

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(831) 427-4863

**Th7p**



**RECORD PACKET COPY**

Appeal filed ..... 10/30/98  
Hearing opened ..... 12/8/98  
49th day (waived)..... 12/18/98  
Substantial Issue found..... 5/13/99  
Project denied..... 9/15/99  
Denial findings adopted..... 12/9/99  
Stipulated Superior Court remand..... 8/1/2000  
Staff..... D.Carl  
Staff report prepared..... 11/27/2000  
Hearing date ..... 12/14/2000  
Hearing item number ..... Th7p

**APPEAL STAFF REPORT  
COURT REMAND DE NOVO HEARING**

---

**Appeal number** .....A-3-SCO-98-101, Bailey/Steltenpohl Mixed Use Davenport Project  
**Applicants** .....Fred Bailey and Greg Steltenpohl  
**Appellants** .....Citizens For Responsible North Coast Planning; Sierra Club; David S. Kossack  
**Local government** .....Santa Cruz County  
**Local decision**.....Approved with conditions (October 20, 1998)  
**Project location** .....Seaward side of Highway One (opposite the Highway's inland intersections with Davenport Avenue and Center Street) in the town of Davenport along Santa Cruz County's North Coast (3500 Highway One; APN 58-121-04).  
**Project description** .....Modify and expand existing 13,000 square foot building into a two-story, 23,000 square foot, 28 to 30 foot tall, mixed use development (including a restaurant, 5 overnight units, a spa, a retail shop, food processing operation and warehouse space, one caretakers unit, and one additional residential unit). Includes construction of a detached 600 square foot greenhouse, a 22-space parking lot located in lower portion of the site, a 20-space parking lot recessed 2 feet below grade on the upper bluff portion of the site, and associated landscaping. Project also includes lateral and vertical trail dedications and public access amenities (benches, stairs, pathways).  
**File documents** .....Santa Cruz County Certified Local Coastal Program (LCP); Addendum to the General Plan for the Davenport Beach and Bluffs; Santa Cruz County Coastal Development Permit File 95-0685; Santa Cruz County Superior Court Case Number CV 136954.  
**Staff recommendation**...Approval with Conditions

---



**California Coastal Commission  
December 2000 Meeting in San Francisco**

Staff: D.Carl Approved by:  
A-3-SCO-98-101 (Bailey-Steltenpohl Remand) stfprt DeNovo.doc

## **Staff Report Contents**

1. Project Procedural History .....	3
2. Staff Report Summary .....	4
3. Staff Recommendation on Coastal Development Permit .....	5
4. Conditions of Approval .....	6
A. Standard Conditions .....	6
B. Special Conditions.....	6
Recommended Findings and Declarations .....	11
5. Project Description .....	11
A. Project Location .....	11
B. Description of Proposed Project.....	13
1. Santa Cruz County-Approved Project.....	13
2. Remand Project Description.....	13
6. Coastal Development Permit Determination.....	14
A. Special Coastal Community and Visual Issues .....	14
1. Applicable Policies .....	14
2. Consistency with Applicable Policies.....	19
3. Special Community and Visual Resource Conclusion .....	29
B. Mixed Uses and Parking Requirements .....	29
1. Applicable Policies .....	29
2. Consistency with Applicable Policies.....	33
3. Mixed Uses and Parking Requirements Conclusion.....	37
C. Public Access .....	37
1. Applicable Policies .....	37
2. Consistency with Applicable Policies.....	40
3. Public Access Conclusion.....	46
D. Public Services: Sewer and Water.....	46
1. Applicable LCP Policies .....	46
2. Consistency with Applicable LCP Policies .....	48
E. Polluted Runoff .....	50
1. Applicable LCP Policies .....	50
2. Consistency with Applicable LCP Policies .....	51
F. Biological Resources .....	53
1. Applicable LCP Policies .....	53
2. Consistency with Applicable LCP Policies .....	53
G. Archaeological Resources .....	53
1. Applicable LCP Policies .....	53
2. Consistency with Applicable LCP Policies .....	54
H. Cumulative & Growth-Inducing Impacts .....	54
1. Applicable LCP Policies .....	54
2. Consistency with Applicable LCP Policies .....	55



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Stellenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 3

I. California Environmental Quality Act (CEQA).....	57
7. Exhibits	
Exhibit A: Project Location and General Davenport Environs (Air Photos)	
Exhibit B: Photos of Davenport Highway One Frontage and Project Site	
Exhibit C: Santa Cruz County Adopted Findings and Conditions	
Exhibit D: Stipulated Superior Court Remand	
Exhibit E: Proposed Project Description	
Exhibit F: Proposed Project Site Plan and Elevations	
Exhibit G: LCP Section 13.10.611 (Accessory Structures)	
Exhibit H: California Department of Fish and Game letter on the project	
Exhibit I: California Department of Transportation (Caltrans) letter on the project	
Exhibit J: Correspondence Received Since Remand	
Exhibit K: Approved Project Notes	

### 1. Project Procedural History

The project in front of the Commission was approved by the Santa Cruz County Board of Supervisors on October 20, 1998. This Board approval was separately appealed to the Coastal Commission by Citizens For Responsible North Coast Planning; the Sierra Club; and David S. Kossack. On December 8, 1998, the Coastal Commission opened the substantial issue hearing, and continued the hearing until such time as a full staff report analysis of the project would be possible. On May 13, 1999, the Commission resumed the substantial issue hearing on the project and found that the appeals raised substantial issues in terms of the project's consistency with the Santa Cruz County LCP. As a result, the Commission took jurisdiction over the coastal development permit (CDP) for the project.

The Commission subsequently held public hearings on the CDP application on July 14, 1999 and September 15, 1999. At the September hearing, the Commission expressed concerns about the overall size of the project and about the proposed parking lot spanning the upper portion of the parcel. Ultimately the Commission determined that the project would result in a major change to the character of the unique Davenport community inconsistent with LCP policies protecting this unique resource. The Commission likewise determined that the project would significantly block and alter coastal views at this site inconsistent with both LCP and Coastal Act policies protecting public view access. With the LCP requiring protection of these resources, the number of variances to LCP setback and height limits necessary to allow for the proposed expansion was also troubling to the Commission. The Commission was also concerned about the precedential aspects of converting a former agricultural packing shed on the west side of Highway 1 into a commercial use substantially more intense than what previously existed at the site. On September 15, 1999, the project was denied by an 8 to 3 vote; the Commission adopted findings in support of the denial at a December 9, 1999 hearing.

On November 2, 1999 the Applicants filed suit in Santa Cruz County Superior Court challenging the Commission's denial of the project on the grounds that the evidence in the record did not support the Commission's decision, there were procedural irregularities in the proceedings, and that the denial of the



## **Appeal A-3-SCO-98-101 Staff Report**

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 4

project constituted a taking of the Applicants' property (Case Number CV 136954). Before the litigation went to trial, though, the Applicants and the Commission reached a settlement agreement wherein the Applicants agreed to dismiss the litigation provided the Commission agreed to consider a modified proposed project; in other words, the Commission agreed to a stipulated Superior Court remand of the project. The Commission agreed to the Superior Court remand in executive (non-public hearing) session.

The stipulated court remand does not limit the Commission in any way in its review of the modified proposed project. The Commission retains its full discretion to approve, approve with conditions, or deny the proposed modified project based upon the facts of the case.

## **2. Staff Report Summary**

The proposed project would renovate and expand a former agricultural packing shed to support a mixed-use commercial development on property spanning the ocean side of the small town of Davenport on Santa Cruz's rural north coast. Davenport, a small community of approximately 200 people surrounded for the most part by rural agricultural lands, is located roughly 10 miles upcoast of the City of Santa Cruz along the mostly undeveloped stretch of Central Coast extending between the Cities of Santa Cruz and Half Moon Bay to the south. The north Santa Cruz coast area represents the grandeur of a bygone (in many places) agrarian wilderness California and is a critical public viewshed for which the LCP dictates maximum protection. Davenport itself is a widely renowned whale watching and visitor destination that has been recognized within the LCP for its special community character – a windswept character within which the subject site plays an important role.

The Applicants propose to increase the gross square footage, height, and mass of the only existing substantive structure west of the Highway in Davenport; the expanded building would house a range of uses including a restaurant, 5 overnight units, a spa, a retail shop, food processing operation and warehouse space, one caretakers unit, and one additional residential unit. In support of the uses within the main structure, the Applicants propose a detached 600 square foot greenhouse, a 22 space parking lot in the lower portion of the site, a 20-space parking lot recessed 2 feet below grade on the undeveloped upper bluff portion of the site, and associated landscaping. In light of the significant historical public use of the site, the Applicants propose to construct and dedicate several public access amenities (benches, stairs, pathways).

The subject site is critical to the overall character of Davenport, and is critical to the ocean view enjoyed by both visitors to the town and those passing through on Highway One. While Staff is supportive of the significant visitor-serving and public access amenities that would be provided here, Staff believes that such modifications should not come at the expense of the special character of Davenport and should not come at the expense of the public viewshed. The development, as proposed, would introduce additional building mass into the viewshed, and would convert part of the undeveloped upper bluff into a 20 space parking lot and roughly 200 linear foot access road. Such changes at this critical site spanning the town's seaward frontage would forever alter Davenport's community character and would forever block or



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 5

otherwise mar the windswept coastal view enjoyed by untold number of coastal visitors every day. Staff believes that, as proposed, the project is not consistent with the LCP and the Coastal Act's access and recreation policies for these and other less significant reasons.

Staff recommends that the Commission approve a modified project that: maintains the existing building's footprint and profile; eliminates the formal parking lot development on the upper blufftop; limits project parking to the lower portion of the site; requires maintenance of the screening hedges to protect the public viewshed; protects significant riparian resources to the south of the existing building; adequately filters polluted runoff; ensures that water and sewer service are available for the project; protects any potential archaeological resources that may be found during construction; and formally recognizes public access and habitat resources on the site.

Staff believe that the modified project will preserve significant public ocean vistas as well as the special character of Davenport at the same time as providing new visitor-serving facilities and enhancing existing public access uses, thereby improving the public's ability to access this special coastal location, and can thus be found consistent with the applicable LCP and Coastal Act policies.

As so conditioned, staff recommends approval.

### 3. Staff Recommendation on Coastal Development Permit

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

**Motion.** I move that the Commission approve Coastal Development Permit Number A-3-SCO-98-101 pursuant to the staff recommendation.

**Staff Recommendation of Approval.** Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**Resolution to Approve a Coastal Development Permit.** The Commission hereby approves the coastal development permit on the ground that the development as conditioned, will be in conformity with the policies of the Santa Cruz County Local Coastal Program, and is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and recreation policies of the California Coastal Act of 1976 (Coastal Act). Approval of the coastal development permit complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment; or (2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the development on the environment.



## **4. Conditions of Approval**

### **A. 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 on which the Commission voted on the application. 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. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **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.
5. **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.

### **B. Special Conditions**

1. **Revised Project Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit Revised Project Plans to the Executive Director for review and approval. The Revised Project Plans shall be substantially in conformance with the plans submitted to the Commission (titled *Davenport Commercial* by Charles J. Franks and Associates (most recent revision dated August 30, 2000; dated received in the Commission's Central Coast District Office September 20, 2000) but shall show the following changes to the project:
  - (a) **Upper Bluff.** No development shall take place on the upper bluff portion of the property northwest of the existing cypress hedge (see Exhibit K-1). The proposed parking lot, entrance from Highway One, pathways, and fencing shall not be shown on the Revised Project Plans.
  - (b) **Building Footprint.** All improvements to the main building on the site shall be made within the existing modified building footprint, except for decks. The existing modified building footprint shall consist of the existing building footprint except for that portion within 10 feet of the Highway One right-of-way (see Exhibit K-1).
  - (c) **Building Profile.** All improvements to the main building on the site shall be made within the existing building profile. The existing building profile is established by the existing elevation of



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 7

the highest point of the existing roof above sea level. The Revised Project Plans shall include elevations that show the remodeled building in relation to the existing building profile.

- (d) **Parking.** All 42 parking spaces to serve the uses in the main building shall be located within the lower portion of the property as shown on Exhibit K-1. In the event that the Revised Project Plans reduce parking requirements, less than 42 parking spaces may be supplied in the lower parking lot provided that sufficient parking is provided to meet the requirements of current Santa Cruz County Code Section 13.10.552.
- (e) **Screening Hedges.** All hedges located between the main building and Highway One shall be no taller than necessary to screen views of the main building as seen from the Highway One right-of-way. A small opening in the hedge located between the main building and the northwestern, upper bluff portion of the property may be allowed to provide access from the upper level of the main building to the upper bluff provided the size of any such opening is minimized. The Revised Project Plans shall include elevations showing the main building in relation to both hedge heights and the Highway One right-of-way at representative locations spanning the length of the property.
- (f) **Main Building Sign.** One sign located along Highway One advertising the uses within the main building shall be allowed provided the sign: shall not exceed 25 square feet in surface area (as measured for one side of the sign); shall not exceed 7 feet in height as measured from existing grade; shall not be constructed of plastic and shall not include interior illumination; shall be located as far from the Highway One travel lanes as possible and shall conform to all Caltrans requirements; and shall not obstruct the sight distance of Highway One motorists, bicyclists, or pedestrians. Any such sign shall be identified in site plan and elevation in the Revised Project Plans and shall include a description of all materials and colors to be used.
- (g) **Public Access Signs.** Public coastal access signs shall be provided at each trailhead (see Special Condition 2) nearest Highway One and along both sides of the highway to provide direction to both northbound and southbound travelers. Public coastal access signs for Highway travelers shall conform to all Caltrans standards for such signs. Public coastal access signs at each trailhead shall be low profile and shall include the standard coastal trail logo.
- (h) **Exterior Design.** The Revised Project Plans shall identify all exterior finish materials. All exterior finishes shall consist of earthen tone colors that blend with the surrounding landscape and/or corrugated metal siding replicating an agricultural building. Permittee shall submit color samples to the Executive Director for review and approval. All utilities (including but not limited to electrical power, telephone and cable television service connections, pad mounted transformers, utility meters, and electrical panels) shall be installed underground or, where underground installation is not possible, shall not be visible from any public streets or the main building parking lot entrance.
- (i) **Lighting.** All lighting for parking and pedestrian areas shall be limited to pedestrian oriented



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 8

lighting not to exceed 3 feet in height. Such lighting shall be minimized to the amount necessary for safety purposes. Lighting shall be located where necessary to allow safe pedestrian use of the parking area at night. All lighting shall be downward directed and designed so it does not produce any light or glares off-site.

- (j) **Greenhouse.** The greenhouse shall be relocated between the lower parking lot and the existing cypress hedge (see Exhibit K-1). The greenhouse shall be no larger than 600 square feet, shall be screened from Highway One views, and shall conform to all requirements of current Santa Cruz County Code Section 13.10.611 for accessory structures (see Exhibit G).

The Revised Project Plans shall be submitted with evidence of review and approval by the appropriate official(s) from: (1) Santa Cruz County; and (2) California Department of Transportation (Caltrans).

The Permittee shall undertake development in accordance with the approved Revised Project Plans. Any proposed changes to the approved Revised Project Plans, including but not limited to any changes in the uses within the main building, shall be reported to the Executive Director. No changes to the approved Revised Project Plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

2. **Public Access Offers to Dedicate.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director permanent public easements for public pedestrian access and passive recreational use to and along the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to the acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. The areas of dedication shall consist of the following:

- (a) **Beach Trail.** A corridor at least ten (10) feet wide encompassing the existing trail located southeast of the existing building extending from the northern to southern property line as shown on Exhibit K-1.
- (b) **Stairway Trail.** A corridor at least ten (10) feet wide extending from the northern to southern property lines immediately north of the cypress hedge on the northwestern side of the main building and including the stairway as shown on Exhibit K-1.
- (c) **Parking Area Trail.** A corridor at least ten (10) feet wide extending along the northwesterly boundary of the property from the northern to southern property line as shown on Exhibit K-1.
- (d) **Railroad Trail.** A corridor at least ten (10) feet wide extending along the southwesterly boundary of the property from the western to eastern property line as shown on Exhibit K-1. If the Permittee submits evidence that indicates conclusively (in the opinion of the Executive Director) that such easement would irreconcilably conflict with the Permittee's existing easement



## Appeal A-3-SCO-98-101 Staff Report

with Union Pacific Railroad, then this easement is not required.

The recorded document shall include legal descriptions of both the Permittee's entire parcel and the areas 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 offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

3. **Open Space and Habitat Conservation Offer to Dedicate.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an Open Space and Habitat Conservation Easement (Easement) for the purpose of open space and habitat protection and conservation. Such Easement shall cover all areas of the property southeast of the existing cypress hedge located southeast of the main building except for the public access easement areas described in Special Condition 2 above (see Exhibit K-1). The recorded document shall include legal descriptions and site plans of both the Permittee's entire parcel and the Easement area. The recorded document shall indicate that no development, as defined in Section 30106 of the Coastal Act or Section 13.10.700-D of the certified Santa Cruz County Local Coastal Program, shall occur in the Easement area except for habitat enhancement and restoration activities, vegetation removal for fire management, removal of non-native vegetation, or planting of native vegetation.

The offer to dedicate the Open Space and Habitat Conservation Easement shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

4. **Habitat, Scenic, Use, and Access Protection.**

- (a) **Habitat.** No development, as defined in Section 30106 of the Coastal Act or Section 13.10.700-D of the certified Santa Cruz County Local Coastal Program, shall occur in the Open Space and Habitat Conservation Easement (Special Condition 3) area except for habitat enhancement and restoration activities, vegetation removal for fire management, removal of non-native vegetation, or planting of native vegetation.
- (b) **Scenic.** All hedges located between the main building and the Highway One right-of-way shall be maintained at a height no taller than necessary to screen views of the main building as seen from the Highway One right-of-way. All plantings shall be maintained in good growing conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the approved plans throughout the life of the project.
- (c) **Use.** The uses allowed in the on-site building are limited to: (1) "Type A" overnight visitor



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 10

accommodations (i.e., hotels, inns, pensions, lodging houses, “bed and breakfast” inns, motels, recreational rental housing units pursuant to current Santa Cruz County Code Section 13.10.332); (2) a restaurant/café with associated greenhouse; (3) day spa, sauna, and/or hot tub uses associated with the “Type A” overnight visitor accommodations; (4) neighborhood-scale retail sales (pursuant to current Santa Cruz County Code Section 13.10.332); (4) a food processing and warehouse operation, appropriate to the scale and use of the main building, associated with restaurant and/or retail food establishment within the town of Davenport; (5) one office associated with the permitted restaurant/café, visitor-oriented retail, spa, or “Type A” overnight visitor accommodation uses; (6) up to two residential dwelling units with one of these units provided strictly for a building/building use caretaker unit.

(d) **Access.** All access amenities within the easement areas required by Special Condition 2 shall be maintained in perpetuity by the Permittee.

By acceptance of this permit, the Permittee acknowledges and agrees to 4a through 4d above.

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the Permittee shall execute and record a deed restriction in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. for the purpose of protecting habitat and scenic resource values and public access. The Habitat, Scenic, Use and Access Protection Deed Restriction (Deed Restriction) shall affect the entire parcel (Deed Restricted Area) and shall include a legal description and site plan of: the Deed Restricted Area; the Public Access Easement areas required by Special Condition 2; and the Open Space and Habitat Conservation Easement area required by Special Condition 3. 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. The Deed Restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

5. **Water & Wastewater Will Serve.** **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the Permittee shall submit updated water and wastewater service commitments from the Davenport Water and Sanitation District to the Executive Director of the Coastal Commission for review and approval. Such commitments shall include revised calculations of water use and wastewater generation based on the Revised Project Plans required by Special Condition 1 of this approval.
6. **Archaeological Monitoring.** **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the Permittee shall submit a plan to the Executive Director of the Coastal Commission providing for archaeological monitoring, evaluation and mitigation should any archaeological resources be discovered during construction. If such archaeological resources are discovered at any time during construction, all work which could damage or destroy these resources shall be temporarily suspended and all procedures established in current Santa Cruz County Code Sections 16.40.040 and 16.44.070 shall be observed.



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 11

7. **Landscape Monitoring Report.** WITHIN TWO YEARS OF OCCUPANCY OF THE APPROVED COMMERCIAL MIXED USE BUILDING, the Permittee shall submit a landscape monitoring report to the Executive Director for review and approval. Such report shall include photographs of all portions of the site as viewed from the Highway One right-of-way and all landscaping. In the event that in the opinion of the Executive Director landscaping is disrupting the public view across the property from Highway One, the Executive Director shall detail to the Permittee revised landscaping requirements for different areas of the property. The Permittee shall implement the revised landscaping requirements. In the event that the Permittee disagrees with the Executive Director's assessment, the Executive Director shall schedule the monitoring report as a condition compliance item for the Coastal Commission's review and approval.
8. **Public Rights.** The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights which may exist on the property. The Permittee shall not use this permit as evidence of a waiver of any public rights which may exist on the property.
9. **Santa Cruz County Conditions.** All previous conditions of approval imposed on the project by the Santa Cruz County pursuant to an authority other than the California Coastal Act remain in effect (Santa Cruz County Application Number 95-0685; see Exhibit C). To the extent such Santa Cruz County conditions conflict with the Coastal Commission's conditions for Coastal Development Permit Number A-3-SCO-98-101, such conflicts shall be resolved in favor of the conditions for Coastal Development Permit Number A-3-SCO-98-101.

## Recommended Findings and Declarations

The Commission finds and declares as follows:

### 5. Project Description

#### A. Project Location

The proposed project is located in the unincorporated Town of Davenport, approximately ten miles north of the City of Santa Cruz. Davenport is a small coastal town surrounded by the coastal foothills and agricultural fields fronting Highway One on Santa Cruz's rural north coast. Davenport is the only concentrated development area on Highway One along the mostly undeveloped stretch of Central Coast extending between Santa Cruz and Half Moon Bay. This stretch of California's coastline, characterized largely by agricultural fields and vast state parklands, represents the grandeur of a bygone (in many places) agrarian wilderness California and is a critical public viewshed. Davenport provides a convenient stopping place and a visitor destination for travelers along this mostly undeveloped coastline.

Other than an abandoned building north of the project site, the existing building on the project site is the



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 12

only development on the coastal side of Highway One in Davenport. The town's residential population of approximately 200 generally live in modest single-family dwellings located inland of the Highway. 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 Lone Star Cement Plant, a major industrial facility to the north of town. Ignoring the overbearing presence of the cement plant, this commercial frontage could be described as "eclectic frontier rustic" in character. There are a variety of building styles, mostly two stories or equivalent height, in a simple architectural style. Davenport itself is a widely renowned whale watching and visitor destination that has been recognized within the LCP for its special community character – a windswept character within which the subject site plays an important role.

The project site is located on the seaward side of Highway One on the coastal terrace overlooking Davenport Beach and the Pacific Ocean. The subject 3.04 acre parcel is a long rectangular shape (approximately 140 by 900 feet) with its northeastern length contiguous to Highway One (see Exhibit A). A Union Pacific railroad easement crosses the parcel at its southwestern 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 roughly 13,000 square foot building and associated parking (referred to as the "lower level" in this report). The northerly third of the parcel is an undeveloped fragment of coastal terrace at elevations of 80-94 feet MSL (referred to as the "upper level" in this report). The upper level currently comprises an open field on the southern half and an informal dirt parking area used by the general public on the northern half.

Across this upper level, southbound travelers on Highway One through Davenport can view 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, as they pass the upper site. To the northwest of the subject site on the ocean side of the Highway is a vacant property owned by Lone Star where many people park informally to view the ocean or access various trails that meander across the adjacent coastal bluffs (immediately adjacent to the informal parking area on the project site). 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 southwest beyond the railroad right-of-way are a vacant marine terrace, Davenport Beach, and the Pacific Ocean.

Access trails crisscross the coastal bluffs seaward of Highway One at this site. An existing trail to the southeast of the Applicant's 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 several eroded foot trails from the vacant upper bluff portion of the site down a slope to the railroad. These trails converge at trails paralleling the railroad tracks which continue northerly to the beach.

See Exhibits A and B for project location and photos of the site and the general Davenport environs along Highway One.



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 13

### B. Description of Proposed Project

#### 1. Santa Cruz County-Approved Project

The County-approved project would have allowed the Applicant to reconstruct the existing roughly 13,000 square foot structure into a roughly 23,000 square foot structure. The additional roughly 10,000 square foot of floor area would be primarily achieved by converting the existing mezzanine to a full second story. The height of the building would be increased by roughly 6 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 included: 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. A separate greenhouse, boat-shaped residence, shower building, and tool shed were also approved. A total of 79 parking spaces (upper and lower lots combined) were approved. Finally, the County-approved 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. The County approved the project in 3 phases.

See Exhibit C the County's adopted findings and conditions.

#### 2. Remand Project Description

Since the appeal of the County's action, the Applicant has revised the project description multiple times. The project currently before the Commission is the project that the Commission agreed to consider in settling the Superior Court litigation, described in the stipulated remand (Case Number CV 136954) and consists of the following:

- Main building: Modification of existing 24 foot tall building into a two-story 23,000 square foot, structure with a maximum height of 30 feet.
- Range of uses: restaurant with associated office and detached 600 square foot greenhouse (roughly 35% of the overall square footage); food processing operation with associated warehousing (26%); 5 overnight units with associated day spa and office (21%); one 2 bedroom private residence and one residential caretakers unit (15%); and one retail shop (3%).
- Parking lots: Two parking lot areas proposed: 1) a 20 space parking lot in the upper bluff area, with a



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 14

roughly 200 linear foot (along the highway) by 25 foot wide access driveway, depressed 2 feet below existing grade; and 2) a 22 space parking lot in the existing parking area (on the lower portion of the site).

- Public access amenities: construction and dedication of 4 trails; 3 vertical (from Highway One to the railroad line) and 1 lateral (blufftop parking lot area). Installation of a publicly available stairway, benches, and viewing platform.

See Exhibits E and F for revised project site plan, elevations, floor plans, parking lot plans, photo simulation, and public access amenities and management plan.

## 6. Coastal Development Permit Determination

### A. Special Coastal Community and Visual Issues

#### 1. Applicable Policies

The County's LCP is extremely protective of coastal zone visual resources, particularly views from public roads, and especially along the shoreline, and of the special community character of Davenport itself. Many of the applicable LCP policies and objectives interrelate and overlap at the subject site. The significant LCP policies are:

#### A. Visual Resource Policies

*Objective 5.10.b New Development in Visual Resource Areas. To ensure that new development is appropriately designed and constructed to minimal to no adverse impact upon identified visual resources.*

*Policy 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...*

*Policy 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.*

*Policy 5.10.3 Protection of Public Vistas. Protect significant public vistas as described in policy*



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 15

5.10.2 from all publicly used roads and vistas points by minimizing disruption of landform and aesthetic character caused by grading operations, timber harvests, utility wires and poles, signs, inappropriate landscaping and structure design. Provide necessary landscaping to screen development which is unavoidably sited within these vistas.

**Policy 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.

**Policy 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.

**Policy 5.10.11 Development Visible From Rural Scenic Roads.** In the viewsheds of rural scenic roads, require new discretionary development, including development envelopes in proposed land divisions, to be sited out of public view, obscured by natural landforms and/or existing vegetation. Where proposed structures on existing lots are unavoidably visible from scenic roads, identify those visual qualities worthy of protection (See policy 5.10.2) and require the siting, architectural design and landscaping to mitigate the impacts on those visual qualities. (See policy 5.14.10.)

**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.

**Policy 5.10.13 Landscaping Requirements.** All grading and land disturbance projects visible from scenic roads shall conform to the following visual mitigation conditions:

- (a) Blend contours of finished surface with the adjacent natural terrain and landscape to achieve a smooth transition and natural appearance; and
- (b) Incorporate only characteristic or indigenous plant species appropriate for the areas

**Section 13.20.130(b)(1) Entire Coastal Zone, Visual Compatibility.** The following Design Criteria shall apply to projects site anywhere in the coastal zone: All new development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas.

**Section 13.20.130(d)(1) Beach Viewsheds, Blufftop Development.** The following Design Criteria shall apply to all projects located on blufftops and visible from beaches: 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.

**Section 13.11.074(b)(1) Access, Circulation and Parking, Parking Lot Design.** It shall be an objective to reduce the visual impact and scale of interior driveways, parking and paving.



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 16

(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.*

### **B. Davenport Special Community**

*Policy 8.8.2. Coastal Special Community Designation. Maintain a Coastal Special Community Designation for...Davenport...*

*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.*

*Policy 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 8.8(a) Davenport Special Community. Enhance Davenport as a visual focus along Highway One. Prepare a landscaping and design plan, in accordance with the policies of this section, to achieve the following objectives: (1) 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 One, nearby, for existing and new uses, and for visitors; bicycle parking facilities to make the town a more attractive bicycle destination/stop over point. (2) Landscaping to enhance commercial areas, and to assist in definition of parking spaces and walkways, and in screening of parking as appropriate. (3) Emphasis on the area's whaling history and whale viewing opportunities. (4) Elimination of visually intrusive overhead wires. (5) Screening of the cement plant and its parking lot from the residential area to the north.*

In addition, LCP Figure 2-5 identifies the parcels immediately north of the subject site on the seaward side of the Highway as "Coastal Priority Sites – North Coast" (APNs 058-072-01,02,03). These adjacent parcels are subject to the following special development standards:

*Depress and landscape the parking area to limit its visibility from Highway One and to maintain unobstructed coastal views. Allow landscaping only with ground cover and low growing*



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 17

vegetation which can not grow to a height that will obstruct coastal views. Eliminate all roadside parking along the property frontage, and provide interior pedestrian circulation to separate pedestrians from Highway One.

**Section 13.20.143(c) Davenport Special Community Design Criteria, Highway One Frontage.** Development along Davenport's Highway One 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 One, for existing and new uses, and for visitors...

### **C. Zoning Designation**

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

**Policy 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...

**Policy 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.

**Section 13.10.383(a) Development Standards for the Special Use "SU" District, Site and Structural Dimensions....**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.

**Section 13.10.384 Design Criteria for the Special Use "SU" District, Other [than residential] Uses.** 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.

Note: There is a technical issue concerning specific development standards for the proposed project. The



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 18

site would be rezoned SU (Special Use) as part of the project to allow for the range of uses proposed.<sup>1</sup> The County analysis concluded that applicable zoning standards for the property are those that most closely correspond to the General Plan designation of the property – in this case, Neighborhood Commercial. The County further assumed that the purpose of the SU district, to which the County rezoned this property, is to implement the Neighborhood Commercial LUP land use designation, which itself is implemented through the three zoning districts of C-1, CT, and PA. Under this interpretation, the most restrictive site and structural development standards of these three districts would be applicable to this project. The C-1, CT, and PA maximum height (35 feet) and minimum front yard setback (10 feet) requirements are identical to each other.

However, LCP Section 13.10.383(a) governing development standards for the SU district actually requires use of the most restrictive zoning district within which the use is allowed. This is to safeguard against the overly broad nature of the SU zoning district, the broad purpose of which is simply to allow for mixed use developments where appropriate, not implement the underlying land use designation per se. The following are the proposed project’s non-residential uses, the most restrictive zoning district in which they are allowed, and the associated maximum height and minimum front yard setback.

Use	Most restrictive zoning district within which the use is allowed	Maximum height	Minimum front yard setback
Restaurant/café	PR	28'	30'
Food manufacturing & warehouse	M-1,PA,VA,CT,C-1,C-2	35'	15'
Offices	VA,CT,C-1,C-2,C-4	35'	10'
Retail sales, neighborhood-scale	PR (not full range of uses) VA,CT,C-1,C-2,C-4	28' 35'	30' 10'
Day spa, sauna, hot tub	PR	28'	30'
Type A overnight visitor accommodations	PR	28'	30'
Parking lots	PR	---	30'
<b>Most restrictive standards for proposed uses</b>	<b>PR</b>	<b>28 feet</b>	<b>30 feet</b>

The LCP Code section is not explicit in addressing which most restrictive district to use in the case of multiple uses within varying districts. The most direct reading is 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 and the most restrictive front yard setback of 30

<sup>1</sup> See also land use consistency findings that follow.



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Stellenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 19

feet;<sup>2</sup> thus these are the height and setback standards applicable to the proposed project.

### D. Coastal Act

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea “shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3.” Because this project is located seaward of the first through public road (Highway One), for public access and recreation issues the standard of review is not only the certified LCP but also the access and recreation policies of the Coastal Act. Visual access to and along the coast is a form of public access. As such, the standard of review for visual access is not only the certified LCP but also the access policies of the Coastal Act. Applicable Coastal Act policies are:

*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 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 forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

## 2. Consistency with Applicable Policies

The County’s LCP and the Coastal Act are fiercely protective of coastal zone visual resources, and specifically protective of the views available from Highway One as it winds through the County from San Mateo to Monterey County lines. In fact, the LCP states that the public vista from Highway One “shall be afforded the highest level of protection” (LCP Policy 5.10.10). This section of Highway One is also specifically identified as eligible for official designation as part of the California Scenic Highway Program. The subject site is located roughly 10 miles upcoast of the City of Santa Cruz along the mostly undeveloped stretch of Central Coast extending between the Cities of Santa Cruz and Half Moon Bay to

<sup>2</sup> Note also that both the lower portion of the property encompassing the San Vicente Creek riparian corridor and adjacent properties to the south and east are designated “PR.”



## **Appeal A-3-SCO-98-101 Staff Report**

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 20

the south. The north Santa Cruz coast area represents the grandeur of a bygone (in many places) agrarian wilderness California and is a critical public viewshed for which the LCP dictates maximum protection.

The LCP likewise is protective of the Town of Davenport, calling out this enclave as a “Coastal Special Community” (LCP Policy 8.8.2). New development is to be subservient to maintaining the community’s character through preserving and enhancing Davenport’s unique characteristics. The Highway One frontage is to be emphasized as both a rural community center and a visitor serving area where site design is required to emphasize the historic assets of the town. Davenport is a widely renowned whale watching and visitor destination that has been recognized within the LCP for its special community character – a windswept character within which the subject site plays an important role.

These LCP policies taken together require in effect that the impacts of new development in view of Highway One be minimized, and that new development in Davenport be designed and integrated into the existing community character and aesthetic. The questions of “small-scale” and Davenport’s “community character” are thus central to the Commission’s review of this project.

### **A. Davenport Community Character**

Davenport’s tightly clustered residential and commercial development reflect the town’s working heritage: whaling industry, agricultural shipping and processing, and cement manufacture. In its layout and simplicity of architecture – devoid of pretense – Davenport 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). More recently, the two-block commercial strip along the highway frontage continues the process of awakening to the opportunities afforded by the tourist industry.

Currently, the Lone Star Industries cement plant overshadows Davenport. This large industrial structure can be seen for miles and is in contrast to the rest of the small town. Notwithstanding the cement plant, Davenport’s commercial frontage could be described as “eclectic frontier rustic” in character based on the variety of building styles, materials, and heights. Remodeling along the highway frontage has more recently injected a more finished facade as seen from the highway. The project site contains the only significant existing building on the seaward side of the highway in Davenport. See Exhibits A and B for photos of the general site vicinity and Davenport’s Highway One frontage.

### **B. Modifications to Existing Building**

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



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 21

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 aforementioned Davenport community character.

In terms of scale, the existing building's "footprint" (roughly 13,000 square feet) combined with its height (24 feet above grade) make it the largest existing building (outside the Lone Star cement plant) along Davenport's Highway One frontage. The building's scale is somewhat tempered, however, by its location partially below the grade of the highway (existing pad grade at the base of the existing building ranges from equal to Highway grade at the building's southernmost end to about 12 feet below highway grade at the at the building's northern end). In any case, the architectural style, scale, and visual prominence of this building seaward of the highway 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.

The proposed project would rehabilitate and modify this existing structure to accommodate (mostly) new uses; some of which would be visitor-serving uses. In order to accommodate the new uses, the existing footprint would be enlarged by over 700 square feet and the height would be increased to a maximum height of 30 feet.<sup>3</sup> As a result, the effort to accommodate the new and increased level of uses results in a bulkier appearance and a larger building profile (or "skyprint"), which in turn increases the amount of development between Highway One and the scenic shoreline of the Santa Cruz County coast, as well as increases the amount of development visible from Davenport Beach.

The Santa Cruz County LCP has two fundamental strategies for protecting the coast's scenic resources at this location: (1) minimize the amount of new development seaward of Highway One; and (2) insure that new development is appropriately scaled to fit into existing small-scale coastal communities. In this case, allowing an increased building profile at this critical Highway One location is not consistent with either strategy. As detailed above, the maximum height allowed based on the SU zoning for this mixed use project is 28 feet. This Countywide maximum does not represent an entitlement, rather an upper threshold that must be considered in light of the specific resource constraints at this location. Here we have the most prominent coastal site in Davenport, an LCP-designated special community, located along Highway One, an LCP-designated, and State Scenic Highway Program-recognized, Scenic Road; any zoning maximums must be tempered by these (and other) factors.

There are complementary LCP policies at play here. Applicable LCP visual policies dictate protection of the critical public view here through "minimizing disruption" (LCP Policy 5.10.3) so as to "have minimal to no adverse impact upon identified visual resources" (LCP Objective 5.10.b). LCP Policy 5.10.11 requires new development visible from rural scenic roads, such as Highway One in this rural stretch of the County, to be sited outside of public view. The LCP specifically requires the public vista at this location to "be afforded the highest level of protection" (LCP Policy 5.10.10); requires preservation

---

<sup>3</sup> Although the Applicant's project description (Exhibit E) indicates that the current proposal has lowered the foundation by two feet (and thus the overall height correspondingly, the Applicant's proposed plans indicate that approximately two-thirds of the building would be at a height of 29 feet and the remainder at a height of 30 feet.



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 22

of the ocean vista (LCP Policy 5.10.6); and requires development to be out of sight from the beach below if feasible (LCP Section 13.20.130(d)(1)). LCP Policy 8.8.4 requires that the development be consistent with “the height, bulk, scale, materials, and setbacks of existing development” here. LCP Policy 5.10.3 concludes that screening shall be provided where development is “unavoidably sited” within visual resource areas. Finally, the Coastal Act recognizes the public view at the site as a “resource of public importance” that must be protected from interference (Sections 30211 and 30251).

To avoid additional development blocking the public viewshed (both views from the Highway seaward and from the beach and ocean of the bluffs), and to maintain the same scale and bulk of development at this defining site along Davenport’s Highway One frontage, the existing footprint<sup>4</sup> and profile of the building must be maintained. Such adaptive reuse of older buildings in the public viewshed, especially those that contribute to community character, is more appropriate in light of LCP policies applicable to this location. Screening vegetation should be kept to the minimum necessary to block views of the structure while leaving views of the coast otherwise unhindered. Likewise, to ensure that the remodeled structure harmonizes with the viewshed and community character aesthetic, specific design parameters are necessary so that the rustic nature of the existing former agricultural building is not lost (e.g., earthen tone colors, wood sheathing, corrugated metals, minimal night lighting, minimal rustic fencing, underground utilities, etc.). Such project modifications will ensure that development is avoided in the viewshed where it is feasible to do so (5.10.3, 5.10.11), will minimize adverse impacts on the critical Highway One (5.10.b) and beach (13.20.130(d)(1)) viewsheds, preserves the ocean vista (5.10.6), “affords the highest level of protection” to both the public vista (5.10.10) as well as the special community character of Davenport (8.8, 8.8.4), and protects the public’s view access here (30211 and 30251). See Special Conditions 1, 4, and 7.

In order to achieve a full second story within the existing profile of the building, the Applicant may need to recess the building’s foundation. This appears to be feasible and, in any case, necessary to achieve LCP compliance at this sensitive site. The Applicant has indicated in their project description that the grade of the building foundation can be lowered.

The substantial non-conformance of the existing structure (i.e., being located in the Highway One right-of-way) must be corrected to ensure LCP consistency. Such development (and additions thereto) cannot be allowed to remain within the right-of-way because the right-of-way may be needed in the future for public or vehicular access purposes. In addition, it is contrary to the aforementioned LCP viewshed policies to allow such a significant non-conforming structural element seaward of Highway One at this location. As such, it would not be possible to make the requisite LCP findings to allow additions to the non-conforming structure here (LCP Section 13.10.265(J)). Accordingly, the structural footprint of the existing building must be removed from the Highway One right-of-way. See Special Condition 1.

As detailed above, the applicable setback for such an SU site is 30 feet; the minimum front yard setback for commercial properties is 10 feet. A 30 foot setback in light of the fact that the existing structure is

---

<sup>4</sup> Except for that portion of the existing building that is currently located within the Highway One right-of-way (see below).



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 23

currently within the right-of-way seems overly restrictive here given that the existing structure, including its non-conformance, is a defining element of the Davenport community aesthetic. A more appropriate guidestick for the building's front yard setback is provided by the commercial setback requirement of 10 feet. Such a setback distance would ensure that the development is adequately pulled back from the Highway One frontage and shouldn't hinder potential future Highway One improvements. To allow for a front setback of less than 30 feet, a variance to the front setback would be required here. Such a setback variance is appropriate in this instance because: (1) the minimum front yard setback for commercial properties is 10 feet and the underlying land use designation at this site is neighborhood commercial; (2) strict application of the 30 foot setback would deprive the property of the same type of commercial setback as found on the inland Highway One frontage; (3) as conditioned herein, the variance would be otherwise compatible with the intent and purpose of the LCP policies for this site and would not be detrimental to the public or adjacent properties; and (4) granting a variance would not be a special privilege inconsistent with the current limitations placed on property along the Davenport frontage.<sup>5</sup>

### C. Parking Lots

The Applicants propose two parking lots: a 20 space parking lot in the upper bluff area and a 22 space parking lot to replace the existing parking lot on the lower portion of the site located between the Highway and the building (see Exhibit F). The parking lot proposed on the lower (southeast) portion of the site (within the same general area that existing users of the building park) raises questions of consistency with the applicable Highway One setback, and must include appropriate drainage controls, and landscape treatment, but does not otherwise raise LCP consistency issues. This existing lower level parking lot next to the existing building is partially below Highway grade for the most part, currently occupied by vehicles, and currently mostly screened from view. A continuation or even slight intensification of this ongoing use located between the existing building and Highway One, provided it is sensitive to the character of the development and Davenport, would not otherwise raise LCP concerns.

In contrast, however, the parking area proposed for the undeveloped blufftop extending northwest from the existing building is more problematic. Currently, the upper blufftop level of the site is an unpaved, undeveloped fragment of coastal terrace, on part of which the owner allows informal public parking (the extreme northwest portion of the site) and on the other maintains a grassy open blufftop space (see Exhibits A and B for photos). This windswept blufftop area extends along most of the Davenport Highway One frontage here and is a defining feature of the town of Davenport. The southbound Highway One public view across this bluff area 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.

The proposed parking lot and access driveway would extend roughly 272 feet across the undeveloped windswept bluff, with the driveway measuring about 25 feet across and the parking area clustered adjacent to the proposed building extending roughly 65 feet across the bluff seaward; the parking facility would be excavated approximately 2 feet below grade. The upper level parking lot is made necessary

---

<sup>5</sup> See conclusion to the visual-community character findings for the required variance findings.



## **Appeal A-3-SCO-98-101 Staff Report**

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 24

primarily due to the increased gross square footage and intensity of uses proposed. The proposed project would result in this vacant blufftop area being forever altered from the dusty informality that currently exists here to a formal, paved, landscaped parking lot paralleling the Highway; such a change would forever alter the character of Davenport.

This alteration of community character will result both from substituting a prettified “improved” landscape for one which is rough, dirty, and “rustic,” and from increasing the collected presence of parked motor vehicles in public view. Reflective glare from the sun shining on the vehicles will detract from the visitor experience and the amassed vehicles in the parking lot, when full, would directly impede a portion of the whitewater component of this vista. Thus, the crucial Highway One view would be impaired both by the “visual clutter” effect of the parked automobiles, and by direct blockage of the line of sight to the shoreline, for both travelers on the highway and pedestrians. The proposed design treatments (including recessing the lot and using colorized stamped concrete) would not be sufficient to conceal the assembled mass of motor vehicles in the parking lot. In fact, some of the parking area itself would unavoidably be visible through the entry ramp and vehicles would still be introduced into what is now an unobstructed view of coastal bluff and ocean.

The LCP dictates that public view protection is paramount at this site. Overall, there are three visual imperatives related to the proposed upper parking lot. 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. The third is to maintain Davenport’s rustic, small-scale community character. These objectives can best be met by eliminating the formal parking lot on the upper bluff area from the project.

As with the main building remodel, there are complementary LCP policies at play here that dictate protection of the critical public view over the blufftop area through “minimizing disruption” (LCP Policy 5.10.3) so as to “have minimal to no adverse impact upon identified visual resources” (LCP Objective 5.10.b). LCP Policy 5.10.11 requires that such parking lot development be sited outside of public view, and specifically requires protection of the natural landform from the grading proposed to recess the parking lot here (LCP Policy 5.10.3). The LCP specifically requires the public vista at this location to “be afforded the highest level of protection” (LCP Policy 5.10.10); and requires preservation of the ocean vista “to the maximum extent possible” (LCP Policy 5.10.6). The LCP requires preservation of Davenport’s community character here (LCP Objective 8.8, LCP Policy 8.8.4). In addition, the Coastal Act recognizes the public view at the site as a “resource of public importance” that must be protected from interference (Sections 30211 and 30251). LCP Policy 5.10.3 concludes that screening shall be provided where development is “unavoidably sited” within visual resource areas.

The proposed parking lot is not “unavoidably sited” in this critical public viewshed location here. There are other options for expanding parking as necessary in the lower portion of the site that would avoid such a new upper bluff parking lot altogether. There is adequate space available on the lower portion of the site to have a parking lot of 42 spaces (sufficient to accommodate the range of appropriate uses



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 25

here),<sup>6</sup> while maintaining adequate outdoor garden/lawn area for the project uses (see Exhibit K). It is only by eliminating the proposed upper bluff parking lot can the parking lot be kept out of the public viewshed here (5.10.3, 5.10.11), can disruption of the viewshed be minimized to have no new adverse effect on the view (5.10.b, 5.10.3), can landform disruption from grading be fully minimized (5.10.3), and can the existing public views be preserved “to the maximum extent possible” (5.10.6), and can the public’s view access here be protected from interference (30211 and 30251). Likewise, by maintaining the existing windswept open space character of the upper bluff area, Davenport’s character, with emphasis on its whale viewing opportunities, is preserved unaltered (8.8, 8.8.4, 13.20.143(c)). The LCP demands no less at this defining Davenport location (5.10.10, 8.8). See Special Condition 1.

Finally, as detailed earlier, the Applicant proposes to construct the lower level parking lot area directly adjacent to the Highway One road right-of-way. Although the full Highway One right-of-way is not currently occupied by travel lanes (see Exhibit F), in the event that the full right-of-way is needed in the future for public or vehicular access purposes, a parking lot located at a zero setback from the right-of-way may prejudice and/or preclude public improvements in the public right-of-way; this is unacceptable. In addition, as detailed above, the required front setback for this project is 30 feet.

The area between the proposed veranda fronting the building and the right-of-way is approximately 42 feet. The parking lot could be brought in 4 feet and still allow for a twenty foot accessway and the LCP-required 18 foot in length parking stalls (i.e., 4’ + 20’ + 18’ = 42’). Such a shift would be more consistent with the front yard setback requirements. See Special Condition 1. A variance to site development standards, though, would be necessary to allow the 4 foot setback when a 30 foot setback is the minimum required. Such a setback variance is appropriate in this instance because: (1) the minimum front yard setback for commercial properties is 10 feet and the underlying land use designation at this site is neighborhood commercial; (2) because strict application of the 30 foot setback would deprive the property of a parking area; (3) as conditioned herein, the variance would be otherwise compatible with the intent and purpose of the LCP policies for this site and would not be detrimental to the public or adjacent properties; and (4) would not be a special privilege inconsistent with the current limitations placed on property along the Davenport frontage.<sup>7</sup>

### D. Other Improvements

#### Greenhouse

The Applicant also proposes to construct a 600 square foot, roughly 12 foot tall greenhouse, designed to mimic the main building in design, on the lower portion of the site (see Exhibit F).<sup>8</sup> The Applicant has indicated that the greenhouse would provide vegetables and herbs for the proposed restaurant, but there are not yet interior plans for this space making this clear. To the extent that the greenhouse can be tied

<sup>6</sup> See land use findings that follow for discussion of appropriate uses and parking requirements for the project.

<sup>7</sup> See conclusion to the visual-community character findings for the required variance findings.

<sup>8</sup> Note there is some discrepancy in that the remand project description describes this greenhouse as 600 square feet while the remand project plans show this structure as roughly 15’ x 25’ (or 375 square feet). The previous elevations provided by the Applicant, and the only greenhouse plans provided to date (see Exhibit F), showed this structure as roughly 18’ x 38’ (or 684 square feet).



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 26

directly to the proposed restaurant and not allowed to change to some other more intensive use (e.g., residential guest cottage), and to the extent that such a structure could be hidden from public viewing areas by the southeastern cypress hedge, the greenhouse would be supportive of a visitor serving use that would not impact the public viewshed. See Special Conditions 1 and 4.

### Signs

While not specifically part of the application before the Commission, the County approved two signs totaling 50 square feet, or an average of 25 square feet. As previously noted, the most restrictive sign standards apply to this site pursuant to LCP Section 13.10.384 for the "SU" zoning district; site development standards limit this site to only one sign up to 12 square feet.<sup>9</sup> In this case, while only one sign is necessary since the upper parking lot cannot be a part of the project (see previous parking lot findings), a 12 square foot sign for the multiple uses proposed here would be overly limiting. A 25 square foot sign, the same size as approved by the County, would appear to strike an appropriate balance between viewshed/community character concerns and the need to advertise the range of uses within the project; of course the sign would have to be sensitively designed appropriate to this critical site (i.e., designed and sited so as to minimize intrusion on the view; consistent with the architectural character of the main building and an integral part of the landscape area; without interior sign illumination; no plastic signs, etc.). See Special Condition 1.

A variance is necessary to allow an increase from a 12 square foot to a 25 square foot sign. A variance to the sign limitation is appropriate in this case for several reasons: (1) the lower entrance is somewhat hidden on the far end the property for Highway One motorists; (2) the uses allowed are visitor-oriented commercial, not just public recreational; (3) there are potentially multiple uses; (4) the site was previously zoned C-1; (5) and the building itself is largely hidden and the mixed use development would benefit from a larger sized sign.<sup>10</sup>

### Bridge, Upper Bluff Paths and Fences, and Stairway

The Applicant also proposes to construct a bridge from the upper level of the building to connect to the upper bluff area of the site. As proposed, this bridge would connect through to the Applicants proposed parking lot and pathways in this upper bluff area. However, the parking lot must be removed to achieve LCP and Coastal Act consistency, as detailed above. In any case, it would appear reasonable to assume that the overnight and restaurant guests, at the least, may want to gain access to the upper bluff area regardless. To the extent that such a bridge would be hidden by the cypress hedge here (as shown on the Applicant's proposed elevations), and to the extent that the opening in the hedge could be minimized to the smallest feasible to allow access (and not appreciably alter the screening capabilities of the hedge), such a bridge appears to be a reasonable part of the project that would be consistent with the visual and community character policies cited in this finding.

Likewise, the proposed stairway would help to formalize what is currently a difficult climb up and down

<sup>9</sup> The sign limitation in the PR district.

<sup>10</sup> See conclusion to the visual-community character findings for the required variance findings.



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 27

the rocky slope (in the location proposed for the stairway) that would be beneficial to both patrons of the range of uses in the building as well as the general public.<sup>11</sup> The proposed stairway would be largely invisible within the Highway One viewshed as a result of the slope of the upper blufftop portion of the site and the location of the stairway generally below the blufftop plateau. In any case, the stairway too would need to be screened. See Special Condition 1 and 4.

The proposed formal pathway system on the upper bluff, however, would result in a trail “cut” running along the length of the upper bluff area. Such a cut, particularly if paved, may detract from the unhindered windswept view at this location and should be avoided to preserve both visual access and the undeveloped blufftop character consistent with the Davenport community aesthetic at this location. The same is true for any upper blufftop fencing proposed here. See Special Condition 1. Existing pedestrian use will continue whether or not a trail is formalized here. In any case, a more informal trail, such as a meandering decomposed granite trail of some sort designed for low-key access, may be consistent with the community character aesthetic and could be the subject of a future coastal permit application.

Finally, nighttime public views across the property towards the ocean would be negatively impacted to the extent the increased intensity of uses and parking leads to a corresponding increase in nighttime lighting at the subject site. Part of the allure of such public nighttime views along this mostly undeveloped stretch of coast, particularly seaward of the highway, is the darkness itself. In order to ensure that nighttime public views are not negatively impacted here, project lighting and/or glares offsite must be minimized. See Special Condition 1.

### E. Screening Vegetation

The existing building is partially screened from the public’s view by existing cypress hedges on both the north and south sides of the building. The hedge to the north is immediately adjacent to the existing building while the hedge to the south extends along the existing beach access path between the building and the San Vicente Creek riparian corridor. These cypress hedges generally provide screening of the structures and parking area at this location from up and downcoast Highway One views. A shorter hedge is located along the seaward side of the existing structure. Although not native to this area, the cypress hedges are a typical landscaping species, drought-tolerant and well-suited to the ocean climate.

There is also a hedge of myoporum within the Caltrans right-of-way fronting of the building. Some concern was raised at the July 1999 Commission hearing that these myoporum trees were an invasive exotic that may move into, and ultimately take over, the San Vicente Creek riparian corridor. The Applicant has subsequently had the project’s consulting arborist, Don Cox, evaluate these trees (letter report dated July 25, 1999). The arborist did not locate any myoporum trees or sprouts in the riparian area and concluded that:

*In my over 30 years of professional tree care experience I have not found Myoporum laetum to be an aggressive spreading species. For this report, I researched my reference books and found*

---

<sup>11</sup> See also public access findings.



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 28

*no indication to that effect. I also asked several certified arborist associations their opinion, and all answered in the negative. Included in my survey of professionals is Nigel Belton, local consulting arborist and owner of Arbor Art. Nigel is a native of New Zealand as is Myoporum laetum. He confirmed that "in their native habitat this is not a tree that spreads rapidly by seed or suckers."...My conclusion is that these trees are an appropriate planting, an asset to the property and should not be considered a threat to the riparian corridor.*

The Applicant proposes to extend the myoporum hedge slightly south (towards the lower level site entrance) to provide additional screening of the parking area there. Similar to the cypress hedges, although not native to this area, the myoporum are a good landscape tree for the area, being drought and wind tolerant.

In terms of the landscape screen, the LCP dictates that such screening is appropriate to block views of development here; however, such a landscape screen should not of itself block public views if not otherwise necessary to screen development. Again, the LCP specifically requires the public vista at this location to "be afforded the highest level of protection" (LCP Policy 5.10.10); and requires preservation of the ocean vista "to the maximum extent possible" (LCP Policy 5.10.6). LCP Policy 5.10.3 concludes that screening shall be provided where development is "unavoidably sited" within visual resource areas.

In this case, the existing building is unavoidably sited in the public viewshed (i.e., because it currently exists there). It is visible from the beach as well as from the Highway and other public viewing locations along the Davenport frontage. As discussed in the preceding findings, the profile of the existing building will be maintained in order to protect public views and Davenport's character. The parking lot area is currently mostly screened and the myoporum would be extended toward the southwest to further screen this area.<sup>12</sup> To ensure LCP view requirements are met here, all hedges (myoporum and cypress) between the Highway One right-of-way and the building and parking lot should remain in place for screening purposes, with provisions to maintain the height of hedges at an elevation just high enough to block the building as seen from the Highway One right-of-way. See Special Conditions 1 and 4.

A public view opening would be created across the property through the driveway opening (shifted southwest to match up with Davenport Avenue) and seaward. The hedge present along the southwestern side of the property (between the building and the railroad tracks) would be retained. Members of the public have suggested that the hedge along the railroad tracks be removed to enhance public views from Davenport Avenue. This existing hedge may continue to partially block ocean views from Davenport Avenue somewhat, but not likely more so than does the existing cypress hedge does now from Davenport Avenue. This would not be a significant view impact as compared to the existing baseline situation. Ultimately, a net public view corridor enhancement would likely be realized. In any case, in order to ensure that the landscaping at the site is consistent with maintaining the public viewshed across the subject site from Highway One, this approval is conditioned for a landscaping monitoring report (see

---

<sup>12</sup> Consistent with Caltrans' recommendation, the Applicants propose to shift the lower parking lot entrance to the southeast to line up directly opposite Davenport Avenue (i.e., to create a "4-legged" intersection with Highway One). The myoporum would be extended southwest in tandem with the entrance shift.



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 29

Special Condition 7).

Finally, the Applicant has supplied an encroachment permit from Caltrans for the existing Myoporum hedge. However, this reproduction of the 1973 document came from microfiche and is nearly impossible to decipher. Accordingly, Caltrans' review and approval for any landscaping in the right-of-way is necessary. See Special Condition 1.

### 3. Special Community and Visual Resource Conclusion

The proposed project is located within the critical Highway One public viewshed in the special coastal community of Davenport. LCP visual and community character policies require development here to be subservient to protecting public views, and consistent with the established community character aesthetic – a windswept character within which the subject site plays an important role. Coastal Act visual access policies also protect public view access here. The project as proposed would result in significant disruptions to the public view and would degrade Davenport's rustic, small-scale community character inconsistent with the LCP and Coastal Act policies listed in this finding. To best protect the public viewshed and to preserve Davenport's community character aesthetic consistent with the LCP and Coastal Act, the project must be modified: to retain the existing building's profile and footprint (in tandem with removing the footprint from the Highway One right-of-way); to eliminate the proposed upper bluff parking lot; to ensure adequate screening that does not itself result in public view blockage; to ensure that the main building, parking area, and greenhouse are constructed in a manner sensitive maintaining the rustic, utilitarian architectural style of the existing building. See Exhibit K and Special Conditions 1, 4 and 7.

Finally, as discussed in the findings above, the project as conditioned requires a variance to the minimum front yard setback and sign size standards. For the reasons discussed in the findings above, and as conditioned, the Commission finds: (1) that because of special circumstances applicable to the property, including size, shape, topography, location, and surrounding existing structures, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification; (2) that the granting of such 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; and (3) that the granting of such variance 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.<sup>13</sup>

## B. Mixed Uses and Parking Requirements

### 1. Applicable Policies

The Santa Cruz County LCP land use plan map designates the site as "Neighborhood Commercial" for

---

<sup>13</sup> Reference: LCP Section 13.10.230(c), findings required for a variance approval.



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 30

that portion of the property containing the existing building as well as the upper area of the lot proposed for parking; this section of the property is zoned “C-1” (Neighborhood Commercial). The southern portion of the property (containing the riparian corridor associated with the San Vicente Creek rivermouth) is designated “Existing Parks and Recreation” in the land use plan and zoned “PR” (Park, Recreation, and Open Space). The project includes rezoning the C-1 portion of the property to “SU” (Special Use) to allow for the range of uses proposed. The County LCP states:

### **A. Neighborhood Commercial Land Use Plan Designation**

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

*Policy 2.13.1 Location of Neighborhood Commercial Uses. Designate on the General Plan and LCP Land Use Maps those areas existing as, or suitable for, Neighborhood Commercial uses to provide small-scale neighborhood and visitor serving businesses within walking distance of urban neighborhoods, visitor attractions, or centrally located to serve rural communities.*

*Policy 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.*

*Policy 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.*

*Policy 2.13.4 Expansion of Neighborhood Commercial Designation. Only allow Neighborhood Commercial uses that are small scale, appropriate to a neighborhood or visitor service area, and which will not have 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.*

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

*Section 13.10.170(d) Consistent Zone Districts (C-N Neighborhood Commercial). The following table denotes the basic and combining zone districts which implement and are consistent with the various General Plan land use, resource and constraint designations. 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*



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 31

*amendment of the Local Coastal Program. ...[For] General Plan/Local Coastal Program Land Use Designation C-N Neighborhood Commercial, Zone District[s are:]*

*C-1 - Neighborhood Commercial*

*CT - Tourist Commercial*

*PA - Professional and Administrative Offices*

*...[For] All Land Use Designations, Zone District[s are:]*

*PF - Public Facilities*

*SU - Special Use*

***Section 13.10.331(e) 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.*

***Section 13.10.331(d) Specific “CT” Tourist Commercial District Purposes.*** *To encourage and recognize a narrow range of visitor serving uses in appropriate locations in the County on major transportation corridors or in commercial centers where properties have a land use designation on the General Plan of Neighborhood or Community Commercial. Visitor serving uses allowed in this zone district include primarily food services, auto fueling, visitor accommodations, and related accessory uses.*

### **B. “SU” Zoning District**

***Section 13.10.381(a) Purposes of the Special Use “SU” District, 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.*

***Section 13.10.381(c) Purposes of the Special Use “SU” District, 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.*

***Section 13.10.382(a)(2) Uses in the Special Use “SU” District, Allowed Uses.*** *All uses allowed in Zone District’s other than RA and R-1 shall be allowed in the Special Use “SU” Zone District where consistent with the General Plan...*

### **C. Visitor Serving Uses**

***Policy 2.16.1 Location of Visitor Accommodation Designations.*** *Designate on the General Plan*



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 32

*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.*

**Policy 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, including parks; visitor serving commercial uses; and coastal recreation facilities; Third Priority: Private residential, general industrial, and general commercial uses.*

**Policy 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.*

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

### **D. Parking Requirements**

**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. Give higher priority to special groups, such as carpoolers and disabled.*

County Code Section 13.10.552 specifies the number of off-street vehicular and bicycle parking spaces required for different uses. Applicable vehicular parking space requirements are as follows:

- 1 space per 200 square feet of office or retail
- 1 space per 100 square feet of restaurant plus .3 per employee
- 1.1 space per unit or 1 space per habitable room of visitor accommodation (whichever is more)
- 1 space per 1,000 square feet of warehouse
- 1 space per 600 square feet of manufacturing with a minimum of 2
- 1 space per 33 square feet of meeting room
- 1 space per 200 square feet of public buildings and grounds
- 2 space per one-bedroom residence

**Section 13.10.552(e) Handicapped Parking.** *Parking spaces specifically designed, located and reserved for vehicles licensed by the State for use by the handicapped shall be provided in each parking facility of 10 or more spaces according to the following table:*

<u>Total spaces required</u>	<u>Maximum number of handicapped spaces required</u>
10-49	1



## Appeal A-3-SCO-98-101 Staff Report

50-99

2

*Section 13.10.553(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%

*Section 13.10.553(e) Compact Car Parking.* A proportion of the total spaces otherwise required by the Schedule of Offstreet Parking Requirements may be designed and marked for compact car use according to the following table:

<u>Total spaces required</u>	<u>Allowable Percentage of Compact Car Spaces</u>
6-50	10%
51-80	30%
81 or more	40%

## 2. Consistency with Applicable Policies

### A. Proposed Mixed Uses

The proposed project would rezone the property from C-1 to SU. As seen above, such a rezoning does not constitute an LCP amendment (LCP Zoning Code Section 13.10.170(d)). The underlying Neighborhood Commercial LUP designation for the site would not change.

The purpose for the SU rezone is to specifically allow for a mix of uses on the site. The mix of uses proposed are allowed within the three implementing zoning districts for the Neighborhood Commercial LUP designation (C-1, CT, and PA). However, none of these implementing zoning districts alone can account for the range of proposed uses. The existing C-1 zoning does not allow for visitor accommodations. Accordingly, the SU district appears to be a good choice for this site since it allows for a range and mix of uses appropriate to the Neighborhood Commercial designation, including visitor accommodations. Under the LCP, such visitor serving use is a high priority for this important shoreline location. In fact, many other cited LCP policies (e.g., 2.13.3, 2.13.5, 8.8.3) clearly contemplate visitor uses for such an area. Also, given that the LCP 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.



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 34

The Applicant proposes the following mix of uses:

Proposed Use	Percent of Proposed Project <sup>14</sup>
Restaurant with associated office and detached greenhouse	35%
Food processing operation with associated warehousing	26%
Five overnight units with associated day spa and office <sup>15</sup>	21%
One 2 bedroom private residence and one residential caretakers unit	15%
Retail shop	3%

Over one half (roughly 60%) of square footage allotted to the various proposed uses can be considered visitor serving (including the restaurant, overnight accommodations, spa, and possibly the retail shop). Although the spa is for the use of the overnight guests and not the general public, it would still be considered visitor-serving. 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 food processing operation do not appear as appropriate neighborhood commercial uses. However, they are a continuation of the previously-approved use at this site (i.e. Odwalla juice works).

The proposed mix of uses would be predominately visitor-serving and small scale commercial operations consistent with the LUP's Neighborhood Commercial designation. Only the two residential units and the food processing/warehousing uses are not visitor-serving. In terms of the residential units, an exception can be made to allow for a caretaker's quarters, as proposed for the smaller of the two residential units, as an adjunct to the visitor-serving uses otherwise a part of the project. The second, larger, residential use proposed is more problematic in terms of LCP policies. One option would be to replace the larger residential use proposed with 3 additional visitor serving overnight units. Such a modification would be more in tune with providing visitor access to this special site and would not increase parking requirements applicable to this portion of the overall square footage. However, it is not clear that an additional 3 overnight units would or would not be viable at this location, nor is it clear if such additional units would be consistent with the Applicant's overall objectives for the site. Given the substantial visitor-serving nature of the project, such a modification is not absolutely necessary in this case to ensure LCP compliance.

Likewise, an argument could be made that the food processing/warehousing operation, at least to the extent it may supply restaurant and food uses in Davenport (as indicated in the Applicant's project description) and/or to the general public as a cottage industry, could be considered small scale visitor serving commercial. With such caveats, these uses too could be found consistent with the LCP direction for this site as shown in the above applicable policies.

<sup>14</sup> As calculated from interior square footages on the proposed plans. Interior public spaces (hallways, foyer, elevator, mechanical, etc.) generally serving the overnight units, spa, restaurant, and retail space were calculated in with these uses served.

<sup>15</sup> Only one office is shown on the proposed plans for both the restaurant and the overnight units.



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Stellenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 35

In order to ensure that the uses will be and shall remain small scale visitor serving commercial as directed by the LCP, this approval requires that any changes to the uses and/or configuration of the main structure would require a Commission amendment to this permit (see Special Conditions 1 and 4). The warehousing and manufacturing uses are appropriate at this sensitive location provided they directly provide services either to the site and/or the general Davenport environs. In this way, these uses can be considered small scale cottage industries contributing to the special Davenport community character. Furthermore, in order to ensure that any office space in the proposed building is allotted only to serve priority uses, this approval is conditioned that the office serves the permitted visitor serving uses on site. The greenhouse must be used to serve the on-site restaurant with vegetables and herbs. See Special Condition 4.

### **B. Parking Required by Uses<sup>16</sup>**

Although the range of uses proposed, as clarified by condition, are acceptable for this site, adequate parking must be provided. As discussed in the preceding visual/community character finding, the project must be scaled back to reduce adverse visual and community character impacts. In particular, the upper parking lot must be eliminated from the project and the existing footprint and profile of the building maintained.<sup>17</sup> The footprint reduction (to remove the existing building footprint from the Highway One right-of-way and to apply the 10 foot minimum commercial frontage setback) will result in a reduction of roughly 1,000 square feet from the lower level food processing/warehousing area, and potentially some lesser amount from the upper retail area. Eliminating this portion of the building predominantly affects the least compatible of the appropriate uses (i.e., warehousing and food manufacturing). In any case, this reduction will have an effect on the parking requirements for the site. All parking must be provided on the lower level.

The parking requirements for the proposed uses are calculated in the table below. The below calculations exclude interior circulation areas which do not by themselves draw users within such a mixed use development. The County's approval had calculated the parking requirement for this interior space as 1 parking space per 200 square feet space. However, the County Code is silent on how such space is to be calculated for parking purposes in a mixed use development. It can be argued that such interior space is not attracting users and, as such, does not require excess parking supply. There may be times when this is not the case (for example, an art show on hallway walls), but, for the most part, such demand is likely zero.

In addition, as provided for by LCP Section 13.10.553(b), the below calculation includes a 15% reduction for 5 to 7 different uses: (1) visitor units; (2) restaurant; (3) retail shops; (4) manufacturing and warehousing; and (5) residential. Such a reduction is appropriate for two reasons. First, the proposed mix of uses would tend to draw users at different times: weekday concentration for warehousing and manufacturing, weekend for overnight units and restaurant; nighttime for overnight units and restaurant,

---

<sup>16</sup> Note that public access parking is detailed in the public access findings that follow. The discussion in this finding is limited to the parking required by the mix of uses proposed within the building.

<sup>17</sup> See previous visual and community character findings.



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 36

daytime for retail, warehousing and manufacturing. Second, the proposed mix of uses would tend to draw crossover users who would frequent more than one establishment, but use only one parking space per trip: overnight visitors, residents, warehouse and manufacturing employees who then also frequent the restaurant and retail shops; retail shoppers also drawn into the restaurant; et cetera. Such efficient use of spaces is reflected in LCP Parking Objective 3.3. In addition, inasmuch as such a LCP-allowed reduction would allow for a smaller area of the site to be given over to parking lot development, other LCP objectives for viewshed protection and community character are furthered.

The Applicant's proposal, as modified to retain the existing building footprint, would require at a minimum the following parking spaces as calculated from the submitted plans:

Applicant-proposed use	Parking factor per LCP Section 13.10.552	<sup>18</sup> Parking spaces required
Restaurant with associated office and detached greenhouse	2,497 sq.ft. restaurant @ 1 space/100 sq.ft.	24.97
	412 sq.ft. office @ 1 space/200 sq.ft.	2.06
	10 employees @ .3 spaces/employee	3.00
Food processing operation with associated warehousing	822 sq.ft. food processing <sup>19</sup> @ 1 space/600 sq.ft. (min 2)	2.00
	3,976 sq.ft. warehouse <sup>20</sup> @ 1 space/1000 sq.ft.	3.98
Five overnight units with associated day spa and office <sup>21</sup>	5 units @ 1.1/unit	5.50
One 2 bedroom private residence and one residential caretakers unit	3 spaces for a two-bedroom residence	3.00
	2 spaces for the one-bedroom caretaker's unit	2.00
Retail shop	635 sq.ft. of retail @ 1 space/200 sq.ft.	3.18
	<b>Subtotal</b>	<b>49.68</b>
Mixed use reduction for 5 uses	15%	-7.45
	<b>Total</b>	<b>42.23</b>

Thus, the current proposed configuration and mix of uses would require 42.23 parking spaces. Slightly less depending on the upper floor retail reduction in light of the footprint reduction. It is fair to assume

<sup>18</sup> Note: This calculation excludes: (1) storage spaces as provided by LCP Section 13.10.552; and (2) interior circulation areas which do not by themselves draw users within such a mixed use development.

<sup>19</sup> Approximately 912 square feet proposed by Applicant minus the 90 square feet of food manufacturing space that would be eliminated to maintain the existing building footprint and apply the 10 foot setback.

<sup>20</sup> Approximately 4,959 square feet proposed by Applicant minus the 983 square feet of warehousing space that would be eliminated to maintain the existing building footprint and apply the 10 foot setback.

<sup>21</sup> The office parking requirement is calculated with the restaurant office as it is the only office shown on the proposed plans.



## **Appeal A-3-SCO-98-101 Staff Report**

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 37

that 42 spaces are the parking requirement here (i.e., if the retail shop is reduced by as little as 52 square feet, the total required is an even 42.00 parking spaces).

In order to maintain community character and visual consistency, all 42 parking spaces must be provided on the lower portion of the site. Based on the site characteristics in this lower area, it appears that all 42 spaces can be provided here. This is accomplished by adding an additional two spaces to the area where the Applicants had proposed a footprint expansion, but the existing footprint is to be maintained, and adding an additional 20 spaces in the area on the southeast side of the building where the existing shed is located and the greenhouse is proposed. This will require moving the shed and greenhouse into the area closest to the cypress hedge running roughly north to south along the existing access path here. See Exhibit K and Special Condition 1.

### **3. Mixed Uses and Parking Requirements Conclusion**

The LCP directs that the uses at this Highway One fronting site be small scale visitor serving commercial. As proposed by the Applicant, the range of uses here would be generally consistent with this directive other than the residential uses proposed and the lack of specificity for the food processing/warehousing component. The residential uses are palatable since the overall project would be a substantial visitor-serving enhancement and since at least the caretaker's quarters would be adjunct to the visitor-serving uses on site. The food manufacturing/warehousing uses are appropriate at this sensitive location only to the extent that they are linked either to the site and/or the general Davenport environs. In this way, these uses can be considered small scale cottage industries contributing to the special Davenport community character. Parking can be provided for all interior uses in the lower portion of the site. To ensure that this is the case, the project must be modified to identify the appropriate types of uses approved in this case and to ensure that these uses are not altered without Commission approval in the future. See Exhibit K and Special Conditions 1 and 4.

## **C. Public Access**

### **1. Applicable Policies**

As described earlier, Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." Because this project is located seaward of the first through public road (Highway One), for public access and recreation issues the standard of review is both the certified LCP and the access and recreation policies of the Coastal Act.

#### **A. Coastal Act Policies**

Coastal Act Sections 30210 through 30214 and 30220 through 30224 specifically protect public access and recreation. In particular:



## **Appeal A-3-SCO-98-101 Staff Report**

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 38

*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....*

*Section 30214(a): The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case...*

### **B. LCP Access Policies**

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

*Policy 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...*

*Policy 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...*

*Policy 7.7.16 Improvements at Primary Access Points. Provide, encourage provision of, and/or require as a condition of new development approval, subject to Policy 7.6.2, the following improvements at primary destinations: path improvements and maintenance;...automobile parking;...bicycle parking;...access provisions for disabled if feasible;...scenic overlooks;...and identification signs.*



## **Appeal A-3-SCO-98-101 Staff Report**

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 39

**Policy 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 through judicial determination of prescriptive rights.... Protect such beach access through permit conditions such as easement dedication...*

**Policy 7.7.11 Vertical Access.** *Determine whether new development may decrease or otherwise adversely affect the availability of public access, if any, 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.*

**Policy 7.7.12 Lateral Access.** *Determine whether new development would interfere with or otherwise adversely affect public lateral access along beaches. If such impact will occur, the County will obtain...dedication of lateral access along bluff tops where pedestrian and/or bicycle trails can be provided and where environmental and use conflict issues can be mitigated. Unrestricted lateral access to North Coast beaches shall be provided where environmental and public safety concerns can be mitigated....*

**Section 15.01.060(b) 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.*

**Section 15.01.070(b)(1)...Public Access Standards, Trails.** *Where dedication is required for public access, the following minimum requirements shall apply:*

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

**Section 13.11.074(a)(2) Standards 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.*

**Policy 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.*

**Policy 3.10.4 Pedestrian Traffic.** *Require dedication and construction of walkways for through*



*pedestrian traffic and internal pedestrian circulation in new developments where appropriate.*

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

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

### **C. Priority Sites**

LCP Figure 2-5 identifies the parcels immediately north of the subject site on the seaward side of the Highway as “Coastal Priority Sites – North Coast” (APNs 058-072-01,02,03). These adjacent parcels are subject to the following special development standards:

*LCP Figure 2-5. Depress and landscape the parking area to limit its visibility from Highway One and to maintain unobstructed coastal views. Allow landscaping only with ground cover and low growing vegetation which can not grow to a height that will obstruct coastal views. Eliminate all roadside parking along the property frontage, and provide interior pedestrian circulation to separate pedestrians from Highway One.*

These LCP priority sites are also subject to the following circulation and public access requirements:

*LCP Figure 2-5. Coordinate improvements with the parking on parcel 058-121-04...*

*Section 13.11.072(a)2(i) Site Design, 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...*

## **2. Consistency with Applicable Policies**

### **A. Proposed Public Access Amenities**

The Applicant’s project description includes a *Public Access Amenities and Access Management Plan* (Access Plan) as part of the proposed project that includes a variety of public trails and other access amenities. Among other things, this Plan includes: (1) proposed dedication, construction, and maintenance of vertical access trails at three locations and a lateral access trail across the bluff top; (2) construction of a stairway from the bluff top to the railway elevation; (3) dedication of the southern riparian area as protected open space and habitat; and (4) vista points and viewing benches on the upper bluff. The Access Plan also provides for signage of public access. Trail access would be available 24 hours a day. See Exhibit E.

### **B. Public Access Trails and Parking Background**

Historically, the Applicant’s project site has been at the center of multiple public activities along the



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 41

Davenport shoreline. As summarized in the Applicant's Access Plan, "[t]he public...uses the northern portion of [the] property for access parking, viewing, beach access and as overflow parking for the businesses on the inland side of Highway One" (Access Plan p. 2). Moreover, the open, grassy upper blufftop area located between the informal parking area and the existing building immediately adjacent is frequently traversed by pedestrians who want to enjoy the scenic coastal views and other related activities. Further, there is a network of informal trails heading from locations along Highway One out to the bluffs and down to Davenport beach. Some of these trails emanate from in and around the Applicant's property, including trails from the informal parking located at the northwestern end of the project down the bluff to the railroad tracks below (see Exhibits A and B); and a vertical trail at the southeastern end of the project site from Highway One to the other side of the project site and on to the beach. Informal access in some areas has been persistent enough to create erosion problems on the project site, prompting the County to observe that it was desirable to consolidate the several existing trails down the bank from the Applicant's upper bluff site, with one formalized stairway in order to minimize erosion (which could become more severe with more intensive site use, including the proposed formal parking area on the upper bluff), as shown on the Applicant's plans.<sup>22</sup>

The informal trail network surrounding the Applicant's property is confirmed by aerial photo analysis as well as the Commission Staff experience with available public access in the Davenport area. Davenport is known for its whale watching opportunities, including vantage points from the Applicant's project site. A number of Davenport and Santa Cruz County residents have provided numerous informal accounts to Commission staff of accessing this site over the last several decades.

In addition, as already suggested, the northern end of the Applicant's property has been used for parking since at least the late 1960s. Again, although regular counts are not available, site inspections and review of aerial photos reveals an informal dirt parking lot on the northern end of the property (aerial photos in Commission files dated 1967, 1978, 1987, 1990, 1993). Members of the public have indicated, and staff has likewise observed, that somewhere between three and ten cars parked on the upper bluff is common, although some of this parking may be occurring on the Lone Star property immediately to the north of the project site, which is also used by the public. Similarly, the Applicant's traffic consultants stated that on Tuesday October 1, 1997 and Saturday September 28, 1996 (both clear and sunny days) they "observed no more than 10 parked vehicles in this parking area at any time although the parking area has the capacity to store more than 10 vehicles." Close examination of an aerial photograph taken in 1993 reveals at least 25 vehicles parked in the combined informal parking areas (Applicant's lot and adjacent Lone Star lot) (see Exhibit A, p. 5). Finally, the Davenport Beach and Bluffs Addendum to the General Plan for the North Coast Beaches estimates that up to 40 vehicles park in the combined area during the summer weekends. In combination with the informal parking just to the north of the project site, the area that is void of vegetation and thus has been most used for regular parking would hold between 20 and 40

---

<sup>22</sup> Specifically, 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."



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 42

cars. Although it appears that the public has continuously parked in this area without restriction, the Applicant has stated that this use is by permission, that the site has been posted to this effect, and that the area has been closed to public use for a least one day per year (Access Plan, p. 2).

Originally, the County-approved project included two vertical trails from the Highway across the project site and one connecting trail along the railroad tracks. Specifically, the County's approval required the dedication of a permanent pedestrian easement: (1) over the trail south of the building;<sup>23</sup> (2) over the trail route from the proposed northern parking lot; and (3) over an area paralleling the railroad tracks along their seaward side. The approval also required construction of an access stairway from the parking lot down the railroad bluff cut to the railroad right of way thence southeasterly to join the southern beach access trail.

### C. Public Access Impacts<sup>24</sup>

The public access component of the project proposed by the Applicant is partially consistent with Coastal Act and LCP policies that require the maximization and protection of public access (including the dedication of vertical and lateral access, provision of vista points and other amenities). The proposed access features would include vertical and partial lateral access to connecting publicly used trails that head both to the beach and out to the open bluff just to the west of the project site (see Exhibit E). Public benches, stairs, and viewing areas would be provided. In particular, the proposed three vertical public access dedication areas implement the requirements of Coastal Act Sections 30210, 30211, and 30212, and LCP Policy 7.7.11 with regards to providing public access to the shoreline. The Applicant is commended for proposing such vertical access dedications, as well as for proposing to construct and maintain the trails and the stairway. Special conditions specifying the parameters for these vertical dedications are included solely to implement these parts of the proposed project consistent with the Commission's protocol for such legal documents. See Special Condition 2. Likewise, to recognize the Applicant's stated intention to construct and maintain the trails and stairway in the easement areas, this approval includes recognition of these project elements (see Special Condition 4)

However, notwithstanding the many positive public access elements of the proposed project, the project as proposed also: impacts lateral access, precludes public parking in an area historically used by the public to park, precludes connectivity to upcoast priority coastal access sites, may be used as evidence that public rights have been adjudicated, and generally increases the intensity of use of public

---

<sup>23</sup> 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."

<sup>24</sup> Public view access impacts are not discussed in this finding; these substantial impacts are detailed in the previous visual and community character findings.



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 43

recreational resources.<sup>25</sup>

### Public Parking

As detailed in the previous visual and community character findings, the proposed formal parking lot, lateral pathway system, and fencing cannot be constructed in the upper blufftop portion of the site.<sup>26</sup> Because of this, the existing informal parking area used by the general public on the extreme northwest portion of the property will remain and its current use characteristics would be unchanged. Absent the formal upper parking lot, the Applicant has not otherwise proposed any limitations on continued public use of this existing informal parking area. As such, and only as conditioned to leave the upper bluff area alone, the project is consistent with the LCP and Coastal Act policies protecting ongoing public parking here. However, had this existing informal parking area been removed as proposed by the Applicant, then the project would have been wholly inconsistent with protecting this existing public access area from interference as directed by the LCP and Coastal Act policies cited in this finding and could not have been approved.

In any case, there continues to be parking available on the adjacent Caltrans right-of-way and the adjacent lot (the Applicant's land only contains about one-third of the this informal parking area), and the County is in the process of studying this issue. 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. 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 General Plan for the North Coast Beaches' proposals together with other possible parking strategies, including the use of areas across the railroad tracks where automobiles might be better hidden. A future coastal permit could revisit the issue of parking for this particular site.

### Lateral Access

Evidence of informal trails show that public lateral access in this stretch of coast is primarily along the railroad tracks located on the southern edge of the Applicant's property. Coastal visitors generally park at the subject site (and/or just upcoast) or inland of the Highway and are funneled by the topography along the railroad track cut to downcoast locations and Davenport Beach. Highway One is not equipped with sidewalks in Davenport and the shoulder area is much too dangerous for pedestrians because of the proximity to fast moving vehicular traffic.<sup>27</sup> The Applicant's screening hedge located along the Highway within the Highway right-of-way exacerbates shoulder-oriented pedestrian access problems.

As proposed, and as so far conditioned to allow lesser setbacks from the Highway than required (i.e., 10 feet for the building and 4 feet for the lower parking area), lateral access is blocked by the proposed project. This is because the Applicant's proposed project, as conditioned to allow setback variances,

---

<sup>25</sup> The proposed project also blocks and degrades the public view.

<sup>26</sup> See previous visual and community character findings.

<sup>27</sup> The speed limit along Highway One in Davenport is 45 miles per hour.



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 44

would be roughly 20 feet closer to the Highway right-of-way than is allowed by the LCP for such an SU-zoned site with the proposed mix of uses. Moving the project closer to the Highway correspondingly moves required screening vegetation toward and into the right-of-way, blocking any lateral access along the Highway. In addition to this ongoing blockage, should the full right-of-way be needed in the future for enhanced public use, these screening elements would be displaced. Available space within which to replicate such screening is limited. Not only would pedestrian access be impacted in this scenario, visual public access would also be negatively impacted.

The Coastal Act and LCP require such lateral access to be preserved (Coastal Act Sections including 30210, 30211, 30213 and LCP Policies including 7.7.10 and 7.7.12). Although the Applicants have proposed a partial lateral easement along the upper bluff to the proposed stairway, there is no equivalent lateral trail dedication adjacent to the railroad tracks that would laterally connect the vertical trails that lead to the seaward edge of the project site. To address this lateral blockage, Santa Cruz County required a lateral dedication along the full length of the property along the railway track. The Applicant now indicates that the County-required easement is not possible because of conflicts with the Applicant's existing easement with Union Pacific Railroad; however, no evidence of that easement being unilaterally exclusive of any other use easement has been submitted.

However, the other option of ensuring lateral pedestrian access rights through a combination of using the Applicant's proposed upper bluff lateral easement and using the Highway One right-of-way is made difficult by the topography and is virtually precluded by the encroachment of the building and lower parking lot into the setback area (via variance) and the corresponding use of the Highway One right-of-way for mitigating screening vegetation. The danger of commingling pedestrians and fast-moving vehicles under this option cannot be easily mitigated either. The most LCP and Coastal Act consistent manner of protecting existing lateral access and maximizing safe public access opportunities here is to acknowledge the existing use patterns and to provide an equivalent lateral connection on the seaward side of the property along the railway tracks as previously required by the County. This both takes the place of the Applicant's proposed upper blufftop lateral easement and mitigates for the lateral access blockage along the Highway due to screening vegetation there. Thus, unless such dedication is absolutely precluded by the existing railroad easement, this approval is conditioned for a lateral dedication along the southern property line. The Applicant's proposed upper blufftop partial lateral easement is rendered moot by this replacement easement and is thus not necessary. (see Special Condition 2).

### **Adjacent LCP Priority Sites**

The LCP reserves the parcels directly north (upcoast) of the Applicant's site (i.e., immediately upcoast of the informal parking area currently present on the northwest corner of the Applicant's site) as priority sites (APNs 058-072-01,02,03). These adjacent parcels are protected for "coastal access, overlook, parking and supporting facilities and improvements." The North Coast Beaches Unified Plan, which is contained in the County General Plan also discusses this property adjacent to the subject site. The Enhancement Plan for Davenport Bluffs shows a 23 to 26 space unpaved parking lot directly adjacent to the proposed upper terrace parking lot. Also shown is a loop trail (along the edge of the bluff and along



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 45

the railroad tracks) on the property seaward of the subject site.

In the event that the priority sites develop as envisioned by the LCP with parking, the LCP dictates that said parking should be coordinated with existing parking on the Applicant's site (LCP Figure 2-5). The Applicant's Access Plan proposes such a general public connection (Access Plan, page 4). In any case, since the informal parking area spanning a small portion of the Applicant's site and a larger portion of this upcoast area would not be altered by this approval (since development in the upper portion of the lot has been removed from the project by condition to address visual and character concerns), any future connection to the priority sites would not be affected by the approved project. Had the Applicant's proposed formal upper parking lot and parking lot entrance not been removed from the project by condition, however, LCP consistency would have required some more formal means to implement this connection as proposed by the Applicant (but not fully explained) and required by the LCP. A future coastal permit could revisit the issue of parking in the existing informal area and its potential connection to upcoast parking areas, but it is not now an issue given the conditions of this approval.

### **Increased intensity of Use**

The new proposed mixed use project would bring increased intensity of commercial and visitor-serving use of the bluff area and public beach resources, particularly Davenport beach, as well as the informal trail network that has developed in the project vicinity. As described earlier, peak use periods of the Applicant's revised proposed project could be expected to regularly bring up to 42 automobiles and their occupants into the development. Thus, the increased impacts on public resources at and near the site would be substantial, particularly when considered over time, even if only some of the visitors associated with these cars take advantage of the trails leading out to the bluff and down to the beach. The Access Plan addresses this generally by providing additional public amenities. As has been described in this public access finding thus far, however, some clarification is necessary in terms of lateral access (see above). This lateral access clarification can also help ensure that the increased intensity of use and associated future impacts to public beach resources that will inevitable follow this new development will not unduly impact lateral public access here (see Special Condition 2).

Likewise, the increase in use of the lower parking area may negatively impact Highway One circulation patterns. The current speed of vehicles and the use of the Highway One right-of-way for general pedestrian use already makes Highway-area safety an issue in Davenport. It is possible that Caltrans may require a left turn lane and/or a right turn collector lane to serve the proposed development and ensure safe circulation through Davenport. As such, this approval is conditioned for Caltrans review (see Special Condition 1; see also Exhibit I for a Caltrans letter on the project).

### **Public Rights**

Finally, given the evidence of informal public use of the Applicant's site for parking, viewing, and access, and the fact that the full analysis necessary to establish public rights that may exist has not been completed, and the fact that any public rights established on the subject property have not been adjudicated, the permit is conditioned to make clear that this approval does not constitute a waiver of any public rights that may exist on the property (see Special Condition 8).



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 46

### 3. Public Access Conclusion

Protecting and maximizing public access is a main tenet of both the Coastal Act and the LCP. The project, as proposed, would block lateral access along the site, would preclude public parking in an area historically used by the public to park, would preclude connectivity to upcoast priority coastal access sites, could be used as evidence that public rights have been adjudicated here, and would generally increase the intensity of use of public recreational resources. The project, as proposed, would also have significant negative impacts to the public viewshed and Davenport's community character. Because of this, the proposed upper parking lot, trail system, and fencing must be removed from the project.<sup>28</sup> As a result, the issues of protecting the existing public use of the informal parking area on the northwest portion of the site, and of protecting connectivity to the upcoast LCP priority sites become moot. The increased intensity of use and the blockage of lateral access by the project up and down coast dictate that a lateral easement along the railroad tracks be provided to protect existing lateral connectivity along this stretch of coast (see Special Condition 2). In addition, all public rights of access must be protected (see Special Condition 8). Caltrans review and approval of circulation patterns is necessary (see Special Condition 1). Finally, all access amenities within the easement areas (e.g., trails and stairways) must be maintained so that the formalized public access benefit is realized (see Special Condition 4). Only in this way does the project protect and adequately maximize public access at this critical site located between the first public road and the sea, Davenport Beach, and its whale watching bluffs; public access features of statewide importance. As such, and only as conditioned, the project is consistent with the Coastal Act and LCP public access policies cited in this finding.

## D. Public Services: Sewer and Water

### 1. Applicable LCP Policies

The LCP states:

*Policy 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.*

*Policy 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...*

*Policy 2.2.3 Reservation of Public Works Capacities for Coastal Priority Uses. In the Coastal*

---

<sup>28</sup> See previous visual and community character findings.



## **Appeal A-3-SCO-98-101 Staff Report**

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 47

*Zone, reserve capacity in existing or planned public works facilities for Coastal Priority Uses. For a description of those uses, see sections 2.22 and 2.23.*

**Policy 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, including parks; visitor serving commercial uses; and coastal recreation facilities; Third Priority: Private residential, general industrial, and general commercial uses.*

**Policy 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.*

**Policy 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 5.6(g) Maintaining Adequate Streamflows Program.** *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.*

**Policy 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.*

**Policy 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. Projects shall not be*



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 48

*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.*

*Policy 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.*

*Policy 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.*

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

## 2. Consistency with Applicable LCP Policies

The project site is served by the Davenport Water and Sanitation District (DWSD) which is managed by the Santa Cruz County Public Works Department.

### A. Wastewater

Although the Applicant has modified the project since, the County-approved project would have increased wastewater coming from the site to 4,792 gallons per day (gpd) corresponding to an 8% increase in total wastewater flow in the DWSD. It is not clear to what extent the Applicant's current proposed project (different than that approved by the County) would alter the amount of wastewater here. The County permit file indicates that the property owners previously paid a sewer service connection fee for 1,405 gpd (prior to that time the parcel utilized an on-site septic system). The DWSD issued a written commitment to serve the project and required a wastewater connection fee of \$43,038 based on the increased wastewater flows and the commensurate need to upgrade the wastewater system to handle the increased flow.

The County's approval also allows for building permits for the project to be issued without the service improvements being completed. Instead, the County's approval postponed project occupancy until the wastewater system upgrade is completed. As such, 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 LCP policy 7.19.1). The basis for the LCP policy 7.19.1 restriction is that once buildings are completed, there



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 49

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 without the necessary upgrades.

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 previously estimated eight percent from this project, is significant until the system is upgraded. Although DWSD has secured the necessary funding for the sewer replacement project, it is not clear when the upgrades will be complete.

In any case, to ensure LCP policy 7.19.1 consistency, the Applicants will need an updated service commitment letter for any amount of wastewater to be generated above the 1,405 gpd prior to the issuance of building permits. See Special Condition 5.

### **B. Water**

The County-approved project would increase average daily water consumption at the site from approximately 2,300 gpd to 5,293 gpd. It is not clear to what extent the Applicant's current proposed project (different than that approved by the County) would alter the amount of water use here. Based on the range of uses now proposed, it is fair to say that a similar increase in water use would still be expected here. 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 gpd. Therefore, the project would 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, and have a legal entitlement, for 4,216 gpd. As with wastewater, DWSD issued a written commitment to serve water to the project but again noted that limited capacity was available absent needed system upgrades.

Specifically, 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 (County Condition IV.B). As such, 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 LCP Policy 7.18.2).

DWSD 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, DWSD lacks an appropriate right for the water it diverts. Although there is no stream flow information in the County permit record, USGS has calculated average annual runoff in the San Vicente watershed at 6,800 acre-feet per year. LCP Policy 5.6.2 (written in the early 1980's before the juice plant was in operation) designates San Vicente and



## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 50

Mill Creeks as “currently utilized at full capacity.” Since that policy was written, the coho salmon and the California red-legged frog, which inhabit the creek, have been federally listed as “threatened,” and 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 San Vicente Creek habitat and what mitigation measures might need to 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. Furthermore, DWSD must still perfect its water rights. These actions, which are not under the responsibility of the Applicants, will be the appropriate junctures to address LCP policies regarding the protection of in-stream flows and the associated riparian habitats. In any event, with regard to the project before the Commission, CDFG has indicated that “project-related water demand will have insignificant effects on stream flow and instream coho habitat conditions” (see Exhibit H).

For this application, the County’s permit condition requires the applicant to provide necessary improvements to the water system in order to add approximately 3,000 gallons to the current 2,300 gallons per day of water use. It is uncertain whether or not this increase in water use 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 necessary beyond upgrading the filters. For the Applicants, however, the LCP requirement is to have a written commitment to serve prior to the issuance of building permits; the project as approved by the County does not contain this assurance. Again, the policy rationale being that once buildings are completed, there is pressure to actually allow occupancy whether or not service upgrades have been completed. Thus, to ensure LCP policy 7.18.2 consistency, the Applicants will need an updated service commitment letter guaranteeing that the required level of water service for the project will be available prior to the issuance of building permits. See Special Condition 5.

As so conditioned, the project is consistent with the relevant local coastal program policies discussed in this finding.

## E. Polluted Runoff

### 1. Applicable LCP Policies

The LCP states:

*Policy 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*



California Coastal Commission

## **Appeal A-3-SCO-98-101 Staff Report**

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 51

*practices to reduce pollution from urban runoff.*

***Policy 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, land divisions or commercial and industrial development.*

***Policy 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.*

***Policy 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 in other areas as feasible.*

***Policy 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.*

***Policy 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, land divisions or commercial and industrial development. Condition development project approvals to provide ongoing maintenance of oil, grease and silt traps.*

## **2. Consistency with Applicable LCP Policies**

The Applicant's proposed project would result in approximately 11,000 square feet of impervious surfacing for the proposed upper parking lot and access driveway, and roughly 10,000 square feet for the lower parking lot area; a total of over 21,000 square feet or roughly ½ acre of parking lot. In any event, the County conditioned the project for a grading, drainage and erosion control plan; silt and grease traps for all parking area catch basins; and a long-term monitoring and maintenance program for the silt and grease trap filtering mechanisms; all general plan requirements. On-site runoff would be channeled into the existing stormwater pipe that extends under the railroad tracks and discharges into an existing drainage swale on the ocean side of the tracks. Rip-rap would be placed at the outfall as an energy

## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 52

construction site runoff would be collected and filtered for urban pollutants prior to discharge from the site through the existing culvert. However, LCP Policy 7.23.2 also calls for minimizing impervious surfaces. Moreover, as previously detailed, there are also critical visual and special community resource problems with allowing the proposed upper blufftop parking lot.

The primary mechanism for minimizing impervious surfaces and reducing parking lot-related polluted runoff is to reduce the size of parking areas to the minimum necessary. As parking lot size is reduced to eliminate unnecessary paved area, the amount of area exposed to vehicular pollutants as well as the amount of time such vehicle are in such areas, likewise drops and there is a corresponding reduction in the amount of automobile by-products contributing to polluted runoff (e.g., petroleum hydrocarbons, heavy metals such as lead, copper, zinc and cadmium, etc.). With less pollutants and less impervious area for them to collect upon, there is a reduction in polluted runoff ultimately flushed off site. This is the case whether or not silt and grease traps are in use given that the filtering ability of these units can vary (dependent upon flows and levels of contaminants).

A second way of reducing impervious surfacing for parking areas is through the use of porous/permeable surface treatment materials (such as turf block, pavers, cobbles, etc.) which allow for some runoff infiltration. However, these types of treatments are generally reserved for less frequently used parking areas (such as emergency access roads and parking overflow areas) where heavy use and loads are not anticipated. Moreover, these types of treatments are not generally recommended for primary parking areas because automobile-related polluted runoff constituents can then percolate directly into soils (thence into groundwater seeps and ultimately to the ocean). In this case, any parking area would be a primary parking lot area subject to heavy levels of use. As such, polluted runoff concerns can best be addressed through engineered filtration systems such as required by the County.

Ultimately, a smaller area of the site given over to parking lot use would serve to better address both previously identified visual and special community resource concerns, as well as LCP impervious surface and polluted runoff concerns. By eliminating the upper parking lot area and its attendant driveway and relocating necessary parking to the lower level, nearly 8,000 square feet of impervious surface parking lot can be eliminated from that proposed by the Applicant; the lower parking lot would occupy a total of roughly 13,300 square feet. In other words, there are complementary LCP policies at play that redefine the project to provide all parking on the lower level. The filtering and treatment mechanisms proposed by the Applicant will ensure that site runoff is adequately cleansed prior to discharge from the site. CDFG has concurred that such runoff would not likely cause any significant detrimental water quality impacts (see Exhibit H). As so conditioned for removal of the upper parking lot and for providing all parking in the lower level, the LCP polluted runoff policies cited in this finding are met.

## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 53

### F. Biological Resources

#### 1. Applicable LCP Policies

The LCP is very protective of riparian corridors, wetlands and other environmentally sensitive habitat areas. LCP wetland and wildlife protection policies include Policies 5.1 et seq (Biological Diversity) and 5.2 et seq (Riparian Corridors and Wetlands), and Chapters 16.30 (Riparian Corridor and Wetlands Protection) and 16.32 (Sensitive Habitat Protection). The LCP states:

*Section 16.32.090(b)(2) Approval Conditions. The following conditions shall be applied to all development within any sensitive habitat area: Dedication of an open space or conservation easement or equivalent measure shall be required as necessary to protect the portion of a sensitive habitat which is undisturbed by the proposed development activity or to protect a sensitive habitat on an adjacent parcel.*

#### 2. Consistency with Applicable LCP Policies

To the southeast of the existing building, on the downcoast portion of the property, is the San Vicente Creek riparian area. Most of this area is designated on the land use plan as "Existing Parks and Recreation" and is zoned "Parks, Recreation and Open Space." No development has been proposed in this area. CDFG has concluded that the project will not impact this resource (see Exhibit H for CDFG's August 23, 1999 letter on the subject).

The Applicant's revised project proposal includes a open space and habitat dedication over this riparian area. Such a dedication is consistent with the LCP's riparian corridor dedication requirements (LCP Section 16.32.090(b)(2)). The Applicant is commended for proposing such protection of this riparian habitat area. Special conditions specifying the parameters for this riparian dedications are included solely to implement this part of the proposed project consistent with the Commission's protocol for such legal documents. See Special Condition 3. As so conditioned, the Commission finds that the project is consistent with the relevant local coastal program biological policies cited in this finding.

### G. Archaeological Resources

#### 1. Applicable LCP Policies

The LCP states:

*Objective 5.19 Archaeological Resources. To protect and preserve archaeological resources for*

## **Appeal A-3-SCO-98-101 Staff Report**

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 54

*Policy 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 are necessary to achieve General Plan and LCP Land Use Plan objectives and policies.*

In addition, County Code Chapter 16.40 has detailed provisions to protect "Native American Cultural Sites."

### **2. Consistency with Applicable LCP Policies**

Two separate archaeological reconnaissances conducted on the subject site (one by County Planning staff in June 1997 and a second by Archaeological Consulting, Inc. in July 1997) failed to identify evidence of archaeological resources. Consistent with LCP requirements, the County's approval included a condition to stop work and undertake the appropriate archaeological mitigation if any artifact or other evidence of archaeological resources are discovered during site preparation, excavation, or other ground disturbance (see County Condition V.I). As conditioned to retain the essence of this County archaeological condition (see Special Condition 8), the Commission finds that the project is consistent with the relevant local coastal program archaeological policies.

## **H. Cumulative & Growth-Inducing Impacts**

### **1. Applicable LCP Policies**

The LCP states:

*Policy 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.*

*Policy 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....*

*Policy 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*

## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 55

*The Master Plan shall be reviewed as part of the development permit approval for the priority site.*

LCP Figure 2-5 identifies the parcels immediately north of the subject site on the seaward side of the Highway as “Coastal Priority Sites – North Coast” (APNs 058-072-01,02,03). These adjacent parcels are subject to the following special development standards:

*LCP Figure 2-5. Depress and landscape the parking area to limit its visibility from Highway One and to maintain unobstructed coastal views. Allow landscaping only with ground cover and low growing vegetation which can not grow to a height that will obstruct coastal views. Eliminate all roadside parking along the property frontage, and provide interior pedestrian circulation to separate pedestrians from Highway One.*

These LCP priority sites are also subject to the following circulation and public access requirements:

*LCP Figure 2-5. Coordinate improvements with the parking on parcel 058-121-04...*

*Section 13.11.072(a)2(i) Site Design, 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...*

## **2. Consistency with Applicable LCP Policies**

Potential growth-inducing and cumulative impacts associated with the project, some of which may be realistic to expect, do not encompass new issues beyond those covered in the previous findings. Rather, these potential impacts serve to emphasize the previous conclusions with regard to visual impacts, small scale development in a special community, land use, public access, and public services. The primary potential cumulative and growth-inducing aspects of the project regard the adjacent undeveloped priority sites, and other development which is or may be proposed in and around Davenport.

### **A. Adjacent LCP Priority Sites**

The LCP reserves the parcels directly north (upcoast) of the Applicant’s site (i.e., directly upcoast of the informal parking area currently present on the northwest corner of the Applicant’s site) as priority sites (APNs 058-072-01,02,03). These adjacent parcels are protected for “coastal access, overlook, parking and supporting facilities and improvements.” The North Coast Beaches Unified Plan, which is contained in the County General Plan also discusses this property adjacent to the subject site. The Enhancement

## Appeal A-3-SCO-98-101 Staff Report

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing  
Page 56

development. The North Coast Beaches Unified Plan, which is contained in the County General Plan also discusses this property adjacent to the subject site. The Enhancement Plan for Davenport Bluffs shows a 23 to 26 space unpaved parking lot directly adjacent to the proposed upper terrace 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.

In the event that the priority sites develop as envisioned by the LCP with parking, the LCP dictates that said parking should be coordinated with existing parking on the Applicant's site (LCP Figure 2-5). The Applicant's Access Plan proposes such a general public connection (Access Plan, page 4). In any case, since the informal parking area spanning a small portion of the Applicant's site and a larger portion of this upcoast area would not be altered by this approval (since development in the upper portion of the lot has been removed from the project by condition to address visual and community character issues<sup>29</sup>), any future connection to the priority sites would not be affected by the approved project. Had the Applicant's proposed formal upper parking lot and parking lot entrance not been removed from the project by condition, however, LCP consistency would have required some more formal means to implement this connection as proposed by the Applicant (but not fully explained) and required by the LCP. A future coastal permit could revisit the issue of parking in the existing informal area and its potential connection to upcoast parking areas, but it is not now an issue given the conditions of this approval.

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. The Commission likewise recognizes that potential future development of the adjacent LCP priority sites and the informal parking area on the subject site could, in the future, lead to adverse, cumulative visual impacts. Thus, 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 General Plan for the North Coast Beaches' proposals together with other possible parking strategies, including the use of areas across the railroad tracks where automobiles might be better hidden. A future coastal permit could revisit the issue of parking for this particular site.

### **B. Public Services**

The County's approval, which allowed for building permits for the subject development to be issued before the water and sewer systems are upgraded to handle the resulting demands, would set an adverse precedent for future development proposals in the area. In fact, there are several projects on the inland side of Highway One which are within the planning process now, or may be proposed in the near future. Such a precedent would be growth-inducing and is inappropriate in light of LCP policies requiring a

## **Appeal A-3-SCO-98-101 Staff Report**

Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 57

### **C. Precedent**

The LCP requires that development not individually, or cumulatively when considered in the context of other existing and reasonably foreseeable future development, significantly adversely affect coastal resources (LUP Policy 2.1.4). Allowing the proposed project to increase its footprint and profile may lead to similar “reuse” proposals for agricultural (or other) structures currently located seaward of Highway One on Santa Cruz County’s north coast by virtue of the perception that such development was deemed appropriate by the County and the Commission. Although this growth inducing “impact” would be very difficult to distinguish with any certainty, such a precedent would be contrary to the LCP and Coastal Act protection afforded this very special stretch of California Central Coast extending between the Cities of Santa Cruz and Half Moon Bay to the south. The north Santa Cruz coast area represents the grandeur of a bygone (in many places) agrarian wilderness California and is a critical public viewshed for which the LCP and Coastal Act dictate maximum protection.

There is no doubt that decisions on individual projects in defined geographic resource areas affect future development proposals there. In this case, however, there is little question that by maintaining the building’s footprint and profile, and eliminating the formal parking lot development on the upper blufftop, the Commission has approved a project that will fit in with the character and viewshed aesthetic necessary for this seaward coastal site as required by the LCP and the Coastal Act. To the extent the Commission’s approval induces future projects that will again fit into this aesthetic based upon such future projects’ own unique circumstances, growth inducing and cumulative impacts do not raise an issue here.

In sum, and only as conditioned, the project will not adversely affect the special community of Davenport or the larger north coast area, individually, cumulatively, or in a growth-inducing manner as required by the LCP.

### **I. California Environmental Quality Act (CEQA)**

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

Santa Cruz County issued a Negative Declaration with 11 mitigation measures under CEQA for this project on February 24, 1998; a mitigation monitoring program was part of the County’s final project

## **Appeal A-3-SCO-98-101 Staff Report**

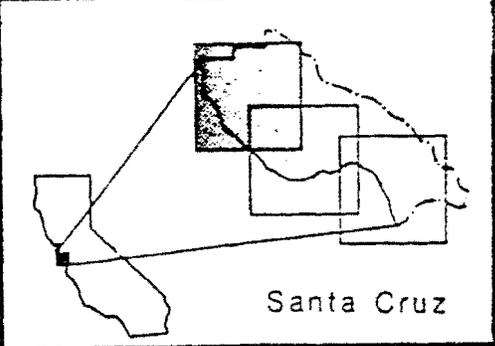
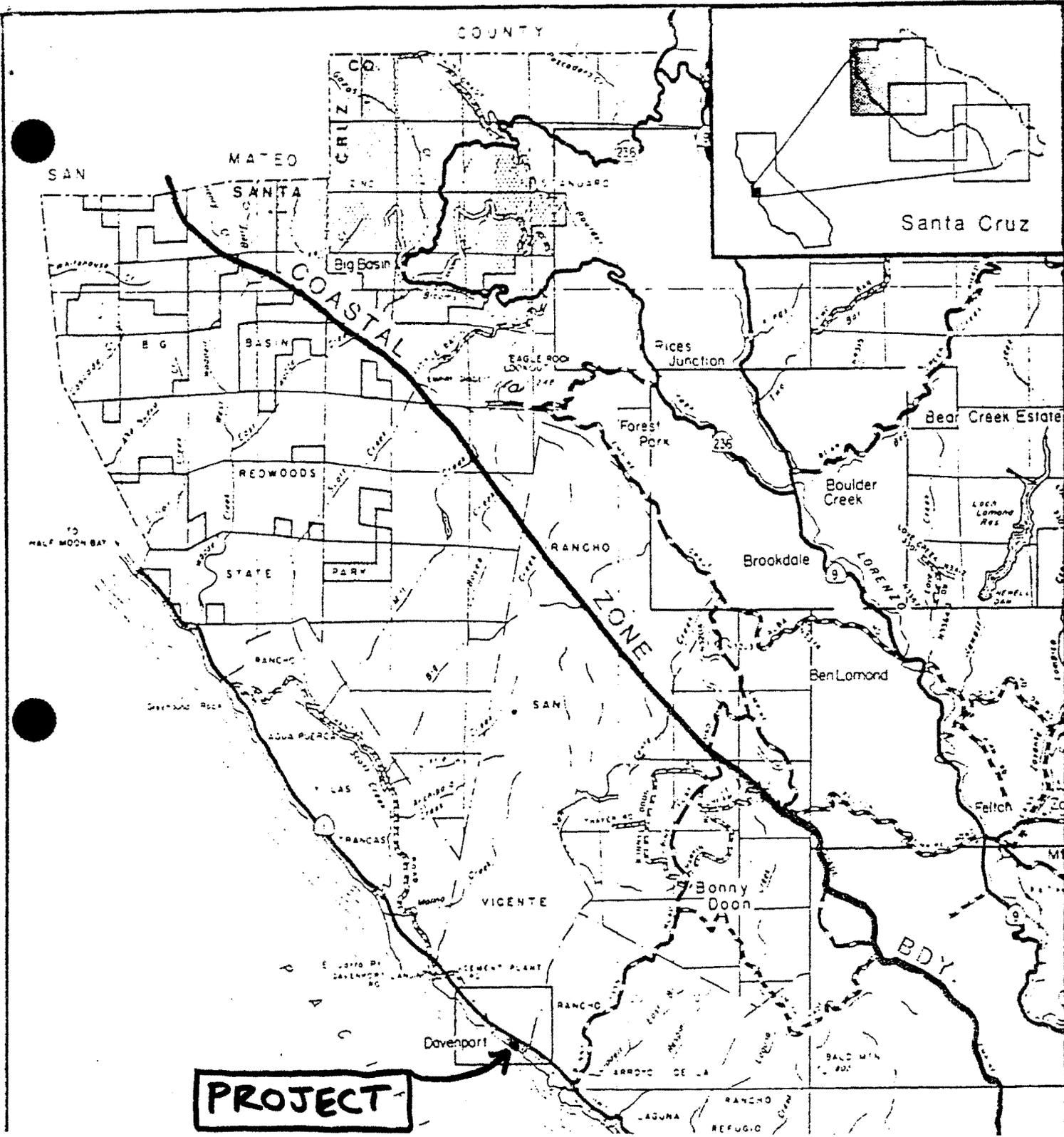
Bailey/Steltenpohl Mixed Use Davenport Project – Remand De Novo Hearing

Page 58

significant adverse effects to visual resources, community character, and public access; all of these effects could be exacerbated by their potential for cumulative impacts in the reasonably foreseeable future. In light of these significant adverse effects, many of which were not adequately identified nor mitigated by the County's CEQA document, the "no project" alternative would be the environmentally superior alternative within the meaning of CEQA. Such an alternative would avoid adverse visual, community character, and public access effects to the greatest degree feasible.

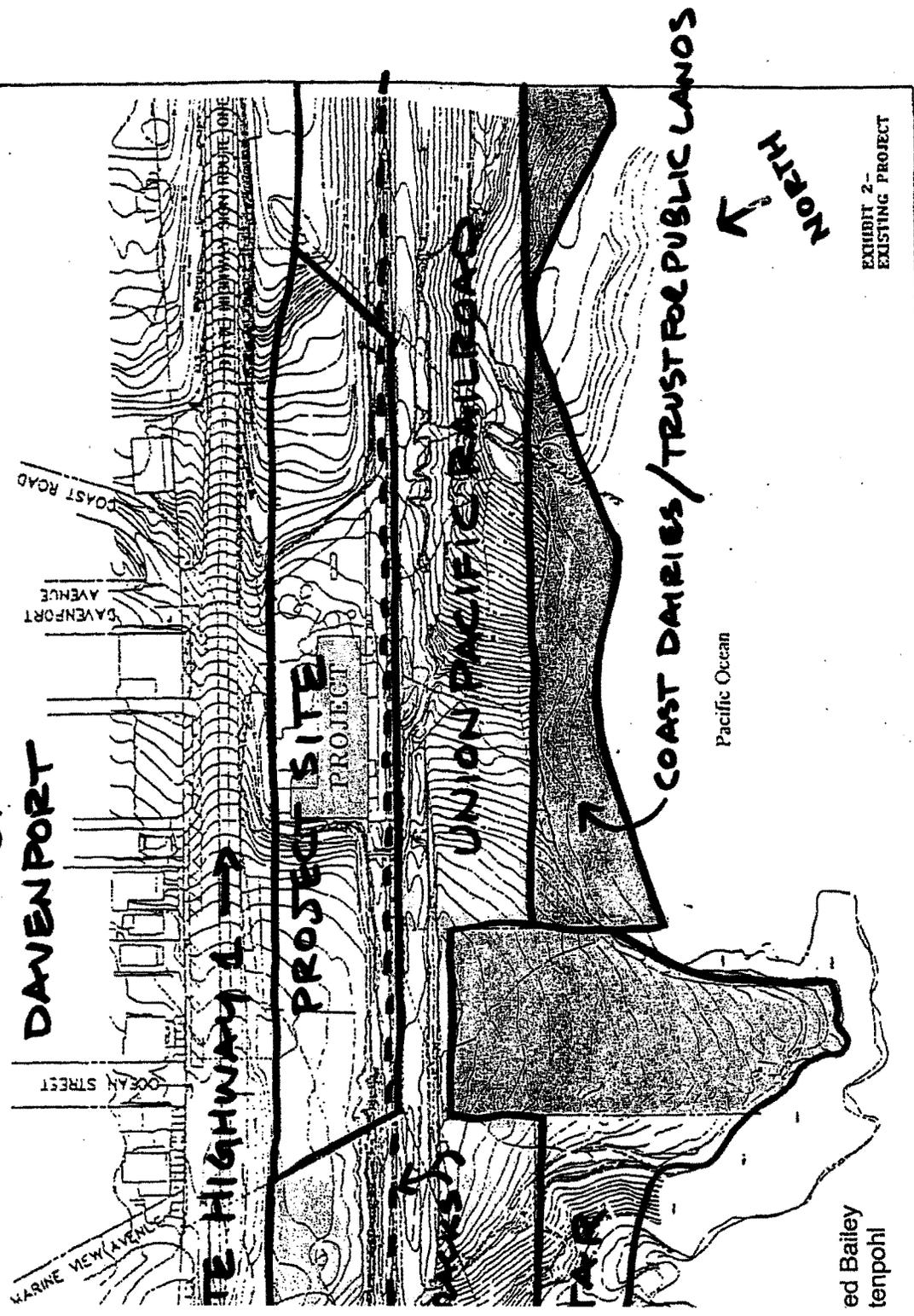
However, the "no project" alternative, does not meet project objectives of a mixed use development and does not provide adequate guidance for this critical Highway One site. As such, in this case, and only as conditioned herein, the second environmentally superior alternative within the meaning of CEQA is to allow for a reduced scale project that will: maintain the existing building's footprint and profile, eliminate the formal parking lot development on the upper blufftop, and formally recognize public access and habitat resources on the site.

Accordingly, the project is being approved subject to conditions which implement the mitigating actions required of the Applicant by the Commission (see Special Conditions). As such, the Commission finds that only as so modified by this conditioned approval does the approved project incorporate all of feasible design alternatives and feasible mitigation measures available in this case to substantially lessen its significant adverse effects on the environment. Therefore, the project, as conditioned, is approvable under CEQA.



**PROJECT**

**TOWN OF  
DAVENPORT**



ed Bailey  
tempohl

Revised 2-25-98

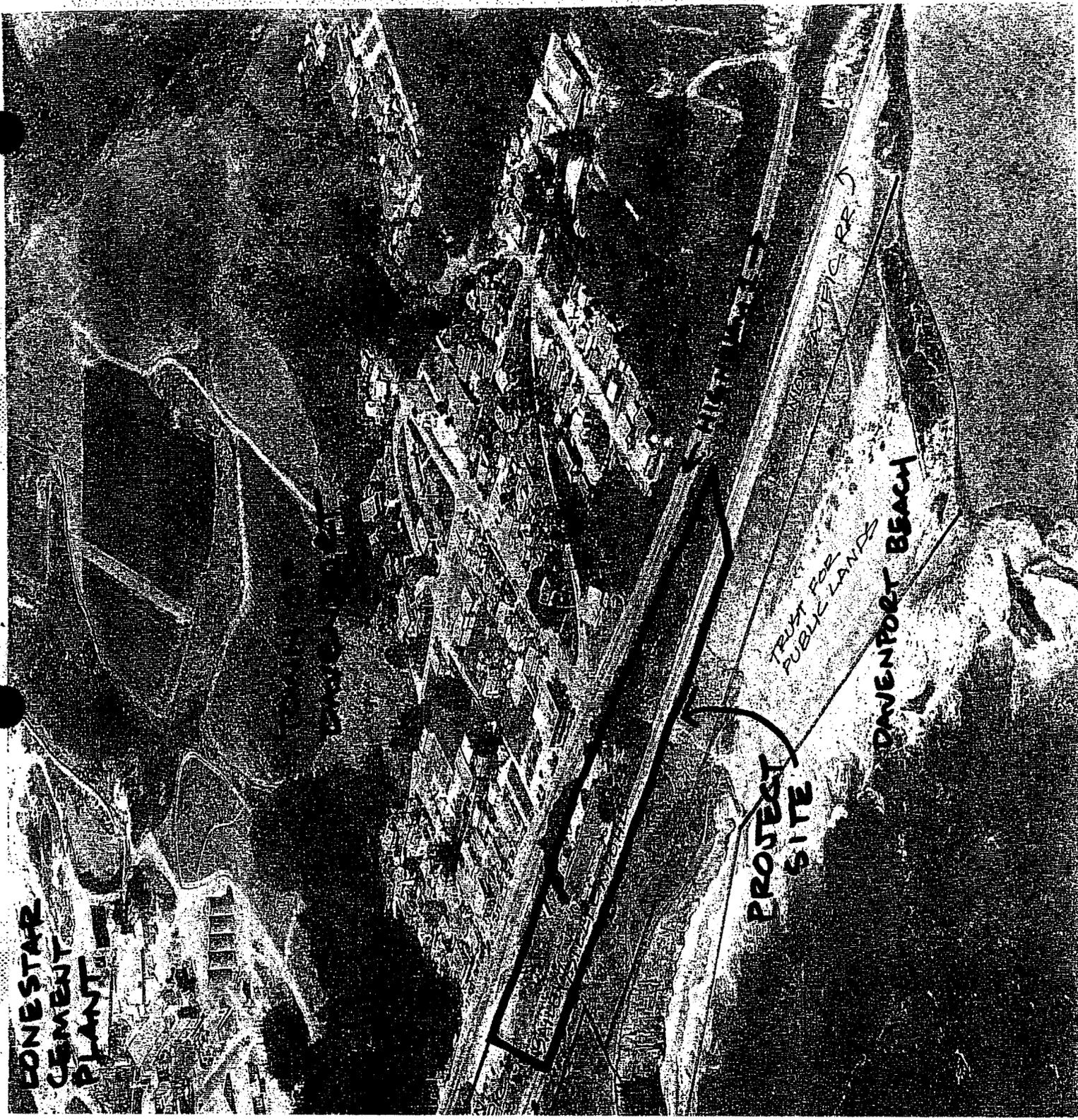
**APPROXIMATE PROPERTY BOUNDARIES**

CONESTAR  
CEMENT  
PLANT

PROTECT  
SITE

TRUST FOR  
PUBLIC LANDS

DAVENPORT BEACH

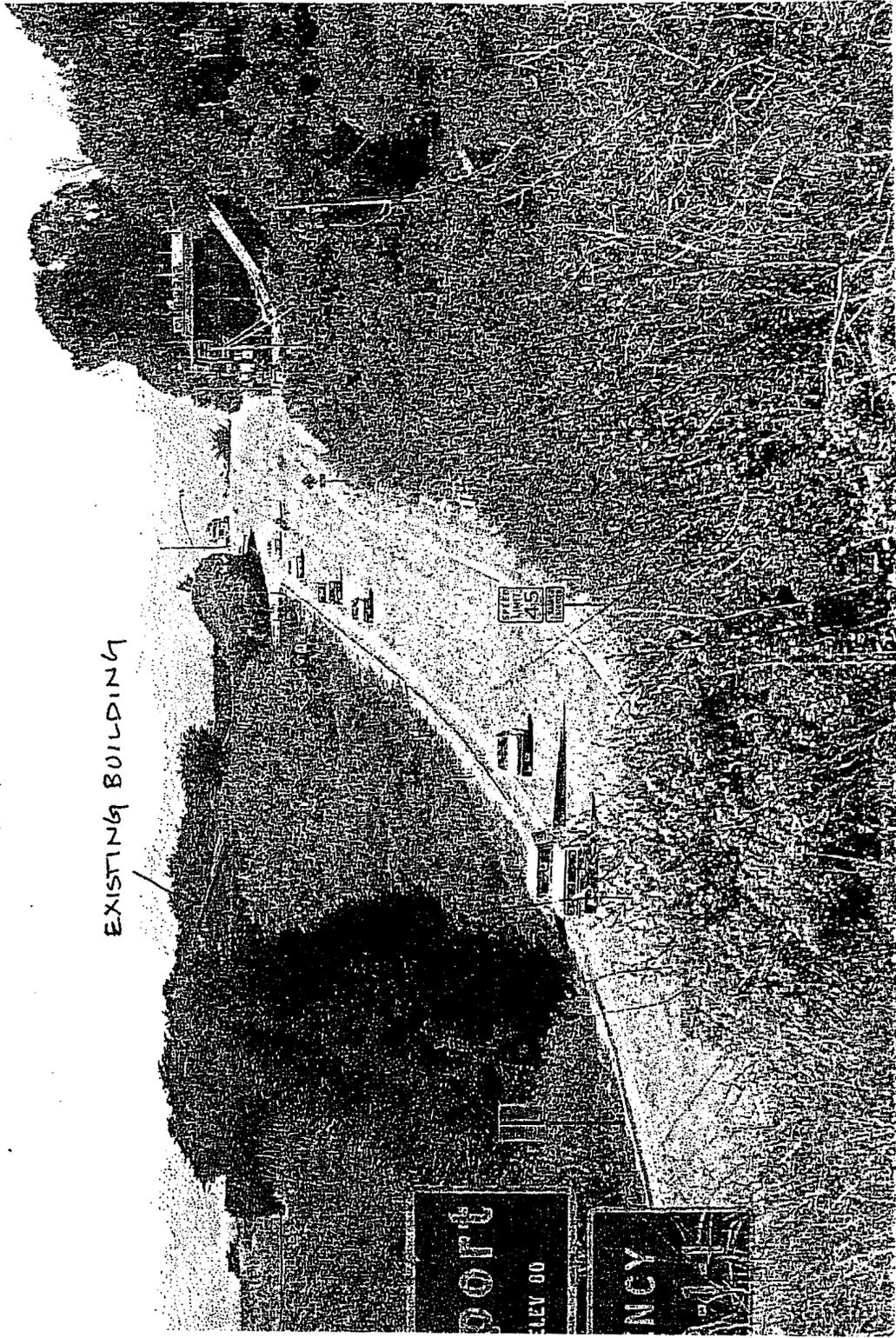






1993 AIR PHOTO

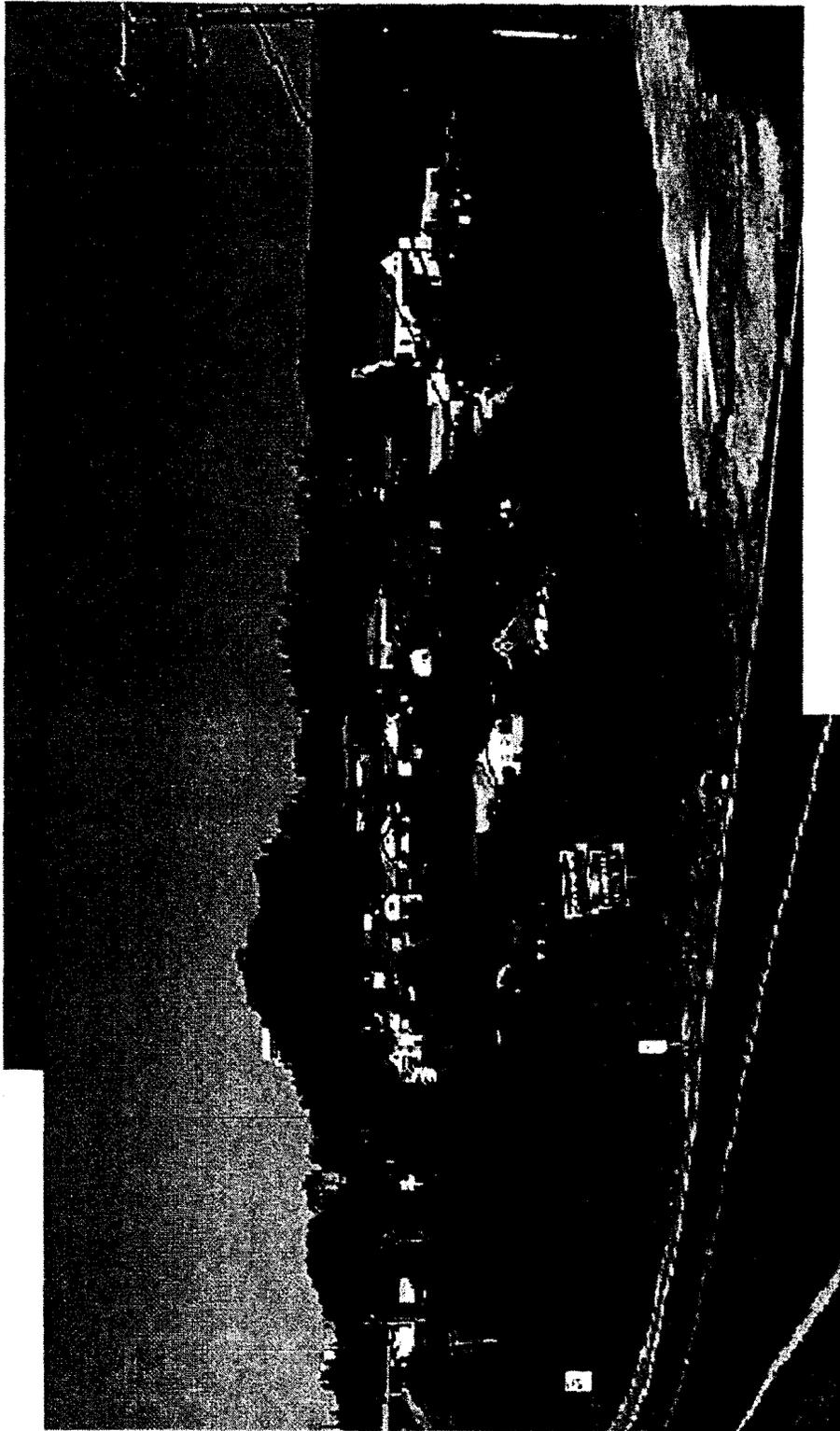




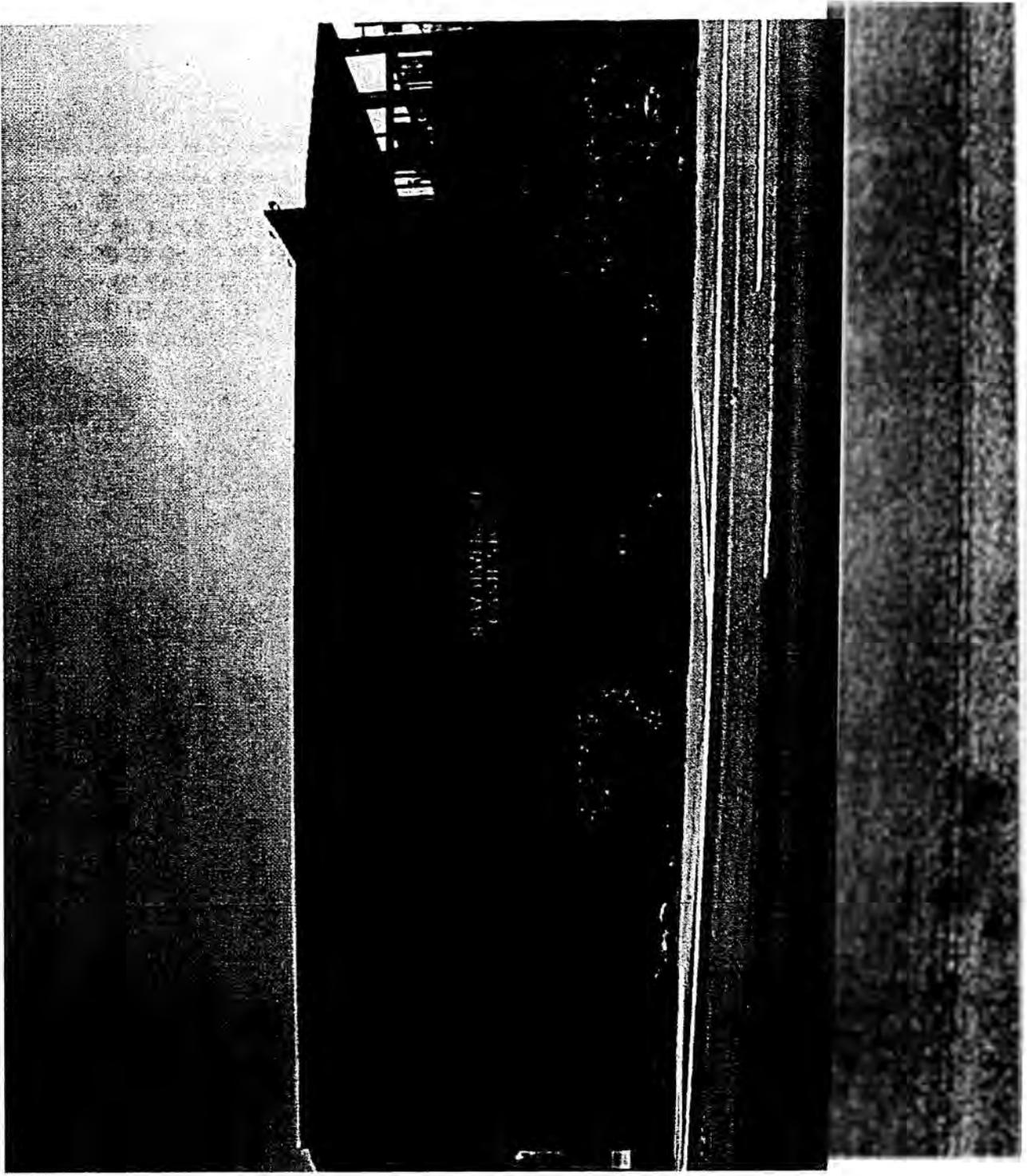
EXISTING BUILDING

BEFORE

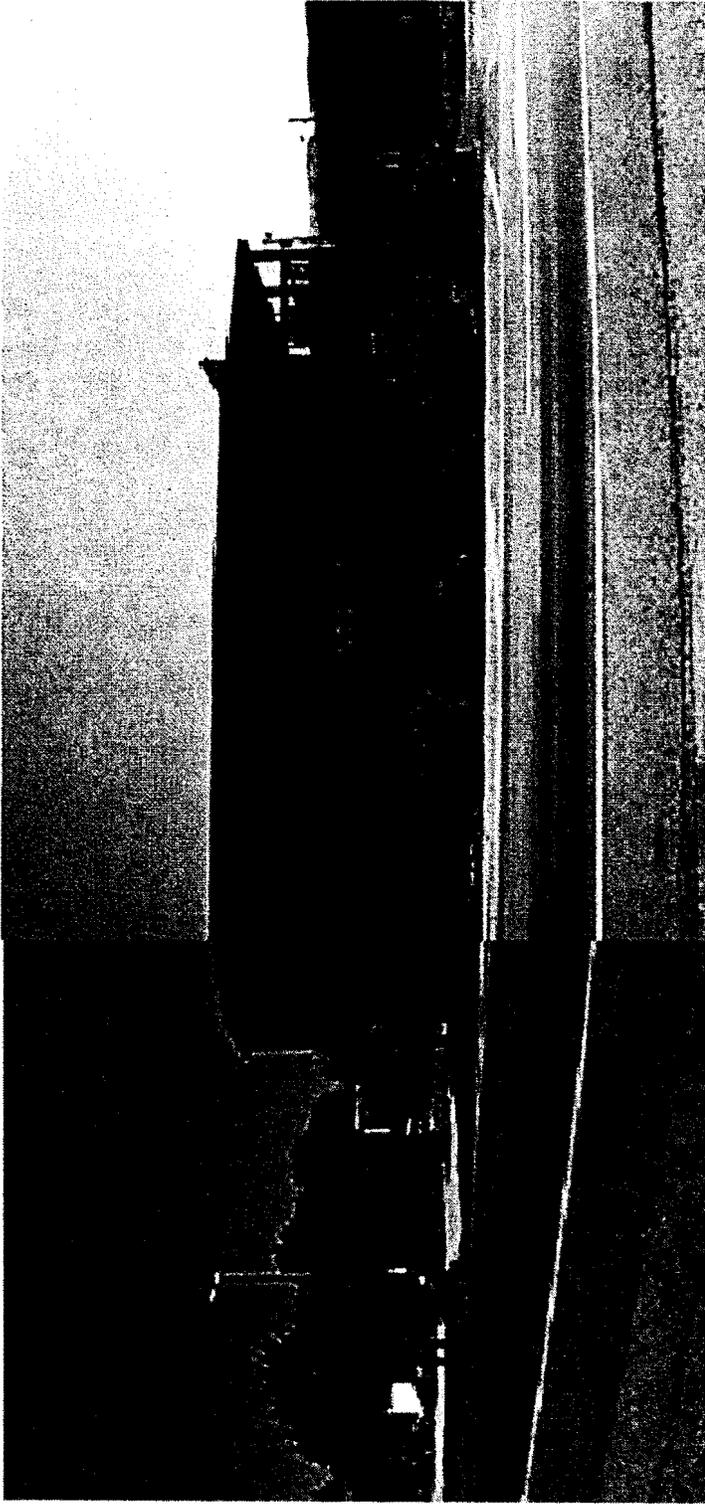
ENTERING DAVENPORT NORTHBOUND HIGHWAY 1



NORTHBOUND HIGHWAY ONE  
ENTERING DAVENTPORT



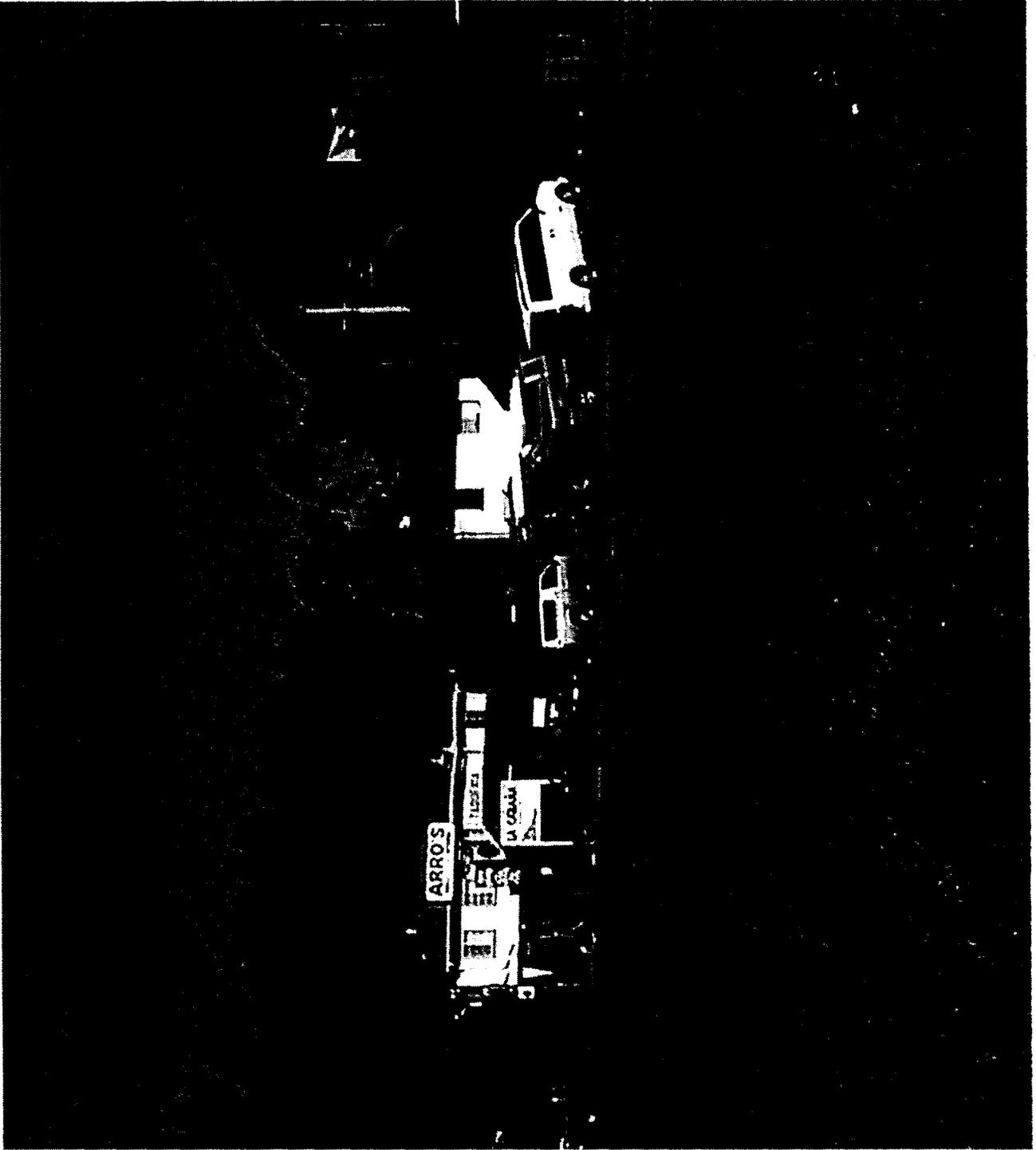
CASH STORE INLAND OF MAIN BUILDING  
ON HIGHWAY ONE



VIEW OF INLAND HIGHWAY ONE  
FRONTAGE FROM HIGHWAY R.O.W.  
IN FRONT OF MAIN BUILDING

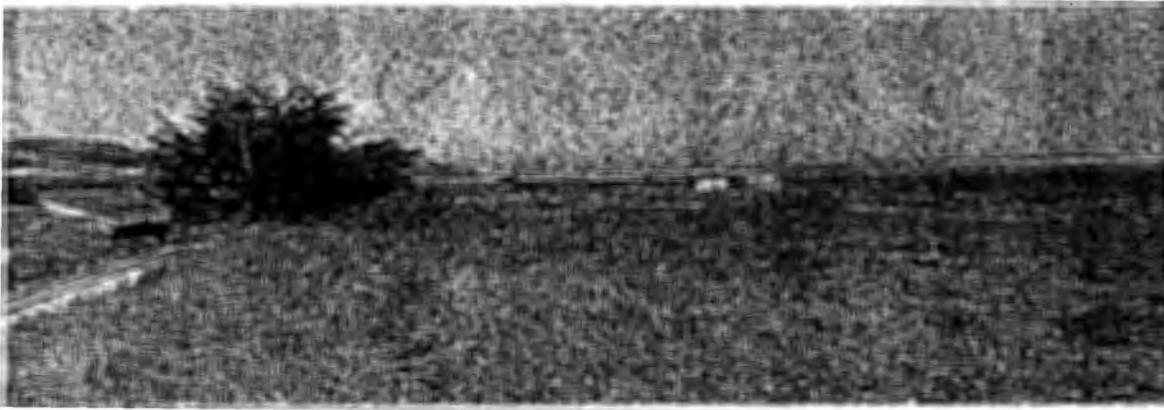
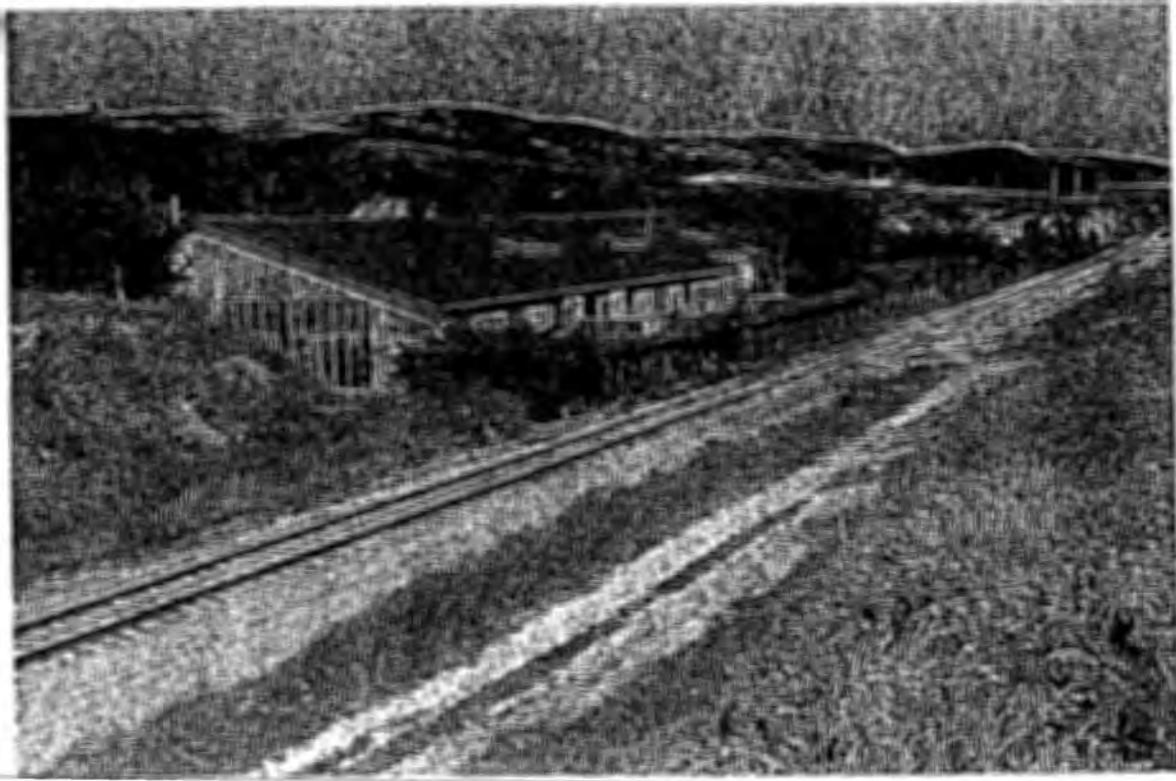


VIEW OF INLAND HIGHWAY ONE  
FROM UPPER BLUFFTOP

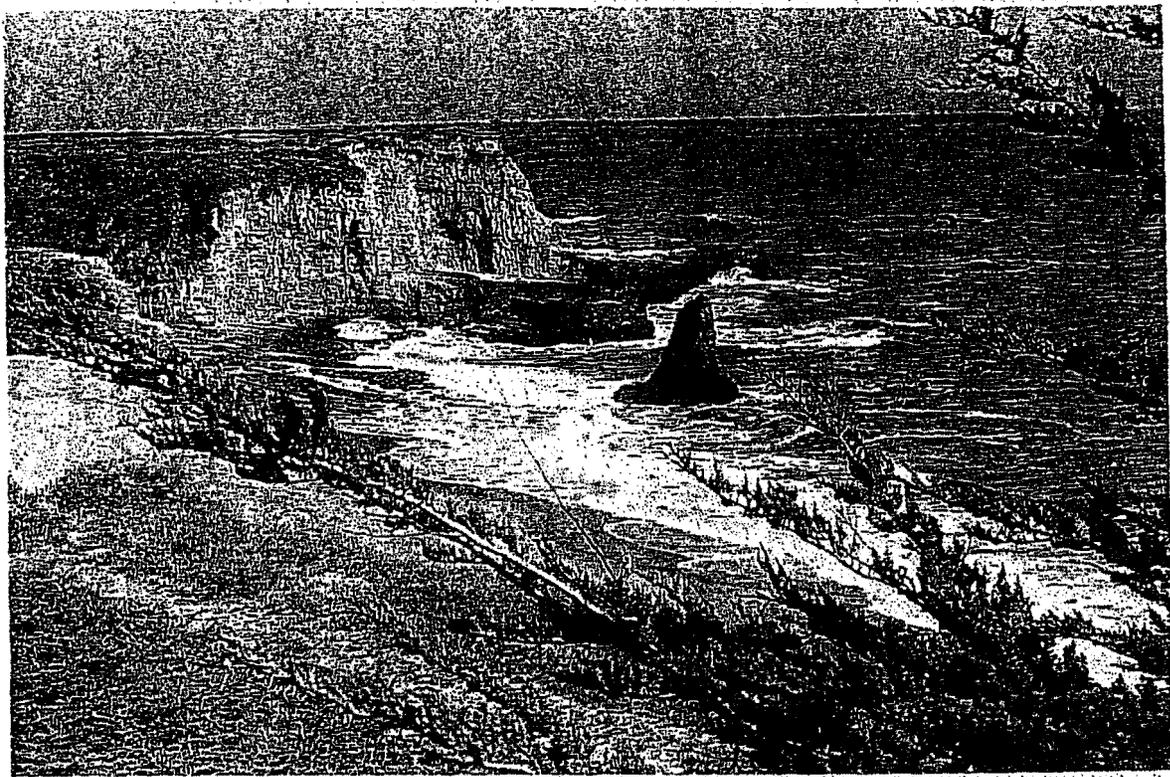


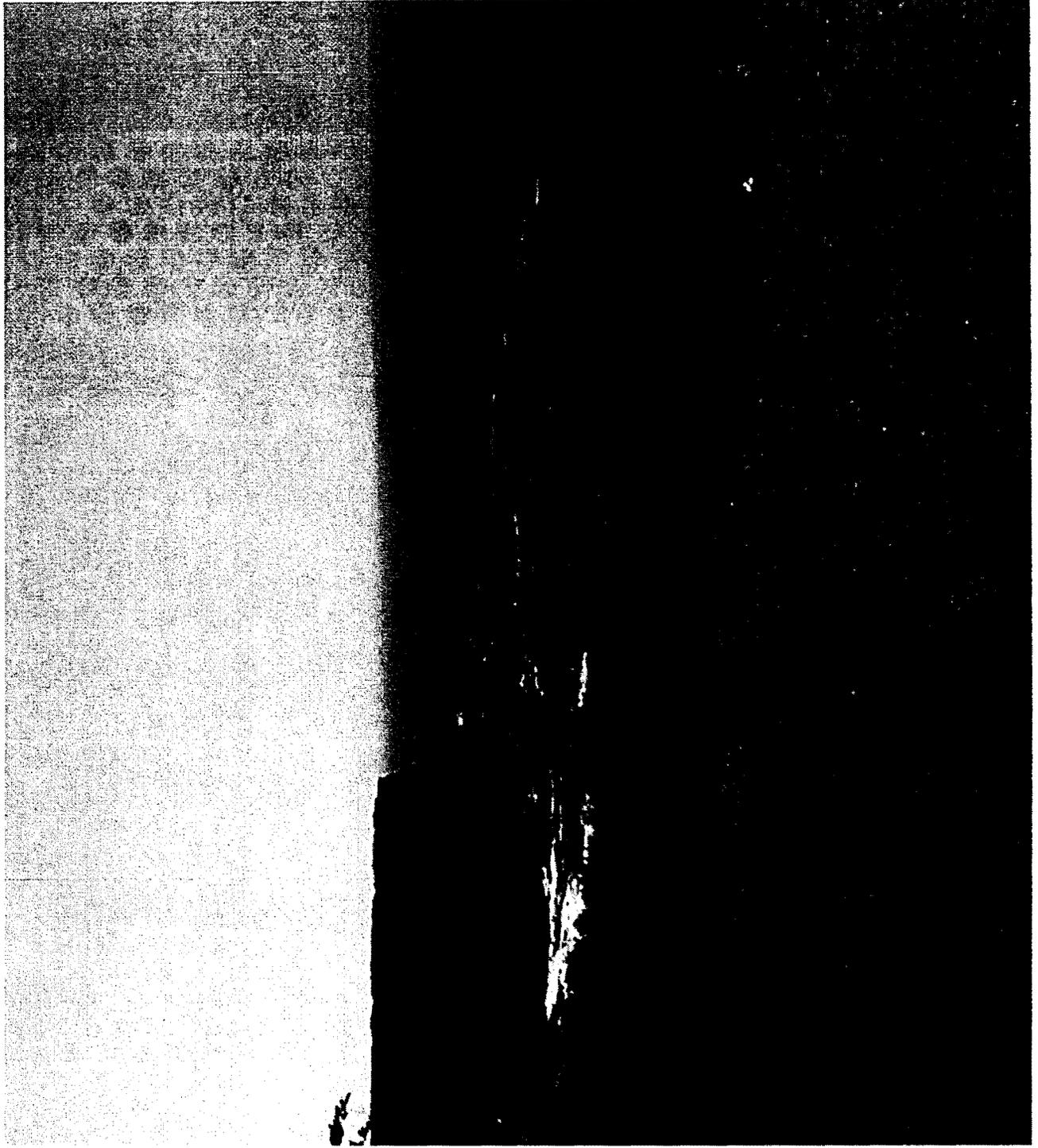
VIEW (NORTH) OF INLAND HIGHWAY ONE  
FROM UPPER CUFFTOP

VIEWS OF BUILDING FROM BLUFF  
(ON WESTERLY SIDE OF RAIL TRACKS)

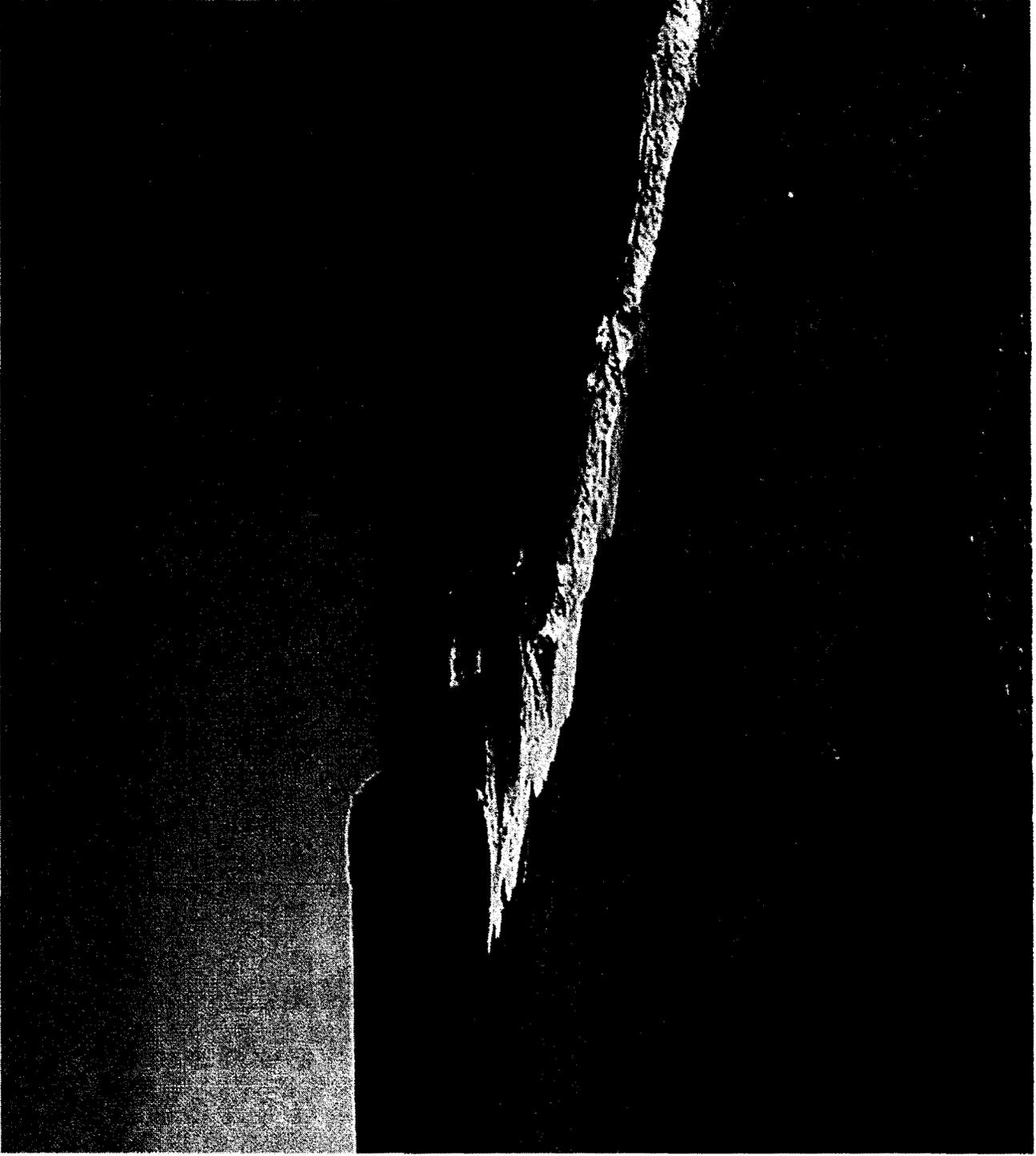


VIEW FROM SECOND STORY ELEVATION OF PROJECT  
(SOUTH TO DAVENPORT BEACH, NORTHERLY TO BLUFF)

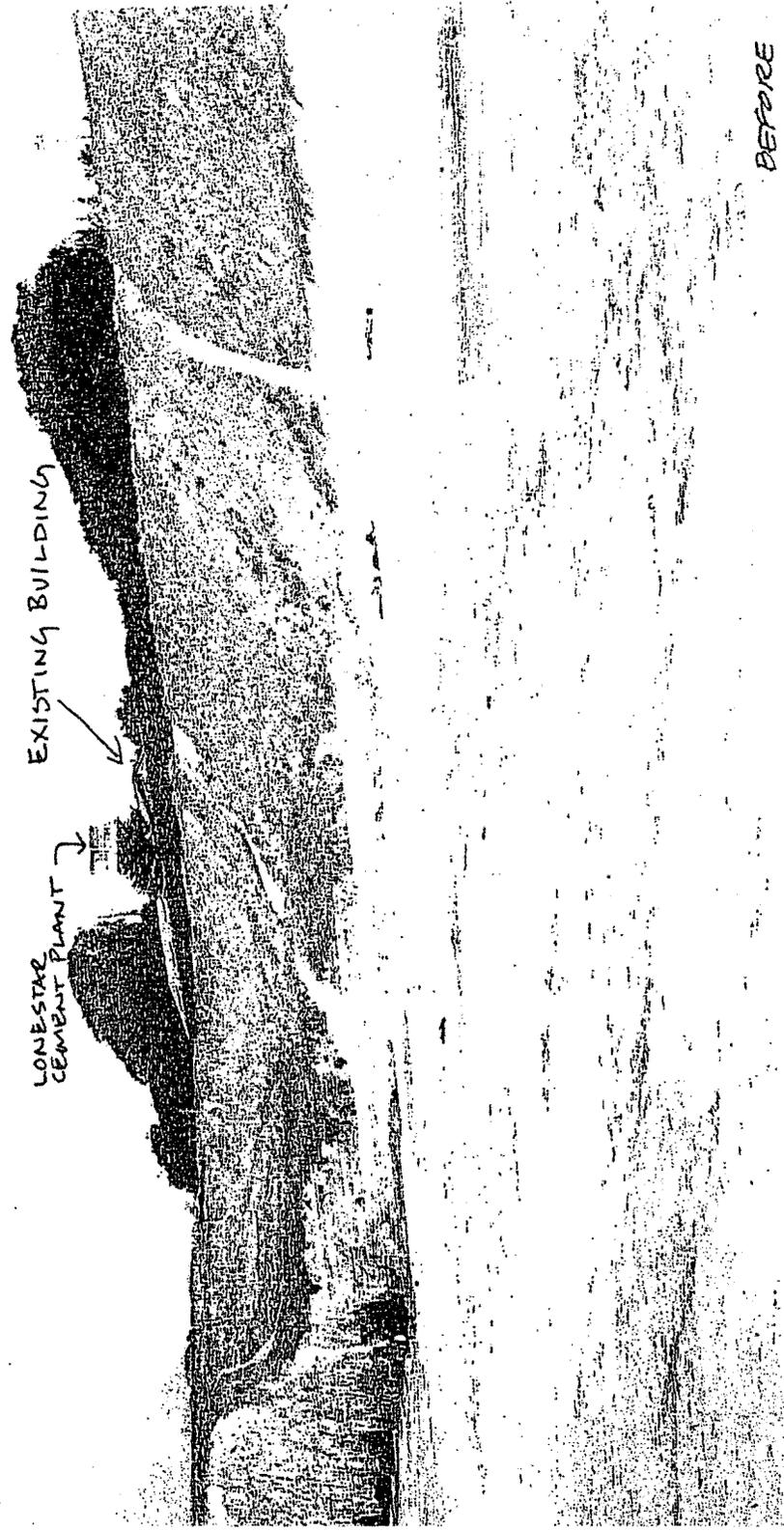




EXISTING VIEW FROM UPPER BLUFF



DAVENPORT BEACH AS VIEWED FROM  
RAILROAD TO ROCK TRAIL

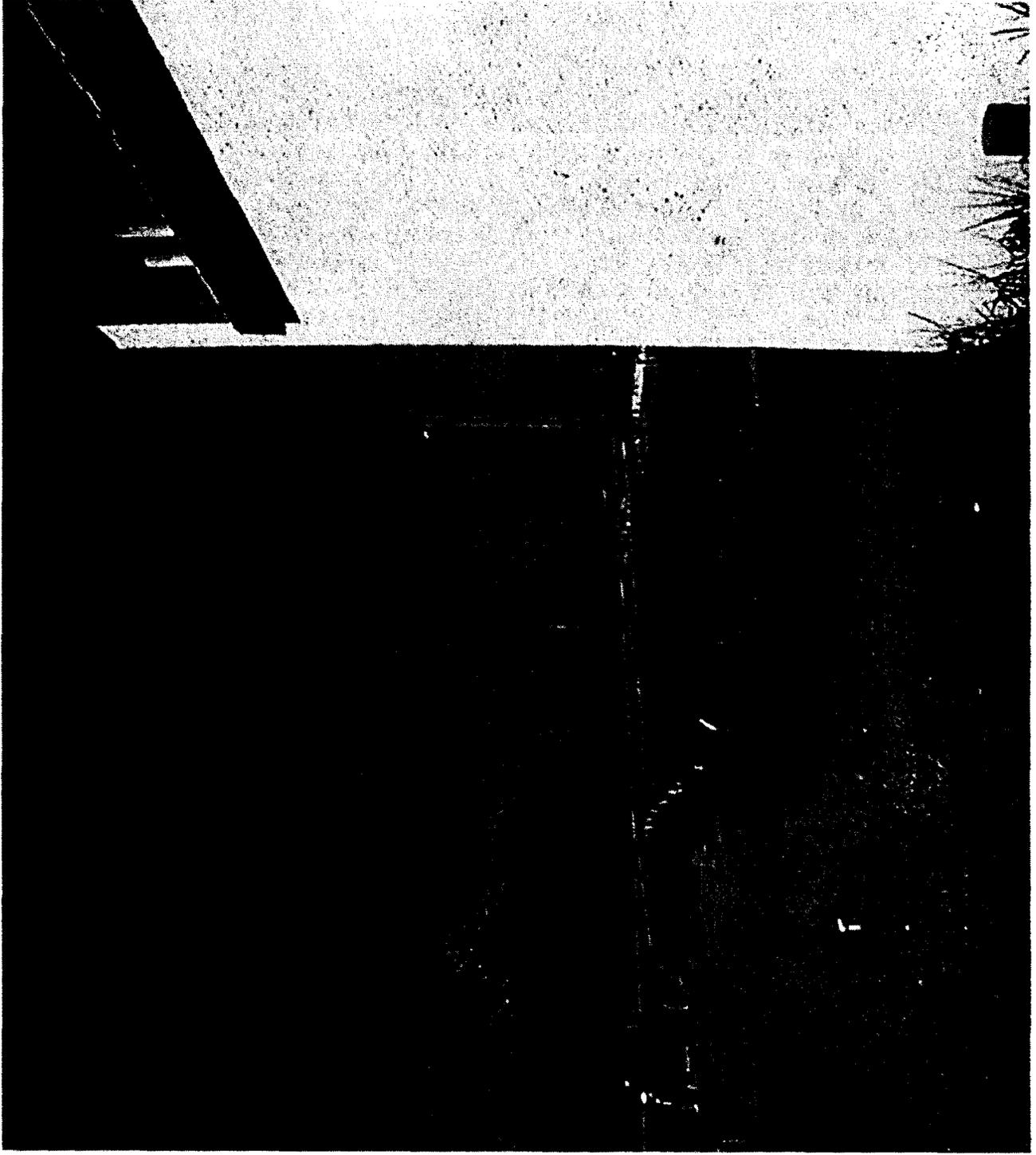


EXISTING BUILDING

LONESTAR  
CEMENT PLANT

VIEW FROM DAVENPORT BEACH

BEFORE



VIEW OF SITE FROM INLAND

## 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

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

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

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

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

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 the surrounding landscape area. Both signs must be set

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

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.

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).

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

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

- 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.

All construction shall be performed in accordance with the approved

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

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

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

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

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

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. The term "Development Approval Holder" shall include the

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

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)

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

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

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

---

*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

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

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

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

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

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

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

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

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 seeking commercial uses will continue to be provided on

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

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.

C-25

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

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.

C-26

**FILED**

AUG - 3 2000

CHRISTINE PATTON, CLERK  
BY **KENNILOPES**  
DEPUTY, SANTA CRUZ COUNTY

THOMAS H. JAMISON - BAR NO. 69710  
FENTON & KELLER  
A Professional Corporation  
2801 Monterey-Salinas Highway  
P.O. Box 791  
Monterey, CA 93940  
Telephone: (831) 373-1241  
Facsimile: (831) 373-7219

Attorney for Petitioners: GREG STELTENPOHL,  
FRED BAILEY and BREN BAILEY

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CRUZ

GREG STELTENPOHL, FRED BAILEY,  
and BREN BAILEY,  
  
Petitioners,

CASE NO. CV 136954

SETTLEMENT AGREEMENT AND ORDER  
THEREON

v.

CALIFORNIA COASTAL  
COMMISSION and DOES 1-10,  
  
Respondents.

RECITALS

1. Subject to the approval of the Court, the Parties to the above-captioned matter have agreed to a full, final and complete settlement of this litigation on the terms and conditions set forth herein.

2. This litigation arises out of Petitioners' proposal to improve certain real property (the "Project") and Respondent's denial of a coastal development permit for the Project (Appeal No. A-3-SCO-98-101). The purpose of this Agreement is to resolve this litigation by remanding the matter to the Respondent so that it may consider a modified project that proposes to (1) reduce the intensity of uses at the Project; (2) reduce and modify the location of parking on the upper bluff at the Project; (3) lower the grade level and building height of the Project; and (4)

H:\Documents\lrg.0betsts.

V & R  
ATTORNEYS AT LAW  
MONTEREY

1 allow the balance of the Project to proceed forward. This modified project is generally described  
2 in Exhibit "A" hereto and is incorporated herein.

3 3. The Respondent has agreed to the Court's issuing a Peremptory Writ of Mandate  
4 ordering Respondent to set aside its decisions and actions of September 15, 1999, and December  
5 9, 1999, on Appeal No. A-3-SCO-98-101, and to conduct further proceedings on Appeal No. A-  
6 3-SCO-98-101 to consider the modified project as generally described in Exhibit "A." This  
7 Agreement shall not, in any way, limit the Respondent's exercise of its discretion when  
8 considering the modified project. The Respondent shall retain its full discretion to approve,  
9 approve with conditions, or deny the modified project. In consideration of Respondent's  
10 agreement, Petitioners have agreed to dismiss this litigation with prejudice.

11 4. This Agreement is entered into by the Parties, and each of them, without any  
12 admission of fault or liability of any kind, but instead to avoid the costs and risks of litigation  
13 and to resolve the matter in a manner that is mutually satisfactory to them. In this regard, the  
14 parties have made certain agreements between them and with respect to remand of this matter to  
15 the Respondent by the Court. The details are specified below.

#### 16 SETTLEMENT TERMS

17 5. The Parties agree that a Peremptory Writ of Mandate shall issue under seal of this  
18 Court remanding Appeal No. A-3-SCO-98-101 to Respondent, and directing Respondent to set  
19 aside its decisions and actions of September 15, 1999, and December 9, 1999, on Appeal No. A-  
20 3-SCO-98-101, and to conduct further proceedings to consider the modified project proposed by  
21 Petitioners as generally described in Exhibit "A."

22 6. The Respondent shall file and serve on Petitioners a Return to the Peremptory  
23 Writ of Mandate within ten (10) days of receiving the Peremptory Writ of Mandate. The Return  
24 shall state that Respondent has set aside its decisions and actions of September 15, 1999, and  
25 December 9, 1999, on Appeal No. A-3-SCO-98-101 and will conduct further proceedings to  
26 consider the modified project.

27 7. Within ten (10) days of Respondent's service of the Return to the Peremptory  
28 Writ of Mandate, Petitioners shall file a Request for Dismissal of this litigation, with prejudice,

1 as to the Petition and Complaint filed in this case (Case No. CV 136954). Petitioners shall retain  
2 the right to seek judicial review of or to challenge by judicial action other decisions of  
3 Respondent, specifically including the decisions of Respondent in connection with the modified  
4 project or any related matter following remand, and dismissal of this case shall be without  
5 prejudice to such rights of Petitioners.

6 8. Upon service of the Peremptory Writ of Mandate, Respondent and its staff shall  
7 process the modified project proposal for consideration by Respondent. However, this  
8 Agreement shall not, in any way, limit the Respondent's exercise of its legally vested discretion  
9 when considering the modified project. Petitioners and their representatives shall supply the  
10 Respondent and its staff with any materials or information that may be needed by the  
11 Respondent to process its consideration of the modified project.

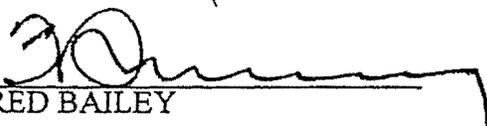
12 9. The parties shall bear their own costs and attorneys' fees incurred in connection  
13 with this Case No. CV 136954.

14 10. This Agreement may be executed in counterparts, and when each party has signed  
15 and delivered at least one such counterpart, each counterpart shall be deemed an original and  
16 when taken together with the other counterparts, shall constitute one Stipulation.

17 Dated: 7/24/00, 2000

  
\_\_\_\_\_  
GREG STELTENPOHL

19 Dated: 7/24, 2000

  
\_\_\_\_\_  
FRED BAILEY

21 Dated: July 24, 2000

  
\_\_\_\_\_  
BREN BAILEY

CALIFORNIA COASTAL COMMISSION  
An Agency of the State of California

25 Dated: \_\_\_\_\_, 2000

26 By: \_\_\_\_\_  
27 PETER DOUGLAS  
28 Executive Director  
California Coastal Commission

1 as to the Petition and Complaint filed in this case (Case No. CV 136954). Petitioners shall retain  
 2 the right to seek judicial review of or to challenge by judicial action other decisions of  
 3 Respondent, specifically including the decisions of Respondent in connection with the modified  
 4 project or any related matter following remand, and dismissal of this case shall be without  
 5 prejudice to such rights of Petitioners.

6 8. Upon service of the Peremptory Writ of Mandate, Respondent and its staff shall  
 7 process the modified project proposal for consideration by Respondent. However, this  
 8 Agreement shall not, in any way, limit the Respondent's exercise of its legally vested discretion  
 9 when considering the modified project. Petitioners and their representatives shall supply the  
 10 Respondent and its staff with any materials or information that may be needed by the  
 11 Respondent to process its consideration of the modified project.

12 9. The parties shall bear their own costs and attorneys' fees incurred in connection  
 13 with this Case No. CV 136954.

14 10. This Agreement may be executed in counterparts, and when each party has signed  
 15 and delivered at least one such counterpart, each counterpart shall be deemed an original and  
 16 when taken together with the other counterparts, shall constitute one Stipulation.

17 Dated: \_\_\_\_\_, 2000

18 GREG STELTENPOHL

19 Dated: \_\_\_\_\_, 2000

20 FRED BAILEY

21 Dated: \_\_\_\_\_, 2000

22 BREN BAILEY

23 CALIFORNIA COASTAL COMMISSION  
 24 An Agency of the State of California

25 Dated: July 26, 2000

26 By: *Peter Douglas*  
 27 PETER DOUGLAS  
 28 Executive Director *Chief Deputy*  
 California Coastal Commission

FENTON & KELLER  
A Professional Corporation

1  
2  
3 Dated: July 21, 2000  
4

By: Thomas H. Jamison  
THOMAS H. JAMISON  
Attorneys for Petitioners  
GREG STELTENPOHL, FRED BAILEY  
and BREN BAILEY

7 BILL LOCKYER, Attorney General  
Of the State of California  
8 RICHARD M. FRANK  
Chief Assistant Attorney General  
9 J. MATTHEW RODRIQUEZ  
Senior Assistant Attorney General

10  
11 Dated: \_\_\_\_\_, 2000

By: \_\_\_\_\_  
LISA TRANKLEY  
Deputy Attorney General  
Attorneys for Respondent,  
California Coastal Commission

12  
13  
14  
15 ORDER

16 GOOD CAUSE APPEARING, and in light of the terms of settlement of all parties set  
17 forth above,

18 IT IS HEREBY ORDERED THAT:

- 19 1. The terms and conditions of the Settlement Agreement as set forth above are approved  
20 and deemed an Order of the Court.

21  
22 Dated: 8-1-00

ROBERT B. YONTS  
JUDGE OF THE SUPERIOR COURT

23  
24  
25  
26  
27  
28 Steltenpohl v. California Coastal Commission, Case No. CV 136954

D-5

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

FENTON & KELLER  
A Professional Corporation

Dated: July 21, 2000

By: Thomas H. Jamison  
THOMAS H. JAMISON  
Attorneys for Petitioners  
GREG STELTENFOHL, FRED BAILEY  
and BREN BAILEY

BILL LOCKYER, Attorney General  
Of the State of California  
RICHARD M. FRANK  
Chief Assistant Attorney General  
J. MATTHEW RODRIQUEZ  
Senior Assistant Attorney General

Dated: July 25, 2000

By: Lisa Trankley  
LISA TRANKLEY  
Deputy Attorney General  
Attorneys for Respondent,  
California Coastal Commission

ORDER

GOOD CAUSE APPEARING, and in light of the terms of settlement of all parties set forth above,

IT IS HEREBY ORDERED THAT:

1. The terms and conditions of the Settlement Agreement as set forth above are approved and deemed an Order of the Court.

Dated: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

Steltenpohl v. California Coastal Commission, Case No. CV 136954

EXHIBIT A

D-7

## EXHIBIT "A"

### THE MODIFIED PROJECT

The modified project consists of the Project, as recommended for Approval with Conditions by the Coastal Commission Staff in the Appeal Staff Report De Novo Hearing for A-3-SCO-98-101, dated August 31, 1999, for the Commission hearing date of September 15, 1999, with Addendum to Staff Report dated September 15, 1999, with the following modifications:

- Elimination of 5 overnight lodging accommodations
- Elimination of boat dwelling unit (residence space to be moved inside building)
- Reduction of retail space by approximately 39% (from approximately 1090 sq. ft. to approximately 660 sq. ft.)
- Reduction of office space by approximately 43% (from approximately 965 sq. ft. to approximately 350 sq. ft.)
- Reduction of greenhouse building by approximately 20% to accommodate relocation of 2 parking spaces from upper lot to lower lot
- Reduction of parking required on upper bluff from 36 to 20. Five dedicated public spaces could be provided if desired for a total of 25
- Redesign of upper parking area with substantially less developed square footage and reduced overall length
- Clustering of parking closer to building to provide additional open space of approximately 36% totaling approximately 20,210 sq. ft.
- Additional open space area to be dedicated and landscaped in manner consistent with prior plan
- Reduce depth of cut on upper parking from 60" back to approximately 24" to minimize topographic alteration and avoid retention
- Lower foundation grade level by approximately two feet on building site to effectively lower building height and visual profile by two feet.
- All easements and public access amenities proposed in last report to remain, including:
  - coastal viewing benches
  - upper bluff northern and southern vertical (beach access) trails
  - lower elevation vertical access beach path
  - stairway to railroad elevation
  - lateral access connector trail on the upper bluff

FILED  
AUG - 3 2000

CHRISTINE PATTON, CLERK  
BY ~~ENRIQUE~~ LOPES  
DEPUTY, SANTA CRUZ COUNTY

1 THOMAS H. JAMISON - BAR NO. 69710  
2 FENTON & KELLER  
3 A Professional Corporation  
4 2801 Monterey-Salinas Highway  
5 P.O. Box 791  
6 Monterey, CA 93940  
7 Telephone: (831) 373-1241  
8 Facsimile: (831) 373-7219

9 Attorney for Petitioners: GREG STELTENPOHL,  
10 FRED BAILEY and BREN BAILEY

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF SANTA CRUZ

13 GREG STELTENPOHL, FRED BAILEY,  
14 and BREN BAILEY,  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
Petitioners,

CASE NO. CV 136954  
PEREMPTORY WRIT OF MANDATE

v.

CALIFORNIA COASTAL  
COMMISSION and DOES 1-10,  
Respondents.

TO: THE CALIFORNIA COASTAL COMMISSION.

Pursuant to the Settlement Agreement and Order Thereon for this matter,

IT IS ORDERED that:

1. Appeal No. A-3-SCO-98-101 is remanded to the California Coastal Commission ("Commission") and the Commission is directed to set aside its decisions and actions of September 15, 1999, and December 9, 1999, and to conduct further proceedings to consider the modified project proposed by Petitioners pursuant to the separate Settlement Agreement and Order Thereon for this action.

2. Upon service of this Writ, Respondent California Coastal Commission and its departments, subdivisions, officers, employees and agents (collectively "Respondent"), shall

1 process the modified project, which shall then be considered by the Coastal Commission.

2 3. This Writ shall not limit staff's ability to require information necessary to process  
3 the proposal, nor shall it in any way limit the Coastal Commission's exercise of its lawful  
4 discretion when considering the modified project. The Coastal Commission shall retain its full  
5 discretion to approve, approve with conditions, or deny the modified project.

6 4. Respondent shall file a Return to this Writ of Mandate within ten (10) days of  
7 receiving this Peremptory Writ. The Return shall specify the actions taken to comply with the  
8 terms of this Writ of Mandate.

9 LET THE FOREGOING WRIT ISSUE.

10 Dated: AUG 03 2000

ROBERT B YONTS JR  
JUDGE OF THE SUPERIOR COURT

11  
12 Attest my hand and the seal of this court this 3rd day of August, 2000.

CHRISTINE PATTON  
Clerk

KENNI LOPES  
Deputy Clerk

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

RECEIVED

AUG 21 2000

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

1 BILL LOCKYER  
Attorney General  
2 RICHARD M. FRANK  
Chief Assistant Attorney General  
3 J. MATTHEW RODRIQUEZ  
Senior Assistant Attorney General  
4 LISA TRANKLEY, State Bar No. 83108  
Deputy Attorney General  
5 1300 I Street  
Post Office Box 944255  
6 Sacramento, CA 94244-2550  
Telephone: (916) 327-7877  
7 Fax: (916) 327-2319

8 Attorneys for Respondent  
9 California Coastal Commission

10  
11 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 FOR THE COUNTY OF SANTA CRUZ  
13

14 GREG STELTENPOHL, FRED BAILEY, and  
15 BREN BAILEY,  
16  
17 Petitioners,  
18 v.  
19 CALIFORNIA COASTAL COMMISSION  
and DOES 1- 10,  
20 Respondents.

Case No.: CV 136954

RETURN BY RESPONDENT  
CALIFORNIA COASTAL  
COMMISSION TO  
PEREMPTORY WRIT OF  
MANDATE

21 Respondent California Coastal Commission ("Commission") makes this  
22 return to the peremptory writ of mandate issued by this Court on August 3, 2000 pursuant  
23 to the settlement agreement and order thereon filed on August 3, 2000. The peremptory  
24 writ requires the Commission to file this return within ten days of receipt, specifying the  
25 actions taken by the Commission to comply with the terms of the writ. The Commission  
26 received the peremptory writ on August 11, 2000.

27 On July 13, 2000, the Commission voted to set aside its decisions and  
28

1 actions of September 15, 1999 and December 9, 1999 on Appeal A-3-SCO-98-101.  
2 Petitioners have informed the Commission that Petitioners are preparing revised drawings  
3 and materials for a modified project application. The Commission will schedule a public  
4 hearing on the Petitioners' modified project after the Commission staff concludes  
5 processing the Petitioners' modified application.  
6

7 Dated: August 17, 2000

BILL LOCKYER, Attorney General  
of the State of California  
RICHARD M. FRANK  
Chief Assistant Attorney General  
J. MATTHEW RODRIQUEZ  
Senior Assistant Attorney General

11 By: Lisa Trankley  
12 LISA TRANKLEY  
13 Deputy Attorney General  
14 Attorneys for Respondent  
15 California Coastal Commission  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

PROOF OF SERVICE

CASE NAME: Greg Steltenpohl, Fred Bailey, and Bren Bailey v. California Coastal Commission and Does 10, 10

CASE NO.: San Ta Cruz Superior Court Case No.: CV 136954

I, JUDY DICKEY, declare:

I am employed in the City of Sacramento, County of Sacramento, State of California. I am over the age of 18 years and not a party to the within action. My business address is 1300 I Street, Sacramento, CA 95814. On August 17 2000, I served the documents named below on the parties in this action as follows:

DOCUMENT (S) SERVED: Return by Respondent California Coastal Commission to Peremptory Writ of Mandate

SERVED UPON: Tom Jamison, Esq.  
FENTON & KELLER  
A Professional Corporation  
2801 Monterey-Salinas Highway  
Post Office Box 791  
Monterey, CA 93942

And

Lonnie Truax  
905 Cedar Street  
Santa Cruz, CA 95060

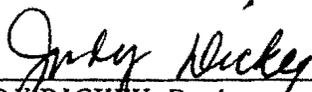
~~XXX~~ (BY MAIL) I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at Sacramento, California. I am readily familiar with the practice of the Office of the Attorney General for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection.

~~XXX~~ (BY GOLDENSTATE OVERNIGHT COURIER SERVICE) I am readily familiar with the practice of the Office of the Attorney General for collection and processing of correspondence for overnight delivery and know that the document(s) described herein will be deposited in a box or other facility regularly maintained by Goldenstate for overnight delivery.

Executed on August 17, 2000 at Sacramento, California.

xxx State I declare under penalty of perjury, under the laws of the State of California and the United States of America that the foregoing is true and correct.

     Federal I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

  
JUDY DICKEY, Declarant



**MODIFIED PROJECT DESCRIPTION  
BAILEY/STELTENPOHL DAVENPORT PROJECT**

**APPEAL A-3-SCO-98-101**

**SEPTEMBER 28, 2000**

**RECEIVED**

SEP 28 2000

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

**E-1**

## APPLICANT'S MODIFIED PROJECT DESCRIPTION

The Applicant has proposed a modified project intended to address concerns expressed by the Commission at the September 15, 1999 hearing. The modified project proposes to support a mixed use development through reconstruction of an existing 13,127 square foot building with the addition of 9,791 square feet to create a 22, 918 square foot mixed use building; construction of 600 square foot greenhouse; and construction of 20 space recessed parking lot on the upper bluff.

This project utilizes both residential/community uses and visitor-serving elements integral to the Coastal Act. The project's mixed use approach is fundamental to having a community appropriate scale to each of the development elements. The proposed uses are intended to work together while enhancing the visitor experience and minimizing the impact of any single use. The mixed use development would consist of the following uses:

- 5 overnight units with associated day spa, main office, and caretaker's unit
- Restaurant (2571 sq. ft.) with associated office (405 sq. ft.) and separate greenhouse (600 sq. ft.)
- One retail shop for selling local artisan arts and crafts (620 sq. ft.)

E-2

- A food processing operation (880 sq. ft.) appropriate to the scale and use of the building and associated with restaurant or retail food uses in Davenport with associated warehousing (4957 sq. ft.)
- One private 2-bedroom residence (2290 sq. ft.)

A total of 42 parking spaces would be provided. 22 spaces would be located in the existing lower parking lot adjacent to the building. 20 spaces would be constructed on the upper bluff and clustered adjacent to the main restaurant entrance of the building. This upper parking area would be recessed approximately 2 feet below existing grade, with design details such as stamped colored concrete and landscaping to protect scenic vistas.

The Applicant has also proposed significant public access improvements, dedication of public access easements to the County for three vertical trails and one lateral trail (across the upper bluff), a public pathway and stairway down the bluff space adjacent to the building, and benches and vista pints along the upper bluff. All access amenities would be maintained by the Permitted. Dedicated easement and total open space allocation on site to now total 88,275 square feet which brings it to a total of 67 percent of total site square footage (132,625).

The footprint of the building would change beyond the actual footprint of the existing building by only 700 square feet; the additional square footage

would come primarily from extending the existing partial second story throughout the reconstructed building to create a second story throughout the building. Maximum building height would be 29'10" although the majority of the roof would be almost 2 feet less at approximately 28 feet. In addition, by lowering the grade of the building foundation an additional 2 feet, the effective visible height of the majority of the building will actually be 26 feet.

Compared to the Applicant's proposal rejected by the Commission in September of 1999, the modified project proposal substantially reduces the intensity of the uses at the site and enhances the open space areas. The modified project proposal accomplishes the following changes to the previous proposal:

- Elimination of 5 overnight lodging accommodations
- Elimination of boat dwelling unit (residence space to be moved inside building)
- Reduction of retail space by 30% (from 1090 sq. ft. to 620 sq. ft.)
- Reduction of office space by 43% (from 965 sq. ft. to 405 sq. ft.)
- Reduction of greenhouse building by 20% to accommodate relocation of 2 parking spaces from upper lot to lower lot
- Reduction of parking required on upper bluff from 36 to 20
- Redesign of upper parking area with substantially less developed square footage and reduced overall length

- Clustering of parking closer to building to provide additional open space of 35% totaling 20,210 sq. ft. on the upper bluff.
- Dedicated easement and total open space for the entire site would now total 88,275 square feet accounting for 67 percent of the site as open space.
- Reduce depth of cut on upper parking from 60" back to 24" to minimize topographic alteration and avoid retention
- Lower foundation grade level by two feet on building site to effectively lower building height and visual profile by two feet

# PUBLIC ACCESS AMENITIES AND ACCESS MANAGEMENT PLAN

RECEIVED

Bailey/Steltenpohl, A-3-SCO-98-101

OCT 04 2000

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

**INTRODUCTION:** Coastal Commission staff from the Central Coast District Office have asked that we prepare a report that specifies the public access amenities proposed as part of our revised project and also to outline a management plan to ensure that these facilities will remain available for public use in the future. The following sections of this report detail the various elements of our proposal for public use of our site, but first we would like to recap existing public use of our property in order to place the current proposal in perspective.

Currently there is no public use of the building or the areas immediately around the building. There is a path to the beach on the southern end of the property. This path is not dedicated for public use but, according to a condition placed on our 1974 permit, it must remain open for public use for the life of the project approved by that permit. This beach access is not all on our property as it crosses an intervening parcel, now owned by the Trust for Public Land, before it reaches the beach. We have maintained this path, which is approximately 4 wide for the last 25 years and note that it is much used by Davenport residents and visitors to our area. It is not currently signed for access.

The public also uses the northern portion of our property for access parking, viewing, beach access and as overflow parking for the businesses on the inland side of Highway One. This use is subject to our permission. We have consistently posted this area to that effect and have closed it to public use at least one day per year. We have also noted that many of the people who use our northern parking area do not head for the beach or the scenic overlook but rather go across the street to the visitor serving uses located there which have inadequate parking. We have maintained this area with plantings, trash pick-up and a caretaker presence to remind people that they may not camp overnight on the site. The beach access on this portion of the site is across the railroad tracks north of the building and down a swale on the intervening property now owned by the Trust for Public Land. This access is steeper and more difficult than the southern access.

**PROPOSED ACCESS:** The following paragraphs identify the various access amenities and explain how we intend to manage them for the public's benefit. Please see Exhibit for a graphic representation of these facilities.

**Trails:** We propose to dedicate the following trails;

- Northern parking boundary trail (vertical access)
- Southern parking boundary trail (vertical access)

- Lateral connector on bluff (lateral access)
- Stairway to railway elevation (vertical access, part of southern parking trail)
- Southern beach path trail (vertical access, existing, but not dedicated)

**Description and Management:** The trails will be secured for public use through an offer to dedicate an easement for access. With the exception of the southern parking boundary trail, (located on the north side of the building next to the southern boundary of the upper parking lot) all easements will be 10 feet in width, with an improved trail surface four feet in width, located within the larger easement area. The southern parking boundary trail easement will be five feet in width because of the locational constraints adjacent to the building, however the improved portion of the trail will be identical to the others, (four feet). This trail will also include a stairway with a landing to channel visitors to a connecting vertical beach path which runs perpendicular to the railroad tracks. The southern beach path dedication (existing path located on the south side of the building) will also include an offer to dedicate the adjacent riparian area as protected open space and habitat. The lateral trail will meander across the northern oceanside frontage and include improved vista points with two benches. The northernmost trail is generally aligned along the northern property boundary at the north end of the upper parking lot and will provide vertical access to the lateral bluff top trail and thence to the stairway providing a vertical access to the beach.

With the exception of the stairway we will construct the new trails to ADA standards and maintain them. Signs will include a standard coastal trail logo at each trailhead and a coastal access sign at the highway. The stairway down to the elevation of the railroad tracks will be constructed of vandal resistant materials. Trail access shall be available 24 hours a day.

Commission staff has also asked that we consider offering a lateral trail along the railroad tracks in front of the building on the southern half of the site. That is not possible because this use is precluded by an easement we granted to Union Pacific when we purchased the property in 1981. In any event, this lateral access is not essential because the preferred trail route in this area is on the adjacent TPL property as can be seen from the existence of a well worn path.

Other General Public Use Amenities: Our project will also include additional access amenities for the general public (not patrons of our project) as described below:

- Handicapped access to trails and viewing deck
- Bicycle racks at two locations
- Vista points and viewing benches
- Access to planned public parking lot on north side of our site

An onsite caretaker will ensure that the lot is open and available during this time period. Signs will be posted to this effect to avoid inconvenience. These hours are more generous but generally consistent with those maintained by the Department of Parks and Recreation for their beach holdings on the North Coast for their beach parking areas along Highway One between Santa Cruz and Half Moon Bay. We feel we must maintain similar hours of closure or our lot will become a focus for late night activity and overnight camping. We have included a recent article from the local paper which outlines some of the problems that we are having on the North Coast, and particularly around Davenport, with late night beach parties. (Please see Exhibit.)

We have also agreed to allow access through our parking lot to the adjacent site to the north which is planned in the LCP for a public parking and access area. Other amenities for the general public include the provision of two benches along the oceanside frontage, secure bicycle racks, vista points and handicap access to the trails and viewing deck.



## County deluged with complaints about wild North Coast parties

# Parking crackdown urged



Shrue Thaler/Sentinel photos

The county wants to reduce noise and vandalism by raising parking fines at North Coast locations such as Davenport Landing Road.

## Plan would triple price of parking tickets

By DAN WHITE  
Sentinel staff writer

SANTA CRUZ — Citing complaints about drunken, loud beach revelers, the Board of Supervisors voted Tuesday to support a crackdown on North Coast parking.

The board voted unanimously to support future ordinances that could raise ticket costs for after-hours beach parking from \$33 to \$100, and institute a parking permit system in Davenport's main streets.

These rules are only in the proposal phase and must undergo public review. They would also need approval of the state Coastal Commission.

Davenport residents complain the North Coast's lack of parking restrictions has turned its beaches into party central for East Bay and Santa Clara Valley residents who trash the coast, haul in amplifiers and play music until dawn, according to the Santa Cruz County Sheriff's Office.

The majority of the party-goers are from outside the

### NORTH COAST CRACKDOWN

- Raise after-hours parking tickets to \$100 from \$33
- Require parking permits on Davenport streets

area, Sgt. Tony Jack of the Sheriff's Office said.

"We started asking the people where they were coming from," he said. "Only in two incidents did we contact local residents."

It is not unusual for crowds of 150 to 400 people to "take over the area," Jack said.

(Davenport) even ended up on a Web site listing rave (parties)" said Supervisor Mardi Wormhoudt, who worked on the proposed ordinances in cooperation with the Sheriff's Office. "They were finding people who had come to party as far away as San Diego."

One Web site includes directions to a beach in Bonny Doon and a boast that parking enforcement is lax.

"It says parking is allowed only until 10 p.m. but last time no one got a ticket and some of us were parked there till next morning," the Web site posting reads. It also advises revelers to "be there early" be-



Davenport and other North Coast residents complain of late-night beach parties who cause vandalism and excessive noise.

Please see NORTH COAST — BACK PAGE

# North Coast

---

Continued from Page A1

cause four parties would be happening the same time.

Wormhoudt said she has heard complaints of "very rowdy people going back to their cars in the middle of night, throwing up, rolling people's garbage cans down the street, generally yelling and screaming."

Davenport's Susan Young, a member of a community group involved with North Coast planning, said friends have told her about partygoers defecating in back yards and even urinating in the New Davenport Cash Store's telephone booth.

Several years ago, the supervisors instituted fines for parking at North Coast beaches after 10 p.m., but some area residents say the \$33 penalty is not enough of a deterrent.

"It's just the price of admission to them," said Sgt. Tony Jack, who supervises beach patrols on the North Coast. "They don't care."

But he said they may think twice about paying \$100 to party.

The permit system, meanwhile, would apply between 10 p.m. and 6 a.m. But the state Coastal Commission often is wary of ordinances that may be perceived as restricting coastal access.

Tami Grove, deputy director for the commission, said the agency will have to weigh the public's right to access the coast with the need for traffic control.

"We just haven't done any analysis on this particular case," she said.

The number of arrests on the beach has not been high this year, but pollution is an

increasing problem, with visitors leaving cans and trash that wash into Monterey Bay, according to the Sheriff's Office. The exact number of arrests was not immediately available.

The windswept North Coast is one of the area's natural resources, prized for its ocean vistas and scenic beauty. But it also has earned a reputation over the past decade as ground zero for rowdy nighttime parties, largely because of its isolation.

Kristen Raugust, owner of the popular roadside Whale City Bakery and Cafe in Davenport, has witnessed the problem first hand.

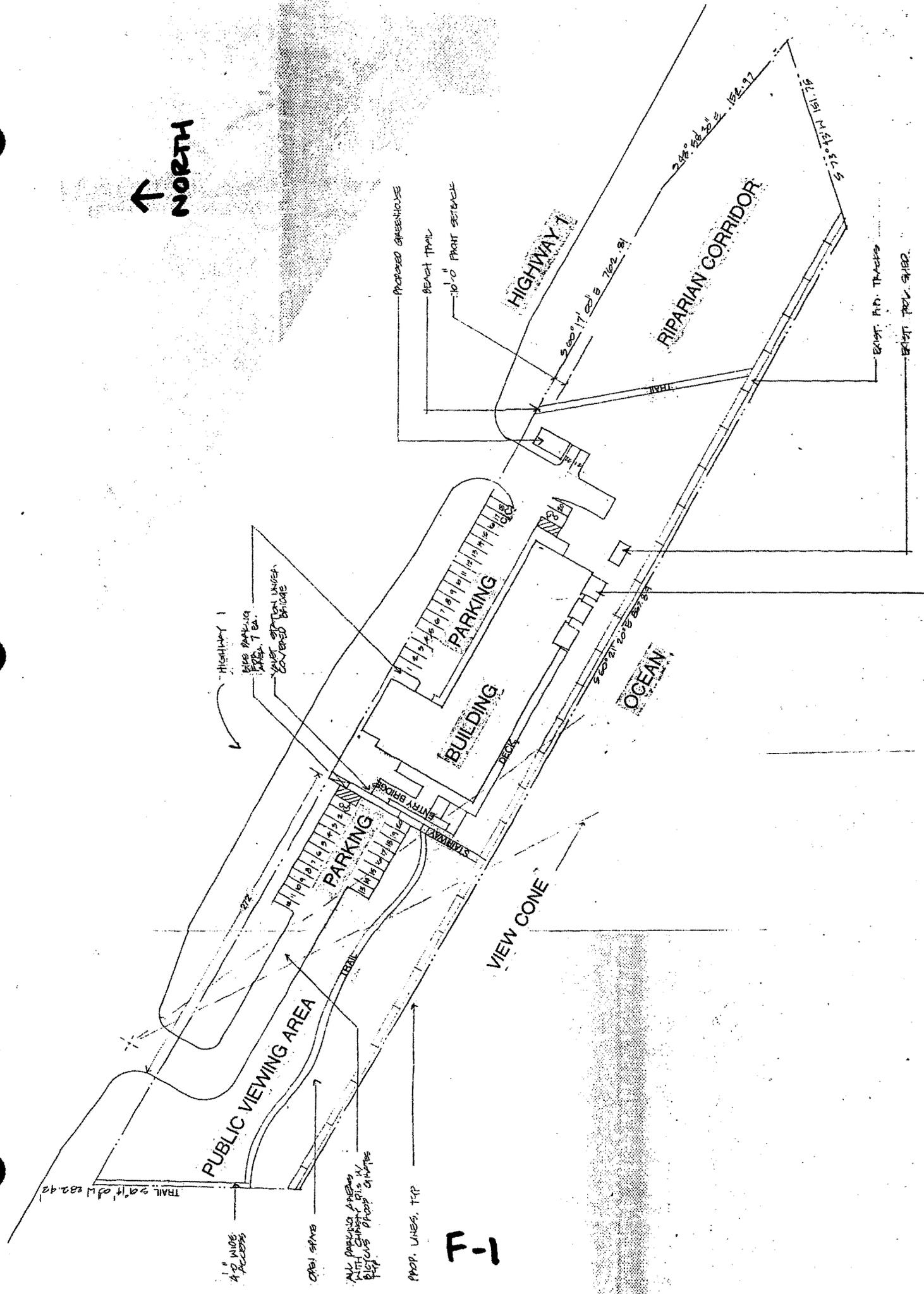
"I've had vandalism," he said. "Anything that's wooden, I have to bring it inside or it will be burned on the beach for firewood. I've had chairs taken down to the beach."

"The majority of people who go to the beach are good people," he added. "But if you don't have some kind of control then it just gets out of hand."

Without proper parking enforcement, "you'll get people who encamp and live down there (on the beaches), and then you'll get problems that just drift back into the town." He said the lack of bathrooms on the beach forces his restaurant into a de facto public bathroom for a large number of people.

As for a permit system in town, its cost was estimated at \$5,000. The Board of Supervisors said the general fund should cover the cost because the program relates to law-enforcement problems on the beach. Future fine revenues would also offset some of the cost, according to the board.

**NORTH**  
↑



**F-1**



Charles J. Franks  
and Associates  
14000 Wilshire Avenue, Culver City, CA 90230  
502 8th Ave. New York, NY 10018-3014

DAVENPORT COMMERCIAL  
3500 COAST HIGHWAY 1  
DAVENPORT, CALIF. 95017

# LOWER FLOOR PLAN

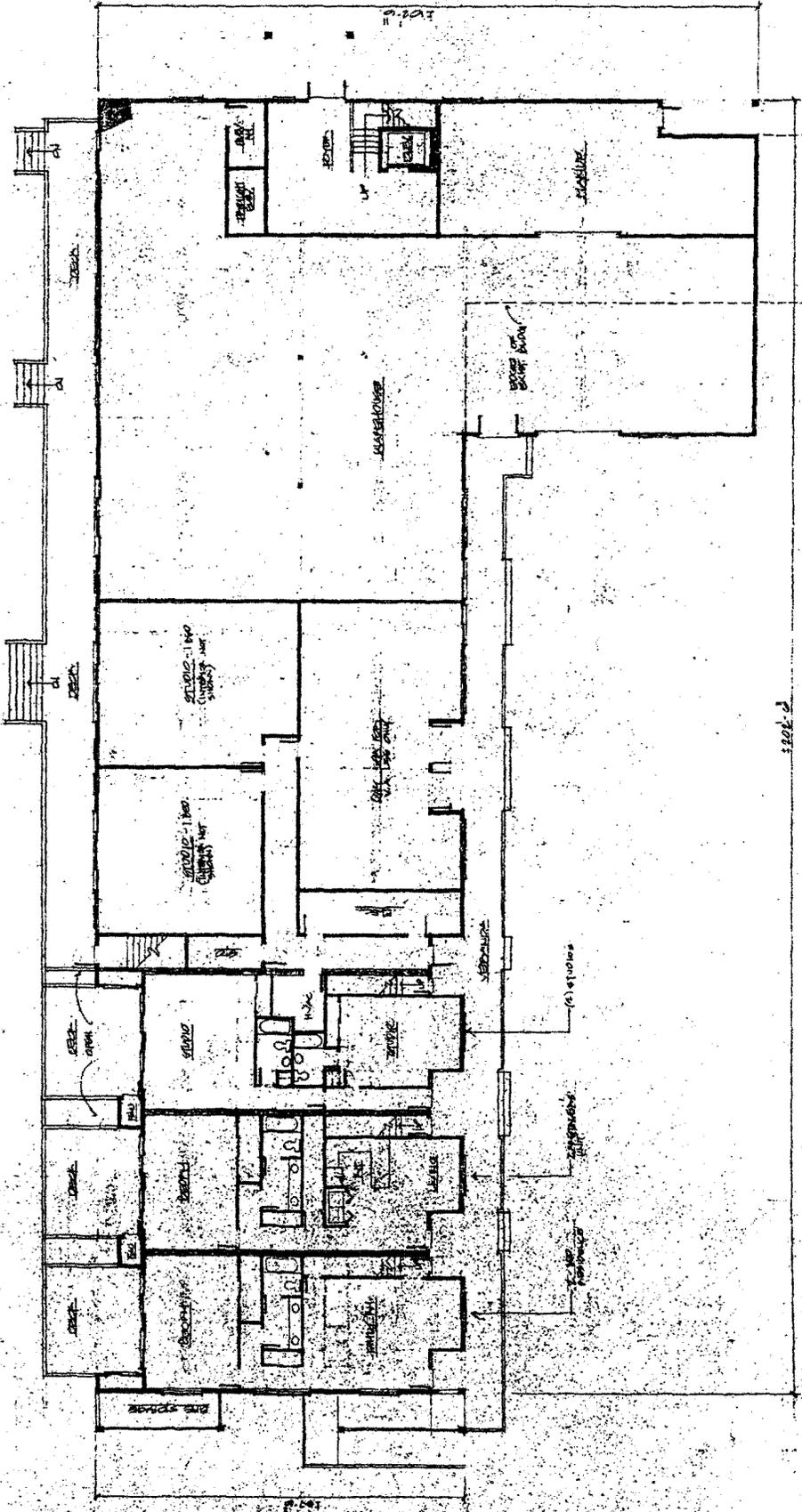
DATE: 8-26-72

REVISION:

SCALE: 1/4" = 1'-0"

SHEET NO.:

## A5



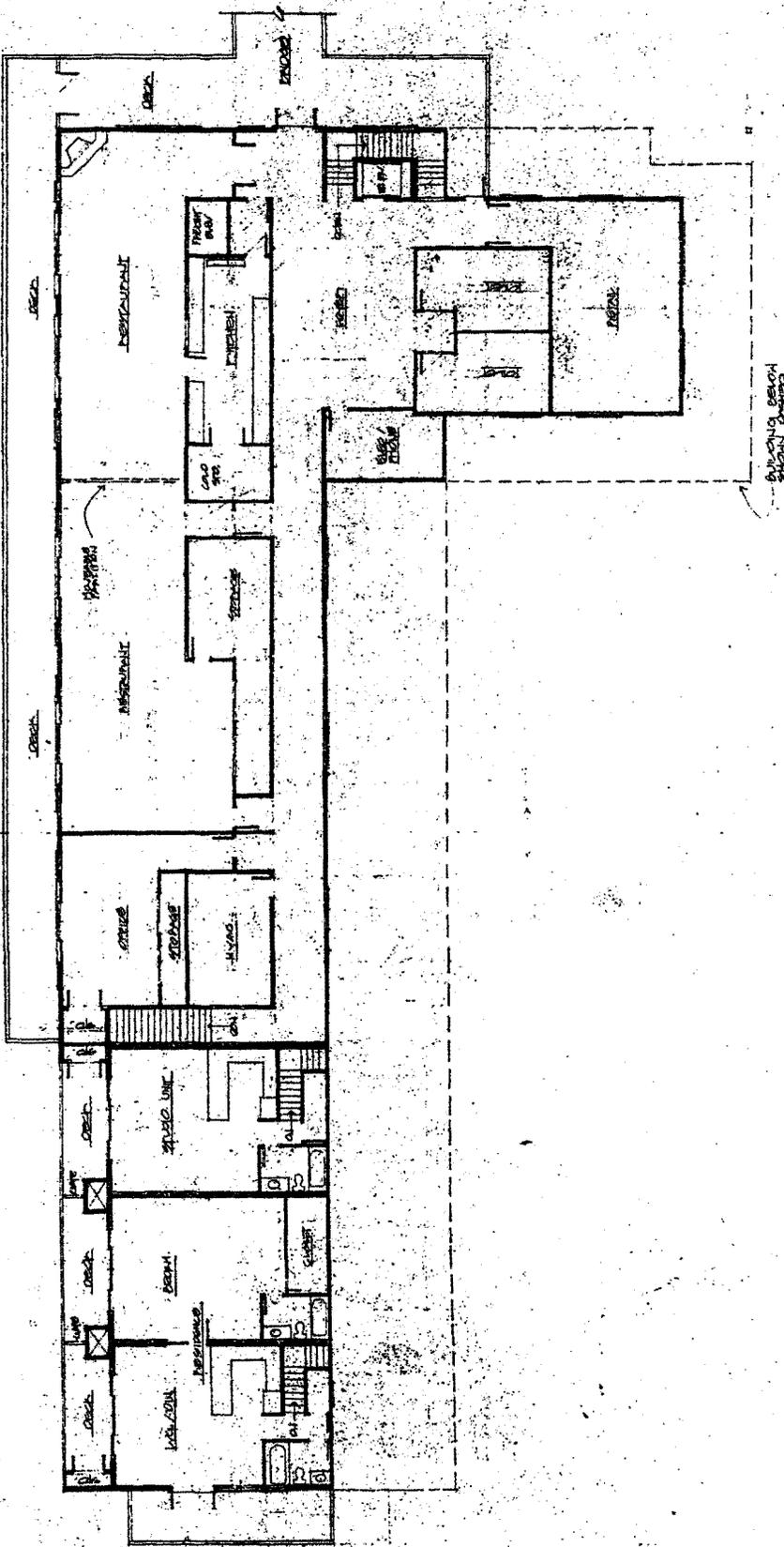
### F-3

Charles J. Franks  
and Associates  
Architects  
1000 California Street, Suite 1000  
San Francisco, CA 94109

DAVENPORT COMMERCIAL  
3500 COAST HIGHWAY  
DAVENPORT/CAITE 95017

UPPER FLOOR PLAN

DATE: 11/10/87	REVISION:
SCALE: 1/8" = 1'-0"	PROJECT NO.:
DRAWN BY: JCF	
CHECKED BY: JCF	
DATE: 11/10/87	



Upper Floor Plan

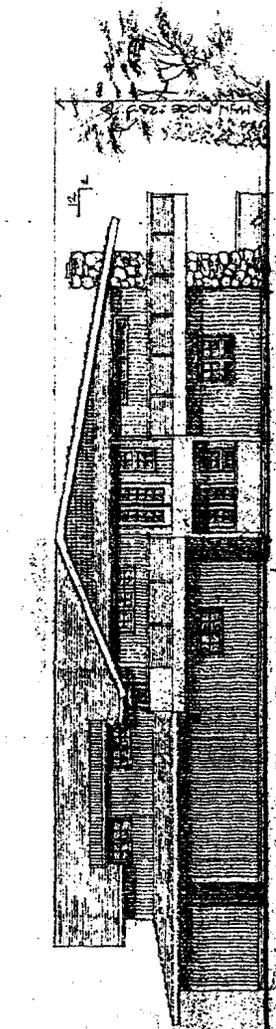
F-4

Charles J. Franks  
and Associates  
300 San Jose Avenue, Culver City, CA 90230 148RTS-304

DAVENPORT COMMERCIAL  
3500 COAST HIGHWAY 1  
DAVENPORT, CALIF. 95017

EXTERIOR ELEVATIONS

DATE	10/10/78
SCALE	1/4" = 1'-0"
PROJECT	DAVENPORT COMMERCIAL
ARCHITECT	CHARLES J. FRANKS & ASSOCIATES



WEST ELEVATION

Highway 1

WEST ELEVATION

FS



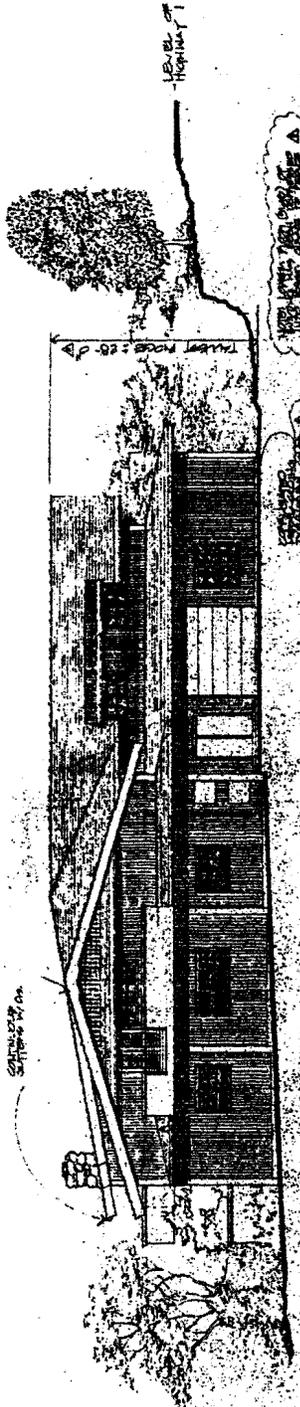
NORTH ELEVATION

EXTERIOR ELEVATIONS

DAVENPORT COMMERCIAL  
3500 COAST HIGHWAY  
DAVENPORT, CALIF. 95017

Charles J. Franks  
and Associates

202 SAN JUAN AVENUE, COSTA MESA, CA 92626 (714) 441-2024  
Member American Institute of Architects



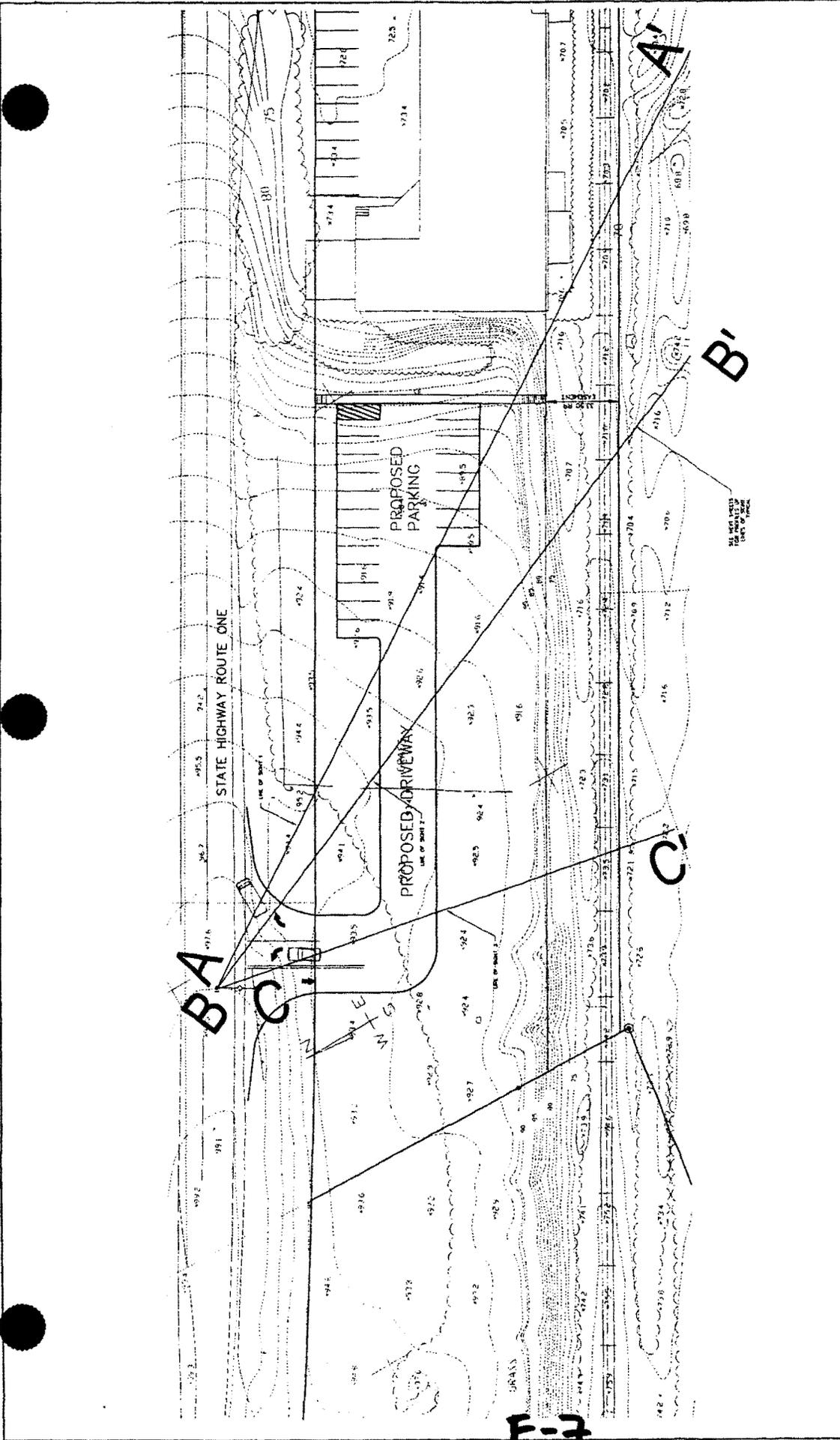
EAST ELEVATION



SOUTH ELEVATION

F-6

3/14/68 EAST ELEVATION



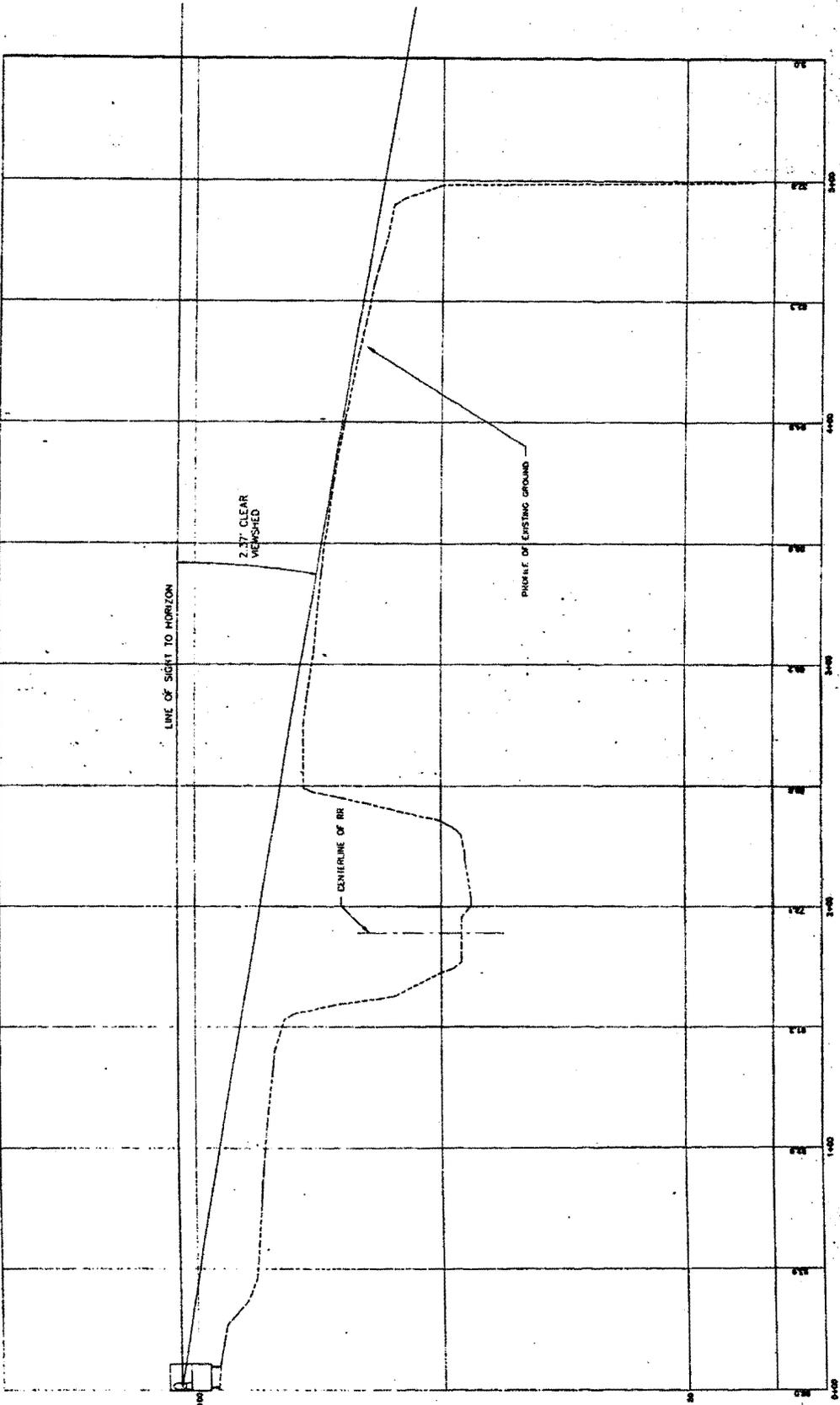
DATE: 04/11/06  
 SHEET NO: 256/30

BOWMAN & WILLIAMS CONSULTING CIVIL ENGINEERS 34111 STATE ST. SUITE 200 LA JOLLA, CA 92037 (619) 450-7500		PRELIMINARY SITE PLAN PROPOSED PARKING LOT BASS CREEK WINDFARM SAND CREEK WINDFARM COMPONENT, CA 92037	
REGISTERED CIVIL ENGINEER NO.	DRAWN BY	JOB NO.	SHEET
SCALE AS SHOWN	DATE	DATE	NO.
DESIGN LIA.	DATE	DATE	NO.

PLAN OF PARKING LOT  
 SCALE: NOT TO SCALE







DATE: 10-17-14

**BOWMAN & WILLIAMS**  
CONSULTING ENGINEERS  
1000 14th St. N.E.  
Atlanta, GA 30309  
PHONE: 404.525.1100  
FAX: 404.525.1101  
WWW.BOWMAN-AND-WILLIAMS.COM

**LINE OF SIGHT PROFILES**

SCALE: HORIZONTAL	1"=20'	DATE:	10-17-14
SCALE: VERTICAL	1"=5'	DRAWN BY:	JK
PROJECT NO.	1000-1	CHECKED BY:	JK
DATE:	10-17-14	APPROVED BY:	JK

PROFILE OF LINE OF SIGHT C-C'  
SCALE 1"=20' HORIZONTAL 1"=5' VERTICAL

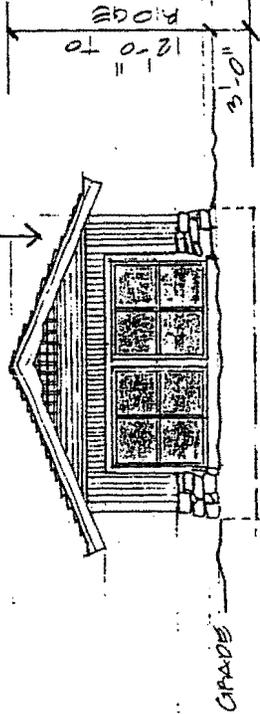
RECEIVED

AUG 24 1999

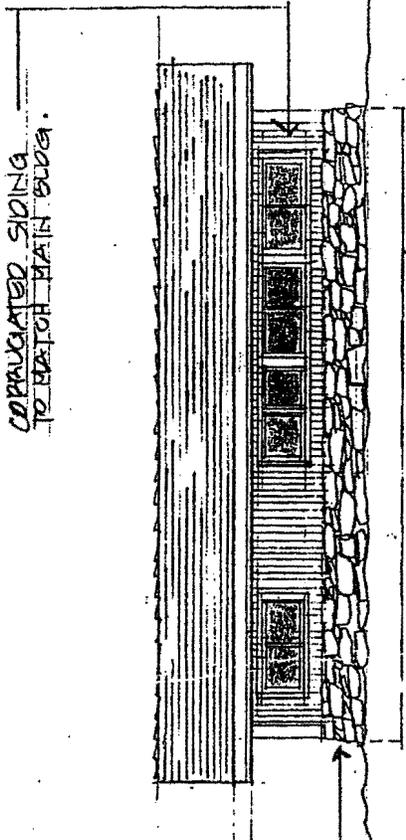
CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

ROOF & DETAILING  
TO MATCH MAIN  
BUILDING.

CONC.  
SLAB



SOUTH ELEVATION  
1/8" = 1'-0"



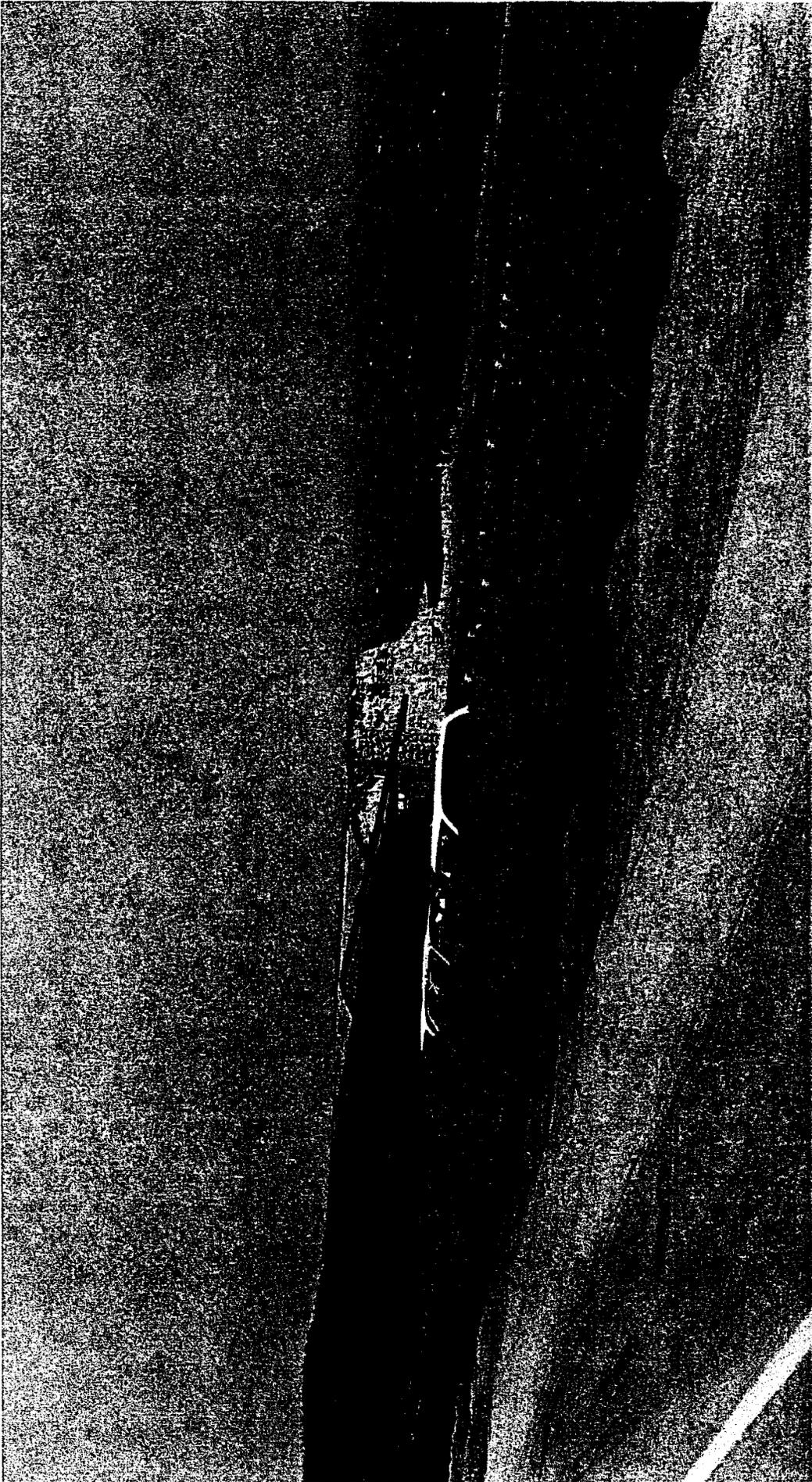
WEST ELEVATION  
1/8" = 1'-0"

DAVENPORT COMMERCIAL GREENHOUSE

FRANKS, BRENNITZ & ASSOC. (831) 476-304 8-14-99

GREENHOUSE ELEVATION

F-11



F.12

APPLICANT'S COMPUTER SIMULATION  
OF PROPOSED PARKING LOT

- 13.10.672 Use of Urban Open Space Land
- 13.10.673 Lot Line Adjustment Applications  
Regarding Additional Building Sites and  
Parcel Size
- 13.10.680 Residential Special Uses
- 13.10.681 Accessory Dwelling Units
- 13.10.682 Permanent Occupancy of Mobilehomes
- 13.10.683 Temporary Occupancy of Mobilehomes and  
Recreational Vehicles
- 13.10.684 Mobile Home Parks
- 13.10.690 Visitor Accommodations/Recreational Uses
- 13.10.691 Bed and Breakfast Inns
- 13.10.692 Organized Camps and Conference Centers
- 13.10.693 Time Share Uses

13.10.610 ACCESSORY STRUCTURES AND USES. (Ord. 3344, 11/23/82;  
-----  
3432, 8/23/83; 3593, 11/6/84)

13.10.611 ACCESSORY STRUCTURES.

- (a) Purpose. It is the purpose of this Section to provide for the orderly regulation of accessory structures allowed as a use in any zone district, to insure that accessory structures are subordinate and incidental to the main structure or main use of the land, and to provide notice to future and current property owners that illegal conversion of any accessory structure is subject to civil penalties.
- (b) Application Requirements.
  - 1. The proposed use of the structure shall be specified.
  - 2. Applications for habitable accessory structures shall be processed as specified in the use chart for the appropriate zone district and in addition shall require the submittal of proof of notice given to adjacent property owners.
- (c) Restriction on Accessory Structures.
  - 1. Any accessory structure shall be clearly appurtenant, subordinate and incidental to the main structure or main use of the land as specified in the purposes of the appropriate zone district, with the exception that a non-habitable accessory structure not exceeding 12 feet in height or 600 square feet in size shall be allowed in the absence of a main structure or main use of the land.

G-1

2. No habitable and no non-habitable accessory structure shall have an electrical meter separately from the main dwelling, and no accessory structure may have electricity in the absence of a main dwelling, except as may be approved pursuant to the use charts for the zone district or a Level V use approval.
3. Plumbing and electrical equipment appropriate to the use of the structure may be installed, with the following exceptions:
  - (i) No electrical service exceeding 100A/220V/single phase may be installed to an accessory structure incidental to a residential use unless a Level V use approval is obtained.
  - (ii) No accessory structure shall have a toilet installed. An exception may be granted to allow a toilet and appropriately sized drain lines, subject to a Level IV use approval, for structures smaller than those defined as habitable under the State Building Code (less than 70 square feet), or where required under the particular circumstance, for example, facilities required for employees;
  - (iii) An accessory structure shall not have any waste drain lines installed which are larger than one and one-half inches in size. An exception to allow two inch drain lines may be granted, subject to Level IV use approval, when more than one plumbing fixture is needed in the structure, including, for example, a washer and a utility sink in a garage. (Ord. 4457-A, 11/4/97)
4. No habitable accessory structure incidental to a residential use shall be located more than 100 feet from the main dwelling, or be accessed by a separate driveway or right-of-way, or be constructed on a slope greater than 30% unless a Level V Use Approval is obtained. Furthermore, a guest house can only be constructed and occupied on property where the property owner is a resident of the main structure. (Ord. 4324A, 8/9/94)
5. The number of habitable accessory structure shall be limited to one per parcel unless a Level V use approval is obtained.
6. No accessory structure shall be mechanically heated, cooled, humidified, or dehumidified unless the structure or the conditioned portion thereof meets the energy conservation standards of the California Administrative Code, Title 24, as adopted by Chapter 12.20 of this Code.
7. An accessory structure shall not have a kitchen or food preparation facilities and shall not be rented, let or leased as an independent dwelling unit.

8. Any building permit for the construction of or conversion to an independent dwelling unit shall require an allocation for one housing unit as provided in Section 12.02.030 and shall comply with the dwelling density allowed for the zone district in which the parcel is located, except as provided by 13.10.681.

(d) Required Conditions

Any building or development permit issued for the construction or renovation of a non-habitable accessory structure shall include a condition requiring an agreement not to convert the structure into a dwelling unit or into any structure for human habitation in violation of this Code, and any building or development permit issued for the construction or renovation of a habitable accessory structure shall include a condition requiring an agreement not to convert the structure into a dwelling unit or into any other independent habitable structure in violation of this Code. Each agreement required by this subsection shall provide the recovery by the County of reasonable attorney fees and costs in bringing any legal action to enforce the agreement together with recovery of any rents collected for the illegal structure or, in the alternative, for the recovery of the reasonable rental value of the illegally converted structure or, in the alternative, for the recovery of the reasonable rental value of an illegally converted structure from the date of conversion. The amount of any recovery of rents or of the reasonable rental value of an illegally converted structure shall be deposited in the County's Affordable Housing Fund. The agreement shall be written so as to be binding on future owners of the property, include a reference to the deed under which the property was acquired by the present owner, and shall be filed with the County Recorder. Proof that the agreement has been recorded shall be furnished to the County prior to the granting of any building permit permitting construction on the property.

2. As a condition of approval, permits for accessory structures shall provide for inspection as follows:
  - i. The structure may be inspected for condition compliance twelve months after approval, and at any time thereafter at the discretion of the Planning Director. Construction of or conversion to an accessory structure pursuant to an approved permit shall entitle County employees or agents to enter and inspect the property for such compliance without warrant or other requirement for permission.

(Ord. 3632, 3/26/85; 3996, 6/6/89; 4099,  
12/11/90)

13.10.613 HOME OCCUPATIONS.  
-----

(a) Purposes. The purposes of regulations for home occupa-  
-----  
tions are:

1. To allow persons to carry on limited income-producing activities on their residential property.
2. To protect nearby residential properties from potential adverse effects of the allowed activity by not allowing home occupations that would create excessive noise, traffic, public expense or any nuisance.

(b) Restrictions on Home Occupations.  
-----

1. The home occupation shall be carried on entirely within the dwelling, or in an accessory structure normally allowed in the zone district in which the site is located.
2. There shall be no visible or external evidence of the home occupation other than one unlighted sign not exceeding one square foot in area, which shall be affixed to the dwelling or building in which the home occupation is conducted. If both the dwelling and the building are set back more than 40 feet from the front property line, the sign may be affixed to the mailbox. No outdoor storage, operations or activity is allowed unless a Level V Use Approval is obtained, in which case the allowed outdoor use shall be completely screened from the street and adjoining properties.
3. The home occupation shall be carried out primarily by a full-time inhabitant of the dwelling. Not more than five additional employees may also be used for a home occupation if a Level V Use Approval is obtained.
4. The home occupation shall not involve the use of more than one room, or floor area equal to 20 percent of the total floor area of the dwelling, whichever is less, unless a Level V Use Approval is obtained.
5. Home occupations involving personal services (beauty shop, barber shop, massage studio, etc.) or training (swimming lessons, musical instrument lessons, band practice, yoga, or philosophy, etc.) may involve no more than one person at a time, unless a Level V Use



State of California - The Resources Agency

GRAY DAVIS, Governor

## DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>
 POST OFFICE BOX 47  
 YOUNTVILLE, CALIFORNIA 94599  
 (707) 944-5500


August 23, 1999

RECEIVED

AUG 24 1999

 Mr. Kim Tschantz, Deputy Planner  
 Planning Department  
 County of Santa Cruz  
 701 Ocean Street, 4th Floor  
 Santa Cruz, California 95060

 CALIFORNIA  
 COASTAL COMMISSION  
 CENTRAL COAST AREA

Dear Mr. Tschantz:

On November 24, 1998 we transmitted a letter to you requesting clarification on certain issues associated with the Bailey/Steltenpol project in Davenport. Regrettably, we provided this letter late in the project review and approval process, but we did so out of increasing concern about the potential cumulative effects on endangered coho salmon of development in the few watersheds south of San Francisco still supporting this sensitive species. San Vicente Creek is one of three streams in Santa Cruz County still supporting coho salmon. Specifically, we were concerned that the project's potential impacts on San Vicente Creek stream flows, stream water quality, and run-off patterns were not being adequately addressed in the project review and approval process.

During July of this year we devoted a substantial amount of time to discussing these potential impacts with you, other county staff, and the project developers. These discussions were very helpful to us and we appreciate the time and additional information county staff and the developers (primarily Fred Bailey) provided us. These discussions have largely resolved our concerns about the project's potential impacts on coho salmon. In addition, Mr. Bailey has committed to interacting with us as the project moves forward to incorporate reasonable changes to further reduce project impacts.

Our discussions with Mr. Bailey have improved our understanding of the project's proposed drainage patterns. Given that project drainage will be directed to an existing drainage site on the bluff south of the project (where it will, for the most part, percolate) and the close proximity of the project to the ocean, it is very unlikely that the project will cause any significant detrimental changes in stream run off patterns or water quality.

*Conserving California's Wildlife Since 1870*

H-1

Mr. Kim Tschantz  
August 23, 1999  
Page Two

It is clear that the project will increase demand (over very recent levels) on the Davenport water system which has as its ultimate source the headwaters of San Vicente Creek. Because of the complicated nature of the water delivery system, it is much less clear specifically how this increased demand for water will affect stream flows. Since the proposed use is not large relative to stream flows, draws its water from the existing RMC Lonestar/Davenport water system, and demand will be less than when Odwalla was producing at the project site, we believe that project-related water demand will have insignificant effects on stream flow and instream coho habitat conditions. On the other hand, we want to strongly encourage the county to require the presentation of a clear analysis of project stream flow effects in environmental documents prepared for future projects requiring county approval, particularly for projects located in watersheds supporting coho salmon and steelhead. We will soon be approaching the county with a specific proposal for the type of stream flow effects information that we believe should be required from project proponents. We look forward to the opportunity to meet and discuss this proposal with appropriate county staff.

The fourth issue we raised in our November 24 letter was the potentially inadequate consideration of cumulative effects during project review. Given that we have now concluded the project will not substantially impact run-off patterns, stream water quality or stream flows; we are also no longer significantly concerned about the issue of cumulative impacts on public trust resources. However, given the currently grave condition of southern-coho and our concern about the long-term health of the watersheds they depend on, we want to generally encourage the county to require a rigorous treatment of cumulative effects, particularly cumulative stream flow effects, in environmental documents for future projects in those watersheds.

We believe an informed assessment of the impacts of current and future development in the San Vicente Creek drainage flows requires the collection and reporting of stream flow data (particularly in summer and fall), diversion rates, water system demands; and an analysis of the relationship between these variables. We want to encourage the county to develop and implement a monitoring system as soon as practical so the resulting data will be available to facilitate protection of stream-related public trust resources in future county decision making.

Mr. Kim Tschantz  
August 23, 1999  
Page Three

Again, thank you for your help and the help of other county staff in improving our understanding of the subject project. If you have any questions, please contact Mr. Patrick Coulston, Senior Fisheries Biologist, at (831) 649-2882, or me at (707) 944-5517.

Sincerely,



Brian Hunter  
Regional Manager  
Central Coast Region

cc: Mr. Fred Bailey  
Box E  
Davenport, California 95017

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



RECEIVED

## DEPARTMENT OF TRANSPORTATION

50 HIGUERA STREET  
SAN LUIS OBISPO, CA 93403-2114  
TELEPHONE: (805) 549-3111  
TDD (805) 549-3259

JUL 15 1999



CALIFORNIA  
COASTAL COMMISSION  
July 12, 1999  
CENTRAL COAST AREA

5-SCr-1-28.73  
Odwalla Distribution  
Center/Reuse Plan  
ND SCH# 97081043

California Coastal Commission  
Central Coast District Office  
Attention: Mr. Rick Hyman  
755 Front Street, Suite 300  
Santa Cruz, CA 95060

Dear Mr. Hyman:

This letter is a follow-up to our conversation on June 23, 1999 regarding the proposed Odwalla Distribution Center/Reuse Project in Davenport. This project proposes to remodel the existing 13,127 square foot commercial/residential structure and construct a 9,791 square foot addition. Future uses at this site include a mixed-use project with visitor-serving accommodations, caretaker's residence, restaurant, microjuicery, office/retail use and construction of a parking lot. The following list summarizes Caltrans' position with respect to this project:

1. Currently, left turns from the lower parking lot to proceed northbound on Highway One are permitted as well as right-turn in and right-turn out only movement. Left turns into the lower parking lot from northbound Highway 1 are prohibited. Caltrans will require that left-turn channelization be added for this project entrance location if the applicant expects left-turn movements into the project.
2. As part of the proposed project, Caltrans recommended the relocation of the lower project entrance further south to align with Davenport Avenue. No further improvements were recommended at that conceptual level of review. If the lower parking lot entrance were realigned, Caltrans would require an encroachment permit for any work being conducted within the Caltrans right-of-way. Please be advised that prior to obtaining an encroachment permit, all design plans must be reviewed by this office accompanied by an approved environmental document. Biological and archaeological surveys must specifically address impacts in the state right-of-way.
3. If there are any changes to the original development proposal, Caltrans will require an updated traffic study. This would include any proposal to move more parking to the lower (southerly) entrance. If this were proposed, Caltrans may very likely require improvements to State Route 1. These improvements may include but are not limited to left turn channelization into the project from northbound Highway One and possibly acceleration and deceleration lanes. These improvements may be costly.

Mr. Rick Hyman  
July 12, 1999  
Page 2

4. The upper parking lot currently has two access points. The southern entrance to this lot has full access. The northern entrance has right-turn in and right-turn out access only. There are no acceleration or deceleration lanes in the project vicinity.
5. Parking is currently permitted within the Caltrans right-of-way unless signed otherwise.

Any future traffic study as mentioned in #4 would require conceptual review during the Caltrans Intergovernmental Review process. Caltrans has the authority through the encroachment permit process, to require improvements to the State Highway system when any modification to that system is proposed.

Please be advised that although this project now has Caltrans' conceptual approval, an Encroachment Permit must be obtained before any work can be conducted within the Caltrans right-of-way. Should you have any further questions regarding encroachment permits, please contact Steve Senet, Permits Engineer, at (805) 549-3206.

I hope this correspondence clarifies Caltrans' position with respect to this project. If you have any further questions, please contact me at (805) 549-3131.

Sincerely,

Charles Larwood  
District 5  
Intergovernmental Review Coordinator

CDL: cd/

cc: N. Papadakis, AMBAG  
K Tschantz, SCC  
L. Wilshusen, SCCRTC  
File, S. Chesebro, S. Strait, D Heumann, S. Senet

I-2

CITIZENS FOR RESPONSIBLE  
NORTH COAST PLANNING

P.O. Box 42  
Davenport, California 95017

RECEIVED

NOV 17 2000

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

November 15, 2000

California Coastal Commission  
725 Front Street, Suite 300  
Santa Cruz, California 95060

Re: Bailey, Steltenpohl v. CCC; Davenport project

Dear Coastal Commissioners and Coastal Commission Staff:

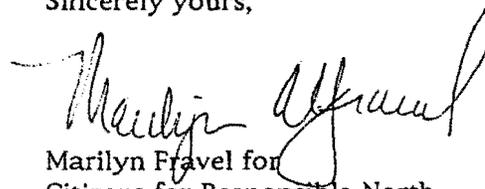
Once again the Bailey-Steltenpohl Project comes before the Coastal Commission. This is a large ocean bluff commercial project fronting the very small town of Davenport. Under our LCP Davenport is to be protected and preserved as a designated Special Community. Since this project was denied by you in September 1999, the project has changed very little and our many concerns still hold.

We urge the Commission:

- Preserve Davenport by protecting the public views and considering only a development that befits a small-scale town of 200.
- Protect the upper meadow, a famous whale-watching site, from all development, and locate all developed parking on the lower level and/or first floor of the packing shed.
- Restore the view from Highway 1 and the historic St. Vincent De Paul church down Davenport Avenue by requiring that the overgrown hedge surrounding the packing shed be cut to 3' and by eliminating the proposed greenhouse from the public viewshed.
- Allow no increase in the packing shed's scale and bulk since square footage drives the need for even more parking. The shed is the largest building on Highway 1 in Davenport, at 13,127 square feet (which includes unpermitted additions). Our LCP requires that new development be consistent with the scale and bulk of existing development. The next largest commercial structure on Hwy. 1 is 8,192 sq. ft., and the other smaller developments average 1,643 sq. ft., for a total of 14,765 sq. ft. for all commercial development on the east side of Hwy. 1.
- Require that any changes or additions to the uses in the Project be processed according to a Level 5 permit (public hearings).

Thank you very much.

Sincerely yours,



Marilyn Fravel for  
Citizens for Responsible North  
Coast Planning

Hand delivered 11/15/00

J-1

**RECEIVED**

NOV 16 2000

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Date: November 16, 2000  
TO: California Coastal Commission  
From: Kristen J. Raugust  
P.O. box 105  
Davenport, Calif. 95017  
RE: Resubmitted Bailey/Steltenpohl Project  
Davenport, Calif. 95017

Commissioners,

First I would like to lodge a great displeasure over the fact that you have decided to circumvent the local planning process by allowing the revised ( but not scaled down) new project to come directly back to the commission. By doing this you have set a precedent for developers who are unhappy with the outcome of your decisions. It only again brings politics and lobbying into the public process of which it should not be a part.

This new project again is TOO BIG for Davenport. The size and scale of this new project do not match the size and scale of the town thus it would change the character of the town. It is already the biggest building in the town only to become a gigantic building.

This new project would again decimate the Davenport Meadow. It would chop the meadow up into little sections. This would not allow people to pass through the meadow to the beach on prescriptive easement trails that have been used for scores of years. It would not allow people to enjoy the ocean views of which they have stopped and gotten out of their cars and used for years. The way the parking lot is configured, it would allow for much more parking by simply parking on the grassy area if one choose to. In essence it would still be one big giant parking lot hole never to returned to its natural splendor. People from all over the world use this meadow to whale watch, picnic, and pass through to the beach. This would change one of the most famous and enjoyed characteristic of Davenport.

The owners of the building want to maintain the hedge. This has been a point of disagreement for years. This hedge has completely obliterated the view from town by its residents. You can no longer see the ocean view down Davenport Ave. You can no longer see the Monterey Peninsula or the bluffs and the ocean view from North town. These

J-2

Edges should be eliminated as they are not native and are encroaching on the riparian corridors. The owners of the building before the current owners never felt they have to "hide" this building thus allowing the ocean vistas to remain for all to enjoy. It's just outrageous that the views have been swallowed up for just a few to enjoy and many too not enjoy.

Also of concern is the indiscriminate use designated in a large percentage of the new proposal. If any history and the owners many, many red tags for non compliance of building permit are any indication, it would not be a problem for them to do what they want. Every square foot of the building should have a designated use and a public hearing should be required to change that.

In closing I would urge you to remember, Davenport is a small Special Community. This project would change Davenport forever. Please deny the project as is. Send it back to the community and county of which it originates.

Let this new project continue through the local level. They are the planners of their community. Let them do it.

Sincerely,  
Kristen J. Raugust

Bruce & Marcia McDougal  
PO Box J  
Davenport CA 95017  
423-4402

**RECEIVED**

NOV 13 2000

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

NOTES ON BAILEY-STELTENPOHL BUILDING PROJECT

It is not our intention to prevent development on this site, but to insist on reasonable, intelligent use which does not destroy the character of the community or have long-term negative impacts which are avoidable in the planning stages. Following are problems which need to be addressed:

1. The Meadow must be preserved. The proposed parking in this area, the fencing, and the trail all contribute to destroying the meadow, and should be eliminated. The parking can be accomodated in the area south of the building; and both the fence and trail are unnecessary; and appear to have been designed specifically to bisect and destroy the open space character of the historic grassy area. Preserving the meadow means no improvements of any kind on the grassy area, and maintaining the present open public access to this area and the informal unimproved parking at the north end of the property.

As stated, the parking can be put south of the building, with room to spare. If this is not enough, it should be possible to give parking "credit" for the spaces available in the informal unimproved area to the north, to be on a first come, first serve basis, open to the public as it has always been. Put back the old phone pole barrier recently removed, and leave the meadow alone - no path, no fence, no improvements. Open space. If a stairway to the tracks is required, it should be at the north end of the property, making the trail and fence unnecessary.

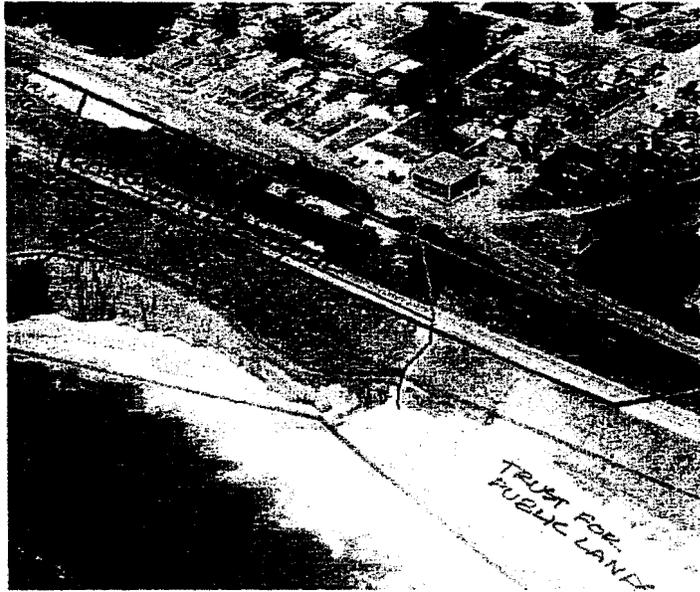
2. The obstruction of views needs to be addressed. The hedge south of the building was planted to hide a six-foot fence, not the building itself. It has been allowed to completely block the view from Highway 1 and Davenport Avenue; and should be removed to restore the ocean vista, or cut back to no more than the height of the six foot fence. Any higher growth is more of the kind of malicious destruction of the public view which now prevails, and must be prevented. The building is too large already to hide with planting; and in this case the cure is far worse than the disease.

The proposed greenhouse is located exactly in the viewshed described above, and if the hedge is removed as it should be, the greenhouse will be an ugly obstruction to the ocean view. It should be eliminated or relocated to a non-obstructing location. Its function is also questionable, as it has a solid roof and small windows shaded by overhanging eaves, unlike most greenhouses. Will this take the place of the boat residence?

3. The beach path south of the building should be dedicated, improved and maintained as a binding condition of any development permit. It has been allowed to fall into disrepair, and the overgrown hedge has encroached into and over it to the degree that it is a sinister and hazardous place.

4. Looking at the proposed structure, some questions come to mind. The warehouse and manufacturing spaces are extremely generic and unexplained as to their eventual uses, and can easily be converted to almost anything. The residential units are also designed for great flexibility, and leave doubts that their final form is as shown. There is an extra stairway to the second floor of the middle unit shown on the first floor plan which is not on the second floor, leading one to assume that there will be another studio unit, or more likely two more, on the second floor, each with their own stairway. On the first floor, all of the units can easily be split into studios, as is the third from left. This produces as many as 11 studio units.

# PRESCRIPTIVE EASEMENT ON MEADOW/UPPER LEVEL



- Public at large has used meadow
- for the last century
- continuously
- as if it were a public recreation area
- without asking or receiving owner's permission
- Easement occurred prior to March 4, 1972

Citizens for Responsible North Coast Planning  
P.O. Box 42  
Davenport, California 95017

August 4, 2000

RECEIVED

AUG 07 2000

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Mr. Ralph Faust, Chief Counsel  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

RE: Steltenpohl, Bailey v. CCC

Dear Mr. Faust:

Citizens for Responsible North Coast Planning would like to respond to your letter of July 7, 2000.

First, we would like to correct your statement that we questioned the Coastal Commission's right to hold discussions in closed-door session, pursuant to California Government Code, Section 11126. We did not challenge the Coastal Commission's authority to hold such discussions.

What we do challenge is the Coastal Commission's authority to consider an applicant's revised project and by-pass the local public review process. Such an action, which took place in a recent closed-door session in connection with the Steltenpohl, Bailey project proposed in Davenport, California, undermines the authority of the County of Santa Cruz and eliminates the public's right to give input at the local level. When the revised project is subsequently considered in a Coastal Commission public hearing, a burden will be imposed on citizens who care about their local California coast, forcing them to travel to a non-local venue in order to participate.

This circumvention of local interests is contrary to the spirit and intent of the Coastal Act, which provides for a joint-partnership between the Commission and local government.

Moreover, this action sets a dangerous precedent. It has been apparent to us from the beginning that Steltenpohl and Bailey filed a weak case against the Commission. This can only have been a strategic move -- to gain leverage in settlement discussions. The Commission's decision not to defend the Coastal Act, but instead to give the developers a chance with another project will certainly encourage other developers to do the same -- sue for another round after losing on the first. One wonders what the Commission would do to settle a case if appellants sue, since appellants have nothing to barter.

This decision will help make the Coastal Commission appeals process meaningless in the public's eye. Settling in this way makes those of us who participated in the Coastal Commission appeals process lose faith in the Coastal Commission and its mission -- and to believe that when we traveled to Eureka from Santa Cruz for the final hearing, it meant nothing for a developer's project to be denied on an 8 to 3 vote. It is as if that vote never happened.

We urge the Coastal Commission to reconsider the consequences of its action.

Sincerely yours,



Susan Young, member  
Citizens for Responsible North Coast Planning

J-7



**SIERRA  
CLUB**  
FOUNDED 1892

Santa Cruz County Group of the Ventana Chapter

P.O. Box 604, Santa Cruz, California 95061 phone: (831) 426-4453

FAX (831) 426-5323 web: www.ventana.org e-mail: scscrg@cruzio.com

August 6, 2000

07 2000

California Coastal Commission  
Central Coast District Office  
725 Front Street, Suite 300  
Santa Cruz, CA 95060

Re: Steltenpohl, Bailey v. CCC

Dear Coastal Commissioners and Coastal Commission staff:

For the last two years the Santa Cruz Group has addressed the substantive issues posed by the Steltenpohl, Bailey project proposed for Davenport, California.

Our appeal to the Coastal Commission in October of 1998 (A-3-SCO-98-101) was based on the potential precedent that would be set by this project, allowing commercial development west of Highway 1, where none exists for a 45-mile stretch between Half Moon Bay and the city of Santa Cruz. In addition, our objections include this project's blocking of public viewsheds by allowing a formal parking lot on the fragile ocean bluff fronting the town of Davenport, a bluff which has traditionally been used for whale-watching, and also the inappropriately large scale of the project for the small town of Davenport, a Special Community designated by our County's LCP.

We were gratified by the Commission's 8 - 3 vote in Eureka in September of 1999 to deny the project because of numerous violations of the Coastal Act. We were anticipating a more appropriate project to appear in the local County planning process.

We are greatly concerned to find instead that the Commission has, in effect, negated the Eureka vote in order to settle a lawsuit filed by Bailey and Steltenpohl after the denial of their project. The Commission is now allowing the developers to present a revised project at a later public hearing, at a venue which will be at least a three-hour roundtrip for concerned County residents.

The developers' tactic of filing suit, on clearly inconsequential grounds, should not cause a reversal of the decision made in Eureka. The effect of this decision is to limit the public's right to participate locally and to deprive the affected County of its proper jurisdiction, in this case the County of Santa Cruz.

This decision sets an undesirable precedent, one which is contrary to the intent of the Coastal Act and one which prejudices local public involvement. We urge the Commission to revisit their decision.

J-8

*Patricia Matejcek*

Patricia Matejcek, Vice-Chair

"...to explore, enjoy and protect the wild places of the earth."

CITIZENS FOR RESPONSIBLE NORTH COAST PLANNING

P.O. Box 42  
Davenport, CA 95017

RECEIVED  
JUL 08 2000

RECEIVED

JUN 30 2000

CALIFORNIA  
COASTAL COMMISSION

June 19, 2000

Sara Wan, Chair  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

RE: Bailey/Steltenpohl Mixed Use Davenport Project; A-3-SCO-98-101

Dear Chairwoman Wan,

We are extremely concerned regarding the actions the Commission has taken on the issue of the lawsuit filed by Applicants Bailey and Steltenpohl in an effort to get approval for their project. Our understanding of events is that the Commission denied the project based on findings of non-compliance involving public access, viewshed, community character, and building height.

The Applicants then filed a lawsuit when the Commission rejected their request to immediately rehear the same project. There was a closed session regarding this lawsuit at the June hearing and apparently a settlement was announced that would allow the Applicants to resubmit their project to the Commission in return for dropping the suit.

From what we can deduce, one of the following scenarios has occurred:

A. The Commission will be hearing the same project that was denied after legal findings were made of non-compliance with the Coastal Act.

If this is the case, the Commission is invalidating its own legal authority and the validity of its findings made in public and with due process. Have the Applicants been given reason to believe, as a result of threatened litigation, that another go-round with more intense lobbying will result in an invalidation of these legal findings and approval of an unchanged project previously denied?

Or,

B. The Applicants have agreed in closed session to make significant changes to the project as part of the settlement and the Commission has agreed to rehear this changed project in order to avoid litigation.

If this is the case, the Commission is circumventing the local planning process of an entity with a certified LCP. If the project has been changed, then public process demands that the changed project be subject to the local review process as prescribed by law.

In either scenario, the Commission puts closed session negotiations with attorneys above the public planning process and thereby threatens to undermine public interest law by announcing that the law may be set aside by suits that allow back room deals to determine the fate of the coast. This is a dangerous precedent that the Commission will come to regret as applicants use this decision to dismantle the Coastal Act and sue their way to success. Meanwhile, the public stands before a closed door -- locked out of the process.

Sincerely,



Susan Young, member  
Citizens for Responsible North Coast Planning

CC: Peter Douglas, Executive Director



10' MINIMUM SETBACK (BUILDING)

4' MINIMUM SETBACK (PARKING LOT)

GREENHOUSE AND  
SHEDS RELOCATED

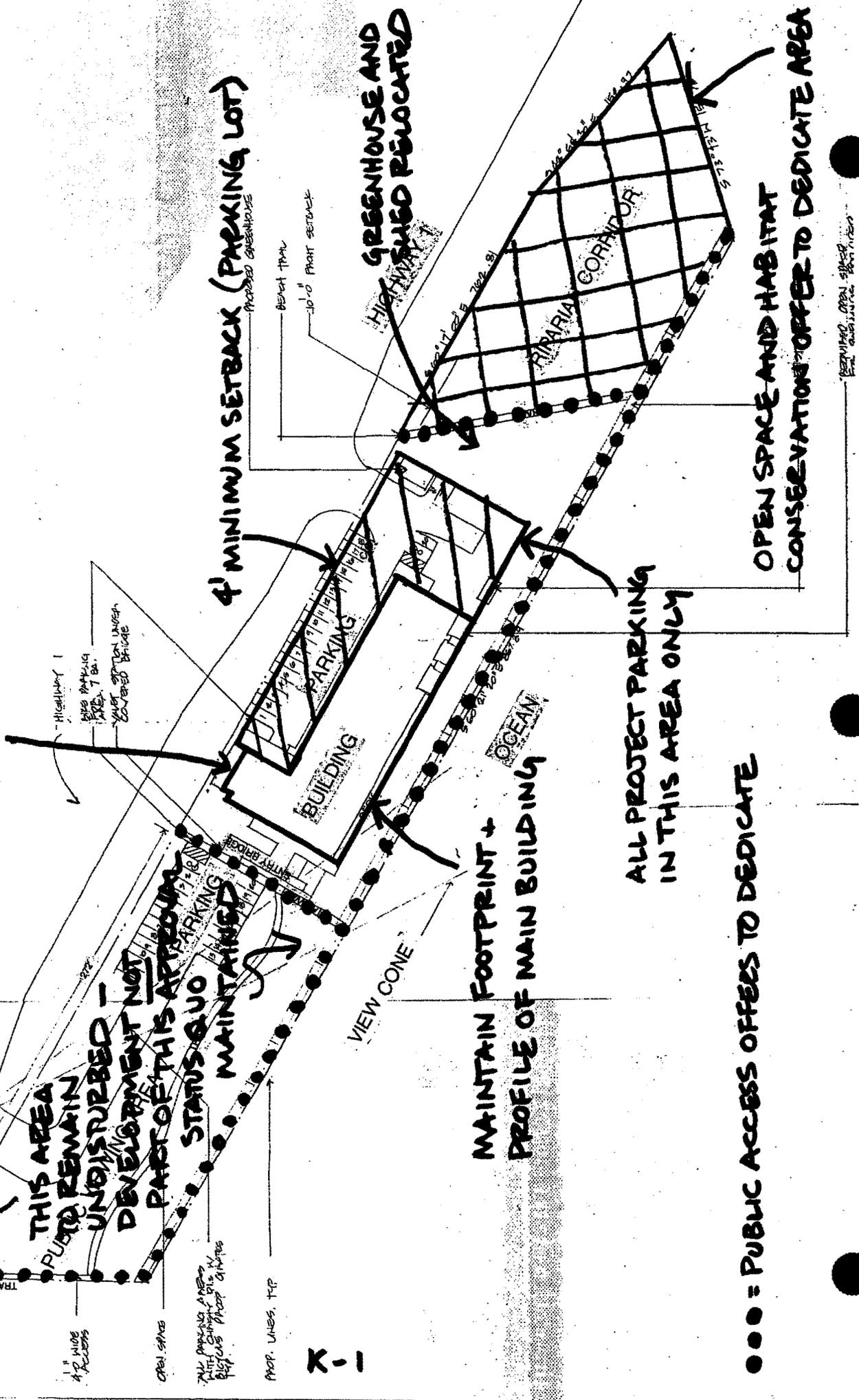
OPEN SPACE AND HABITAT  
CONSERVATION OFFER TO DEDICATE AREA

ALL PROJECT PARKING  
IN THIS AREA ONLY

●●● = PUBLIC ACCESS OFFERS TO DEDICATE

THIS AREA  
PUDO REMAIN  
UNDISTURBED -  
DEVELOPMENT NOT  
PART OF THIS APPROVAL  
STATUS QUO  
MAINTAINED

MAINTAIN FOOTPRINT +  
PROFILE OF MAIN BUILDING



X-1

REMOVED OPEN SPACE  
FOR QUALITY IMPROVEMENT