP/LCP 5.10.3, Protection of Public Vistas: "Protect significant public vistas . . . by minimizing disruption of landform and aesthetic character caused by grading operations" See GP/LCP 5.10.10, Designation of Scenic Roads, "The public

lot, the view from passing vehicles will no longer be a public ocean vista, but a private, commercialized one. As a result, visual access from the highway (see GP/LCP 7.7c, Beach Access) will be blocked by the north parking lot.

Whether or not the developers lower the lot by 3 feet the view from Highway 1 and the town will be seriously degraded.⁷

2. The greenhouse, sited directly across from Davenport Avenue, will block residents' and visitors' view of the ocean. Historically, this view was clear for residents of Davenport.⁸ The developers added a chainlink fence around their property, and then in response to complaints that the fence was "ugly," grew a cypress hedge to cover it. The developers allowed the hedge to grow to nearly 30 feet, despite residents' continuous pleas to cut it to the same height as the fence. The Board of Supervisors now have ordered the hedge to be maintained just above the height of the fence, which would restore at least a partial view of the ocean. Unfortunately, in spite of this concession, the developers will once again block the view, but this time with their greenhouse.

Thus, according to the definition of "small scale" as defined by the 1988 LCP, the Project is inconsistent with the character of Davenport. The Project is large scale, and is inconsistent with the height, bulk, and scale of existing development.

Davenport is a Special Community/Neighborhood, and as such, is meant to be protected.

According to Coastal Act policies, "New development shall . . . protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses. (Public Resources Code, § 30253)

The 1994 Santa Cruz County General Plan/Local Coastal Program designates Davenport as a Special Community because of its unique characteristics, including its public whale watching opportunities. Because it fronts Highway

vistas from these roads shall be afforded the highest level of protection: . . . Route 1--from San Mateo County to Monterey County."

⁷ At the entrance to the parking lot, the surface of the lot will be approximately 5 feet below the edge of the road. By forty feet from the eastern end the surface will be level with the road. This means that the expanse visible from the road will be continuous, but changing from a sea of car roofs to a view of the vehicles from the ground up.

⁸ See attached photo of view down Davenport Avenue before the developers allowed a cypress hedge to obscure residents' and visitors' view. We note also that the residents' traditional path down to the beach is located directly across the street from Davenport Avenue. The developers' plans show the path, but do not label it as pedestrian access. Why is this? Residents are nervous about this because in 1976 developer Fred Bailey attempted to block off access to the beach here, but was prevented by resident opposition. See Initial Study for 1976 correspondence concerning this.

1, Davenport is also a Coastal Special Community. (General Plan, 8.8) The General Plan directs that these communities be "preserve[d]" and "enhance[d]" to ensure the "compatibility of new development with existing character of these areas." (GP, 8.8) Specifically, the LCP directs the County to "[e]nhance Davenport as a visual focus along Highway 1" and to "emphasize . . . whale viewing opportunities." (GP, Program, p. 8-12) The scale of Davenport is "small scale" and "rural."

The history of the Project site, both past and proposed, offers a clear case of how the character and scale of a small town can be threatened by a sequence of planning decisions made to accommodate the owner of a building and parcel. The Odwalla building that the developers wish to expand is an agricultural packing shed on a parcel originally zoned Agriculture. The developers used the shed in an illegal fashion, receiving 18 red tags over the years. Since 1976 the County has accommodated Mr. Bailey, the owner of the shed and one of the developers, by changing the zoning four times--from Agriculture to Unclassified to Neighborhood Commercial to Special Use. A Special Use zoning does not protect the community/neighborhood of Davenport. Instead we find offices, manufacturing, a warehouse and the possibility of condos.

As discussed above, the Project is clearly incompatible with the existing character of Davenport. The Coastal Act and the Santa Cruz County General Plan direct that these Special Communities, including Davenport, be protected, preserved and enhanced. Davenport will not be protected, preserved and enhanced by this Project; rather the Project will destroy Davenport's aesthetic ocean bluff view, its public vista for whale watching, and will dangerously impact the town in terms of traffic and noise.

Sincerely,



Susan Young, member
Citizens for Responsible North Coast Planning

Enclosures
cc: California Coastal Commission



Developer Street and Water District
 Developer Road Service Line (RSL)
 North Coast Authority Parcel #



* Street and parcel data are licensed to San Antonio Land Conservancy (SALC) by the County of Santa Cruz. Neither the County of Santa Cruz nor SALC assumes liability for any errors or omissions in this information.

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SANTA CRUZ COUNTY

Gateway to the Monterey Bay National Marine Sanctuary™



ABOUT SANTA CRUZ COUNTY

Davenport

"Thar she blows!" is a cry long heard off Davenport's craggy coast. Originally famous for its whaling industry, Davenport today is favored for its excellent whale watching. From January to May you can see migrating Gray Whales spouting and playing just offshore.

A few miles up the coast is the largest mainland breeding ground for elephant seals-- Año Nuevo State Reserve. Take a guided tour and observe as these great beasts, some weighing up to 2-1/2 tons, come ashore to rest, mate, and give birth.

Davenport itself is tiny in size but big in reputation. Lundberg Studios creates museum-quality art objects in fine glass. Next door, finely handcrafted knives, scrimshaw and artwork await you at David Boye Knives Gallery. And Davenport Cash Store and Restaurant is a local's favorite, with ethnic treasures from around the world and fresh produce and seafood from the California coast. Linger over your lunch and you might even spot a whale! For further adventures, you can explore the list below.

- Davenport Jail Museum
- Greyhound Rock County Park
- Rancho Del Oso State Park
- Davenport Beach
- Waddell State Beach

About SC County Index Page -- HOME

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701 Front Street, Santa Cruz, CA 95060, USA
Phone: (800) 833-3494 or (831) 425-1234 -- Fax: (831) 425-1260

<http://www.scccvc.org/about/dav.html>

of community-wide market areas served by these centers:

- o East Cliff/17th Avenue
- o Portola/41st Avenue
- o Rio del Mar/Club House Drive

7.1.13 Allow a broad range of commercial uses in the Community Commercial Centers that are of a communitywide scale and service area without duplication of Regional Commercial or Commercial Service uses provided for elsewhere. In addition, allow visitor accommodations. Allow residential uses as incidental to commercial uses of property and up to 50 percent of the floor area of a development.

Neighborhood Commercial:

7.1.14 Recognize areas existing as, or suitable for, Neighborhood Commercial uses based on the provision of small-scale neighborhood serving businesses within walking distance of the various urban neighborhoods or centrally located to serve rural communities.

7.1.15 Allow only such neighborhood commercial uses that are of a small scale, i.e. appropriate to a neighborhood service area, and which will not have significant adverse traffic, noise, and aesthetic impacts on the adjacent residential areas. Allow residential uses as incidental to commercial uses of property in the Neighborhood Commercial category. Incidental means up to 30% of the square footage of structures. This factor, in conjunction with neighborhood compatibility criteria, would limit the density of neighborhood commercial uses. Allow residential uses as incidental to commercial uses of property and up to 50 percent of the floor area of a development. } →

7.1.16 Allow the expansion or development of new neighborhood commercial facilities only where a local need and market exists as determined by a market assessment, commensurate in scale to the proposed project, to be conducted as part of the environmental assessment.

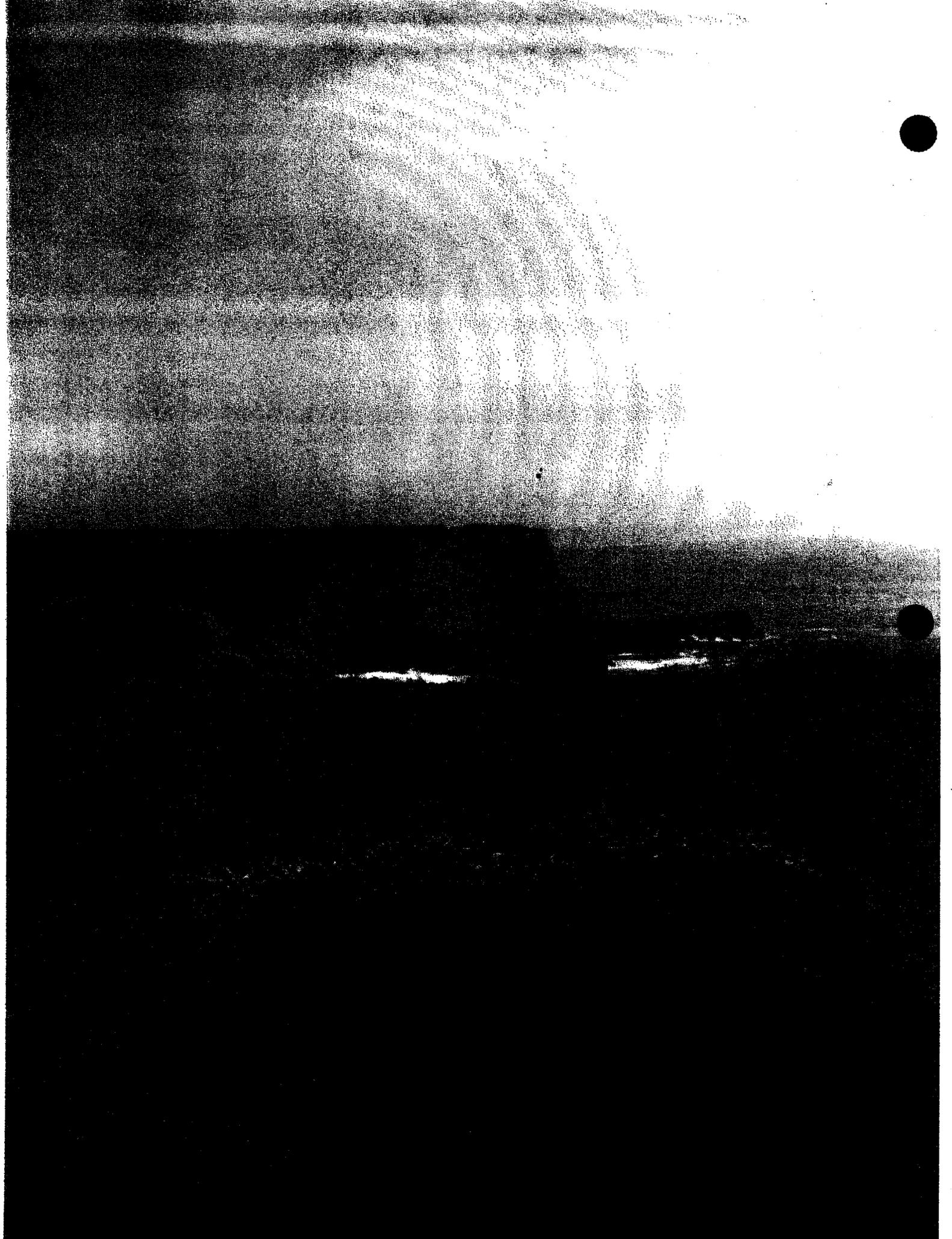
Commercial Services and Light Industry:

7.1.17 Recognize areas appropriate for Commercial Services/Light Industry use based on proximity to major streets and rail transportation, the provision of adequate services, and compatibility with adjacent land uses and the environment.

(See Policy 10.5.1 relating to New Light Industry)

7.1.18 Allow office use, light industrial facilities such as assembly and manufacturing, and commercial services facilities such as auto repair, contractors' yards, and warehousing in the Commercial Services/Light Industry Land use category. Limit the permitted uses in this category to those without major pollution, visual impacts, or potential nuisance factors.

LCP/1988



RECEIVED

APR 21 1999

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Dear California Coastal Commission
Hope all is well. This letter is in regards to the expansion of the ODWALLA property in Davenport. Being a resident in Santa Cruz County and having my P.O. Box in Davenport I can say that Davenport is kind of a Sanctuary. The last piece of freedom in the Santa Cruz County Coastal Zone that's developed. I think the fear of Davenport & Bonny Doon Residents is not just losing a Sweet spot to a paved Paradise, but the potential over load of people. Why do you think people choose to live in Bonny Doon or Davenport? On the one hand we all deserve a space, a place, ... including odwalla. On the other hand we all also deserve some land that cannot be bought out & developed! Why do they need to develop that spot? Have they sought out all other options & locations for expansion and there is none? There are pre-existing commercial & industrial warehouses right in neighboring Santa Cruz. Odwalla is a Big name with a lot of 'pull'! (I'm amazed they might pull this one off.) Do they not want to relocate to pre-existing commercial zones? Equipment too heavy & expensive to move? Can they keep the existing structure as is and move their ^{new} stuff, people, fruit, and whatever down the road a measly 10 miles? Know what? There's just too many of us human beings living on the coast to conjure up any rational decision making in "LAND USE" issues. Eventually there will be "SAN FRANCISCO & LA" up

and down the whole coast. The farmers
kids will be bought out someday. The
farm land that foreigners owned might last
a while. I realize your position is
somewhat of a referee between opposing
sides and how frustrating it can be
making the right calls. Everybody wants
to live on the coast & no-one wants to see
^{land} developed (except developers ... of course).
I guess it would be nice to be able
to delay the development. Obviously this
is your call and no matter what you choose
Someones - or Many Many ones are going to be
pissed and Many will be Real Happy.
Who's going to be what? Well ... I hope
Odwalla gets real pissed off at you when you
turn them down! Ha Ha Frenchman Slip -
I'm trying to be objective here since I
moved out to the West and also need a space,
a place to be. I wish you wisdom in
your decision & luck with the wrath
of our over populated Coastal Society if
you okay the development.

Sincerely Laura Maturi
PO 344
DAVENPORT CA
95017

7-14-97

Dear Coastal Commission

We do not have full information
on this matter.

We do ask that the Coast be
preserved. Pressure are unremitting
to undo the Coastal Act.

Yours truly

Joe Hammerquist
#1 Mcintosh Ct
Novato 94949

RECEIVED

JUL 16 1997

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

To whom it may concern,
I like the view from
my class room and I don't
want it destroyed. Please say
"No" to the od walla
development

sincerely,

Rogan Kriedt
8 years old.

RECEIVED
APR 19 1999

CALIFORNIA
COASTAL COMMISSION

RECEIVED

APR 20 1999

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

APRIL 17, 1999

TO WHOM IT MAY CONCERN,

I RESIDE NEAR DAVENPORT AND AM THERE ON A DAILY BASIS. MY SON ATTENDS PACIFIC SCHOOL AND MY WIFE WORKS IN DAVENPORT.

I AM STRONGLY OPPOSED TO THE DEVELOPMENT OF THE ODWALLA PROPERTY FOR THESE REASONS. THE CLASSROOMS AT PACIFIC SCHOOL LOOK OUT OVER THE SUBJECT PROPERTY AND THE VIEW OF THE OCEAN AND WHALES WILL BE BLOCKED BY RAISING THE BUILDING HEIGHT AND MAKING THE MEADOW A PARKING LOT. THE WEST SIDE OF HIGHWAY ONE SHOULD REMAIN UNDEVELOPED SO ALL MAY VIEW THE PACIFIC OCEAN.

PLEASE CONSIDER THESE CONCERNS WHEN YOU MAKE YOUR DECISION.

RECEIVED

APR 20 1999

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

THANK YOU,

KARL KRIEDEL
505 MARTIN ROAD
BONNY DOON CA 95060

RECEIVED
APR 16 1999
APR 19 1999

To Whom it may concern,

CALIFORNIA
COASTAL COMMISSION

I am a resident

of Bonny Doon and work at
Pacific Elementary School in Davenport.
I am very strongly opposed to the
proposed Odwalla development.

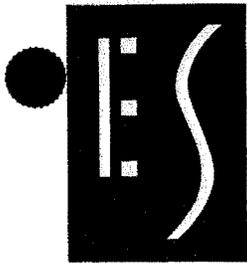
Our 1ST and 2ND grade
classroom looks out over this
property. Our view provides a
learning environment which we cherish.
I believe the proposed expansion
would have a profound negative
impact.

I urge you to deny
the Odwalla proposal and limit
future development to the east side
of Highway 1.

Once developed the
natural beauty will be gone forever.

Sincerely

Patricia Q. Hornsby
505 Martin Road
Bonny Doon CA 95060



RECEIVED

JAN 25 1999

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

January 18, 1999
Coastal Commission
725 Front Street Suite 300
Santa Cruz, CA 95060

RE: A-3-SCO-98-101

To Whom It May Concern:

I am writing to you about the above referenced file of Fred Bailey's old packing building across from the Davenport Cash Store.

I have known Fred Bailey for at least 25 years, as a close friend and as a partner in construction. I think that his intention in Davenport is being misrepresented by a faction who fears that competition will cause economic losses to the Cash Store.

I know that the Coastal Commission's is, in part obliged to provide visitor serving facilities - within it's guidelines. I have lived in Big Sur until last year and understand what forces come into play in the name of visitor facilities. Some coastal development adds to the quality of the "Coastal Experience", and some offers a degradation of the scenic treasures.

Mr. Bailey's project falls, I believe in the category of adding to the experience. There is going to be development on the coast and I believe that what you allow should set a precedent for what is to follow. Mr. Bailey has a highly regarded sense of design and is known for the highest quality of craftsmanship. And, most importantly, he cares about the community of Davenport.

This project lends itself to the coast. It isn't some environmental disaster. It's not a precedent setting project and will not lead to rampant growth. It's surrounded by open space which is agriculturally zoned. It is a unique opportunity for people to stop at one of a very few places on the ocean side of the highway.

I'm sure you have seen it all with opposing small town factions. Fred has told me that about 75% of the town is for this project, but most don't feel at ease to say so. Hopefully you'll see through all this and vote for a project that will add to the "Coastal Experience".

Best Regards,

ERIC STROMBERGER

ERIC STROMBERGER ■ CINEMATOGRAPHER

P.O. Box 966, MENDOCINO, CA 95460 (415) 643-1190

A-3-SCO- 98-101 Bailey/Steltenpohl Mixed Use Project

RECEIVED

MAR 23 1998

March 1998

To: Santa Cruz County Planning Commission

From: Frank Wylie, 1900 Smith Grade, Santa Cruz, CA 95060

Subject: H-4 95-0685, 3500 Coast Highway 1, Davenport APN(s): 058-121-04

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

*741 Hearing
Supervisor's Chamber
MAR. 25, 1:30 PM*

I find it reprehensible that Santa Cruz county which holds itself as an environmentally concerned advocate proposes to mar the coastline at Davenport. The coastline from Half Moon Bay to Moss Landing is one of our greatest assets and nowhere is it marred by a commercial structure (except farm buildings). The one exception is the abandoned Odwalla building, a tall, unsightly corrugated metal building that blocks one's view of the ocean. It blocks the view at one of the most attractive bluffs on the coast, and area where the whales come close and whale watching is popular.

The quaint village of Davenport is home to about 250 people. It already has a variety of different restaurants and three places which serve alcohol. There is also a small grocery and a post office and a B and B. The addition of any large project would seriously, and negatively, change the character of the village. Currently, all commercial structures and the post office are located on the "land" not the ocean side of Highway 1. Additionally and importantly, as a larger business is added, it would cause a greater traffic hazard. Davenport is located on a hill and it is very difficult to see the traffic in both directions because of this hill. As a result, there is a serious traffic problem which has resulted in a least one fatal accident. The addition of a major restaurant-inn-micro-juicery (micro brewery at the first hearing), etc. would further exacerbate the traffic problems.

This proposed development is a site left over from the railroad from which the land was purchased. (Most will recall it as the onetime home of Odwalla which brought business and jobs to Davenport and then whisked them away.) The current warehouse building is situated directly on the property line, and it is proposed that they be allowed to keep the building there and expand it (almost doubling the size by converting it to a two story structure and raising the roof line further. If they are granted that very basic exception, building on the property line, is it possible that a lot of other people in Santa Cruz County will want to claim similar exceptions? Also, those denied the same special privilege may wish to claim why the County's rules are "different for some people."

The experience of Odwalla should teach us that times change, and enterprises change hands, and things change. Although we are assured that Odwalla has nothing to do with this project, one of the partners is the president of Odwalla.

The notice of public hearing states that the request is also to excavate 1,350 cubic yards of dirt from this wonderful, scenic bluff overlooking the sea. That's a lot of dirt (about 4,406 large wheelbarrows full) and as we know, many excavations grow in the process. The purpose: to place a large parking lot and thus creating a larger traffic problem as traffic would then enter (going both north and south) from both sides of Highway 1.

Why do we want to destroy a great natural bluff in favor of a parking lot? Why do we want to add a new big, mixed purpose building which has been describes as a lodging for visitors, a caretaker's residence, a restaurant, micro-juicery offices and retail uses. Doesn't that essentially give them license to conduct almost any business there in the future?

Why indeed do you propose to destroy a bluff and enlarge and heighten an ugly corrugated building to obstruct the public's view of the Pacific.

How can the County of Santa Cruz propose to so destroy one of the loveliest sections of our coastline? That would be a travesty of great dimension, especially for an area which takes pride in its protection of the coastline.

P.S. Would the Commission consider a suggestion? At the hearing in Davenport, the planning person entered and sat and talked with the owners of the Odwalla site. That perception may not contribute directly to the concept of impartiality that the Commission seeks.

133 Marine View
P.O. Box K
Davenport, CA 95017

Phone (408) 425-8577

FAX (408) 425-0906

DAVENPORT MILL

custom wood sash, doors, and architectural millwork

Santa Cruz County Planning Department
701 Ocean Street
Santa Cruz, CA 95060

Attention: Kim Tschantz

RE: Bailey-Odwalla/Davenport Commercial Project

To Whom It May Concern;

Please be advised that the undersigned, all of whom either live, work and/or own businesses in the town of Davenport are in support of the improvements proposed by Fred Bailey, et. al. Fred has had a good track record as a Davenport resident and property owner for the last 30 years. The development plans for the restaurant and retail space project reflect the respect and concern that Fred Bailey has shown for the town of Davenport. It is crucial that these projects do not compromise the charm of the town.

It is beneficial to keep all developments of this sort within the town limits. There is room for this project in Davenport. As for the future, it appears that both local traffic and the tourist flow will support this as well as the other establishments generously.

Sincerely,

3/23/98

William H. Gorman III

The Very Finest Home Furnishings, and Custom Woodworking
P.O. Box 180, Davenport, California 95017

MARCH 21, 1998

COUNTY OF SANTA CRUZ
PLANNING COMMISSION
ATTN: KIM TSCHANTZ

RE: BAILEY BUILDING

DEAR SIR,

I AM A RESIDENT OF THE DAVENTPORT AREA AND HAVE SEEN THE CHANGES (BOTH GOOD AND BAD) THAT HAVE OCCURRED ON THE NORTH COAST OVER THE LAST EIGHTEEN YEARS.

AS DEVELOPMENT HAS INCREASED THROUGHOUT THE COUNTY DAVENTPORT HAS REMAINED RELATIVELY UNCHANGED. BECAUSE OF THE GENERAL LACK OF FACILITIES FOR TOURISTS ON THE NORTH COAST OF SANTA CRUZ COUNTY (LIMITED HIGHWAY PARKING AND BEACH ACCESS)

THE LOCAL RESIDENTS ARE LEFT WITH THE IMPRESSION THAT NOTHING WILL EVER CHANGE

William H. Gorman III

The Very Finest Home Furnishings, and Custom Woodworking
P.O. Box 180, Davenport, California 95017

RATHER THAN ASSUME A NEGATIVE POSTURE TOWARDS ANY CHANGE IN THE STATUS QUO I CONSIDER THE BAILEY PROPOSAL A CHANCE FOR COMMUNITY IMPROVEMENT.

The KEY ELEMENTS TO MANAGED GROWTH

- 1.) EXISTING BUILDING
- 2.) UNDER UTILIZED LOT
- 3.) OWNER BUILDER
- 4.) MINIMAL ENVIRONMENTAL IMPACT

ALL THE INGREDIENTS FOR COMMUNITY IMPACT, CHARACTERIZING THE PROPOSED PARKING LOT AS A MEADOW (SANCTUARY) DOES NOT HOLD UP TO DEEDER SCRUTINY. HISTORICALLY THIS LOT HAS BEEN UNDER CULTIVATION, WHILE I AM NOT A BIG FAN OF ASPHALT, PARKING IS SORELY NEEDED IN DAVENPORT.

THE ZONNING AND USE PERMITTED SHOULD BE THE SAME ON BOTH SIDES OF Highway #1. ISSUING THE PERMIT DOES NOT GIVE (CARPÉ BLANCHE) A FREE REIGN TO THE BUILDER

Lic. #555843

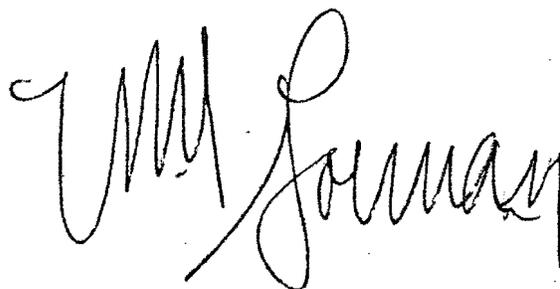
William H. Gorman III

The Very Finest Home Furnishings, and Custom Woodworking
P.O. Box 180, Davenport, California 95017

AS THE DESIGNATED USE IS CLEARLY WRITTEN INTO THE PERMIT ITSELF.

THE PROPOSED IMPROVEMENTS STAND ALL ON ITS OWN MERITS - TO BRING PERSONALITIES PRO OR CON INTO THE DISCUSSION SERVES ONLY TO POLARIZE THE COMMUNITY - AND TO WHAT END?

THIS IS NOT AND SHOULD NOT BE VIEWED AS A PROJECT THAT SIGNALS THE BEGINNING OF THE END FOR DAVENPORT, RATHER A PROJECT THAT REFLECTS THE DIVERSITY OF THE COMMUNITY AND A PLANNED VISION FOR THE FUTURE OF THE NORTH COAST OF SANTA CRUZ COUNTY

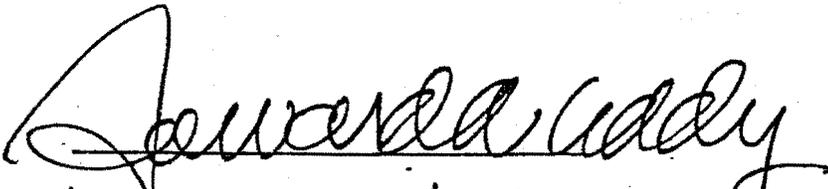


March 17, 1998

Kim Tschantz
Santa Cruz Co. Planning Dept.
701 Ocean St.
Santa Cruz, CA. 95060

This letter is in support of the proposed Davenport Producers Building Project. I am a long-term resident of Santa Cruz County, and have known the Bailey family for many years. The Bailey's have always shown the highest standard of care and aesthetic towards their own property, and the town of Davenport. Their proposed project will benefit the entire community while maintaining the unique "north coast" image and lifestyle.

There is always resistance and fear to change, but this project should not be judged by personal agendas.


1421 Laurent ST.
Santa Cruz, Ca. 95060

November 7, 1997

Mr. Kim Tschantz
Mr. Ken Hart
Planning Department
County of Santa Cruz
701 Ocean St
Santa Cruz, CA 95060

re: Odwalla Project, Davenport

Dear Sirs:

This letter is in reference to my earlier letter of September 15 in which I raised several concerns regarding the Odwalla project in Davenport. Since then I have had an opportunity to meet with Mr. Fred Bailey and he was able to clarify many issues. Based on that meeting, I would like to amend my position in the following ways:

1) The size

While I still have some concerns about the size of the project and its impact on traffic patterns (more on this in point 3 below), it is clear that the remodeling of the Odwalla plant, by itself, will not make the problems of Davenport (e.g. traffic, congestion, trashing of the beach) significantly worse.

Also, Mr. Bailey informed me that the correct figure for additional parking spaces is 73, rather than 90.

2) The hedges

Mr. Bailey explained the reasons for the hedges (to protect his property from vandalism) and has assured me that the hedges will be pruned to a reasonable height. I withdraw this objection.

Also, I should make it clear that I have no direct knowledge of the circumstances causing a beach path to be closed. My information came from long term residents of Davenport. In any case, this issue has nothing to do with the current project, and I sincerely apologize for raising it.

3) Loss of public parking and access

It is clear from the detailed plans shown to me that public access to the beach and cliffs will not be lost.

However, I still have strong concerns about the planned parking and its relationship to the overall parking and beach access situation in Davenport. These concerns are summarized as follows:

a) The proposed additional parking will consume attractive open space. I know the County has requirements and formulas for computing parking requirements, but the Planning Department must also consider the needs and desires of the surrounding community. Davenport is a unique community, surrounded by valuable undeveloped open space. Formal requirements for parking spaces must not be allowed to arbitrarily consume our environment. I strongly urge you to consider a significant reduction in parking requirements.

b) The parking lot for the Odwalla plant must not be designed without considering the parking situation of the entire area along Hwy. 1. There are several questions that must be considered: What is planned for the parking lot to the north of the proposed Odwalla lot, and how will lowering the Odwalla lot impact that development? What impact will increased parking on the SW side of Hwy. 1 have on pedestrian and auto traffic in the area and how will it be controlled? How can the parking situation on the NE side of Hwy. 1 be improved? What responsibility do business owners on the NE side of Hwy. 1 have for the parking on the SW side and how should

they be involved in its development? I realize these problems are not the responsibility of the Odwalla project, but I feel the planning department must address them in order to make better decisions regarding the project.

c) The additional parking is probably the portion of the project that has the most obvious, visual impact on the community. Does it have to be asphalt? Consideration should be given to other surfacing options that are more attractive and in keeping with the character of the community as well as more environmentally friendly.

I want to express my appreciation to Mr. Bailey for taking the time to clarify many issues regarding the project and I hope these comments are viewed constructively. I continue to be very interested in the project and will continue to follow it closely.

Sincerely,



David Perasso
34 Marine View Dr.
Davenport

Tamara Zottola
4125 Gladys Ave
Santa Cruz, Ca 95062

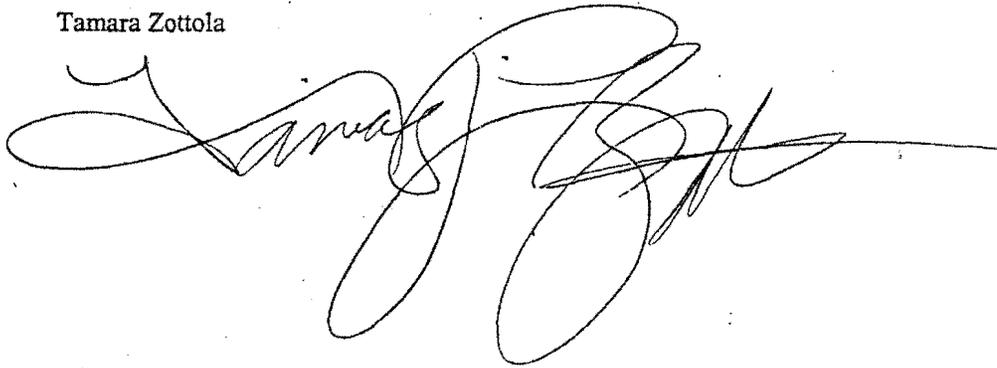
March 16, 1998

Davenport Community

To whom it may concern;

My name is Tamara Zottola. I am writing this letter on behalf of the Bailey family. I had the good fortune of meeting this family eight years ago. In that time I've witnessed their love for family, friends, and a helping hand for those in need. They are a family with high morals and deep commitment. Through the years the Bailey family has always been trustworthy and honorable. Your community can only benefit from their involvement and commitment in this project. I am very proud to be associated with Fred, Bren, Zac, and Luke Bailey.

Sincerely,
Tamara Zottola

A large, stylized handwritten signature in black ink, appearing to read 'Tamara Zottola', with a long horizontal flourish extending to the right.

NORTH COUNTY

RECOVERY & TOWING INC.

dba AUTO SPORT

138 Fern Street • Santa Cruz, CA 95060

(408) 458-3138

March 24, 1998

Re: Odwalls Building Project

To Whom It May Concern:

My wife, Karen, and I both believe that Fred Bailey's project at the Odwalls Building in Davenport is an excellent idea. We feel it would be an improvement to the community and endorse the project completely. Should you have further questions you may contact us at our office at 408-458-3138.

Sincerely,

William Scribner, President
North County Towing, Inc.



Fax to : Kim Tschantz
408-454-2131

From : Robert Adams
408-477-4248

Date : 3-24-98

Re : Proposed development at 3500 Coast Hwy One-Davenport, CA

To whom it may concern,

As a long-time friend and employee of Greg Steltenpohl for over 8 years, I've experienced his commitment to both community and sustainable development. I understand that Greg now has a proposal to sensitively and sensibly develop the old brand spank parking home located at 3500 Coast Hwy One in Davenport.

I support the development for 2 reasons:

1. Sensitive development of the property will ensure that the history, beauty and culture of the area will be maintained for generations to come. Greg has demonstrated through many projects that he is sensitive and caring about local communities, the environment, and the impact of development.
2. Sensible development will attract appreciative and desirable clientele - persons willing to pay for quality that will enhance the economy and reputation of Davenport.

Please let the development proceed with healthy support.

Sincerely,

Robert Adams
3367 Allison Lane
Soquel, Ca. 95073

To: Kim Tschontz

Mar 16-98

Having known Fred Bailey -
and seeing his work over the past
25 years both here and in Hawaii
I would recommend his work
as the best craftsmanship. Fred
is not only technically skilled, he is an
artist, environmentally conscious and
has a strong sense of California coastal
history. He, and his family, are a credit
to the community and his work is
excellent. I would give full support
to the county in supporting Fred Bailey's
Davenport project.

Sincerely,
G. Curran

Steve DellaMora
Steve DellaMora Farms
574 Westdale Drive
Santa Cruz, CA 95060
(408) 425-8737 home
(408) 425-0385 Ranch

March 19, 1998

Attn: Kim Tschantz, City Sr. Planner
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

Reference:: Davenport Commercial Project

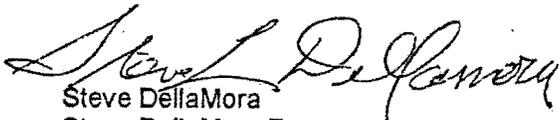
Dear Kim:

I have just learned of an upcoming meeting regarding this project. It is scheduled for March 25th at 1:30pm. I am a Farmer and cannot attend however I would like to share my opinion with you.

I am a 3rd generation family in Santa Cruz. I have farmed brussel sprouts for 30+ years as did my father, and grandfather before me. I currently farm approximately 2-3 miles south of Davenport and in the 70's and 80's I farmed an area on Swanton Road. I have lived in the North coast for 30 years and have seen a lot of changes in Davenport. It seems that other business establishments have been allowed to change and grow. I don't understand why anyone would want to deter this project from getting off the ground. If managed well and with all people concerned working together, I believe this proposed development will contribute tremendously to our town.

I believe the general consensus of the farmers up and down the north coast is "Go for it". If the county can allow a goat farm in a so called agriculturally zoned area. Why can't the county approve a business that is trying to restore and preserve history and build an establishment that will make Davenport a nicer place to visit, shop and eat.

Respectfully,


Steve DellaMora
Steve DellaMora Farms

Kim Tschantz
Planning Department, Santa Cruz County
701 Ocean St.
Santa Cruz, CA 95060

re: Application 95-0685
A.P.N. #058-121-04

Dear Mr. Tschantz,

Having visited Davenport and the scenic north Santa Cruz County coast since the early 1950's I was concerned to hear of the proposed project in Davenport.

After reading the Environmental Review my questions and all of the questions raised in the included letters have been addressed to my satisfaction.

I now support and encourage the project. I feel that the site itself as well as the tax revenue and jobs will create the coveted win-win scenerio for the county and Davenport.

Sincerely,



Lee Rhoades

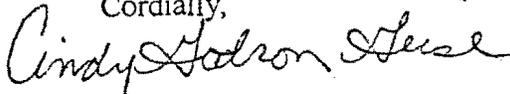
Ristorante Avanti

March 18, 1998

Dear County of Santa Cruz Planning Dept Members,

I am writing this letter as a local business owner and former resident of Davenport to encourage you to approve the project brought before you by Fred Bailey and Greg Steltenpohl. I believe this project would enhance the community of Davenport and be a viable solution as to the use of this building.

Cordially,



Cindy Godron Geise

March 22, 1998

Reynaldo Perez
125 San Vicente St.
Davenport, CA 95017

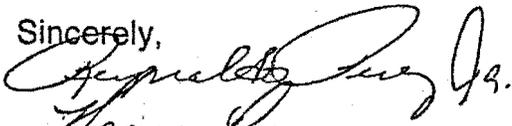
Dear County Planning Commission,

We write this letter to you as concerned residents of, Davenport. I have lived here for 47 years and my wife for 30 years. We fully support Mr. Fred Baily and The Odwalla Corporation's proposed project, in Davenport. We strongly believe, that this project will be a major asset to our community. We look forward with excitement and anticipation, to the upcoming project. Mr Baily, and the Odwalla Corporation, have always supported and kept our town's best interest, first in their minds.

We respectfully ask, that you grant the project it's needed approval to become a reality.

We trust, that the facts will outweigh emotion on the decision you must make.

Sincerely,



Nancy Perez
Reynaldo and Nancy Perez

Donald J. Canaparo

Office Box 382

Aptos, California 95001-0382

U.S.A.

Tel 408.438.4471

Fax 408.439.8878

March 16th, 1998

Mr. Kim Tschantz

Santa Cruz County Planning Comm.

701 Ocean St.

Santa Cruz, Ca. 95060

Dear Mr. Tschantz,

I am a resident of Santa Cruz County. I have lived in the county since 1965 and have been a homeowner since 1974. I am attached to Santa Cruz County's development, with concern for its residents, their environment, and its aesthetics. I frequently visit Davenport, and over the years have had relationships with residents of the area. I would like to draw focus here to the proposed project of Mr. Fred Bailey. I am familiar with it, the pros and cons, along with people from both camps. I have long assumed, as I still do, that the issues here are simply about market share, and the stresses and concerns that typically accompany them. However, I have recently been made aware of the current question being touted as to Mr. Bailey and his project respective of Davenport's residents and the environment. With this in mind I am motivated to write you.

I have known Mr. Bailey since 1980. I contracted him for development of my own property by recommendation of associates. I worked closely with Mr. Bailey over a period of two years, during which time I became familiar with Mr. Bailey, his family, and their values. I myself have had differences with Mr. Bailey. He is a highly spirited man. In the end, it is that same spirit which I grew to respect. He takes his values and his word seriously. Through my own project with him, and projects of other principals in this area, as well as in Hawaii, I can testify to the following. Mr. Bailey has a deep personal fondness of Davenport. He has demonstrated a sincere commitment to environmental concern. His skill and insistence on high aesthetics is beyond reproach. A simple review of his projects will give physical testament to the same. Mr. Bailey has always expressed and demonstrated a concern for the people and land impacted by his projects. I can only imagine that Mr. Bailey's mastery of landscaping would be a welcomed input to the area.

Donald J. Canaparo

Post Office Box 382

Aptos, California 95001-0382

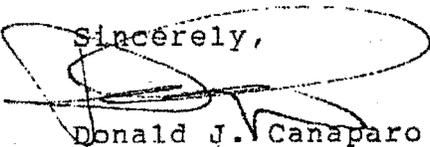
U.S.A.

Tel 438.4471

Fax 408.439.8878

As for the real issues at hand, Davenport's market can be expanded to allow greater support for both established and new elements. The quality development of this area should be thoroughly investigated by those who have questions. I believe such an investigation would expose that assumptions have been made that are inconsistent with the facts. Careful development of the Davenport area would result in an enhanced asset for both North County residents, and visitors as well. Insight, faith, and renewed spirit can transform Davenport's collective attitude with benefit for all. I believe Mr. Bailey will handle this project with the integrity that Davenport deserves, and it should be remembered that the city of Davenport has the power to prescribe him to do so. I write this in hopes that all the residents of the North Coast can be winners here, and find a peaceful resolution for current conflict. I thank you for your attention to this letter.

Sincerely,


Donald J. Canaparo

Sherman,
Williams
& Lober



A Professional Law Corporation

March 16, 1998

Santa Cruz County Planning Commission
701 Ocean Street
Santa Cruz, CA 95060
Attention: Kim Tschantz

Charles Ed Sherman

Peggy Williams

Anne Lober
Certified Family Law Specialist

Charma Pipersky

William J. Helm

Susan Cameron

Joseph E. Silva

Re: Davenport Commercial

Dear Mr. Tschantz:

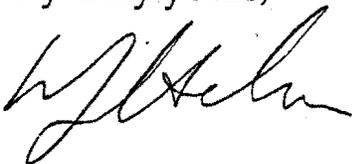
I am writing in support of Fred and Bren Bailey's application for development of the above-referenced project in Davenport. I have personally known Fred since 1959 and Bren since 1963, and over the years I have seen both the high quality and artistry of Fred's award-winning construction projects throughout Santa Cruz County. Moreover, Fred's consideration of the immediate environment and of the surrounding community has always been a part of his work. The proposed Davenport plan is no exception.

In the recent past, I had the benefit of residing for two years on the site of the subject land, caretaking the real property in the Baileys' absence. I have seen the property in its original state as well as the spectacular improvement that has been made by them over the many years they have been there. What was once a rural packing shed has been transformed into a beautiful landscape and highly desirable office complex, resulting in an aesthetic and economic benefit for the people of Davenport. I have personally spoken to many residents in Davenport who have enjoyed Fred and Bren's loyal involvement in that community, as well as the many local

workers who have found employment with them and with their tenant,
Odwalla Juice Company.

The proposal now before the Planning Commission is a sound one that is proposed by two innovative and community-conscious people with an impressive track record. With this plan, what the private sector has been able to enjoy in the past can now be enjoyed by the public in general. Accordingly, I believe that the project will serve to benefit both Davenport and Santa Cruz County and I urge that the Planning Commission endorse it in its entirety.

Very truly yours,



William J. Helm

March 22, 1998

To whom it may concern:

I have lived on Davenport Ave. since 1970. Through the years I have seen Davenport change from a quiet little town - to a tourist town because of the zoning. Many business owners claim to be "for the town" but not only do they not live here they don't hire Davenport residents or care about how we as residents are affected by their business.

Fred Bailey on the other hand has always been concerned about the town and it's residents. In the 20 years that he has been here he's always been honest and compassionate. He's always hired Davenport residents and made sure we are not affected in a negative way by his business i.e. parking, traffic, garbage etc.

I hope you grant Fred building permits, because if he can't build he'll be forced to sell the property -

Then we'll have but another
business owner that doesn't care
about us as a community.

✓ Please take us into account,
we have to live here.

Sincerely,

Dawn Overson
Gravin Kim

30 Davenport Ave.
(408) 426-8197

Att.
Kim Tschantz

KARL & LINDA STOVER
P.O. Box 31
Davenport CA 95017

October 23, 1997

Mr. Fred Bailey
c/o Odwalla
Davenport CA 95017

Dear Mr. Bailey:

I appreciate your taking time to show me your project plans and explain all the particulars. You addressed all of my concerns, and I feel what you have planned is reasonable and that you have made efforts to work with and consider the effect on Davenport's community.

The computer-enhanced photos and blueprints clearly show that the increased square footage of the building does not affect the original footprint, the does not increase the overall height very much, does not require extensive cliff excavation, adversely affects very little of existing ocean views. It does not appear that the "conference" room, six lodging rooms, and restaurant will affect existing traffic or parking to any extent.

Again, thanks a lot for talking to me about this.

A handwritten signature in cursive script, appearing to read "Linda Stover".

cc: Davenport Alert

Anne Freeman

P. O. Box 60
Davenport, CA 95017
(408) 427-0288
(408) 454-0941 fax

March 18, 1998

Attn: Kim Tschantz, City Sr. Planner
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

FAY 454-2131

REF: Davenport Commercial Project & next meeting 3/25/98 @ 1:35pm

Dear Kim:

There are many reasons why I support the above referenced project and I would like to share a few of them with you for the record.

I have been a resident of Santa Cruz County for twenty years and a resident of the north coast for eight years. I am very excited about the potential new commercial building and feel it would be only a great asset to the people of the Davenport area. My positive feelings regarding this development are because of the following reasons:

- 1) The developer has very carefully designed this project to keep the buildings below the tree line and not deter from the view from across the street.
- 2) This improvement transforms an old packing shed and brings it up to code both physically and aesthetically.
- 3) This will provide another viable business(es) for our community.
- 4) This proposed development will materially aid our tourists contact.
- 5) Davenport is an easy drive north for Santa Cruz people to come dine and shop.
- 6) There is constant bus traffic from north and south past our community and such a development will be a convenience to travelers and beneficial to our town.
- 7) The present businesses located in Davenport have been successful and productive. This development should pose no threat to existing businesses but should rather be regarded as a positive and desirable addition to our community.

I thank you for your time and consideration in concluding the final decisions on this project so it can proceed in a timely manner.

Sincerely,



Anne Freeman

Kim T. Schantz

Re: The Navesport Parking Shed.

As a long time resident, and Property Owner, in Navesport. I thought that I needed to supply some input, about the remodel on the property owned by Fred and Bren Bailey.

In the past, Mr. Bailey has kept the best interests of all residents in mind, when presenting plans for the use of the property. To the Community. Because the town has blossomed. (Our Schools are now very good.)

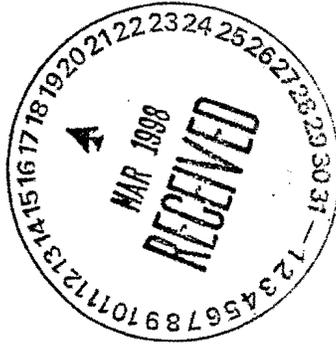
I think instead of opposing him at every turn. We should join him in his business endeavors.

I'm afraid when, any of us are opposed enough - we sell out and move on. Please don't let this happen

Barbara Seefeld

March 16, 1998

County of Santa Cruz
Planning Department
701 Ocean Street.
Santa Cruz, Ca 96060
Attention: Kim Tschantz



Dear Kim,

I must express my support for the Fred Bailey/Odwalla project proposed for the town of Davenport. I have reviewed the plans & drawings and feel the impact to the view and surroundings to be minimal. The project will help make the town of Davenport a more vital spot to visit for everyone.

I hope that the project will be permitted to be built. It will give us one more option of enjoying our stay in Davenport.

Sincerely,

A handwritten signature in cursive script that reads "Margaret Hutchinson".

Margaret Hutchinson
110 Fairmount Ave.
Santa Cruz, CA 95062

March 17, 1998

Santa Cruz County Planning Commission
701 Ocean Street
Santa Cruz, CA 95060

Dear Planning Commission,

On March 25, 1998 Fred Bailey will be presenting, for approval, his plan for the Producers Building in Davenport. His plan to create a conference center in Davenport is a good one. He and his family have occupied and or owned the Producers Building for over twenty years, and during that time they have worked to improve the building and surrounding property, turning it into the attractive place it is today.

As local industry moves from our area (Wrigley's and Lipton Companies come to mind) it is important for new business ideas to be incorporated into Santa Cruz County's plan. Mr. Bailey's plan for the Producers Building will serve as a Northern anchor point to attract a variety of groups, from business, to education, to government, to our area. The scale of the conference center plan is of a size that will compliment and support the businesses currently under operation in Davenport, as well as providing employment opportunities to local residents.

Mr. Bailey and his family have always been active and positive members of the Davenport and Santa Cruz communities. I have watched firsthand for the past twenty years how their hard work and foresight have improved the Producers Building and surrounding community. The Bailey's have always operated with the community at heart, and the plan for the Producers Building shows evidence of Fred's thoughtful and tasteful ideas. I wholeheartedly recommend approval of this project.

Sincerely,



Morgan M. Kost
115 Azure Lane
Watsonville, CA 95076

March 22, 1998

Santa Cruz County Planning Commission
701 Ocean Street
Santa Cruz, CA 95060

Attr: Kim Tschantz

To Whom It May Concern:

We are writing this letter to offer our endorsement and our whole-hearted support of the project proposed by Greg Steltenpohl and Fred Bailey for the property at the intersection of Highway 1 and Center Street in Davenport.

As long time residents of Santa Cruz County and of the north coast, our endorsement is based upon first hand knowledge of the property and of the owners. In addition, Peggy's position as one of the county's leading event planners gives her a unique perspective with regard to one of the proposed uses for this facility.

The owner/developers of this property are locals citizens who have a long and impressive reputation in our county, and their proposed facility demonstrates the same sensitivity to environmental, aesthetic, and economic concerns shown by these men in previous endeavors. Their proposed facility is a small scale project, but one which will be of enormous benefit to Davenport, the north coast, and to the county as a whole.

This environmentally coherent and unique facility provides for mixed use, and will serve the local community as well as visitors coming to our area. The project will bring diversity and activity to the commercial life of Davenport, and much needed improvements to the infrastructure on the west side of Highway 1. In particular, construction of a pedestrian stairway will mitigate the terrible condition of the trails which are now dangerously eroded, and will allow for greater ease and safe access to the beach. The visual impact will be minimal, and it is our opinion that this area of Davenport has long been in need of improvement: this project can only enhance the site.

The beauty of the north coast which attracts so many visitors to our area will be even more apparent, and more available to those who are drawn here, and this can only benefit the economic health of Davenport and our county as a whole. We hope you will look kindly upon this application, and we urge you to approve a plan which will be of tremendous value to our community, to our scenic resources and to the economic vitality of our area.

Sincerely,



Gary and Peggy Young
3965 Bonny Doon Road
Santa Cruz, CA 95060

March 20th, 1998

Santa Cruz County Planning Commission
701 Ocean Street
Santa Cruz, CA 95060

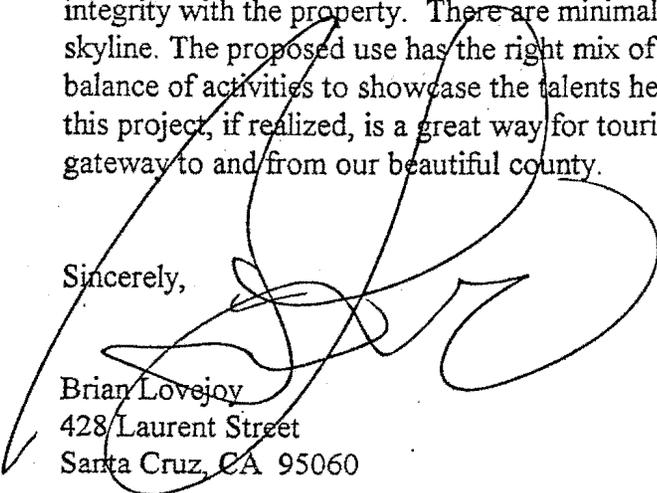
Attention: Kim Tschantz

To whom it may concern:

I wish to voice my support for the development project submitted by Greg Steltenpohl and Fred Bailey. I have reviewed the plans and spoken directly to the principals and believe that this project is a great example of appropriate scale development in Santa Cruz County.

Steltenpohl and Bailey have a long history of architectural aesthetics and environmental integrity with the property. There are minimal changes to the building footprint and skyline. The proposed use has the right mix of art, entertainment and wellness; the perfect balance of activities to showcase the talents held dear in our community. The vision of this project, if realized, is a great way for tourists and locals to enjoy the Northern gateway to and from our beautiful county.

Sincerely,



Brian Lovejoy
428 Laurent Street
Santa Cruz, CA 95060

March 18, 1998

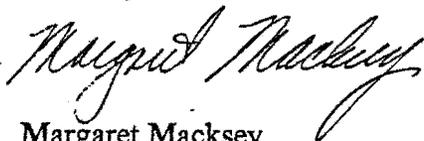
Kim Tschantz
Santa Cruz Planning Commission
701 Ocean Street
Santa Cruz, CA 95060

Dear Mr. Tschantz:

My family and I are frequent visitors to Davenport in Northern Santa Cruz County. We surf, kayak, bike and hike in one of the most beautiful areas of the California coast between Wilder Ranch and Ano Nuevo and always enjoy a visit to the New Davenport Cash Store. Although we live in Live Oak, I would like to comment on the proposed plan for the Odwalla site on the North Coast.

I have often looked at the Odwalla property in Davenport as an eyesore. I am thankful that the high hedge hides most of the existing dilapidated building. As most of Davenport exudes charm, this particular site seems run down and the trucks do not add to the landscape. I have been following the controversy in the newspaper which prompted my further investigation into the proposed restaurant conference center complex. It seems to me that the plans take advantage of the beautiful site and the project would actually enhance the area. This is not a Toy R Us or 7-11 under consideration but a tasteful building with a design that takes the natural setting into consideration. I think in the long view Davenport will be well served by this investment. Let's get rid of the juice trucks! I urge you and the Planning Commission to approve this project.

Sincerely,



Margaret Macksey
275 14th Avenue
Santa Cruz, CA 95062

cc: Marti Wormhought
Santa Cruz Supervisor

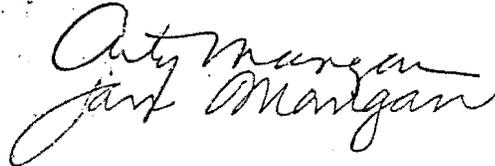
3/20/98

Santa Cruz Planning Department
701 Ocean St.
Santa Cruz, 95060

Dear Kim Tschantz,

We are writing in support of the usage plan for the Davenport property and facility, now leased and used Odwalla Inc . The plan for a Conference wellness center is an appropriate and beneficial use of that site. In a time when there is such a lack of cultural sensitivity in terms of development, Outlet malls popping up at every available location, I feel very strongly that the proposed plan will benefit the Davenport community and the greater community of Santa Cruz County in way that is unique and consistent with an area that has had a tradition of beneficial community innovation. We have been Santa Cruz county Residents for over 25 years and local business owners as well as having worked in the North Coast area. The North Coast is truly one of the treasures of the county and Northern California in terms of natural beauty. Sensitive community based development is difficult to find these days. I urge you not to allow the opportunity be lost.

Arty Mangan
Jan Mangan
12333 Irwin Way Boulder Creek Ca 95006
Fax # 338-1777

A handwritten signature in cursive script that reads "Arty Mangan" and "Jan Mangan" stacked vertically.

CC: Marti Wormhoudt
3rd District Supervisor

Jay and Marlene Leite
192 Las Colinas Drive
Corralitos, CA 95076

21 March 1998

Santa Cruz County Planning Commission
701 Ocean Street
Santa Cruz, CA 95060
ATTN: Kim Tschantz

Re: Proposed Davenport Development

Recently we read of a proposed development at the present site of the Odwalla Juice plant in Davenport. It is our understanding this development would provide multiple mixed use facilities, and convert the property from it's current manufacturing/warehouse status to a more visitor friendly office/conference complex. The article also mentioned that public access would be enhanced were this development to proceed.

We believe this project would be a benefit to the county. It would reduce the truck traffic now present at the location and make the facility available to a larger section of the population. We wholeheartedly support the project, and hope that you will also lend your support.

Sincerely,



Jay R. and Marlene C. Leite

March 18, 1998

Planning Commission,

I really enjoy the view from my Davenport home and walking along the cliffs every day.

I've been friends with Fred and Bren for 20 years and friends with Greg and Bonnie for 14 years and the deepest connection we have with each other is the respect and awe of the beauty of this Davenport coast.

For myself, I'm greedy enough to say, I wish the Mc Dougal's hadn't changed the focus of Davenport from a very small town, to a tourist town. But it's done. And why shouldn't other people experience the beauty of this place?

For 14 years, while working at Odwalla, I've been lucky enough to see this beauty from the comfort of Fred's building. It's incredible.

I think all people from Davenport should be able to experience this view, and that's what Fred and Greg propose to open up to the community. And I trust both of them to follow through on this promise and for that reason primarily, I welcome this project.

Tinker Dominguez

Carol (Tinker) Dominguez
41 Davenport Ave
P.O. Box 88
Davenport, Calif. 95017

March 15, 1998

Santa Cruz County Planning Commission
6701 Ocean St.
Santa Cruz, CA. 95060

Dear Commission Members :

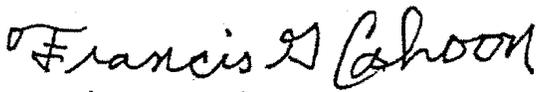
I would like to register my support of the project proposed by Fred Bailey and Greg Steltenpohl.

As a long time North Coast resident and property owner in the town of Davenport, I believe the community could greatly benefit from this 'local - generated' development.

I have observed the community intentions and demonstrated record of contribution by the owners to the Davenport and Santa Cruz communities, and I find it to be tops among Davenport business owners. I see no reason for them to change their commitments now.

Although change is difficult along the North Coast this is the type of development I see as a positive addition - please pass this worthy project!

Sincerely,


Francis G. Cahoon

Bruce L. Erickson & Associates

528 Abrego Street, Suite 170, Monterey, CA 93940 - Voice Mail: 408-746-2121

Tel: 408-659-8134 - Fax: 408-333-9040 - Email: BLErickson@aol.com

FAX LETTER

March 8, 1998

Kim Tschantz
Santa Cruz County Planning Commission
701 Ocean Street
Sanata Cruz, CA 95060

Subject: The former Odawalla headquarters building in Davenport building owned by Greg Steltenphol and Fred Bailey

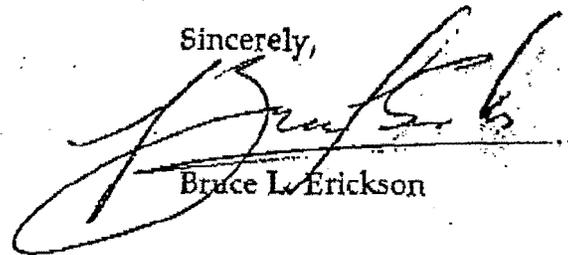
Dear Mr. Tschantz:

As a member of the Board of Directors of the Monterey Bay Region Futures Network, I know this building and Greg Steltenpohl quite well. I have seen their plan and recommend that the planning commission approve it as submitted.

The old Odwalla headquarters is something of a landmark in our region and its situated with a beautiful view of the ocean. The idea of having a conference center and natural foods resturant there would be ideal. Its also in keeping with the spirit and intent Odwalla had when they were there. Its also a vistors entry point to the Monterey Bay Region and it would be of great benefit to see a well planned facility there that honors the environment of the region. This facility is very much needed and there is little to accomodate visitors in this way on the coast.

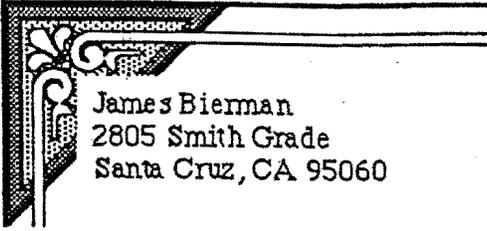
Thanking you in advance for your consideration to this request.

Sincerely,



Bruce L. Erickson

cc: Denise Holbert
Mardi Wormhoudt



James Bierman
2805 Smith Grade
Santa Cruz, CA 95060

March 22, 1998

Mr. Kim Tschantz
Santa Cruz County Planning Commission
701 Ocean Street
Santa Cruz, CA 96050

Dear Mr. Tschantz:

Being unable to attend the hearing scheduled for this Wednesday, I would like to use this letter to express my thoughts in regard to the Odwalla facility that is proposed for construction in Davenport. I consider this a matter of personal interest because I live in the coastal hills above Davenport, and make it a point to hike from my house to Davenport once a week.

I feel that the facility, as proposed, will provide an enhancement to the area which us "locals" will be able to enjoy in several ways. On the most basic level, such things as a juice bar, wellness center and restaurant will supplement the very limited commercial options we have presently in Davenport in a way that is literally healthy. While guest rooms and a meeting center may be seen as focused on bringing outside visitors to the area, it should be remembered that these facilities will also attract local use.

The plan to offer public access to the beach at Davenport is a great enhancement. At present, the trail down to the beach is unattractive, perilous, and not maintained. The trail along the edge of the beach is perpetually littered with incidental refuse. Replacing this informal slice of human erosion with a well-designed set of steps and a trail will be a great improvement.

There has been a lot of discussion here about the parking lot which is planned to accompany the improved facility. I feel that the objection is based quite simply on an automatic response to putting anything on the ocean side of highway one - and thus impairing the view. In fact, the present site is an unkempt waste land which looks like the vacant lot in Maxime Groky's Lower Depths. It is singularly unattractive, and a parking lot with landscaping would be a vast improvement over the present beaten terrain.

In the same regard, raising the ridge line of the present building a few feet will have little effect on the present vistas. The buildings that have already been converted for Odwalla's use are tasteful, and make good use of the recycled industrial buildings they once were. I am certain we will be able to say the same for the new structure.

If the decision were left to me, I would give the Odwalla company a "go ahead" on this project. I hope the Planning Commission will do the same.

Cordially,


James Bierman
cc. Supervisor Marti Wormhoudt

March 24, 1998

To whom it may concern, this letter is in support of the old packing shed project that Mr. Fred Bailey and family have planed.

The purposed project doesnt have anything that we as longtime residents of Devenport can see as negative for the town.

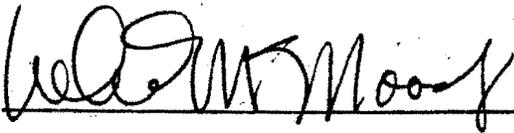
It looks as though it will actually bring in much needed revenue for the community, benefiting our small elem. school.

It looks to be a very good project

Sincerely
Sal Celebrado
Printed A. Celebrado

Kim Tschantz
Santa Cruz Co. Planning Dept.
701 Ocean St.
Santa Cruz, CA. 95060

This letter is in support of the proposed Davenport Producers Building Project. I am a long-term resident of Santa Cruz County, and believe that Fred Bailey's project will be both an economic and aesthetic asset to Davenport. I support and recommend that you approve this project.



W.M. MOODY
220 CHILVERTON ST.
SANTA CRUZ, CA
95062

3-18-98

PLANNING COMMISSION
COUNTY OF SANTA CRUZ
701 OCEAN STREET
SANTA CRUZ CA. 95060

MARCH 24TH 1998

IT IS GOOD TO HAVE MORE BUSINESS
IN DALENPORT. I LOOK FORWARD TO SEEING
FRED BAILEY HELP THE COMMUNITY IN THE
FUTURE JUST AS HE HAS DONE IN THE PAST.

I FEEL THAT MR. BAILEY IS A GOOD MAN
WITH GOOD INTENTIONS.

Ezio Tinetti

EZIO TINETTI

Mardi Wormhoudt
Board of Supervisors
701 Ocean Street
Santa Cruz, CA 95060

September 1, 1997

Dear Ms. Wormhoudt,

Being homeowners in the City of Davenport, we strenuously object to the proposed development of the Odwalla property in Davenport. This development would in our opinion detrimentally affect the character and nature of our town. It would in our opinion turn our beach, our beach access, and our open views over to private hands.

Our town of Davenport has a population of about 200 residents. The proposed parking lot for 90 cars is the equivalent of a parking lot for 20,000 cars in the city of Santa Cruz or for 400,000 cars in the city of San Jose. The proposed building size to accommodate conservatively 40 visitors and workers would be the equivalent of a building size to accommodate 10,000 people in the city of Santa Cruz or 200,000 people in the city of San Jose. We think these cities would also object to such a proposal.

The homeowners of Davenport are already paying an exorbitant tax for water and sewage that should not be used to pay for someone else's profits which by the way is already happening.

Lastly the proposed site should be preserved for future park land west of Highway 1. This is the only private property between Highway 1 and the ocean west of Old Town.

Copy: Ken Hart, County Planning Department, Thank You.

Sincerely,

Signatories:

To: Mardi Wormhoudt

Being homeowners + residents of Davenport for 15 yrs we do not agree with the above letter being passed out door to door in Davenport. We overlook the proposed project and we are looking forward to seeing it come to life. The plans for the project are beautiful and we feel it would be a great asset. We overlook other businesses that we wished were as attractive.

Most of the objections to this project have been from people who already own several businesses in Davenport + contribute to the exorbitant tax for water and sewage while making their profits. Thank you,

Emily & Bonnie Climpson

H-4



Charlie Jones
Box 314
Davenport, CA 95017

County Planning Dept.
701 Ocean St.
Santa Cruz, CA 95060
ATT: Kim Tschantz

Dear Mr. Tschantz;

I am writing to express my support for the proposed building improvements to 3500 Coast Highway, made by the Bailey and Stephanphol families.

I have known both families for over 15 years in which I have seen how they have kept and improved the property in question. I have seen how they have cared for the environment and improved and maintained the whole coast side of route 1 in the town center. I know this has been done at some financial cost to themselves in cleaning, watering, and litter removal and landscaping. Prior to there ownership, the building and grounds where unkempt and source of constant dust.

From all that I could gather at the town meeting at which you where present, they appear to be making these improvements at the behest of the planning board in support of the general plan for development in that area. I felt that they presented a coherent plan that is ecologically sound, in keeping with the architecture of the area and is in the interest of the community.

Both families have demonstrated, as owners of the property, their concern for the Davenport community and their neighbors and put care for their coastal property ahead of commerce.

Regards,
Charlie Jones
Charlie Jones

H-4

Bonno Bernard
231 Sunset Ave.
Santa Cruz, CA 95060
(408) 426-8341 • FAX 408.426.2402

Santa Cruz County Planning Commission
701 Ocean St.
Santa Cruz, CA 95060

March 11, 1998

To the Planning Commission:

I am writing in support of the development project in Davenport, proposed by Greg Steltenpohl and Fred Bailey.

Having grown up in rural Oregon, in a place now covered with strip malls and apartment buildings, I am sensitive to the word "development." But when I inquired into the nature of the project, I was thrilled not only for what it will bring the town of Davenport, but what it will do for Santa Cruz County.

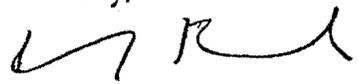
I worked at the site of the proposed project - the Odwalla building- for 12 years. My workmates and I patronized Davenport businesses regularly. I joined others in helping the Cement Plant establish better environmental practices. Though I live on the Westside of Santa Cruz, I hope to send my five year old daughter to Pacific School in September. My husband is an avid surfer who prefers the North Coast breaks to the overcrowded waves in town. Our dear friends are past residents of Swanton, and we spend much time in that area on family hikes. In short, I feel qualified to speak as an honorary citizen of Davenport.

From 1984 to 1996, I spent enough time with the Steltenpohls and the Baileys to know their work, their values, and their hearts. I trust them implicitly with this project. They will create a jewel for the North Coast. It will be impeccably designed and crafted, with absolute integrity toward the environment and the community. It will be highly innovative, lively, and inclusive. It will reflect everything that is good about Santa Cruz County: healthy lifestyle, open-minded thinking, creativity, environmental awareness, and the spirit of Welcome. What better gateway into the Monterey Bay area?

Personally, I plan on enjoying their project in many ways: a place to observe spouting whales with my family. A place to grab a sandwich and a juice en route to Rancho del Oso. A place to escape to on Valentines day. A place to take visiting guests for a fine evening meal made from locally grown organic foods. A place to convene with business associates. A place to enjoy a "pint of the local" with the locals. A place to take an outdoor hot tub during a winter storm.

It's rare that a community has a chance to experience "development" such as this: planned and created by caring people who have lived and worked there for over 20 years. If we let this opportunity pass, I shudder to imagine what could happen at that special site.

Sincerely,



Bonno Bernard
Westside, Santa Cruz

P.S. The only thing missing in the current vision is a footbridge over Highway 1, co-funded by the businesses of Davenport — a gesture of conciliation and community spirit!

H-4

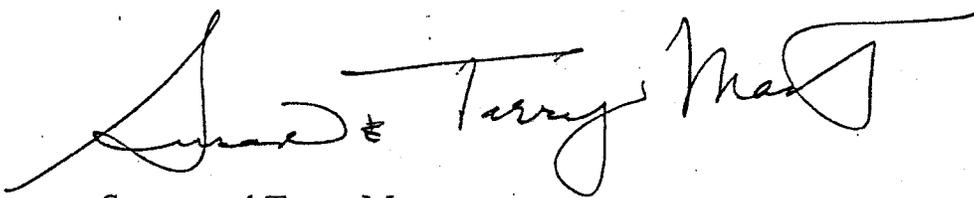
Kim Tschantz
County of Santa Cruz Planning Department Room 400
701 Ocean Street, SC CA 95060

March 7, 1998

Dear Mr. Tschantz:

We are writing in support of the development project proposed for Davenport by Fred and Bren Bailey. We personally know the Baileys and their family. We have both a business and a personal association with them and have discussed with them their plans for the Davenport development at the old Odwalla site.

The Baileys have had a long association with Santa Cruz, and they have a deep respect for the social and environmental values held by the people of Santa Cruz and Davenport. We ourselves are residents of Santa Cruz and have visited Davenport and their property many times. We strongly believe that their development will be a tremendous asset to the commercial and social environment of the coast. Fred has an exquisite sensitivity to the natural life of the coast. Bren has a long cherished history in Davenport and Santa Cruz. She wants to see development that respects the historical values that make our lives here an extraordinary blend of rich opportunities and, at the same time, deep respect for the area's historical traditions. We believe that Fred and Bren are the ideal people to shepherd this property to a new life.



Susan and Terry Mast
413 Western Drive #1
Santa Cruz, CA 95060

To Whom it may concern,

March 7, 1978 H-4

As residents of Nuremport for fifty eight (58) years, and our property, although a block away, overlooks the proposed Fred Bailey project, we, after having viewed the plans, (computer images) are happy with the project and looking forward to its completion:

We feel the projected uses will fit in nicely with our diverse community.

We're also pleased with the way we have been kept abreast of all new developments and any changes in the project. The computer graphics were really exciting.

Sincerely,

Emilio & Dianne Campisi
101 Church St.
Nuremport, Cal. 95017

17 102 EXHIBIT L

5-10-98

H-4

To Whom it May Concern,

I am a resident of Davenport Ca. north of Santa Cruz. I have lived and worked in Davenport for ten years. I am writing this letter to voice support for the possible building and future plans for the building now occupied by Oduwala Juice. I am also familiar with the property and feel that any environmental impact to the surrounding property owners and tenants would be minimal if any.

I think these plans would have a positive impact on Davenport and residents, bringing more jobs and beneficial businesses to the community.

Thank you,

Sincerely

R. J. Alastra

20 3rd Ave

D'port

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