

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
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**W19c**



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**APPEAL STAFF REPORT - SUBSTANTIAL ISSUE DETERMINATION**

Appeal number.....A-3-SCO-02-092, Webb SFD/Coastview Road improvements  
Applicant.....Margaret Webb Trust  
Appellants.....Commissioners Sara Wan and Pedro Nava  
Local government.....Santa Cruz County  
Local decision.....Approved with Conditions (October 4, 2002)  
Project location.....Coastview Drive off of East Cliff Drive adjacent to Corcoran Lagoon in the unincorporated Live Oak region of Santa Cruz County.  
Project description.....Construct one single family dwelling, define two additional single family dwelling development envelopes, expand Coastview Drive toward Corcoran Lagoon, and install additional drainage outlet into the Lagoon.  
File documents.....Santa Cruz County Certified Local Coastal Program (LCP); Santa Cruz County CDP Application File 01-0090; Monterey Bay ReCAP.  
Staff recommendation ...Substantial Issue Exists

**Summary of staff recommendation:** Santa Cruz County approved a proposal to construct a single family dwelling, to define two additional single family dwelling development envelopes, and to expand Coastview Drive immediately adjacent to Corcoran Lagoon in the unincorporated Live Oak area of Santa Cruz County. Corcoran Lagoon, and its 100 foot buffer, are designated as environmentally sensitive habitat areas (ESHAs) as that term is understood in a Coastal Act context. The approved project is located on a LCP-designated Coastal Priority Site. The preferred use of this site is public parking. Other LCP requirements include maximizing public access and protecting the wetland and habitat resources of Corcoran Lagoon. The approved project did not include the LCP-required Coastal Priority Site master plan, and did not otherwise address through public access and/or parking as directed by the LCP for this site. Likewise, it is not clear that the approved expansion of the road into the buffer area around Corcoran Lagoon is necessary, or that such incursion is consistent with the LCP's wetland and habitat policies, nor does the approved project include adequate protective measures to protect Corcoran Lagoon, particularly as it relates to the Coastal Priority Site requirements that apply here. The approved project appears to exceed the maximum amount of mass allowed within the subject residential zone district. These issues warrant a further analysis and review by the Coastal Commission of the proposed project.



**California Coastal Commission**

**January 2003 Meeting in Los Angeles**

Staff: D.Carl Approved by: *DEL*

Staff recommends that the Commission find that a substantial issue exists with respect to this project’s conformance with the certified Santa Cruz County Local Coastal Program (LCP) and take jurisdiction over the coastal development permit for the project. Staff further recommends that the Commission continue the de novo hearing of the coastal development permit to allow adequate time for the Applicant to develop the LCP-required proof of ownership information and biotic analyses, for staff to further research the site’s ownership characteristics and its public access use history, and for staff to work with the project applicant on potential project design modifications to meet the requirements of the certified LCP. Staff will subsequently prepare a recommendation for a de novo hearing of the project at a future Coastal Commission meeting.

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## **1. Appeal of Santa Cruz County Decision**

### **A. Santa Cruz County Action**

On October 4, 2002, the Santa Cruz County Zoning Administrator approved the proposed project subject to multiple conditions (see exhibit C for the County's staff report, findings and conditions on the project). The Zoning Administrator's approval was not appealed locally (i.e., to the Planning Commission and/or the Board of Supervisors). Notice of the Zoning Administrator's action on the coastal development permit (CDP) was received in the Commission's Central Coast District Office on October 28, 2002. The Commission's ten-working day appeal period for this action began on October 29, 2002 and concluded at 5pm on November 12, 2002. One valid appeal (see below) was received during the appeal period.

### **B. Appeal Procedures**

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because: it is within 300 feet of the beach (opposite East Cliff Drive); it is within 300 feet of the mean high tide line of Corcoran Lagoon (and also within 100 feet of Corcoran Lagoon); and road expansion is not a principal permitted use within the Parks, Recreation, and Open Space (PR) zone district applicable to the Lagoon side of Coastview Drive.

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

The only persons qualified to testify before the Commission on the substantial issue question are the



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

### **C. Appellants' Contentions**

The two Commissioner Appellants contend that the County-approved project raises substantial issues with respect to the project's conformance with core LCP and Coastal Act policies, concluding as follows:

*In sum, the proposed project is located on a site designated for public access by the LCP, directly adjacent to a significant habitat area, and within a significant public viewshed. It appears that the approved project does not include adequate measures to protect Corcoran Lagoon, public access and parking, and the public viewshed. As such, the proposed project's conformance with LCP and Coastal Act policies is questionable. These issues warrant a further analysis and review by the Coastal Commission of the proposed project.*

Please see exhibit E for the Commissioner Appellants' complete appeal document.

## **2. Procedural History (Post-County Action)**

On December 12, 2002, the Commission opened and continued the substantial issue hearing on the appeal because Commission staff had not received the administrative record on the project from the County in time to prepare a staff report with a full analysis and recommendation for the Commission's December 2002 meeting. The County's administrative record on the application was subsequently received in the Commission's Central Coast District Office on December 5, 2002 (i.e., the week before the Commission's December meeting).

## **3. Staff Recommendation on Substantial Issue**

The staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of substantial issue would bring the project under the jurisdiction of the Commission for hearing and action.

*Motion. I move that the Commission determine that Appeal Number A-3-SCO-02-092 raises no substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act.*

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



*majority of the appointed Commissioners present.*

*Resolution To Find Substantial Issue. The Commission hereby finds that Appeal Number A-3-SCO-02-092 presents a substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Program and the access and recreation policies of Chapter 3 of the Coastal Act.*

## **Recommended Findings and Declarations**

The Commission finds and declares as follows:

### **4. Project Description**

#### **A. Project Location**

The proposed project is located immediately inland of East Cliff Drive and the beach at Corcoran Lagoon in the unincorporated Live Oak area of Santa Cruz County. See exhibit A for illustrative project location information.

#### **Santa Cruz County Regional Setting**

Santa Cruz County is located on California's central coast and is bordered to the north and south by San Mateo and Monterey Counties. The County's shoreline includes the northern half of the Monterey Bay and the rugged north coast extending to San Mateo County along the Pacific Ocean. The County includes a wealth of natural resource systems within the coastal zone ranging from mountains and forests to beaches and lagoons and the Monterey Bay itself. The Bay has long been a focal point for area residents and visitors alike providing opportunities for surfers, fishermen, divers, marine researchers, kayakers, and boaters, among others. The unique grandeur of the region and its national significance was formally recognized in 1992 when the area offshore of the County became part of the Monterey Bay National Marine Sanctuary – the largest of the 12 such federally protected marine sanctuaries in the nation.

Santa Cruz County's rugged mountain and coastal setting, its generally mild climate, and its well-honed cultural identity combine to make the area a desirable place to both live and visit. As a result, Santa Cruz County has seen extensive development and regional growth over the years since the California Coastal Management Program has been in place. In fact, Santa Cruz County's population has more than doubled since 1970 alone with current census estimates indicating that the County is currently home to over one-quarter of a million persons.<sup>1</sup> This level of growth not only increases the regional need for housing, jobs, roads, urban services, infrastructure, and community services, but also the need for parks and

<sup>1</sup> Census data from 1970 shows Santa Cruz County with 123,790 persons; California Department of Finance estimates for the 2000 census indicate that over 255,000 persons reside in Santa Cruz County.



recreational areas. For coastal counties such as Santa Cruz where the vast majority of residents live within a half-hour of the coast, and many closer than that, coastal recreational resources are a critical element in helping to meet these needs. Furthermore, with coastal parks and beaches themselves attracting visitors into the region, an even greater pressure is felt at coastal recreational systems such as that found in Live Oak. With Santa Cruz County beaches providing arguably the warmest and most accessible ocean waters in all of Northern California, and with the vast population centers of the San Francisco Bay area and the Silicon Valley nearby, this type of resource pressure is particularly evident in coastal Live Oak.

See exhibit A for project location information.

### **Live Oak Beach Area**

Live Oak represents the unincorporated segment of Santa Cruz County located between the City of Santa Cruz (upcoast) and the City of Capitola (downcoast). Live Oak is part of a larger area including the two Cities that is home to some of the best recreational beaches in the Monterey Bay area. Not only are north Monterey Bay weather patterns more conducive to beach recreation than the rest of the Monterey Bay area, but north bay beaches are generally the first beaches accessed by visitors coming from the north of Santa Cruz. With Highway 17 providing the primary access point from the north (including San Francisco and the Silicon Valley) into the Monterey Bay area, Santa Cruz, Live Oak, and Capitola are the first coastal areas that visitors encounter upon traversing the Santa Cruz Mountains. As such, the Live Oak beach area is an important coastal access asset for not only Santa Cruz County, but also the entire central and northern California region.

The Live Oak coastal area is well known for excellent public access opportunities for beach area residents, other Live Oak residents, other Santa Cruz County residents, and visitors to the area. Walking, biking, skating, viewing, surfing, fishing, sunbathing, and more are all among the range of recreational activities possible along the Live Oak shoreline. In addition, Live Oak also provides a number of different coastal environments including sandy beaches, rocky tidal areas, blufftop terraces, and coastal lagoons. These varied coastal characteristics make the Live Oak shoreline unique in that a relatively small area can provide different recreational users a diverse range of alternatives for enjoying the coast. By not being limited to one large, long beach, or solely an extended stretch of rocky shoreline, the Live Oak shoreline accommodates recreational users in a manner that is typical of a much larger access system.

Primarily residential with some concentrated commercial and industrial areas, Live Oak is a substantially urbanized area with few major undeveloped parcels remaining. Development pressure has been disproportionately intense for this section of Santa Cruz County. Because Live Oak is projected to absorb the majority of the unincorporated growth in Santa Cruz County, development pressure will likely continue to tax Live Oak's public infrastructure (e.g., streets, parks, beaches, etc.).<sup>2</sup> Given that the

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<sup>2</sup> The LCP identifies Live Oak at buildout with a population of approximately 29,850 persons; based on the County's recreational formulas, this corresponds to a park acreage of 150-180 acres. Though Live Oak accounts for less than 1% of Santa Cruz County's total acreage, this projected park acreage represents nearly 20% of the County's total projected park acreage.



beaches are the largest public facility in Live Oak, this pressure will be particularly evident in the beach area.

### **Proposed Development Site**

The proposed project is located immediately adjacent to Corcoran Lagoon on the inland side of East Cliff Drive. East Cliff Drive goes over the Lagoon on a bridge and thus the Lagoon extends from inland Portola Drive under East Cliff and onto the beach, known locally as Santa Maria Cliffs Beach or Corcoran Lagoon Beach. This broad beach extends from a narrow tidal shelf area adjacent to Sunny Cove (upcoast) through to a promontory at 23<sup>rd</sup> Avenue that effectively contains the Lagoon proper most of the year. Contrasting this wide sandy beach area at the Corcoran Lagoon inlet area, the beach setting changes quite drastically at this 23<sup>rd</sup> Avenue promontory and becomes extremely narrow all the way down to the westernmost outcroppings of rock at Soquel (aka Pleasure) Point (downcoast). This narrow portion of the beach is defined on its inland edge by rip-rap protecting residential structures along the blufftop and is most often referred to as 26<sup>th</sup> Avenue or Moran Lake Beach.

Coastview Drive, also known as 22<sup>nd</sup> Avenue, extends along the western side of the Lagoon from East Cliff Drive to inland Portola Drive. Coastview has a gate on its East Cliff Drive entrance, and a wood fence with a pedestrian pass through at its Portola Drive end; a myriad of signs discouraging and/or prohibiting access and parking are posted at each end.<sup>3</sup> The first 100 yards or so of Coastview Drive extending from East Cliff Drive inland is paved at a width of approximately 16 feet with a curb, gutter, and short fence along the Lagoon side. The remainder of Coastview Drive is unpaved, though fairly compacted from years of automobile use. A mature row of trees, primarily eucalyptus, extends along the western edge of the Lagoon (and the eastern edge of Coastview) from East Cliff to Portola. Coastview provides access to four single family residences from East Cliff and one from Portola (inland of the fence at the Portola end).

There are three vacant residential parcels on Coastview,<sup>4</sup> located just inland of its paved reach and between existing developed SFDs on either end (APNs 028-173-05, 07, and 08). The vacant property is owned in fee-title by the Applicant and another entity,<sup>5</sup> with the Applicant alone listed as the owner of the parcel on which an SFD is proposed in this application (i.e., APN 028-173-07). The vacant property slopes gently upward away from Coastview and Corcoran Lagoon.

See exhibit A for graphics showing the subject site in relation to the various features described above.

## **B. County Approved Project**

The County approved project includes three general components: (1) Coastview Drive road construction;

<sup>3</sup> Commission enforcement staff has opened an enforcement case (V-3-02-047) and is investigating the permitting history for the fence, gate, and signs. As of the date of this staff report, it is not clear whether these developments were authorized by CDP.

<sup>4</sup> It is unclear if these are three legal lots of record, or one. The County's administrative file is silent on this topic.

<sup>5</sup> Santa Cruz County Assessor data indicates that APNs 028-173-05 and 08 are jointly owned by the Applicant and Francis Markey, and that APN 028-173-07 is owned by the Margaret Webb Trust.



(2) an SFD on APN 028-173-07; and (3) approval of development envelopes to facilitate future SFD construction on the vacant parcels on either side of APN 028-173-07 (i.e., APNs 028-173-05 and 08). More specifically:

- **Coastview Drive.** The existing paved extent (roughly 300 feet) of Coastview Drive would be widened from its existing roughly 16 foot width to a roughly 22 foot width by extending the paved road roughly 6 feet towards the Lagoon for those 300 feet, and then continuing the now 22 foot wide paved Coastview area (to pave the currently unpaved portion of the road) another approximately 180 feet inland; a new total of roughly 480 feet of 22 foot wide paved road.<sup>6</sup> The existing catch basin draining road runoff directly to Corcoran Lagoon would be moved to the edge of the new Coastview Drive and would be outfitted with a silt and grease trap, and a new catch basin with silt and grease trap would be installed in the newly paved section of the road with a roughly 5 foot by 9 foot rock gabion energy dissipation structure constructed at the outfall immediately above the Lagoon.<sup>7</sup>
- **Residential Development.** A two story, 26 foot tall, roughly 2,800 square foot single-family home would be constructed on the middle lot of the three vacant lots on Coastview Drive (i.e., on APN 028-173-07).
- **Development Envelopes.** The County approved riparian exceptions (required to allow development within 100 feet of Corcoran Lagoon such as that proposed here) for Coastview Drive construction, for the residential development approved for APN 028-173-07, and for future residential development envelopes on each of the two adjacent vacant lots (i.e., APNs 028-173-05 and 08; separate CDPs would be required before any residential development could be pursued on these other lots).

The County also required the removal of 2 eucalyptus trees at the corner of Coastview Drive and East Cliff Drive, although these trees are not identified in the approved plans or proposed project, and required the removal of all downed timber along the edge of the Lagoon fronting the expanded East Cliff Drive.

See exhibit B for County-approved site plans, and exhibit C for illustrative depictions of the approved project in relation to the described locational features. See exhibit D for the County staff report, findings, and conditions approving the Applicant's proposed project.

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<sup>6</sup> Note that the precise amount of Coastview Drive expansion approved is unclear from the County file. The approved County staff report indicates that Coastview would extend from 12 feet to 20 feet in width, however the incorporated County findings on the riparian exception note the width going from 15 to 20 feet, and the County-approved plans show the width of the road going from 16 to 22 feet (when independently measured) and from 14.5 to 20 feet according to the plan notations. In addition, the County approval indicates that Coastview would be extended an additional 170 feet, but the approved plans show this to be 180 feet. Thus, there is some internal confusion on the exact amount of Coastview widening and extending approved, but no confusion that it would be widened towards Corcoran Lagoon and extended inland.

<sup>7</sup> The outfall and gabion structure would be located on APN 028-174-01. This parcel roughly corresponds to the Lagoon proper and is owned by an entity other than the Applicant (Santa Cruz County Assessor data indicates that APN 028-174-01 is owned in fee-title by Michael and Louis Zwerling).



## 5. Substantial Issue Findings

### A. Applicable Policies

There are a sizeable number of LCP policies that are applicable to the proposed project. Part of the reason for this is because the range of coastal resources involved (i.e., ESHA, public access and recreation, viewshed/character, etc.), and part of the reason is because of the way the certified LCP is constructed where there are a significant number of policies within each identified issue area, and then other policies in different LCP issue areas that also involve other issue areas (e.g., public access and recreation policies that also require habitat protection, and vis versa). In addition, there are a large number of general County policies applicable, a number of Live Oak specific policies, and then a correspondingly large number of policies specific to this site due in part to its priority site LUP designation. In terms of habitat resources, there are also two whole zoning chapters that include requirements applicable to this site.

Furthermore, Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water "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 between East Cliff Drive (the first through public road) and Corcoran Lagoon, 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.

For brevity's sake in these findings, these applicable policies are shown in exhibit G. They are summarized below.

#### Priority Uses and Sites

The LCP designates both the residential property and the Coastview Drive property involved as "Coastal Priority Sites" to which special development standards and requirements apply (LCP Policy 2.23 et seq). The designated priority use for these sites is public access and parking, and specific requirements apply to maximize such public access and to maximize protection of Corcoran Lagoon. The sites are designated for acquisition ("D" combining park site overlay district), meaning that the LCP requires that the sites be evaluated for acquisition as part of any development application. The LCP requires that a master plan be prepared that is designed to achieve LCP priority site objectives as part of any approval. The LCP establishes a priority of uses within the coastal zone where recreational uses and facilities are a higher priority than residential uses, and the LCP prohibits the conversion of a higher priority use to a lower priority use (LCP Policy 2.22 et seq); in road improvement projects, priority is given to providing recreational access (LCP Policy 3.14 et seq). These LCP policies are more generally mimicked by Coastal Act policies that include requirements to maximize access, protect existing access, provide access in new development projects, and protect lands for public recreational uses and facilities over residential uses (Coastal Act policies 30210 – 30214, 30221 – 30223).



### **ESHA**

The LCP designates Corcoran Lagoon as both Sensitive Habitat and ESHA as that term is understood within a Coastal Act context (LUP Policy 5.1.2(i) and 5.1.3, IP Chapter 16.32). The LCP requires that development be set back a minimum of 100 feet from Corcoran as measured from its high water mark (IP Section 16.32.090(A)(11)) and designates this 100 foot area as a riparian corridor (LUP Policy 5.2.1 and IP Chapter 16.30) to which an additional 10 foot setback is required (LUP Policy 5.2.4); a total required minimum setback area of 110 feet. Riparian corridors are also designated as both Sensitive Habitat and ESHA by the LCP (LUP Policy 5.1.2(j) and 5.1.3, IP Chapter 16.32) within which development is generally prohibited (IP Section 16.30.040 and IP Chapter 16.32). Exceptions to setback requirements are only allowed under very limited circumstances, and are subject to making specific exception findings (IP Sections 16.30.060 and 16.32.100).

ESHA and Sensitive Habitat are to be preserved, restored, protected against significant disruptions, and any development authorized in or adjacent to them must maintain or enhance the habitat (LCP Objectives and Policies 5.1 et seq and 5.2 et seq, IP Chapters 16.30 and 16.32). The water quality of the Lagoon is required to be protected and improved through the use of appropriate BMPs (LCP Objectives and Policies 5.4 et seq, 5.7 et seq, and 7.23 et seq, and LCP Policies 2.23 et seq).

The LCP requires a biotic assessment, and potentially a full biotic report, for development within sensitive habitats (LCP Policy 5.1.9 and IP Section 16.32.070), and requires environmental review for all development proposed that affects riparian corridors and wetlands, and preparation of an EIR or a full biotic report for projects which may have a significant effect on these resources (LCP Policy 5.2.8 and IP Section 16.32.070).<sup>8</sup>

### **Public Access and Recreation**

The LCP contains a series of interwoven policies which, when taken together, reinforce and reflect the Coastal Act mandate to maximize public access and recreational opportunities, protect existing public access and encourage public access and recreational enhancements (such as public parking, trails, and other facilities) to increase enjoyment of coastal resources and to improve access within the Live Oak coastal region (LCP Chapters 3 and 7). The LCP policies also target the Live Oak coastal area for specific enhancements, such as parking (including LCP Programs 7.7a and 7.7b) and clear visitor signage (LCP Program 7.7f), and even more specifically require that the subject site is to be used to provide the maximum amount of beach parking (see Coastal Priority Site policies above and LCP Program 7.5a). Existing public access use is protected (LCP policy 7.7.10). These policies are reinforced by the Coastal Act policies cited above.

### **Community and Scenic Character**

The LCP identifies the Live Oak area as a special area with specific design criteria to protect its

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<sup>8</sup> The LCP defines biotic assessments as "a brief review of the biotic resources present at a project site prepared by the County biologist" (IP Chapter 16.32). Biotic reports are defined as a "complete biotic investigation conducted by an approved biologist" and including a required series of elements (IP Chapter 16.32). See exhibit G.



character (LCP 8.8 et seq). Unfortunately, the implementation portion of this special design criteria remains incomplete and the general coastal zone (IP Section 13.20.130(b)(1) and residential site design standards (IP Section 13.10.323) are used to ensure compatibility and appropriate scale of development. Public viewsheds are protected from disruption (LCP Objectives and Policies 5.10 et seq, LCP Policy 7.7.1, aforementioned compatibility policies). Because visual access to and along the coast is also a form of public access, Coastal Act visual access policies also apply (Coastal Act Sections 30210, 30211, 30251, and 30240(b)).

#### **Procedural**

The LCP requires that applicants for coastal development permits supply evidence that they are the owner of the land on which development is proposed, or that they have the written permission of the owner to pursue the project (IP Section 18.10.210(b)).

### **B. Analysis of Consistency with Applicable Policies**

The Commissioner Appellants generally contend that the approved project has not adequately addressed nor accounted for impacts to Corcoran Lagoon habitat, public access, and viewshed resources consistent with the LCP and Coastal Act policies that apply to this project site; see exhibit E for the complete appeal document. The Applicant has submitted a response to the Commissioner appeal (see exhibit F).

As detailed below, the appeal issues raise a substantial issue with respect to the project's conformance with the Santa Cruz County LCP. The following substantial issues are raised:

#### **Property Ownership**

Part of the approved project takes place on the Coastview Drive parcel (APN 028-174-02; expansion of the roadway, some drainage outlet work, removal of vegetation), another on the vacant residential property fronting Coastview Drive (APNs 028-173-05, 07 and 08; one SFD on lot 07 and development envelopes for the surrounding vacant lots), and on the Corcoran Lagoon property (APN 028-174-01; drainage outlet and gabion rock device). According to Santa Cruz County Assessor's data,<sup>9</sup> these properties have the following fee-title ownership:

- Coastview Drive (APN 028-174-02) owned in fee-title by Michael and Louis Zwerling.
- Vacant property on which the SFD was approved (APN 028-173-07) owned in fee-title by the Margaret Webb Trust.
- Vacant property on which the riparian exceptions were approved (APNs 028-173-05 and 08) owned in fee-title by Margaret Webb and Francis Markey.
- Corcoran Lagoon (APN 028-174-01) owned in fee-title by Michael and Louis Zwerling.

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<sup>9</sup> December 2002 data.



The County's file indicates that Margaret Webb Trust is the Applicant. However, according to the assessor data, the Margaret Webb Trust owns only APN 028-173-07. The other two vacant residential properties are owned by Margaret Webb (not the trust) and Francis Markey, and the Coastview Drive and Corcoran Lagoon parcels are owned in fee-title by Michael and Louis Zwerling.

A case might be made that Applicant, Margaret Webb Trust, has an ownership interest in the other 2 vacant residential properties, but there is no evidence in the County file indicating how the Trust differs from the person its named after, there is no evidence in the file as to the ownership interest of the other listed owner (Francis Markey) and whether (s)he has consented to the application. Accordingly, an LCP conformance question is raised.

As to Coastview Drive and Corcoran Lagoon, there is no evidence in the file indicating that the fee-title owner gave the Applicant permission to make an application for development on the land. Accordingly, an LCP conformance question is raised.

The County file includes a 1969 Superior Court judgment that County staff indicates<sup>10</sup> gives the applicant a legal right to access over the Coastview Drive parcel to the vacant residential parcel. However, this judgment does not include the corresponding maps to be able to confirm the metes and bounds calls being made. In addition, if such an easement right could be verified, it is not clear that such an easement right of access across a parcel gives the easement holder the right to pursue permits for development on the parcel. Accordingly, an LCP conformance question is raised.

One purpose of verifying that applicants own property on which development is proposed is that an applicant who is not the underlying property owner cannot bind the underlying property owner to the terms and conditions of the permit. This represents a fundamental principal of development applications. Its akin to applying to applying to construct a granny unit in your neighbor's backyard without their consent. For example, in the subject case, some of the issues involve perfecting public access and recreation use of Coastview Drive as directed by the LCP. If the owner of Coastview Drive is not the applicant, and if the owner of Coastview Drive does not consent to the application being made and does not consent to being bound by the terms and conditions of a subsequent approval, then the approval is not effective.

The LCP requires proof of applicant ownership, and the approved project does not include same. Accordingly, an LCP conformance question is raised.

#### **Lack of Analysis**

The approved project includes road expansion, drainage outlets, tree removal, vegetation clearance, and residential development within the designated riparian corridor defined as ESHA by the LCP. The approved project did not include the LCP-required biotic assessment, and did not include a biotic report. The approved project was exempted from the LCP-required CEQA review. Because of these omissions,

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<sup>10</sup> Email from Santa Cruz County Planning Department and County Counsel's Office (December 9, 2002 and December 11, 2002).



detailed habitat information with which to make informed coastal permit decisions is missing.<sup>11</sup> Accordingly, an LCP conformance question is raised.

#### **Lack of Master Plan**

The LCP-required master plan for this site was not a part of the approved project, and the LCP requirements of the master plan for public access, recreation, and habitat protection were not otherwise secured. Accordingly, an LCP conformance question is raised.

#### **Wetland Setback**

As detailed above, the LCP requires a 110 foot setback from the high water mark of the Lagoon for development.<sup>12</sup> The approved project allows for a drainage outlet and gabion device in the Lagoon, log removal at the Lagoon's edge, road development (Coastview) within roughly 35 feet of the Lagoon, tree removal within roughly 50 feet of the Lagoon,<sup>13</sup> a paved residential driveway within roughly 55 feet of the Lagoon, a 2-story 2,800 square foot residence within 100 feet of the Lagoon, a development envelope on APN 028-173-05 translating into a driveway within about 45 feet of the Lagoon and a residence within about 75 feet of the Lagoon, and a development envelope on APN 028-173-08 translating into a driveway within about 65 feet of the Lagoon and a residence within about 90 feet of the Lagoon. Each of these setback distances do not meet the minimum buffer distance required by the LCP.

The County approved a riparian exception to allow development within the required buffer for these cases (see pages 10-11 and 16-19 of exhibit D). There are several problems with this exception.

First, the required riparian exception findings do not provide adequate support to conclude that an exception is warranted in this case (see page 14 exhibit G for the precise text of the required findings).

- Required finding 1 (that there be a special circumstance) is based on an identified need to upgrade Coastview Drive to provide access, and indication that the rear portions of the residential lots include trees. Coastview Drive currently already provides vehicular access to the four residences present there, and this would hardly present a special circumstance in any case. The fact that there exist trees on the inland portion of the residential lots, and required setbacks in the front is also not a special circumstance, but rather an identification of the site constraints. In each case, there appears to be

<sup>11</sup> In addition, although the project borders Corcoran Lagoon, the approved project did not include a formal delineation to identify the edge of the lagoon in this case. Rather, the County relied upon the high-water mark of the lagoon (as identified by the Applicant) as the edge of the wetland for setback purposes. Given that the LCP's wetland setback is measured from the high water mark of a wetland (IP Section 16.32.090(A)(11)) and not necessarily its overall extent, such lack of a formal delineation does not appear to be a substantial issue of itself here, but this omission contributes to the overall substantial issue here; particularly since the applicant's high-water mark assessment does not appear to have been verified otherwise.

<sup>12</sup> Where setbacks from the Lagoon are discussed in these findings, the setback is understood to be measured from the Applicant-identified high-water mark of the Lagoon, and not from a more precisely delineated edge of Lagoon. Similarly, where identified here, the edge of the Lagoon is taken to be the same high-water mark.

<sup>13</sup> As previously indicated, the County required the removal of 2 eucalyptus trees at the corner of Coastview Drive and East Cliff Drive. Since the trees identified for removal are not identified in the approved plans, it is estimated that the trees at this corner are roughly 50 feet from the Lagoon's edge.



adequate space with which to develop reasonably sized residences that respect the site constraints. There does not appear to be a special circumstance in this case.

- Required finding 2 (that the exception is necessary for the proper design and function of some permitted or existing use of property) is based on the residential zoning of the residential lots. However, no analysis is presented that would indicate that the exception is necessary to allow residential use. Moreover, the finding is focused on the residential lots, and does not reference the Coastview Drive or Corcoran Lagoon properties where development is also proposed. It is not clear that the exception is "necessary" as that term is understood in this required finding's context.
- Required finding number 3 (that the exception will not be detrimental to the public welfare or injurious to other property), is based on an assertion that, if completed per-project plans, the finding can be made. However, there is no biotic assessment/report that analyzes impacts and alternatives, and on which such a finding might be based (since the required reports were not done). Absent this, it would appear that removing riparian corridor for private residential paved road improvements, directing runoff from these roads and residential development into the Lagoon, and further hemming in Corcoran Lagoon resources would be detrimental and injurious to the Lagoon resource. Moreover, log removal and unspecified tree removal is required, but there is no identification of impacts associated with these project components on Lagoon habitats. It is not clear that required finding number 3 can be made in this case.
- Required finding number 4 (that the exception will not reduce or adversely impact the riparian corridor and there is no less environmentally damaging feasible alternative) is based on mitigating project impacts through erosion control and installing two silt and grease traps. However, the project would reduce the designated riparian corridor (by expanding the road), and it is not clear whether there are less damaging alternatives since there is no analysis of same as required (see report requirements above). The finding is based on mitigating, rather than avoiding impacts as the LCP directs. Even if one were to assert that mitigation could satisfy this finding, the requirement for erosion control in construction is a standard requirement of development (to control the amount of impact), and hardly compensatory for mitigation. As to the silt and grease traps, their usefulness in protecting receiving waterbodies from the effects of urban runoff pollutants has been questionable in the Commission's experience, and likewise of limited usefulness in a mitigation role. It is not clear that required finding number 4 can be made in this case.
- Required finding number 5 (that the exception is consistent with the objectives of the LCP) is not based on any identified facts or analysis, but rather is simply restated. On the contrary, it is not clear that the project is in accordance of the policies of the LCP inasmuch as it further reduces the buffer area to the Lagoon, introduces additional impervious surfacing and urban runoff into the Lagoon, does not protect public access along Coastview, among other things (see other substantial issue findings). It is not clear that required finding number 5 can be made in this case.

Accordingly, an LCP conformance question is raised.



Second, the County findings apply only to the exception provisions of LCP Chapter 16.30, and specifically Section 16.30.060 (see exhibit G). LCP Section 16.30.030 defines the area within 100 feet of the high-water mark of the Lagoon as a riparian corridor, and LCP Section 16.30.040(a) prohibits development in the defined riparian corridor without a riparian exception per LCP Section 16.30.060; these are the findings made by the County. However, separate from the LCP Chapter 16.30 requirement, LCP Chapter 16.32.090(c)(A)(11) requires a 100 foot minimum setback from the Lagoon's high-water mark, where this buffer distance is required to be maximized.<sup>14</sup> Exceptions to the Chapter 16.32 minimum 100 foot setback can only be authorized with an exception per Section 16.32.100 that identifies an additional set of exception findings that are required to be made in this case. The LCP-required exception findings per 16.32 were not made. Accordingly, an LCP conformance question is raised.

Third, similar to the Chapter 16.30 findings, it is not clear that the Chapter 16.32 exception findings can be made (see exhibit G, pages 26-27). In particular, it is not clear that this project has minimized disturbance as required by 16.32.100(a)(1). Moreover, since this is not a habitat restoration project, and no habitat restoration has been proposed or required, the Section 16.32.100(a)(2)(i) finding cannot be made. Since the approved project did not include environmental review, a biotic assessment, or a biotic report, and lacking an otherwise thorough analysis that could act as their functional equivalent, the Section 16.32.100(a)(2)(ii) finding also cannot be made. Thus, it is not clear that required Chapter 16.32 exception findings can be made in this case. Accordingly, an LCP conformance question is raised.

There doesn't appear to be a provision in the County LCP that allows for exception findings to be made ahead of the time when the development itself (i.e. the SFDs) is actually proposed. As such, the development envelopes approved in this case may be inappropriate until it is known what development is proposed on these lots. Accordingly, an LCP conformance question is raised.

It appears that a reduced road project, one with better runoff BMPs, and one that addressed coastal priority site and other LCP and Coastal Act policies requiring public access and recreational use, could be feasible in this case. The impacts of such a road project on the habitat are, however, unclear based on the administrative file for the application. It is not clear that the current project can be found consistent with the riparian and wetland policies of the LCP as approved and based on the information developed to date. Accordingly, an LCP conformance question is raised.

#### **Lagoon Water Quality**

The LCP dictates that impervious surfaces be minimized, pre-development runoff rates be maintained, and that everything possible is done to protect the water quality of Corcoran Lagoon.

Additional impervious surfacing and increased runoff rates are expected with the proposed project. It appears that the amount of road paving could be reduced. In addition, the SFD proposed includes substantial amounts of concrete pathways and patios, in addition to the large driveway apron dominating its Lagoon frontage (see exhibits B and C). When combined with the large residential structure footprint,

<sup>14</sup> Plus an additional 10 feet per LCP Policy 5.2.4 for a total minimum setback of 110 feet.



much of the lot is covered with impervious surfaces. It appears that the amount of impervious surface could easily be reduced, particularly as necessary to respond to site constraints (wetland setbacks, maximum density and coverage, etc.). Accordingly, an LCP conformance question is raised.

The approved project has addressed runoff concerns to a degree in that it would include two silt and grease traps. However, the Commission is wary of relying upon standard silt and grease traps to adequately protect receiving waterbodies from urban runoff pollutants. The efficacy of such units is has not always proven adequate in the Commission's experience. When the LCP dictates maximum protection, given the significant habitat of Corcoran Lagoon to which the runoff would be directed, silt and grease traps that act as sediment holding basins are not sufficient in this regard. Accordingly, an LCP conformance question is raised.

In addition, there is no evidence in the County administrative file evaluating runoff volumes expected at the new outfall locations, and whether the units proposed can handle that volume of runoff. Accordingly, an LCP conformance question is raised.

Building upon the above water quality concerns, IP Section 16.32.090(c)(A) prohibits development that would cause adverse water quality impacts that are not fully mitigated. It is not clear that water quality impacts are well identified, nor appropriately mitigated. Accordingly, an LCP conformance question is raised.

#### **Other ESHA Requirements**

In addition to the ESHA concerns thus far noted, and building upon them, there are other policies for which conformance is questionable.

LCP policy 5.1.6 requires that the approved development not significantly disrupt habitat values within the Lagoon and the 100 foot setback area, and that it maintain or enhance the functional capacity of these habitats. It is not clear that the proposed project will not significantly disrupt habitat values, partially because the approval lacks the required analysis, and it is not clear that the project will maintain or enhance the habitat. Rather, it appears that the project will reduce the habitat area, diminish its overall function, further hem in the habitat area with built urban environment structures (the expanded road), and introduce additional noise, lights, pets, and residential activities even closer to the Lagoon than currently existing. Accordingly, an LCP conformance question is raised.

LCP Policy 5.1.6 also requires reductions in scale, redesigns, and denial of projects that do not sufficiently mitigate significant adverse habitat impacts. As discussed, such impacts appear to be significant, and it appears that there are alternative project designs and mitigations that could mitigate remaining impacts. Accordingly, an LCP conformance question is raised.

LCP Policy 5.1.7 includes a series of requirements when development is proposed that affects sensitive habitat resources including: placing structures as far away from the habitat as feasible (not done in this case); requiring legal instruments like easements and deed restrictions to protect remaining habitat areas (not done in this case); and prohibiting landscaping with invasive or exotic species and encouraging the



use of appropriate native species (not done in this case). Accordingly, an LCP conformance question is raised.

Generally, when taken as a whole, and based on the ESHA related issues thus far identified, it is not clear that the approved project can be rectified to the overall ESHA goals and objectives of the LCP. Accordingly, an LCP conformance question is raised.

#### **Through Public Access**

The public has long used Coastview Drive as a through public access trail connecting from inland Portola Drive through to East Cliff Drive and the beach. In part, this is the reason for the LCP's Coastal Priority Site designation and requirements. At some point in time, and it appears since the coastal permitting requirements of Proposition 20 (the Coastal Initiative) and the Coastal Act, a gate was installed where Coastview meets East Cliff Drive, and a fence was installed near the intersection of Coastview with inland Portola Drive. In addition, a number of signs discouraging and/or prohibiting through public access and parking have been installed at both ends of Coastview. The Commission has been unable to locate CDPs authorizing the signs and the other physical barriers to access at this location.<sup>15</sup> The County's approval is silent on these issues. Accordingly, an LCP and Coastal Act conformance question is raised.

The Coastal Act and LCP require that public access be maximized, that existing access be protected, and that access be provided and enhanced at this LCP-designated Coastal Priority Site location. The County's approval does not evaluate the impact of the gates, fences, and signs on public access use along Coastview Drive, and dismisses the impacts of the approved project (which would leave in place the gate at East Cliff and modify the fence at Portola to make a 12 foot opening with lockable bollards) on public access asserting that it will not interfere with public access to the ocean. However, such a finding does not address whether the existing barriers to access were permitted, does not address the effect of leaving them in place (gate and signs) and modifying them (fence) when a widened road is developed without proactively providing for through public access, and, ultimately, does not protect existing public access as required by the LCP and the Coastal Act.

Coastview Drive provides an important through link from inland Portola Drive to the beach. This through accessway has become more important in recent years since Portola Drive was improved with curbs, gutters, landscaping, and sidewalks (providing additional inland parking and pedestrian connections), since the County acquired the former Albatross nightclub site and installed the popular Live Oak library just past the KSCO radio station on the Lagoon's edge on Portola (with the library site opening up a wealth of opportunities to provide interpretive facilities and trail access along the Lagoon's edge to the beach), and since the Sanctuary Scenic Trail (a component of the larger California Coastal Trail) currently envisions trail spurs along both Portola and East Cliff that are linked directly by Coastview Drive. Accordingly, an LCP and Coastal Act conformance question is raised.

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<sup>15</sup> Commission enforcement staff have opened an enforcement case and are currently researching these issues.



**Public Parking**

The Live Oak beach area is an important recreational asset for Live Oak residents, other County residents, and visitors to the area. Parking is extremely limited in this area, predominantly provided by on-street parking that itself is further limited by significant amounts of private encroachments into the public right-of-way, inadequate definition of the public-private delineation point at the street's edge, no parking and restrictive parking signs (both privately posted and posted by the County), and a peak-season preferential permit parking program. In addition, additional recreational amenities and improvements (such as through trails and parking areas) are in high demand. Publicly available property on which to construct such improvements is lacking and rising coastal land costs limit the County's ability to purchase properties for public uses. The LCP contains multiple policies and programs detailing the need for parking enhancement in the Live Oak beach area; the Coastal Act likewise supports such goals and requires that public parking access be maximized.

In part because of the parking deficit in coastal Live Oak, and in part because of the historic use of the site for public beach parking (i.e., before gates, fences, signs etc.), the LCP designated the subject site, including both the vacant residential lots and Coastview Drive itself, as a priority location to maximize public beach parking (LCP Policy 2.23 et seq, LCP Programs 7.5a, 7.7a, and 7.7b); the LCP's master plan requirements (not met in this case) were meant to provide a vehicle for achieving these LCP objectives relevant to this site. However, the approved project does not provide for any public access parking on Coastview, does not provide for any public access parking on the vacant lots designated to provide parking, does not address the signs, gates, and fences obstructing public parking at this location, and instead allows for the road to be widened but paints its entire curb red and allows for additional signs to be placed along its full expanded reach to indicate that parking is prohibited. The County's findings regarding the need for parking at this beach area location are silent other than to say that the approval does not prejudice future development of beach parking at this site. However, the approved project maintains existing barriers to public parking, and installs new ones in the form of no parking signs and red curbs. Accordingly, an LCP and Coastal Act conformance question is raised.

**Priority of Uses**

The LCP and Coastal Act maintain a use priority that places public recreational access uses and facilities above private residential use (see applicable policy citations above). In some cases, such as this one, the LCP further elaborates on this priority of use concept by designating Coastal Priority Sites where specific standards and requirements (meant to achieve the priority site objectives) are specified. The LCP designated priority for this site is for public access and recreation. The LCP also reserves road capacity for, and gives priority to road improvements that provide for, recreational access (LCP Policies 3.14.1 and 3.14.2). The approved project instead provides for a lesser priority use (residential); to the extent the existing use is considered recreation, such a conversion of use is prohibited by the LCP. The County indicates that future use of Coastview Drive for its LCP-designated priority use would not be prevented, but did not otherwise indicate why it wasn't being pursued now in this application. Accordingly, an LCP and Coastal Act conformance question is raised.



**Acquisition Review**

The LCP designates Coastview Drive and the residential properties involved as park site acquisition targets. What that means is that when development is proposed on sites so designated, the County must formally consider acquisition of the subject sites (and compensation to the fee-title owners) at that time. In this case, the County considered acquisition of the residential properties only, and not Coastview Drive, in this acquisition context. Since Coastview Drive was not so considered, an LCP and Coastal Act conformance question is raised.

In addition, when the County considered the residential properties involved here for acquisition, such acquisition was declined based on the assertion that the properties were not located adjacent to another County park site, and due to their limited size. It does not appear that the Board clearly understood that the site was adjacent (across East Cliff Drive) from the County's beach property, and that it (through Coastview) provides access from the inland public library site along the Lagoon to the beach. It also appears that the Board was informed by staff report that the underlying land was three combined parcels (i.e., the three residential parcels) totaling 5,401 square feet of land on which a single residential unit was being proposed. However, the three parcels total roughly three times that acreage, were not being combined, additional development envelopes (pre-supposing the other two sites for future single family units) were being pursued on the other two sites, and the project also included development moving into the buffer area surrounding Corcoran Lagoon. Accordingly, an LCP and Coastal Act conformance question is raised.

**Tree and Log Removal**

The approved project includes the removal of two trees at the intersection of Coastview Drive with East Cliff, but it is unclear from the approval where these trees are located. It is also unclear as to what impact such tree removal will have on Lagoon habitat, at least partially because the required biotic analyses were not done in this case. Accordingly, an LCP conformance question is raised.

The approved project also includes the removal of all downed logs along the edge of Corcoran Lagoon proper within the area that Coastview would be expanded. The approval includes no discussion of this project element, and it is unclear as to when and how these logs came to be located here, what role they play in the habitat of the Lagoon, and the effect on the habitat here of removing them from the Lagoon uplands. Accordingly, an LCP conformance question is raised.

**Character, Scale, and Viewshed Protection**

Given its location, the LCP's character and scale compatibility policies, and the LCP and Coastal Act's visual policies, come together to dictate a residential mass and scale that is responsive to the urban open space location and the project site constraints, including the required wetland setback. Without the specific design guidance identified in the LCP for Live Oak (but not yet part of the LCP), general compatibility and site design standards are applied to the subject site. In this case, the LCP's R-1-4 maximums as they apply to the residential portion of the site (excluding Coastview itself and the Lagoon) include the following:



<b>Lot</b>	<b>Maximum Floor Area Ratio</b>	<b>Maximum Parcel Coverage</b>	<b>Minimum Side Setbacks</b>
APN 028-173-05	50%	30%	5 & 8 feet
APN 028-173-07	50%	30%	5 & 8 feet
APN 028-173-08 <sup>16</sup>	50%	40%	5 & 5 feet

Such maximums must, however be understood within the site context and its location relative to the Lagoon. Countywide maximum considerations of mass and scale (such as lot coverage, and floor area ratio(FAR)) are not entitlements, but rather maximums that may need adjustment in light of resource constraints (wetland setbacks, public viewshed concerns, etc.).

In terms of the one SFD approved (for APN 028-173-07), the approved project allowed for a total gross square footage of 2,812 square feet as indicated on the approved plans. For FAR calculations, the LCP provides for a 225 square foot credit. The corrected square footage for FAR purposes is thus 2,587 square feet. The gross square footage of the lot is identified on the project plans as 5,451 square feet, although the County identifies it as 5,401 square feet in their adopted staff report.<sup>17</sup> The County LCP is confusing as regards how then to calculate the allowable FAR. LCP Policy 5.2.6 says to “exclude land within riparian corridors in the calculation of development density or net parcel size....” If the riparian corridor is excluded from FAR calculations, then the approved SFD would be well in excess of the allowed FAR for this site. If the riparian corridor is not excluded, then the approved SFD would be just within the maximum FAR allowed for this site. Accordingly, an LCP and Coastal Act conformance question is raised.

Similarly, the County LCP is confusing as regards how to calculate the allowable parcel coverage. Neither “parcel” nor “coverage” is defined by the LCP. In terms of the one SFD approved, the approved project allowed for a residential footprint of 1,633 square feet, and additional impervious surface coverage (by driveways, patios, and paths) of approximately 1,625 square feet; a total structural coverage of 3,258 square feet (roughly 60% of the site covered by structures). If one interprets parcel coverage to mean coverage of the site by structures, then the approved residential development would be well in excess of the maximum 30% parcel coverage allowed; roughly double. If one interprets parcel coverage to mean coverage of the site by the residential footprint of the SFD structure alone, then the approved residential development would be exactly at the maximum 30% parcel coverage allowed. In either case, if the riparian corridor is excluded from coverage calculations, then the approved residential development would be well in excess of the maximum 30% parcel coverage allowed. Accordingly, an LCP and Coastal Act conformance question is raised.

The LCP requires a minimum of 5 foot and 8 foot side setbacks for the SFD approved. The approved project plans show these at 5 feet and 5 feet, thus more mass than that allowed by the LCP. Accordingly,

<sup>16</sup> Note that the maximum parcel coverage and minimum side yard setbacks are different for APN 028-173-08 because its overall parcel size is less than 5,000 square feet. That said, the other residential parcels, too, might be less than 5,000 square feet if the riparian areas are discounted from the parcels size (see discussion that follows).

<sup>17</sup> Assessor parcel maps show the parcel as 5,450 square feet.



an LCP and Coastal Act conformance question is raised.

Similarly, the LCP requires a minimum of 5 foot and 8 foot side setbacks for the development envelope at APN 028-173-05. The approved project plans show these at 5 feet and 5 feet, thus more mass than that allowed by the LCP. Accordingly, an LCP and Coastal Act conformance question is raised.

The exceptions to the required wetland setbacks (as detailed above) allow for development massing closer to the Lagoon than specified for these sites by the LCP for the SFD approved and for the development envelopes approved. Accordingly, an LCP and Coastal Act conformance question is raised.

The project site is visible from the beach, and from East Cliff Drive, but the approved project did not include an analysis of impacts on the beach or East Cliff Drive viewshed. Accordingly, and in tandem with the above questions of consistency, an LCP and Coastal Act conformance question is raised.

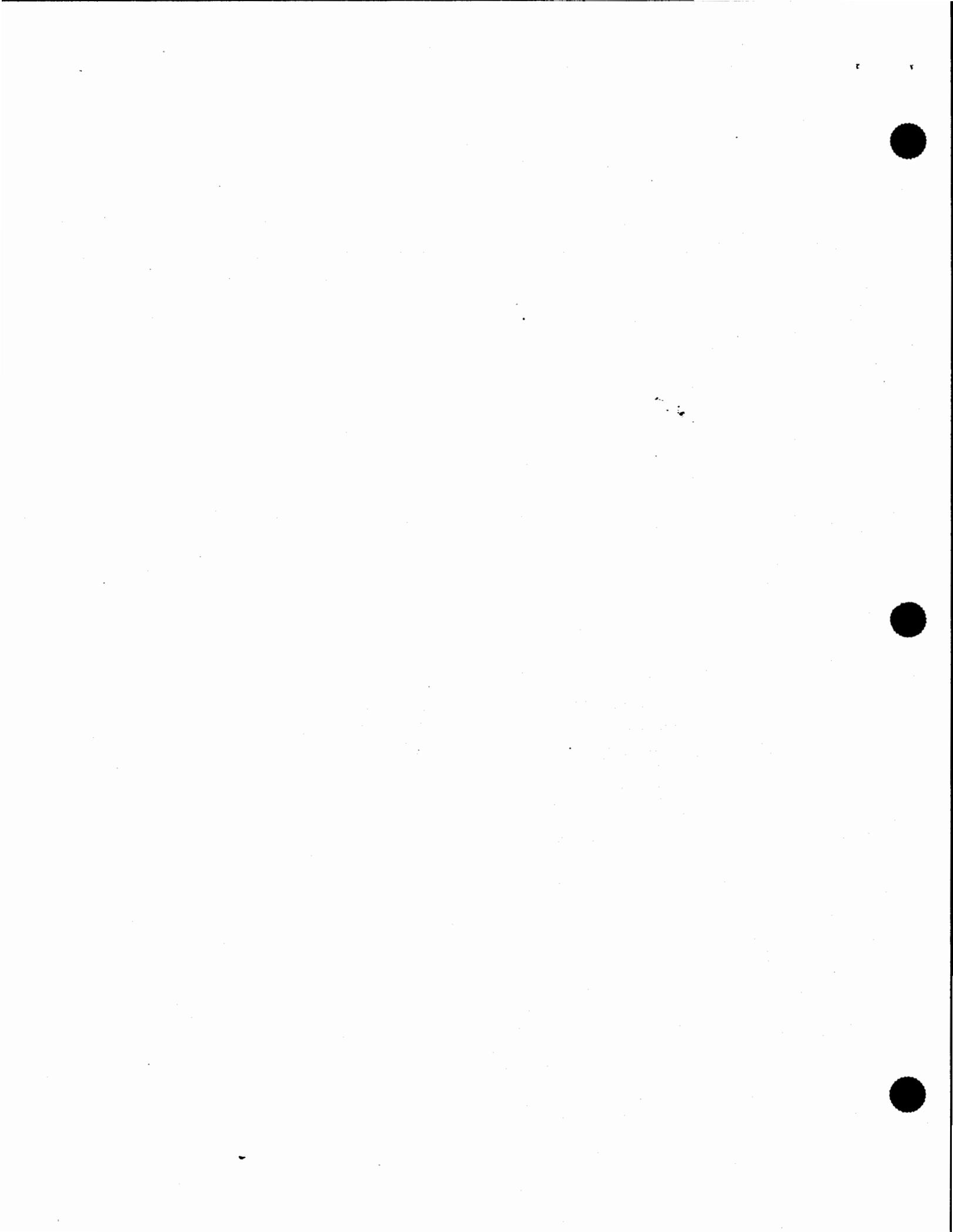
Although the County staff report indicates that no trees would be removed, the conditions of approval require removal of two eucalyptus near the corner of East Cliff Drive and Coastview Drive adjacent to the Lagoon, and the approved plans indicate that 3 trees on the vacant residential properties would be removed (in addition to another 3 trees to be relocated on the vacant residential properties). In addition to the question regarding the potential habitat impacts from the tree removal (as detailed above) the removal of the trees will reduce the overall treescape canopy within the beach and East Cliff Drive viewsheds. Again, the approved project did not include any analysis of impacts to the beach or East Cliff Drive viewshed. Accordingly, an LCP and Coastal Act conformance question is raised.

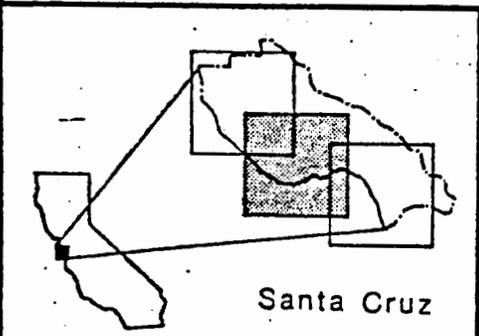
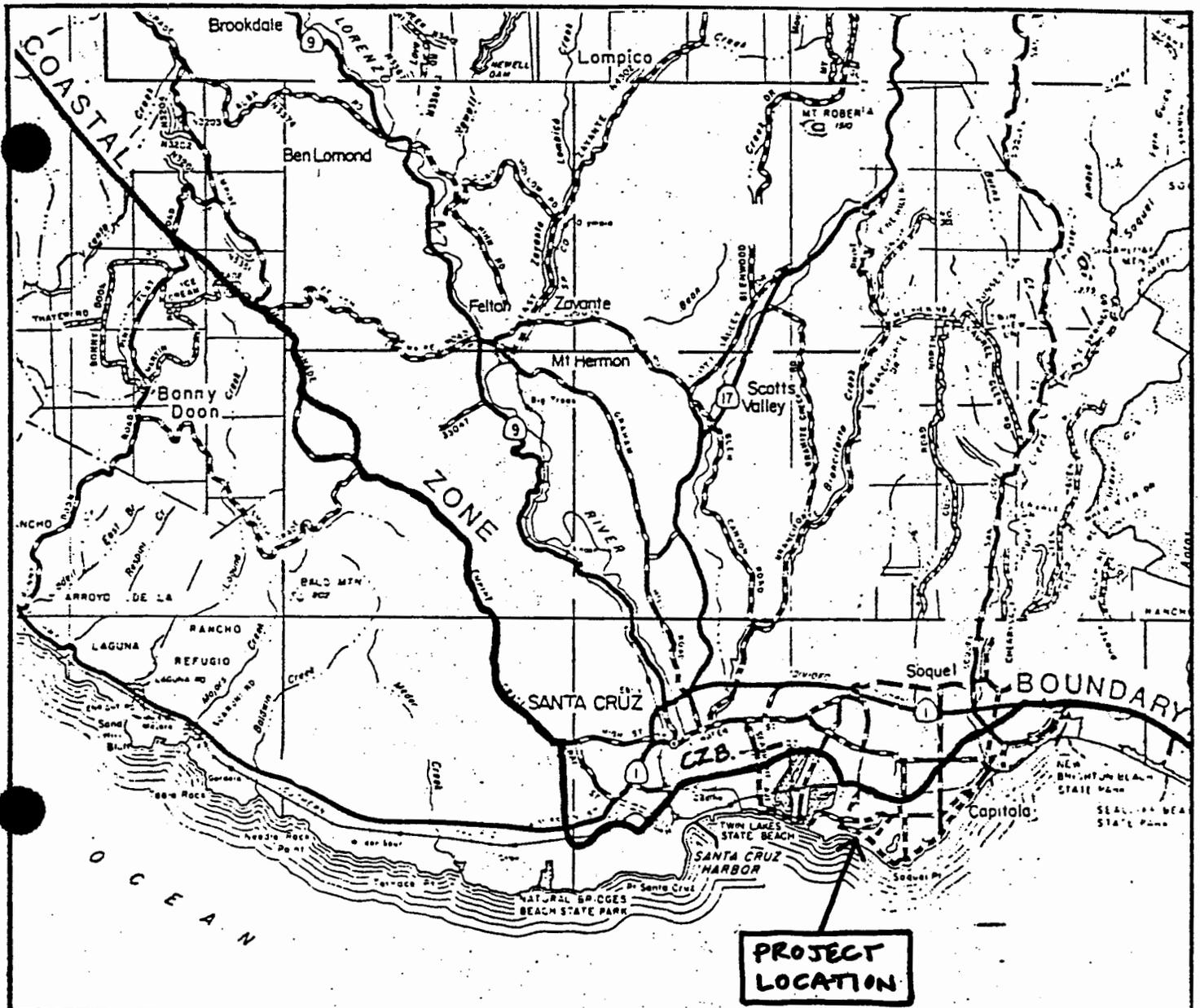
### **C. Substantial Issue Conclusion**

The County-approved project lacks evidence that some of the property owners consent to the application, lacks the required Coastal Priority Site master plan, and lacks the required environmental and biotic analyses. It does not protect the site for the priority uses of public access and public parking as directed by the LCP, is not consistent with the wetland setback requirements of the LCP, does not adequately protect Corcoran Lagoon resources as required by the LCP, includes approved project elements that are not clearly defined, allows for development that may be in excess of the mass and scale maximums allowed for this location, and has not addressed beach and East Cliff Drive public viewshed issues. These issues, both individually and cumulatively, warrant a further analysis and review by the Coastal Commission of the proposed project.

The Commission finds that a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County Local Coastal Program and takes jurisdiction over the coastal development permit for this project. It appears that there are project modifications available that can reduce the impact of the development on the Lagoon and its urban open space environs, and that can address public access and recreation requirements for this location, consistent with the LCP. Prior to further de novo review, the Commission expects that the Applicant will provide the LCP-required proof of ownership information and biotic analyses, and will work with Commission staff to evaluate alternatives designed to address the issues identified in these substantial issue findings.



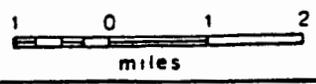




MONTEREY BAY

California Coastal Commission

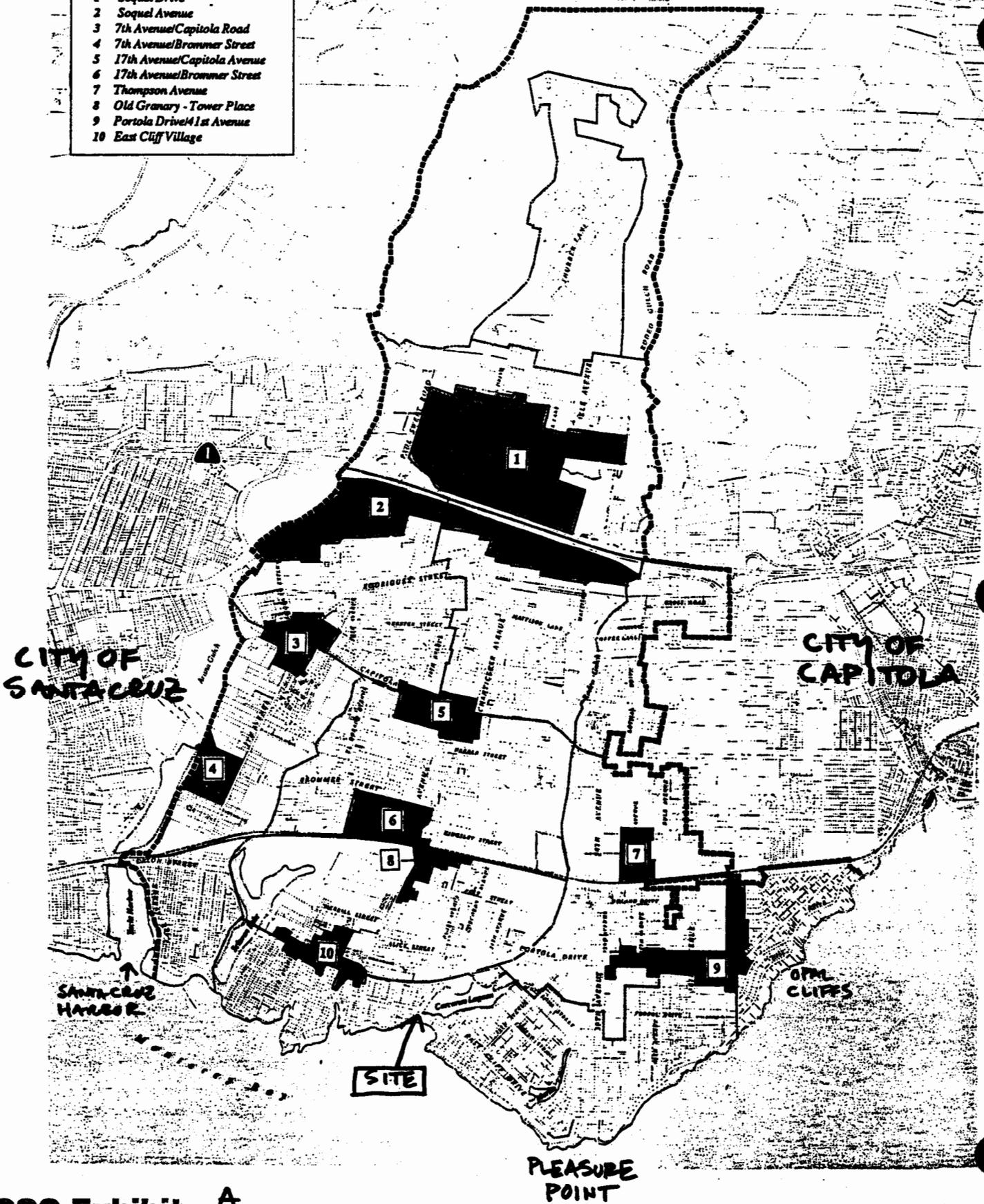
LOCATION MAP

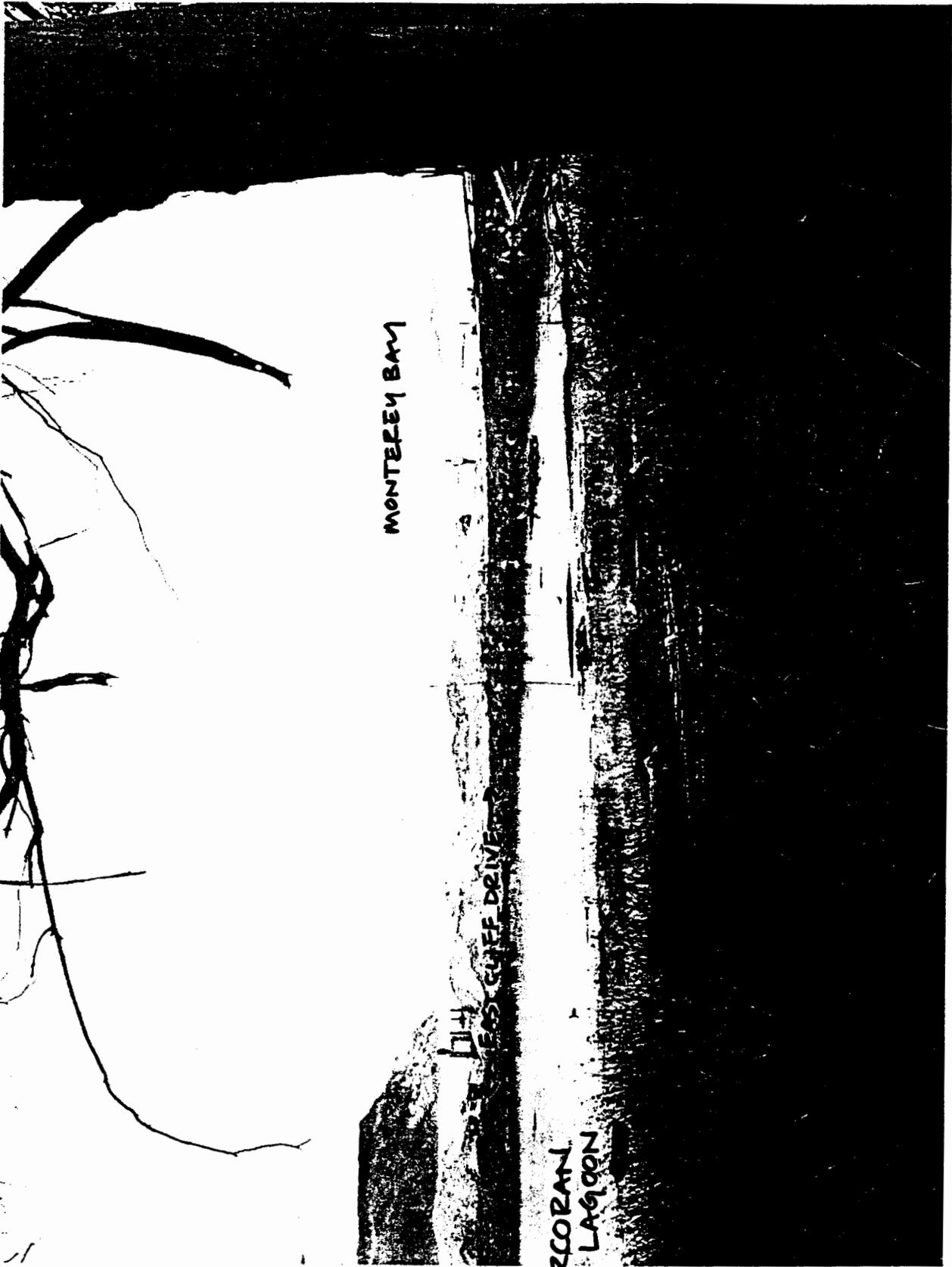


# LIVE OAK

## LEGEND

- 1 Soquel Drive
- 2 Soquel Avenue
- 3 7th Avenue/Capitola Road
- 4 7th Avenue/Bronner Street
- 5 17th Avenue/Capitola Avenue
- 6 17th Avenue/Bronner Street
- 7 Thompson Avenue
- 8 Old Granary - Tower Place
- 9 Portola Drive/1st Avenue
- 10 East Cliff Village





MONTEREY BAY

CORCORAN LAGOON

23RD AVE

EAST CLIFF DRIVE

BEACH AND BAY AS VIEWED FROM COASTVIEW DRIVE PROJECT AREA.



ENTRANCE TO COASTVIEW DRIVE PROJECT  
AREA AS VIEWED FROM EAST CLIFF DRIVE

72



MID-POINT OF COASTVIEW DRIVE LOOKING INLAND  
TOWARDS PORTOLA DRIVE

RESI  
PROP  
SITE



COASTVIEW DRIVE AS VIEWED TOWARD EAST  
CLIFF DRIVE FROM PORTOLA DRIVE

95



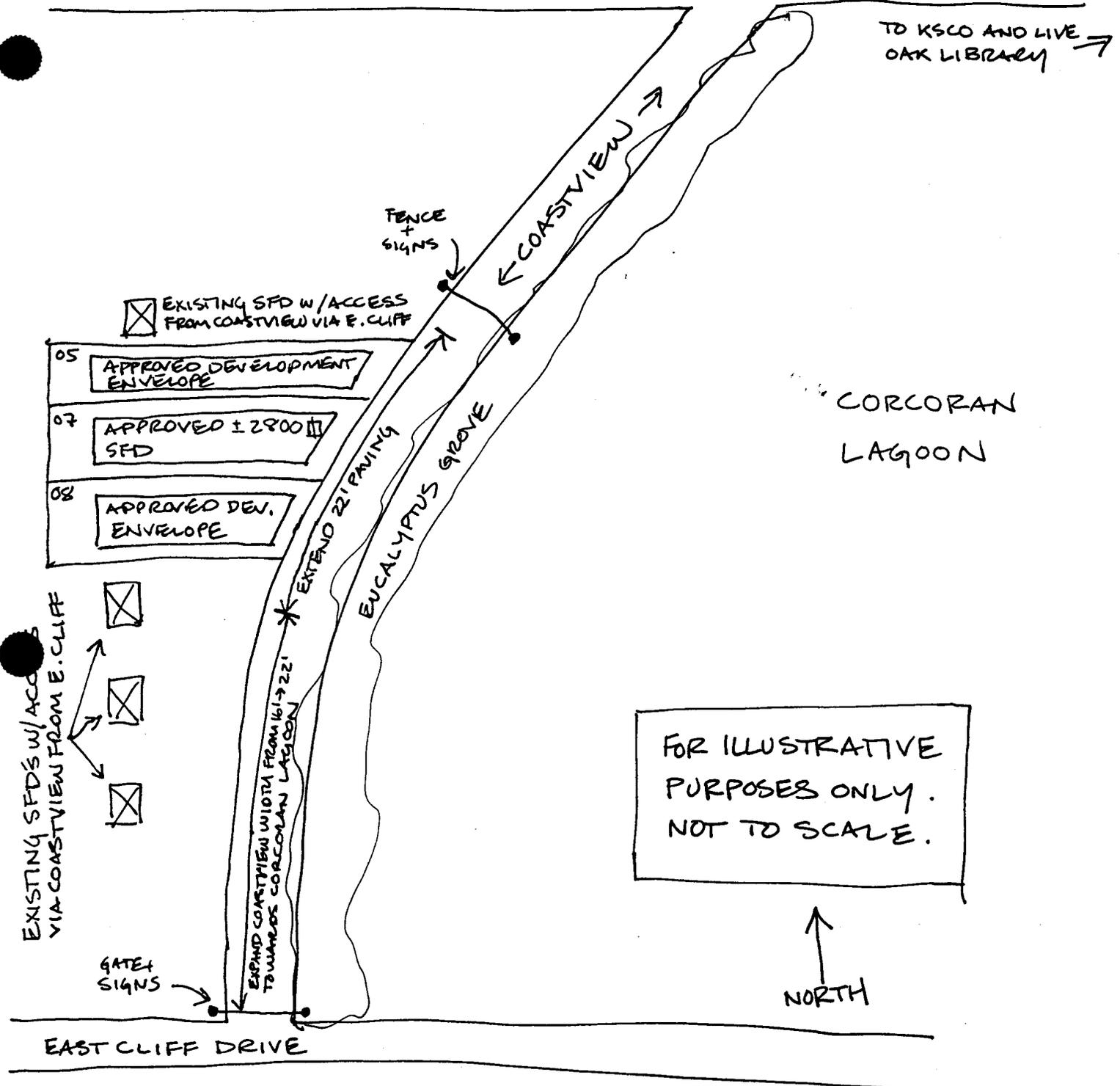






PORTOLA DRIVE

TO KSCO AND LIVE  
OAK LIBRARY →



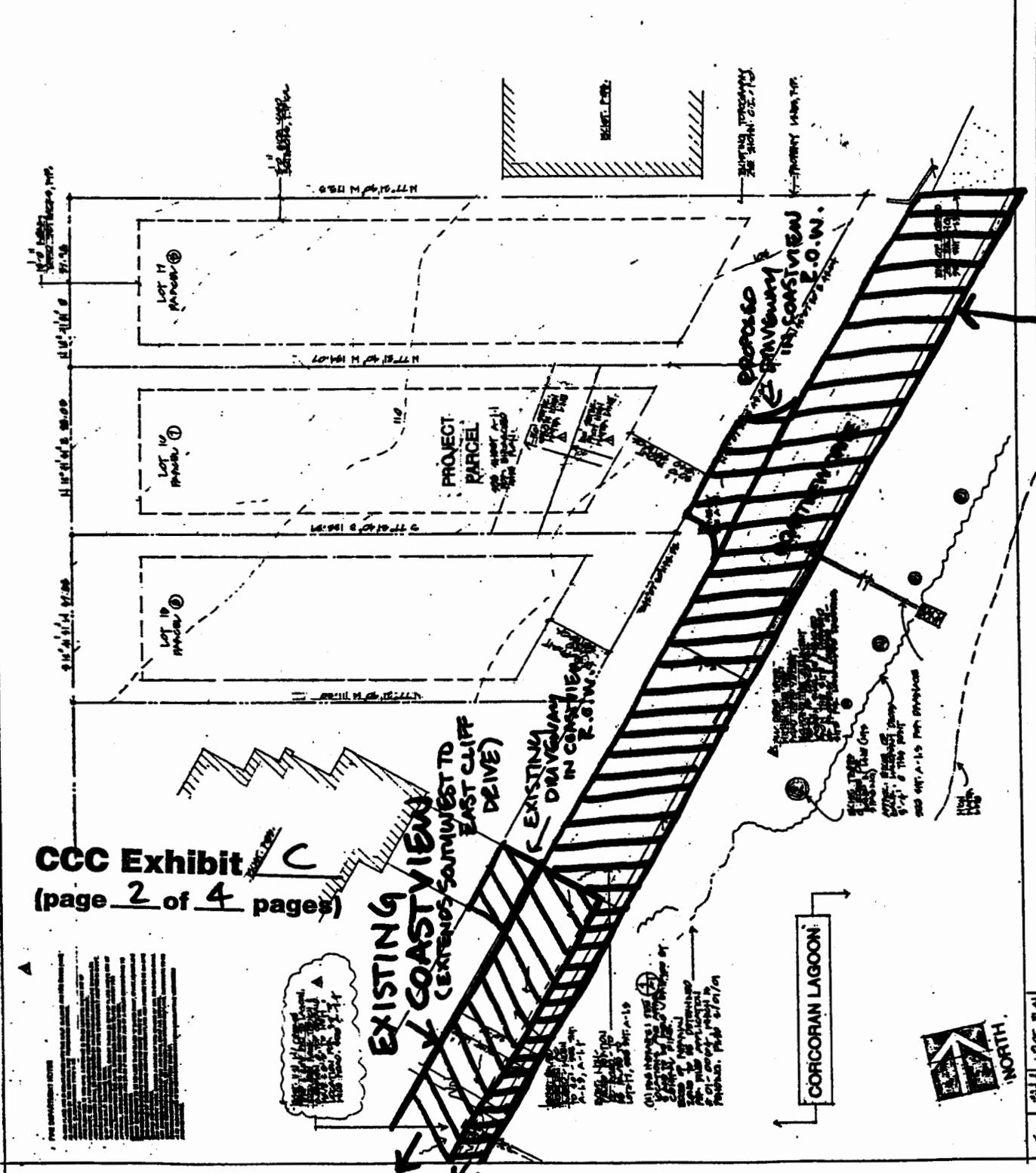
SANTA MARIA CLIFFS / CORCORAN  
LAGOON BEACH



ADDRESS: A-1-4 D  
 PROJECT: COASTVIEW DRIVE PROJECT  
 SHEET NO. A-1  
 OF 4 SHEETS

OWNER:  
 PROJECT NO. 01-10-1000  
 PROJECT NAME: COASTVIEW DRIVE PROJECT  
 PROJECT ADDRESS: 1535 SOUTHLIGHT AVENUE, SUITE 200, SANTA CRUZ, CA 95062

CONSTRUCTION  
 PROJECT NO. 01-10-1000  
 PROJECT NAME: COASTVIEW DRIVE PROJECT  
 PROJECT ADDRESS: 1535 SOUTHLIGHT AVENUE, SUITE 200, SANTA CRUZ, CA 95062



**PROPOSED COASTVIEW  
 EXPANSION + EXTENSION**

**CCC Exhibit**  
 (page 2 of 4 pages)

**EXISTING COASTVIEW**  
 (EXTENDS SOUTHWEST TO EAST CLIFF DRIVE)

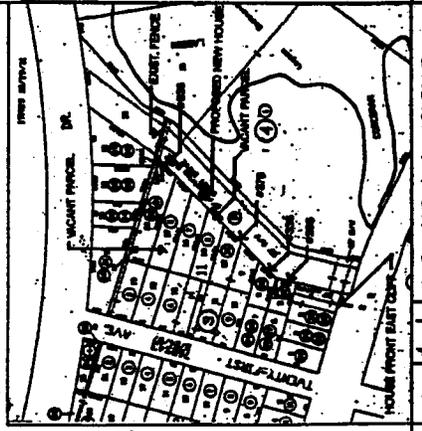
**EXISTING DRIVEWAY**  
 IN CONFORMANCE WITH P.O.W.

**CORCORAN LAGOON**



SHEET NO. A-1  
 OF 4 SHEETS

NOTES:  
 1. THESE OBSERVATIONS WERE MADE ON 8/1/01.  
 2. THE PROPERTY IS A 100' WIDE STRIP OF LAND.  
 3. THE PROPERTY IS BOUND BY COASTVIEW DRIVE TO THE NORTH AND SOUTH.  
 4. THE PROPERTY IS BOUND BY LOT 14 TO THE WEST AND LOT 15 TO THE EAST.  
 5. THE PROPERTY IS BOUND BY LOT 16 TO THE WEST AND LOT 17 TO THE EAST.  
 6. THE PROPERTY IS BOUND BY LOT 18 TO THE WEST AND LOT 19 TO THE EAST.  
 7. THE PROPERTY IS BOUND BY LOT 20 TO THE WEST AND LOT 21 TO THE EAST.  
 8. THE PROPERTY IS BOUND BY LOT 22 TO THE WEST AND LOT 23 TO THE EAST.  
 9. THE PROPERTY IS BOUND BY LOT 24 TO THE WEST AND LOT 25 TO THE EAST.  
 10. THE PROPERTY IS BOUND BY LOT 26 TO THE WEST AND LOT 27 TO THE EAST.  
 11. THE PROPERTY IS BOUND BY LOT 28 TO THE WEST AND LOT 29 TO THE EAST.  
 12. THE PROPERTY IS BOUND BY LOT 30 TO THE WEST AND LOT 31 TO THE EAST.  
 13. THE PROPERTY IS BOUND BY LOT 32 TO THE WEST AND LOT 33 TO THE EAST.  
 14. THE PROPERTY IS BOUND BY LOT 34 TO THE WEST AND LOT 35 TO THE EAST.  
 15. THE PROPERTY IS BOUND BY LOT 36 TO THE WEST AND LOT 37 TO THE EAST.  
 16. THE PROPERTY IS BOUND BY LOT 38 TO THE WEST AND LOT 39 TO THE EAST.  
 17. THE PROPERTY IS BOUND BY LOT 40 TO THE WEST AND LOT 41 TO THE EAST.  
 18. THE PROPERTY IS BOUND BY LOT 42 TO THE WEST AND LOT 43 TO THE EAST.  
 19. THE PROPERTY IS BOUND BY LOT 44 TO THE WEST AND LOT 45 TO THE EAST.  
 20. THE PROPERTY IS BOUND BY LOT 46 TO THE WEST AND LOT 47 TO THE EAST.  
 21. THE PROPERTY IS BOUND BY LOT 48 TO THE WEST AND LOT 49 TO THE EAST.  
 22. THE PROPERTY IS BOUND BY LOT 50 TO THE WEST AND LOT 51 TO THE EAST.  
 23. THE PROPERTY IS BOUND BY LOT 52 TO THE WEST AND LOT 53 TO THE EAST.  
 24. THE PROPERTY IS BOUND BY LOT 54 TO THE WEST AND LOT 55 TO THE EAST.  
 25. THE PROPERTY IS BOUND BY LOT 56 TO THE WEST AND LOT 57 TO THE EAST.  
 26. THE PROPERTY IS BOUND BY LOT 58 TO THE WEST AND LOT 59 TO THE EAST.  
 27. THE PROPERTY IS BOUND BY LOT 60 TO THE WEST AND LOT 61 TO THE EAST.  
 28. THE PROPERTY IS BOUND BY LOT 62 TO THE WEST AND LOT 63 TO THE EAST.  
 29. THE PROPERTY IS BOUND BY LOT 64 TO THE WEST AND LOT 65 TO THE EAST.  
 30. THE PROPERTY IS BOUND BY LOT 66 TO THE WEST AND LOT 67 TO THE EAST.  
 31. THE PROPERTY IS BOUND BY LOT 68 TO THE WEST AND LOT 69 TO THE EAST.  
 32. THE PROPERTY IS BOUND BY LOT 70 TO THE WEST AND LOT 71 TO THE EAST.  
 33. THE PROPERTY IS BOUND BY LOT 72 TO THE WEST AND LOT 73 TO THE EAST.  
 34. THE PROPERTY IS BOUND BY LOT 74 TO THE WEST AND LOT 75 TO THE EAST.  
 35. THE PROPERTY IS BOUND BY LOT 76 TO THE WEST AND LOT 77 TO THE EAST.  
 36. THE PROPERTY IS BOUND BY LOT 78 TO THE WEST AND LOT 79 TO THE EAST.  
 37. THE PROPERTY IS BOUND BY LOT 80 TO THE WEST AND LOT 81 TO THE EAST.  
 38. THE PROPERTY IS BOUND BY LOT 82 TO THE WEST AND LOT 83 TO THE EAST.  
 39. THE PROPERTY IS BOUND BY LOT 84 TO THE WEST AND LOT 85 TO THE EAST.  
 40. THE PROPERTY IS BOUND BY LOT 86 TO THE WEST AND LOT 87 TO THE EAST.  
 41. THE PROPERTY IS BOUND BY LOT 88 TO THE WEST AND LOT 89 TO THE EAST.  
 42. THE PROPERTY IS BOUND BY LOT 90 TO THE WEST AND LOT 91 TO THE EAST.  
 43. THE PROPERTY IS BOUND BY LOT 92 TO THE WEST AND LOT 93 TO THE EAST.  
 44. THE PROPERTY IS BOUND BY LOT 94 TO THE WEST AND LOT 95 TO THE EAST.  
 45. THE PROPERTY IS BOUND BY LOT 96 TO THE WEST AND LOT 97 TO THE EAST.  
 46. THE PROPERTY IS BOUND BY LOT 98 TO THE WEST AND LOT 99 TO THE EAST.  
 47. THE PROPERTY IS BOUND BY LOT 100 TO THE WEST AND LOT 101 TO THE EAST.



APPROVED DEVELOPMENT ENVELOPES

APPROVED SFD

110' SETBACK LINE

RIPARIAN CORRIDOR

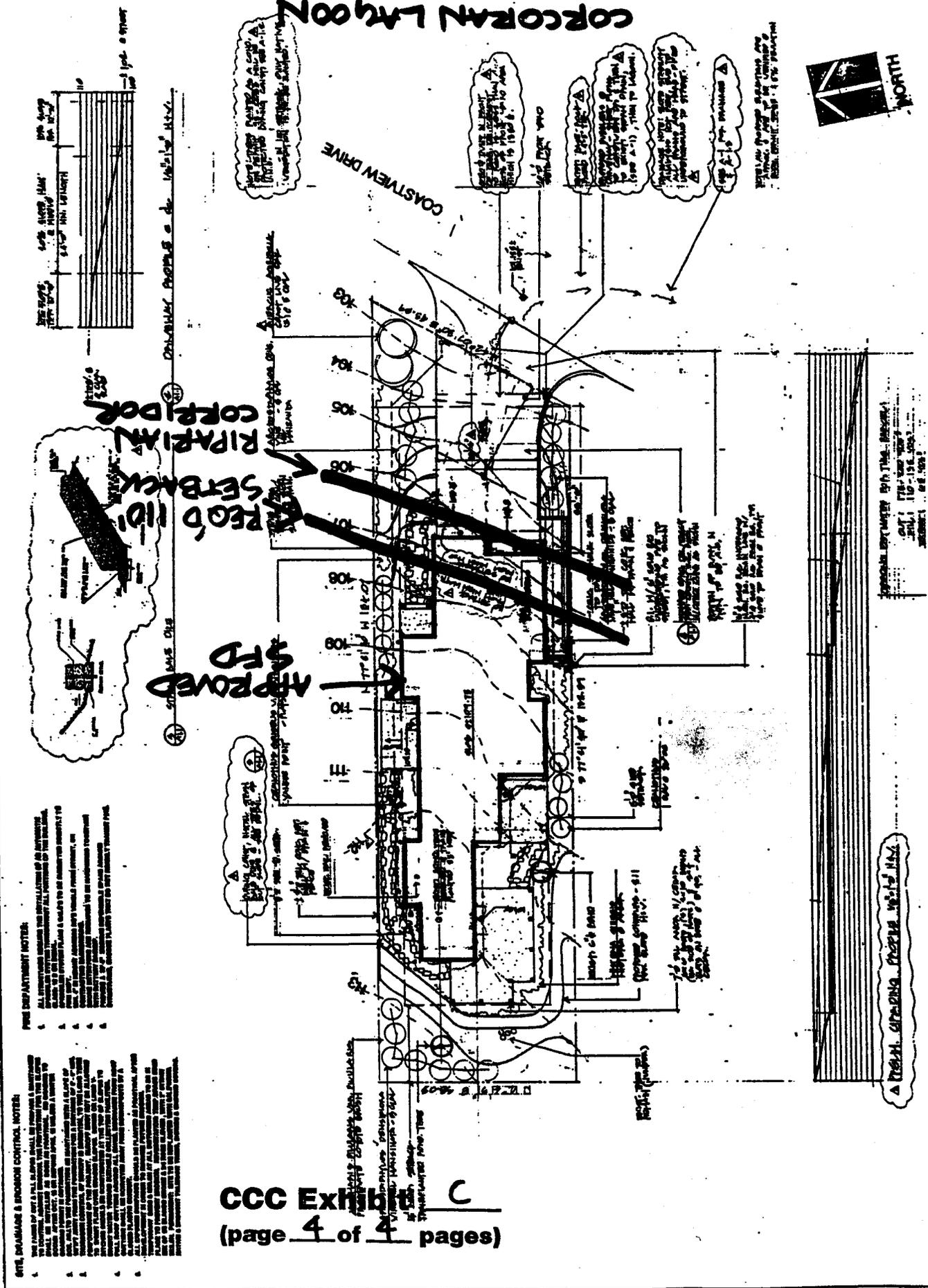
COASTVIEW DRIVE

CORCORAN LAGOON

CCC Exhibit C  
 (page 2 of 4 pages)



Field No. 1001



- PRE DEPARTMENT NOTES:**
1. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AGENCIES.
  2. ALL EROSION CONTROL MEASURES SHALL BE INSTALLED AND MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD.
  3. THE EROSION CONTROL MEASURES SHALL BE DESIGNED TO PREVENT EROSION AND TO STABILIZE THE SOILS.
  4. THE EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD.
  5. THE EROSION CONTROL MEASURES SHALL BE REMOVED OR MODIFIED AS NECESSARY.
  6. THE EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD.

CCC Exhibit C  
 (page 4 of 4 pages)

## STAFF REPORT TO THE ZONING ADMINISTRATOR

APPLICATION NO.: 01-0090

APN: 028-173-07, 08, 05

APPLICANT: Brett Brenkwitz

OWNER: Margret Webb Trustee

**PROJECT DESCRIPTION:** Proposal to construct a two story, three bedroom single family dwelling on parcel 028-173-07; widen the existing 300 foot paved surface of Coastview Drive (028-174-02) from 12 to 20 feet; and extend a 20 foot wide paved surface on Coastview Drive from the existing pavement 170 feet to parcel 028-173-05. Requires a Coastal Development Permit, Preliminary Grading Approval, a Riparian Exception to include parcels 028-173-08, 07, 05, and a Roadway/Roadside Exception.

**LOCATION:** Property located on the west side of Corcoran Lagoon on the west side of Coastview Drive, about 300 feet north of East Cliff Drive.

**PERMITS REQUIRED:** Coastal Development Permit, Riparian Exception for parcels 028-173-08, 07, 05, Roadway/Roadside Exception, and Preliminary Grading Approval

**ENVIRONMENTAL DETERMINATION:** Exempt-Catagory 3

COASTAL ZONE:  Yes  No

APPEALABLE TO CCC:  Yes  No

### PARCEL INFORMATION

**PARCEL SIZE:** 028-173-05: (5,924 sq ft); 07: (5,401 sq ft); 08: (4,443 sq ft)

**EXISTING LAND USE:**

**PARCEL:** vacant

**SURROUNDING:** residential

**PROJECT ACCESS:** Coastview Drive (private) from East Cliff Drive

**PLANNING AREA:** Live Oak

**LAND USE DESIGNATION:** U-RM (Urban Medium Residential, Proposed Park)

**ZONING DISTRICT:** R-1-4-D (Residential - 4,000 square foot minimum)

**SUPERVISORIAL DISTRICT:** First

### ENVIRONMENTAL INFORMATION

- |                      |  |
|----------------------|--|
| a. Geologic Hazards  | a. Not mapped  |
| b. Soils             | b. Soils report required   |
| c. Fire Hazard       | c. Not a mapped constraint   |
| d. Slopes            | d. 0 to 15 percent   |
| e. Env. Sen. Habitat | e. Riparian (Corcoran Lagoon)  |
| f. Grading           | f. Grading permit required   |
| g. Tree Removal      | g. No trees to be removed, 3 trees required under permit 93-0083 are to be relocated |
| h. Scenic            | h. Not a mapped resource   |
| i. Drainage          | i. Drainage plan required  |

**SERVICES INFORMATION**

Inside Urban/Rural Services Line: X Yes \_\_\_ No  
Water Supply: City of Santa Cruz  
Sewage Disposal: County Sanitation  
Fire District: Central  
Drainage District: Zone 5

**HISTORY**

All three parcels involved in this application have a "D" designation attached to the zoning designation. The "D" designation requires that the County Parks Department review the property for possible inclusion into the parks system. On March 21, 2001, the Planning Department informed County Parks that a development application had been received for the three subject parcels (Exhibit G). The Board of Supervisors, acting on a recommendation from the Parks Commission, declined acquisition of the property on May 1, 2001, therefore allowing this application to proceed (Exhibit H).

**ANALYSIS AND DISCUSSION**

The property on which the new home is proposed is a 5,401 square foot lot, located in the R-1-4-D (Residential - 4,000 square foot minimum) zone district, a designation that allows residential uses. The proposed single-family dwelling is a principal permitted use within the zone district and the project is consistent with the site's (U-RM) Urban Medium Residential, General Plan designation.

The proposed single-family dwelling is in conformity with the County's certified Local Coastal Program in that the structure is sited and designed to be visually compatible, in scale with, and integrated with the character of the surrounding neighborhood. Developed parcels in the area contain single-family dwellings. Size and architectural styles vary widely in the area, and the design submitted is not inconsistent with the existing range. The house meets all County development standards including Floor Area Ratio (47 percent, 50 percent maximum), all setbacks, and lot coverage (30 percent, 30 percent maximum).

The three residential lots involved in this application and the 50-foot private right of way (Coastview Drive) on parcel 028-174-02 are identified as a priority acquisition site in the County's Local Coastal Program. The Coastview Drive right of way is the only access to the residential parcels and is under separate ownership. The applicant has submitted deed information confirming legal rights to Coastview Drive for access to the residential parcels. Minimum improvements established by the Central fire districts include a 20-foot paved surface from East Cliff Drive to parcel 05 (Exhibit I).

Figure 2-5 (Coastal Priority Sites-Live Oak) of the General Plan/LCP states several objectives for this property including continued use as access to the fronting residential parcels, paving and drainage improvements to protect the Corcoran Lagoon riparian area, and the development of beach parking compatible with adjacent residential development and riparian areas. While the County has declined acquisition of the parcels (see History above), the project is consistent with

the General Plan Objectives for this area. Specifically, access to the fronting properties will be maintained and improved to minimum standard of the Central Fire District (Exhibit J), paving and drainage improvements will benefit the riparian area by channelizing and filtering runoff before it enters the lagoon (see Environmental Planning, Riparian Exception Findings and Analysis, Exhibit I), and the proposed improvements to will not prevent or impede the future development of beach parking should funds become available and permission obtained from the owner of parcel 028-174-02 for such development.

The proposed house, driveway, and road improvements are within 100 feet of the adjacent Corcoran lagoon. The plan therefore requires a Riparian Exception per County Code. See attached Riparian Exception analysis and supplemental conditions by Bob Loveland, Environmental Planning (Exhibit I).

As proposed and conditioned, the project is consistent with all applicable codes and policies of the Zoning Ordinance and General Plan/LCP. Please see Exhibit "B" ("Findings") for a complete listing of findings and evidence related to the above discussion.

## RECOMMENDATION

Staff recommends:

1. **APPROVAL** of Application Number **01-0090**, based on the attached findings and conditions.
2. Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.

## EXHIBITS

- A. Project plans
- B. Findings
- C. Conditions
- D. Categorical Exemption (CEQA determination)
- E. Assessor's parcel map
- F. Zoning map
- G. Letter from Project Planner to Director of County Parks, dated March 21, 2001
- H. Board letter from County Parks dated April 10, 2001, for May 1, 2001 agenda, with attached action report
- I. Riparian Exception, Analysis, Findings and Conditions by Bob Loveland, Environmental Planning
- J. Letter from Central Fire District to Applicant dated August 17, 2001
- K. Comments & Correspondence

SUPPLEMENTARY REPORTS AND INFORMATION REFERRED TO IN THIS REPORT ARE ON FILE AND AVAILABLE FOR VIEWING AT THE SANTA CRUZ COUNTY PLANNING DEPARTMENT, AND ARE HEREBY MADE A PART OF THE ADMINISTRATIVE RECORD FOR THE PROPOSED PROJECT.

Report Prepared By: John Schlagheck  
Santa Cruz County Planning Department  
701 Ocean Street, 4th Floor  
Santa Cruz CA 95060  
Phone Number: (831) 454-3012 (or, pln761@co.santa-cruz.ca.us )

**COASTAL DEVELOPMENT 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 property is zoned R-1-4-D (Residential - 4,000 square foot minimum), a designation which allows residential uses. The proposed single-family dwelling is a principal permitted use within the zone district, consistent with the site's (U-RM) Urban Medium Residential, Proposed Park General Plan designation.

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

The proposal does not conflict with any existing easement or development restriction such as public access, utility, or open space easements in that no such easements or restrictions are known to encumber the project site.

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.

The proposal is consistent with the design and use standards pursuant to Section 13.20.130 in that the development is consistent with the surrounding neighborhood in terms of architectural style; the site is surrounded by lots developed to an urban density; the colors shall be natural in appearance and complementary to the site; the development site is not on a prominent ridge, beach, or bluff top.

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 is not located between the shoreline and the first public road. Consequently, the single-family dwelling will not interfere with public access to the beach, ocean, or any nearby body of water.

The project site is identified as a priority acquisition site in the County Local Coastal Program.

**CCC Exhibit D**  
**(page 5 of 19 pages)**

**EXHIBIT B**

All parcels involved in this application have a "D" designation attached to the zoning designation. The "D" designation requires that the County Parks Department review the property for possible inclusion into the parks system. On March 21, 2001, the Planning Department informed County Parks that a development application had been received for the three subject parcels. The Board of Supervisors, acting on a recommendation from the Parks Commission, declined acquisition of the property on May 1, 2001, therefore allowing this application to proceed.

While the County has declined acquisition of the parcels, the project is consistent with the General Plan Objectives for this area. Specifically, access to the fronting properties will be maintained and improved to minimum standard of the Central Fire District, paving and drainage improvements will benefit the riparian area by channelizing and filtering runoff before it enters the lagoon, and the proposed improvements to will not prevent or impede the future development of beach parking should funds become available and permission obtained from the owner of parcel 028-174-02 for such development.

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

The proposed project is in conformity with the County's certified Local Coastal Program in that the structure is sited and designed to be visually compatible, in scale with, and integrated with the character of the surrounding neighborhood. Additionally, residential uses are allowed uses in the R-1-4-D (Residential - 4,000 square foot minimum) zone district of the area, as well as the General Plan and Local Coastal Program land use designation. Developed parcels in the area contain single-family dwellings. Size and architectural styles vary widely in the area, and the design submitted is not inconsistent with the existing range.

**ROADWAY/ROADSIDE EXCEPTION FINDINGS**

THE IMPROVEMENTS WOULD BE LOCATED IN AN ENVIRONMENTALLY SENSITIVE AREA AS SHOWN BY INFORMATION ON FILE IN THE PLANNING DEPARTMENT; AND THE IMPACTS CANNOT BE SATISFACTORILY MITIGATED.

All of the proposed improvements to Coastview Drive are within 100 feet of Corcoran Lagoon, and are therefore within a designated riparian protection area as defined by County Code 16.30 (Riparian Corridor and Wetland Protection). The Exception is justified in this case in that by minimizing the size of the road (20 feet wide) rather than constructing to County Design Standards (36 feet wide), a greater area of the riparian corridor will remain in a natural state. The road however must meet minimum standard for fire access, as the road serves several single-family residences.

**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, AND WILL NOT RESULT IN INEFFICIENT OR WASTEFUL USE OF ENERGY, AND WILL NOT BE MATERIALLY INJURIOUS TO PROPERTIES OR IMPROVEMENTS IN THE VICINITY.

The location of the proposed single-family dwelling, related improvements, 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 improvements in the vicinity in that the project is located in an area designated for residential uses and is 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. The proposed single-family dwelling will not deprive adjacent properties or the neighborhood of light, air, or open space, in that the structure meets all current setbacks that ensure access to light, air, and open space in the neighborhood.

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.

The project site is located in the R-1-4-D (Residential - 4,000 square foot minimum) zone district. The proposed location of the single-family dwelling and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the R-1-4-D zone district in that the primary use of the property will be one single-family dwelling that meets all current site standards for the zone district.

The "D" designation requires that the County Parks Department review the property for possible inclusion into the parks system. On March 21, 2001, the Planning Department informed County Parks that a development application had been received for the three subject parcels (Exhibit G). The Board of Supervisors, acting on a recommendation from the Parks Commission, declined acquisition of the property on May 1, 2001, therefore allowing this application to proceed (Exhibit H).

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

The project is located in the Urban Medium Residential, Proposed Park (U-RM) land use designation. The proposed residential use is consistent with the General Plan in that it meets the density requirements specified in General Plan Objective (Urban Medium Residential, Proposed Park).

The proposed single-family dwelling will not adversely impact the light, solar opportunities, air, and/or open space available to other structures or properties, and meets all current site and development standards for the zone district as specified in Objective 8.1.3 (Residential Site and Development Standards Ordinance), in that the single-family dwelling will not adversely shade adjacent properties, and will meet current setbacks for the zone district that ensure access to light, air, and open space in the neighborhood.

The proposed single-family dwelling will not be improperly proportioned to the parcel size or the character of the neighborhood as specified in General Plan Objective 8.6.1 (Maintaining a Relationship Between Structure and Parcel Sizes), in that the proposed single-family dwelling will comply with the site standards for the R-1-4-D zone district (including setbacks, lot coverage, floor area ratio, height, and number of stories) and will result in a structure consistent with a design that could be approved on any similarly sized lot in the vicinity.

The parcels are listed as a Coastal Priority Site in the General Plan. Figure 2-5 (Coastal Priority Sites-Live Oak) of the General Plan/LCP states several objectives for this property including continued use as access to the fronting residential parcels, paving and drainage improvements to protect the Corcoran Lagoon riparian area, and the development of beach parking compatible with adjacent residential development and riparian areas. While the County has declined acquisition of the parcels (see Finding 2 above), the project is consistent with the General Plan Objectives for this area. Specifically, access to the fronting properties will be maintained and improved to minimum standard of the Central Fire District, paving and drainage improvements will benefit the riparian area by channelizing and filtering runoff before it enters the lagoon (see Environmental Planning, Riparian Exception Findings and Analysis, Exhibit I), and the proposed improvements to will not prevent or impede the future development of beach parking should funds become available and permission obtained from the owner of parcel 028-174-02 for such development.

A specific plan has not been adopted for this portion of the County.

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 proposed use will not overload utilities or generate more than the acceptable level of traffic on the streets in the vicinity in that it is a single-family dwelling on an existing undeveloped lot within the Urban Services Line and therefore is an expected increase that has been included in current infrastructure plans. The current density levels set by the General Plan are assumed to generate acceptable levels of traffic and utility use. This project is consistent with those densities.

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 single-family dwelling 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 the vicinity, in that the proposed structure is two stories, in a mixed neighborhood of both one and two story homes and the proposed single-family dwelling is consistent with the land use intensity and density of the neighborhood.

## RIPARIAN EXCEPTION FINDINGS

**1. THAT THERE ARE SPECIAL CIRCUMSTANCES OR CONDITIONS AFFECTING THE PROPERTY.**

- A. The section of Coastview Drive between APN# 028-173-08 and 028-173-05 has deteriorated, and needs to be upgraded for normal residential use. Vehicular access to each of the parcels can only be achieved using Coastview Drive.
- B. Development on these parcels is limited by trees in the rear and the riparian setback in the front. Parcel lengths for all three lots range from approximately 111 to 175 feet by approximately 40 feet wide. The rear portion, approximately 40 feet, of each lot is constrained by a previously approved Significant Tree Removal Permit (# 93-0083). The permit called for a tree restoration plan: 028-173-05 (6 redwoods & 1 sycamore), 028-173-07 (4 redwoods & 1 sycamore) and 028-173-08 (3 redwoods and 1 sycamore). There are currently 6 redwoods on 028-173-05, 2 redwoods & 1 coast live oak on 028-173-07 and 3 redwoods on 028-173-08.

**2. THAT THE EXCEPTION IS NECESSARY FOR THE PROPER DESIGN AND FUNCTION OF SOME PERMITTED OR EXISTING ACTIVITY ON THE PROPERTY.**

- A. A single- family dwelling is the use prescribed for the parcels by the General Plan and Zoning (R-1-4-D).

**3. THAT THE GRANTING OF THE EXCEPTION WILL NOT BE DETRIMENTAL TO THE PUBLIC WELFARE OR INJURIOUS TO OTHER PROPERTY DOWNSTREAM OR IN THE AREA IN WHICH THE PROJECT IS LOCATED.**

- A. As long as the road widening and drainage system are completed per the submitted plans, then this project will not be detrimental to the public welfare or injurious to other property downstream or in the area in which the project is located.

4. **THAT THE GRANTING OF THE EXCEPTION, IN THE COASTAL ZONE, WILL NOT REDUCE OR ADVERSELY IMPACT THE RIPARIAN CORRIDOR, AND THERE IS NO FEASIBLE LESS ENVIRONMENTALLY DAMAGING ALTERNATIVE.**

A. The potential adverse impact of sediment or pollutants into Corcoran Lagoon will be mitigated by: implementing a comprehensive erosion control plan, prohibiting winter grading, and installing two silt/grease traps along Coastview Drive.

5. **THAT THE GRANTING OF THE EXCEPTION IS IN ACCORDANCE WITH THE PURPOSE OF THIS CHAPTER, AND WITH THE OBJECTIVES OF THE GENERAL PLAN AND ELEMENTS THEREOF, AND THE LOCAL COASTAL PROGRAM LAND USE PLAN.**

A. The granting of this exception is in accordance with the purpose of this Chapter, the objectives of the General Plan and the Local Coastal Program Land Use Plan.

## CONDITIONS OF APPROVAL

Exhibits: Plans prepared Franks Brenkwitz, dated 4/8/02 (with 10/1/02 revisions).

- I. This permit authorizes the construction of a two story single-family dwelling on parcel 028-173-07, the grading and resurfacing of Coastview Drive to a 20-foot wide paved road from East Cliff Drive to parcel 028-173-05, and a Riparian Exception for Coastview Drive and the future construction on parcels 028-0173-05, 07, 08. 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 from the Santa Cruz County Building Official.
  - C. Obtain a Grading Permit from the Santa Cruz County Building Official.
  - D. Obtain an Encroachment Permit from the Department of Public Works for all off-site work performed in the County road right-of-way.
  - E. Comply with all additional conditions relating the Riparian Exceptions as indicated in Exhibit I of the staff report for this permit.
- II. Prior to issuance of a Building Permit the applicant/owner shall:
- A. Submit Final Architectural Plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "A" on file with the Planning Department. The final plans shall include the following additional information:
    - 1. Identify finish of exterior materials and color of roof covering for Planning Department approval. Any color boards must be in 8.5" x 11" format.
    - 2. Grading, drainage, and erosion control plans.
    - 3. Details showing compliance with fire department requirements.
  - B. Pay Zone 5 drainage fees to the County Department of Public Works. Drainage fees will be assessed on the net increase in impervious area.
  - C. Obtain final approval for this project from County Sanitation.
  - D. Meet all requirements and pay any applicable plan check fee of the Central Fire Protection District.

- E. Submit 3 copies of a soils report prepared and stamped by a licensed Geotechnical Engineer.
1. *The geotechnical engineer shall review the plans for conformance with the approved soils reports. (Added at ZA 10/4/02)*
- F. Pay the current fees for Parks and Child Care mitigation for 3 bedroom(s). Currently, these fees are, respectively, \$1,000 and \$109 per bedroom.
- G. Pay the current fees for Roadside and Transportation improvements for one new single-family dwelling. Currently, these fees are, respectively, \$2,000 and \$2,000 per dwelling.
- H. Provide required off-street parking for 3 cars. Parking spaces must be 8.5 feet wide by 18 feet long and must be located entirely outside vehicular rights-of way. Parking must be clearly designated on the plot plan.
- I. Submit a written statement signed by an authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district.
- J. Complete and record a Declaration of Restriction to move and/or replace and maintain trees previously approved as part of County Permit #93-0083. **YOU MAY NOT ALTER THE WORDING OF THIS DECLARATION.** Follow the instructions to record and return the form to the Planning Department.
- K. *Road widening to be installed in a manner that will result in no seam being apparent between the existing and proposed pavement, and drainage for the improved road to be directed away from the existing residences on Coastview Drive towards drainage improvements on the Corcoran Lagoon side of the road to the greatest extent feasible. Existing pavement to be ground down and overlaid with new pavement at the time of road widening. Drainage improvements subject to review and approval by the Department of Public Works, Drainage and the Planning Department. (Added at ZA 10/4/02)*
- III. All construction shall be performed according to the approved plans for the Building Permit. Prior to final building inspection, the applicant/owner must meet the following conditions:
- A. All site improvements shown on the final approved Building Permit plans shall be installed.
- B. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.
- C. The project must comply with all recommendations of the approved soils reports.

- D. 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.

IV. Operational Conditions

- A. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.

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

- A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.
- B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:
1. COUNTY bears its own attorney's fees and costs; and
  2. COUNTY defends the action in good faith.
- C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the

interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.

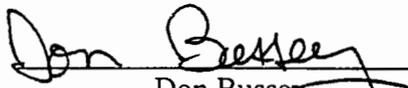
- D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor'(s) in interest, transferee(s), and assign(s) of the applicant.
- E. Within 30 days of the issuance of this development approval, the Development Approval Holder shall record in the office of the Santa Cruz County Recorder an agreement which incorporates the provisions of this condition, or this development approval shall become null and void.

---

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 THE EFFECTIVE DATE UNLESS YOU OBTAIN THE REQUIRED PERMITS AND COMMENCE CONSTRUCTION.**

Approval Date: 10/4/02  
Effective Date: 10/18/02  
Expiration Date: 10/18/04

  
Don Bussey  
Deputy Zoning Administrator

 (For John Schlagheck)  
John Schlagheck  
Project Planner

---

Appeals: Any property owner, or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Zoning Administrator, may appeal the act or determination to the Planning Commission in accordance with chapter 18.10 of the Santa Cruz County Code.

**CCC Exhibit D**  
**(page 15 of 19 pages)**

EXHIBIT C

# Riparian Exception

## Analysis, Findings and Conditions

Bob Loveland, Environmental Planning  
Application 01-0090  
Parcels: 028-173-07, 08, 05

August 1, 2002

### PROPOSAL & LOCATION

To construct a single family dwelling with an attached two car garage (approx. 10 feet of the proposed structure and 35 feet of the driveway lies within the 110 foot riparian setback) on APN # 028-173-07 and increase the existing asphalt road (Coastview Drive) from 15' to 20' wide by approximately 400 feet long.

The property is located on the west side of Corcoran Lagoon approximately 300 feet north from East Cliff Drive.

### ANALYSIS

The applicant is proposing to construct a single family dwelling on APN# 028-173-07. The parcel is situated between two existing vacant parcels and Corcoran Lagoon. This parcel and the two adjoining parcels, 028-173-05 & 028-173-08, are the last three remaining vacant parcels on Coastview Drive. At this time, only one parcel is proposed for development. **NOTE:** This riparian exception addresses all three parcels since they all have similar topography and distance from Corcoran Lagoon. This exception covers future construction of one single-family dwelling on each of the following lots: APN # 028-173-05 and APN # 028-173-08.

The development of all three lots will have no negative impact on the riparian corridor as long as the attached conditions are followed. The proposed road improvements (Coastview Drive) will actually enhance water quality to Corcoran Lagoon by running all surface drainage from the proposed and existing developments through two new silt/grease traps.

### STAFF RECOMMENDATION

APPROVED (IF NOT APPEALED)

DENIED based on the attached findings

## RIPARIAN EXCEPTION FINDINGS

**1. THAT THERE ARE SPECIAL CIRCUMSTANCES OR CONDITIONS AFFECTING THE PROPERTY.**

- A. The section of Coastview Drive between APN# 028-173-08 and 028-173-05 has deteriorated, and needs to be upgraded for normal residential use. Vehicular access to each of the parcels can only be achieved using Coastview Drive.
- B. Development on these parcels is limited by trees in the rear and the riparian setback in the front. Parcel lengths for all three lots range from approximately 111 to 175 feet by approximately 40 feet wide. The rear portion, approximately 40 feet, of each lot is constrained by a previously approved Significant Tree Removal Permit (# 93-0083). The permit called for a tree restoration plan: 028-173-05 (6 redwoods & 1 sycamore), 028-173-07 (4 redwoods & 1 sycamore) and 028-173-08 (3 redwoods and 1 sycamore). There are currently 6 redwoods on 028-173-05, 2 redwoods & 1 coast live oak on 028-173-07 and 3 redwoods on 028-173-08.

**2. THAT THE EXCEPTION IS NECESSARY FOR THE PROPER DESIGN AND FUNCTION OF SOME PERMITTED OR EXISTING ACTIVITY ON THE PROPERTY.**

- A. A single- family dwelling is the use prescribed for the parcels by the General Plan and Zoning (R-1-4-D).

**3. THAT THE GRANTING OF THE EXCEPTION WILL NOT BE DETRIMENTAL TO THE PUBLIC WELFARE OR INJURIOUS TO OTHER PROPERTY DOWNSTREAM OR IN THE AREA IN WHICH THE PROJECT IS LOCATED.**

- A. As long as the road widening and drainage system are completed per the submitted plans, then this project will not be detrimental to the public welfare or injurious to other property downstream or in the area in which the project is located.

4. **THAT THE GRANTING OF THE EXCEPTION, IN THE COASTAL ZONE, WILL NOT REDUCE OR ADVERSELY IMPACT THE RIPARIAN CORRIDOR, AND THERE IS NO FEASIBLE LESS ENVIRONMENTALLY DAMAGING ALTERNATIVE.**
  - A. The potential adverse impact of sediment or pollutants into Corcoran Lagoon will be mitigated by: implementing a comprehensive erosion control plan, prohibiting winter grading, and installing two silt/grease traps along Coastview Drive.
  
5. **THAT THE GRANTING OF THE EXCEPTION IS IN ACCORDANCE WITH THE PURPOSE OF THIS CHAPTER, AND WITH THE OBJECTIVES OF THE GENERAL PLAN AND ELEMENTS THEREOF, AND THE LOCAL COASTAL PROGRAM LAND USE PLAN.**
  - A. The granting of this exception is in accordance with the purpose of this Chapter, the objectives of the General Plan and the Local Coastal Program Land Use Plan.

#### **Required Conditions**

Prior to issuance of the Building Permit the applicant/owner shall:

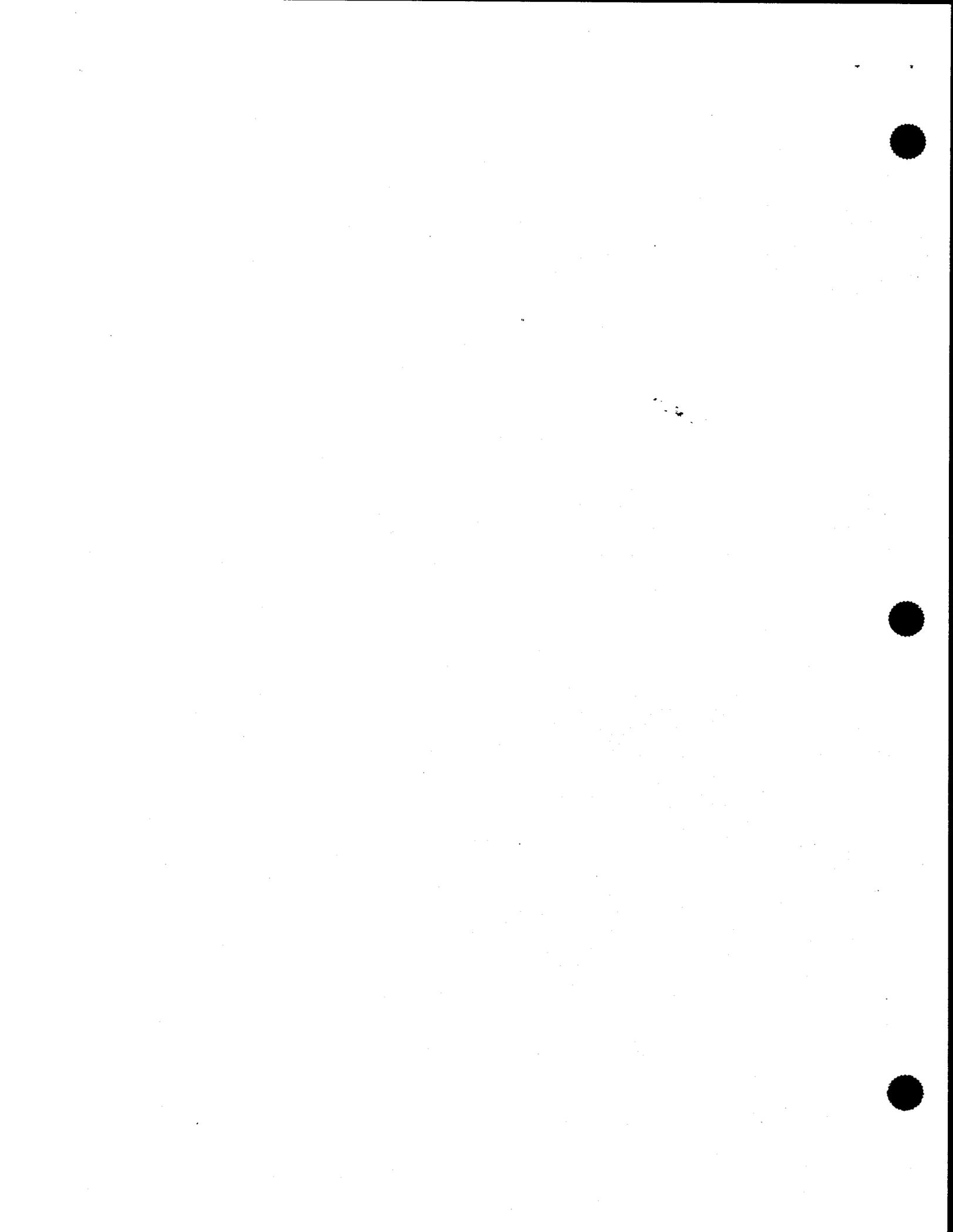
1. Submit a soils report (3 copies) to the Building Counter of the Planning Department for review and pay the required review fee \$689. The report, which must be completed by a California licensed geotechnical engineer, shall address the single family dwelling and any aspects of road widening that the geotechnical engineer finds applicable.
2. Obtain a grading permit. Please submit 5 copies of your grading plans to the Zoning Counter of the Planning Department and pay the required fee. The fee is based on cubic yards of earthwork. **NOTE:** the grading plans must include all work to be completed on the parcel and all roadwork planned for Coastview Drive.
3. Submit a detailed drainage and erosion control plan for review and approval. Please show that when the existing drainage system is replaced it will be upgraded to include a catch basin fitted with a silt/grease trap and energy dissipater to match the system proposed for the new portion of the road.
  
4. Future structures on lots 028-173-05 and 028-173-08 shall be located in the area between

the required front yard setback on the East and the native trees on the West. No development shall occur within the dripline plus 10 feet of any existing native tree, with the exceptions of trees labeled #1, #2 and #3 on "Exhibit A". These three trees shall be relocated, under the supervision of a licensed arborist, elsewhere on the parcels. In the case that an arborist prepares a detailed report that demonstrates that it is technical not possible to relocate the trees, such that they will survive in the long term, these trees shall be replaced with 24 inch box size California native trees.

5. Please identify two eucalyptus trees for removal at the corner of Coastview Drive and E. Cliff Drive on your submitted Site Plan.
6. Include the following comment on the submitted Site Plan: **ALL DEAD LOGS WITHIN THE 400 FOOT ROAD IMPROVEMENT, INCLUDING THE PERIMETER OF CORCORAN LAGOON, SHALL BE REMOVED FROM THE SITE AND DISPOSED OF PROPERLY.**
7. Please identify new location for coast live oak tree on the Landscape Plan. The coast live oak location is where the Holly Leaf Redberry was proposed.

**Operational Conditions:**

1. To prevent project drainage discharges from carrying silt, grease, and other contaminants, the applicant shall install silt and grease traps according to the approved plans. The traps shall be maintained by Margaret Webb according to the following monitoring and maintenance schedule:
  - A. The traps shall be inspected to determine if they need cleaning or repair prior to October 15<sup>th</sup> each year, at a minimum interval of once per year.
  - B. A brief annual report shall be prepared by the trap inspector at the conclusion of each October inspection and submitted to the Drainage Section of the Department of Public Works within 5 days of inspection. This monitoring report shall specify any repairs that have been done or that are needed to allow the trap to function adequately.
2. Trees planted as part of Significant Tree Permit # 93-0083, including relocated or replacements for trees 1, 2 and 3, shall be permanently maintained in healthy condition for the life of the projects.



**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
 725 FRONT STREET, SUITE 300  
 SANTA CRUZ, CA 95060  
 PHONE: (831) 427-4863  
 FAX: (831) 427-4877



**APPEAL FROM COASTAL PERMIT  
 DECISION OF LOCAL GOVERNMENT**

Please review attached appeal information sheet prior to completing this form.

**SECTION I. Appellant(s):**

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

<u>Commissioner Sara Wan</u>	<u>Commissioner Pedro Nava</u>
<u>California Coastal Commission</u>	<u>California Coastal Commission</u>
<u>45 Fremont Street, Suite 2000</u>	<u>45 Fremont Street, Suite 2000</u>
<u>San Francisco, CA 94105-2219</u>	<u>San Francisco, CA 94105-2219</u>
<u>(415) 904-5200</u>	<u>(415) 904-5200</u>

**SECTION II. Decision Being Appealed**

1. Name of local/port government:

Santa Cruz County

2. Brief description of development being appealed:

Construct single family dwelling and expand Coastview Drive.

3. Development's location (street address, assessor's parcel number, cross street, etc.):

Coastview Drive off of East Cliff Drive adjacent to Corcoran Lagoon in the unincorporated Live Oak region of Santa Cruz County.

4. Description of decision being appealed:

- a. Approval; no special conditions: \_\_\_\_\_  
 b. Approval with special conditions: XXX  
 c. Denial: \_\_\_\_\_

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

**CCC Exhibit E**  
 (page 1 of 6 pages)

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO: A-3-SC0-02-092  
 DATE FILED: November 12, 2002  
 DISTRICT: Central

**RECEIVED**

NOV 12 2002

CALIFORNIA  
 COASTAL COMMISSION  
 CENTRAL COAST AREA

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

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

- a. XX Planning Director/Zoning Administrator                      c. \_\_\_ Planning Commission
- b. \_\_\_ City Council/Board of Supervisors                      d. \_\_\_ Other: \_\_\_\_\_

6. Date of local government's decision: October 4, 2002

7. Local government's file number: 01-0090

**SECTION III Identification of Other Interested Persons**

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

a. Name and mailing address of permit applicant:

<u>Margaret Webb</u>	<u>Representative: Brett Brenkwitz</u>
<u>375 Coastview Drive</u>	<u>P.O. Box 597</u>
<u>Santa Cruz, CA 95062</u>	<u>Aptos, CA 95001</u>

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

- |                                   |   |
|-----------------------------------|---|
| <u>(1) Supervisor Jan Beautz</u>  | <u>John P. Schlagheck, Planning Dept.</u> |
| <u>701 Ocean Street, Room 500</u> | <u>701 Ocean Street, Room 420</u>         |
| <u>Santa Cruz, CA 95060</u>       | <u>Santa Cruz, CA 95060</u>               |
- (2) Santa Cruz County Redevelopment Agency and Public Works Department  
701 Ocean Street (Room 510 and Room 410, respectively)  
Santa Cruz, CA 95060
- |   |                               |
|---|-------------------------------|
| <u>(3) Live Oak Community Association</u> | <u>(5) Harbor to the Hook</u> |
| <u>178 24th Avenue</u>                    | <u>1507 Laurent</u>           |
| <u>Santa Cruz, CA 95062-5302</u>          | <u>Santa Cruz, CA 95060</u>   |
- |                               |                                |
|-------------------------------|--------------------------------|
| <u>(4) Live Oak Neighbors</u> | <u>(6) Mike Guth</u>           |
| <u>1115 Live Oak Ave</u>      | <u>2-2905 East Cliff Drive</u> |
| <u>Santa Cruz, CA 95062</u>   | <u>Santa Cruz, CA 95062</u>    |

**SECTION IV. Reasons Supporting This Appeal**

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section which continues on the next page.



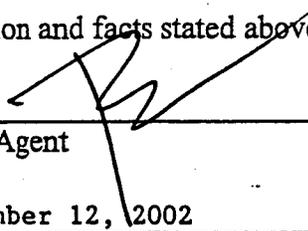
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attached Reasons For This Appeal.

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

SECTION V. Certification

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

Signed:   
Appellant or Agent

Date: November 12, 2002

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

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

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

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

Reasons for appeal:

Santa Cruz County approved a proposal to construct a single family residence and to expand Coastview Drive adjacent to Corcoran Lagoon in the unincorporated Live Oak area of Santa Cruz County. Coastview Drive (also known as 22<sup>nd</sup> Avenue) appears to be a privately owned road that provides access between inland Portola Drive and East Cliff Drive (and on to the sandy beach) directly adjacent to Corcoran Lagoon. Coastview Drive appears to have been historically used by the public for such access, including parking, over time. At current time, Coastview Drive appears to be a blocked by a gate (at East Cliff) and a fence (at Portola) that block public access; it is unclear whether such development has been authorized by coastal permit. The approved project raises Local Coastal Program (LCP) and Coastal Act conformance issues and questions as follows:

The LCP designates both the residential property and the Coastview Drive property involved as "Coastal Priority Sites" to which special development standards and requirements apply (LCP Policy 2.23 et seq). The designated priority use for these sites is public access and parking, and specific requirements apply to maximize such public access and to maximize protection of Corcoran Lagoon. The LCP requires that a master plan be prepared that is designed to achieve LCP priority site objectives as part of any approval. The LCP and Coastal Act require protection and enhancement of public access and recreation areas (including the LCP's Chapter 3 and Chapter 7 policies). The LCP defines Corcoran Lagoon as an Environmentally Sensitive Habitat Area and requires its protection, including requiring minimum buffer areas (including LCP Policies 5.1 et seq and 5.2 et seq, and Chapters 16.30 and 16.32). The LCP protects the water quality of both Corcoran Lagoon and Monterey Bay (including the LCP's habitat policies and Policies 5.4 et seq, 5.7 et seq, and 7.23 et seq). The LCP protects against inappropriate development within the public viewshed (including LCP Policies 5.10 et seq, Section 13.20.130, and Chapter 13.11).

The approved project did not include a Coastal Priority Site master plan, and did not address through public access and/or parking. As a result, and because Coastview Drive is blocked off by a gate and a fence, public access is impaired, is not protected, and is not maximized as required by the LCP and the Coastal Act. Accordingly, the approval raises questions of consistency with the public access and recreation policies of both the Coastal Act and the LCP, and with the LCP's priority site requirements.

The approved project would expand and pave Coastview Drive towards Corcoran Lagoon within the LCP-required habitat buffer, further condensing the upland habitat surrounding the Lagoon and ultimately the Lagoon itself. It is not clear that such road widening is necessary, and it appears that any required road improvements could be located further away from the Lagoon. In addition, the silt and grease traps approved for the expanded Coastview Drive do not appear to be sufficient to protect the water quality of Corcoran Lagoon and Monterey Bay as directed by the LCP. Accordingly, the approval raises questions of consistency with the LCP's habitat and water quality policies.



ITEM NUMBER: Th8f

PERMIT NUMBER: A-3-SCO-02-092

NAME: BRETT BRENKWITZ, FRANKS BRENKWITZ  
AND ASSOCIATES ARCHITECTS FOR  
MARGARET WEBB

12-1-02

POSITION: IN FAVOR OF PROJECT, OPPOSING  
THE APPEAL

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

(Applicants responses underlined)

Reasons for appeal:

Santa Cruz County approved a proposal to construct a single family residence and to expand Coastview Drive adjacent to Corcoran Lagoon in the unincorporated Live Oak area of Santa Cruz County. Coastview Drive (also known as 22<sup>nd</sup> Avenue) appears to be a privately owned road that provides access between inland Portola Drive and East Cliff Drive (and on to the sandy beach) directly adjacent to Corcoran Lagoon. Coastview Drive appears to have been historically used by the public for such access, including parking, over time. At current time, Coastview Drive appears to be a blocked by a gate (at East Cliff) and a fence (at Portola) that block public access, it is unclear whether such development has been authorized by coastal permit. The approved project raises Local Coastal Program (LCP) and Coastal Act conformance issues and questions as follows:

The existing gate near East Cliff will be removed as part of this project due to the proposed road widening. The existing white rail fence about 150' away from Portola will be partially removed for vehicular emergency traffic and removable bollards positioned in its place. Note that this fence borders the 6' wide pedestrian easement from 21<sup>st</sup> Ave. to Coastview DR. , and thereby preserves pedestrian access. Both the fence and the gate are existing conditions and are not the result of this project.

The LCP designates both the residential property and the Coastview Drive property involved as "Coastal Priority Sites" to which special development standards and requirements apply (LCP Policy 2.23 et seq). The designated priority use for these sites is public access and parking, and specific requirements apply to maximize such public access and to maximize protection of Corcoran Lagoon. The LCP requires that a master plan be prepared that is designed to achieve LCP priority site objectives as part of any approval. The LCP and Coastal Act require protection and enhancement of public access and recreation areas (including the LCP's Chapter 3 and Chapter 7 policies). The LCP

defines Corcoran Lagoon as an Environmentally Sensitive Habitat Area and requires its protection, including requiring minimum buffer areas (including LCP Policies 5.1 et seq and 5.2 et seq. and Chapters 16.30 and 16.32). The LCP protects the water quality of both Corcoran Lagoon and Monterey Bay (including the LCP's habitat policies and Policies 5.4 et seq, 5.7 et seq, and 7.23 et seq). The LCP protects against inappropriate development within the public viewshed (including LCP Policies 5.10 et seq, Section 13.20.130, and Chapter 13.1 1).

-The approved project did not include a Coastal Priority Site master plan, and did not address through public access and/or parking. As a result, and because Coastview Drive is blocked off - by a gate and a fence, public access is impaired, is not protected, and is not maximized as required by the LCP and the Coastal Act. Accordingly, the approval raises questions of consistency with the public access and recreation policies of both the Coastal Act and the LCP and with the LCP's priority site requirements.

The approval process for this project did not require the generation of a Master Plan. This project does, however, address through public access and / or parking in that these issues were discussed and reviewed by Santa Cruz County Public Works, Central Fire Department, and Santa Cruz County Environmental Planning. Originally, Public works requested a 36' wide road with parking. This was reduced to 20' min. with no street parking to satisfy the fire dept. and the riparian habitat according to the Riparian Exception Permit granted by the County Environmental Planning dept. after thorough review ( approx. 20 months). Refer to the Riparian Exception by the Santa Cruz County Planning Dept.

Please refer to the Visual Analysis in this package. (See site plan for locations of photographs). Figure A shows the existing road (Coastview DR) with proposed modifications; the orange cones represent the widened road. Most of this 5.5' widening will occur over an already pedestrian traveled walkway, next to an existing fence. As can be seen from this photograph, there will be minimal intrusion into the lagoon habitat, if at all.

Figure B shows the existing drain inlet located on the road. There is an existing stone-lined overflow which deposits water directly to the lagoon. This is an inferior solution in that grease and silt can be allowed to enter the lagoon unfiltered. The newly widened road will incorporate (2) silt and grease traps, to be maintained annually by the owner.

Figure C shows the latter portion of Coastview DR before the white fence. A significant ( approx. 45') portion of the road here is already paved with baserock. ( See figure E) and already traversed by automobile traffic.

Figure D shows the proposed edge of the paved road, which is already on the baserock paved surface. As one can see, this portion of the road will not degrade the lagoon habitat, as there is no lagoon habitat here, but will in actuality preserve the lagoon habitat by moving the road further away from the lagoon (25') and reducing the erosion potential through channeled drainage.

The approved project would expand and pave Coastview Drive towards Corcoran Lagoon within the LCP-required habitat buffer, further condensing, the upland habitat surrounding the Lagoon and ultimately the Lagoon itself. It is not clear that such road widening is necessary, and it appears that any required road improvements could be located further away from the Lagoon. In addition, the silt and grease traps approved for the expanded Coastview Drive do not appear to be sufficient to protect the water quality of Corcoran Lagoon and Monterey Bay as directed by the LCP. Accordingly, the approval raises questions of consistency with the LCP's habitat and water quality policies.

The road widening that is proposed will not adversely affect the habitat of the lagoon in that the widening will happen mostly on already base-rock paved road or existing walkways as previously shown. The existing paved road should not be shifted away from the lagoon due to the existing conditions of the bordering parcels near East Cliff. To enlarge the road to the west, a 4'-5' retaining wall would have to be constructed due to the existing slopes, and existing driveways and front yard landscapes would have to be demolished and re-constructed. This would result in some of the driveways being too steep to maneuver and not built to current standards. The wall would not present an aesthetic solution so close to the ocean and within the public viewshed. Beyond the existing

paved road section, the proposed additional paving is to be located on an already base-rock paved surface and therefore makes no sense to move. The road width is necessary for life-safety requirements issued by Central Fire Dept. The silt and grease traps will improve the water quality over the existing inadequate condition.

The approved Project appears to be at or over the LCP's maximum density requirements (i.e., coverage, floor area ratio, setbacks, etc.). Such LCP maximums are not entitlements. Rather, the maximum LCP allowances must be tempered against the constraints of the site, particularly the adjacent Corcoran Lagoon habitat, and potentially the impact on the public viewshed.

The residence is actually under the maximum (50%) floor area ratio at 47%, while the lot coverage meets the allowed 30%. The project meets all setbacks including the 100' from the riparian habitat. The project is not over the allowable limits, and has been certified by the County of Santa Cruz as such. The residence has been designed to present a low and punctuated roofline so that neighboring parcel's viewsheds can be maximized. The use of natural materials and articulated massing harmonizes with the existing surrounding development. All utilities will be underground, further enhancing the public viewshed.

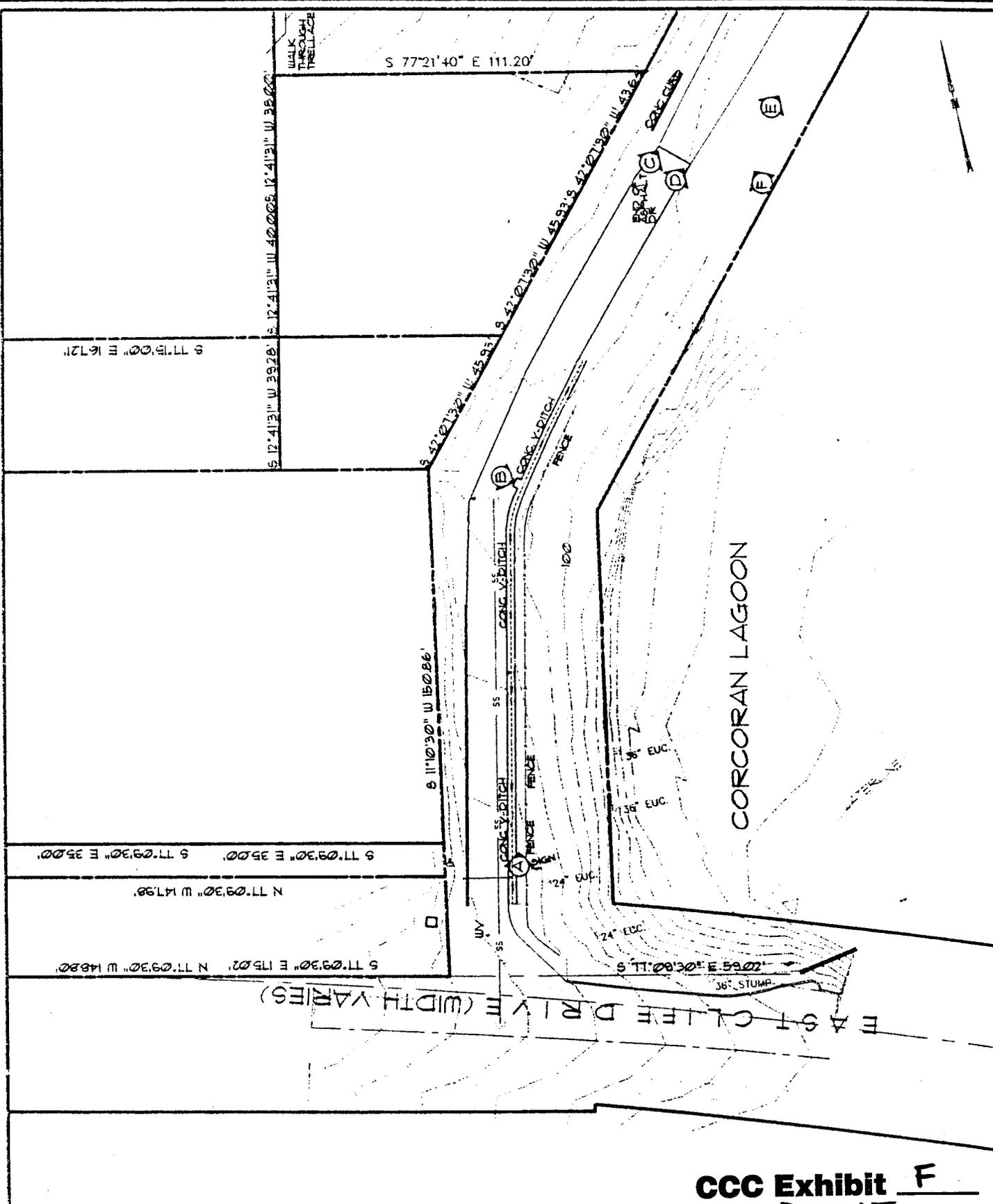
In sum, the proposed project is located on a site designated for public access by the LCP, directly adjacent to a significant habitat area, and within a significant public viewshed. It

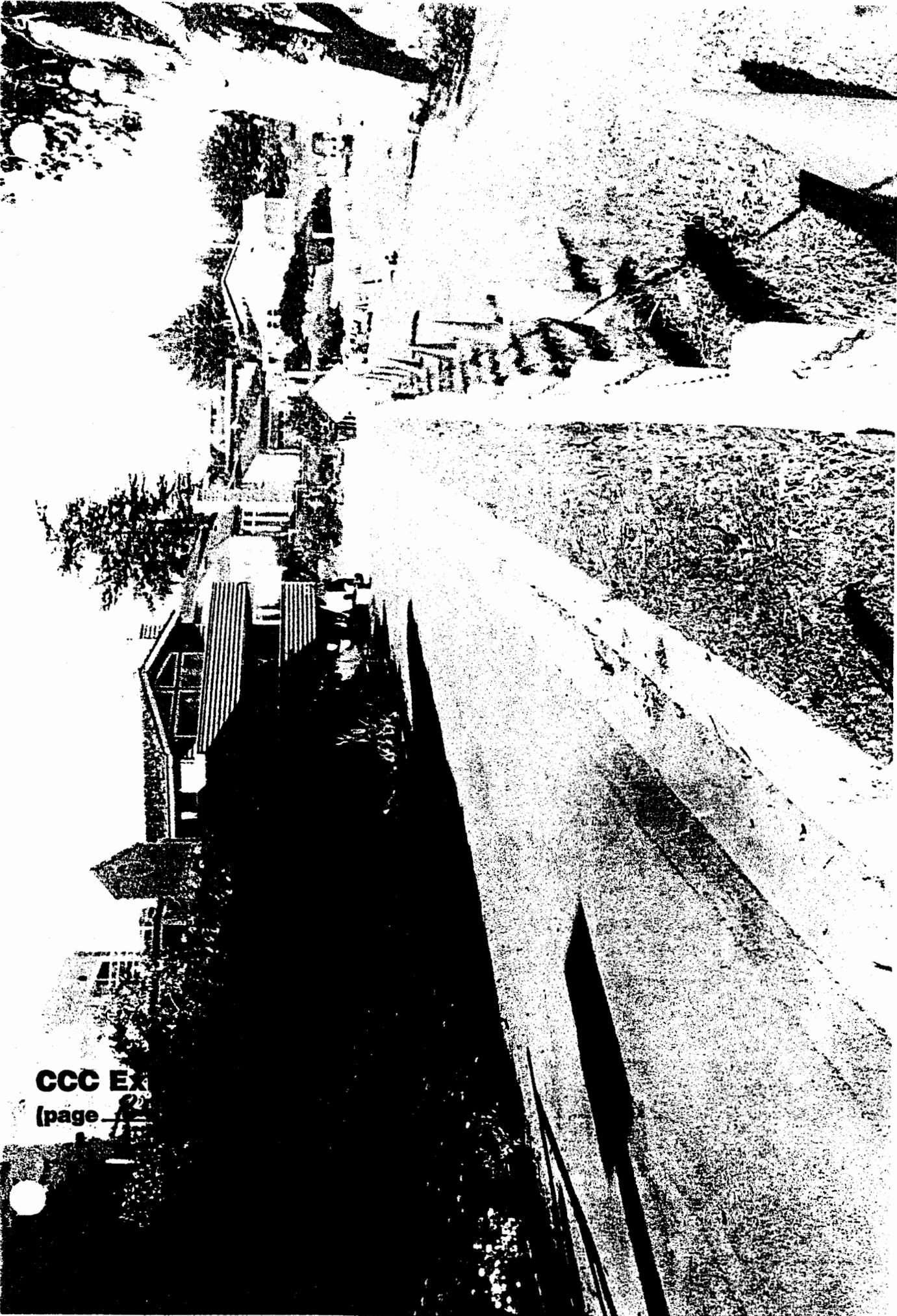
It appears that the approved project does not include adequate measures to protect Corcoran - Lagoon, public access and parking, and the public viewshed. As such, the proposed project's conformance with LCP and Coastal Act policies is questionable. These issues warrant a further analysis and review by the Coastal Commission of the proposed project.

This project will benefit the lagoon habitat quality by: providing cleaner water runoff feeding into the lagoon; moving automobile traffic 25' further away from the lagoon on about half the length of the road while only moving traffic 5.5' closer on the other half; cleaning up the dead wood logs which are scattered about (Figure F); and maintaining access to the beach. In fact, one can make the case that because Coastview does not permit through-automobile traffic due to the fence, pedestrian traffic

is promoted and thereby more access to the beach is obtained, while the pedestrian experience is enhanced and more educational as it relates to the lagoon. If a through-road situation with parking was created, the street would probably become permit-parking only due to the Live Oak Parking Program, and would therefore create limited opportunities for public access and enjoyment, while diminishing the pedestrian experience.

In sum, the project as designed permits the development of the three lots while promoting the lagoon habitat, provides a residential solution which harmonizes with the neighboring development, maintains the public viewshed, and promotes beach access through an aesthetic pedestrian experience. The project does not deny the future ability of the Coastview 50' Right of Way to be converted to a through street with parking if that solution is deemed more desirable.





CCC EX  
(page 1)

COASTVIEW DRIVE LOOKING NORTH  
CONES SHOW EDGE PROPOSED ROAD

A



COASTVIEW DRIVE EXISTING STORM  
DRAIN WITH OVERFLOW TO LAGOON

CCC Exhibit F  
(page 9 of 15 pages)

B

AG001

MEMORANDUM

TO: Commissioner Sara Wan and Commissioner Pedro Nava  
FROM: Margaret E. Webb, Trustee  
DATE: November 16, 2002

RE: **Response to CCC Appeal to construct single family dwelling and expand Coastview Drive.**

Dear Commissioners:

In response to your appeal, dated November 12, 2002 concerning the historically use of Coastview Drive and its current use. Historically, going back fifty years, there was only one dwelling on the dirt street known as 22nd Avenue. There were fewer cars which lend an acceptable use of the street and respectable care for Corcoran Lagoon.

The past twenty five years there has been an influx of cars using Coastview as a cut through (or freeway) from Portola Drive to East Cliff Drive not to go to the beach but to get to either street.

As time went by more people began to park and double park with little regard for those of us living on and maintaining the street.

With influx of through traffic, cars carelessly parked on such a narrow strip of land, resident at the Portola Drive entrance erected a portable fence, which can be moved for emergency vehicles. At the East Cliff Drive entrance a manual gate was put in place only to be shut on weekends during the summer. The gate can be opened and many who live here do just that.

The positive results of those two acts are:

- 1) A nature trail has begun at the upper half of Coastview Drive, which draws, artists, birders, and school children to fully appreciate and learn from the ever changing lagoon.
- 2) The past ten years or so the migratory birds have increased giving much pleasure to all bird watchers. Great to see.
- 3) The foot traffic is (and always has been) acceptable. In fact we welcome and enjoy the families with their children and dogs going off to the beach. Many use the nature trail and just stand and gaze at the wonder of nature.

aware of public access, which is accessible.

The other point I wish to make is that it is the Fire Department that requires the road to be widened. The Fire Department is aware of the fence (which is removable) and the gate which opened manually. No problem.



# A-3-SCO-02-092 Applicable Policies

## 1. Environmentally Sensitive Habitat Area (ESHA) Policies

The LCP is very protective of environmentally sensitive habitat areas (ESHAs). LCP wetland and wildlife protection policies include LUP Chapter 5 and Chapter 7 policies, and Zoning Chapters 16.30 (Riparian Corridor and Wetlands Protection) and 16.32 (Sensitive Habitat Protection). In general, these LCP policies define and protect ESHAs, allowing only a very limited amount of development in these areas. Relevant LCP policies include:

*LUP Objective 5.1 Biological Diversity. To maintain the biological diversity of the County through an integrated program of open space acquisition and protection, identification and protection of plant habitat and wildlife corridors and habitats, low-intensity and resource compatible land uses in sensitive habitats and mitigations on projects and resource extraction to reduce impacts on plant and animal life.*

*LUP Policy 5.1.2 Definition of Sensitive Habitat. An area is defined as a sensitive habitat if it meets one or more of the following criteria: (a) Areas of special biological significance as identified by the State Water Resources Control Board. (b) Areas which provide habitat for locally unique biotic species/communities, including coastal scrub, maritime chaparral, native rhododendrons and associated Elkgrass, mapped grasslands in the coastal zone and sand parkland; and Special Forests including San Andreas Live Oak Woodlands, Valley Oak, Santa Cruz Cypress, indigenous Ponderosa Pine, indigenous Monterey Pine and ancient forests. (c) Areas adjacent to essential habitats of rare, endangered or threatened species as defined in (e) and (f) below. (d) Areas which provide habitat for Species of Special Concern as listed by the California Department of Fish and Game in the Special Animals list, Natural Diversity Database. (e) Areas which provide habitat for rare or endangered species which meet the definition of Section 15380 of the California Environmental Quality Act guidelines. (f) Areas which provide habitat for rare, endangered or threatened species as designated by the State Fish and Game Commission, United States Fish and Wildlife Service or California Native Plant Society. (g) Nearshore reefs, rocky intertidal areas, seacaves, islets, offshore rocks, kelp beds, marine mammal hauling grounds, sandy beaches, shorebird roosting, resting and nesting areas, cliff nesting areas and marine, wildlife or educational/research reserves. (h) Dune plant habitats. (i) All lakes, wetlands, estuaries, lagoons, streams and rivers. (j) Riparian corridors.*

*LUP Policy 5.1.3 Environmentally Sensitive Habitats. Designate the areas described in 5.1.2 (d) through (j) as Environmentally Sensitive Habitats per the California Coastal Act and allow only uses dependent on such resources in these habitats within the Coastal Zone unless other uses are: (a) consistent with sensitive habitat protection policies and serve a specific purpose beneficial to the public; (b) it is determined through environmental review that any adverse impacts on the resource will be completely mitigated and that there is no feasible less-damaging alternative; and (c) legally necessary to allow a reasonable economic use of the land, and there is no feasible less-damaging alternative.*

**LUP Policy 5.1.6 Development Within Sensitive Habitats.** Sensitive habitats shall be protected against any significant disruption of habitat values; and any proposed development within or adjacent to these areas must maintain or enhance the functional capacity of the habitat. Reduce in scale, redesign, or, if no other alternative exists, deny any project which cannot sufficiently mitigate significant adverse impacts on sensitive habitats unless approval of a project is legally necessary to allow a reasonable use of the land.

**LUP Policy 5.1.7 Site Design and Use Regulations.** Protect sensitive habitats against any significant disruption or degradation of habitat values in accordance with the Sensitive Habitat Protection ordinance. Utilize the following site design and use regulations on parcels containing these resources, excluding existing agricultural operations: (a) Structures shall be placed as far from the habitat as feasible. (b) Delineate development envelopes to specify location of development in minor land divisions and subdivisions. (c) Require easements, deed restrictions, or equivalent measures to protect that portion of a sensitive habitat on a project parcel which is undisturbed by a proposed development activity or to protect sensitive habitats on adjacent parcels. (d) Prohibit domestic animals where they threaten sensitive habitats. (e) Limit removal of native vegetation to the minimum amount necessary for structures, landscaping, driveways, septic systems and gardens; (f) Prohibit landscaping with invasive or exotic species and encourage the use of characteristic native species.

**LUP Policy 5.1.9 Biotic Assessments.** Within the following areas, require a biotic assessment as part of normal project review to determine whether a full biotic report should be prepared by a qualified biologist: (a) Areas of biotic concern, mapped; (b) sensitive habitats, mapped & unmapped.

**LUP Objective 5.2 Riparian Corridors and Wetlands.** To preserve, protect and restore all riparian corridors and wetlands for the protection of wildlife and aquatic habitat, water quality, erosion control, open space, aesthetic and recreational values and the conveyance and storage of flood waters.

**LUP Policy 5.2.1 Designation of Riparian Corridors and Wetlands.** Designate and define the following areas as Riparian Corridors: (a) 50' from the top of a distinct channel or physical evidence of high water mark of perennial stream; (b) 30' from the top of a distinct channel or physical evidence of high water mark of an intermittent stream as designated on the General Plan maps and through field inspection of undesignated intermittent and ephemeral streams; (c) 100' of the high water mark of a lake, wetland, estuary, lagoon, or natural body of standing water; (d) The landward limit of a riparian woodland plant community; (e) Wooded arroyos within urban areas.

Designate and define the following areas as Wetlands: Transitional areas between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is covered by shallow water periodically or permanently. Examples of wetlands are saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens....

**LUP Policy 5.2.5 Setbacks From Wetlands.** Prohibit development within the 100 foot riparian corridor of all wetlands. Allow exceptions to this setback only where consistent with the Riparian Corridor and Wetlands Protection ordinance, and in all cases, maximize distance between

*proposed structures and wetlands. Require measures to prevent water quality degradation from adjacent land uses, as outlined in the Water Resources section.*

***LUP Policy 5.2.4 Riparian Corridor Buffer Setback.*** *Require a buffer setback from riparian corridors in addition to the specified distances found in the definition of riparian corridor. This setback shall be identified in the Riparian Corridor and Wetlands Protection ordinance and established based on stream characteristics, vegetation and slope. Allow reductions to the buffer setback only upon approval of a riparian exception. Require a 10 foot separation from the edge of the riparian corridor buffer to any structure.*

***LUP Policy 5.2.6 Riparian Corridors and Development Density.*** *Exclude land within riparian corridors in the calculation of development density or net parcel size. Grant full development density credit for the portion of the property outside the riparian corridor which is within the required buffer setback, excluding areas over 30% slope, up to a maximum of 50% of the total area of the property which is outside the riparian corridor.*

***LUP Policy 5.2.7 Compatible Uses With Riparian Corridors.*** *Allow compatible uses in and adjacent to riparian corridors that do not impair or degrade the riparian plant and animal systems, or water supply values, such as non-motorized recreation and pedestrian trails, parks, interpretive facilities and fishing facilities. Allow development in these areas only in conjunction with approval of a riparian exception.*

***LUP Policy 5.2.8 Environmental Review for Riparian Corridor and Wetland Protection.*** *Require environmental review of all proposed development projects affecting riparian corridors or wetlands and preparation of an Environmental Impact Report or Biotic Report for projects which may have a significant effect on the corridors or wetlands.*

The LCP likewise protects water quality; for the purposes of this finding, inasmuch as such water quality impacts habitat values. The LCP states as follows:

***Objective 5.4 Monterey Bay and Coastal Water Quality.*** *To improve the water quality of Monterey Bay and other Santa Cruz County coastal waters by supporting and/or requiring the best management practices for the control and treatment of urban run-off and wastewater discharges in order to maintain local, state and national water quality standards, protect County residents from health hazards of water pollution, protect the County's sensitive marine habitats and prevent the degradation of the scenic character of the region.*

***Objective 5.7 Maintaining Surface Water Quality.*** *To protect and enhance surface water quality in the County's streams, coastal lagoons and marshes by establishing best management practices on adjacent land uses.*

***LUP 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 practices to reduce pollution from urban runoff.*

***LUP Policy 5.7.1 Impacts from New Development on Water Quality.*** *Prohibit new development adjacent to marshes, streams and bodies of water if such development would cause adverse impacts on water quality which cannot be fully mitigated.*

**LUP 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.*

**LUP 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.*

**LUP 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.*

**LUP 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.*

**LUP 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.*

LCP Zoning Chapters 16.30 (Riparian Corridor and Wetlands Protection) and 16.32 (Sensitive Habitat Protection) have additional requirements mimicking the LUP requirements, and specifying the findings that must be made if development is proposed within riparian areas and required wetland buffers (see below in this exhibit).

Finally, the site is also an LCP-designated Coastal Priority Site for which “drainage improvements to protect the adjacent Corcoran Lagoon and riparian area,” and a master plan to achieve same, are required (see LCP Figure 2-5 and LUP Policy 2.23.3 citations in Public Access and Recreation findings that follow).

## **2. Public Access and Recreation Policies**

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

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water “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 between East Cliff Drive (the first through public road) and Corcoran Lagoon, 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.

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

*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...*

*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...*

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

*Section 30222: The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

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

## **B. Applicable LCP Policies**

The LCP contains a series of interwoven policies which, when taken together, reinforce the Coastal Act mandate for maximizing public access. They also target Live Oak accessways for specific enhancement, such as parking, and specify the standard for development at the proposed site.

### **Coastal Priority Sites and Priority of Uses**

*LUP 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 public parks; visitor serving commercial uses; and coastal recreation facilities.*

*Third Priority: Private residential, general industrial, and general commercial uses.*

***LUP 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.

***LUP 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 circulation standards as indicated.

***LUP Policy 2.23.3 Master Plan Requirements for Priority Sites.*** Require a master plan for all priority sites, with an integrated design providing for full utilization of the site and a phasing program based on the availability of infrastructure and projected demand. Where priority use sites include more than one parcel, the master plan for any portion shall address the issues of site utilization, circulation, infrastructure improvements, and landscaping, design and use compatibility for the remainder of the designated priority use site. The Master Plan shall be reviewed as part of the development permit approval for the priority site.

That portion of LCP Figure 2-5 applicable to the Live Oak area ("Coastal Priority Sites – Live Oak") designates the vacant upland property (APNs 028-173-05, 07, and 08) and Coastview Drive itself (APN 028-174-02) as the Coastview Drive Coastal Priority Site. This site is subject to the following special development standards:

***LUP Coastal Priority Site – Coastview Drive***

***Designated Priority Use:*** "Existing Park, Recreation & Open Space" and "Proposed Park Recreation & Open Space": Development of public beach access parking.

***Special Development Standards:*** Develop adequate paving, landscaping, and drainage improvements to protect the adjacent Corcoran Lagoon and riparian area.

***Circulation and Public Access Requirements:*** Develop the maximum amount of public beach access parking compatible with the adjacent residential development and riparian area, and the continued use of the right-of-way for access to the fronting properties.

**Circulation and Priority to Recreational Access**

LCP Circulation (LUP Chapter 3) policies encouraging a coordinated recreational circulation system for access to beach recreational areas and giving priority to road improvements that provide access to coastal recreational resources, including:

***LUP Policy 3.14.1 Capacity.*** Reserve capacity on the existing County road system for recreational traffic.

***LUP Policy 3.14.2 Priority to Recreational Improvements.*** In the development of transportation improvement programs, consider giving priority to road improvements which provide access to recreational resources.

**Maximizing Public Access and Recreation**

LCP Parks, Recreation, and Public Facilities (LUP Chapter 7) policies and programs generally protect existing public access and encourage public access and recreational enhancements such as public parking, trails, and other facilities to increase enjoyment of coastal resources and to improve access within the Live Oak coastal region, including:

**LUP Objective 7.1a Parks and Recreation Opportunities.** To provide a full range of public and private opportunities for the access to, and enjoyment of, park, recreation, and scenic areas, including the use of active recreation areas and passive natural open spaces by all ages, income groups and people with disabilities with the primary emphasis on needed recreation facilities and programs for the citizens of Santa Cruz County.

**LUP Program 7.5a (Park Development).** Establish regional park facilities at the following locations as listed by planning area...Live Oak:

**Corcoran Lagoon:** Seek State funding for the acquisition, restoration, improvement and protection of this resource to serve both local and regional recreational and educational purposes.

**Primary Public Access Facilities:** Support continued acquisition and development of coastal beach land, parking and other support facilities, including Coastview Drive parking area....

**LUP Policy 7.1.3 Parks, Recreation and Open Space Uses.** Allow low intensity uses which are compatible with the scenic values and natural setting of the county for open space lands which are not developable; and allow commercial recreation, County, State, and Federal parks, preserves, and biotic research stations, local parks and passive open space uses for park lands which are developable.

**LUP Objective 7.7a Coastal Recreation.** To maximize public use and enjoyment of coastal recreation resources for all people, including those with disabilities, while protecting those resources from the adverse impacts of overuse.

**LUP Objective 7.7b Shoreline Access.** To provide a system of shoreline access to the coast with adequate improvements to serve the general public and the coastal neighborhoods which is consistent with the California Coastal Act, meets public safety needs, protects natural resource areas from overuse, protects public rights and the rights of private property owners, minimizes conflicts with adjacent land uses, and does not adversely affect agriculture, subject to policy 7.6.2.

**LUP Program 7.7a (Improve Parking).** Improve existing parking areas through the use of fencing, striping, landscaping, bike racks, and safety improvements; provide safe stairways for beach access as part of the program to upgrade vehicular parking. (Responsibility: Public Works, Board of Supervisors)

**LUP Program 7.7b (Increase Live Oak Parking).** Increase parking opportunities to serve visitors to the Live Oak coastline in locations where such facilities are feasible and compatible with the neighborhood and the natural setting. Provide on- and off-street parking improvements and facilities within walking distance of the beaches and bluffs, or located at more remote locations and linked by shuttle transportation. Identify appropriate locations and improvements in cooperation with the local community. (Board of Supervisors, Planning Department, County Parks, Public Works)

**LUP Program 7.7f (Establish Access Signing).** Establish an access signing program which:

(1) Removes incorrect, misleading, and confusing signs.

(2) Develops, installs, and maintains standard signs for primary destinations and neighborhood accessways and designates appropriate locations for these signs. (Responsibility: County Parks, Public Works)

*LUP Policy 7.7.10 Protecting Existing Beach Access. Protect existing pedestrian...and bicycle 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...*

*LUP 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...*

### **3. Community and Scenic Character Policies**

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

Visual access to and along the coast is also a form of public access. As such, in addition to Coastal Act policies 30210 and 30211 (cited above) that also apply to visual access, the following visual access policies of the Coastal Act also apply:

*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.*

In addition, the site is located adjacent to Corcoran Lagoon and its namesake beach across East Cliff Drive. Accordingly, Section 30240(b) of the Coastal Act states:

*Section 30240(b). Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

#### **B. Applicable LCP Policies**

The LCP recognizes the Live Oak beach area as a special area. The LCP states:

*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.*

*LUP Policy 8.8.1 Design Guideline for Unique Areas. Develop specific design guidelines and/or standards for well-defined villages, towns and communities.... New development within these areas listed in Figure 8-1...shall conform to the adopted plans for these areas, as plans become available.*

*Figure 8-1 Areas with Special Design Criteria or Guidelines....Area: Live Oak Planning Area; Design Guideline Source: Live Oak Community Plan (to be completed)...*

The County's LCP is also fiercely protective of coastal zone visual resources, particularly views from public roads, and especially along the shoreline. The LCP states:

*Objective 5.10.a Protection of Visual Resources. To identify, protect, and restore the aesthetic values of visual resources.*

*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.*

*LUP 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....*

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

*LUP 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.*

*LUP 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...*

*IP 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.*

Finally, IP Section 13.10.323 (Development Standards for Residential Districts) includes a series of zoning maximums applicable to the residential development proposed here including a maximum Floor Area Ratio of 50%, a maximum parcel coverage of 30%, and minimum side yard setbacks of 5 and 8 feet.

#### **4. Procedural Policies**

LCP Chapter 18.10 specifies the procedures for the processing of coastal permits. Particularly relevant in this case is IP Section 18.10.210(b) that requires, among other things, the following information:

*A statement of the applicant's interest in the property (hereinafter called 'subject property') in connection with which the application is filed and evidence that the applicant is the owner or purchaser under contract of the premises involved, or is the owner of a leasehold interest, or has written permission of the owner to make application.*

CHAPTER 16.30

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RIPARIAN CORRIDOR AND WETLANDS PROTECTION  
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Section:  
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- 16.30.010 Purpose
- 16.30.020 Scope
- 16.30.025 Amendment
- 16.30.030 Definitions
- 16.30.040 Protection
- 16.30.050 Exemptions
- 16.30.060 Exceptions
- 16.30.070 Inspection and Compliance
- 16.30.080 Violations
- 16.30.110 Appeals

→ 16.30.010 PURPOSE. The purpose of this chapter is to eliminate or  
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minimize any development activities in the riparian corridor in order  
to preserve, protect, and restore riparian corridors for: protection  
of wildlife habitat; protection of water quality; protection of  
aquatic habitat; protection of open space, cultural, historical,  
archeological and paleontological, and aesthetic values; transporta-  
tion and storage of floodwaters; prevention of erosion; and to imple-  
ment the policies of the General Plan and the Local Coastal Program  
Land Use Plan. (Ord. 2460, 7/19/77; 3335, 11/23/82)

16.30.020 SCOPE. This chapter sets forth rules and regulations to  
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limit development activities in riparian corridors; establishes the  
administrative procedure for the granting of exceptions from such  
limitations; and establishes a procedure for dealing with violations  
of this Chapter. This Chapter shall apply to both private and public  
activities including those of the County and other such government  
agencies as are not exempted therefrom by state or federal law. Any  
person doing work in nonconformance with this Chapter must also abide  
by all other pertinent local, state and federal laws and regulations.  
(Ord. 2460, 7/19/77; 3335, 11/23/82; 4027, 11/7/89; 4166,  
12/10/91)

16.30.025 AMENDMENT. Any revision to this chapter which applies to  
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the Coastal Zone shall be reviewed by the Executive Director of the  
California Coastal Commission to determine whether it constitutes an  
amendment to the Local Coastal Program. When an ordinance revision

## 16.30.030 DEFINITIONS (CONT)

activities within buffer zones which do not require a discretionary permit; other projects of similar nature determined by the Planning Director to cause minimal land disturbance and/or benefit the riparian corridor.

Perennial stream. Any watercourse designated by a solid line symbol on the largest scale U.S. Geological Survey Topographic map most recently published or verified by field investigation as a stream that normally flows throughout the year.

→ Riparian Corridor. Any of the following:

- (1) Lands within a stream channel, including the stream and the area between the mean rainy season (bankfull) flowlines;
- (2) Lands extending 50 feet (measured horizontally) out from each side of a perennial stream. Distance shall be measured from the mean rainy season (bankfull) flowline;
- (3) Lands extending 30 feet (measured horizontally) out from each side of an intermittent stream. Distance shall be measured from the mean rainy season (bankfull) flowline;
- (4) Lands extending 100 feet (measured horizontally) from the high watermark of a lake, wetland, estuary, lagoon or natural body of standing water;
- (5) Lands within an arroyo located within the Urban Services Line, or the Rural Services Line.
- (6) Lands containing a riparian woodland.

Riparian vegetation/woodland. Those plant species that typically occur in wet areas along streams or marshes. A woodland is a plant community that includes these woody plant species that typically occur in wet areas along streams or marshes. Characteristic species are: Black Cottonwood (*Populus trichocarpa*), Red Alder (*Alnus oregona*), White Alder (*Alnus rhombifolia*), Sycamore (*Plantanus racemosa*), Box Elder (*Acer negundo*), Creek Dogwood (*Cornus Californica*), Willow (*Salix*).

Vegetation. Any species of plant.

(Ord. 2535, 2/21/78; 2536, 2/21/78; 2800, 10/30/79; 3335, 11/23/82; 3441, 8/23/83; 3601, 11/6/84; 4346, 12/13/94)

16.30.040 PROTECTION. No person shall undertake any development activities other than those allowed through exemptions and exceptions as defined below within the following areas:

- (a) Riparian corridors.
- (b) Areas within the Urban Services Line or Rural Services Line which are within a buffer zone as measured from the

tural Code pursuant to the control or eradication of a pest as defined in Section 5006, Food and Agriculture Code, as required or authorized by the County Agricultural Commissioner.

(e) Drainage, erosion control, or habitat restoration measures required as a condition of County approval of a permitted project. Plans for such measures shall be reviewed and approved by the Planning Director. (Ord. 2460, 7/19/77; 2537, 2/21/78; 3335, 11/23/82)

(f) The Pajaro River Sediment Removal Project, under the Army Corps of Engineers Permit No. 21212S37, issued May, 1995, or as amended. (Ord. 4374, 6/6/95)

→ 16.30.060 EXCEPTIONS. Exceptions and conditioned exceptions to the  
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provisions of this Chapter may be authorized in accordance with the following procedures:

(a) Application. Application for an exception granted pursuant  
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to this chapter shall be made in accordance with the requirements of Chapter 18.10, Level III or V, and shall include the following:

1. Applicant's name, address, and telephone number.
2. Property description: The assessor's parcel number, the location of the property and the street address if any.
3. Project description: A full statement of the activities to be undertaken, mitigation measures which shall be taken, the reasons for granting such an exception, and any other information pertinent to the findings prerequisite to the granting of an exception pursuant to this section.
4. Two sets of plans indicating the nature and extent of the work proposed. The plans shall depict property lines, landmarks and distance to existing watercourse; proposed development activities, alterations to topography and drainage channels; mitigation measures, including details of erosion control or drainage structures, and the extent of areas to be revegetated. Plans shall be a minimum size of 18" x 24", except that plans for minor proposals may be a minimum size of 8 1/2" x 11".
5. Applicant's property interest or written permission of the owner to make application .
6. Requested Information: Such further information as the Planning Director may require.
7. Fees: The required filing fee, set by resolution of the Board of Supervisors, shall accompany the application.

(b) Notice. Notices of all actions taken pursuant to this  
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chapter shall be in accordance with the requirements of Chapter  
18.10.

(c) Action. Proposals for minor riparian exceptions may be  
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acted upon at Level III and proposals for major riparian excep-  
tions may be acted upon at level V pursuant to chapter 18.10.

(d) Findings. Prior to the approval of any exception, the  
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Approving Body shall make the following findings:

1. That there are special circumstances or conditions affect-  
ing the property;
2. That the exception is necessary for the proper design and  
function of some permitted or existing activity on the proper-  
ty;
3. That the granting of the exception will not be detrimental  
to the public welfare or injurious to other property downstream  
or in the area in which the project is located;
4. That the granting of the exception, in the Coastal Zone,  
will not reduce or adversely impact the riparian corridor, and  
there is no feasible less environmentally damaging alternative;  
and
5. That the granting of the exception is in accordance with  
the purpose of this chapter, and with the objectives of the  
General Plan and elements thereof, and the Local Coastal Pro-  
gram Land Use Plan.

(e) Conditions. The granting of an exception may be condi-  
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tioned by the requirement of certain measures to ensure compli-  
ance with the purpose of this chapter. Required measures may  
include, but are not limited to:

1. Maintenance of a protective strip of vegetation between  
the activity and a stream, or body of standing water. The strip  
should have sufficient filter capacity to prevent significant  
degradation of water quality, and sufficient width to provide  
value for wildlife habitat, as determined by the Approving  
Body.
2. Installation and maintenance of water breaks.
3. Surface treatment to prevent erosion or slope insta-  
bilities.

4. Installation and maintenance of drainage facilities.
5. Seeding or planting of bare soil.
6. Installation and maintenance of a structure between toe of the fill and the high water mark.
7. Installation and maintenance of sediment catch basins.

(f) Concurrent Processing of Related Permits. An application

for exception may be processed concurrently with applications for discretionary permits required for the activity in question. No ministerial permit(s) for the activities in question shall be issued until an exception has been authorized. All discretionary permits for the activity in question shall include all conditions included in the exception. Where associated discretionary permits are authorized by the Planning Commission or Board of Supervisors, that body shall be authorized to act in place of the Zoning Administrator in considering an application for an exception if the applications are considered concurrently.

(g) Expiration. Unless otherwise specified, exceptions issued

pursuant to this chapter shall expire one year from the date of issuance if not exercised. Where an exception has been issued in conjunction with a development permit granted pursuant to Chapter 18.10, the exception shall expire in accordance with the provisions of Chapter 18.10. (Ord. 2460, 7/19/77; 2506, 11/22/77; 2800, 10/30/79; 3335, 11/23/82; 3441, 8/23/83)

16.30.070 INSPECTION AND COMPLIANCE. The Planning Director may conduct inspections to ensure compliance with this chapter.

(a) Inspection. The following inspections may be performed by the Director:

1. A pre-site inspection to determine the suitability of the proposed activity and to develop necessary conditions for an exception.
2. A final inspection to determine compliance with conditions, plans and specifications.

These inspections may take place concurrent with inspection required by any permits necessary for the activities in question.

(b) Notification. The permittee shall notify the Director 24 hours prior to start of the authorized work and also 24 hours

16.30.103 (Repealed 4/2/96, Ord. 4392A)

16.30.107 (Repealed 4/2/96; Ord. 4392A)

16.30.110 APPEALS. All appeals of actions taken pursuant to the provisions of this Chapter shall be made in conformance to the procedures of Chapter 18.10. (Ord. 2460, 7/19/77; 2506, 11/22/77; 2800, 10/30/79; 3335, 11/23/82; 3451-A, 8/23/83)  
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CHAPTER 16.32

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SENSITIVE HABITAT PROTECTION  
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Sections:  
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- 16.32.010 Purposes
- 16.32.020 Scope
- 16.32.030 Amendment
- 16.32.040 Definitions
- 16.32.050 General Provisions
- 16.32.060 Approval Required
- 16.32.070 Assessments and Reports Required
- 16.32.080 Report Preparation and Review
- 16.32.130 Violations
- 16.32.140 Fees

→ 16.32.010 PURPOSES. The purposes of this chapter are to minimize

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the disturbance of biotic communities which are rare or especially valuable because of their special nature or role in an ecosystem, and which could be easily disturbed or degraded by human activity; to protect and preserve these biotic resources for their genetic scientific, and educational values; and to implement policies of the General Plan and the Local Coastal Program Land Use Plan. (Ord. 3342, 11/23/82; 3442, 8/23/83)

16.32.020 SCOPE. This Chapter sets forth rules and regulations for

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evaluating the impacts of development activities on sensitive habitats; establishes the administrative procedures for determining whether and what type of limitations to development activities are necessary to protect sensitive habitats; and establishes a procedure for dealing with violations of this Chapter. This Chapter shall

apply to both private and public activities including those of the County and other such government agencies where not exempted therefrom by state or federal law. Any person doing work in conformance with this Chapter must also abide by all other pertinent local, state and federal laws and regulations. (Ord. 3342, 11/23/82; 3442, 8/23/83; 4027, 11/7/89; 4166, 12/10/91)

16.32.030 AMENDMENT. Any revision to this chapter which applies to

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the Coastal Zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When an ordinance revision constitutes an amendment to the Local Coastal Program such revisions shall be processed pursuant to the hearing and notification provisions of Chapter 13.03 of the County Code and shall be subject to approval by the California Coastal Commission. (Ord. 3342, 11/23/82; 3342, 8/23/83)

16.32.040 DEFINITIONS. All terms used in this chapter shall be as  
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defined in the General Plan and Local Coastal Program Land Use Plan and as follows:

Area of Biotic Concern. Any area in which development may affect  
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a sensitive habitat, as identified on the Local Coastal Program Sensitive Habitats maps, the General Plan Resources and Constraints maps and other biotic resources maps on file in the Planning Department, or as identified during inspection of a site by Planning Department staff.

→ Biotic Assessment. A brief review of the biotic resources  
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present at a project site prepared by the County biologist.

Biotic Permit. A permit for development in an area of biotic  
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concern issued pursuant to the provisions of this chapter.

→ Biotic Report. A complete biotic investigation conducted by an  
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approved biologist from a list maintained by the county, including but not limited to the following:

1. Identification of the rare endangered, threatened and unique species on the site;
2. Identification of the essential habitats of such species;
3. Recommendations to protect species and sensitive habitats. When a project is found to have a significant effect

on the environment under the provisions of the Environmental Review Guidelines, the biotic report shall be made a part of the Environmental Impact Report.

Building Envelope. A designation on a site plan or parcel map indicating where structures and paving are to be located.

Decision-Making Body. The Zoning Administrator, Planning Commission, or Board of Supervisors, whichever body is considering the development permit, when biotic review is concurrent with review of a development permit. When a biotic permit is required, the decision-making body shall be the Planning Director.

Disturbance. Any activity which may adversely affect the longterm viability of a rare, endangered, threatened, or locally unique species or any part of a sensitive habitat.

Development/Development Activity. On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including but not limited to subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; reconstruction, demolition, alteration or improvement of any structure in excess of 50 percent of the existing structure's fair market value, including any facility of any private, public or municipal utility; the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973; the disturbance of any rare, endangered, or locally unique plant or animal or its habitat.

Environmental Coordinator. The Planning Department staff person assigned to review applications and make determinations based upon the County Environmental Review Guidelines adopted pursuant to Chapter 16.01 of the Santa Cruz County Code.

→ Environmentally Sensitive Habitat Area. See Sensitive Habitat.

Essential Habitat. See Sensitive Habitat.  
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Feasible. Capable of being accomplished in a successful manner  
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within a reasonable period of time, taking into account economic, environmental, social and technological factors, as determined by the County.

Impervious Surface. Any non-permeable surface, including roofs  
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and non-porous paving materials such as asphalt or concrete, but not including directly permeable surfaces such as decks that allow the passage of water or gravel driveways less than five inches thick.

Person. Any individual, firm, association, corporation, partnership,  
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business, trust company, a public agency as specified in Section 53090 of the California Government Code, or the state or a state agency.

Rare and Endangered Species. A plant or animal species designated  
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as rare, endangered or threatened by the State Fish and Game Commission, the United States Department of Interior Fish and Wildlife Service, or the California Native Plant Society.

Resource Dependent Use. Any development or use which requires  
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utilization of a natural resource and must be sited within a sensitive habitat in order to be able to function at all, such as a fish hatchery.

Restoration. Restoring native vegetation, natural drainage, and  
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water quality, including but not limited to replanting native vegetation, removing garbage, and protecting the habitat from the inflow of polluted water or excessive sedimentation.

→ Sensitive Habitat. An area is defined as a sensitive habitat if it meets one or more of the following criteria.

- (a) Areas of special biological significance as identified by the State Water Resources Control Board.
- (b) Areas which provide habitat for locally unique biotic species/communities including but not limited to: oak woodlands, coastal scrub, maritime chaparral, native rhododendrons and associated Elkgrass, indigenous Ponderosa Pine, indigenous Monterey Pine, mapped grassland in the Coastal Zone and sand parkland; and Special Forests including San Andreas Oak Woodlands, indigenous Ponderosa Pine, indigenous Monterey Pine and ancient forests.

- (c) Areas adjacent to essential habitats of rare, endangered or threatened species as defined in (e) and (f) below.
- (d) Areas which provide habitat for species of special concern as listed by the California Department of Fish and Game in the Special Animals list, Natural Diversity Database.
- (e) Areas which provide habitat for rare or endangered species which meet the definition of Section 15380 of the California Environmental Quality Act guidelines.
- (f) Areas which provide habitat for rare, endangered or threatened species as designated by the State Fish and Game Commission, United States Fish and Wildlife Service or California Native Plant Society.
- (g) Nearshore reefs, rocky intertidal areas, seacaves, islets, offshore rocks, kelp beds, marine mammal hauling grounds, sandy beaches, shorebird roosting, resting and nesting areas, cliff nesting areas and marine, wildlife or educational/research reserves.
- (h) Dune plant habitats.
- (i) All lakes, wetlands, estuaries, lagoons, streams and rivers.
- (j) Riparian corridors.

Structure. Anything constructed or erected which requires a location on the ground or in the water, including but not limited to any building, retaining wall, driveway, telephone line, electrical power transmission or distribution line, water line, road or wharf.

Toxic Chemical Substance:  
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1. Any chemical used for killing insects, fungi, rodents, etc., including insecticides, acaricides, fungicides, herbicides, rodenticides, and nematocides.
2. Any chemical which would be deleterious to a sensitive habitat.

Water Purveyor. Any agency or entity supplying water to five or more connections.  
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(Ord. 3342, 11/23/82; 3442, 8/23/83; 4346, 12/13/94)

16.32.050 GENERAL PROVISIONS.  
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- (a) No toxic chemical substance shall be used in a sensitive habitat in such a way as to have deleterious effects on the habitat unless an emergency has been declared by a federal,

state, or county agency, or such use has been deemed necessary by the California Department of Fish and Game to eliminate or reduce a threat to the habitat itself, or a substantial risk to public health will exist if the toxic chemical substance is not used.

(b) Pursuant to California Administrative Code Section 2452, the Agricultural Commissioner, in reviewing an application to use a restricted material, shall consider the potential effects of the material on a sensitive habitat, and mitigation measures shall be required as necessary to protect the sensitive habitat. No approval shall be issued if adverse impacts cannot be mitigated. (Ord. 3342, 11/23/82; 3442, 8/23/83)

16.32.060 APPROVAL REQUIRED.

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- (a) Except as provided in Subsection (b) below, no person shall commence any development activity within an area of biotic concern until a biotic approval has been issued unless such activity has been reviewed for biotic concerns concurrently with the review of a development or land-division application pursuant to Chapter 18.10, Level III. (Ord. 3342, 11/23/82; 3442, 8/23/83; 4030, 11/21/89)
- (b) A biotic assessment shall not be required for repair or reconstruction of a structure damaged or destroyed as a result of a natural disaster for which a local emergency has been declared by the Board of Supervisors, when:
- (1) the structure, after repair or reconstruction, will not exceed the floor area, height or bulk of the damaged or destroyed structure by 10%, and
  - (2) the new structure will be located in substantially the same location. (Ord. 4030, 11/21/89; 4160, 12/10/91)

→ 16.32.070 ASSESSMENTS AND REPORTS REQUIRED. A biotic assessment

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shall be required for all development activities and applications in areas of biotic concern, as identified on maps on file in the Planning Department or as identified during inspection of the site by Planning Department staff. A biotic report shall be required if the Environmental Coordinator determines on the basis of the biotic assessment that further information is required to ensure protection of the sensitive habitat consistent with General Plan and Local Coastal Program Land Use Plan policies. If the Environmental Coordinator determines that the project will have a significant effect on the environment under the provisions of the Environmental Review Guidelines, the biotic report shall be part of

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the Environmental Impact Report. (Ord. 3342, 11/23; 3442,  
8/23/83)

→ 16.32.080 REPORT PREPARATION AND REVIEW.  
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(a) Submittals Required. When a biotic assessment or biotic  
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report is required, the applicant shall submit an accurate plot plan showing the property lines and the location and type of existing and proposed development and other features such as roads, gullies, and significant vegetation. Any other information deemed necessary by the Planning Director shall be submitted upon request.

(b) Report Preparation. The biotic assessment shall be con-  
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ducted by the county biologist. The biotic report shall be prepared by a biologist from a list maintained by the Planning Department, at applicant's expense, and shall be subject to acceptance as specified in this section. All biotic assessments and report shall conform to county report guidelines established by the Planning Director.

(c) Report Acceptance and Review. All biotic assessments and  
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reports shall be found to conform to county report guidelines by the Environmental Coordinator. When technical issues are complex, the report may be reviewed and found adequate by a biologist retained by the County. All biotic reports shall be referred to the California Department of Fish and Game for review and comment, and shall be available for review by other interested parties.

(d) Report Expiration. A biotic assessment shall be valid for  
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one year and a biotic report shall be valid for five years following acceptance of the assessment or report, except where a change in site conditions, development proposal, technical information, or county policy significantly affects and thus may invalidate the technical data, analysis, conclusions, or recommendations of the report. (Ord. 3342, 11/23/82; 3442, 8/23/83).

16.32.090 APPROVAL CONDITIONS.  
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(a) Conditions of approval shall be determined by the Environmental Coordinator through the environmental review process. These conditions may be based on the recommendations of the biotic assessment or biotic report and shall become conditions of any subsequent approval issued for the property. Such conditions shall also apply to all development activities engaged in on the property. Any additional measures deemed necessary by the decision-making body shall also become development permit

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conditions.

(b) The following conditions shall be applied to all development within any sensitive habitat area:

1. All development shall mitigate significant environmental impacts, as determined by the Environmental Coordinator.
2. Dedication of an open space or conservation easement or an 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.
3. Restoration of any area which is a degraded sensitive habitat or has caused or is causing the degradation of a sensitive habitat shall be required, provided that any restoration required shall be commensurate with the scale of the proposed development.

(c) All development activities in or adjacent to a sensitive habitat area shall conform to the following types of permitted uses, and the following conditions for specific habitats shall become minimum permit conditions unless the approving body pursuant to Chapter 18.10 finds that the development will not affect the habitat based on a recommendation of the Environmental Coordinator following a biotic review pursuant to Section 16.32.070.

A. ENVIRONMENTALLY SENSITIVE HABITAT AREAS (Continued)

Type of Sensitive Area	Permitted or Discretionary uses	Conditions
11. Wetlands, Estuaries, & Lagoons	educational instruction, scientific research, managed nature observation, wetland restoration, maintenance to exist- ing public utilities, aquaculture, recreational fishing subject to Department of Fish and Game regulations	One hundred- foot buffer measured from the high water- mark shall be required  Distance between structures and wetland shall be maximized.
12. Rivers and Streams (includes Anadromous Fish Spawning Areas)	scientific research, educational instruction, aquaculture	
13. Intermittent Wetlands	limited grazing, uses within wetlands (above), existing agriculture	
14. Reservoirs & Ponds	water storage and diversion, aquaculture	

No new development shall be allowed adjacent to marshes, streams, and bodies of water if such development would cause adverse impacts on water quality which cannot be mitigated or will not be fully mitigated by the project proponent.

16.32.095 PROJECT DENSITY LIMITATIONS

The following requirements shall apply to density calculations for new building sites created in habitats of locally unique species through minor land divisions, subdivisions, planned development, or planned unit development:

- (a) Special Forests - Prohibit land divisions within designated Special Forests unless the area to be divided is removed from the mapped special forests habitat area by General Plan - Local Coastal Program amendment. On parcels with existing mapped special forest areas which contain developable land outside those areas, allow development at the lowest density of the land use designation and require that development be clustered and located outside the habitat areas. Allow one single family dwelling unit per existing parcel of record. Where property owners upgrade special forest areas on their parcels, outside of mapped areas, through resource management activities, the prevailing General Plan densities shall not be reduced.
- (b) Grasslands - Prohibit land divisions of native and mixed native grassland habitat mapped in the Coastal Zone unless the area to be divided is removed from the mapped grassland habitat area by General Plan-Local Coastal Program amendment. On parcels with existing mapped native and mixed native grasslands and which contain developable land outside those habitats, allow development at the lowest density of the land use designation and require that development be clustered and located outside the habitat areas. Allow one single family dwelling unit per existing parcel of record. Where property owners upgrade grasslands on their parcels, outside of mapped areas, through resource management activities, the prevailing General Plan densities shall not be reduced.

(Ord. 4346, 12/13/94)

→ 16.32.100 EXCEPTIONS. Exceptions to the provisions of Section 16.32.090 may be approved by the decision-making body.

(a) In granting an exception, the decision-making body shall make the following findings:

1. That adequate measures will be taken to ensure consistency with the purpose of this chapter to minimize the disturbance of sensitive habitats; and

2. One of the following situations exists:

(i) The exception is necessary for restoration of a sensitive habitat; or

(ii) It can be demonstrated by biotic assessment, biotic report, or other technical information that the exception is necessary to protect public health, safety, or welfare.

(b) Notwithstanding the above, the decision-making body may grant an exception for development within the essential habitat of the Santa Cruz Long-Toed Salamander as follows:

1. Upon receiving a development application for an undeveloped parcel within the essential habitat, the County shall notify the California Coastal Commission, the Coastal Conservancy, the California Department of Fish and Game, and the U.S. Fish and Wildlife Service. The County or other agency shall have one year to decide whether acquisition of the parcel is to proceed. If the County and other agencies decide not to acquire the parcel and development potential in the essential habitat has not been otherwise permanently eliminated by resubdivision, easement, or other recorded means, the decision-making body may grant an exception to allow the development to proceed provided that it finds that the proposed development cannot be accommodated on the parcel outside the essential habitat, and that it will be consistent with the standards for the area adjacent to the essential habitat and other LCP policies.

2. The permittee shall provide a cash deposit, Time Certificate of Deposit, or equivalent security, acceptable to the County. This security shall be payable to the County, in an amount not less than \$5000 or greater than \$10,000, to be determined by the County on case-by-case basis, depending on site-specific circumstances. The purpose of this security shall be to ensure compliance with the development standards for the area adjacent to the essential habitat, and shall not be returned unless and until all required standards and improvements are met. All expenditures by the County for corrective work necessary because of the permittee's failure to comply with the provisions of the permit and this chapter shall be charged against the security deposit. (Ord. 3342, 11/23/82; 3442, 8/23/83)

16.32.105 EXEMPTION. Existing commercial agricultural operations and related activities shall be exempted from the provisions of Section 16.32.060. Any development activity which has received a riparian exception approved according to the provisions of Chapter 16.30 (Riparian Corridors and Wetlands Protection) may be exempted from the provisions of this chapter if the Planning Director determines that such development activity has received a review, in connection with the granting of the riparian exception, equivalent to the review that would be required by this chapter. (Ord. 3342, 11/23/82; 3442, 8/23/83)

16.32.110 (Ord. 3342, 11/23/82; 3442, 8/23/83; Repealed 4/2/96, Ord. 4392A)

16.32.120 (Ord. 3342, 11/23/82; 3442, 8/23/83; 4/2/96, Ord. 4392A)

All appeals of actions taken pursuant to the provisions of this Chapter shall be made in conformance with the procedures in Chapter 18.10; provided, however that code enforcement actions and decisions are not sub-

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