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APPEAL STAFF REPORT - SUBSTANTIAL ISSUE DETERMINATION

Appeal number.....A-3-SCO-02-117, Davenport Barn

Applicant.....David Luers

Appellants.....Commissioners Sara Wan and Pedro Nava; Sierra Club; Coastal Organizers and Advocates for Small Towns (COAST)

Local government.....Santa Cruz County

Local decisionApproved with Conditions (November 13, 2002)

Project location.....Roughly one acre parcel located at the intersection of Old Coast Road, Davenport Avenue, and Highway One in the town of Davenport on Santa Cruz County's north coast.

Project descriptionDemolish the Davenport barn and construct a 3-story, roughly 6,400 square foot structure (4,316 square feet of enclosed interior space and 2,084 square feet of wrap-around decks/walkways) that would include two residential units and a retail sales operation (roughly half residential and half retail), with an approximately 4,700 square foot 10-car parking lot and associated hardscape (patios and paths) and landscaping.

File documents.....Santa Cruz County Certified Local Coastal Program (LCP); Coastal Commission Appeal files A-3-SCO-02-088 (RMC Pacific Materials), A-3-SCO-00-106 (Licursi Forrester's Hall), A-3-SCO-98-101 (Bailey-Steltenpohl); and Santa Cruz County CDP Application File 98-0234.

Staff recommendation ...Substantial Issue Exists

Summary of staff recommendation: Santa Cruz County approved a proposal to demolish the badly deteriorated Davenport barn and construct a 3-story, roughly 6,400 square foot (4,316 square feet of enclosed interior space and 2,084 square feet of wrap-around decks/walkways in three levels) commercial/residential structure with associated hardscape (patios and pathways), and a roughly 4,700 square foot 10-car parking lot. The project is located at the intersection of Old Coast Road, Davenport Avenue, and Highway One in the town of Davenport on Santa Cruz County's north coast. The project site is the gateway into Davenport along Highway One and is an important site in this respect for Davenport's character as well as the character of the overall Highway One viewshed.

**California Coastal Commission****February 2003 Meeting in San Diego**Staff: D. Carl Approved by: *DSL*

A-3-SCO-02-117 Davenport barn stfprt 2.6.2003.doc

The LCP protects riparian areas from development impacts by, among other things, requiring a 50 foot buffer and a ten foot setback from the buffer (a total of 60 feet). The approved project includes a parking lot, a 3-story structure, and associated hardscape within the LCP-required riparian setback/buffer area. It appears that the LCP's required exception findings cannot be made in this case, and it appears that the riparian corridor is not adequately protected as directed by the LCP.

The LCP protects the water quality of the on-site riparian corridor, San Vicente Creek, and the Monterey Bay. The project site drains to the riparian corridor and onto San Vicente Creek and then to the Monterey Bay. San Vicente Creek provides habitat for such State and Federally listed species as coho, steelhead, and red-legged frog. It isn't clear that the standard silt and grease trap proposed is sufficient to protect the significant downstream resources from polluted runoff impacts as directed by the LCP, and it isn't clear whether other wastewater generated by the project would adversely affect coastal water quality.

The LCP protects San Vicente Creek for habitat and water supply purposes. The approved project would require 3 new water hookups from the local water purveyor who in turn gets its water from San Vicente Creek. The County indicates that the project will not require additional water withdrawals from San Vicente Creek, but does not provide evidence as to how the new water use proposed will be accommodated without additional withdrawals. The impact of current water withdrawals on San Vicente Creek habitat resources is not well understood, and the incremental addition attributable to the approved project may exacerbate any such impacts or cause impacts of its own.

The LCP protects the Highway One viewshed and the small scale character of Davenport. The subject site is the gateway into Davenport along Highway One and is an important site in this respect for Davenport's character as well as the character of the overall Highway One viewshed. The existing weathered and redwood-clad rustic barn (proposed for demolition) has long defined the gateway into Davenport along Highway One for northbound travelers since its construction in 1925. The proposed structure would be significantly more massive and taller than the existing barn and would redefine this critical gateway site. The new structure would exceed the maximum height allowed in the commercial zone district (37 feet when 35 feet is the maximum in C-1 districts), would not meet the front setback requirement (setback would be 12 feet when 20 is required), and includes 3 stories when the LCP describes one or two stories as generally indicative of Davenport's small scale character. The proposed development appears to be overly large for the site, and thus would not be protective of Davenport's character or the Highway One viewshed.

The LCP requires protection and enhancement of public access and recreation areas, including the Highway One corridor that is protected for recreational access, and targets Davenport for specific enhancements, such as clear parking and circulation. Proposed vehicular access to and from the project appears to create a public safety hazard on Highway One, particularly on a cumulative basis when considered in relation to permitted and planned development in Davenport that is reasonably foreseeable. The hazard created would adversely impact access along Highway One, would confuse circulation within Davenport, and adversely affect Davenport's character as a result.

The approved project is overly ambitious in scale for the site and surrounding resources, and it appears



that it will adversely impact the character of Davenport and the Highway One viewshed. As such, the proposed project is not in conformance with LCP policies. These issues warrant a further analysis and review by the Coastal Commission of the proposed project.

Thus, 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 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.

Report Contents

	page
1. Appeal of Santa Cruz County Decision	4
A. Santa Cruz County Action	4
B. Appeal Procedures	4
C. Appellants' Contentions.....	5
2. Staff Recommendation on Substantial Issue.....	6
Recommended Findings and Declarations.....	6
3. Project Description.....	6
A. Project Location.....	6
B. County Approved Project.....	8
4. Substantial Issue Findings.....	8
A. Applicable Policies	8
B. Analysis of Consistency with Applicable Policies.....	8
C. Substantial Issue Conclusion	16
5. Exhibits	
Exhibit A: Regional Vicinity	
Exhibit B: Davenport Highway One Frontage Photos	
Exhibit C: Project Site Photos	
Exhibit D: County-Approved Site Plans and Elevations	
Exhibit E: Applicant's Photo-Simulations	
Exhibit F: Adopted Santa Cruz County Staff Report	
Exhibit G: Adopted Santa Cruz County Findings	
Exhibit H: Adopted Santa Cruz County Conditions	
Exhibit I: Appeal of Commissioners Sara Wan and Pedro Nava	
Exhibit J: Appeal of the Sierra Club	
Exhibit K: Appeal of the Coastal Organizers and Advocates for Small Towns (COAST)	
Exhibit L: Caltrans Correspondence	
Exhibit M: Applicable LCP Policies	



1. Appeal of Santa Cruz County Decision

A. Santa Cruz County Action

On November 13, 2002, the Santa Cruz County Planning Commission, on a referral from the Zoning Administrator, approved the proposed project subject to multiple conditions by a 3-2 vote (see exhibits F, G, and H for the County's adopted staff report, findings and conditions on the project). The Planning Commission's approval was not appealed locally (i.e., to the Board of Supervisors).¹ Notice of the Planning Commission's action on the coastal development permit (CDP) was received in the Coastal Commission's Central Coast District Office on December 12, 2002. The Coastal Commission's ten-working day appeal period for this action began on December 13, 2002 and concluded at 5pm on December 27, 2002. Three valid appeals (see below) were 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 the residential use proposed is not the principal permitted use within the C-1 commercial zone district. It also may be appealable because of the on-site riparian corridor were this San Vicente Creek feeder to be mapped as a stream, but Commission mapping staff has not undertaken this assessment at current time.²

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

¹ Because Santa Cruz County charges a fee for local coastal permit appeals, aggrieved parties can appeal such decisions directly to the Commission.

² This question need not be answered here because the project is already appealable by virtue of the type of development proposed.



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 not so located and thus this additional finding need not 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

Appeal of Commissioners Wan and Nava

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

In sum, the approved project is located at a critical gateway site along Santa Cruz County's north coast in Davenport, a LCP-designated special community whose character is to be protected. The approved project appears not to have responded to the coastal resource issues and constraints engendered by development proposed at this location. It appears that the approved structure is too large for the site, for Davenport, and for the commercial zoning requirements applicable here. Development is proposed within the required riparian buffer area, including a parking lot with a zero setback, and it is not clear that riparian and downstream resources (i.e., San Vicente Creek and Monterey Bay) are adequately protected. Traffic circulation problems appear likely to lead to adverse impacts to Highway One and Davenport circulation overall. The approved project appears overly ambitious in scale for the site and surrounding resources, and it appears that it will adversely impact the character of Davenport and the Highway One viewshed. As such, the proposed project's conformance with LCP policies is questionable. These issues warrant a further analysis and review by the Coastal Commission of the proposed project

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

Appeal of the Sierra Club

The Sierra Club appeal contains similar contentions as the Commissioner appeal, contending that the County-approved project raises substantial LCP issues related to inadequate protection for the riparian corridor, water quality, San Vicente Creek, Davenport circulation, Highway One viewshed, and Davenport community character. Please see exhibit J for the Sierra Club's complete appeal document.

Appeal of Coastal Organizers and Advocates for Small Towns (COAST)

The COAST appeal contains similar contentions as are in the Commissioner and Sierra Club appeals. Please see exhibit K for the COAST's complete appeal document.



2. 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-02-117 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-02-117 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.*

Recommended Findings and Declarations

The Commission finds and declares as follows:

3. Project Description

A. Project Location

The proposed project is located in the unincorporated town of Davenport along Santa Cruz County's rugged north coast. See exhibits A, B, and C 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 (see exhibit A). 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, the County has seen extensive development and regional growth over the years that 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.³ 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 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 areas and visitor destinations like Davenport. 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 Santa Cruz County.

Davenport Area

The proposed development is located in the unincorporated Town of Davenport, approximately ten miles north of the City of Santa Cruz. Davenport is a small coastal enclave in Santa Cruz County's North Coast planning area and is the only concentrated development area along Highway One between Santa Cruz and Half Moon Bay. This larger stretch of California's coastline is characterized by lush agricultural fields and extensive State Park and other undeveloped public land holdings. Davenport provides a convenient stopping place and a visitor destination for travelers along this mostly undeveloped coastline.

Proposed Development Site

The project is located at the intersection of Old Coast Road, Davenport Avenue, and Highway One in the town of Davenport on Santa Cruz County's north coast. The project is located at a "gateway" site on the inland side of Highway One as one enters Davenport headed north, and is an important site in this respect for Davenport's character as well as the character of the overall Highway One viewshed. The roughly one acre parcel includes a relatively level bench area (roughly 9-10,000 square feet) bordered by a steep riparian woodland area on the portion of the site sloping away from Old Coast Road towards the southeast. The edge of the riparian woodland is roughly located along the break in slope below the bench area, and is comprised primarily of willows. The riparian area extends down to a lower bench area above San Vicente Creek at the end of Fair Avenue, and drains through a highway-side drainage to the Creek itself to the southeast. The upper bench area, likely created from unconsolidated fill material when

³ 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.



Highway One was originally constructed, is currently partially occupied with a deteriorated and weathered redwood-clad barn, no longer in use, that has been at this location since 1925 (the old box factory).

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

B. County Approved Project

The County approval allows the existing barn to be demolished, and a new 3-story structure to be constructed slightly inland from the current barn's location. A 10-space parking lot would be constructed on that side of the property currently occupied by the barn (and nearest Highway One), and landscaping, pathways, patios, and associated fencing would be installed.

See exhibit D for County-approved site plans, and exhibits F, G and H for the County staff report (exhibit F), findings (exhibit G), and conditions (exhibit H) approving the Applicant's proposed project.

4. Substantial Issue Findings

A. Applicable Policies

The Appellants' LCP allegations generally raise questions regarding whether the approved project adequately addresses LCP policies relating to protection of riparian corridors, water quality, water supply, San Vicente Creek, Highway One public access, Highway One and Davenport viewshed, and Davenport's community character (see exhibits I, J, and K for the complete appeal documents).

There are a sizeable number of LCP policies that apply to the proposed project and the appeal contentions. Part of the reason for this is because the range of coastal resources potentially involved (i.e., ESHA, public access and recreation, water quality, water supply, 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., habitat policies that include water quality requirements, and vis versa). In addition, there are a number of Davenport specific policies because the town is an LCP-designated Coastal Special Community. In terms of habitat resources, there are also two zoning chapters that include requirements for protecting streams, riparian corridors, and ESHA.

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

B. Analysis of Consistency with Applicable Policies

As detailed below, the appeals raise a substantial issue with respect to the project's conformance with



the Santa Cruz County LCP. The following substantial issues are raised:

Riparian Corridor Protection

The LCP designates the on-site riparian woodland 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 protects this riparian woodland from development impacts by, among other things, requiring a 50 foot buffer and a ten foot setback from the buffer (a total of 60 feet) (LCP policies including LUP Policies 5.1 and 5.2 et seq, and LCP Zoning Chapters 16.30 and 16.32). Exceptions to the riparian corridor setback requirements are only allowed under very limited circumstances, and are subject to making specific exception findings (IP Sections 16.30.060). See exhibit M for applicable LCP policies.

The approved project includes a parking lot, a 3-story structure, and associated hardscape within the required setback/buffer area; with setbacks of zero for the parking lot, about 32 feet for the main building, and about 20 feet for the associated hard patio area (see annotated site plan on page 2 of exhibit D). Since the site is currently unused, the project will introduce significant new noise, lights, activities, and runoff immediately adjacent and into the riparian corridor. The County exception findings indicate that development is allowed within the required setback because the limited developable area represents a special circumstance, and that an exception is necessary to allow for the proper functioning a permitted activity on the property (among other things – see County findings in exhibit G).

However, there is little information in the administrative record regarding the expected effect of the project on the existing riparian woodland, and limited if any biological justification supporting a reduced setback. Due to site constraints, the area most suitable for development (out of the riparian buffer, level) is approximately 9-10,000 square feet. However, this does not of itself create a special circumstance that suspends other LCP policies. Rather, in reading the LCP as a whole in this regard, the intent would be to maximize protection – and enhancement – of the riparian woodland resource while considering what amount of commercial development is appropriate in light of the 9-10,000 square foot bench area available to accommodate both riparian setback and development. There is no evidence in the County file that the entirety of the bench area is necessary to accommodate a viable commercial use at this location. Moreover, in this case, roughly half of the project square footage and other facilities (e.g., parking) is to support the two residential units, and not to support any principally permitted commercial use on the site.

It does not appear that the current half residential, half commercial project has been planned around the site constraints (such as the riparian corridor), but rather is an attempt to build a larger project than the site can accommodate given the constraints. It does not appear that a riparian exception is warranted for the project in its current configuration.

In conclusion, the proposed development is located within the LCP required riparian setback/buffer. The LCP required exception findings are not adequately supported and thus the riparian corridor does not appear to be adequately protected as directed by the LCP. As such, the approval raises questions of consistency with the riparian policies of the LCP. Thus, a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP.



Water Quality/San Vicente Creek Habitat

The LCP protects the water quality of the on-site riparian corridor, San Vicente Creek, and the Monterey Bay (including the aforementioned LCP habitat policies and Policies 5.4 et seq, 5.7 et seq, and 7.23 et seq; see exhibit M). The project site drains down through the riparian corridor to a bench area above San Vicente Creek (at the end of Fair Avenue), and then through a highway-side drainage to the Creek itself to the east, and ultimately from there onto the Monterey Bay (see page 11 of Exhibit D).

At a minimum, San Vicente Creek is known habitat for State and Federally listed coho salmon, steelhead salmon, and red-legged frog,⁴ and the California Fish and Game Commission has designated San Vicente Creek as an endangered coho salmon spawning stream. NMFS indicates that San Vicente Creek is the southern-most creek where coho salmon is still extant in its entire North American range, and that protection of this creek is therefore of significant importance. CDFG echoes NMFS concerns in this regard, and have asked that the County not approve additional development without an understanding of such development's potential impact to San Vicente Creek.

The project drainage would be collected, directed through a standard silt and grease trap, and then piped down through the riparian corridor to the base of the riparian slope where it would be outletted and expected to enter the highway-side drainage course and then onto San Vicente Creek and the Monterey Bay. However, the Commission has expressed concerns regarding reliance on 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 San Vicente Creek to which the runoff would ultimately 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. Thus, a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP.

Water Quality/Wastewater

The approved project would require new wastewater hookups from the Davenport County Sanitation District (DCSD). The wastewater system in Davenport has limited capacity, and the amount of wastewater that can be treated at the current time appears to be tied directly to the amount of treated wastewater that can be used by RMC Pacific Materials in their cement plant operations. DCSD has recently raised concerns that any curtailment of production capacities for RMC could lead to overflow of wastewater from their sewage holding lagoon. The Commission is currently considering an appeal of a County decision granting RMC a production increase, but this matter has not yet been resolved (pending appeal A-3-SCO-02-088).

In addition to the above-mentioned water quality policies, the LCP requires a will-serve wastewater commitment from DCSD, and it does not allow approval of a project unless it can be determined that there is adequate sewage treatment plant capacity (LCP policy 7.19.1; see exhibit M). Clearly,

⁴ Coho are State-listed as an endangered species and Federally listed as a threatened species, steelhead are Federally listed as a threatened species, and red-legged frog are Federally listed as a threatened species and State listed as a special concern species.



wastewater capacity issues in Davenport are unresolved. As such, the approval raises questions of consistency with the wastewater and water quality policies of the LCP. Thus, a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP.

Water Supply/San Vicente Creek Habitat

In addition to the above mentioned LCP policies on water quality and habitat, the LCP designates San Vicente Creek as a Critical Water Supply Stream that is currently being used at full capacity, requires adequate stream flows to protect anadromous fish runs, including restoration of same if in-stream flows are inadequate for fisheries, and prohibits additional withdrawals of water from designated Critical Water Supply Streams (LCP Objective and Policies 5.6 et seq). The LCP requires that development be evaluated for its potential to impact water supply systems and that a commitment to provide water to the project be demonstrated (LCP Policies 7.18.2 and 7.18.3). See exhibit M.

DCSD gets its water from RMC Pacific Materials which gets its water from both San Vicente Creek and Mill Creek. The State Water Resources Control Board recently completed an investigation of RMC's right to withdraw water from San Vicente and Mill Creeks that concluded, among other things, that RMC does not have a riparian right and appears to have only a partial appropriative water right (pre-1914) to divert water from the two creeks, that RMC appears to have diverted water in excess of the pre-1914 right, and that approximately 30% of the water diverted was spilled and not used for a beneficial use.⁵

As mentioned above, San Vicente Creek provides habitat for such State and Federally listed species as coho, steelhead, and red-legged frog. It is not clear at present time whether existing water withdrawals are leading to listed species habitat degradation, nor is it clear whether the additional water allotted to the approved development in this case would exacerbate any such impacts or cause impacts of its own. In fact, the Commission is not aware of any comprehensive evaluations, whether in this project context or otherwise, of habitat impacts due to the RMC's water diversion activities on the San Vicente Creek.⁶ Without such information, and because of the sensitivity of the habitat present in the San Vicente Creek, the Commission believes the most conservative (and most protective of habitat) approach is warranted. There needs to be a clear understanding that a project will not impact San Vicente Creek habitat resources before it can be considered. Note, for example, that on the Trust for Public Land's (TPL's) Coast Dairies property that surrounds Davenport, and that includes in part San Vicente Creek, NMFS and CDFG this year have gone as far as to inform TPL that all agricultural diversions should stop immediately due to their harm to fisheries resources. Again, the Commission is currently considering an appeal of a County decision granting RMC a production increase, but this matter has not yet been resolved and it is unclear as to what effect it may have on water supply in Davenport (pending appeal A-

⁵ State Water Resources Control Board, December 27, 2001.

⁶ Note that the State Board Investigation from December 2001 did not include such an evaluation, noting that such an evaluation was beyond the scope of that investigation due to limited State Board resources available to develop the required body of evidence. The State Board investigation did indicate, however, that if valuable public trust resources exist in a stream, if these resources are being adversely affected by diversions, and if modification to diversions would help alleviate such impacts (all of which may be the case for San Vicente Creek), then the Board can step in to reallocate water for beneficial uses.



3-SCO-02-088).

The project results in three new water hook-ups, one each for each residential unit, and one for the commercial establishment. The LCP identifies residential as a low-priority use for which it is not clear that allotting scant water supplies is appropriate in this case. The approval raises questions of consistency with the water supply and habitat policies of the LCP. Thus, a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP.

Highway One/Davenport Public Access

Santa Cruz County's north coast area is a stretch of mostly undeveloped Central Coast that represents the grandeur of a bygone (in many places) agrarian setting and coastal wilderness California that attracts visitors to it. Davenport itself is an important visitor destination; its proximity to Santa Cruz heightening its appeal in this regard. Highway One is the primary (and in some places only) means of travel on the north coast, and is thus widely used by visitors and those otherwise seeking to enjoy the region's coastal resources.

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 coastal region (LCP Chapters 3 and 7). The LCP also targets Davenport for specific enhancements, such as clear parking and circulation (including IP Section 13.20.143 et seq). 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). Existing public access use is protected (LCP policy 7.7.10). See exhibit M.

Highway One is a two-lane road through Davenport, although there may be changes to Highway One in the future to address circulation issues associated with current use issues along the main frontage and to address previously permitted projects (like the Bailey-Steltenpohl commercial project across the Highway from the subject site previously approved by the Commission in 2000; CDP A-3-SCO-98-101). The approved project would include a parking lot (with site ingress and egress) on that portion of the site nearest to Highway One (see exhibit D). The existing Highway One, Davenport Avenue, Old Coast Road intersection is already confused given that Old Coast Road and Davenport Avenue intersect Highway One at approximately the same location (see site photos in exhibits B and C); the new driveway would be placed in the same general area (see exhibit D). It appears likely that there will be queuing problems on both directions of Highway One (from those drivers to the proposed facility attempting to access Davenport Avenue/Old Coast Road and the facility), and from those attempting to leave the proposed parking lot area (inasmuch as they must exit onto Old Coast Road and then immediately cross Davenport Avenue at the intersection with Highway One). In short, the subject intersection is already problematic and locating the new parking lot access right in the middle of it exacerbates the existing problem and adversely affects Highway One and Davenport access. Caltrans



does not support the current configuration of the project's ingress and egress for these reasons and recommends that major project modifications are necessary (see exhibit L). The parking lot itself would appear to be problematic inasmuch as there doesn't appear to be adequate space within which to site parking stalls nearest the garage entrance (see page 2 of exhibit D); as a result, vehicles getting into and out of these parking stalls would likely jam in this area.

The approved project would appear to create a public safety hazard on Highway One, particularly on a cumulative basis when considered in relation to permitted and planned development in Davenport that is reasonably foreseeable. The hazard created would adversely impact access along Highway One, would confuse circulation within Davenport, and adversely affect Davenport's character as a result. Internal circulation appears problematic. As such, the approval raises questions of consistency with the public access and Davenport circulation policies of the LCP. Thus, a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP.

Davenport's Community Character/Highway One Viewshed

The LCP is fiercely protective of coastal zone visual resources, and specifically protective of the views available from Highway One as it winds through the County from San Mateo to Monterey County lines. In fact, the LCP states that the public vista from Highway One "shall be afforded the highest level of protection" (LCP Policy 5.10.10). This section of Highway One is also specifically identified as eligible for official designation as part of the California Scenic Highway Program. The subject site is located roughly 10 miles upcoast of the City of Santa Cruz along the mostly undeveloped stretch of Central Coast extending between the Cities of Santa Cruz and Half Moon Bay to the south. The north Santa Cruz coast area represents the grandeur of bygone (in many places) agrarian and wilderness California and is a critical public viewshed for which the LCP dictates maximum protection.

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

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

Davenport's tightly clustered residential and commercial development reflect the town's working heritage: whaling industry, agricultural shipping and processing, cement manufacture. In its layout and simplicity of architecture – devoid of pretense – Davenport is strongly reminiscent of other "company" mining or logging towns in the West. Today, the quarrying and processing of limestone for the



manufacture of cement remain the economic backbone of the community. Some diversification is offered by small-scale artisan industries. More recently, the two-block commercial strip along the highway frontage continues the process of awakening to the opportunities afforded by the tourist industry.

Currently, the immense RMC Pacific Materials cement plant dominates Davenport. This huge industrial structure can be seen for miles and is in stark contrast to the rest of the town. In fact, notwithstanding the cement plant behemoth, Davenport's commercial frontage could be described as "eclectic frontier rustic" in character based on the variety of building styles, materials, and heights. Remodeling along the highway frontage has more recently injected a more finished facade as seen from the highway. See exhibit B for photographs of the Highway One frontage.

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

In this case, the existing barn has occupied this location for the better part of the last century. The weathered redwood-clad barn is immediately adjacent to Highway One and frames the gateway into Davenport as one enters the town headed north on Highway One. The existing barn is a mix of one (nearest Old Coast Road) and two stories, occupies a roughly 2,600 square foot area on the site and appears to be around 28 feet in height (see photos of barn in exhibit C). It has been abandoned and is falling down. Nonetheless, the rustic barn and surrounding riparian woodland vegetation help to define Davenport's character, and provide a connection to the town's historic past. The approved project provides for the demolition of the barn.

The new main building that would be constructed on the site would occupy a footprint of roughly 2,200 square feet, and an overall bulk, including decks, of roughly 6,400 square feet.⁷ The structure would be 3 stories with a maximum height of roughly 37 feet.⁸ The building would be faced with stucco on the first floor, and clad with redwood board and bat for the top two floors. The parking lot area would occupy roughly 4,700 square feet. The applicant's photo simulations and the photos of the project staking

⁷ Note that there has been confusion over the amount of square footage proposed. Part of the reason for this is because the project includes substantial area of wrap-around decks (and covered walkway for the 1st floor). Interior space proposed is 4,316 square feet. Decks/covered walkways proposed is 2,084 square feet. The style of the wrap around decks proposed are such that they contribute significantly to the sense of bulk proposed. Therefore, the overall bulk is calculated, including adding the covered walkway area surrounding the first floor (812 square feet) to the first floor interior space (1,420 square feet) to arrive at a structural footprint of 2,232 square feet. See approved plans in exhibit D.

⁸ Again, there has been confusion on the overall height proposed. The approved plans show the height to be in excess of 35 feet, with a maximum grade to pitch height of 37 feet (see approved plans in exhibit D). In the time since this item was appealed, the County subsequently has indicated that the Applicant agreed to lower the height (to 32 feet 4 inches on the west elevation and 34 feet 8 inches on the east elevation), and that this lower height is what is shown on the project flagging, staking, and photo simulations (see exhibits C and E), and also it is the lower height that was reported to the Planning Commission when they approved the project (personal communication from County planning staff). Although the County also subsequently indicated that the lower height would be what would be enforced in the County coastal permit, there is no corresponding condition to implement the lower height and the approved plans do not show same.



required by the County give a general sense of the area that would be occupied by the proposed structure.⁹ See exhibits C and E.

The maximum height in a commercial district is 35 feet, and 37 has been approved. The minimum front yard setback for a commercial site fronting or across the street from a residential district (such as this site) is 20 feet, and 12 has been approved. Three stories have been approved when the applicable LCP policy states "require new development to be consistent with the height bulk, scale, materials and setbacks of existing development: generally small scale, one or two story structures of wood construction." Other than the cement plant itself, 3-story structures in Davenport are very rare; in fact, it is not clear whether there are any such 3-story structures in Davenport. Stucco is proposed for the first floor exterior treatment when the LCP identifies wood. Further, Countywide maximums must be understood within the site context and its location relative to the Davenport and the Highway One viewshed. Countywide maximum considerations of mass and scale (such as height and bulk) are not entitlements, but rather maximums that may need adjustment in light of resource constraints (riparian corridors, public viewshed concerns, special community character, etc.). It isn't clear that such maximums are appropriate in this unique site context when read in tandem with the LCP policies discussed above.

In terms of parking and space given over to it, if only interior space is used, and hallways and bathrooms are not applied toward commercial square footage, a minimum of 11 parking spaces are required. If, however, exterior commercial decking and walkways are included, more parking spaces would be required. In any case, it would appear that that portion of the parking lot where the residential garage is proposed (nearest the riparian corridor) would not work smoothly inasmuch as there doesn't appear to be adequate space within which to site parking stalls, and as a result cars backing up and getting into stalls would jam in this area. It appears that additional parking area to satisfy the use proposed might be necessary.

In sum, the existing weathered and rustic barn helps to define Davenport's character and the Highway One viewshed. Removing it and replacing it inland with a larger structure will definitely alter the character of the town. The new structure exceeds the applicable height requirement, doesn't meet the setback requirement, and includes 3 stories when the LCP describes one or two stories as generally indicative of Davenport's small scale character. It's scale appears to be overly ambitious in light of the limited bench area available, and the other constraints discussed in the preceding findings. The parking lot might need to be even larger to accommodate the scale of development proposed. In the two most recent Commission decisions where Davenport's community character was an issue, the Commission required the new development to essentially maintain the appearance of what was there before (in size,

⁹ Although not all structural elements and decking was approximated by the staking, and, as indicated above, the staking was to a lower height than shown on the approved plans.



bulk, and exterior treatment) so as to maintain Davenport's character and the Highway One viewshed.¹⁰ The County staff report does not indicate if there was consideration of an alternative project that maintained the appearance of the existing barn at this location to address similar concerns raised in this case.

Therefore, the approval raises questions of consistency with the Highway One viewshed and Davenport community character policies of the LCP. Thus, a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP.

Cumulative Impacts

The LCP requires that development not adversely affect, individually or cumulatively, coastal resources (LCP Policy 2.1.4 – see exhibit M), including the coastal resources thus far discussed in these findings. There are a number of commercial projects either permitted (e.g., the aforementioned Bailey-Steltenpohl and Forrester's Hall projects) or pending (e.g., the aforementioned RMC Pacific Materials cement plant projects) in Davenport. All of these projects are either under construction (i.e., Bailey-Steltenpohl) or could be in the reasonably foreseeable future. It is reasonable to assume that their combined effect on coastal resources when considered along with the of the project under appeal here, could lead to cumulative impacts to the types of coastal resources detailed in the findings above. As such, the approval raises questions of consistency with the cumulative impact policies of the LCP. Thus, a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP.

C. Substantial Issue Conclusion

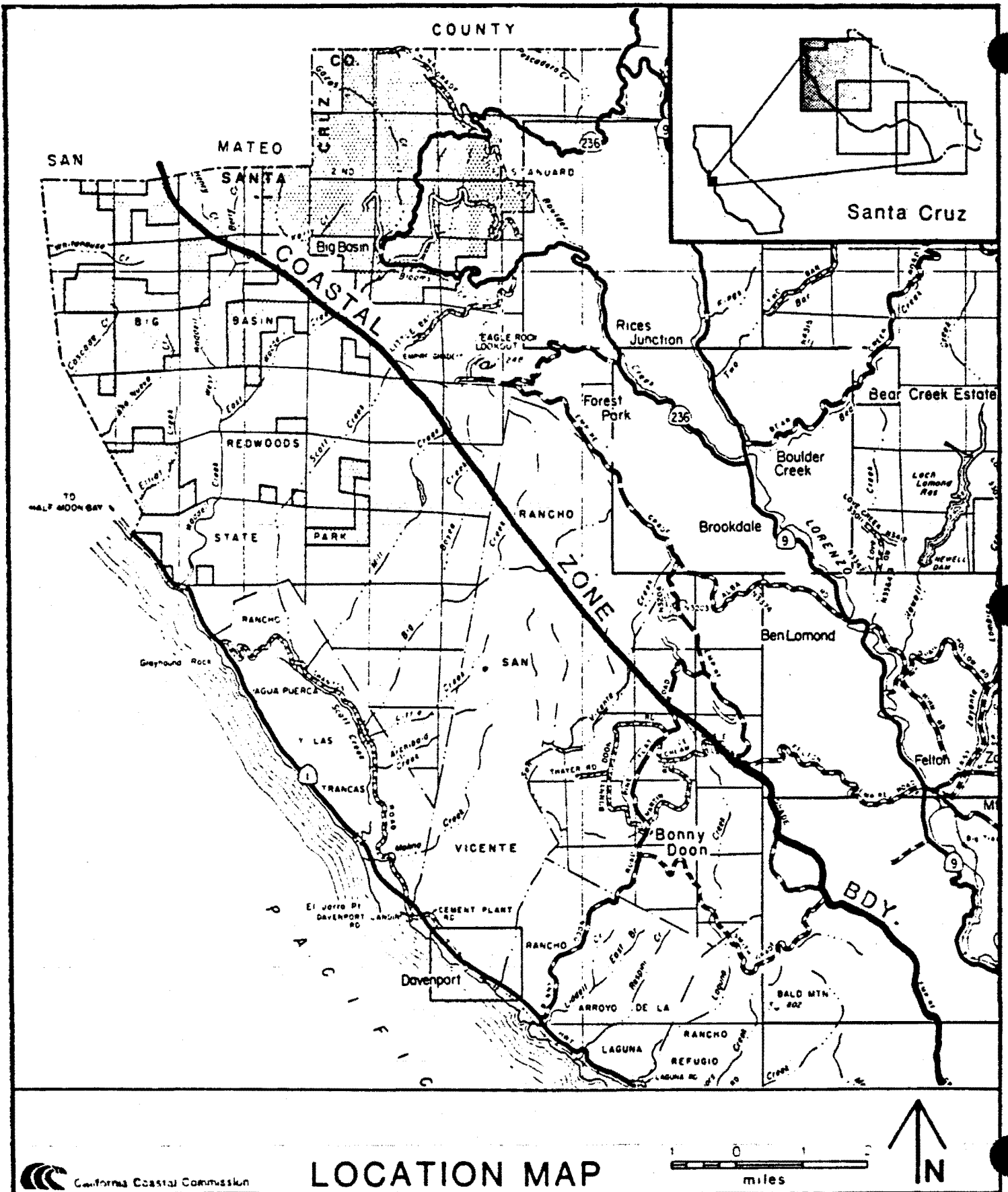
The approved project is located at a critical gateway site along Santa Cruz County's north coast in Davenport, a LCP-designated special community whose character is to be protected. The approved project appears not to have responded to the coastal resource issues and constraints engendered by development proposed at this location. It appears that the approved structure is too large for the site, for Davenport, and for the commercial zoning requirements applicable here. Development is proposed within the required riparian buffer area, including a parking lot with a zero setback, and riparian and downstream resources (i.e., San Vicente Creek and Monterey Bay) appear not to have been adequately protected. Traffic circulation problems appear likely to lead to adverse impacts to Highway One and Davenport circulation overall. The approved project appears overly ambitious in scale for the site and surrounding resources, and it appears that it will adversely impact the character of Davenport and the Highway One viewshed. As such, the proposed project's conformance with LCP policies is questionable. These issues, both individually and cumulatively, warrant a further analysis and review by the Coastal Commission of the proposed project.

¹⁰ The Bailey-Steltenpohl project in the former Odwalla building across Highway One from this site and the reconstruction of Forrester's Hall directly upcoast from here (A-3-SCO-98-101 and A-3-SCO-00-106, respectively; both heard by the Commission in 2000). In the Bailey-Steltenpohl case, the approved development was required to occupy the same footprint and profile as that that existed previously. In the Forrester's Hall case, the development almost identically replicated the historic Forrester's Hall structure that had been demolished.



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. Prior to further de novo review, the Commission expects that the Applicant will work with Commission staff to evaluate alternatives designed to address the issues identified in these substantial issue findings. In this evaluation, and because of the range of constraints and LCP issues, the Commission notes that it may not be possible to accommodate a viable commercial project at this location. Among other issues noted in this report, this is partly due to some of the physical issues at the site itself (i.e., the riparian corridor, the limited bench area available, and Davenport character). It is also due to the location of the property relative to Highway One and the dual Old Coast Road/Davenport Avenue intersection; directing visitor traffic onto this site leads to difficulties in Davenport circulation at best, and may prove fatal to a commercial project at worst. Given the range of issues, it is not even clear that the underlying commercial zoning is appropriate at this location given that it is shoehorned into a primarily residential area that is separated from the main Davenport commercial frontage. It may be that a more modest economic use, possibly even a small residential use, is more appropriate for the subject site if development must be entertained because of takings considerations.

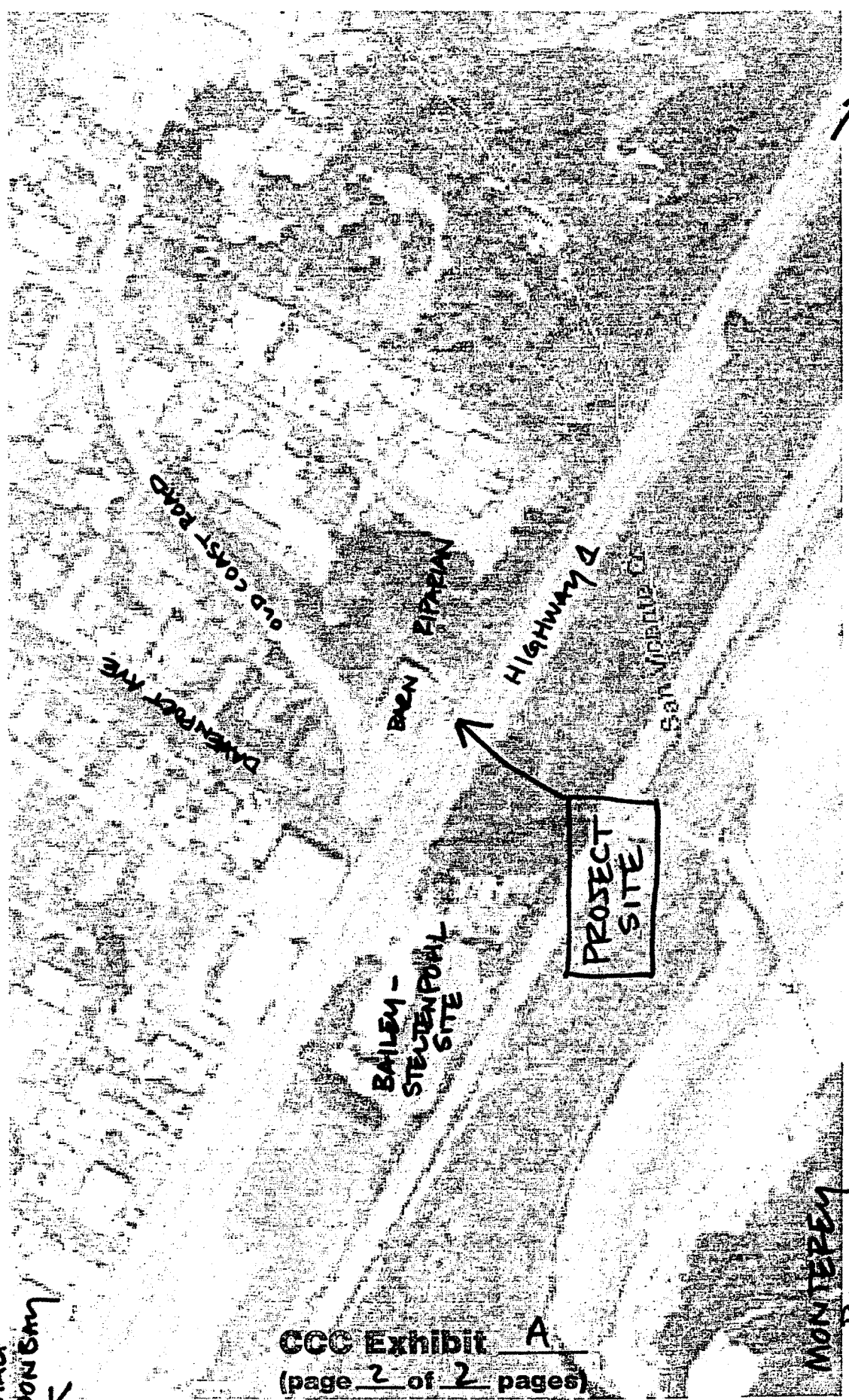




County of Santa Cruz

CCC Exhibit A REGIONAL VICINITY
 (page 1 of 2 pages) Sheet 1 of 3

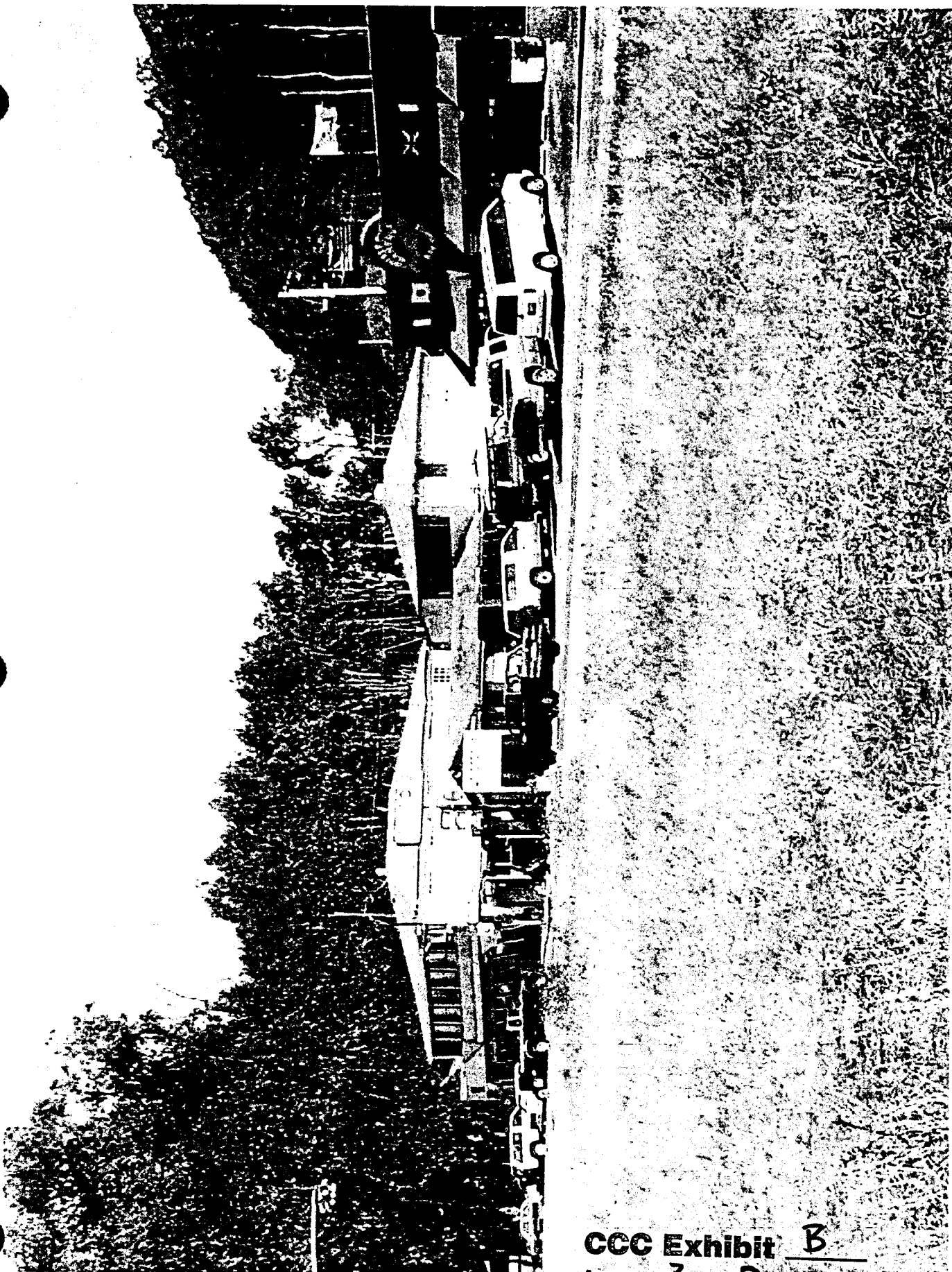
TO HALF
MOON BAY
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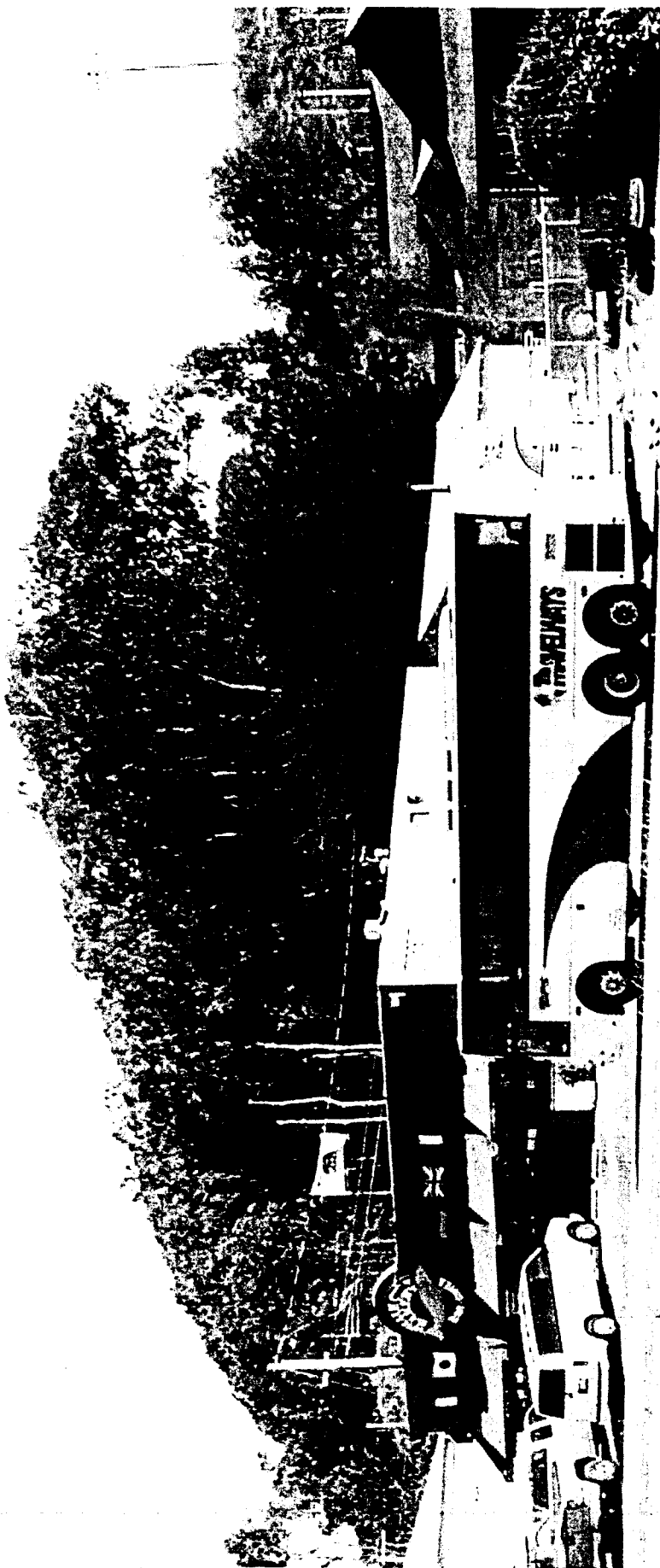


000 Exhibit B
(page 1 of 8 pages)

DAVENPORT HIGHWAY
ONE FRONTAGE PHOTOS



CCC Exhibit B
(page 2 of 8 pages)



CCC Exhibit B
(page 3 of 8 pages)



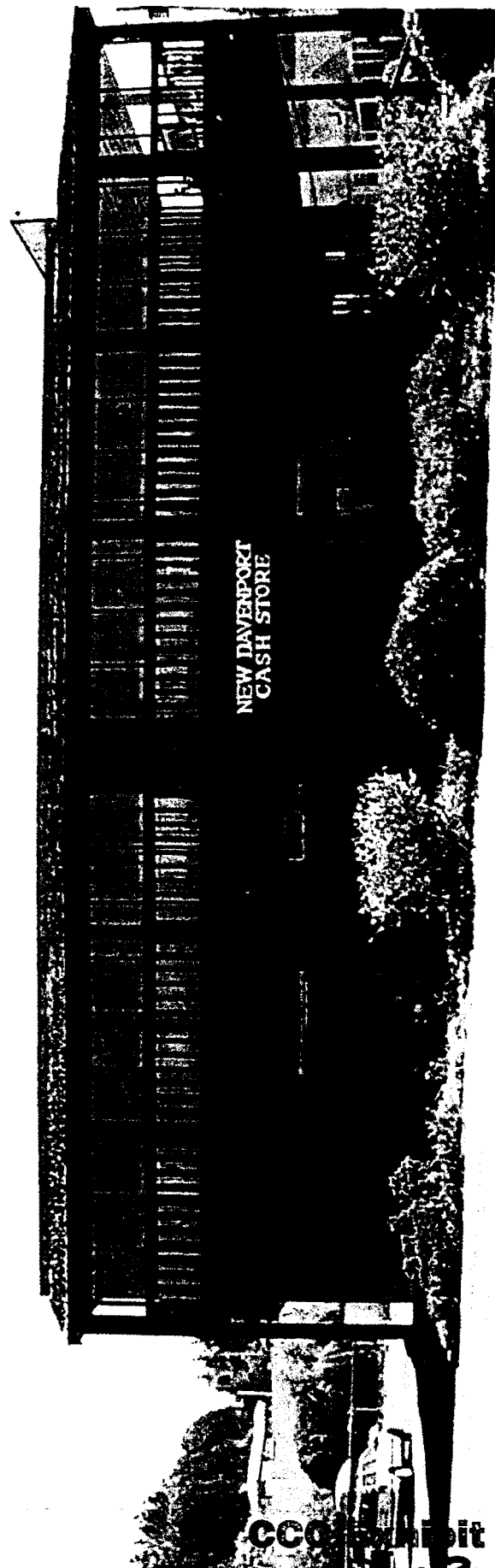
CCC Exhibit B
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CEC Exhibit B
(page 5 of 6 pages)

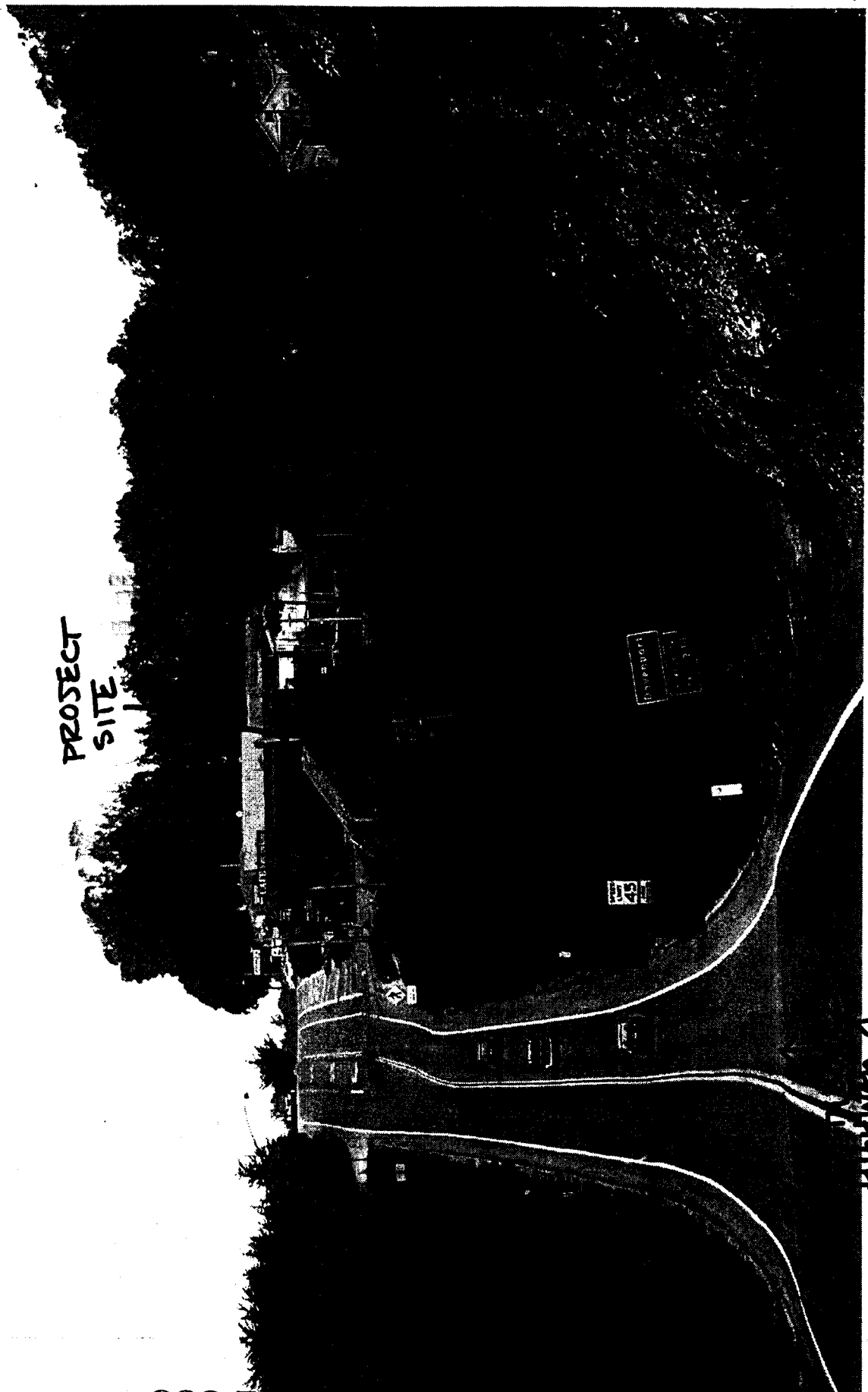


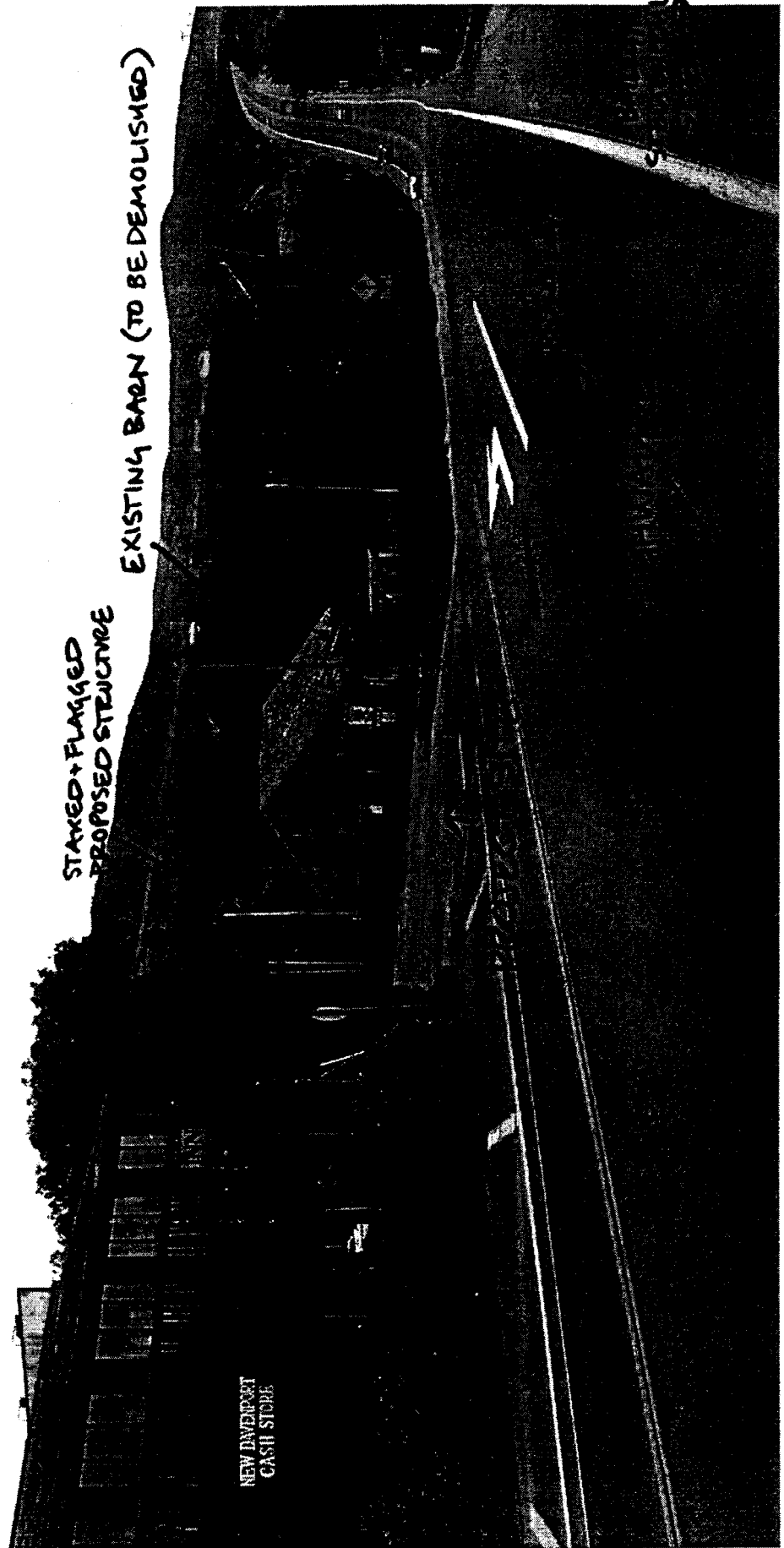
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CCO Exhibit B
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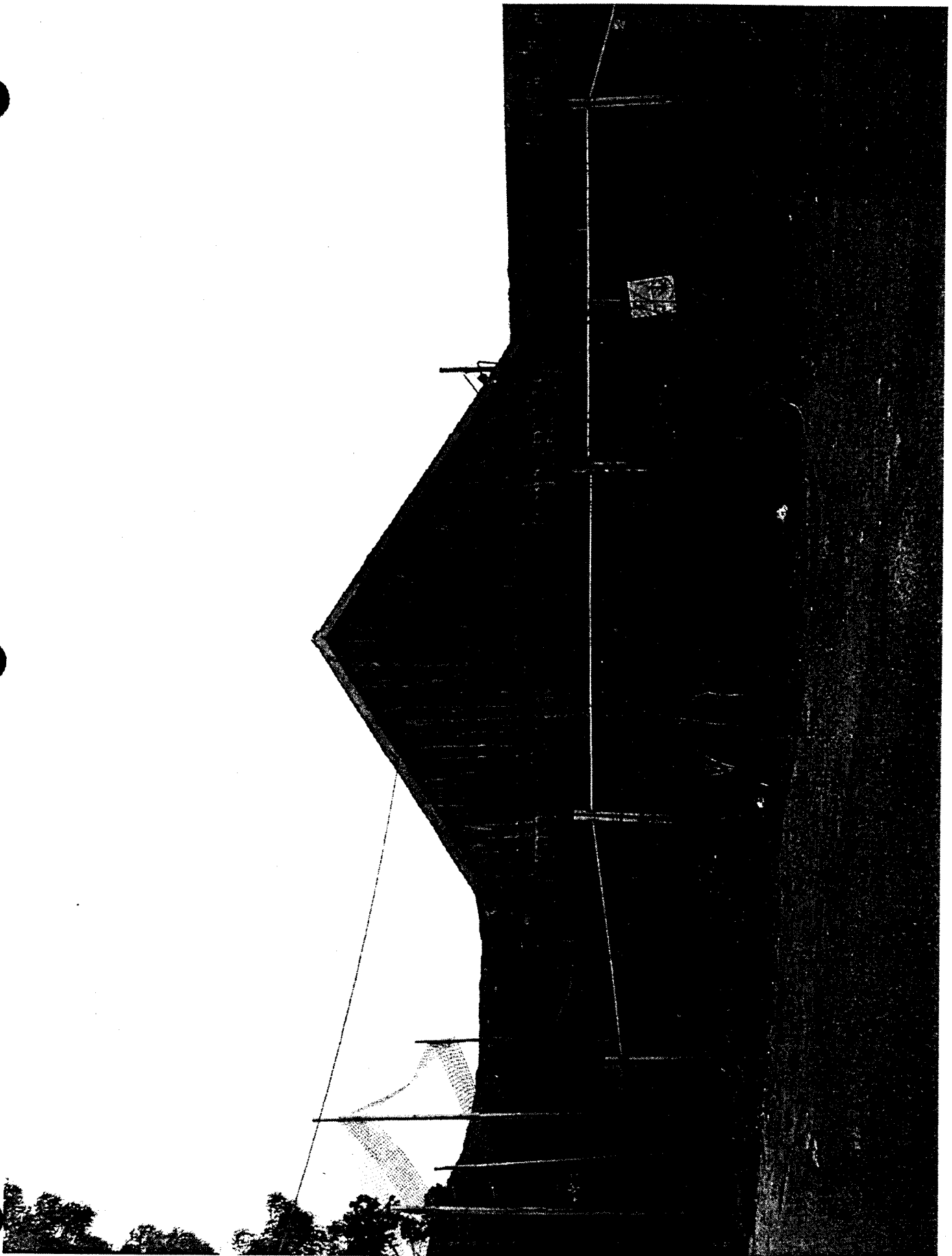








CCC Exhibit C
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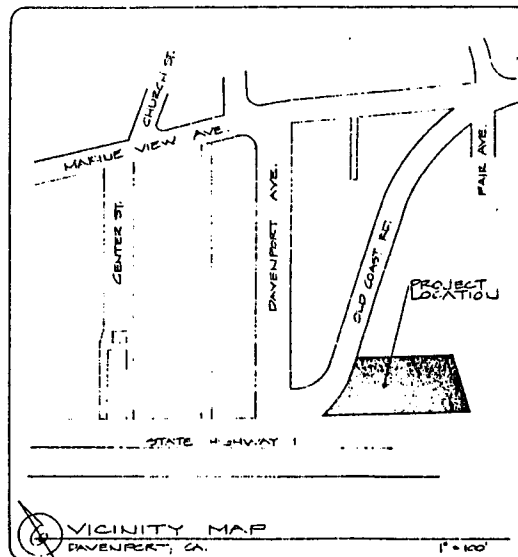
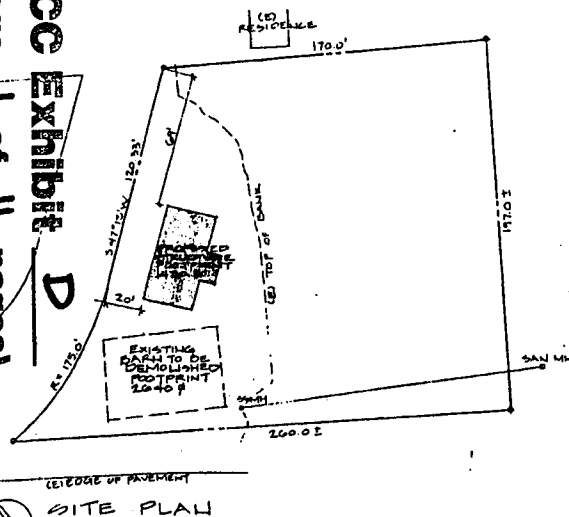
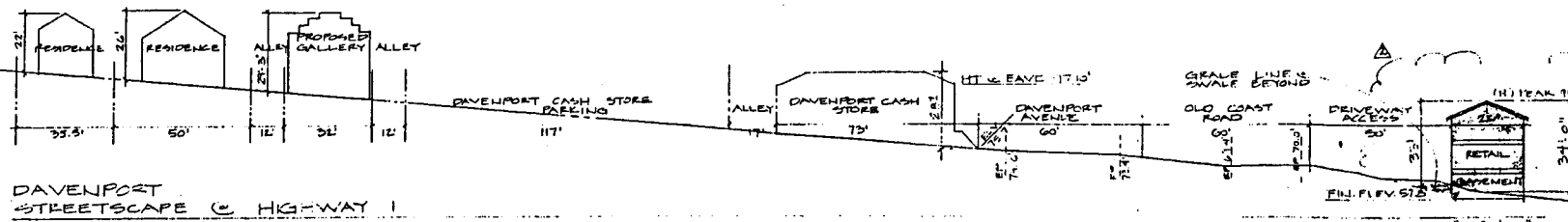


CCC Exhibit C
(page 4 of 5 pages)



CCC Exhibit D
(page 1 of 11 pages)

PROJECT PLANS



Site Data

Owners: Mr. David Luers
P.O. Box 158
Davenport, CA. 95017

Project Address: Zero Davenport Avenue
Davenport, CA.
A.P.N. 958-081-01

Zoning: C-1
Coastal Zone: Coastal Review Required
Permit Size: 52,120 sq. ft.

Setbacks:
FYSB 20'(allowed) 20'(actual)
SYSB 10'(allowed) 89'(actual)
RYSB 20'(allowed) 118.28'(actual)

Lot Coverage:
Existing 5% (2840 sq. ft.)
Proposed structure 2.7% (1420.82 sq. ft.)
Impervious area: 10.5% (5500.0 sq. ft.)
Landscape 86.9% (45,200 sq. ft.)

Parking:
Required 10 Spaces (2 accessible)
Residential 3 Spaces
Res. 1523' 3 bdrm. @ 1/Bdrm.
3 spcs
Commercial 7 Spaces
Comm./Whr. 628' @ 1/1000 =
1 spc.
Comm/Off. 1198' @ 1/200 =
6 spcs

Height:
Allowable 35'
Actual 34'

Signage:
Building allowable - 41.25'
Along Highway 1 - 24.5'
Along East Border 2 - 19.82'

Plumbing Fixture Units - 15 Total

THE LUERS BUILDING WINE TASTING/RETAIL ESTABLISHMENT

OWNER: Mr. David Luers
P.O. Box 158 Davenport, CA
PROJECT LOCATION: Highway 1, Davenport
APN 958-081-01

REVISIONS	BY
1. 4/11/00	T
2. 1/11/01	T
3. 7/20/01	T

ATTACHMENT 2

TERRI L.N. FISHER

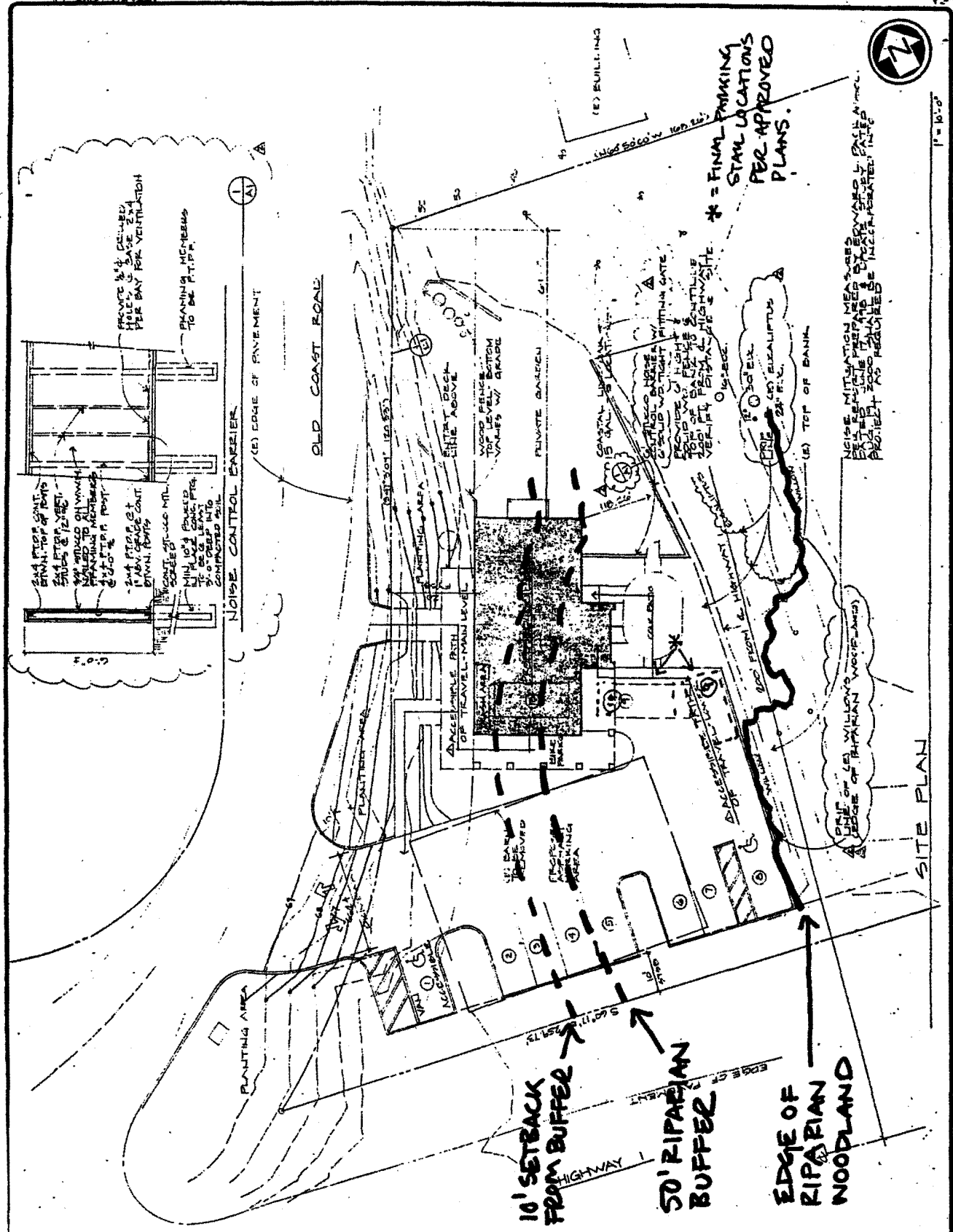
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ARCHITECT
LICENSE # 438-8108
SBS MIRACLE LN. SANTA CRUZ, CA 95060

THE LUERS BUILDING

WINE TASTING/RETAIL ESTABLISHMENT
OWNER: Mr. David Luers
PROJECT LOCATION: Highway 1, Davenport
APN 958-081-01

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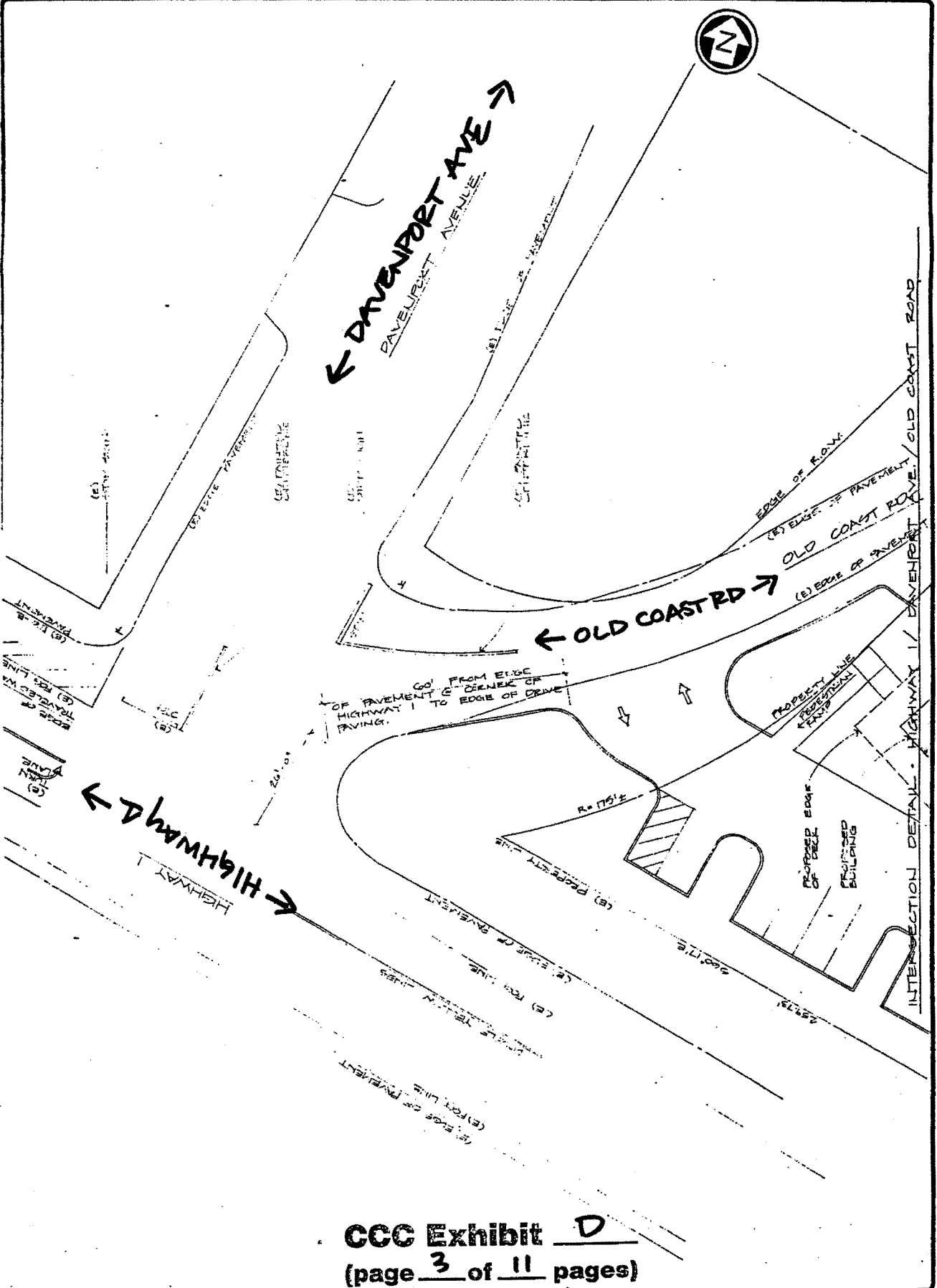
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TERRI L.N. FISHER
 ARCHITECT
 LICENSE NO. C14006
 PROJECT LOCATION: Highway 1, Davenport

THE LUERS BUILDING
 WINE TASTING/RETAIL ESTABLISHMENT
 OWNER: Mr. Dave Luers
 PROJECT LOCATION: Highway 1, Davenport

A1-1
 SHEET NO.
 DATE
 SCALE
 PROJECT NO.

ATTACHMENT 2

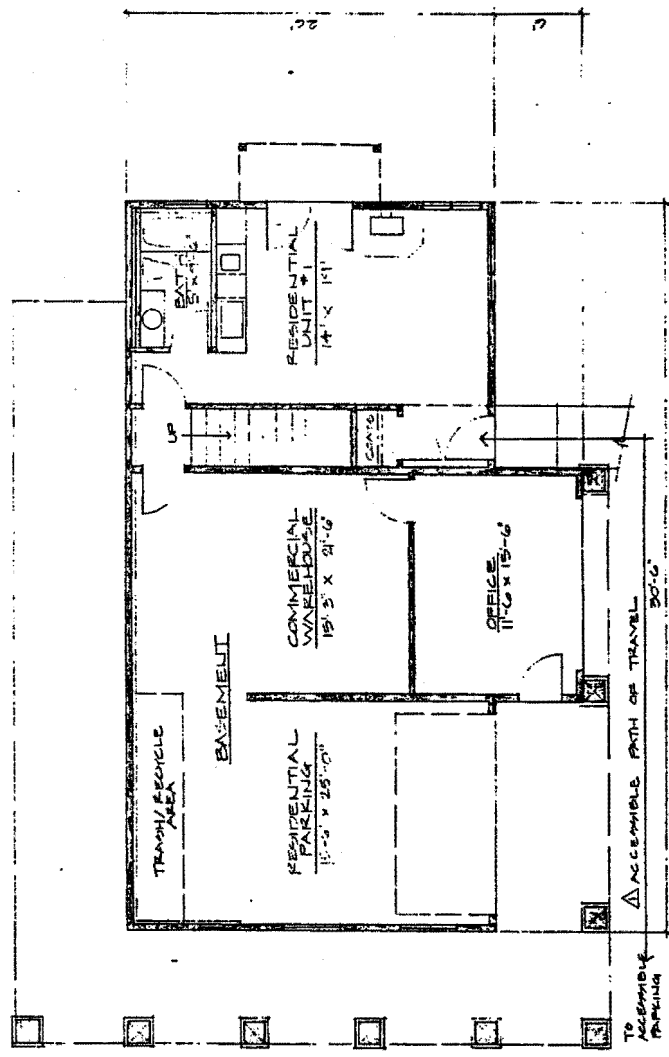


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THE LUBERS BUILDING
WINE TASTING/RETAIL ESTABLISHMENT
OWNER: PO Box 125, Davis, CA 95618
PROJECT LOCATION: Highway 1, Davis, CA 95618
ARCHITECT: TERRI L.N. FISHER
LICENSE # C74033
1400 425-5105
PBR ARCHITECT L.N. SANTA CRUZ, CA 95060

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ATTACHMENT 2



LOWER LEVEL PLAN (BASEMENT)
14'-0" x 26'-0"



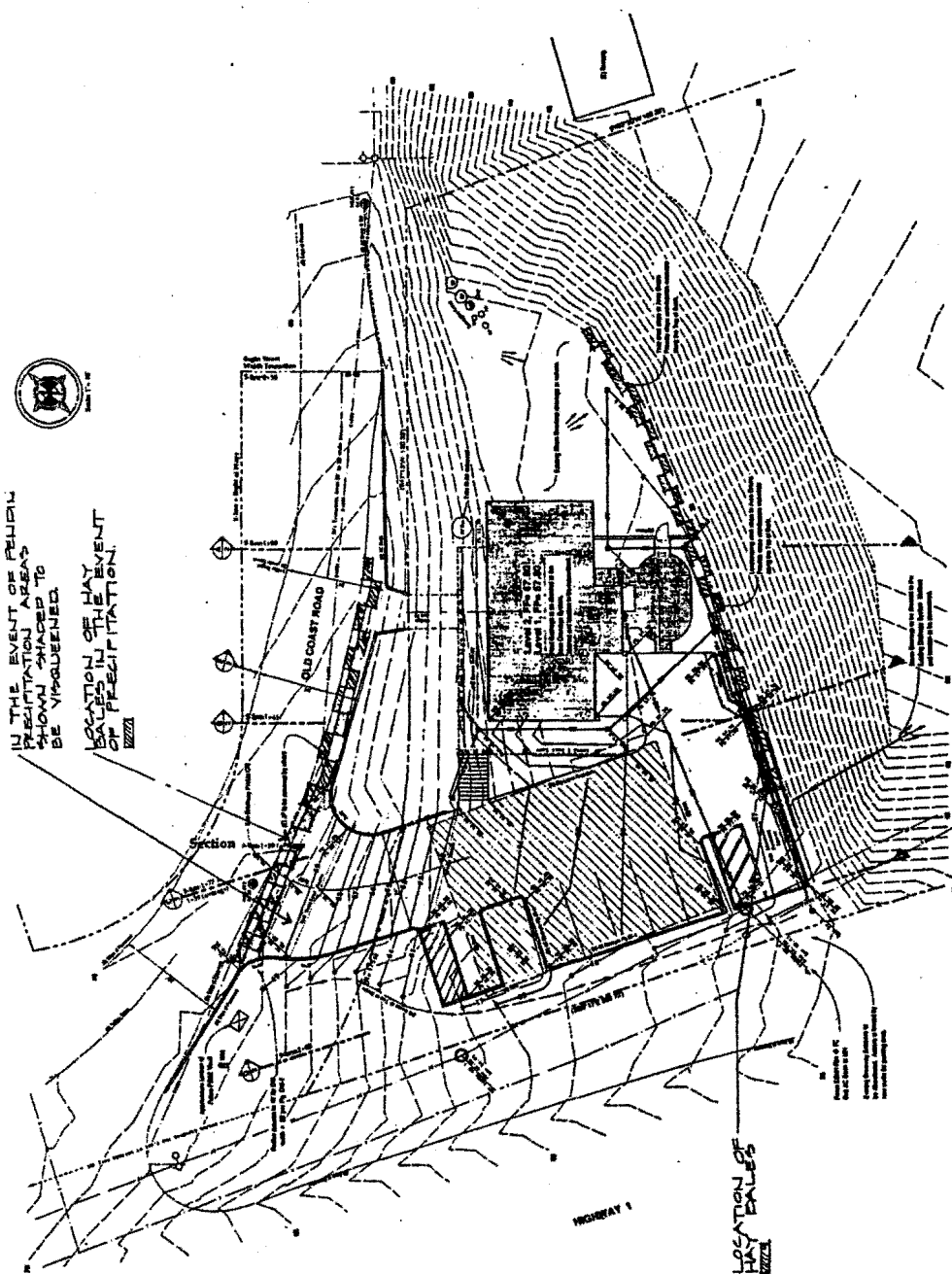
UPPER LEVEL PLAN
(148 sq. ft. (RESIDENTIAL))

WEST ELEVATION



IN THE EVENT OF RELIABLE
PRECIPITATION AREAS
SHOWN SHALLOWS TO
BE IMPROVED.

LOCATION OF HAY
DUMPS
IN THE EVENT
OF PRECIPITATION



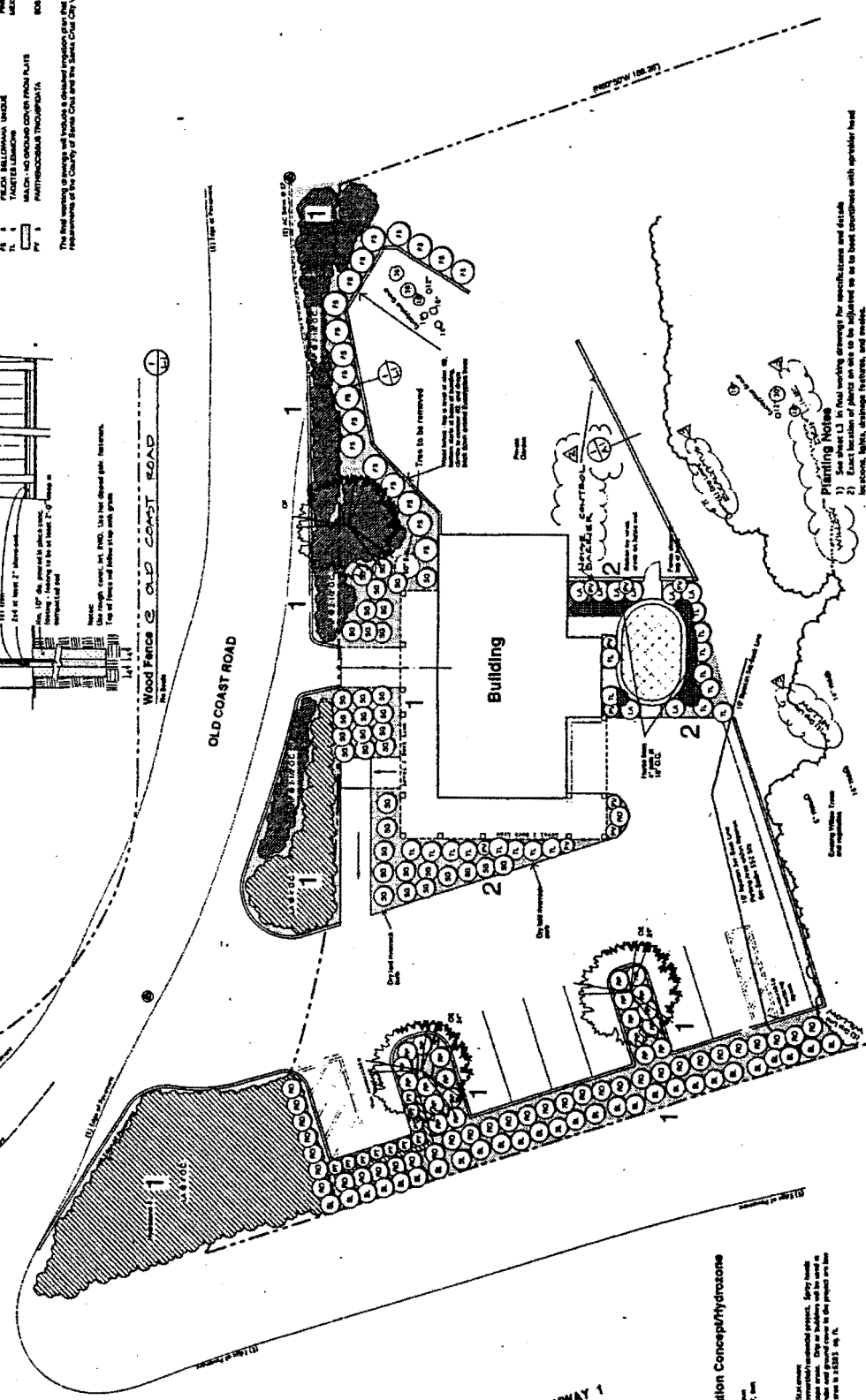
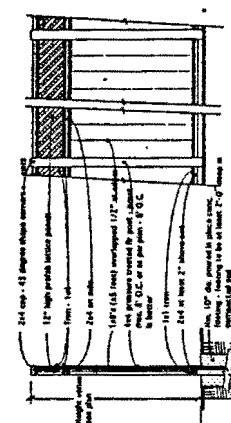
EROSION & SILTATION PLAN

EROSION CONTROL & SILTATION NOTES

1. All grading shall conform to LIRC Chapter 70 (erosion control) and all local ordinances. Erosion control measures shall be implemented for protection against sediment runoff and erosion of graded areas.
2. Prior to commencing grading of driveway, site, obtain approval of project from the County of San Diego, Planning and Building Department, as shown on plans.
3. Driveway: Final grade and slope @ 1:4 (H:V), incl. from foundation to base line. Water must not be allowed to pond adjacent to foundations or on paved areas. Surface drainage shall be directed away from structures, as shown on plans.
4. All erosion control measures shall be maintained through April 15, 2002, or until the County of San Diego, Planning and Building Department, is satisfied that the site is stabilized.
5. All erosion control measures shall be maintained through April 15, 2002, or until the County of San Diego, Planning and Building Department, is satisfied that the site is stabilized.
6. All erosion control measures shall be maintained through April 15, 2002, or until the County of San Diego, Planning and Building Department, is satisfied that the site is stabilized.
7. All erosion control measures shall be maintained through April 15, 2002, or until the County of San Diego, Planning and Building Department, is satisfied that the site is stabilized.
8. All erosion control measures shall be maintained through April 15, 2002, or until the County of San Diego, Planning and Building Department, is satisfied that the site is stabilized.
9. All erosion control measures shall be maintained through April 15, 2002, or until the County of San Diego, Planning and Building Department, is satisfied that the site is stabilized.
10. All erosion control measures shall be maintained through April 15, 2002, or until the County of San Diego, Planning and Building Department, is satisfied that the site is stabilized.

ATTACHMENT 2

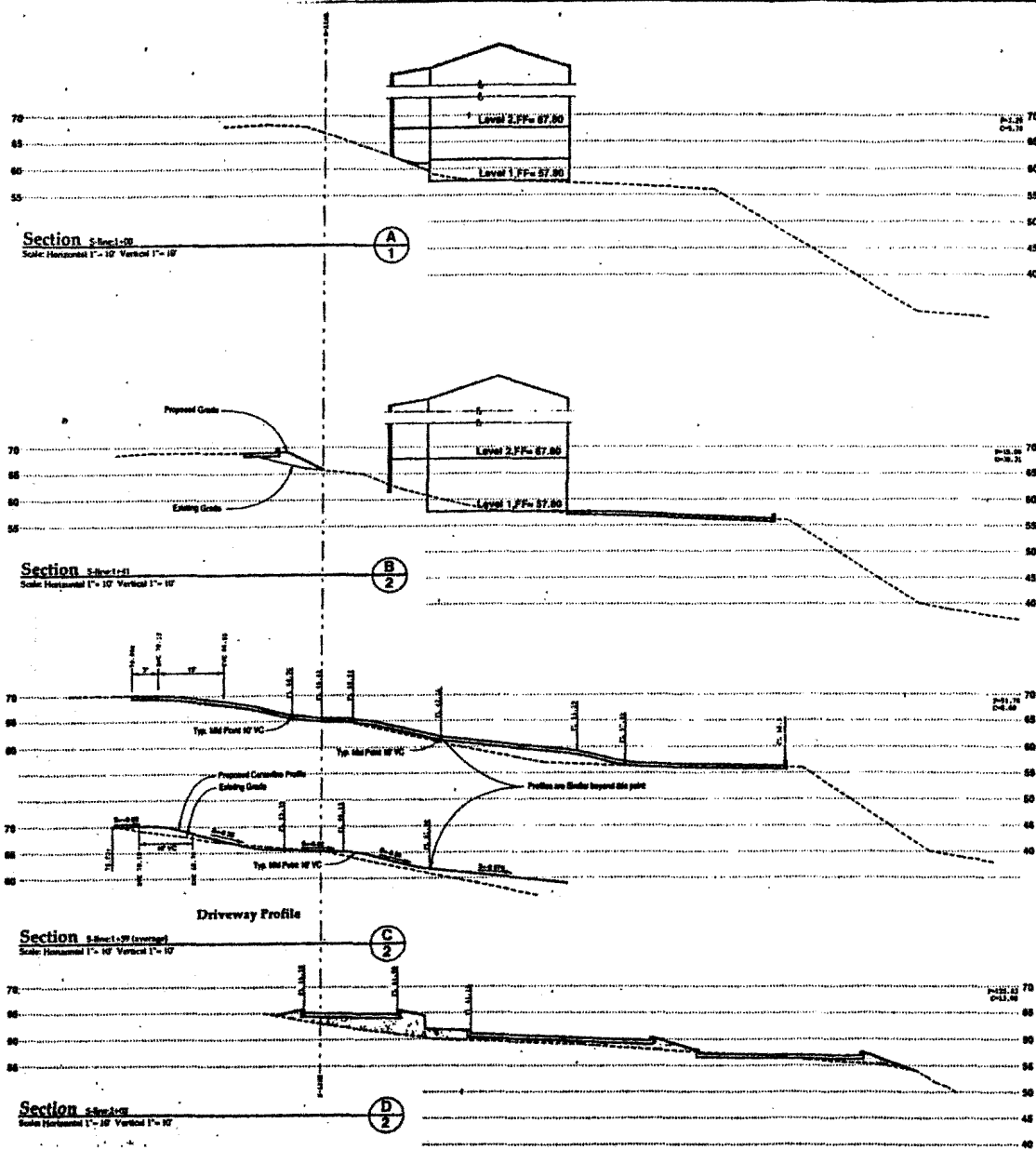
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98	(Symbol)	SPRING BLOSSOM
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CCC Exhibit D
(page 9 of 11 pages)

Landscape Irrigation Concept/Hydrozone
Legend
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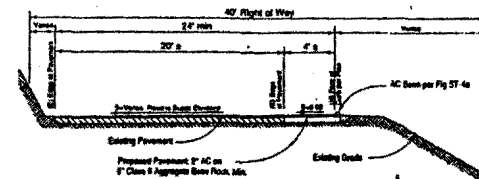
Landscape Concept Narrative
The project is a landscape design for a building and parking area. The design includes a building, parking areas, and surrounding roads. The design is based on the following principles:
1. The design should be functional and efficient.
2. The design should be aesthetically pleasing.
3. The design should be sustainable and environmentally friendly.
4. The design should be cost-effective.
5. The design should be easy to maintain.
6. The design should be safe and secure.
7. The design should be accessible to all users.
8. The design should be flexible and adaptable to future changes.
9. The design should be in keeping with the surrounding environment.
10. The design should be in keeping with the local culture and traditions.



Preliminary Estimated Quantities

Cut	70 cu. yds.
Fill	136 cu. yds.
Net Import, * Shrinkage Factor = 10% (14 cu. yds.)	80 cu. yds.

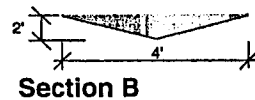
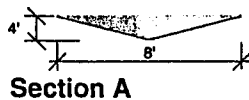
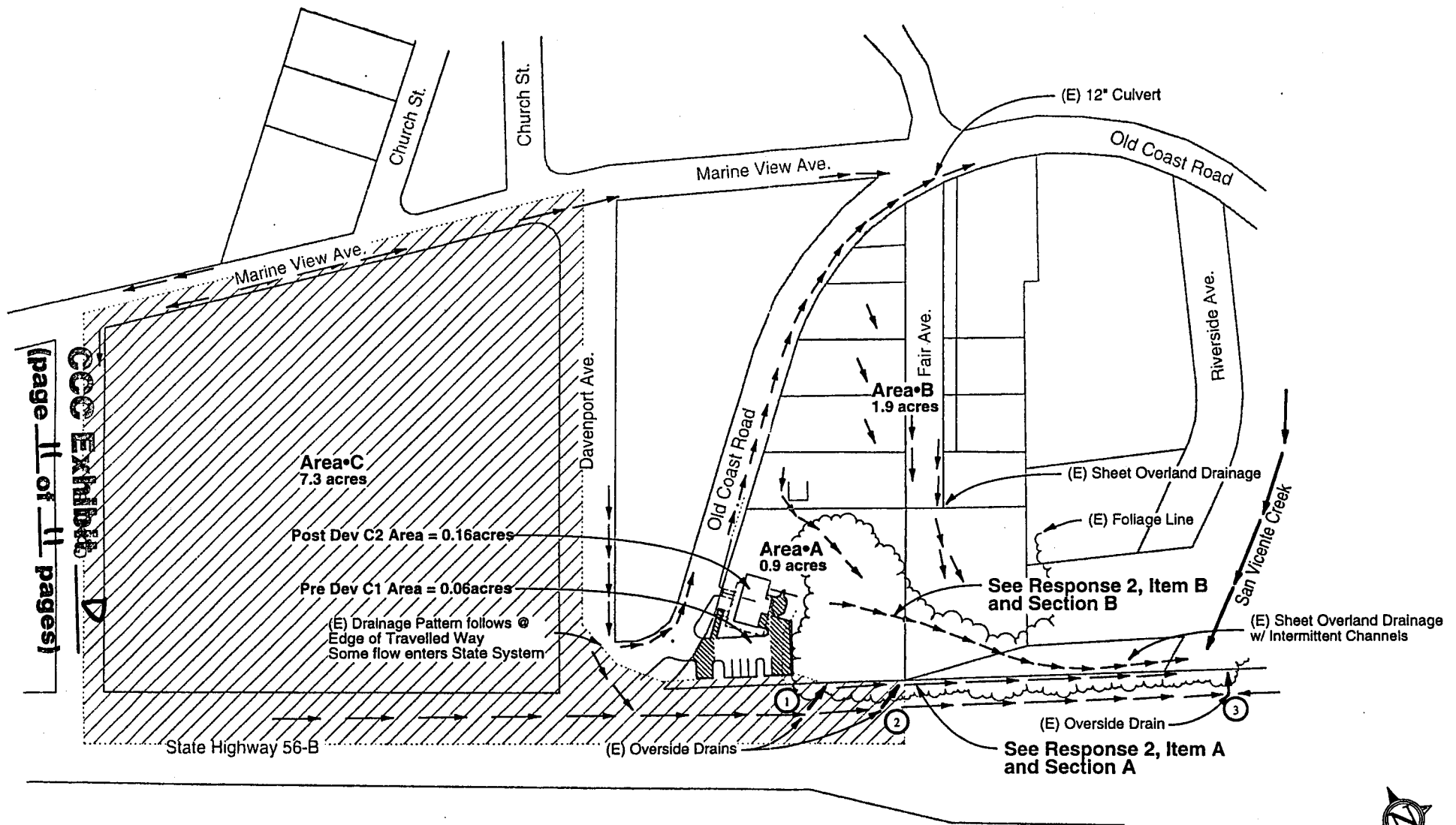
*Preliminary planning estimates and will be refined during the final improvement planning phase.



Proposed Improvements to Old Coast Road:
Widen to 24' minimum from Hwy 1 to the end of the pedestrian bridge entrance to Level 2 of the proposed building.
A transition from the 24' wide street to the existing 20' wide street will connect to the existing AC Bore 40's beyond the bridge entrance.

(page 11 of 11 pages)

CCC Exhibit



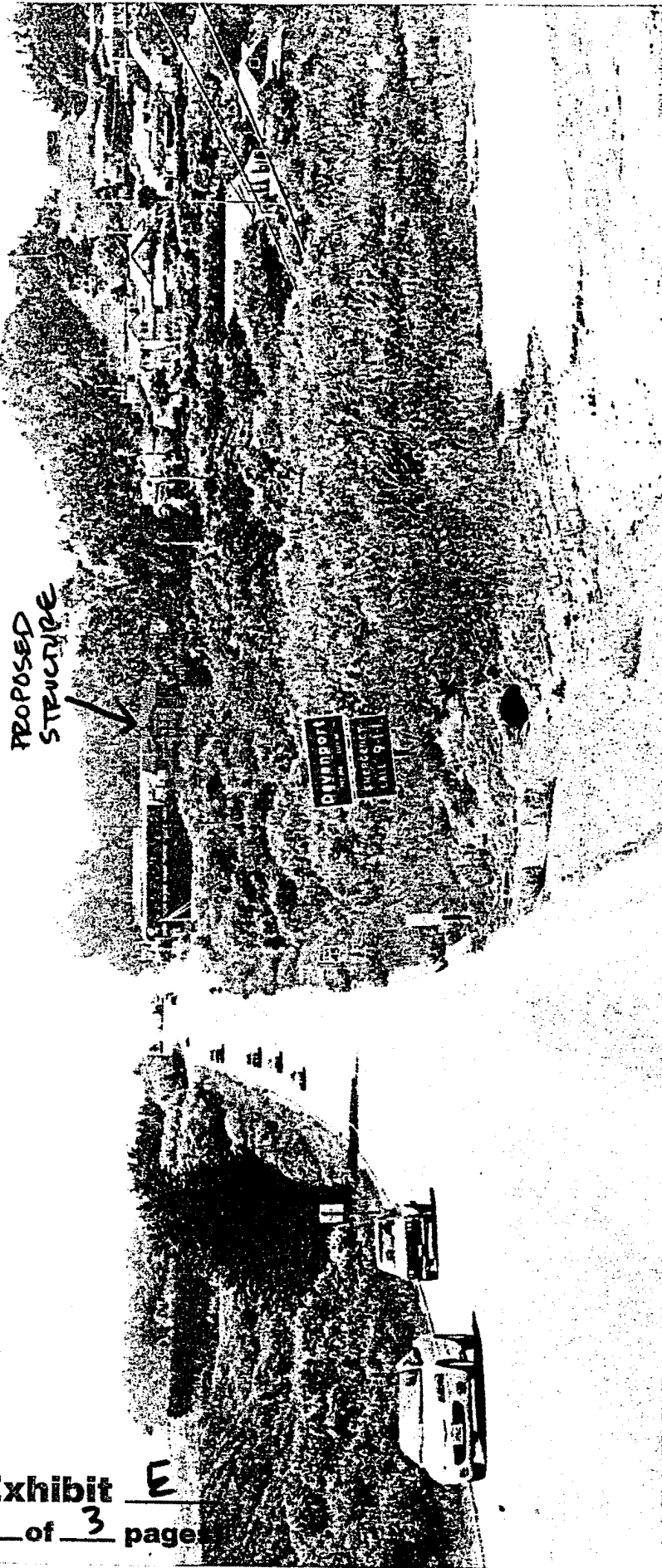
SITE DRAINAGE



Reference
Scale: 1" = 100'

Storm Drainage Areas
DWG 1

PROPOSED
STRUCTURE
↓

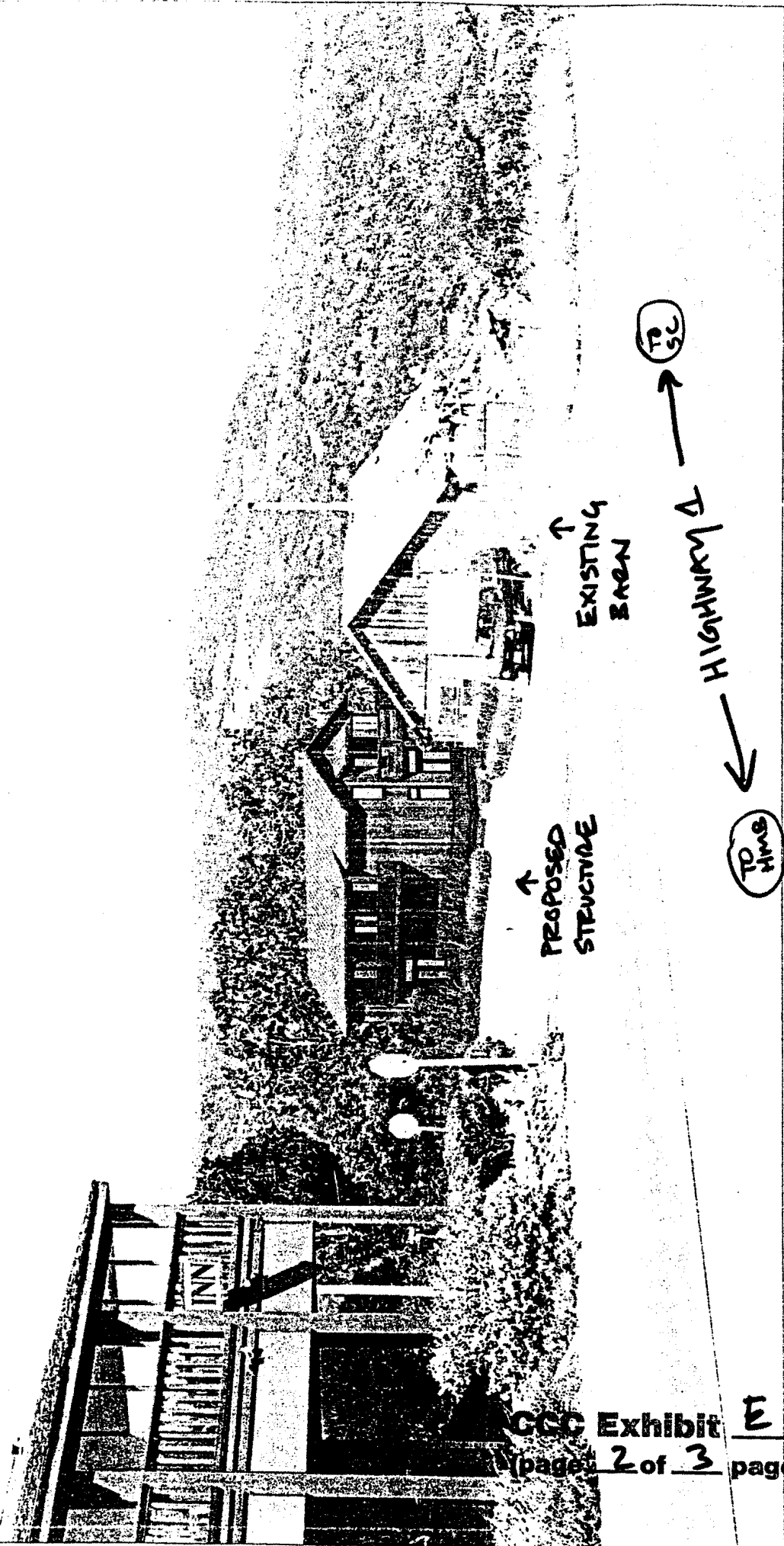


2001 ArchiGraphics
Terri L.N. Fisher, Architect
Rendering: ArchiGraphics

The Luers Building
Davenport

SE ELEVATION - TRAVELING NORTH ON HIGHWAY 1, ENTERING DAVENPORT

APPLICANT'S PHOTO SIMULATION
(POST PROJECT - BARN GONE)



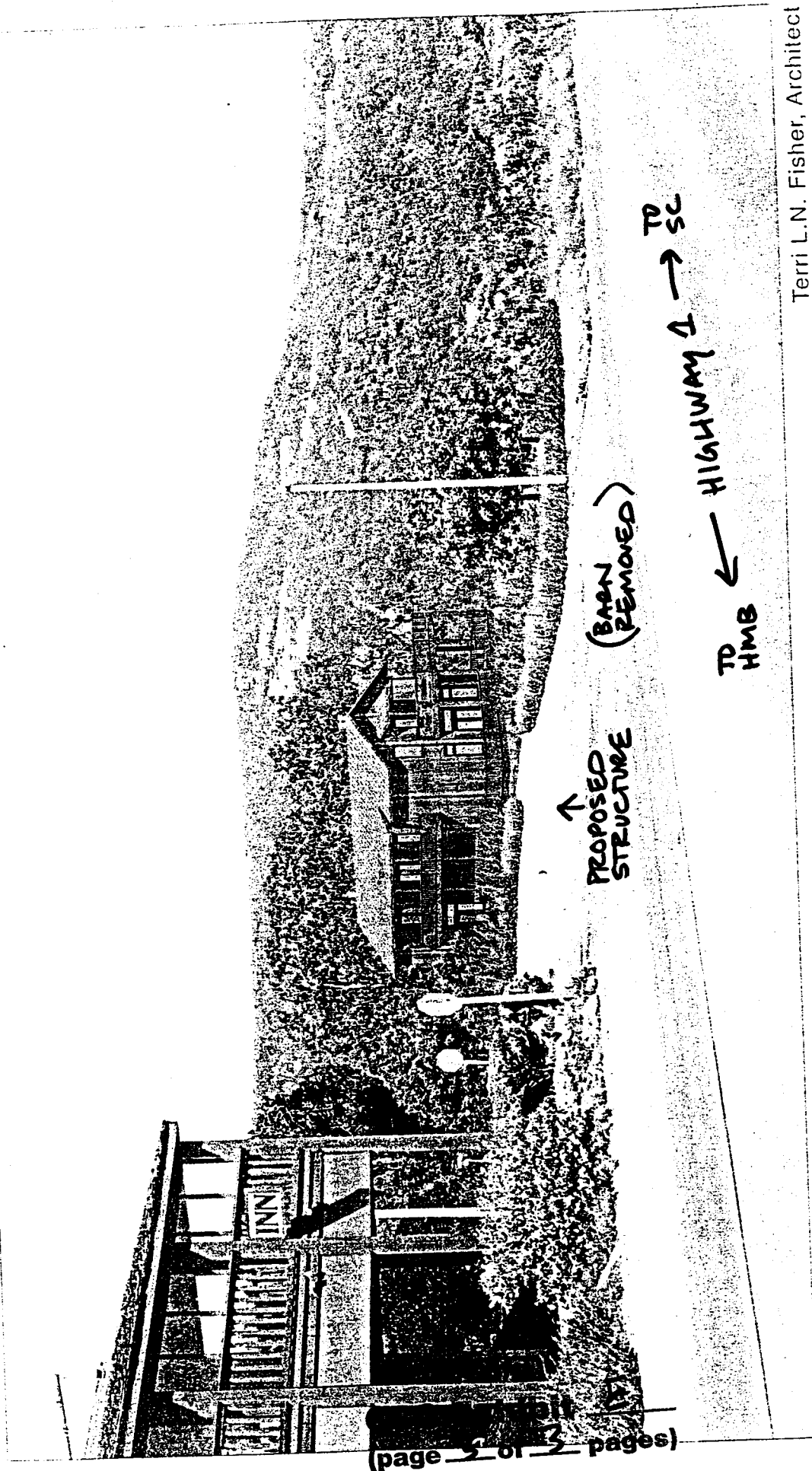
Terri L.N. Fisher, Architect
Rendering: Art bit graphics

Building for Davenport, California
New building located from survey data by Doug Aylsworth relative to existing barn

APPLICANT'S PHOTO SIMULATION

CCC Exhibit
(pages 2 of 3)

E
pages



Terri L.N. Fisher, Architect
 Rendering: ArchiGraphics

NW ELEVATION - TRAVELING SOUTH ON HIGHWAY 1, EXITING DAVENPORT

The Luers Building
 Davenport

APPLICANT'S PHOTO SIMULATION



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, SUITE 410, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

ALVIN JAMES, DIRECTOR

November 4, 2002

Agenda: November 13, 2002

Planning Commission
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

**SUBJECT: CONTINUED PUBLIC HEARING ON A REFERRAL FROM THE
ZONING ADMINISTRATOR OF A PROPOSAL TO DEMOLISH THE
DAVENPORT BARN AND CONSTRUCT A COMMERCIAL AND
RESIDENTIAL BUILDING**

APPLICATION NUMBER: 98-0234

APN: 058-091-01

APPLICANT: Terry L. N. Fisher, Architect

OWNER: David Luers

Members of the Commission:

On September 11, 2002 your commission heard the above referenced application. Following the staff presentation and public testimony, your commission requested additional information and analysis from staff and the applicant prior to a decision on the proposal. The public hearing was continued until October 9, 2002. In order to allow additional time to adequately consult and develop responses in all of the identified issue areas, staff recommended that your commission continue this item for two weeks, until your October 23, 2002 agenda. Following staff presentation and public testimony on October 23rd your commission continued this item for three weeks, until November 13, 2002, so that five voting members may be present.

Sincerely,

David Carlson
Project Planner
Development Review

CCC Exhibit F
(page 1 of 16 pages)

**COUNTY
STAFF
REPORT**



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, SUITE 410, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

ALVIN JAMES, DIRECTOR

October 16, 2002

Agenda: October 23, 2002

Planning Commission
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: CONTINUED PUBLIC HEARING ON A REFERRAL FROM THE ZONING ADMINISTRATOR OF A PROPOSAL TO DEMOLISH THE DAVENPORT BARN AND CONSTRUCT A COMMERCIAL AND RESIDENTIAL BUILDING

APPLICATION NUMBER: 98-0234

APN: 058-091-01

APPLICANT: Terry L. N. Fisher, Architect

OWNER: David Luers

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Story Poles

The staking of the proposed structure has been upgraded to include orange plastic netting outlining the roof ridge and main roof eaves. The ridge and eaves of the "bump-out" on the south side of the building were beyond the reach of the crane used to erect the netting, however, a piece of netting was able to be placed to represent the limit of the eaves of the roof dormer that covers this building area. In addition, netting has been placed in the location of the decks on the west and south sides of the building. The entrance to the building adjacent Coast Road is not represented by netting but is simply an 8-foot wide wooden walkway level with Coast Road and connecting with the deck that wraps around the street level of the building. Prior to meeting with residents of Davenport concerned about the height of the building the owner and architect were able to modify the height of each floor of the building to

Application No.: 98-0234
APN: 063-231-04
Owner: David Luers

bring the overall height of the building down almost two feet. The proposed height of the building from grade to the peak of the roof ridge is now 32 feet-4 inches and the staking and orange netting represents the revised height.

Area Calculations

Following is a more detailed calculation of the commercial and residential areas of the proposed building that includes the decks:

Use	Square Foot Area
Commercial Enclosed Space	2,076
Commercial Decks	816
Subtotal	2,896
Residential Enclosed Space	1,852
Residential Decks	496
Covered Parking	388
Subtotal	2,736
Total	5,628

Therefore the combined residential portion of the building, including the covered parking, comprises 48.6% of the total floor area, which is less than the maximum 50% allowed.

Drainage & Riparian Corridor Issues

Attachment 9 of the Initial Study contains an analysis of the site and area drainage and includes calculations of pre- and post-development runoff. The project civil engineer determined that the post-development runoff would increase by 0.1 cfs. A detention system will be required to detain the post development increase in runoff on site in accordance with Public Works design criteria. Post development runoff is the runoff from the new impervious surfaces including roof area and paved area as well as the runoff from landscaped areas. All runoff from the proposed development area (i.e. the topographic bench) will be collected in area drains and routed through subsurface drainage pipe to the detention system, which will probably consist of a large pipe buried beneath the parking lot, then to the silt and grease trap (see attached schematic). From the silt and grease trap the runoff then travels in a solid pipe to the base of the slope in the central portion of the site. An energy dissipater will be constructed at the outlet of the pipe to promote sheet flow of runoff. The area where runoff from the site will ultimately be discharge is a gently sloping, densely wooded area with a thick layer of leaf litter. Runoff will spread out over an area on the subject parcel of at least 6,000 square feet before reaching any established drainage channel or possible spring flow. Once any runoff leaves the boundary of the parcel it still has approximately 300 feet to travel through developed and undeveloped areas before reaching San Vicente Creek. Because of the small amount of post-development runoff, the requirement for detention and trapping of silts and grease, and the nature of the area in which the runoff will ultimately be discharged, there will be virtually no impacts from project runoff.

Master Occupancy Program

Staff is recommending approval of a Master Occupancy Program, which is consistent with uses that would currently be allowed according to the Commercial Uses Chart in Section 13.10.332(b). In the C-1 zone district the use chart allows a change of use from a use conforming to a valid development permit, to another use allowed in the zone district, which will not result in an intensification of use with a Level 1 Approval (administrative, no plans required). Accordingly, staff simply reviewed the entire use chart and identified those uses allowed in the C-1 zone district, which would not result in an intensification of use (e.g: increased parking requirements) and listed those uses as allowed uses with a Level 1 approval. Any other commercial space in Davenport with a valid development permit that proposes a change in use to another use allowed in the zone district and determined to not be an intensification of use could do so with a Level 1 permit only. Therefore, staff concludes that a blanket requirement for a Level V permit for any future change of use in the proposed commercial space is inconsistent with County Code and inconsistent with permit requirements that other commercial properties in Davenport currently face for change of use.

Traffic Issues

The Department of Public Works Traffic Engineer, Jack Sohriakoff will be present at the hearing to address the traffic data and physical conditions issues and answer any questions your commission may have at that time.

Precedent Issue

Proposed language has been added to the Findings for approval of this project to clarify that the approval of this project does not set a precedent for future projects in Davenport.

Sincerely,



David Carlson
Project Planner
Development Review

Attachments

STAFF REPORT TO THE ZONING ADMINISTRATOR

APPLICATION NO.: 98-0234 APN: 058-091-01

APPLICANT: Terri L. N. Fisher, Architect

OWNER: David Luers

PROJECT DESCRIPTION: Proposal to demolish the Davenport Barn and construct a commercial and residential building.

LOCATION: The property is located on the northeast side of the intersection of Highway One and the Old Coast Highway in Davenport.

PERMITS REQUIRED: Master Occupancy Program, Commercial Development Permit, Preliminary Grading Approval, Significant Tree Removal Permit and Coastal Permit

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration

COASTAL ZONE: X Yes ___ No APPEALABLE TO CCC: X Yes ___ No

PARCEL INFORMATION

PARCEL SIZE: 1.109 acres (48,308 square feet)

EXISTING LAND USE:

PARCEL: Abandoned barn

SURROUNDING: Commercial and residential uses

PROJECT ACCESS: Old Coast Road

PLANNING AREA: North Coast

LAND USE DESIGNATION: C-N (Neighborhood Commercial)

ZONING DISTRICT: C-1 (Neighborhood Commercial)

SUPERVISORIAL DISTRICT: Third District

ENVIRONMENTAL INFORMATION SUMMARY

- | | |
|---------------------|---|
| a. Geologic Hazards | a. All structures in the County are subject to the possibility of earthquake damage. This site is not, however, located within a mapped fault zone. All recommendations of the soil report will be required to be incorporated into the plans prior to issuance of any building permits. Although the southern portion of the property is inside the mapped floodplain, no development is proposed within the floodplain area of the parcel adjacent to San Vicente Creek |
| b. Soils | b. A Geotechnical Investigation was prepared for the project by Reynolds Associates dated 9/15/98 with an update 8/18/00. The soils report has been reviewed and approved by the County Engineer. |
| c. Fire Hazard | c. The property is located within an area mapped as critical fire hazard. The County Fire Department/CDF has |

- reviewed the project plans and determined that standard fire department requirements apply and compliance fire department requirements can be addressed in the building permit phase of the project.
- d. Slopes d. Slope areas that exceed 30% gradient are located in the central portion of the property below (south of) the proposed development envelope, which is relatively level to gently sloping. A relatively small portion of the slope between the building site and Old Coast Road exceeds 30% gradient.
- e. Env. Sensitive Habitat e. No special status species exist on the property. However, a riparian area (a sensitive habitat) is located on the lower portion of the parcel below the area to be developed. The riparian corridor is defined by the dripline of the willow trees and this dripline has been plotted on the site plan. All proposed development is located outside the dripline of the riparian woodland. The riparian buffer zone extends 50 feet beyond the dripline of the riparian woodland and proposed development activities will be located within the buffer. A Riparian Exception is required to allow development activities within the buffer.
- f. Grading f. Grading in the amount of 70 cubic yards of cut and 136 cubic yards of fill is proposed for foundation work, access and parking lots improvements and drainage and erosion control.
- g. Tree Removal g. One large eucalyptus tree is proposed to be removed to accommodate the project. A locally recognized monarch butterfly expert has evaluated the tree and concluded that the tree is unlikely to provide shelter for wintering monarchs and does not contribute significantly to wind protection for the overwintering habitat to the northwest.
- h. Scenic h. The proposed structures will be unavoidable visible from Highway 1, a designated scenic road, therefore, must be evaluated in the context their unique environment. Siting, architectural design and landscaping elements have been incorporated into the project to mitigate impacts on the unique visual qualities at this site.
- i. Drainage i. The project civil engineer has completed drainage calculations and a drainage plan for the project. A detention system will be required to detain the post development increase in runoff on site in accordance with Public Works design criteria. Runoff from the site will be collected and routed in a solid pipe to an energy dissipater at the base of the slope in the southern portion of the site. The project civil engineer has analyzed the existing storm water drainage system downstream of the site and quantified runoff from the proposed project. The existing

- drainage systems appear to be adequate for the storm drainage conditions observed and the estimated potential runoff.
- j. Traffic j. The proposed project will result in a minimal increase in the existing traffic load. All intersections in the vicinity of the project will continue to operate at the same level of service. The site plan, including the parking, circulation and proposed improvements to Coast Road, complies with all traffic related design criteria.
- k. Roads k. Public Works Traffic Engineering has reviewed the application and requires that Coast Road be widened from the existing 20 feet to 24 feet width.
- l. Parks l. The payment of Park Dedication fees is required as a condition of approval
- m. Sewer Availability m. Sewer service for this project will be provided by the Davenport County Sanitation District, which has issued a "will serve" letter.
- n. Water Availability n. Water service for this project will be provided by the Davenport County Sanitation District, which has issued a "will serve" letter.
- o. Archeology o. An archaeological reconnaissance survey completed for the project site determined that there are no prehistoric cultural resources on the project site. Any permit issued for the project will be conditioned to follow the recommendation of the archaeological survey.

SERVICES INFORMATION

Inside Urban/Rural Services Line: X Yes ___ No

Water Supply: Davenport County Sanitation District

Sewage Disposal: Davenport County Sanitation District

Fire District: County Fire Department/CDF

Drainage District: No Zone

PROJECT DESCRIPTION AND SETTING

This project seeks to demolish the Davenport Barn, known as the Old Box Factory, located on the northeast corner of Old Coast Road and Highway One. The Santa Cruz County Historic Resources Commission reviewed the proposal at a noticed public hearing and the demolition was approved. A replacement three-story structure, approximately 4,316 square feet in area, consisting of a three story mixed commercial/residential use is proposed. Grading in the amount of 70 cubic yards of cut and 136 cubic yards of fill is proposed for foundation work and access improvements. One 60-inch eucalyptus tree north of the proposed building is to be removed.

The project is located in the North Coast planning area and within the Davenport Special Community Coastal designation. Access to the site is via an existing road, Old Coast Highway, off Highway One. The parcel is approximately 4,308 square feet in area and is developed with a

3,353 square foot, two-story barn which was used to manufacture the drums and boxes used for packaging agricultural produce. Approximately half of the parcel is within a mapped riparian corridor (sensitive habitat) adjacent to San Vicente Creek, groundwater recharge zone, and floodplain. No development is proposed within this area of the parcel. The remainder of the parcel, in which the project is proposed, is located within the scenic corridor of Highway One and a mapped archaeological resource area. An Archaeological Reconnaissance of the property was completed in February 1999. No evidence of archaeological resources of any kind was found at the site either by archive research or during field survey

ZONING ISSUES

The project is located within the Neighborhood Commercial (C-1) zone district and wine tasting retail establishments are an allowed use in the zone district, as are residential units, which comprise up to 50% of the floor area of the entire development. The combined residential portion of the proposed building comprises approximately 1,852 square feet, which represents 43% of the approximately 4,316 square foot floor area of the entire development. The proposed building is consistent with the development standards for the C-1 district, as they relate to setbacks, height and parking. The proposed height of the structure is approximately 34 feet, less than the maximum allowed of 35 feet. The proposed front setback is 20 feet, which is more than the 10 feet required. No side or rear setbacks are required in this zone district; however, due to topographic and other environmental constraints, the structure would be located approximately 67 and 75 feet from either side property line and approximately 145 feet from the rear property line.

A total of 11 parking spaces are proposed, which is the minimum required for the two proposed uses – wine tasting/retail and office space. Excluding areas designated exclusively as storage or restrooms, the actual wine tasting/retail and office areas would be approximately 1,090 square feet, which would require six parking spaces (1 space per 200 square feet of floor area). The lower level residential unit (studio) would require two parking spaces and the upper level residential unit, with 2 bedrooms, would require 3 spaces for a total of 11 spaces, which is the number proposed. The proposed parking would include one compact space and two accessible spaces. Because of the commercial use on both the lower and middle levels of the building and the unfavorable grade changes between the two levels, one accessible space is needed at both the upper and lower ends of the parking lot to provide the proper path of travel from the accessible spaces to the two different levels of the building. A minimum of two bicycle parking spaces are required and the plans show an area designated for bicycle parking that can accommodate at least two spaces.

A Master Occupancy Program is proposed as part of the Development Permit for this project. The Master Occupancy Program establishes all future allowed occupancies in addition to the current proposal for wine tasting/retail and office space consistent with site improvements. Occupancy permits, when applied for pursuant to an approved Master Occupancy Program, are processed as a Level I Approval. Accordingly, the Master Occupancy Program for this project includes any use allowed in the C-1 zone district involving less than 2,000 square feet listed in County Code 13.10.332(b) Commercial Uses Chart, except the following uses: animal services, automobile service stations, private clubs, bus or transit station, churches or other religious center or institutions, community centers, radio and television broadcasting stations, restaurants, bars,

food service. These excepted uses would require more parking than is currently proposed or have other issues that would require more in depth project plans, staff analysis and public noticing. Examples of uses that would be allowed with a Level I approval include the following uses: bank, beauty shop, neighborhood commercial services, library, museum, post office, offices, and neighborhood retail sales.

GENERAL PLAN ISSUES

The project is located in the Neighborhood Commercial (C-N) land use designation, which is consistent with the C-1 zoning. This designation is intended to provide compact, conveniently located, and well designed shopping and service uses to meet the needs of individual urban neighborhoods, rural communities and visitors. The proposed new wine tasting/retail establishment and residential units are consistent with the General Plan designation, and will not represent a significant increase in the intensity of use that would have a negative impact on surrounding development. The project is consistent with the General Plan in that the full range of urban services is available to the site including municipal water and sewer service and the use is not located in a hazardous area. No specific plan has been prepared for this area of the County.

WATER SUPPLY ISSUES

The Davenport County Sanitation District (District) has issued a conditional service commitment stating that sewer and water service is available for the proposed project. The District gets its water from RMC Pacific Materials (RMC), whose sources of water are San Vicente Creek and Mill Creek. The State Water Resources Control Board, Division of Water Rights, in response to a complaint filed by David Kossack against RMC, states that "RMC appears to have a valid claim to a pre-1914 water right to serve both the cement plant and the town of Davenport..." A copy of the response is included as Exhibit I. Furthermore, the Division of Water Rights found no specific evidence of environmental harm due the existing diversion of water as a result of their investigation of the complaint and after consultation with National Marine Fisheries Service and Department of Fish and Game. According to District staff the proposed project represents a relatively small amount of water use, estimated at less than 300 gallons per day, and will not require an increased stream diversion because the existing stream diversion can easily accommodate such a use. It should be noted that the District currently suffers from limited water filter capacity at the water treatment plant. The solution to this problem calls for installation of an entirely new filtration system but funding is not yet available for this system upgrade, which is estimated to cost approximately \$300,000. Nevertheless, the applicant has obtained a written commitment from the District that the required level of service for the project will be available prior to the issuance of building permits, which complies with General Plan policy 7.18.2.

DESIGN ISSUES

Because the project involves commercial construction, it is subject to the provisions of County Code Chapter 13.11; Site, Architectural and Landscape Design Review. A primary purpose of the Design Review ordinance, as defined by General Plan Objective 8.1, is to achieve functional high quality development through design review policies that recognize the diverse characteristics of the area, maintain design creativity, and preserve and enhance the visual fabric of the community. Because the project is subject to design review, the applicant has

submitted architectural elevations, which include a full description of all materials and colors proposed, and visual renderings. Architectural plans are included as Exhibit A, which also includes the site, improvement and landscape plans.

The proposed development is depicted in visual rendering, which provide a representation of how the proposed development will actually appear in its setting (see Exhibit D, Attachment 12).

In this case, the visual renderings, the architectural plans and the existing site conditions provide adequate context to judge the appearance of the building in its setting and relationship to the surrounding community. The proposed location of the building is behind the existing barn when viewed from Highway 1 and the proposed parking lot is located in approximately the same footprint as the existing barn. The footprint of the proposed building (1,420 square feet) is approximately one half that of the existing barn (2,640 square feet) and the height is approximately 6.5 feet taller than the barn. The peak of the proposed building is approximately 2 feet lower than the eave of the Cash Store. The proposed project will not obstruct any public views of the ocean or of the surrounding hillsides. Therefore, the construction of story poles is not required because adequate information and context is available to evaluate the visual issues associated with the proposed development.

The subject parcel is located adjacent to Highway 1 in Davenport, an adopted scenic corridor. The proposed building will be visible from the highway, but both the structure and the proposed landscaping have been designed to complement and enhance the existing surrounding commercial and residential area. The proposed project will not obstruct any public views of the ocean or of the surrounding hillsides. The new building has been designed to retain the character of the existing barn and complement the design of the existing Cash Store across the street to the north. The simple form, finish material, texture and color of the proposed building combine to retain the character of the existing barn and other older North Coast agricultural structures while the use of covered, wrap-around wooden decks and balconies complement these same features that define the Cash Store. The wrap-around decks and street-level entrance on Old Coast Road create a sense of human scale and pedestrian interest. Proposed building materials consist of weathered brown/gray standing seam metal roofing, weathered gray natural redwood board and batten siding, wood trim on doors and windows, and redwood decks and trellis. The lower floor exterior materials will consist of natural gray stucco covered with fast-growing vines, and wood roll-up doors with window panels.

One large eucalyptus tree is proposed to be removed due its location in close proximity to the proposed building. Because the site plan, including the building and parking location and layout, has been designed in relationship to the surrounding topography, natural site features and environmental influences within a relatively small developable area and the tree is a non-native species that does not provide habitat for Monarch butterfly, the findings can be made to allow removal (See Significant Tree Removal Findings). All other significant natural vegetation, including riparian woodland species, will be retained.

All lighted parking and circulation areas will utilize low-rise light standards or light fixtures attached to the building. All site, building, security and landscape lighting will be directed onto the site and away from adjacent riparian areas and the scenic Highway One corridor.

Landscaping, structure, fixture design, or other physical means will shield light sources. Building and security lighting will be integrated into the building design. A lighting plan that

demonstrates compliance with these principles will be required to be submitted for review and approval prior to the issuance of any grading or building permit.

The structure will have business signs on the building pertaining to the proposed use. The plans indicate non-illuminated wood signs with raised wood lettering located either on the deck railings or hanging beneath the eave of the covered deck. The aggregate area of the proposed signs shown on the plans is approximately 72 square feet, which exceeds the aggregate area allowed by the zoning ordinance. Therefore, a revised sign plan is required that reduces the aggregate area of signs to not more than 42.25 square feet and specifies the material, size, location and orientation of each sign.

The proposed project is also subject to general design criteria for coastal development and special community design criteria for Davenport. The proposed project is not located on a coastal bluff and is not visible from any area beaches, but is subject to provisions of County Code Section 13.20.130 that addresses coastal development. The proposed project is consistent with these design criteria in that the project is sited, designed and landscaped to be visually compatible with the surrounding neighborhood. In addition, proposed grading is minimized and the proposed structure is designed to fit the topography of the site. The building cannot be located on the site so as not to be visible from Highway 1, but the parcel is within an existing urbanized commercial and residential area, which is intended to serve both local residents and visitors to the area.

Other design criteria specific to the Davenport community, found in Section 13.20.143 of the County Code and Policy 8.8.4 of the County General Plan, require that new development be consistent with the height, bulk, scale, materials and setbacks of existing development and that new development be generally small scale, one or two-story structures of wood construction. In addition, the Box Factory (existing barn) has served as the gateway to Davenport since its construction in 1925, however, the deteriorated condition of the building made its preservation infeasible. The proposed demolition of the Box Factory has been reviewed and approved by the County Historic Resources Commission due to the deteriorated structural integrity of the barn. The commission suggested that if the building is demolished that any salvageable wood be made available to the Parks Department. Salvageable wood, which is redwood of apparently very high quality, will not be made available to the Parks Department, but will be used on site. For example, siding from the existing barn will be used to construct required sound barrier fencing and suitable structural members, including joists and beams, will be used to actually construct the proposed building, which will reinforce the relationship and continuity between the old barn and the new development.

In order to address the design criteria and the intent of the Historic Resources Commission, the applicant has proposed a building that is small in scale, retains the character of the existing barn, occupies a smaller footprint area than the existing barn and complements adjacent development. Although the proposed building is three stories and approximately 34 feet in height, the difference in grade from Old Coast Road will result in an appearance that the building is two stories from street level. The building is partially below grade on the lower level and the lower level walls, which will be stucco, will be covered with fast growing vines. Public views of the lower story from the northwest and southeast will be obscured by topography and existing vegetation respectively but will be visible from the south of Highway 1 southwest of the site.

The roof peak of the proposed building is approximately 6.5 feet higher than the existing barn and approximately two feet lower in relation to the eave of the Davenport Cash Store. It should be noted that Section 13.20.143 of the County Code and Policy 8.8.4 of the County General Plan suggest that new development be "generally small scale, one or two story structures of wood construction", but the overriding consideration is the requirement that new development "be consistent with the height, bulk, scale, materials and setbacks of existing development." When viewed in relation to other buildings on the Davenport frontage while also considering the topographic change along the frontage, the proposed building is consistent with the height, bulk, scale and materials of existing development. Furthermore, the building will be setback approximately 75 feet from the edge of the Highway 1 right-of-way, which further reduces its presence along the Davenport frontage.

TRAFFIC ISSUES

The proposed project will result in a minimal increase in the existing traffic load. According to County Department of Public Works staff, in general, most traffic impacts occur during the PM peak hour and this project will not generate significant PM peak hour trip ends. The amount of PM peak hour trip ends generated as a result of this project will not have a considerable impact on the local street network. All intersections in the vicinity of the project will continue to operate at the same level of service. Public Works Traffic Engineering has reviewed the application and requires that Coast Road be widened from the existing 20 feet to 24 feet width. The site plan, including the parking, circulation and proposed improvements to Coast Road, complies with all traffic related design criteria. The applicant will be required to obtain an encroachment permit prior to issuance of the building permit.

Caltrans has expressed concern about potential conflicts arising from the short distances presented by the existing conditions at the intersections of Highway 1, Davenport Road and Old Coast Road. Caltrans recommended mitigation is to either move the parking area to the east of the proposed structure or realign Old Coast Road further east on Davenport Road or both (Exhibit D, Attachment 14). Neither of these options is feasible. The relocation of the parking is not feasible because the area has extreme grade changes and would not provide sufficient circulation. Relocation of Old Coast Road would require the purchase of additional private property, which would make the proposed project infeasible.

Since no part of the project will encroach into the Caltrans right-of-way, the project does not require an encroachment permit from Caltrans. Therefore, the mitigation recommended by Caltrans is not a requirement to obtain approval of the project from the County of Santa Cruz Department of Public Works, Road Engineering Division. Furthermore, According to Jack Sohriakoff, Public Works Road Engineer, traffic issues related to the project have been adequately addressed. The driveway entrance to the proposed project is located an adequate and safe distance from the closest intersection and the traffic generated by the project will not have a significant impact on or decrease the level of service of any local intersection. Any permits issued for the project must contain a condition to obtain an Encroachment Permit from Public Works for the off-site work within the County right-of-way. (Exhibit D, Attachment 17, page 6)

NOISE ISSUES

A Noise Assessment Study Update was completed for the project. Noise exposures in the rear yard of the project will be 61 and 62 dB DNL under existing and future traffic conditions respectively, up to 2dB in excess of accepted standards. The noise exposure in the most impacted living spaces will be 49 and 50 dB DNL, up to 5 dB in excess of the standards. (Exhibit D, Attachment 15)

A noise barrier consisting of a six-foot high solid fence is proposed to enclose the residential yard area to achieve compliance with the exterior noise standard. In addition, windows rated Minimum Sound Transmission Class (STC) 25 or 33, depending on whether they will be openable or not, are required to mitigate the noise impacts to the interior of the structures from Highway One. A letter of 1/22/01 confirms project compliance with required mitigation measures (Exhibit D, Attachment 15).

Noise generated during construction will increase the ambient noise levels for adjoining areas. Construction would be limited in duration, however, and a condition of approval will be included to limit all construction to the time between 8 a.m. and 5:30 p.m. weekdays, to reduce the noise impact on nearby commercial and residential development.

RIPARIAN ISSUES

The proposed development is located on a bench immediately upslope from the Riparian/Biotic resource areas. The riparian corridor is defined by the dripline of the willow trees (riparian woodland) and this dripline has been plotted on the site plan. All proposed development is located outside the dripline of the riparian woodland. The riparian buffer zone extends 50 feet beyond the dripline of the riparian woodland and proposed development activities will be located within the buffer. A Riparian Exception is required to allow development activities within the buffer. In this case special circumstances exist, primarily the limited developable area on the property, which allow the approval of a Riparian Exception for the proposed development.

Existing conditions within the area proposed for development, including the building, parking lot and landscaped areas, are characterized by previous development and disturbance. The topographic bench, where development is proposed, contains the existing barn, a thick growth of nasturtium vines and eucalyptus trees. The topographic bench, which consists of approximately 9,000 square feet, is a relatively small area in which to construct a commercial building and the required parking in the commercial zone district. If no development was allowed within the 50-foot buffer area it would be practically impossible to develop any kind of commercial use on the property

The exception is necessary for the proper design and function of a permitted activity on the property in that topographic features limit the developable area and provide essentially one option for site design to accommodate a commercial development. The structure is tucked up against the embankment of Old Coast Road and is setback from the riparian woodland a minimum of approximately 35 feet and cannot be moved any further away from the riparian woodland. A total of 11 parking spaces are proposed, which is the minimum required for the two uses. The proposed parking layout is essential due to the topography and shape of

the bench on which the development must be located. The steep slope along the property frontage below Old Coast Road prohibits vehicle access to the proposed development area on the bench below the road, except at the western end of the Old Coast Road frontage. Therefore, the proposed location of the driveway entrance and the parking lot is the only feasible alternative.

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 because the project will incorporate grading, erosion control, and drainage control and filtering methods that will reduce potential impacts on the riparian corridor to a less than significant level. If sediment were not controlled and were allowed to enter the creek steelhead trout, California red-legged frog, or other species would be affected. However, the creek is located across Fair Avenue from the project site and approximately 400 feet from the project site; and, with the methods proposed to control erosion and drainage these species will be unaffected. California red-legged frogs (CRLF) may migrate away from the creek corridor into the proposed development area both during and after construction. In order to prevent adverse impacts to CRLF prior to building permit issuance the applicant shall revise the plans to include a fence or other barrier to frogs to be installed on top of the curb or retaining wall that marks the rear boundary of the development adjacent to the riparian corridor. Further, the silt fence that is required for erosion control and to prevent unauthorized disturbance in the riparian area will also function as a barrier to frog movement during construction. The lighting plan requirements discussed above are also intended to ensure that potential impacts on the riparian corridor from nighttime lighting are reduced to a less than significant level.

The project civil engineer has completed drainage calculations for the project and determined that the post-development runoff will increase by 0.1 cfs. A detention system will be required to detain the post development increase in runoff on site in accordance with Public Works design criteria. Therefore, the contribution of the runoff from the project to flood levels or erosion in natural watercourses will be less than significant. Runoff from the site will be collected and routed in a solid pipe to the base of the slope in the southern portion of the site. An energy dissipater will be constructed at the outlet of the pipe where a general area drainage ditch begins. The energy dissipater will promote sheet flow of runoff in the existing drainage ditch. The project civil engineer has analyzed the existing storm water drainage system downstream of the site and quantified runoff from the proposed project. The existing drainage systems appear to be adequate for the storm drainage conditions observed and the estimated potential runoff.

A silt and grease trap shall be installed in the parking lot and maintained as required by Public Works to filter all runoff from the parking lot before it reaches the energy dissipater at the base of the slope. Beyond the energy dissipater ditch capacity varies from a triangular section at the base of the slope to sheet overland drainage with intermittent channels of varying depths until all drainage from the area sheet flows in the creek. The length of the runoff path between the base of the slope and the creek is approximately 300 feet vegetated with moderate to heavy growth, which will provide additional biofiltration of project runoff. In an effort to provide further protection of water quality from drainage discharges that may carry silt, grease, and other contaminants from the parking area into the riparian corridor, prior to the issuance of any building or grading permit the project geotechnical engineer shall determine if it is feasible, given the site characteristics, to include biofiltration of runoff on the slope below the parking lot.

There is potential for erosion to occur during clearing, grading and construction. To mitigate this, a comprehensive erosion control plan is required. The plan shall provide erosion control measures to prevent off-site transport of soil or turbid water. Environmental Planning staff will review and approve the erosion control plan prior to issuance of a building permit. Grading during October 15 and April 15 is not permitted.

ENVIRONMENTAL REVIEW ISSUES

In accordance with the California Environmental Quality Act (CEQA) and the County Environmental Review Guidelines, the County Environmental Coordinator considered the project on April 8, 2002. Four letters were received during the comment period, which were reviewed by the Environmental Coordinator, who felt that, with revisions, the concerns raised in the comment letters were adequately addressed in the Initial Study. Revisions to the Initial Study, in response to the comments received, are indicated by shading. A copy of the Mitigated Negative Declaration, Notice of Determination and Environmental Review Initial Study are included in Exhibit D.

CONCLUSION

All required findings can be made to approve this application. The project is consistent with the General Plan in that the project constitutes a commercial use. The proposed use is compatible with the existing intensity of land use in the surrounding area, and is consistent with the zoning designation of the subject parcel. The proposed new structure has been designed to be compatible with surrounding commercial and residential uses. The project, as conditioned, will not have a significant effect on the environment.

Please see Exhibit "B" ("Findings") for a complete listing of findings and evidence related to the above discussion.

RECOMMENDATION

Staff recommends that the Zoning Administrator take the following action:

1. Certify the Mitigated Negative Declaration as complying with the requirements of the California Environmental Quality Act; and
2. **APPROVE** Application Number 98-0234, based on the attached findings and subject to the attached conditions.

EXHIBITS

- A. Project plans including site plans, floor plans, elevations, preliminary grading plans and landscape plans prepared by Terri L. N. Fisher, Architect dated September 20, 2001.
- B. Findings
- C. Conditions
- D. Mitigated Negative Declaration, Notice of Determination and Environmental Review Initial Study

CCC Exhibit F
(page 15 of 16 pages)

- E. Letter from Department of Toxic Substances Control dated May 7, 2002 regarding preliminary Negative Declaration
- F. Letter from Department of Fish and Game dated May 14, 2002 regarding preliminary Negative Declaration
- G. Letter from California Coastal Commission dated May 20, 2002 regarding preliminary Negative Declaration
- H. Letter from Susan Young undated (faxed May 15, 2002) regarding preliminary Negative Declaration
- I. State Department of Water Resources, Division of Water Rights letter dated December 27, 2001.

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: David Carlson
Santa Cruz County Planning Department
701 Ocean Street, 4th Floor
Santa Cruz CA 95060
Phone Number: (831) 454-3173 (or,)

RECEIVED

DEC 12 2002

COMMERCIAL DEVELOPMENT PERMIT FINDINGS: CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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 mixed use building 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 where mixed use is allowed 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 mixed use building 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 C-1 (Neighborhood Commercial) zone district. Wine tasting retail establishments are an allowed use in the C-1 zone district, as are residential units, which comprise up to 50% of the floor area of the entire development. The combined residential portion of the proposed building comprises approximately 1,852 square feet, which represents 43% of the approximately 4,316 square foot floor area of the entire development. The proposed building is consistent with the development standards for the C-1 district, as they relate to setbacks, height and parking. The proposed height of the structure is approximately 34 feet, less than the maximum allowed of 35 feet. The proposed front setback is 20 feet, which is more than the 10 feet required. No side or rear setbacks are required in this zone district; however, due to topographic and other environmental constraints, the structure would be located approximately 67 and 75 feet from either side property line and approximately 145 feet from the rear property line.

A total of 11 parking spaces are proposed, which is the minimum required for the two proposed uses – wine tasting/retail and office space. Excluding areas designated exclusively as storage or restrooms, the actual wine tasting/retail and office areas would be approximately

1,090 square feet, which would require six parking spaces (1 space per 200 square feet of floor area). The lower level residential unit (studio) would require two parking spaces and the upper level residential unit, with 2 bedrooms, would require 3 spaces for a total of 11 spaces, which is the number proposed. The proposed parking would include one compact space and two accessible spaces. Because of the commercial use on both the lower and middle levels of the building and the unfavorable grade changes between the two levels, one accessible space is needed at both the upper and lower ends of the parking lot to provide the proper path of travel from the accessible spaces to the two different levels of the building. A minimum of two bicycle parking spaces are required and the plans show an area designated for bicycle parking that can accommodate at least two spaces.

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

The project is located in the Neighborhood Commercial (C-N) land use designation, which is consistent with the C-1 zoning. This designation is intended to provide compact, conveniently located, and well designed shopping and service uses to meet the needs of individual urban neighborhoods, rural communities and visitors. The proposed new wine tasting/retail establishment and residential units are consistent with the General Plan designation, and will not represent a significant increase in the intensity of use that would have a negative impact on surrounding development. The project is consistent with the General Plan in that the full range of urban services is available to the site including municipal water and sewer service and the use is not located in a hazardous area. No specific plan has been prepared for this area 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. The Davenport County Sanitation District (District) has issued a conditional service commitment stating that sewer and water service is available for the proposed project. Conditions incorporated into this permit that must be satisfied prior to building permit issuance include: the building plans must show detailed information on water and sewer connections, an engineered sewer and water improvement plan must be approved by the District, water use data and other information as may be required must be submitted to the District, and all plumbing fixtures must be shown on the building plans.

The District gets its water from RMC Pacific Materials (RMC), whose sources of water are San Vicente Creek and Mill Creek. The State Water Resources Control Board, Division of Water Rights, in response to a complaint filed by David Kossack against RMC, states that "RMC appears to have a valid claim to a pre-1914 water right to serve both the cement plant and the town of Davenport..." Furthermore, the Division of Water Rights found no specific

Findings

Application No.: 98-0234

APN: 0058-091-01

Owner: David Luers

3

evidence of environmental harm due the existing diversion of water as a result of their investigation of the complaint and after consultation with National Marine Fisheries Service and Department of Fish and Game. According to District staff the proposed project represents a relatively small amount of water use, estimated at less than 300 gallons per day, and will not require an increased stream diversion because the existing stream diversion can easily accommodate such an increase. It should be noted that the District currently suffers from limited water filter capacity at the water treatment plant. The solution to this problem calls for installation of an entirely new filtration system but funding is not yet available for this system upgrade. Nevertheless, the applicant has obtained a written commitment from the District that the required level of service for the project will be available prior to the issuance of building permits, which complies with General Plan policy 7.18.2.

The proposed use will not generate more than the acceptable level of traffic on the streets in the vicinity. The proposed project will result in a minimal increase in the existing traffic load. All intersections in the vicinity of the project will continue to operate at the same level of service. Public Works Traffic Engineering has reviewed the application and requires that Coast Road be widened from the existing 20 feet to 24 feet width. The site plan, including the parking, circulation and proposed improvements to Coast Road, complies with all traffic related design criteria. The applicant will be required to obtain an encroachment permit prior to issuance of the building permit.

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 project will complement and harmonize with the existing and proposed uses in the vicinity. The proposed wine tasting/retail and residential units are compatible with surrounding uses in that areas designated for commercial facilities are intended to provide for this type of facility, which has no potential for major pollution, adverse visual impacts or other nuisance or hazard factors. The proposed development will reinforce the scale, and design of the adjacent commercial and residential uses, and will incorporate variation in wall plane, roofline and architectural treatment to create visual interest. Adequate landscaping is provided to avoid significant negative visual impacts.

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

The proposed development is consistent with the Design Standards and Guidelines of the County Code. Per County Code Section 13.11.072, the site design is compatible with surrounding elements in that the proposed development preserves the integrity of existing land use character and is sited, designed and landscaped to be visually compatible and integrated

Findings

Application No.: 98-0234

APN: 0058-091-01

Owner: David Luers

4

with the character of the surrounding area. The siting of the building and parking location and layout are related to the natural site features and environmental influences in that steep slopes and sensitive habitat areas are avoided, and the development is sited on an existing natural bench occupied, in part, by the existing barn. The building bulk and size are appropriate to the size of the parcel and compatible with surrounding development.

The proposed development is depicted in visual rendering, which provide a representation of how the proposed development will actually appear in its setting. In this case, the visual renderings, the architectural plans and the existing site conditions provide adequate context to judge the appearance of the building in its setting and relationship to the surrounding community. The proposed location of the building is behind the existing barn when viewed from Highway 1 and the proposed parking lot is located in approximately the same footprint as the existing barn. The footprint of the proposed building (1,420 square feet) is approximately one half that of the existing barn (2,640 square feet) and the height is approximately 6.5 feet taller than the barn. The peak of the proposed building is approximately 2 feet lower than the eave of the Cash Store. The proposed project will not obstruct any public views of the ocean or of the surrounding hillsides. Therefore, the construction of story poles is not required because adequate information and context is available to evaluate the visual issues associated with the proposed development.

Adequate parking is provided that includes sufficient landscaping to minimize negative visual impacts. The driveway entrance to the proposed project is located an adequate and safe distance from the closest intersection and low-growing landscaping is provide adjacent the driveway entrance to preserve maximum sight distance. The site plan, including the parking, circulation and proposed improvements to Coast Road, complies with all traffic related design criteria.

The subject parcel is located adjacent to Highway 1 in Davenport, an adopted scenic corridor. The proposed building will be visible from the highway, but both the structure and the proposed landscaping have been designed to complement and enhance the existing surrounding commercial and residential area. The proposed project will not obstruct any public views of the ocean or of the surrounding hillsides. The new building has been designed to retain the character of the existing barn and complement the design of the existing Cash Store across the street to the north. The simple form, finish material, texture and color of the proposed building combine to retain the character of the existing barn and other older North Coast agricultural structures while the use of covered, wrap-around wooden decks and balconies complement these same features that define the Cash Store. The wrap-around decks and street-level entrance on Old Coast Road create a sense of human scale and pedestrian interest.

One large eucalyptus tree is proposed to be removed due its location in close proximity to the proposed building. Because the site plan, including the building and parking location and layout, has been designed in relationship to the surrounding topography, natural site features and environmental influences within a relatively small developable area and the tree is a non-native species that does not provide habitat for Monarch butterfly, the findings can be made to

allow removal (See Significant Tree Removal Findings). All other significant natural vegetation, including riparian woodland species, will be retained.

All lighted parking and circulation areas will utilize low-rise light standards or light fixtures attached to the building. All site, building, security and landscape lighting will be directed onto the site and away from adjacent riparian areas and the scenic Highway One corridor. Landscaping, structure, fixture design, or other physical means will shield light sources. Building and security lighting will be integrated into the building design. A lighting plan that demonstrates compliance with these principles will be required to be submitted for review and approval prior to the issuance of any grading or building permit.

The structure will have business signs on the building pertaining to the proposed use. The plans indicate non-illuminated wood signs with raised wood lettering located either on the deck railings or hanging beneath the eave of the covered deck. The aggregate area of the proposed signs shown on the plans is approximately 72 square feet, which exceeds the aggregate area allowed by the zoning ordinance. Therefore, a revised sign plan is required that reduces the aggregate area of signs to not more than 42.25 square feet and specifies the material, size, location and orientation of each sign.

The proposed project is also subject to general design criteria for coastal development and special community design criteria for Davenport. The proposed project is not located on a coastal bluff and is not visible from any area beaches, but is subject to provisions of County Code Section 13.20.130 that addresses coastal development. The proposed project is consistent with these design criteria in that the project is sited, designed and landscaped to be visually compatible with the surrounding neighborhood. In addition, proposed grading is minimized and the proposed structure is designed to fit the topography of the site. The building cannot be located on the site so as not to be visible from Highway 1, but the parcel is within an existing urbanized commercial and residential area, which is intended to serve both local residents and visitors to the area.

Other design criteria specific to the Davenport community, found in Section 13.20.143 of the County Code and Policy 8.8.4 of the County General Plan, require that new development be consistent with the height, bulk, scale, materials and setbacks of existing development and that new development be generally small scale, one or two-story structures of wood construction. In addition, the Box Factory (existing barn) has served as the gateway to Davenport since its construction in 1925, however, the deteriorated condition of the building made its preservation infeasible. The proposed demolition of the Box Factory has been reviewed and approved by the County Historic Resources Commission due to the deteriorated structural integrity of the barn. The commission suggested that if the building is demolished that any salvageable wood be made available to the Parks Department. Salvageable wood, which is redwood of apparently very high quality, will not be made available to the Parks Department, but will be used on site. For example, siding from the existing barn will be used to construct required sound barrier fencing and suitable structural members, including joists and beams, will be used

to actually construct the proposed building, which will reinforce the relationship and continuity between the old barn and the new development.

In order to address the design criteria and the intent of the Historic Resources Commission, the applicant has proposed a building that is small in scale, retains the character of the existing barn, occupies a smaller footprint area than the existing barn and complements adjacent development. Although the proposed building is three stories and approximately 34 feet in height, the difference in grade from Old Coast Road will result in an appearance that the building is two stories from street level. The building is partially below grade on the lower level and the lower level walls, which will be stucco, will be covered with fast growing vines. Public views of the lower story from the northwest and southeast will be obscured by topography and existing vegetation respectively but will be visible from a section of Highway 1 southwest of the site. The roof peak of the proposed building is approximately 6.5 feet higher than the existing barn and approximately two feet lower in relation to the eave of the Davenport Cash Store. It should be noted that Section 13.20.143 of the County Code and Policy 8.8.4 of the County General Plan suggest that new development be "generally small scale, one or two story structures of wood construction", but the overriding consideration is the requirement that new development "be consistent with the height, bulk, scale, materials and setbacks of existing development." When viewed in relation to other buildings on the Davenport frontage while also considering the topographic change along the frontage, the proposed building is consistent with the height, bulk, scale and materials of existing development. Furthermore, the building will be setback approximately 75 feet from the edge of the Highway 1 right-of-way, which further reduces its presence along the Davenport frontage.

Section 13.20.143 of the County Code and Policy 8.8.4 of the County General Plan suggest that new development be "generally small scale, one or two story structures of wood construction". By definition, a general rule disregards specific circumstances and is synonymous with "usual". However, the topographic characteristics of this site are unusual and represent a notable exception along the Davenport frontage. Therefore, it is inappropriate to apply a general rule to the specific topographic circumstances of this site. Based on the circumstance of this site, the approval of this project does not set a precedent for other development in Davenport.

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 C-1 (Neighborhood Commercial), a designation which allows commercial and residential mixed uses. The proposed mixed-use building is a principal permitted use within the zone district, consistent with the site's (C-N) Neighborhood Commercial 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 project is sited, designed and landscaped to be visually compatible with the surrounding neighborhood. In addition, proposed grading is minimized and the proposed structure is designed to fit the topography of the site. Landscaping is compatible with the surrounding vegetation and is suitable to the climate, soil and ecological characteristics of the area. The building cannot be located on the site so as not to be visible from Highway 1, but the parcel is within an existing urbanized commercial and residential area, which is intended to serve both local residents and visitors to the area.

The subject parcel is located adjacent to Highway 1 in Davenport, an adopted scenic corridor. The proposed building will be visible from the highway, but both the structure and the proposed landscaping have been designed to complement and enhance the existing surrounding commercial and residential area. The proposed project will not obstruct any public views of the ocean or of the surrounding hillsides. The new building has been designed to retain the character of the existing barn and complement the design of the existing Cash Store across the street to the north. The simple form, finish material, texture and color of the proposed building combine to retain the character of the existing barn while the use of covered, wrap-around wooden decks and balconies complement these same features that define the Cash

Store. The wrap-around decks and street-level entrance on Old Coast Road create a sense of human scale and pedestrian interest.

Other design criteria specific to the Davenport community, found in Section 13.20.143 of the County Code and Policy 8.8.4 of the County General Plan, require that new development be consistent with the height, bulk, scale, materials and setbacks of existing development and that new development be generally small scale, one or two-story structures of wood construction. In addition, the Box Factory (existing barn) has served as the gateway to Davenport since its construction in 1925, however, the deteriorated condition of the building made its preservation infeasible. The proposed demolition of the Box Factory has been reviewed and approved by the County Historic Resources Commission due to the deteriorated structural integrity of the barn. The commission suggested that if the building is demolished that any salvageable wood be made available to the Parks Department. Any salvageable wood, which is redwood of apparently very high quality, will not be made available to the Parks Department, but will be used on site. For example, siding from the existing barn will be used to construct required sound barrier fencing and suitable structural members, including joists and beams, will be used to actually construct the proposed building, which will reinforce the relationship between the old barn and the new development.

In order to address the design criteria and the intent of the Historic Resources Commission, the applicant has proposed a building that is small in scale, retains the character of the existing barn, occupies a smaller footprint area than the existing barn and complements adjacent development. Although the proposed building is three stories and approximately 34 feet in height, the difference in grade from Old Coast Road will result in an appearance that the building is two stories from street level. The building is partially below grade on the lower level and the lower level walls, which will be stucco, will be covered with fast growing vines. Public views of the lower story from the northwest and southeast will be obscured by topography and existing vegetation respectively but will be visible from a section of Highway 1 southwest of the site. The roof peak of the proposed building is approximately 6.5 feet higher than the existing barn and approximately two feet lower in relation to the eave of the Davenport Cash Store. It should be noted that Section 13.20.143 of the County Code and Policy 8.8.4 of the County General Plan suggest that new development be "generally small scale, one or two story structures of wood construction", but the overriding consideration is the requirement that new development "be consistent with the height, bulk, scale, materials and setbacks of existing development." When viewed in relation to other buildings on the Davenport frontage while also considering the topographic change along the frontage, the proposed building is consistent with the height, bulk, scale and materials of existing development. Furthermore, the building will be setback approximately 75 feet from the edge of the Highway 1 right-of-way, which further reduces its presence along the Davenport frontage.

Section 13.20.143 of the County Code and Policy 8.8.4 of the County General Plan suggest that new development be "generally small scale, one or two story structures of wood construction". By definition, a general rule disregards specific circumstances and is

synonymous with "usual". However, the topographic characteristics of this site are unusual and represent a notable exception along the Davenport frontage. Therefore, it is inappropriate to apply a general rule to the specific topographic circumstances of this site. Based on the circumstance of this site, the approval of this project does not set a precedent for other development in Davenport.

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, is not on a coastal bluff and does not provide public access to the coastline. Consequently, the proposed development will not interfere with public access to the beach, ocean, or any nearby body of water. Further, the project site is not identified as a priority acquisition site in the County Local Coastal Program and is not designated exclusively for public recreation or visitor serving facilities.

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, the proposed wine tasting and retail use is an allowed use in the C-1 (Neighborhood Commercial) zone district of the area, as well as the General Plan and Local Coastal Program land use designation, and residential units are allowed up to 50% of the total floor area of the development. The proposed structure is located in an existing commercial area and has been designed to be compatible with the character of surrounding development.

RIPARIAN EXCEPTION FINDINGS:

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

The proposed development is located on a bench immediately upslope from the Riparian/Biotic resource areas. The riparian corridor is defined by the dripline of the willow trees (riparian woodland) and this dripline has been plotted on the site plan. All proposed development is located outside the dripline of the riparian woodland. The riparian buffer zone extends 50 feet beyond the dripline of the riparian woodland and proposed development activities will be located within the buffer. A Riparian Exception is required to allow development activities within the buffer. In this case special circumstances exist, primarily the limited developable area on the property, which allow the approval of a Riparian Exception for the proposed development.

Existing conditions within the area proposed for development, including the building, parking lot and landscaped areas, are characterized by previous development and disturbance. The topographic bench, where development is proposed, contains the existing barn, a thick growth of nasturtium vines and eucalyptus trees. The topographic bench, which consists of approximately 9,000 square feet, is a relatively small area in which to construct a commercial building and the required parking in the commercial zone district. If no development was allowed within the 50-foot buffer area it would be practically impossible to develop any kind of commercial use on the property.

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

The exception is necessary for the proper design and function of a permitted activity on the property in that topographic features limit the developable area and provide essentially one option for site design to accommodate a commercial development. The proposed wine tasting and retail use is an allowed use in the C-1 (Neighborhood Commercial) zone district of the area, as well as the General Plan and Local Coastal Program land use designation, and residential units are allowed up to 50% of the total floor area of the development. The proposed structure is located in an existing commercial area and has been designed to be compatible with the character of surrounding development. The structure is tucked up against the embankment of Old Coast Road and is setback from the riparian woodland a minimum of approximately 35 feet and cannot be moved any further away from the riparian woodland. The design of the structure utilizing three levels minimizes lot coverage with impervious surface, which is desirable, especially within and adjacent a riparian buffer and groundwater recharge zone. A two level building with a similar amount of total floor area would cover more of the lot with impervious surface. A total of 11 parking spaces are proposed, which is the minimum required for the two uses. The proposed parking layout and location is necessary due to the

topography and shape of the bench on which the development must be located. The steep slope along the property frontage below Old Coast Road prohibits vehicle access to the proposed development area on the bench below the road, except at the western end of the Old Coast Road frontage. Therefore, the proposed location of the driveway entrance and the parking lot is the only feasible alternative. The site plan, including the parking, circulation and proposed improvements to Coast Road, complies with all traffic related design criteria.

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.

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 because the project will incorporate grading, erosion control, and drainage control and filtering methods that will reduce potential impacts on the riparian corridor to a less than significant level. If sediment were not controlled and were allowed to enter the creek steelhead trout, California red-legged frog, or other species would be affected. However, the creek is located across Fair Avenue from the project site and approximately 400 feet from the project site; and, with the methods proposed to control erosion and drainage these species will be unaffected. California red-legged frogs (CRLF) may migrate away from the creek corridor into the proposed development area both during and after construction. In order to prevent adverse impacts to CRLF prior to building permit issuance the applicant shall revise the plans to include a fence or other barrier to frogs to be installed on top of the curb or retaining wall that marks the rear boundary of the development adjacent to the riparian corridor. Further, the silt fence that is required for erosion control and to prevent unauthorized disturbance in the riparian area will also function as a barrier to frog movement during construction.

The project has the potential to produce nighttime lighting that will illuminate the riparian corridor, however this permit will include conditions designed to ensure that any potential impacts are reduced to a less than significant level. All lighted parking and circulation areas shall utilize low-rise light standards or light fixtures attached to the building. All site, building, security and landscape lighting shall be directed onto the site and away from adjacent riparian areas and the scenic Highway One corridor. Landscaping, structure, fixture design, or other physical means shall shield light sources. Building and security lighting shall be integrated into the building design. A lighting plan that demonstrates compliance with these principles will be required to be submitted for review and approval prior to the issuance of any grading or building permit.

The project civil engineer has completed drainage calculations for the project and determined that the post-development runoff will increase by 0.1 cfs. A detention system will be required to detain the post development increase in runoff on site in accordance with Public Works design criteria. Therefore, the contribution of the runoff from the project to flood levels or erosion in natural watercourses will less than significant. Runoff from the site will be collected and routed in a solid pipe to the base of the slope in the southern portion of the site.

An energy dissipater will be constructed at the outlet of the pipe where a general area drainage ditch begins. The energy dissipater will promote sheet flow of runoff in the existing drainage ditch. The project civil engineer has analyzed the existing storm water drainage system downstream of the site and quantified runoff from the proposed project. The existing drainage systems appear to be adequate for the storm drainage conditions observed and the estimated potential runoff.

A silt and grease trap shall be installed in the parking lot and maintained as required by Public Works to filter all runoff from the parking lot before it reaches the energy dissipater at the base of the slope. Beyond the energy dissipater ditch capacity varies from a triangular section at the base of the slope to sheet overland drainage with intermittent channels of varying depths until all drainage from the area sheet falls in the creek. The length of the runoff path between the base of the slope and the creek is approximately 300 feet vegetated with moderate to heavy growth, which will provide additional biofiltration of project runoff. In an effort to provide further protection of water quality from drainage discharges that may carry silt, grease, and other contaminants from the parking area into the riparian corridor, prior to the issuance of any building or grading permit the project geotechnical engineer shall determine if it is feasible, given the site characteristics, to include biofiltration of runoff on the slope below the parking lot.

There is potential for erosion to occur during clearing, grading and construction. To mitigate this, a comprehensive erosion control plan is required. The plan shall provide erosion control measures to prevent off-site transport of soil or turbid water. Environmental Planning staff will review and approve the erosion control plan prior to issuance of a building permit. Grading during October 15 and April 15 is not permitted.

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.

The granting of the exception will not reduce the riparian corridor. A portion of the proposed building will encroach approximately 15 feet maximum into the 50-foot riparian buffer zone measured from the edge of the drip line of the willow trees (riparian woodland). The proposed parking lot will encroach up to the edge of the riparian corridor, but will remain outside the dripline of the willow trees. The granting of the exception will not adversely impact the riparian corridor because the project will incorporate grading, erosion control, and drainage control and filtering methods that will reduce potential impacts on the riparian corridor to a less than significant level. The project has the potential to produce nighttime lighting that will illuminate the riparian corridor, however this permit will include conditions designed to ensure that any potential impacts are reduced to a less than significant level. The exception is necessary for the proper design and function of a permitted activity on the property in that topographic features limit the developable area and provide essentially one option for site design and on site traffic circulation to accommodate a commercial development. The

structure is tucked up against the embankment of Old Coast Road and is setback from the riparian woodland a minimum of approximately 35 feet and cannot be moved any further away from the riparian woodland. A total of 11 parking spaces are proposed, which is the minimum required for the two uses. The proposed parking layout and location is necessary due to the topography and shape of the bench on which the development must be located. The steep slope along the property frontage below Old Coast Road prohibits vehicle access to the proposed development area on the bench below the road, except at the western end of the Old Coast Road frontage. Therefore, the proposed location of the driveway entrance and the parking lot is the only feasible alternative.

5. THAT THE GRANTING OF THE EXCEPTION IS IN ACCORDANCE WITH THE PURPOSE OF THE RIPARIAN CORRIDOR AND WETLANDS PROTECTION ORDINANCE, AND WITH THE OBJECTIVES OF THE GENERAL PLAN AND ELEMENTS THEREOF, AND THE LOCAL COASTAL PROGRAM LAND USE PLAN.

The purpose of the Riparian Corridor and Wetlands Protection Ordinance is to eliminate or 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; transportation and storage of floodwaters; prevention of erosion; and to implement the policies of the General Plan and the Local Coastal Program Land Use Plan. The proposed wine tasting and retail use is an allowed use in the C-1 (Neighborhood Commercial) zone district of the area, as well as the General Plan and Local Coastal Program land use designation. The proposed development is not located within the riparian corridor, but encroaches into the required buffer setback from the edge of the riparian corridor. The structure is tucked up against the embankment of Old Coast Road and is setback from the riparian woodland a minimum of approximately 35 feet and cannot be moved any further away from the riparian woodland. The proposed location of the driveway entrance and the parking lot is the only feasible alternative given the topographic constraints. The granting of the exception will not adversely impact the riparian corridor because the project will incorporate grading, erosion control, and drainage control and filtering methods that will reduce potential impacts on the riparian corridor to a less than significant level.

SIGNIFICANT TREE REMOVAL FINDINGS:

Per the Significant Trees Protection ordinance (County Code 16.34.060) one or more of the following findings must be made in order to grant approval for the removal of a significant tree:

1. THAT THE SIGNIFICANT TREE IS DEAD OR IS LIKELY TO PROMOTE THE SPREAD OF INSECTS OR DISEASE.
2. THAT THE REMOVAL IS NECESSARY TO PROTECT HEALTH, SAFETY, AND WELFARE.
3. THAT REMOVAL OF A NON-NATIVE TREE IS PART OF A PLAN APPROVED BY THE COUNTY TO RESTORE NATIVE VEGETATION AND LANDSCAPING TO AN AREA.
4. THAT REMOVAL WILL INVOLVE A RISK OF ADVERSE ENVIRONMENTAL IMPACTS SUCH AS DEGRADING SCENIC RESOURCES.
5. THAT REMOVAL IS NECESSARY FOR ACTIVE OR PASSIVE SOLAR FACILITIES, AND THAT MITIGATION OF VISUAL IMPACTS WILL BE PROVIDED.
6. THAT REMOVAL IS NECESSARY IN CONJUNCTION WITH ANOTHER PERMIT TO ALLOW THE PROPERTY OWNER AN ECONOMIC USE OF THE PROPERTY CONSISTENT WITH THE LAND USE DESIGNATION OF THE LOCAL COASTAL PROGRAM LAND USE PLAN.

One large 60-inch eucalyptus tree is proposed to be removed to accommodate the project. This tree meets the definition of a significant tree and therefore, a Significant Tree Removal permit is required. Findings in this case, primarily the limited developable area and the non-native aspect of the tree, can be made to allow the tree to be removed. The Landscape Plans indicate that the tree will be replaced with three 24-inch box Myoporum Laetum, which are evergreen, fast growing to 30 feet tall and 20 feet wide and especially suited to the coastal environment. Two of the proposed replacement trees will be located in the parking lot area and the third will be located in approximately the same location as the 60 inch eucalyptus tree.

The project site is located approximately ¼ mile southeast of an active monarch butterfly overwintering site. A locally recognized monarch butterfly expert has evaluated the 60 inch eucalyptus tree and concluded that the tree is unlikely to provide shelter for wintering monarchs and does not contribute significantly to wind protection for the overwintering habitat to the northwest. The removal of the tree is unlikely to cause any measurable impact on monarch butterflies wintering in Davenport and therefore requires no mitigation.

Findings

Application No.: 98-0234

APN: 0058-091-01

Owner: David Luers

15

A Significant Tree Removal Permit 98-0174 was approved on 5/26/98 to recognize the removal of 3 eucalyptus trees. Six Coast Live Oak trees were planted on the slope delineating the edge of the Riparian Corridor to mitigate for the loss of these trees.

7. THAT REMOVAL IS PART OF A PROJECT INVOLVING SELECTIVE HARVESTING FOR THE PURPOSE OF ENHANCING THE VISUAL QUALITIES OF THE LANDSCAPE OR FOR OPENING UP THE DISPLAY OF IMPORTANT VIEWS FROM PUBLIC PLACES.
8. THAT REMOVAL IS NECESSARY FOR NEW OR EXISTING AGRICULTURAL PURPOSES CONSISTENT WITH OTHER COUNTY POLICIES AND THAT MITIGATION OF VISUAL IMPACTS WILL BE PROVIDED.

RECEIVED¹

DEC 12 2002

CONDITIONS OF APPROVAL

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

- I. This permit authorizes the demolition of the Davenport Barn, known as the Old Box Factory, and construction of a replacement three-story structure, approximately 4,316 square feet in area, consisting of a three story mixed commercial/residential use. 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 Demolition Permit from the Santa Cruz County Building Official.
 - C. Obtain a Building Permit from the Santa Cruz County Building Official.
 - D. Obtain a Grading Permit from the Santa Cruz County Building Official.
 - E. Obtain an Encroachment Permit from the Department of Public Works for all off-site work performed in the County road right-of-way.
 - F. Submit proof that these conditions have been recorded in the official records of the County of Santa Cruz (Office of the County Recorder) within 30 days of the approval date on 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. Finish of exterior materials and color of roof covering shall match the approved Exhibit A.
 - 2. A revised sign plan is required that reduces the aggregate area of signs to not more than 42.25 square feet and specifies the material, size, location and orientation of each sign.
 - 3. Grading, drainage, and erosion control plans.
 - 4. A landscape plan that matches Exhibit A.
 - 5. Details showing compliance with fire department requirements.

6. A lighting plan that incorporated the following principles: all lighted parking and circulation areas will utilize low-rise light standards or light fixtures attached to the building. All site, building, security and landscape lighting will be directed onto the site and away from adjacent riparian areas and the scenic Highway One corridor. Landscaping, structure, fixture design, or other physical means will shield light sources. Building and security lighting will be integrated into the building design.
 7. In order to prevent adverse impacts to CRLF prior to building permit issuance the applicant shall revise the plans to include a fence or other barrier to frogs to be installed on top of the curb or retaining wall that marks the rear boundary of the development adjacent to the riparian corridor. Further, the silt fence that is required for erosion control and to prevent unauthorized disturbance in the riparian area will also function as a barrier to frog movement during construction.
- B. Salvageable wood from the Barn/Old Box Factory shall be used on site. For example, siding from the existing barn shall be used to construct required sound barrier fencing and suitable structural members, including joists and beams, shall be used to actually construct the proposed building, which will reinforce the relationship and continuity between the old barn and the new development.
 - C. Proposed location of on-site sewer lateral(s), clean-out(s), and connection(s) to existing public sewer must be shown on the plot plan of the building permit application.
 - D. Water use data for the commercial portion of project (actual and/or projected), and other information as may be required for this project, must be submitted to the District for review and use in fee determination and waste pretreatment requirements before sewer connection permits can be approved.
 - E. Show all existing and proposed plumbing fixtures on floor plans of building application. Completely describe all plumbing fixtures according to table 7-3 of the uniform plumbing code.
 - F. Two public sewer lines are located within this property. These facilities must be protected during construction and access maintained in the future. Show and label existing sewers and easements on preliminary sewer plans. Label existing sewer stub out and size of sewer lateral.
 - G. Proposed location of on-site water service connection to the existing public water main, water meter and backflow prevention assembly, and existing water

service must be shown on the plot plan of the discretionary permit application and the building permit application.

- H. Department of Public Works and District approval shall be obtained for an engineered water improvement plan, showing on-site and off-site water facilities needed to provide service before water connection permits can be issued. The improvement plan shall conform to the County's "Design Criteria" and shall also show any roads and easements.
- I. The commercial portion of the project shall be metered separately from the residential portion. A backflow prevention device is required for the commercial portion of project.
- J. Meet all requirements and pay any applicable fee of the County Department of Public Works Drainage division.
- K. A silt and grease trap will be required along with a recorded agreement per figure SD-17 of the County of Santa Cruz Design Criteria.
- L. In an effort to provide further protection of water quality from drainage discharges that may carry silt, grease, and other contaminants from the parking area into the riparian corridor, prior to the issuance of any building or grading permit the project geotechnical engineer shall determine if it is feasible, given the site characteristics, to include biofiltration of runoff on the slope below the parking lot.
- M. Obtain an Environmental Health Clearance for this project from the County Department of Environmental Health Services.
- N. Meet all requirements and pay any applicable fees of County Department of Environmental Health Services regarding the removal of the underground storage tank beneath the barn.
- O. Meet all requirements and pay any applicable plan check fee of the County Fire Protection District.
- P. Submit a soils report transfer of responsibility from a new geotechnical (soils) engineer verifying acceptance of all existing soils report recommendations or providing new recommendations. The new soils engineer shall review the building, grading and drainage plans and state that the plans are in conformance with all recommendations of the soils report and transfer of responsibility.
- Q. Pay the current fees for Parks and Child Care mitigation for 3 bedroom(s) and \$.23/sq. ft. for non-residential uses. Currently, these fees are, respectively,

\$578 and \$109 per bedroom.

- R. 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.
 - S. All construction shall be limited to the time between 8 a.m. and 5:30 p.m. weekdays, to reduce the noise impact on nearby commercial and residential development.
- III. Prior to any site disturbance, the applicant/owner shall organize a pre-construction meeting on the site to review the mitigation measures and permit conditions. The applicant, grading contractor, and Resource Planner shall participate.
- IV. 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.
- V. Master Occupancy Program
- A. In addition to the current proposal for wine tasting/retail and office use occupancy permits for the following uses are allowed with a Level I Approval:
 - 1. Bank, beauty shop, neighborhood commercial services, library, museum,

post office, offices, and neighborhood retail sales.

- B. The following uses are either not allowed or would require an amendment to this permit:
2. Animal services, automobile service stations, private clubs, bus or transit station, churches or other religious center or institutions, community centers, radio and television broadcasting stations, restaurants, bars, food service, medical offices and practitioners.

VI. 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.
- B. The applicant/owner/operator of the wine tasting facility shall obtain & maintain all licenses required by the Department of Alcoholic Beverage Control.
- C. In order to provide the minimum usable open space for both residential units in compliance with the exterior noise standard of the Santa Cruz County General Plan, the private yard area enclosed by the six-foot high solid fence and the embankment of Old Coast Road shall be maintained as a shared, private yard area for use by occupants of both residential units.

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

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

- B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:
1. COUNTY bears its own attorney's fees and costs; and
 2. COUNTY defends the action in good faith.
- C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.
- D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor(s) in interest, transferee(s), and assign(s) of the applicant.
- E. Within 30 days of the issuance of this development approval, the Development Approval Holder shall record in the office of the Santa Cruz County Recorder an agreement which incorporates the provisions of this condition, or this development approval shall become null and void.

VI. Mitigation Monitoring Program

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

A. Mitigation Measure: Pre-construction Meeting (Condition III).

Monitoring Program: Prior to any site disturbance the applicant shall organize a pre-construction meeting on the site to review the mitigation measures and permit conditions. The applicant, grading contractor, and Resource Planner shall participate. A hold shall be placed on the building and grading permits to alert the building and grading inspector that no inspections shall be completed until the pre-construction meeting has been completed. If site disturbance takes

place prior to the pre-construction meeting, then a stop-work notice shall be placed on the project until the pre-construction meeting is completed.

B. Mitigation Measure: Erosion Control/Riparian Protection (Condition II.A.2).

Monitoring Program: Prior to issuance of any building or grading permit the applicant shall submit a detailed erosion and sediment control plan for review and approval by Environmental Planning staff. The plan shall be implemented during construction and periodic inspections by Planning Department staff will ensure continued function and maintenance of all erosion and sediment control measures.

C. Mitigation Measure: Water Quality Control/Riparian Protection (Condition II.A.2, II.J, II.K, II.L, IV, V)

Prior to issuance of any building or grading permit the applicant shall revise the engineered plans to include: biofiltration of runoff on the slope below the parking lot IF the project geotechnical engineer determines that this is feasible given the site characteristics; and a silt and grease trap in the parking lot storm drain system. Planning Department staff will review the geotechnical response and Public Works staff will review and approve the drainage plans prior to issuance of building and grading permits. The drainage system shall be installed during grading operations prior to October 15 of any year and verified by the grading inspector. The applicant shall maintain the silt and grease trap annually and annual maintenance reports shall be submitted to the Department of Public Works in compliance with Public Works design criteria.

D. Mitigation Measure: Visual Resources (Condition II.A.1, 3, 5, IV, V)

Prior to public hearing the applicant shall submit a sign plan that reduces the aggregate area of the signs to not more than 42.25 square feet and specifies the material, size, location and orientation of each sign. Prior to issuance of a building permit final plans shall be reviewed by Planning Department staff for consistency with the approved sign plan and approved building exterior colors and materials. Final inspection and occupancy of the building will only be allowed after signs and building exterior colors and material have been inspected and approved by Planning Department staff for consistency with approved plans.

E. Mitigation Measure: Protection of California red-legged frogs (Condition II.A.6, IV)

Prior to building or grading permit issuance the applicant shall revise the plans to include a fence or other barrier to frogs to be installed on top of the curb or

retaining wall that marks the rear boundary of the development adjacent to the riparian corridor. Prior to issuance of a building or grading permit final plans shall be reviewed by Planning Department staff for consistency with the approved fence plan. Final inspection and occupancy of the building will only be allowed after the fence has been inspected and approved by Planning Department staff for consistency with approved plans. Further, the silt fence that is required for erosion control and to prevent unauthorized disturbance in the riparian area shall also be designed to function as a barrier to frog movement during construction (see Mitigation Measure B & C).

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.

CALIFORNIA COASTAL COMMISSION

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

RECEIVED

DEC 27 2002

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

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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:

Demolish Davenport barn and construct 3-story, roughly 5,600 square foot structure that would include two residential units and a retail sales operation (roughly half residential and half retail), with a 10 car parking lot and associated hardscape (patios and paths) and landscaping.

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

Intersection of Old Coast Road, Davenport Avenue, and Highway One in the town of Davenport on Santa Cruz County's north coast.

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.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SC0-02-117
DATE FILED: 12-27-02
DISTRICT: Central Coast

CCC Exhibit I
(page 1 of 7 pages)

**COMMISSIONER
APPEAL**

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

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

a. ☐ Planning Director/Zoning
Administrator

c. ☒ Planning Commission

b. ☐ City Council/Board of
Supervisors

d. ☐ Other: _____

6. Date of local government's decision: November 13, 2002

7. Local government's file number: 98-0234

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:

David Luers
P.O. Box 159
Davenport, CA 95017

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.

(1) David Carlson, Planning Dept.
701 Ocean Street, Room 420
Santa Cruz, CA 95060

(2) Supervisor Mardi Wormhoudt
701 Ocean Street, Room 500
Santa Cruz, CA 95060

(3) Sierra Club Ventana Chapter
P.O. Box 604
Santa Cruz, CA 95061

(4) Coastal Advocates for Small Towns (COAST)
P.O. Box 42
Davenport, CA 95017

SECTION IV. Reasons Supporting This Appeal

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

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

Please see attached.

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

SECTION V. Certification

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

Signed: 
Appellant or Agent

Date: December 27, 2002

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

Signed: _____

Date: _____

(Document2)

CCC Exhibit I
(page 3 of 7 pages)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

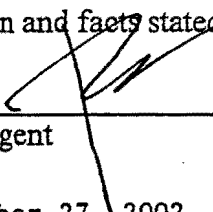
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Please see attached.

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

SECTION V. Certification

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

Signed: 
Appellant or Agent

Date: December 27, 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 demolish the Davenport barn and construct a 3-story, roughly 5,600 square foot commercial/residential structure with associated hardscape (patios and pathways), and a 10 car parking lot. The project is located at the intersection of Old Coast Road, Davenport Avenue, and Highway One in the town of Davenport on Santa Cruz County's north coast. The approved project raises Local Coastal Program (LCP) conformance issues and questions as follows:

The LCP protects riparian areas from development impacts by, among other things, requiring a 50 foot buffer and a ten foot setback from the buffer (a total of 60 feet) (LCP policies including LUP Policies 5.1 and 5.2 et seq, and LCP Zoning Chapters 16.30 and 16.32). The approved project includes a parking lot, a 3-story structure, and associated hardscape within the required setback/buffer area; with setbacks of zero for the parking lot, about 28 feet for the main building, and about 15 feet for the associated patio area. It isn't clear that the LCP required exception findings can be made in this case, and it isn't clear that the riparian corridor is adequately protected as directed by the LCP. As such, the approval raises questions of consistency with the riparian policies of the LCP.

The LCP protects the water quality of the riparian corridor, San Vicente Creek, and the Monterey Bay (including the aforementioned LCP habitat policies and Policies 5.4 et seq, 5.7 et seq, and 7.23 et seq). The project site appears to drain to the riparian corridor and onto San Vicente Creek and then to the Monterey Bay. San Vicente Creek provides habitat for State and Federally listed species such as coho, steelhead, and red-legged frog. The approved project relies upon a standard silt and grease trap. It isn't clear that a standard silt and grease trap is sufficient to protect the significant downstream resources from polluted runoff impacts as directed by the LCP. In addition, the approved project would require new wastewater hookups from the Davenport Water and Sanitation District (DWSD). Wastewater capacity problems in Davenport in previous years (due to old collection lines into which excess water infiltrates) have led to raw wastewater discharges into the Pacific Ocean. It is not clear that such DWSD system issues have been addressed, nor whether the incremental addition attributable to the approved project would adversely affect coastal water quality. Accordingly, the approval raises questions of consistency with the LCP's habitat and water quality policies.

The LCP requires adequate stream flows to protect anadromous fish runs, including restoration of same if in-stream flows are inadequate for fisheries, designates San Vicente Creek as a Critical Water Supply Stream that is currently being used at full capacity, prohibits additional withdrawals of water from designated Critical Water Supply Streams, protects water supply stream watersheds, requires analysis of project impacts to water purveyors, reserves limited water and wastewater capacity for coastal priority uses (including LCP Policies 5.5 et seq and 5.6 et seq, 7.18.3, 7.19.1, 2.2.3). The approved project would require new water hookups from the DWSD, who itself receives water from RMC Pacific Materials who in turn gets its water directly from San Vicente Creek. It is not clear whether the existing water withdrawal from San Vicente Creek is impacting Creek habitat resources, nor is it clear whether the incremental

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (PAGE 4)

Reasons for appeal (continued):

addition attributable to the approved project would exacerbate any such impacts or cause impacts of its own. As such, the approval raises questions of consistency with the LCP's habitat and water supply policies.

The LCP designates Davenport a "Coastal Special Community" whose small scale character is to be protected and enhanced (including LUP Policies 8.8 et seq and Zoning Section 13.20.143 et seq), and 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 LCP also dictates maximum and minimum size and scale requirements for commercial districts, including minimum setbacks and maximum heights (LCP Zoning Sections 13.10.330 et seq). The site is the gateway into Davenport along Highway One and is an important site in this respect for Davenport's character as well as the character of the overall Highway One viewshed. The existing rustic barn (proposed for demolition) has long defined the gateway into Davenport along Highway One. The proposed structure would be significantly larger and taller than the existing barn and would redefine this critical gateway site. It is not clear that the relatively level portion of the site is large enough to accommodate a structure of the size proposed, it appears to be taller than the allowed maximum 35 foot height, set back only about 12 feet from Coast Road when 20 feet is required, and 3 stories when the LCP describes one and two story development as the appropriate scale for Davenport. Accordingly, the approval raises questions of consistency with the LCP's special community, scale, and viewshed policies.

The LCP requires protection and enhancement of public access and recreation areas, including the Highway One corridor that is protected for recreational access, and targets Davenport for specific enhancements, such as clear parking and circulation (policies including the LCP's Chapter 3 and Chapter 7 policies, LUP Policies 2.22 et seq, Zoning Section 13.20.143 et seq, and the above mentioned Davenport specific policies). The approved project would place ingress and egress into a new parking lot located immediately adjacent to the intersection of Old Coast Road with Highway One and Davenport Avenue. It appears that such a site design would create a public safety hazard at this intersection, particularly on a cumulative basis when considered in relation to permitted and planned development in Davenport that is reasonably foreseeable. The hazard created would adversely impact access along Highway One, would confuse circulation within Davenport, and adversely affect Davenport's character as a result. Accordingly, the approval raises questions of consistency with the LCP's public access, recreation, and Davenport special community policies.

In sum, the approved project is located at a critical gateway site along Santa Cruz County's north coast in Davenport, a LCP-designated special community whose character is to be protected. The approved project appears not to have responded to the coastal resource issues and constraints engendered by development proposed at this location. It appears that the approved structure is too large for the site, for Davenport, and for the commercial zoning

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (PAGE 5)

Reasons for appeal (continued):

requirements applicable here. Development is proposed within the required riparian buffer area, including a parking lot with a zero setback, and it is not clear that riparian and downstream resources (i.e., San Vicente Creek and Monterey Bay) are adequately protected. Traffic circulation problems appear likely to lead to adverse impacts to Highway One and Davenport circulation overall. The approved project appears overly ambitious in scale for the site and surrounding resources, and it appears that it will adversely impact the character of Davenport and the Highway One viewshed. As such, the proposed project's conformance with LCP policies is questionable. These issues warrant a further analysis and review by the Coastal Commission of the proposed project.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE

725 FRONT STREET, SUITE 300

SANTA CRUZ, CA 95060

(408) 27-4863

RECEIVED



DEC 10 2002

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

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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

SECTION I. Appellant(s):

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

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

SECTION II. Decision Being Appealed

1. Name of local/port government:

Santa Cruz County

2. Brief description of development being appealed:

Development of three story building in Davenport.

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

Highway 1 & Old Coast Rd. Davenport
APN 058-091-01

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
 b. Approval with special conditions: ✓
 c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:APPEAL NO: A-3-SC0-02-117DATE FILED: 12-27-02DISTRICT: CENTRAL COAST

CCC Exhibit 5
 (page 1 of 5 pages)

**SIERRA CLUB
APPEAL**

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

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

a. ☐ Planning Director/Zoning Administrator

c. ☒ Planning Commission

b. ☐ City Council/Board of Supervisors

d. ☐ Other: _____

6. Date of local government's decision: 11/13/2002

7. Local government's file number: 98-0234

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:

Terri Fisher, Architect on behalf of David Luers
536 Sequel Ave Santa Cruz

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.

(1) Don Crall, P.O. Box 141, Davenport 95017

(2) Emilia Olimpia, 101 Church St., Davenport 95017

(3) COAST c/o Susan Young, P.O. Box 42, Davenport 95017

(4) Marilyn & Bill Fravel, 51 Ocean St. Davenport 95017

SECTION IV. Reasons Supporting This Appeal

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

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

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

See attached

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

SECTION V. Certification

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

[Signature]

Signature of Appellant(s) or Authorized Agent

Date 12/8/2002

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

SECTION VI. Agent Authorization

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

CCC Exhibit J

Signature of Appellant(s)
(page 3 of 5 pages)
Date _____

RE: Luers Project: Santa Cruz County Application Number 98-0234

1. Protection of Riparian Corridor:

The County has inappropriately granted an exception to the minimum 60-foot setback required in the General Plan for a riparian corridor. The County did not provide evidence for an exception, but has permitted the Applicant a zero-foot setback. Moreover, no biotic assessment/report has been completed, and no exception to setback requirements should be granted without such an assessment.

The lack of a riparian setback will be harmful to the California red-legged frog ("CRLF"), a Federally-listed threatened species and State-listed species of special concern, which is documented to exist in The San Vicente Creek corridor. As the Department of Fish and Game states in its May 14, 2002 letter to the Planning Department, the CRLF is known to move significant distances from water and might be found in the stream corridor at any time of the year.

The County does not adequately address impacts from the zero-foot setback, from construction debris or from non-point source pollution from the proposed parking areas to steelhead, another federally-listed species, known to use San Vicente Creek in significant numbers and presently successfully reproducing in the watershed.

Furthermore, myoporum is listed among the proposed plantings for the Luers project. Myoporum is an exotic invasive species, provides no sustenance for native wildlife, and is inappropriate to be planted next to a riparian corridor.

2. Surface Drainage and Pavement:

The County has permitted runoff from the Project to be routed to the base of the slope in the southern portion of the site to the storm drain system. However, it is environmentally inappropriate to deliver the untreated runoff anywhere it might enter and impair water bodies, such as San Vicente Creek or the spring (located down the slope at the base of the Project parcel), which lead directly to the Monterey Bay Marine Sanctuary.

3. Traffic Circulation:

The LCP requires adequate traffic circulation plans for Davenport. The County has provided no traffic analysis besides incorrectly assuming that traffic congestion occurs during evening peak hours and so will only minimally impact Davenport. In fact, traffic congestion occurs most frequently during the weekend hours, when tourist traffic is most prevalent. The Luers Project, which includes wine tasting and retail, will invite further tourist traffic and contribute significantly to the traffic impact on Old Town Davenport. The Project is sited at a dangerous three-way intersection: Highway One, Old Coast Road, and Davenport Avenue. Cars traveling north at high speeds on Highway One, will have to slow to a dead stop to turn right for the Luers Project, or left for the Bailey-Steltenpohl project, all the while pedestrians attempt to cross Highway One to reach Davenport Beach from the same three-way intersection.

Cal Trans and the Coastal Commission have raised strong concerns about

the public safety of this intersection to the County, but the County disregarded these warnings. If visitors leaving the Project building choose to avoid the awkward three-way intersection and instead turn right upon leaving the site, traffic will be routed through the local street network (down narrow Old Coast Road to a five-way intersection, a 50-degree turn up steep Marine View Avenue, and left onto Davenport Avenue, all narrow residential streets), creating an undesirable burden on the town.

The County also conducted no traffic analysis regarding the cumulative impact of this Project. Two other commercial projects are slated for this Highway One commercial strip: the Bailey-Steltenpohl project in the old Odwalla building, and the Licursi project (replacement of the Forester's Hall).

4. Viewshed and Special Community Concerns:

The Luers Project is located on Highway One (designated by the Local Coastal Program as a scenic highway) on the southern most end of Davenport, and thus will serve a gateway function for the town. The LCP requires that buildings be small scale, one to two stories, and consistent with the height of other existing development. Other commercial buildings on Hwy. 1 are one to two stories high. The tallest building is 24' high. The Luers project is three stories high (32' to 34' high) and is out of scale for this small town.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 277-4863



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):

COAST c/o Susan Young
P.O. Box 442 Davenport, CA 95017
(831) 457-0872
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:

Santa Cruz County

2. Brief description of development being appealed:

Demolishment of barn and development of 3-story commercial building

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

Hwy 1 + Old Coast Rd. in Davenport
APN 058-091-01

4. Description of decision being appealed:

- a. Approval; no special conditions: ☐
b. Approval with special conditions: ☒
c. Denial: ☐

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SC0-02-117
DATE FILED: 12-27-02
DISTRICT: Central Coast

RECEIVED

DEC 16 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

CCC Exhibit K
(page 1 of 3 pages)

COAST
APPEAL

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

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

a. ☐ Planning Director/Zoning Administrator

c. ☒ Planning Commission

b. ☐ City Council/Board of Supervisors

d. ☐ Other: _____

6. Date of local government's decision: 11-13-02

7. Local government's file number: 98-0234

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:

Terri Fisher/Architect on behalf of David Luers
536 Sequel Ave., Santa Cruz, CA

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.

(1) Sierra Club
P.O. Box 604
Santa Cruz, CA 95061

(2) Bruce + Claudia Kosanovich
Marine View Ave.
Davenport, CA 95017

(3) Don Croll
P.O. Box 141 Davenport CA 95017

(4) Claudia Weaver
338 Swanton Rd.
Davenport CA 95017

SECTION IV. Reasons Supporting This Appeal

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

John Barnes
Davenport Landing Road
Davenport, CA 95017

CCC Exhibit K
(page 2 of 3 pages)

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

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

- ① Planning staff inappropriately permitted Applicant a zero-foot setback from San Vicente Creek/Spring riparian corridor.
- ② Runoff from project will enter nearby spring, which is adjacent to project property. County Planning staff inaccurately stated that run-off will travel to San Vicente Creek - run-off will reach spring that feeds into San Vicente Creek, and to the Monterey Bay.
- ③ County Traffic Engineers conducted no traffic studies on impact of the project on Davenport. 3 new projects are planned for Davenport, with no cumulative impact analysis ~~study~~ conducted.
- ④ Luer's project violates height requirements for Davenport. The height of the project is not compatible with the height of existing commercial structures of Davenport - existing commercial structures are all 1 to 2 stories high, and the Luer's project is 3 stories high.

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

SECTION V. Certification

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

Susan Yang (on behalf of COAST)
Signature of Appellant(s) or Authorized Agent

Date 12/15/02

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

SECTION VI. Agent Authorization

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

DEPARTMENT OF TRANSPORTATION

100 HIGUERA STREET
SAN LUIS OBISPO, CA 93403-8114
TELEPHONE: (805) 549-3111
TDD (805) 549-3259



October 5, 2001

5-SCr-001-28.73
Luers Davenport Barn
R/W & traffic

David Luers
Luers Associates
C/o Terri Fisher
285 Miracle Lane
Santa Cruz, CA 95060

Dear Mr. Luers:

I'm following up on plan sheet A1-1 dated 9/99 by Terri Fisher. This plan sheet specifies distances from SR 1 to the proposed entrance of your project. The following discussion is offered for your consideration:

It is my understanding at this time that the lead agency is satisfied that traffic issues are adequately addressed. From the Department's perspective however, there remains concern about potential conflicts arising from the short distances presented by the existing conditions. These conflicts pertain to the traffic exiting your facility. Drivers stopped at the Old Coast Road stop sign waiting to turn left onto Davenport Road will face:

- 1) Right turning vehicles from NB SR 1 and an awkward site distance.
- 2) Left turning vehicles from SB SR 1
- 3) Queues from the Davenport Road stop sign. Some drivers will choose to initiate a left turn from Old Coast Road onto Davenport and will be stopped without being able to clear the EB Davenport Road. This will create a conflict for left and right turning vehicles from SR 1.

Drivers from SR 1 may face a queue on Old Coast Road waiting to enter the Wine Tasting facilities parking area. A successful marketing plan both for your business and for Davenport's attraction an historic village destination will place greater demand upon the intersection.

Given this discussion, Caltrans advocates that the either the parking area be moved to the east of the proposed structure or Old Coast Road be aligned further east on Davenport Road or both. This has remained consistent with Caltrans. There really isn't any other mitigation. Taken within the context of our previous conversations and the likelihood that your property survey will clearly establish no part of the project will encroach onto Caltrans right of way, the mitigation is staff's recommendation to preserve and enhance the safety and functionality of this intersection.

At your earliest opportunity please forward a copy of the survey results for your property line that shares a boundary with Caltrans right of way. Hopefully this will be soon and you can proceed. I can be reached at (805) 542-4751 if you have further questions.

Sincerely,

Chris Shaeffer
District 5
Development Review Coordinator

cc: J. Sariakoff, SCr Public Works
S. Chesebro, R. Barnes

ATTACHMENT 14

CALTRANS
CORRESPONDENCE

CCC Exhibit L
(page 1 of 6 pages)

180

91 142

STATE OF CALIFORNIA — BUSINESS, TRANSPORTATION AND HOUSING AGENCY

GRAY DAVIS, Governor

DEPARTMENT OF TRANSPORTATION

80 NICHOLS STREET
SAN LUIS OBISPO, CA 94026-0114
TELEPHONE (805) 549-8177
TDD (805) 549-3238



November 16, 2001

5-SCR-001-28.73

Luers Davenport Barn

David Luers
Luers Associates
PO Box 159
Davenport, CA 95017

Dear Mr. Luers:

This is a follow up to development permit application 98-0234 which is pertinent to the proposed mixed use commercial and residential project on Old Coast Road in Davenport, CA. As a point of reference, attached is Caltrans staff's letter dated March 7, 2001. Since that time, there has been much correspondence and discussion in an effort to address the comments raised by staff. The following discussion is offered for your consideration:

1. **Transportation/traffic:** staff has expressed concerns about potential turning movement conflicts. These are discussed in staff's October 5, 2001 comment letter.
2. **Drainage:** as previously discussed, the project proponent has adequately satisfied staff's concerns.
3. **Project Boundaries:** the project proponent has submitted a record boundary map dated October 29, 2001. The map appears to establish a good bearing that depicts Caltrans right of way boundary. Staff has also received a revised preliminary grading plan dated October 25, 2001 that includes the project features of a parking lot and retaining wall. This plan sheet uses a bearing that appears to be incorrect, as it would place these features within Caltrans property. The civil engineer, Mr. Easter, has said that the bearing is a typographical error and that these project features do not encroach into Caltrans right of way. The plan sheet bearing information should be corrected. Staff also suggests that the project proponent graphically display the relationship between the project features and Caltrans right of way by reconciling the record boundary map and the plan sheet data. Either placing the plan sheet data within the boundary map or identifying the westerly corner markers on both drawings can do this. If in fact these issues are clearly reconciled, as the project proponent has described verbally can be done, the boundary concerns will have been satisfied and a Caltrans encroachment permit would not be required for this project.

If you have any questions regarding this letter, I can be reached at (805) 542-4751.

Sincerely,

Chris Shaeffer

Chris Shaeffer
District 5
Development Review Coordinator

cc: J. Van Der Hoeven SCR Planning

ATTACHMENT 14

DEPARTMENT OF TRANSPORTATION

50 HIGUERA STREET
SAN LUIS OBISPO, CA 93403-8114
TELEPHONE: (805) 549-3111
TDD (805) 549-3259



March 7, 2001

5-SCr-001-28.62
Luers Building
Development Permit Application

Joan Van der Hoeven
County of Santa Cruz Planning
701 Ocean Street #400
Santa Cruz, CA 95060

Dear Ms. Van der Hoeven:

Caltrans District 5 Staff has reviewed development permit application, number 98-0234, which is for construction of a mixed-use commercial and residential building located on Old Coast Road in Davenport. The following comments are offered for your consideration:

1. This appears to be the same project that is the subject of Caltrans comments dated June 20, 2000 (attached for reference). It does not appear that that plans have changed with regard to the transportation/parking layout and staffs' previous comments remain unanswered by the project proponent.
2. The June 20, 2000 comment, item 3, discusses hydrological impacts. Caltrans staff clarifies that this project should not be increasing drainage volume to the state facility. Staff requests the proponent:
 - a. Forward a copy of the project's hydrology calculations, including clearly delineated drainage areas. These should give special attention to volumes flowing into the state facility, both pre- and post-development.
 - b. All drainage facilities should be clearly labeled, both existing and proposed.
3. Caltrans staff also strongly recommends the proponent reconcile possible conflicts that may exist between the proposed parking area and Caltrans' established right of way. The plans we received do not show the precise boundary between Caltrans' right of way and the subject property and/or proposed improvements. We suggest the proponent obtain a record of survey to clearly identify this boundary and forward it to this office for review. The proponent may be faced with having to obtain an encroachment permit and/or modifying the parking area. The phone number for the permit engineer's office has been changed to (805) 549-3206.

CCC Exhibit L
(page 3 of 6 pages)

Page 2
March 7, 2001

Thank you for your consideration of our comments on this proposed project. If you have any questions pertaining to this issue, please contact me at (805) 542-4751.

Sincerely,



Chris Shaeffer
District 5
Local Development Review Coordinator

cc: File, S. Chesebro, R. Barnes, S. Senet, L. Wickham, J. Cardoza

DEPARTMENT OF TRANSPORTATION

50 HIGUERA STREET
SAN LUIS OBISPO, CA 93403-8114
TELEPHONE: (805) 549-3111
TDD (805) 549-3259



June 20, 2000

5-SCr-1-28.62
The Luers Building
Wine Tasting/Retail Sales
Development Permit Application

Joan Vander Hoeven
Santa Cruz County Planning Department
701 Ocean Street, Suit 400
Santa Cruz, CA 95060-4073

Dear Ms. Vander Hoeven:

Caltrans District 5 Staff has completed its review of the Development Permit Application for the Luers Building. This project proposes to demolish the existing Davenport Barn and construct a mixed-use commercial and residential building. The following comments were generated as a result of this review:

1. Is the proposed driveway right in and right out only? As shown, this will not accommodate left turns exiting the project. Please discuss how this will be controlled/enforced.
2. The proposed driveway is too close to the Highway 1/Coast Road Intersection. This is unacceptable since there is no offset between the driveway and Route 1. As shown, it appears that this would create a three-legged intersection because of its close proximity to Highway 1, Coast Road and Davenport Avenue. Caltrans recommends that the developer relocate the driveway on the opposite side of the parcel furthest away from Highway 1. Please indicate the offset distance between the driveway and Route 1.
3. With respect to hydrology, it is the responsibility of the project proponent to clearly demonstrate that the proposed project will not significantly impact the existing drainage system. The Caltrans Hydraulics Department requests that you provide on and offsite hydrology for this proposed project. This will show the available capacity of the existing system before and subsequent to the development proposed. If you have any further questions regarding drainage under Caltrans jurisdiction please contact Lance Gorman at (805) 549-3679.
4. This project will add incrementally to cumulative impacts on Route 1. A pro-rata share towards area wide circulation improvements should be established to mitigate project generated cumulative traffic impacts. Staff recommends that the County set up a traffic impact fee program to mitigate traffic impacts along State Route 1.

CCC Exhibit L
(page 5 of 6 pages)

Ms. Joan Vander Hoeven

June 20, 2000

Page 2

5. An encroachment permit must be obtained before any work can be conducted within the Caltrans right-of-way. Please be advised that prior to obtaining an Encroachment Permit, all design plans must be reviewed by this office accompanied by an approved environmental document. Biological and archaeological surveys must specifically address impacts in the state right-of-way. Should you have further questions regarding encroachment permits, please contact Mr. Steve Senet, Permits Engineer, at (805) 541-3152.

I hope this letter gives you a better understanding of Caltrans' concerns with this proposed project. Please contact me at (805) 549-3131 if you have questions. Thank you for the opportunity to comment.

Sincerely,

Charles Larwood

Charles Larwood

District 5

Intergovernmental Review Coordinator

cc: N. Papadakis, AMBAG
L. Wilshusen, SCCRTC
File, S. Chesebro, S. Strait, R. Barnes, C. Sanchez

A-3-SCO-02-117 Applicable Policies

1. ESHA and Water 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. These overlap significantly with water resource policies. 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.

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 protects water resources. Relevant LCP policies include:

LUP Objective 5.6 Maintaining Adequate Streamflows. To protect and restore in-stream flows to ensure a full range of beneficial uses including recreation, fish and wildlife habitat and visual amenities as part of an ecosystem-based approach to watershed management.

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

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

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

LUP Objective 5.5a Watershed Protection. To protect and manage the watersheds of existing and future surface water supplies to preserve quality and quantity of water produced and stored in these areas to meet the needs of County residents, local industry, agriculture, and the natural environment.

LUP Policy 5.5.1 Watershed Designations. Designate on the General Plan and LCP Resources Maps those Water Supply Watersheds listed in Figure 5-1 [5.1: ...San Vicente Creek, Mill Creek, Liddell Spring...]

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

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

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

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

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

Policy 2.2.3 Reservation of Public Works Capacities for Coastal Priority Uses. In the Coastal Zone, reserve capacity in existing or planned public works facilities for Coastal Priority Uses. For a description of those uses, see sections 2.22 and 2.23 [see below].

In addition to the above policies that incorporate water quality protection into them, the LCP also more categorically protects water quality, including its affect on ESHA and water supply. Relevant LCP policies include:

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 (see below in this exhibit for excerpts from these zoning chapters).

2. Public Access and Recreation Policies

The LCP contains a series of interwoven policies which, when taken together, reinforce the Coastal Act mandate for maximizing public access. Relevant LCP policies include:

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 to increase enjoyment of coastal resources, 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 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 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...*

3. Davenport Coastal Special Community

The Santa Cruz County LCP is protective of the special community character of Davenport. Relevant LCP policies include:

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

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

Section 13.20.143(c)(1)(i) Davenport Special Community Design Criteria, Highway One Frontage. Development along Davenport's Highway One frontage shall conform to the following objectives: Davenport shall be emphasized as a rural community center and as a visitor serving area including: Site design shall emphasize the historic assets of the town, its whaling history and whale viewing opportunities.

Section 13.20.143(c)(2) Davenport Special Community Design Criteria, Highway One Frontage. Development along Davenport's Highway One frontage shall conform to the following objectives: Clear, coordinated circulation shall be developed...

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

4. Visual Resources

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

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

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

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.

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

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

(ii) Parking areas shall be screened from public streets using landscaping, berms, fences,

walls, buildings, and other means...

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

5. Coastal Priority Sites and Priority of Uses

The LCP identifies relative priority for different uses. Relevant LCP policies include:

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.

6. Cumulative Impacts

The LCP also addresses the issue of cumulative impacts. Relevant LCP policies include:

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

CHAPTER 16.30

RIPARIAN CORRIDOR AND WETLANDS PROTECTION

Section:

- 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

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; transportation and storage of floodwaters; prevention of erosion; and to implement 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

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

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 revision 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.

16.30.030 DEFINITIONS. All definitions shall be as defined in the

General Plan or Local Coastal Plan glossaries, except as noted below:

Agricultural Use. Routine annual agricultural activities such as

clearing, planting, harvesting, plowing, harrowing, disking, ridging, listing, land planning and similar operations to prepare a field for a crop.

Arroyo. A gully, ravine or canyon created by a perennial, inter-

mittent or ephemeral stream, with characteristic steep slopes frequently covered with vegetation. An arroyo includes the area between the top of the arroyo banks defined by a discernible break in the slope rising from the arroyo bottom. Where there is no break in slope, the extent of the arroyo may be defined as the edge of the 100 year floodplain.

Body of standing water. Any area designated as standing water on

the largest scale U.S. Geological Survey Topographic map most recently published, including, but not limited to, wetlands, estuaries, lakes, marshes, lagoons, and man-made ponds which now support riparian biota.

Buffer. The area abutting an arroyo where development is limited

in order to protect riparian corridor or wetland. The width of the buffer is defined in Section 16.30.040 (b).

Development activities. Development activities shall include:

1. Grading. Excavating or filling or a combination there-

of; dredging or disposal of dredge material; mining; installation of riprap:
2. Land clearing. The removal of vegetation down to bare

soil.
3. Building and paving. The construction or alteration of

any structure or part thereof, including access to and construction of parking areas, such as to require a building permit.

CCC Exhibit M
(page 11 of 26 pages)

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

top of the arroyo. All projects located on properties abutting an arroyo shall be subject to review by the Planning Director. The width of the buffer shall be determined according to the following criteria:

CRITERIA FOR DETERMINING BUFFER FROM ARROYOS

Character of Vegetation in Buffer

	Riparian Vegetation			Live Oak or Other Woodland		
Average slope within 30 feet of edge	20-30%	10-20%	0-10%	20-30%	10-20%	0-10%
Buffer Distance (feet) from:	50	50	50	50	40	30
Perennial Streams Wetlands, Marshes, Bodies of Water						
Buffer Distance (feet) from:	50	40	30	30	30	20
Intermittent Streams						
Buffer Distance (feet) from:	30	30	20	20	20	20
Ephemeral Streams						

The buffer shall always extend 50 feet from the edge of riparian woodland and 20 feet beyond the edge of other woody vegetation as determined by the dripline, except as provided for in Section 16.30.060. Once the buffer is determined, a 10-foot setback from the edge of buffer is required for all structures, to allow for construction equipment and use of yard area.

See allowable density credits within the General Plan.

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

provisions of this Chapter may be authorized in accordance with the following procedures:

(a) Application. Application for an exception granted pursuant

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

chapter shall be in accordance with the requirements of Chapter
18.10.

(c) Action. Proposals for minor riparian exceptions may be

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

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-

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.

CCC Exhibit M
(page 16 of 26 pages)

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

CCC Exhibit M
(page 17 of 26 pages)

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) (v001)

CHAPTER 16.32

SENSITIVE HABITAT PROTECTION

Sections:

- 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 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 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

CCC Exhibit M

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

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

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

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

present at a project site prepared by the County biologist.

Biotic Permit. A permit for development in an area of biotic

concern issued pursuant to the provisions of this chapter.

Biotic Report. A complete biotic investigation conducted by an

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

CCC Exhibit M
(page 19 of 26 pages)

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 Commis-

sion, 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.

Feasible. Capable of being accomplished in a successful manner

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

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, 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 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

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

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:

- 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.

(Ord. 3342, 11/23/82; 3442, 8/23/83; 4346, 12/13/94)

16.32.050 GENERAL PROVISIONS.

- (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,

16.32.080 REPORT PREPARATION AND REVIEW.

(a) Submittals Required. When a biotic assessment or biotic

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-

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

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

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.

(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

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.

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.

CCC Exhibit M
(page 25 of 26 pages)

(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-