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W19c

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APPEAL STAFF REPORT – DE NOVO HEARING

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 a deteriorated barn, remove a 5-foot diameter and approximately 70-foot tall eucalyptus tree, 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 (the project is 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 Forester's Hall), A-3-SCO-98-101 (Bailey-Steltenpohl); and Santa Cruz County CDP Application File 98-0234.

Staff recommendation ...Denial

Summary of staff report and staff recommendation: The Applicant proposes to demolish the badly deteriorated Davenport barn and construct a 3-story, roughly 6,400 square foot commercial/residential structure (4,316 square feet of enclosed interior space and 2,084 square feet of wrap-around decks and walkways in three levels) 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. Approximately ¼ of the project site is made up of a willow riparian woodland that extends off-site and southeast to San Vicente Creek. A large (5-foot diameter, 70-foot tall) eucalyptus tree would be removed to make way for

**California Coastal Commission****June 2003 Meeting in Long Beach**Staff: D. Carl Approved by: **DSL**

A-3-SCO-02-117 Davenport barn DeNovo 6.11.2003.doc

the new building. 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.

The LCP defines the site's willow riparian woodland as a type of riparian corridor, designates it as environmentally sensitive habitat area (ESHA), and protects it from development impacts by, among other things, requiring a 50-foot buffer and a 10-foot setback from the buffer (a total of a 60-foot setback). The proposed project includes a parking lot, a large 3-story structure, and associated hardscape within the LCP-required riparian setback/buffer area (ranging from a 0' setback for the parking lot up to a maximum setback of 32 feet for the main building). A discharge pipe would be placed within the riparian woodland itself. The riparian corridor is a valuable biological resource that serves as a wildlife refuge and transportation corridor extending from this site to San Vicente Creek. Project assessments indicate that listed species, including California red-legged frog, could be present. The LCP prohibits the placement of the discharge pipe in the ESHA. The LCP allows for exceptions to the 60 foot setback requirement subject to specific findings. Staff has concluded that the proposed project (and proposed reduced buffer) would adversely affect the riparian corridor and its biological value, and that there are feasible alternative projects that could respect the required buffer. As such, the exception findings cannot be made in this case and the project as proposed is inconsistent with the LCP's ESHA and riparian corridor policies.

The LCP also protects the Highway One viewshed and the small scale character of Davenport. The Applicant's site is one of the most visually prominent parcels in Davenport and is an important site in this respect for Davenport's character as well as the character of the overall Highway One viewshed. The subject site is located at the southern end of Davenport and the existing barn as well as any replacement development signals the gateway to the small town of Davenport to northbound travelers on Highway One. Thus the visual/character impacts of the proposed project are of significant concern.

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 not look like the existing barn, would be significantly more massive and taller than the barn and would redefine this critical gateway site. As shown in the proposed plans, 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 front setback requirements, includes a stucco exterior for the first floor, and includes 3 stories when the LCP describes one or two stories as generally indicative of Davenport's small scale character. Other than the cement plant, there are no 3-story structures in Davenport and the proposed project would be the first. In fact, the overwhelming majority of structures in Davenport are 1-story. Even along the main Highway One commercial frontage, where one might expect larger commercial buildings, there is a fairly even mix of both 1-story and 2-story structures. The new parking lot would be placed immediately adjacent to Highway One, at a similar elevation, and would replace the weathered barn in the viewshed with a formal paved area and a line of parked cars. Staff has concluded that the proposed development is too large for the site, would negatively alter the Highway One viewshed, is not compatible with Davenport's character, and is



inconsistent with the LCP's viewshed and Davenport character policies.

The LCP protects the water quality of the on-site riparian corridor, nearby San Vicente Creek, and the Pacific Ocean. The project site drains to the riparian corridor and onto San Vicente Creek and then to the Monterey Bay National Marine Sanctuary, and the proposed drainage system would direct runoff in this same manner to and through these ESHAs. San Vicente Creek provides habitat for State and Federally listed species as such coho, steelhead, and red-legged frog and is considered ESHA by the LCP; Monterey Bay is the largest of 12 federally protected marine sanctuaries in the United States. The silt and grease trap proposed is not sufficient to adequately filter and treat the project's runoff, and protect the significant downstream resources from polluted runoff impacts as directed by the LCP.

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 places and circulation. The proposed parking lot would increase traffic at an already confused intersection (Highway One intersects Davenport Avenue and Old Coast Road at the same point) that may be altered at Caltrans behest to provide clearer ingress and egress across Highway One from this site (and thus further increase the variety of vehicular movements here). The project intersection is located at the fringe of Davenport's main commercial frontage that is already poorly integrated with Highway One (i.e., with pull-off and on parking immediately adjacent to the Highway). Davenport itself is growing as a commercial visitor destination (including recently permitted visitor serving and commercial development across Highway One from Davenport Avenue). Staff analysis is that vehicular access to and from the project would increase congestion and decrease safety at an already less than optimum intersection, particularly on a cumulative basis when considered in relation to already permitted and planned development in Davenport, and that this would adversely impact access along Highway One, would confuse circulation within Davenport, and adversely affect Davenport's character inconsistent with the LCP.

The LCP protects San Vicente Creek for habitat and water supply purposes. The proposed project would require 3 new water hookups from the local water purveyor who in turn gets its water from San Vicente Creek. The impact of current water withdrawals on San Vicente Creek habitat resources is not well understood, although indications are that in-stream flows are not optimum for listed species habitat needs. The incremental addition attributable to the approved project may exacerbate any such impacts or cause impacts of its own. The same can be said for the 3 new wastewater hookups associated with the proposed project. There is currently no water use and no wastewater generation on site (because the barn has long been abandoned). Overall the impacts associated with the existing water supply and wastewater disposal system in Davenport are not clear and, as a result, it is difficult to assess the incremental impact of this project in relation to them. That said, the service provider in this case indicated that it would serve the proposed project, presumably based on an analysis of the type of LCP water and wastewater capacity issues associated with that decision. It would appear beyond the scope of this individual Applicant to resolve the larger water supply, water withdrawal, and wastewater service issues that exist in Davenport. Because the proposed project has received the LCP-required will serve commitments, the proposed project is consistent with the LCP's public service water and wastewater requirements.



In sum, the proposed project is overly ambitious in scale for the site and surrounding resources. Most important, it encroaches into a required riparian woodland habitat buffer. It will also adversely impact the character of Davenport and the Highway One viewshed, negatively impact circulation and Highway One access through Davenport, and not adequately protect water quality. The project as a whole has not been developed in a manner mindful of the site constraints. Staff has concluded that the proposed project is inconsistent with LCP policies.

Alternative projects likely could be found consistent with the LCP by maintaining the required riparian setback and by developing a smaller scale development with a lesser intensity of use (and with a corresponding reduced intensity of parking, traffic generation, polluted runoff generation, water use, and wastewater generation). Such smaller scale development could use design elements to clearly reflect Davenport's built environment and aesthetic, as well as to protect the adjacent riparian corridor, and be sensitive to the requirements of this special gateway location adjacent to the Highway One corridor. The proposed project does not meet these parameters, and it would require fundamental changes in the project design to do so. Because of the degree to which the proposed project would need to be modified to be consistent with the LCP, Staff believes it is inappropriate to attempt to craft conditions that would bring the project into conformance with the LCP. Rather, it is incumbent on the Applicant to propose an alternate project mindful of site constraints that can go through a normal coastal permit review at the County. In addition to this staff report, the Applicant may find useful guidance from the comments that Staff has provided over the past 3 years.

In conclusion, Staff recommends that the Commission deny the proposed project.



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1. Project Procedural History

Santa Cruz County has a certified LCP, and this proposed project was reviewed for several years in a local coastal permit process before the County took action on it in late 2002. The Commission participated in this local review process, including providing directive comments through a series of Staff letters, emails, meetings (with the Applicant and the County), site visits, and phone conversations (see, for example, exhibit J for Commission staff local review comment letters). At the conclusion of the



County's process, the Planning Commission approved the proposed project by a 3-2 vote. The Planning Commission's approval was then appealed to the Commission by Commissioners Sara Wan and Pedro Nava, the Sierra Club, and Coastal Organizers and Advocates for Small Towns (COAST). On February 6, 2003, the Coastal Commission found that a substantial issue exists with respect to the proposed project's conformance with the LCP and took jurisdiction over the coastal development permit for the proposed project.

2. Staff Recommendation on Coastal Development Permit

Staff recommends that the Commission, after public hearing, **deny** a coastal development permit for the proposed development.

***Motion.** I move that the Commission approve Coastal Development Permit Number A-3-SCO-02-117 pursuant to the staff recommendation.*

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

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

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's coastal zone resources are varied and oftentimes spectacular, including the Santa Cruz Mountains coastal range and its vast forests and streams; an eclectic collection of shoreline environments ranging from craggy outcrops to vast sandy beaches (in both urban and more rural locations); numerous coastal wetland, lagoon and slough systems; habitats for an amazing variety and number of endangered species; water and shore oriented recreational and commercial pursuits, including world class surfing areas; internationally renowned marine research facilities and programs; special coastal communities; vast State Park lands; and the Monterey Bay itself. 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.¹ 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 park areas, recreational facilities, and visitor serving amenities. 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 zone resources are a critical element in helping to meet these needs. Furthermore, with the shoreline itself (and its parks, beaches, trails, etc.) attracting visitors into the region, an even greater pressure is felt at coastal recreational areas and visitor destinations like Davenport. With the Santa Cruz County shoreline and beaches providing arguably the warmest and most accessible ocean waters in all of Northern California, and with the large 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

¹ 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.



Davenport. The project is located on 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 mostly level bench area (roughly a quarter acre) covered in weedy vegetation and including several large eucalyptus trees, bordered by a steep riparian woodland area that dominates the remainder of the site as it slopes 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 woodland to the Creek itself to the southeast. The upper bench area 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 barn apparently originally housed a box making business, but this use has long since been abandoned and the barn has been unoccupied for decades, perhaps nearly as long as it has been in existence.

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

B. Project Description

The Applicant proposes to demolish the existing barn, remove a 5-foot diameter and approximately 70-foot tall eucalyptus tree, and to construct a new 3-story commercial and residential (2 residential units) structure with wrap around decks 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 the proposed project plans.

4. Coastal Development Permit Determination

A. Applicable Policies

LCP policy areas applicable to the proposed project include those involving the protection of riparian corridors, ESHA, Highway One and Davenport viewshed, Davenport's community character, Highway One and Davenport public access and circulation, water quality, water supply, wastewater disposal, and San Vicente Creek. Within these general issue areas, there are a large number of individual LCP policies that are applicable. Part of the reason for this is because the range of coastal resources 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, and are incorporated by reference into these findings. Specific application of the most pertinent LCP policies to this proposed project is discussed below.

B. Analysis of Consistency with Applicable LCP Policies

As detailed below, the proposed project is inconsistent with the LCP for a variety of reasons

1. Riparian Corridor Protection

LCP Requirements

The LCP designates the on-site riparian woodland as 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).² The LCP defines riparian woodland as a type of riparian corridor and protects these ESHAs from development impacts by, among other things, requiring a 50-foot buffer and a 10-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 setback requirements are only allowed under very limited circumstances, and are subject to making specific exception findings (IP Sections 16.30.060). In fact, the LCP indicates that development of riparian corridors should be avoided "to the greatest extent allowed by law" (LUP 5.2 Program a). See exhibit M for applicable LCP policies.

The proposed project includes a parking lot, a 3-story structure, and associated hardscape within the required riparian woodland setback/buffer area; with setbacks of 0' 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). A discharge pipe would be placed within the riparian woodland itself (extending from the edge of the plateau to the base of the riparian slope). Since the site is currently unused and has been for many years, the project will introduce significant new residential and commercial structures, noise, lights, activities, and runoff immediately adjacent and into the riparian corridor. The purpose of the LCP-required 60-foot buffer is to help reduce these types of edge effects on the existing riparian corridor (see also below).

The Applicant contends that the riparian woodland is not of high resource value, and has submitted a biological assessment and a hydrological assessment that he believes shows this to be the case.³ Based on these reports, and because he also contends that there are no alternatives available that can respect the required riparian setback, the Applicant asserts that a reduced setback is warranted and should be granted

² That is, the LCP cross-references the Coastal Act's ESHA definition and application when defining these areas as Environmentally Sensitive Habitats and ESHA in LUP Policy 5.1.3 and IP Section 16.32.040.

³ Riparian Hydrology Evaluation by Kittleson Environmental Consulting (dated January 17, 2003) and Biological Assessment by Bryan Mori Biological Consulting Services (dated January 15, 2003).



to allow for his proposed project.⁴

However, Commission biological and planning staff have reviewed the Applicant's reports, have visited and assessed the site, and have concluded that: (1) the riparian woodland is a valuable ESHA resource worthy of the LCP protection prescribed for it; and (2) an exception to the riparian setback requirement is not appropriate to allow for the proposed project, as follows.

Riparian Woodland is a Valuable ESHA Resource

The riparian woodland occupies roughly $\frac{3}{4}$ of an acre on this site and is functionally connected by a band of willow riparian woodland to the larger San Vicente Creek corridor adjacent to the southeast. San Vicente Creek is widely recognized as a critical habitat for such State and Federally listed species as coho, steelhead, and California red-legged frog (CRLF); all of these species are present within the Creek proper and at the intersection of it with Highway One immediately southeast of the site.⁵ The riparian woodland serves as both a wildlife corridor and refuge extending from this site to San Vicente Creek. In addition to other species that may be present, CDFG and the County both concluded that CRLF could be expected to migrate from the Creek through the riparian corridor and across the project site; CDFG further recommended that consultation with United States Fish and Wildlife Service (USFWS) regarding impacts due to the proposed project was warranted in this case (although there is no evidence in the record to indicate that USFWS was consulted). The County concluded that the riparian corridor was ESHA. The Commission's biological staff have assessed the site and have concluded that the riparian corridor is a valuable resource worthy of the LCP ESHA protection prescribed for it, the purpose of which is "to preserve, protect, and restore" resources associated with the corridor.⁶

The Applicant's consulting biologist agrees that riparian habitat value in general is "among the highest of all plant communities in California, supporting a greater abundance and diversity of wildlife (especially bird species) than other habitats" whose "importance...is further underscored by its limited statewide distribution." Although the consulting biologist subsequently downplays the value of the riparian habitat in this case, he does indicate that this woodland is expected to support a variety of nesting birds, including perhaps nesting habitat for riparian-obligate species (such as Swainson's thrush and yellow warbler), and that species richness and abundance may be greater during spring and fall migration when migrating bird species are likely to inhabit the woodland.⁷ He also includes a series of mitigation recommendations to address impacts to CRLF, San Francisco Dusky footed woodrats (a State species of special concern), and nesting birds (including species protected by the Migratory Bird Treaty Act) in the riparian corridor. The California Department of Fish and Game likewise required mitigation

⁴ See exhibit F for the Applicant's January 28, 2003 submittal, and see exhibit G for Commission staff's response to it. Both of these exhibits were considered by the Commission at the February 6, 2003 substantial issue hearing for this matter.

⁵ San Vicente Creek proper is located roughly 275 feet southeast from the project site (and roughly 400 feet from the plateau area). The larger San Vicente Creek riparian corridor (that frames the Creek proper) is located roughly 100 feet southeast of the project site, and roughly 225 feet from the plateau area where development is proposed.

⁶ Note that in addition to protection of existing resource value, the LCP indicates that restoring riparian corridors (including enhancing or bringing back value) is also a stated purpose of the ordinance. See LCP Chapter 16.30, including section 16.30.010 (Purpose).

⁷ His site visit evaluation in this case was done during winter.



for CRLF in this project.⁸ The County required that an exclusionary fence be installed along the edge of the plateau so that CRLF moving through the riparian corridor would be blocked from traversing the plateau area (where the main development is proposed). The fact that such listed species mitigation measures have been required and/or recommended is an indicator that the riparian corridor has a high resource value, and certainly supports application of the LCP's setback requirements to it in order to preserve and foster this resource.

In addition, the Applicant's consultants base much of their riparian corridor resource value assessment on the lack of surface water on the Applicant's site. However, surface water is but one indicator of a riparian corridor. The presence of the willow riparian woodland is indicative of hydrology of some sort (or else the willows wouldn't be there), most likely sub-surface hydrology if there aren't other above-ground indications. Moreover, in contrast to some of the Applicant's consultants' new assertions regarding surface water flows, the County's file on this project (including its environmental document) indicate that surface water from this site flows over ground through the riparian woodland and to San Vicente Creek (for example, see Applicant's drainage site plan on page 11 of exhibit D).

In sum, the riparian corridor represents a valuable biological resource. It is identified in the LCP as ESHA as that term is understood in a Coastal Act context. The LCP prescribes setbacks from it in order to mitigate for the harm and disruption to that resource due to proposed development.⁹

Project Impacts

The riparian corridor is a relatively undisturbed environment, home to any number of migratory, seasonal and year-round inhabitants (including apparently some State and Federally-listed endangered species) who are passing through, foraging, nesting, hunting, and resting in this area day and night. The increased human activity from the proposed project would be visible and audible within the riparian corridor. Since half of the proposed project is for residential use, and depending on the commercial hours as well, the noise, lights, and activities would be present (at varying levels) all times of the day and night and all year. There is also the potential for larger events (like residential parties, or commercial special events), when such activities and impacts would increase. In addition, the discharge pipe proposed for inside of the riparian woodland would both adversely impact wildlife during its construction, and permanently displace a portion of it where the pipe would be installed.

The introduction of a commercial and residential use of the magnitude proposed right up to the edge of the riparian corridor would be expected to reduce the abundance and health of wildlife in the corridor due to the fact that there is no activity currently at the site (and hasn't been for many years) and the proposed project would increase noise, lights, and activities immediately adjacent to the riparian corridor and extending up to 3 stories. The proposed building elevation facing the riparian corridor has not been configured to screen the corridor in any way, rather it would include many residential and commercial

⁸ In a May 14, 2002 letter on the County's CEQA document; see exhibit K.

⁹ See also exhibit F for the Applicant's January 28, 2003 submittal, and exhibit G for Commission Staff's response to it. Both of these exhibits were considered by the Commission at the February 6, 2003 substantial issue hearing.



windows, decks, and doors, and the parking lot would extend directly adjacent to the corridor. The project includes a 6 foot high fence and stucco wall along the majority of the break in slope at the southeast edge of the plateau that will help to reduce impacts a limited degree, but it does not provide the level of buffering that the required setback does.¹⁰ In fact, the fence/wall would be located at a lower elevation than the rest of the proposed site development area and any screening that it might provide is corresponding reduced because of this; the fence would also be at a lower elevation than would the riparian corridor canopy. Such fences are typically placed along the development side of the required buffer (and not at the habitat's edge as proposed here).

The function of the existing riparian corridor buffer (i.e., the riparian corridor and its buffer together currently provide for wildlife movement) would cease because the plateau would be replaced by urban development and fenced. Any animals using the existing buffer area (birds, CRLF, Dusky footed woodrats, etc.) would thus be further confined into the downslope riparian woodland, crowding wildlife already present there and potentially leading to displacement if carrying capacity is exceeded. In addition, within the then confined riparian woodland area, the expected additional noise, lights, and activities due to the proposed project could cause many of the birds and animals to leave altogether. For the species not displaced entirely, resting wildlife would expend energy on wasted alarm movements in response to the human activities. Such energy is at a premium if predators are present, and even more at a premium during breeding season when the birds and animals are maintaining nests and territory, as well as foraging and feeding young. The wasted energy could have a detrimental effect on reproductive success and behavior, as well as the loss of foraging time and/or breeding interaction. The cumulative effect of constant impacts (such as nighttime lighting) and multiple impacts from human noises, lights, and activities – particularly stronger stimuli such as loud noises and fast movements – would lead to decreased wildlife abundance and vigor in the riparian woodland.

In addition, the site is currently almost exclusively pervious, with the exception of the existing barn's approximately 2,600 square foot footprint. The proposed project would include roughly 7,000 square feet or more of impervious surface (nearly tripling the amount of impervious surface on the site). The additional area that would be covered in impervious surface functions as a recharge area of sorts – potentially a significant recharge area for the willows in the riparian corridor if subsurface hydrology is their primary water source (and not over ground, as discussed above).¹¹ To the extent that groundwater supports the willow riparian community (less so than surface flows), the reduction in recharge area would be expected to reduce the amount of water available to support the willows, and to correspondingly reduce the size, extent, and health of the riparian habitat associated with them. Coupled with both the displacement of the existing corridor and the introduction of project noise, lights, and

¹⁰ Note that the wall/fence was required as a sound barrier to reduce Highway noise as heard by users of the proposed facility. It was not designed nor intended as a barrier to reduce project activity from being heard and seen by wildlife within the riparian corridor, although it would perform a limited function in this sense. It is also possible that the fence/wall could act to amplify Highway One noise within the riparian corridor, although this was not evaluated in the Applicant's noise analysis (nor were any impacts of noise on wildlife receptors in the riparian woodland evaluated).

¹¹ Note that the southeastern half of the site (containing the riparian corridor) is mapped as a Groundwater Recharge Area by the County LCP.



activities into the required buffer and the riparian woodland, the result would be riparian habitat degradation on site. Because the riparian corridor on site extends off site to San Vicente Creek, the larger riparian corridor resource as a whole (i.e., the Creek corridor and the finger extending from it onto this site) would likewise be degraded.

Water quality impacts are detailed separately in finding 4 that follows.

Pipe in ESHA Prohibited

The LCP does not allow for non-resource dependent development within the riparian woodland ESHA, except in very limited circumstances (LCP policy 5.1.3).¹² The drainage pipe proposed for inside of the riparian woodland would adversely impact wildlife during its construction, permanently displace a portion of it where the pipe would be installed, and deliver partially-filtered polluted runoff into the ESHA (see finding 4 that follows for detail on water quality impacts). The proposed project pipe does meet the limited exception criteria and cannot be found consistent with the LCP.

Buffers/Setbacks

Buffers, such as the 60 foot buffer required by the LCP in this case, function as important transition zones between development and adjacent habitat areas, serving to protect the habitat from the direct effects of nearby disturbance. Buffer areas provide protection for habitat from adjacent development in a number of ways (e.g., sheer distance, buffer configuration, topographic changes, vegetation in the buffer, fences at buffer edges, etc.), where the methods chosen depend in part on the desired functions of the buffer (e.g., reducing human impacts, preserving habitat, water quality filtration, etc.). When intensive urban uses are proposed adjacent to habitat areas (such as the commercial and residential project in this case), a primary buffering method is to provide adequate distance so as to limit direct contact and reduce the conveyance of human-generated impacts (such as noise, lights, movements, odors, debris, and other edge effects); substantial vegetation planted or present within the buffer can help to reduce the absolute distance necessary for the buffer width.

Depending upon their design, buffers can also be a functional part of the ESHA acting as a transition zone from the more sensitive to less sensitive parts of a site. Moreover, species numbers of both plants and animals increase at buffer edges, due to the overlap from adjacent habitats and the creation of unique edge habitat niches. In addition, buffers can reduce the velocity of surface runoff from adjacent development and provide an area for infiltration of runoff, removing particulate contaminants and protecting against sedimentation and erosion in the ESHA itself. Similarly, these areas can increase the retention period of water in the adjacent riparian area by increasing local groundwater recharge through percolation.

By minimizing disturbance to the resource from adjacent development, and by providing transitional habitat areas, buffers contribute to the health and vitality of functioning habitat areas such as the riparian

¹² Exceptions are allowed only when there is a beneficial public purpose, there are no other feasible alternatives, all adverse impacts are mitigated, there is a takings issue, and it is consistent with the LCP's ESHA-protective policies (see LCP Policies in exhibit M)..



woodland in this case.

While there is widespread acceptance of buffers as a tool to reduce impacts on habitat resources, there is a wide disparity in accepted buffer distances, oftentimes predicated on the value and sensitivity of adjacent resources, as well as the intensity of adjacent development. Buffer widths found to have been applied in a Monterey Bay region study done for the Coastal Commission ranged in size from 30 to 600 feet.¹³ These results are corroborated by a similar literature review study in which found appropriate buffers ranging in size up to about 650 feet.¹⁴ The widest buffers were found to be necessary for high value systems that were adjacent to intense land uses. Of the multiple functions of buffers, the widest buffer widths were directly correlated to the function of preserving species diversity. As an example, the study found that bird species diversity, richness, relative abundance, and breeding numbers were found to be positively correlated with buffer size. Similarly, this study identified an inverse relationship between buffer width and degree of impact from human disturbance. As an example, the study indicated that a heavily forested 100-foot buffer distance would be necessary to reduce the noise of a commercial area to background levels. While acknowledging the range of buffer distances studied, the study concluded that a buffer of at least 50 feet was found to be necessary under most conditions.

Riparian Exception

Although the proposed project would result in direct impacts to the riparian habitat on the site, the LCP does allow for reductions in required buffers if certain findings can be made. The Applicant contends that an exception is appropriate in this case, primarily based on the lack of space available outside of the riparian corridor and its buffer to construct his proposed project. However, the Applicant's argument is backwards in many ways because the intent of the exception policy is not to justify whatever an applicant proposes, but rather to balance any special site circumstances against LCP requirements – and ultimately to evaluate whether there are less environmentally damaging feasible alternatives that can respond to site specific constraints and circumstances. In addition to the prescribed 60 foot buffer in this case, the LCP is also directive in terms of buffer size and function adjacent to ESHA. The LCP requires that any development adjacent to the riparian corridor "maintain or enhance the functional capacity of the habitat," and that where this cannot be accomplished, the LCP requires such projects to be redesigned and reduced in scale (LUP Policy 5.1.6). In any case, the LCP requires that "structures shall be placed as far from the habitat as feasible" (LUP Policy 5.1.7).

In this case, there are other feasible alternatives that respect the required buffer (see also finding 7 below). For example, roughly 1,000 square feet of the existing barn footprint (or about 40%) is located outside of the required buffer (see exhibit H). The topography slopes towards the riparian corridor within this footprint area; a front to back differential of roughly 6 feet in elevation (see side view of barn in this area on page 5 of exhibit c). It would be feasible to develop a commercial structure within that portion of

¹³ As detailed in "Wetland Buffers in the Monterey Bay Region: A Field Study of Function and Effectiveness," Rosemary Dyste, December 1995. Although this 1995 report focused on wetland buffers specifically, the methodology for determining buffer widths and measuring their effectiveness is applicable to riparian corridors as well.

¹⁴ As detailed in "Wetland and Stream Buffer Size Requirements – A Review" (Castelle, Johnson, and Conolly), *Journal of Environmental Quality* (September – October 1994).



the existing profile of the barn located outside of the required setback. Such a structure could have an approximate 1,000 square foot footprint, and could include a partial (due to slope change in this area) to full (with some excavation) lower story, resulting in up to about 2,000 gross square feet.¹⁵ Assuming 400 square feet for storage and loading, such a commercial use might require up to 8 parking spaces per the LCP.¹⁶ In this case, 8 parking spaces could feasibly be constructed inland of the barn footprint and outside of the riparian corridor setback in at least two different configurations; one where there was an access driveway with parking spaces tucked against a retaining wall at the property line, and another where parking spaces would be provided directly off of Old Coast Road supported on a fill slope or elevated on caissons.¹⁷ The fill slope could be vegetated appropriately, and/or the retaining wall/elevated structure could be screened with cascading vegetation. In any case, the spaces would be located as far from the riparian corridor as feasible, while also avoiding the removal of significant trees. In addition, it is possible that all or some project parking could be supplied within the currently unpaved portion of the Old Coast Road right-of-way, if this street edge were improved, and depending on the intensity of use and the parking requirements associated with it. Such a development alternative represents a feasible use consistent with providing for a commercial use principally permitted per the underlying commercial zoning.¹⁸ See exhibit H for a graphic depiction of these areas in relation to the site.

Primarily because there are feasible alternatives that could be developed consistent with the various LCP setback and other requirements, exception findings cannot be made in this case and an exception to the required 60 foot buffer setback is not appropriate. The required exception findings follow in bold, and reasons why they don't apply are briefly highlighted (note that all five findings would need to be made to allow for a lesser setback):

Finding 1. That there are special circumstances or conditions affecting the property. Yes, this finding can be made. There are special circumstances because most of the roughly one acre site is occupied by the riparian corridor and the required setback.

Finding 2. That the exception is necessary for the proper design and function of some permitted or existing activity on the property. No, this finding cannot be made. There are no permitted or existing activities on the property. The barn has been abandoned for many years. Even if this finding was interpreted to apply to a project *being contemplated* for a permit, as discussed above there are ways that an alternative project could be designed to properly function at this location and respect the required setback (see also coastal development permit determination conclusion for further discussion on this point).

¹⁵ Note that a 2,000 square foot structure in this footprint would be boxy. However, although some articulation may be desirable (and may lead to less square footage), the existing barn is boxy in the same manner.

¹⁶ LCP section 13.10.552 specifies 1 parking space per 200 square feet of retail. This ratio is generally indicative of commercial parking requirements in the LCP. Some commercial uses, such as restaurants, require more parking spaces (1 per 100 square feet plus 0.3 per employee), and some require less (e.g., art galleries require 1 per 300 square feet).

¹⁷ Note that the Commission's Senior Engineer has evaluated these options and visited the site and deemed them feasible.

¹⁸ Note that roughly half of the proposed project square footage and other facilities (e.g., parking) is to support the two proposed residential units, and not to support any principally permitted commercial use on the site.



Finding 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. No, this finding cannot be made. The "public welfare or property downstream" in this case is the riparian corridor and the public trust habitat resources associated with it and the larger San Vicente Creek corridor adjacent and connected to it. The project would result in riparian corridor degradation as detailed above.

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. No, this finding cannot be made. As discussed above, the reduced buffer would be expected to reduce the habitat value of the riparian corridor. There are feasible alternatives for development that would allow for the LCP-required buffer to be applied and to better protect the riparian corridor as directed by the LCP for this resource.

5. That the granting of the exception is in accordance with the purpose of this chapter, and with the objectives of the General Plan and elements thereof, and the Local Coastal Program Land Use Plan. No, this finding cannot be made. The purpose of the chapter and the objective of the LCP land use plan is specifically to protect, preserve, and restore riparian corridors. A project that places development closer to the ESHA than is allowed (resulting in lesser protection and greater habitat degradation than a feasible alternative) is not consistent with this purpose and objective.

The riparian exception findings cannot be made in this case, and the 60 foot buffer is required.

The proposed project is inconsistent with the LCP's ESHA and riparian corridor policies prohibiting non-resource dependent development in ESHA, requiring a 60-foot setback from the riparian woodland, and protecting the riparian woodland ESHA overall.

2. Davenport's Community Character/Highway One Viewshed

LCP Requirements

The Santa Cruz County LCP is highly protective of coastal zone visual resources, and specifically protective of the views available along Highway One as it winds through the County from the 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). Development is required to be sited outside of the Highway One viewshed if it is feasible; where development is "unavoidably visible," siting and design mitigation measures are required to protect the viewshed, and the unique characteristics of it that make it a scenic resource in the first place (in this case, primarily the Davenport community aesthetic (LCP Policy 5.10.11)). This section of Highway One is also specifically identified as eligible for official designation as part of the California Scenic Highway Program. The north Santa Cruz coast area, including Davenport, 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" due to its unique character and popularity as a visitor destination; new development is to be subservient to maintaining the community's character (LCP Policy 8.8.2). Within Davenport, all new development is required "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" (LCP Policy 8.8.4). 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 small scale historic assets of the town (LCP Section 13.20.143(c)(1)(i) and (c)(2), LUP Program 8.8(a)). 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.

Character/Viewshed Status

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. Critical in this evaluation is the overall scale and intensity of use, because this also directly relates to the amount of square footage and area necessarily given over to parking.

The Commission has recently been directly involved with the last two commercial projects to be approved along Davenport's Highway One frontage where viewshed and character issues were engendered. These projects were the Bailey-Steltenpohl mixed use commercial project across Highway One and slightly upcoast of the site, and the Forester's Hall reconstruction on the inland side of Highway



One and about one block upcoast of the site.¹⁹ In both of those cases, the approved development was required to essentially maintain the appearance of what was there before (in size, bulk, and exterior treatment) so as to maintain Davenport's character and the Highway One viewshed. In the Bailey-Steltenpohl case, the Commission prohibited development of the proposed parking lot, and required the approved development to occupy a slightly smaller footprint and profile than that that existed previously (i.e., the footprint and profile was required to be reduced slightly nearest the Highway). In the Forester's Hall case, the development replicated the historic Forester's Hall structure that had been demolished.

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.

Changes Character at this Site

The Applicant's site is one of the most visually prominent parcels in Davenport and thus the visual impacts of the proposed project are of significant concern. The subject site is located at the southern end of Davenport and the existing barn as well as any replacement development signals the gateway to the small town of Davenport to northbound travelers on Highway One. The plateau portion of the site outside of the riparian woodland is completely visible from Highway One, and thus any development on it cannot be sited out of public view as directed by the LCP. Because of this, any development on this site that is "unavoidably visible" from the Highway must be scaled, sited and designed consistent with Davenport's character (see above LCP policy discussion; in particular LCP objective 5.10.b, and policies 5.10.3, 5.10.10, and 5.10.11).

The Applicant proposes to demolish the barn, remove a 5-foot diameter and roughly 70-foot tall eucalyptus tree, and construct a new building and parking lot on the site. The new main building that would be constructed on the site would occupy a footprint of roughly 2,200 square feet, and would have an overall bulk, including decks, of roughly 6,400 square feet.²⁰ The structure would be 3 stories with a

¹⁹ A-3-SCO-98-101 and A-3-SCO-00-106, respectively, both heard by the Commission in 2000.

²⁰ Note that there has been confusion over the amount of square footage proposed. Part of the reason for this is because the project includes a substantial area of wrap-around decks (and covered walkway/outdoor space for the 1st floor). Interior space proposed is 4,316 square feet. Decks and covered walkway/outdoor space 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, in order to give a sense of numerical magnitude to the proposed project bulk, the covered walkway/outdoor space area surrounding the first floor (812 square feet) was added to the first floor interior space (1,420 square feet) to arrive at a gross structural footprint of 2,232 square feet, and the interior square footage (4,316 square feet) was added to the exterior decks and covered walkway/outdoor space square footage (2,084 square feet) to arrive at a bulk estimation of roughly 6,400 square feet. This is different than, and can be differentiated from, interior square footage. See approved plans in exhibit D. See also Applicant's January 28, 2003 submittal and Commission Staff's response to it regarding this point (exhibits F and G respectively).



maximum height of roughly 37 feet.²¹ 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 approximately 4,700 square feet immediately adjacent to the Highway. A six foot high fence would be constructed along the break in slope at the southeast edge of the plateau, transitioning into a 6-foot high stucco wall for that portion due west of the proposed building (see exhibit D). Although the fence would be partially screened from view by the riparian corridor (in northbound views) and slope change (in southbound views) it would still introduce a stark structure where none exists now, particularly the stucco wall portion of it.

The Applicant's photo simulations and the photos of the project staking required by the County give a general sense of the area that would be occupied by the proposed main structure (see exhibits C and E). However, the staking and photo simulations underestimate that change proposed because: the project staking did not include all structural elements (such as all wraparound decking) and was keyed to a lesser height than that shown on the proposed project plans; the photo simulations omit vehicles parked in the large parking area that would be a dominant visual element immediately adjacent to the Highway; and neither include the 6 foot stucco wall/fence along the plateau's edge.

In sum, the proposed project would substantially alter the Highway One viewshed inconsistent with protecting Davenport's character. In fact, in several ways, the proposed project exceeds both the LCP's Countywide maximum scale thresholds as well as those pertaining explicitly to Davenport, and includes design features antithetical to LCP requirements for Davenport. The maximum height in a commercial district is 35 feet, and the proposed plans show that the main building exceeds this maximum by 2 feet since a 37-foot height has been proposed. The required front yard setback is not met.²² Stucco is proposed for the first floor exterior treatment and yard enclosure wall when the LCP identifies wood. 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

²¹ Again, there has been confusion on the overall height proposed. The [proposed project 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 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); that this lower height is what is shown on the project flagging, staking, and photo simulations (see exhibits C and E); that it was the lower height that was reported to the Planning Commission when they approved the project; and that although there was no written condition or requirement, that the County would enforce the lower height through their coastal permit (personal communication from County planning staff). Nonetheless, the proposed project plans do not show this lower height and any unwritten arrangements with the County carry no force or validity in this de novo review by the Commission. The barn appears to be around 28 feet in height. The Applicant asserts that the barn is about 30 feet in height and that the proposed structure would be about 5 feet taller. Given the uncertainties, an exact difference in height is difficult to measure. Suffice it to say that the proposed building would be taller by five feet than the existing barn, and maybe more. Again, see also Applicant's January 28, 2003 submittal and Commission Staff's response to it regarding this point (exhibits F and G respectively).

²² Because the site is a corner lot, the LCP allows the Applicant to choose which yard is the front yard for setback purposes (i.e., Highway One or Old Coast Road). The proposed plans indicate that the Old Coast Road was considered the front yard. If Old Coast Road is the front, then 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 the Applicant proposes a 12 foot setback. If Highway One is considered the front yard, as the County indicates could be the case, then the required front setback is 10 feet while the proposed project plans show this to be a zero foot setback. Note that the plans show a 10 foot setback from the Highway One right-of-way, but that apparently the right-of-way line is incorrect on the proposed project and is actually roughly 10 feet inland from this identified line (personal communication from the Applicant to Commission staff on May 7, 2003). As a result, the project does not meet front setback requirements in either case.



scale, one or two story structures of wood construction.” Other than the cement plant itself, there are no 3-story structures in Davenport. In fact, the overwhelming majority of structures in Davenport are 1-story. Even along the main Highway One commercial frontage, where one might expect larger commercial buildings, there is a fairly even mix of both 1-story and 2-story structures (see exhibit B).

Further, Countywide maximums and minimums must be understood within the special 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.). While developing to the maximum scale and bulk may be appropriate in less visually prominent, more urban parts of the County, it is inappropriate here because of the unique site and specialized LCP policies discussed above. The more important thing to consider on this site is the change to what is there currently, and the effect of that change on the Highway viewshed and Davenport’s character.

Conclusion

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 and taller structure of a completely different design will definitely alter the character of the town. The proposed main structure is too large for the site and Davenport; it is taller and bulkier than the existing barn and located in a portion of the site that would increase massing visible in the Highway One viewshed, particularly the northbound view corridor where it would be starkly visible due to its direct exposure. The proposed parking lot would be constructed along the Highway frontage in the same general area as the existing barn but in a larger footprint (nearly double the footprint of the barn), at roughly the elevation of the Highway. The parking lot would introduce a formal paved area and a strip of parked cars at this gateway location into Davenport that would be extremely prominent in the Highway One viewshed. In the Bailey-Steltenpohl project, the Commission found that the siting of a parking lot immediately adjacent to the Highway One corridor was intrusive and not in keeping with the character of Davenport. Parking for that project was reduced and relocated to a less visible portion of the site. Such a reduction and relocation is feasible and would also be appropriate here. The 70-foot tall, 5-foot diameter eucalyptus that would be removed has a towering canopy that currently helps define the gateway into town heading north; its removal will leave a hole in the canopy not only at this site but in terms of framing the town itself from the critical northbound Highway One vantage point.²³

The proposed project is overly ambitious in scale in light of its prominent location, and in light of the existing built and natural character of the site, including the riparian woodland (as detailed in the preceding findings). The new building would be a new large structure highly visible in the northbound Highway One viewshed, and the new parking lot would place a line of parked cars at the Highway’s edge that would detract from the scenic quality of the viewshed. Neither of these project elements is consistent with the LCP policies for protecting the Highway One viewshed. By the same token, the

²³ See page 3 of exhibit c for a photo of the tree to be removed.



proposed development would introduce a decidedly large scale development into Davenport's small scale Highway One aesthetic and is inconsistent with the LCP policies protecting Davenport character.

3. Highway One/Davenport Traffic and Circulation

LCP Requirements

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 Davenport Frontage

Highway One is currently a two-lane road through Davenport. The project is located at the inland corner of the intersection of Highway One with Davenport Avenue and Old Coast Road; the first Davenport streets that are encountered when traveling along northbound Highway One. This intersection is oddly configured in that both Davenport Avenue and Old Coast Road meet Highway One at roughly the same point on Highway One (see exhibits A and D). As a result, the intersection is confusing for vehicles both turning onto and off of Highway One.

Davenport's two-block main commercial frontage is located just past the project intersection to the north. The area between the Highway travel lanes and the main commercial buildings inland is used primarily for perpendicular parking adjacent to the Highway. There are no stoplights or stop signs along Highway One through Davenport. Visitors park along both sides of the Highway and access businesses on the inland side as well as the bluffs and beach on the seaward side of the Highway. As a result, there is substantial ingress and egress onto the Highway through the town, and there is also substantial pedestrian crossing of the Highway. Highway One crests in elevation roughly in the center of the main commercial strip. These factors together create an awkward, and potentially dangerous, circulation situation within the Highway through the town that already affects public access to Davenport and along Highway One. In referring to this main Highway One frontage, the Applicant's consulting traffic



engineer concludes that "the existing parking configuration and circulation presents operational and safety deficiencies."²⁴

Project Intersection with Highway One

The proposed project would introduce new commercial and residential uses that would result in new trips to and from the project site. Such trips would be almost exclusively through the already confused Davenport Avenue and Old Coast Road intersection with Highway One. The Applicant's traffic analysis indicates that there wouldn't be any adverse impacts on traffic and circulation in Davenport, and Caltrans, after several years of raising concerns, recently concurred.²⁵

However, as partially evidenced by Caltrans' original comment letters and by the Applicant's consulting traffic engineer's conclusion regarding the Davenport commercial frontage as a whole, this intersection and Davenport's Highway One frontage are already confused, and the additional increment in traffic due to the proposed project would only exacerbate this problem. Furthermore, the Applicant's traffic analysis that dismissed traffic and circulation impact (and on which Caltrans based its changed position) underestimates traffic associated with the project and is itself based on an outdated report that is not indicative of the traffic at this intersection. On the first point, the Applicant's traffic analysis is based upon the project providing 1,420 square feet of retail commercial space. However, the proposed project includes roughly double this amount of commercial retail square footage.²⁶ Because of this, the traffic analysis underestimates by roughly half the amount of retail commercial traffic that would be expected due to the project. In other words, using standard trip generation rates, traffic due to the proposed project would be roughly double that estimated by the Applicant's traffic analysis.

On the second point, the Applicant's traffic analysis bases its findings on a 1996 traffic report done in support of the proposed Bailey-Steltenpohl project across the street. The problem with this is that the project that was approved by the Commission in the Bailey-Steltenpohl case in December 2000 was extremely different, particularly in a traffic/circulation sense, than that that was originally proposed (and was the subject of the 1996 report). The main traffic/circulation difference is that instead of a main parking lot further upcoast on the Davenport frontage (opposite Center Avenue), with a service oriented accessway near Davenport Avenue (as proposed originally), the Commission-approved project removed the upcoast parking lot and required all parking and site access to the project to occur opposite Davenport Avenue; the intersection thus to become a 5-legged intersection. In other words, all traffic associated with the Bailey-Steltenpohl project will be directed to the project intersection that would be

²⁴ Higgins and Associates January 24, 2003 report. Note that the reference to operational and safety deficiencies was made in 1996. Since that time, there have not been any major changes to the Highway and/or parking along it. However, traffic on the Highway has increased, Davenport's lure as a visitor destination has also increased, and two new commercial operations were approved by the Commission in 2000 that, when constructed, will increase visitor trips and stops in this main frontage.

²⁵ Note that Caltrans repeatedly informed the Applicant that the proposed project's traffic issues with respect to the intersection were inadequately addressed (in letters dated June 20, 2000, March 7, 2001, and October 5, 2001). Caltrans retracted their concerns by letter dated January 31, 2003 after this matter was appealed to the Commission and based on the Applicant's January 24, 2003 traffic analysis. See Caltrans comment letters in exhibit L.

²⁶ Estimated by the County to be 2,896 square feet of commercial space with 816 square feet of that for commercial decks.



used by this project – this is not reflected in the Applicant's traffic analysis. Furthermore, the project intersection is expected to change soon because the permittee in the Bailey-Steltenpohl case is also working with Caltrans on potential Caltrans-required turn channelization lanes (in both directions) within the Highway right-of-way; these changes within the Highway prism, and their potential for further exacerbating conditions at the project intersection, were not accounted for in the Applicant's traffic analysis.

The proposed project's parking lot is also located extremely close to the project intersection and immediately adjacent to Highway One (see exhibit D). As a result, all vehicular access onto and off of Old Coast Road to the project site itself would be almost directly on top of the already constrained 5-legged intersection. This will present 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 either via a hairpin northbound turn or an across the Highway southbound turn), 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). These problems would be exacerbated because patrons of the proposed project would be expected to be visitors to Davenport unfamiliar with the strangely configured project intersection and how best to navigate it.

Conclusion

The proposed project would increase traffic and queuing at an already confused intersection at the fringe of Davenport's main commercial frontage that is already poorly integrated with Highway One (i.e., with pull-off and on parking immediately adjacent to the Highway) within an area (Davenport) that is growing as a commercial visitor destination (including recently permitted visitor serving and commercial development across Highway One from Davenport Avenue). The Applicant's traffic analysis seriously underestimates traffic that would be associated with the proposed project – which would be expected to be roughly double that estimated. Vehicular access to and from the project has likewise not been clearly addressed by the Applicant's traffic analysis within the context of changes to be made to this intersection and increased traffic associated with the already permitted Bailey-Steltenpohl case. As a result, it underestimates traffic at the intersection, and doesn't reflect potential physical changes to be made to the intersection (such as turn channelization) and their effect on congestion at the project intersection. Circulation in and through Davenport is already problematic because of the way the Highway bisects the town with parking areas immediately on the Highway shoulder. The project would adversely impact access along Highway One, would confuse circulation within Davenport, and adversely affect Davenport's character (by increasing congestion and decreasing safety) inconsistent with the LCP. The traffic associated with the residential use in particular is a lower LCP priority than public access and visitor commercial use of the Highway, and displacing or adversely affecting these higher priority uses in a prime visitor destination for a lower priority use is not consistent with the LCP.

The proposed project is inconsistent with the LCP's public access and recreation policies particular to Highway One use through Davenport.



4. Water Quality

LCP Requirements

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 on-site riparian corridor to a bench area above San Vicente Creek (at the end of Fair Avenue), and then through a highway-side riparian woodland corridor 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,²⁷ and the California Fish and Game Commission has designated San Vicente Creek as an endangered coho salmon spawning stream. The National Marine Fisheries Service (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. The California Department of Fish and game (CDFG) echoes NMFS concerns in this regard, and have asked development not be approved without an understanding of such development's potential impact to San Vicente Creek.

Project Inadequately Protects Water Quality

The proposed project would collect site drainage, direct it through a standard silt and grease trap, then direct it through a pipe down through the riparian woodland to the base of the riparian slope where it would be outletted and expected to enter the highway-side corridor and then onto San Vicente Creek and the Pacific Ocean. Runoff from the site would be expected to contain typical runoff elements associated with urban residential and commercial development, including a parking lot. Urban runoff is known to carry a wide range of pollutants including nutrients, sediments, trash and debris, heavy metals, pathogens, petroleum hydrocarbons, and synthetic organics (such as pesticides and herbicides).²⁸ Urban runoff can also alter the physical, chemical, and biological characteristics of water bodies to the detriment of aquatic and terrestrial organisms. Pollutants in the runoff would be filtered to a degree by the silt and grease trap proposed. From the outlet point at the base of the riparian corridor slope, the runoff would also be bio-filtered to a degree by the riparian vegetation extending from the outlet point to San Vicente Creek.

The standard silt and grease trap proposed would act as small sediment holding basin, but is incapable of filtering and treating runoff to remove typical urban runoff pollutants. Although the trap proposed would perform a gross filtering function, the runoff that would exit from the trap would still be expected to

²⁷ 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.

²⁸ Pollutants of concern found in urban runoff include, but are not limited to: sediments; nutrients (nitrogen, phosphorous, etc.); pathogens (bacteria, viruses, etc.); oxygen demanding substances (plant debris, animal wastes, etc.); petroleum hydrocarbons (oil, grease, solvents, etc.); heavy metals (lead, zinc, cadmium, copper, etc.); toxic pollutants; floatables (litter, yard wastes, etc.); synthetic organics (pesticides, herbicides, PCBs, etc.); and physical changed parameters (freshwater, salinity, temperature, dissolved oxygen).



contain pollutants of concern.²⁹ This partially filtered runoff would be directed to the riparian corridor below, where additional pollutants would settle out, and would ultimately make its way to San Vicente Creek and on to the Pacific Ocean.

The use of a standard silt and grease trap to adequately protect riparian woodland ESHA and the ultimate receiving waterbodies from polluted runoff due to the project is inappropriate because such a unit is not sufficiently capable of removing typical runoff pollutants. In addition, relying on the riparian woodland ESHA to filter and treat pollutants due to the project is also inappropriate. It is incumbent upon the project to filter and treat its runoff *prior to* its delivery to either the riparian corridor (at the outlet point) or ultimately San Vicente Creek and/or the Pacific Ocean. At a minimum, urban runoff pollutants would be added into the riparian corridor downstream of the outlet pipe (between the pipe and San Vicente Creek); this ESHA area would be expected to suffer as a result. Depending on the degree to which the riparian vegetation neutralized these constituent pollutants, remaining pollutants would make their way into San Vicente Creek (and then the Pacific Ocean) and this ESHA would likewise be expected to suffer as a result.

In sum, the project would generate typical urban runoff (including in particular runoff including vehicular wastes from the 4,700 square foot parking lot proposed). That runoff would be directed to on and off site ESHA areas following only gross filtration at the silt and grease trap. In other words, the proposed project relies on the on and off site ESHAs to filter and treat typical pollutants generated by the project. These ESHAs would be degraded proportionally as a result. This is inappropriate and inconsistent with the LCP ESHA and water quality requirements.

5. Water and Sewer Service

In addition to the above-mentioned water quality and habitat LCP policies, 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 and wastewater systems, and that a commitment to provide water and wastewater services to the project be demonstrated (LCP Policies 7.18.2, 7.18.3, and 7.19.1). See exhibit M.

The approved project would require 3 new wastewater and 3 new water hookups (i.e., one for each of the 2 residential units and one for the commercial use) from the Davenport County Sanitation District (DCSD).

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

²⁹ If the trap were not regularly maintained, then even its gross filtering capabilities would be negated.



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.³⁰

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 proposed 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.³¹ That said, recent actions indicate the concern over this issue. For example, on the Trust for Public Land's (TPL's) Coast Dairies property surrounding Davenport (a property 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.

In terms of wastewater, 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 and it is unclear as to what effect it may have on water supply or wastewater treatment in Davenport (pending appeal A-3-SCO-02-088).

Conclusion

The larger issues regarding water supply/water withdrawal and wastewater capacity in Davenport are unresolved. That said, these larger issues are beyond the ability of this single applicant to resolve. In this case, the Applicant received the necessary commitment to serve the project from DCSD.³² As such, the proposed project is consistent with the LCP's public service water and wastewater requirements. That said, to the extent the proposed project would exacerbate water and wastewater impacts, a project smaller in scope (and resulting in less water use/wastewater generation), would have a lesser impact in this regard.

³⁰ State Water Resources Control Board, December 27, 2001.

³¹ 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.

³² Note that this will serve was issued on April 29, 2002 and expired on April 29, 2003 (i.e., in the time since this matter was appealed to the Commission). That said, there is no evidence in the file to indicate that DCSD would not extend this will serve, having already done so previously with this project due to the length of time that it was in the County's review process.



6. 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 Forester'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. Their combined effect on coastal resources when considered along with the proposed project could lead to cumulative impacts to the types of coastal resources detailed in the findings above. In particular, and probably of most direct relevance since the other permitted project's community character issues were resolved, Davenport's Highway One circulation (both through traffic and those visiting the town) would be cumulatively worsened by the contribution of this proposed project. This would be particularly the case at the Highway One, Old Coast Road, Davenport Avenue intersection. Ramifications would also be felt through the entire Highway frontage as increased numbers of visitors are drawn to the proposed project and to the permitted Bailey-Steltenpohl and Forester's Hall commercial projects. See also findings above in this regard. The proposed project is inconsistent with the LCP's cumulative impacts policy.

7. LCP Consistency Conclusion and Project Alternatives

The proposed 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 proposed project is inconsistent with protection of: the riparian woodland ESHA; Davenport's character; the Highway One viewshed; Highway One circulation and public access associated with it; and water quality. In sum, the proposed project is overly ambitious in scale for the site and surrounding resources, it will adversely impact the character of Davenport and the Highway One viewshed, it will negatively impact circulation and public access through Davenport, and it will not adequately protect water quality. As such, and as detailed in the preceding findings, the proposed project is inconsistent with the certified LCP.

There are modifications that could be made to the proposed project to address these LCP inconsistencies by maintaining the required riparian setback and by developing a smaller scale commercial development with a lesser intensity of use (and with a corresponding reduced intensity of parking, traffic generation, polluted runoff generation, water use, and wastewater generation) that more clearly reflected the small scale character of Davenport and that was cognizant of the special gateway location adjacent to the Highway One corridor.

The main two parameters would be to establish a footprint area and scale for the development. The first parameter for such an alternative project is to remove development from the required riparian setback. This results in an area nearest Old Coast Road within which development could be pursued. Once such a development envelope is established, the next issue to address is establishing parameters for addressing Davenport character and Highway One viewshed issues. In the two most recent Commission decisions where these issues were engendered in Davenport, the Commission required the new development to



essentially maintain the appearance of what was there before (in size, bulk, and exterior treatment) so as to maintain Davenport's character and the Highway One viewshed.³³ Taking these two parameters together, a main structure footprint and profile can be established that occupies the roughly 1,000 square foot footprint of the existing barn footprint that is located outside of the required buffer (see exhibit H). The topography slopes towards the riparian corridor within this footprint area; a front to back differential of roughly 6 feet in elevation (see side view of barn in this area on page 5 of exhibit c). It would be feasible to develop a commercial structure within that portion of the existing profile of the barn located outside of the required setback. Such a structure could have an approximate 1,000 square foot footprint, and could include a partial (due to slope change in this area) to full (with some excavation) lower story, resulting in up to about 2,000 gross square feet. Note for comparison that in the Licursi Forester's Hall case reviewed by the Commission in 2000, the approved commercial use occupied approximately 1,800 square feet..

The corresponding development necessary to serve such a use is parking. With a 2,000 square foot commercial operation, and assuming roughly 400 square feet for storage and loading, such a commercial use might require up to 8 parking spaces per the LCP.³⁴ In this case, 8 parking spaces could feasibly be constructed inland of the barn footprint and outside of the riparian corridor setback on the Applicant's property in at least two different configurations; one where there was an access driveway with parking spaces tucked against retaining wall at the property line, and another where parking spaces would be provided directly off of Old Coast Road supported on a fill slope or elevated on caissons.³⁵ The fill slope could be vegetated appropriately, and/or the retaining wall/elevated structure could be screened with cascading vegetation. In addition, it is possible that all or some project parking could be supplied within the undeveloped portion of the Old Coast Road right-of-way, if this street edge were improved. In any case, the spaces would be located as far from the riparian corridor as feasible, while also avoiding the removal of significant trees. See exhibit H.

Once the primary siting and size parameters are so established, other mitigations could be added to address other LCP inconsistency issues (e.g., a design and materials palette based on the existing weathered barn could be specified; vegetation parameters for both screening and buffer purposes could be established; advanced water quality filtration and treatment devices and methods could be employed outside of the riparian woodland, etc.). The lesser scale and intensity of use that would respond to these parameters would help to mitigate Highway One traffic and congestion issues (particularly at the project intersection) and cumulative impacts.

³³ As discussed above, the Bailey-Steltenpohl project in the former Odwalla building across Highway One from this site and the reconstruction of Forester'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 a slightly smaller footprint and profile than that that existed previously (i.e., the footprint and profile was required to be reduced slightly nearest the Highway). In the Forester's Hall case, the development replicated the historic Forester's Hall structure that had been demolished.

³⁴ LCP section 13.10.552 specifies 1 parking space per 200 square feet of retail. This ratio is generally indicative of commercial parking requirements in the LCP. Some commercial uses, such as restaurants, require more parking spaces (1 per 100 square feet plus 0.3 per employee), and some require less (e.g., art galleries require 1 per 300 square feet). Depending on the precise dimension of the structure and the nature of the use, parking requirements thus could be more or less than this.

³⁵ Note that the Commission's Senior Engineer has evaluated these options and visited the site and deemed them feasible.



However, the proposed project is not even close to meeting these parameters, and it would require fundamental changes in the project design to do so. Many details, such as parking requirements, would be dependent on the exact size and nature of the commercial use proposed; the interplay between intensity of use and parking requirements may shape the commercial project as well. Setback variances to Old Coast Road may need to be considered.³⁶ Any Highway One right-of-way issues (depending on which yard is chosen as the front yard) would need to be addressed. If a portion of the project were given over to residential use (up to 50% is allowed in the C-1 zoning district), then that too would affect the overall project parameters. Because of the degree to which the proposed project would need to be fundamentally modified, and indeed changed completely, and the range of possible project permutations affecting the details, it is inappropriate to attempt to craft mitigating conditions that would do so in this case. Rather, it is incumbent on the Applicant to propose an alternate project mindful of these parameters that can go through a normal coastal permit review at the County.

Therefore, because the proposed project is inconsistent with the LCP as described in the above findings, the proposed project is denied. Such denial is without prejudice inasmuch as there are feasible project alternatives that could be pursued on this site that could be found consistent with the LCP, as discussed above.

D. California Environmental Quality Act (CEQA)

Pursuant to CEQA section 21080(b)(5) and CEQA Guidelines section 15270, denial decisions are not subject to CEQA. To the extent it can be argued that CEQA does apply to denial decisions, the following is provided.

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

The County, acting as the lead CEQA agency, circulated a proposed negative declaration under CEQA for the proposed project in April of 2002. Prior to that time, in early coordination with County staff, Commission staff had already provided feedback and recommendations on the project to the County and the Applicant describing the same types of LCP inconsistencies detailed in this report;³⁷ these comments were reiterated and elaborated upon in both formal CEQA comments from Commission staff³⁸ and through a series of follow-up meetings (including at the site), phone conversations, and emails with

³⁶ For example, it is possible that some variations to achieve articulation or character embellishment might be necessary at the Old Coast Road side of such a footprint and profile, and that there may be a slight incursion into this required setback (depending on what the setback is, which depends on which the Applicant chooses as the front yard).

³⁷ By letter dated June 8, 2000, see exhibit J.

³⁸ By letter dated May 20, 2002, see exhibit J.



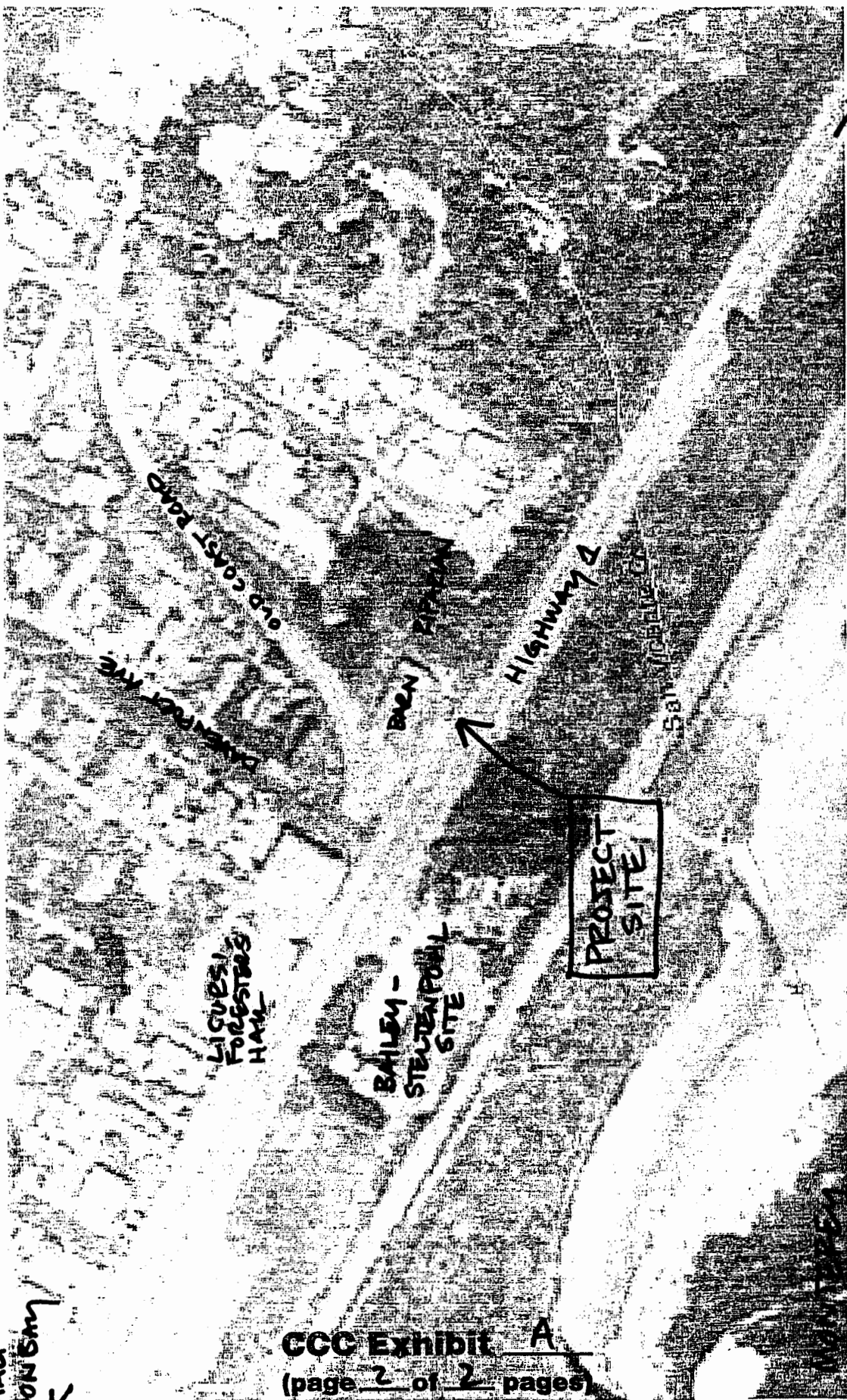
County staff in late 2002 prior to the County taking action on the proposed project. Ultimately, the project was not altered in light of staff comments, and the County certified the CEQA negative declaration as part of its project approval in November 2002.

In any case, the Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This report has discussed the relevant coastal resource issues with the proposal. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference. As detailed in the findings above, there are less environmentally damaging feasible alternatives to the proposed project (in addition to the no project alternative), and feasible project mitigation measures to achieve them, that would better protect the environment.

As such, there are additional feasible alternatives and feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project would have on the environment within the meaning of CEQA. Thus, the proposed project will result in significant environmental effects for which feasible mitigation measures have not been employed inconsistent with CEQA Section 21080.5(d)(2)(A). Therefore, the project is not approvable under CEQA and is denied.



TO HALF
MOON BAY
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TO SANTA
CRUZ
↗

BAY

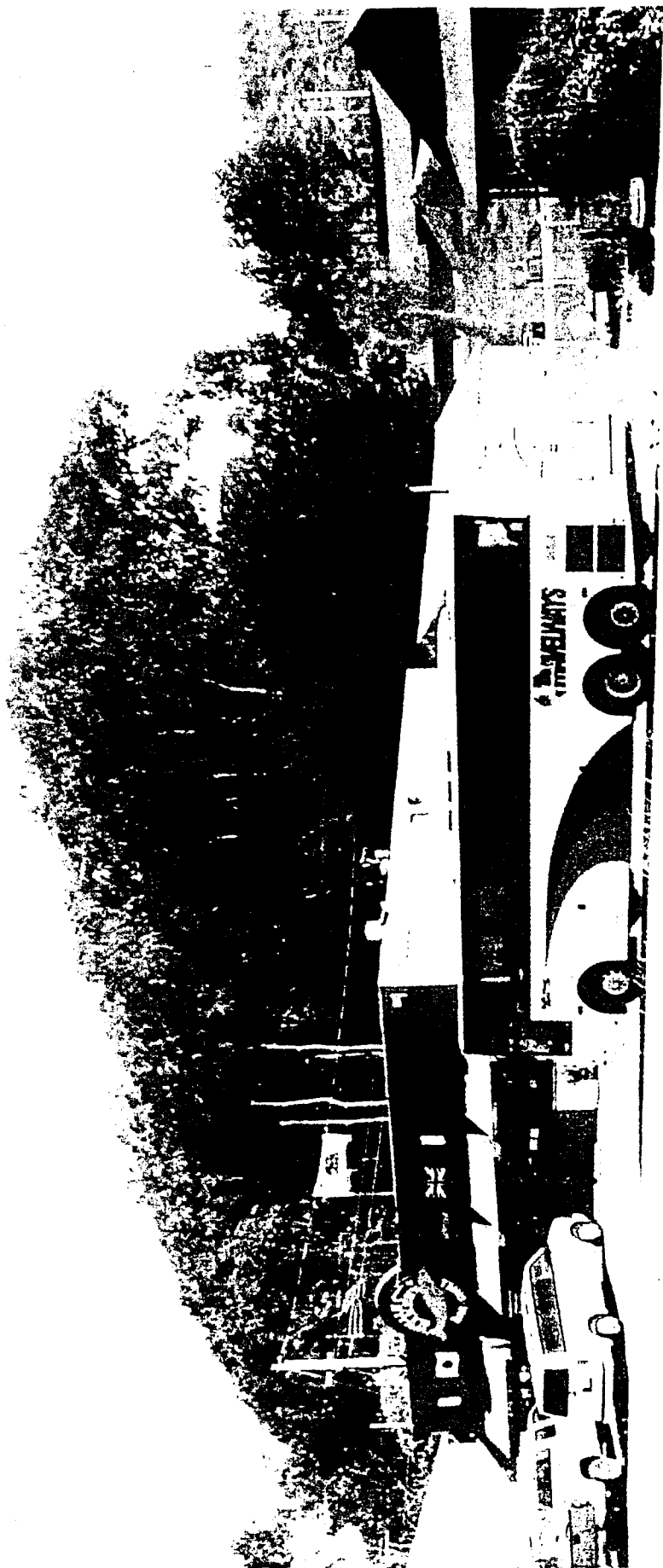


Exhibit B
(page 1 of 8 pages)

DAVENPORT HIGHWAY
ONE FRONTAGE PHOTOS



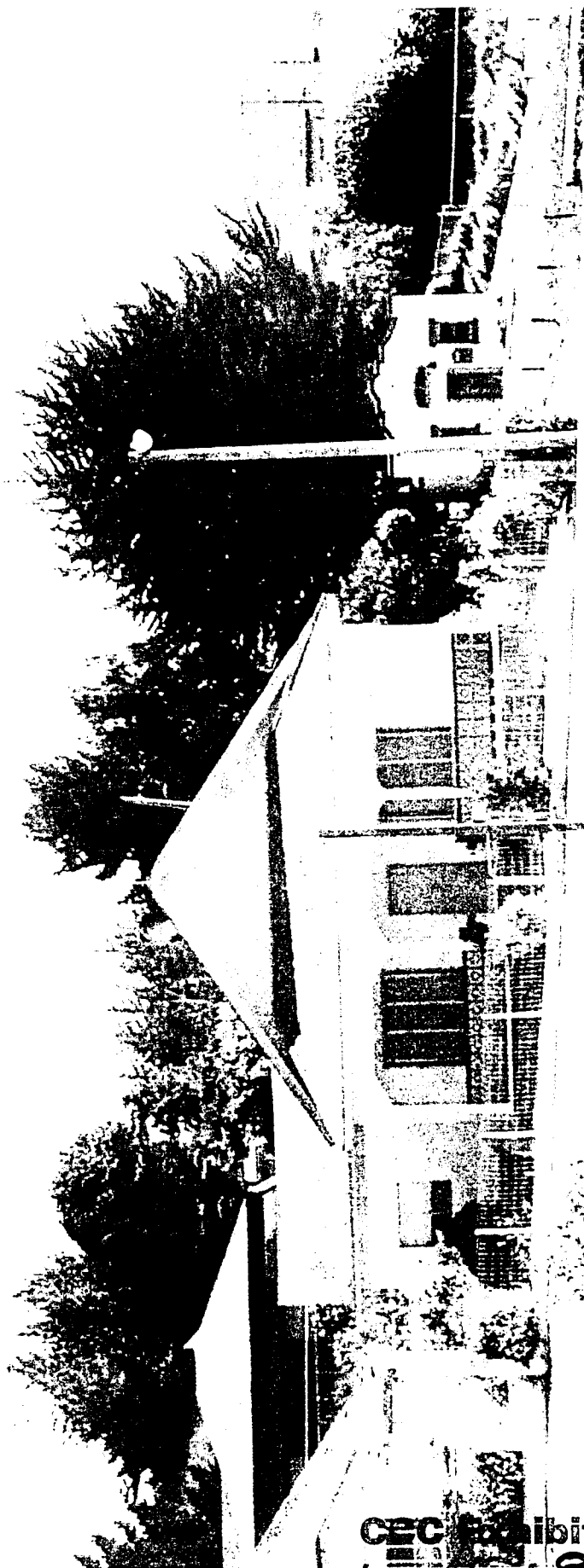
CCC Exhibit B
(page 2 of 8 pages)



CCC Exhibit B
(page 3 of 8 pages)



CCC Exhibit B
(page 4 of 8 pages)





CCC Exhibit B
(page 6 of 8 pages)

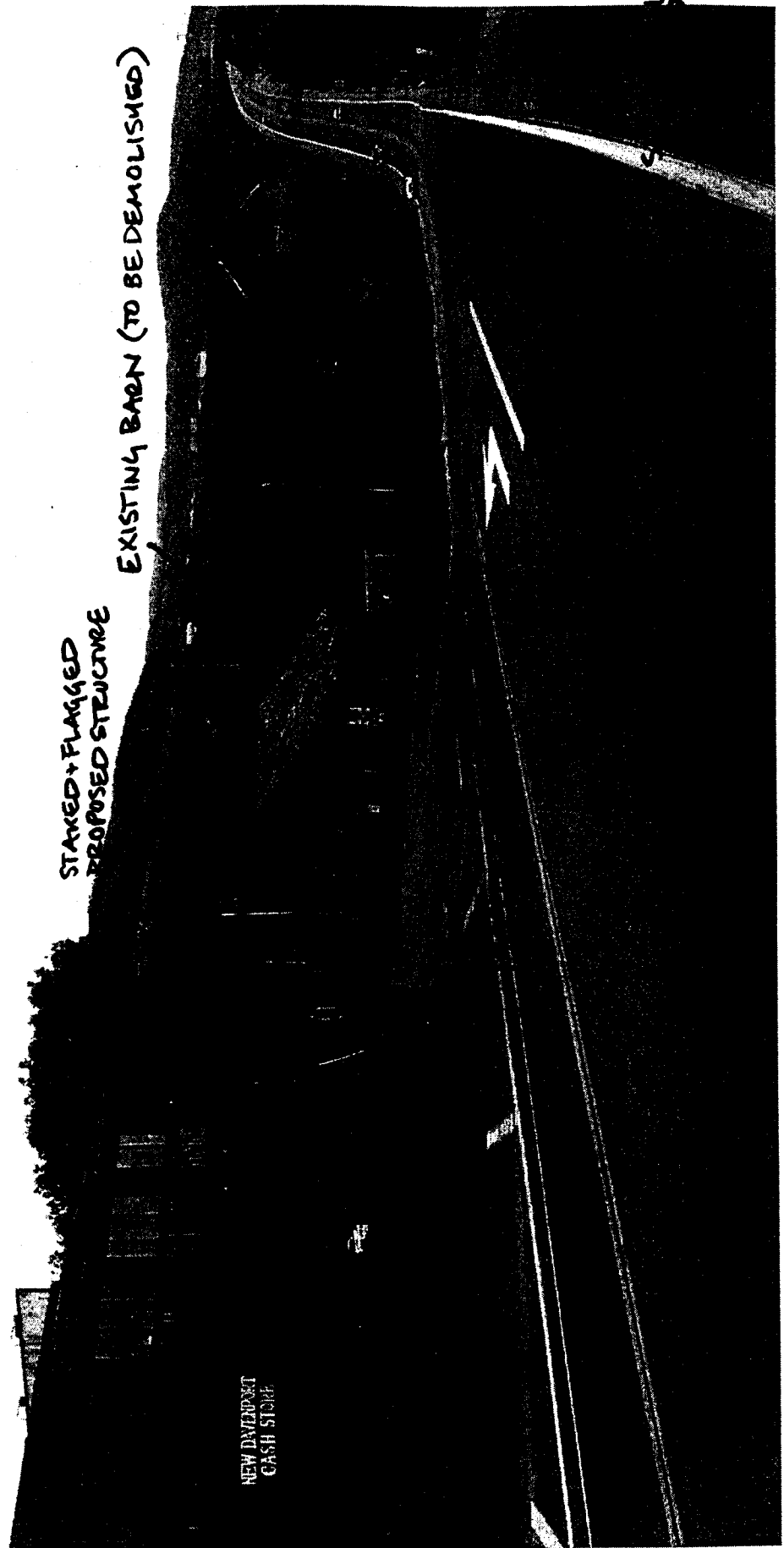






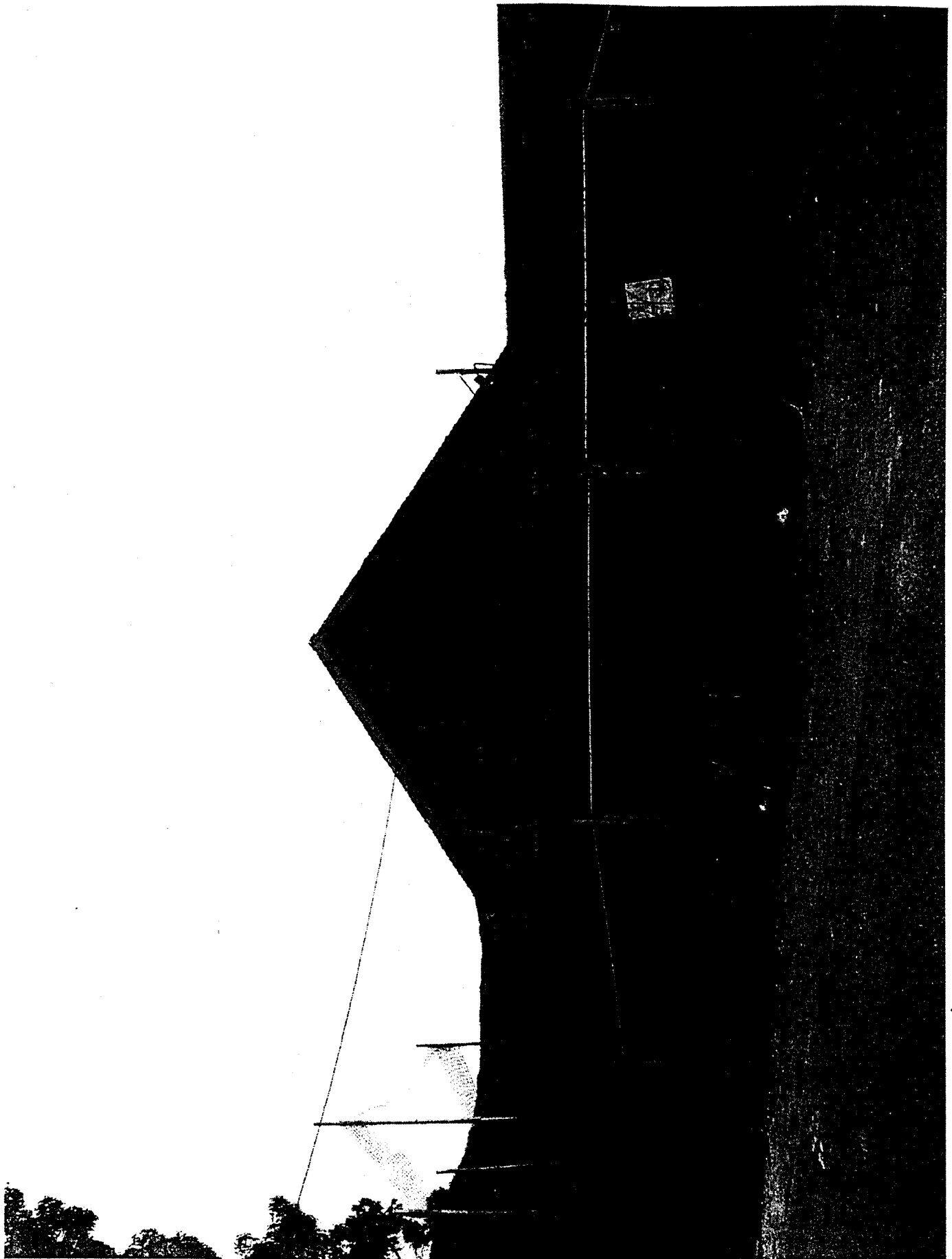
PROJECT
SITE

Highway 1



TREE PROPOSED FOR REMOVAL

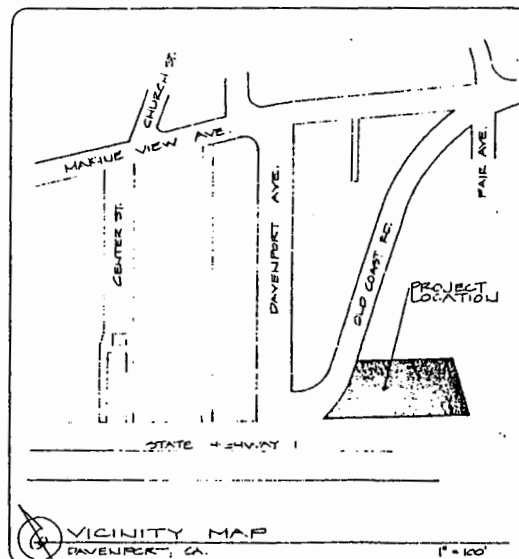
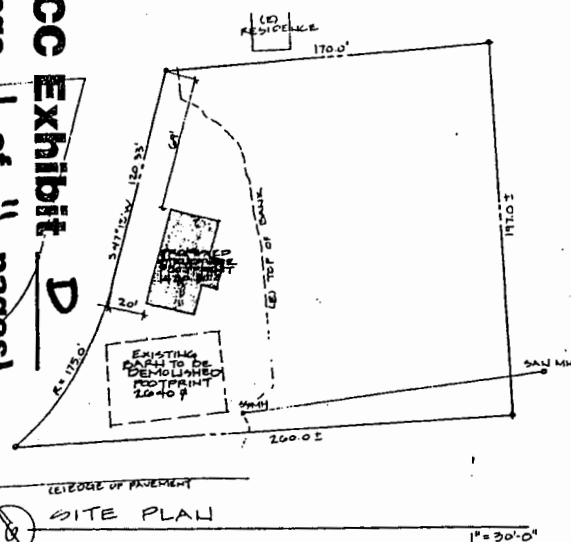




CCC Exhibit C
(page 4 of 5 pages)



PROJECT PLANS



Owners: Mr. David Luers
P.O. Box 159
Davenport, CA. 95017

Project Address: Zero Davenport Avenue
Davenport, GA.
A.P.N. 058-081-01

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

Setbacks:			
FYSB	20'(allowed)	20'(actual)	
SYSB	10'(allowed)	69'(actual)	
RYSB	20'(allowed)	118.26'(actual)	

Existing	5%	(2640 sq. ft.)
Proposed structure	2.7%	(1420.62 sq.ft.)
Impervious area:	10.5%	(5600.0 sq.ft.)
Landscape	88.8%	(45,200 sq.ft.)

Parking: Required 10 Spaces (2 accessible)
Residential 3 Spaces
Res. 1523' 3 bdrm. @ 1/8drm.
3 spc.
Commercial 7 Spaces
Comm/Whr. 628' @ 1/1000 =
1 spc.
Comm/Off. 1198' @ 1/200 =
6 spc.

Height	Allowable 35' Actual 34'
--------	-----------------------------

Signage
Building allowable - 41.25'
Along Highway 1- 24.6'
Along East Border 2 - 16.62'

Plumbing Fixture Units - 12 Total

THE LUERS BUILDING
WINE TASTING/RETAIL ESTABLISHMENT

OWNER: Mr. David Luers PROJECT LOCATION: Highway 1, Liverport
P.O. Box 158 Liverport, CA APN 58-081-01

REVISIONS	BY
① 9/10/20	F
② 10/1/21	F
③ 9/20/21	F

TERRI L.N. FISHER

14080 425-6108 ARCHITECT
 LICENSE # C-74008
 255 MIRACLE LN SANTA CRUZ, CA 95060

THE LUERS BUILDING

WINE TASTING/RETAIL ESTABLISHMENT
OWNER: Mr. Dave Lutz,
P.O. Box 139, Davisport, CA 95601-0139
PROJECT LOCATION: Highway 1, Davisport
APN 58-081-01

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ATTACHMENT 2



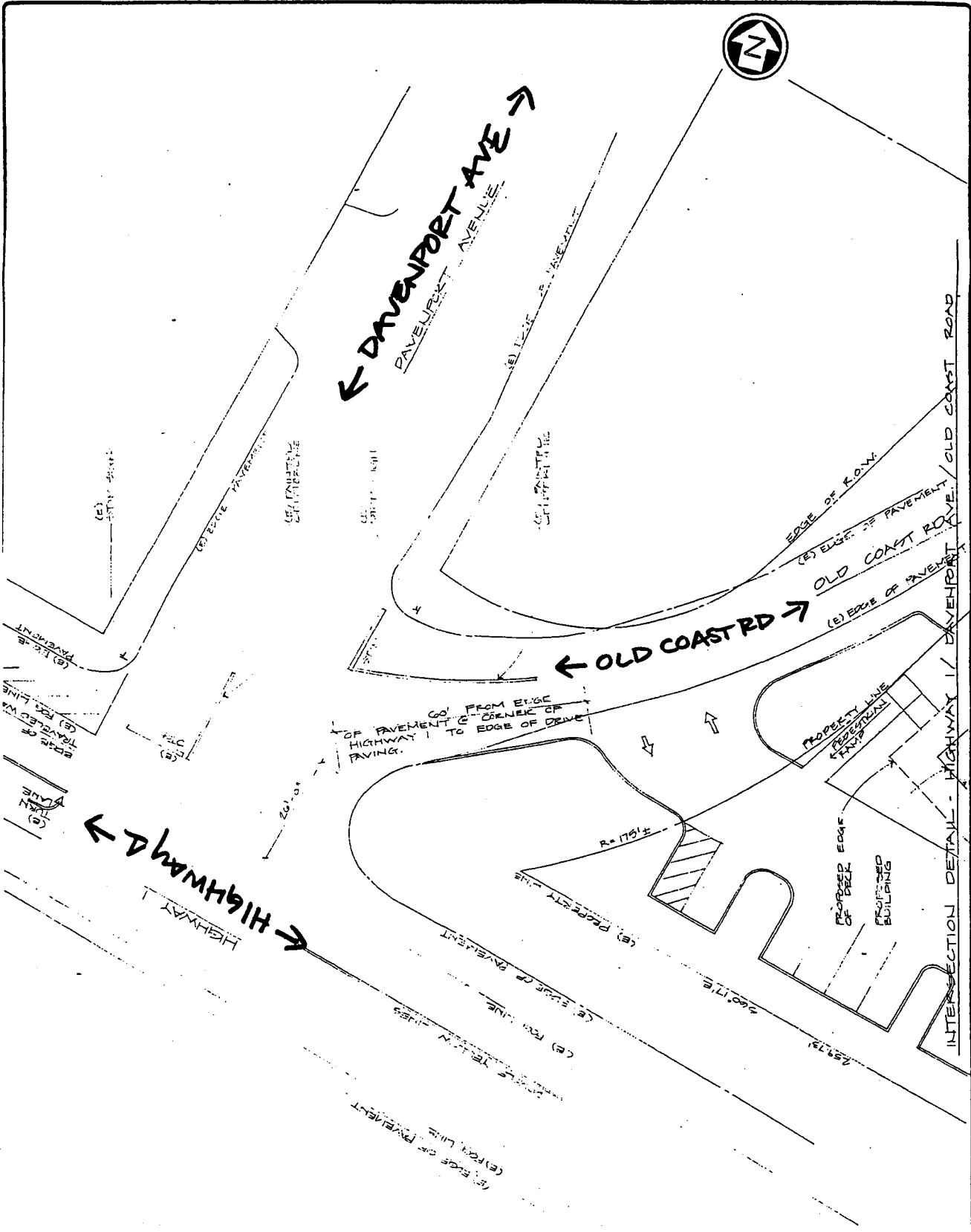
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TERRI L.N. FISHER
 ARCHITECT
 LICENSE NO. 014038
 PROJECT LOCATION: Highway 1, Davenport
 PROJECT NO. 54-081-01

THE LUERS BUILDING
 WINE TASTING/RETAIL ESTABLISHMENT
 OWNER: Mr. Dave Luers
 P.O. Box 158
 PROJECT LOCATION: Highway 1, Davenport

TERRI FISHER
 ARCHITECT
 LICENSE NO. 014038
 PROJECT NO. 54-081-01

ATTACHMENT 2



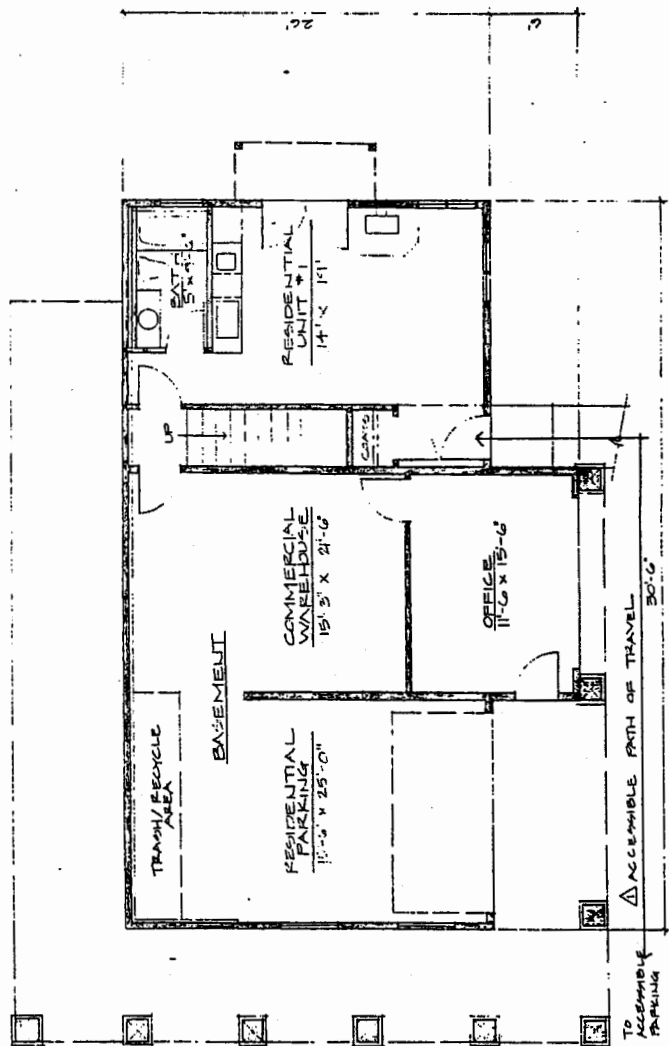
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285 MIRACLE LN. SANTA CRUZ, CA 95060
 ARCHITECT
 LICENSE # C14039
 TERRI L.N. FISHER
 PROJECT LOCATION: 10000 N. DEWPORT
 4080 422-5105

THE LUBS BUILDING
 WINE TASTING/RETAIL ESTABLISHMENT
 OWNER: P.O. Box 139 Dewport, CA
 PROJECT LOCATION: 10000 N. DEWPORT
 4080 422-5105

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A2



LOWER LEVEL PLAN (BASEMENT)
 1/4" = 1'-0"
 140 3/8 FT

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CHK	10/20/16
APP	10/20/16
REV	10/20/16
NO.	10/20/16
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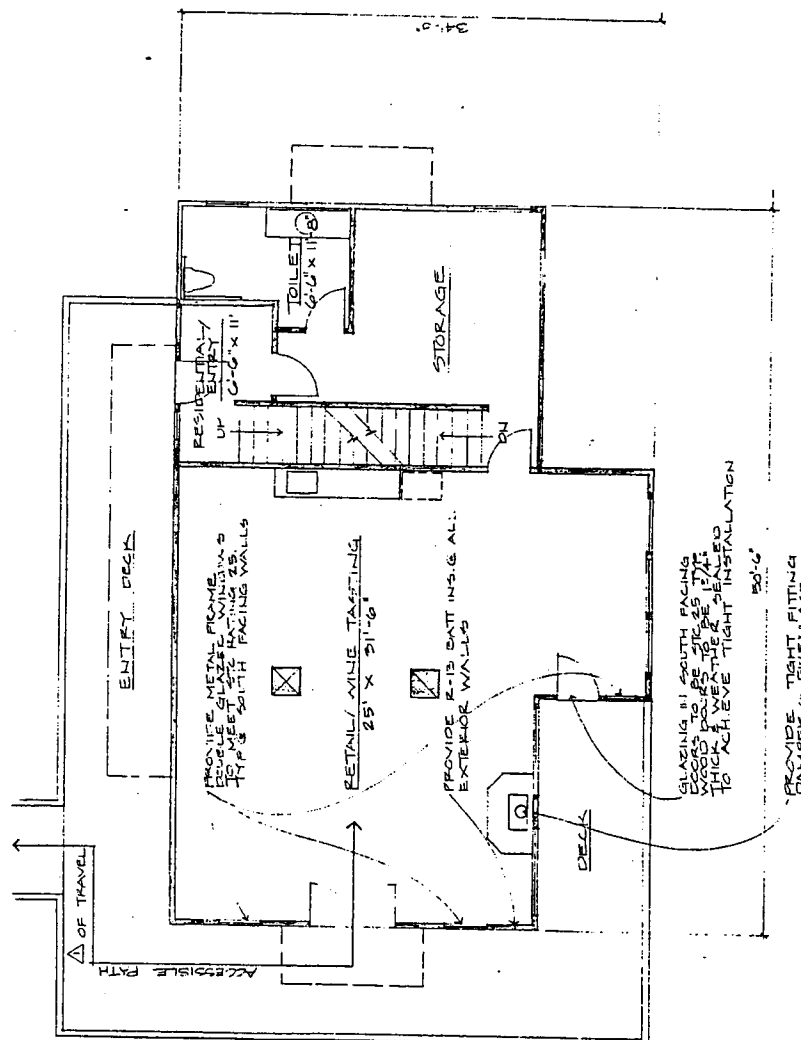
1400 425-5705
ARCHITECT
TERRELL L.M. FISHER

THE LUERS BUILDING
WINE TASTING/RETAIL ESTABLISHMENT
OWNER: P.O. Box 12, Newport, CA
PROJECT LOCATION: Highway 1, Downtown
10/20/16

DATE	10/20/16
BY	10/20/16
CHK	10/20/16
APP	10/20/16
REV	10/20/16
NO.	10/20/16
DATE	10/20/16
BY	10/20/16
CHK	10/20/16
APP	10/20/16
REV	10/20/16
NO.	10/20/16

A3

ATTACHMENT 2



MAIN LEVEL FLOOR PLAN
1440 30. FT. 1/4" = 1'-0"

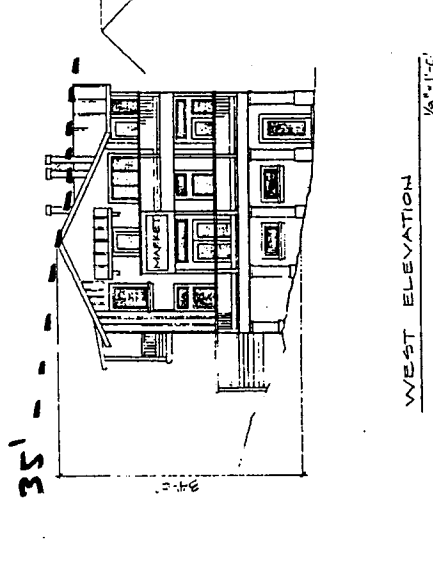
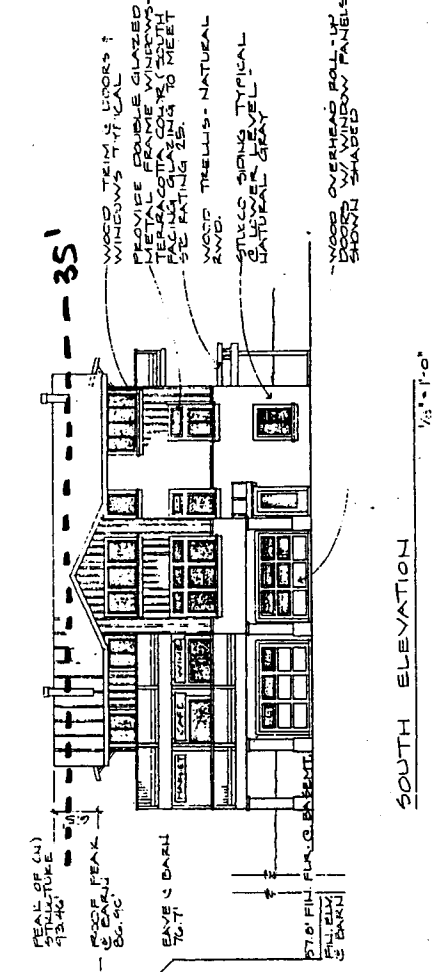
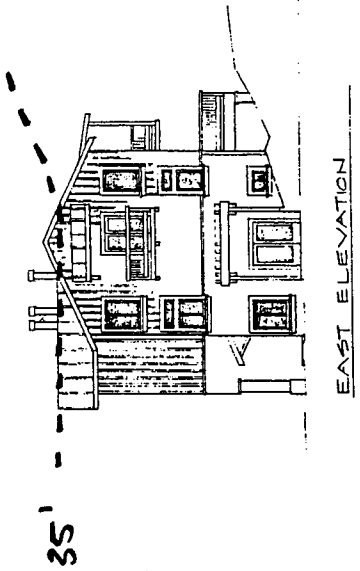
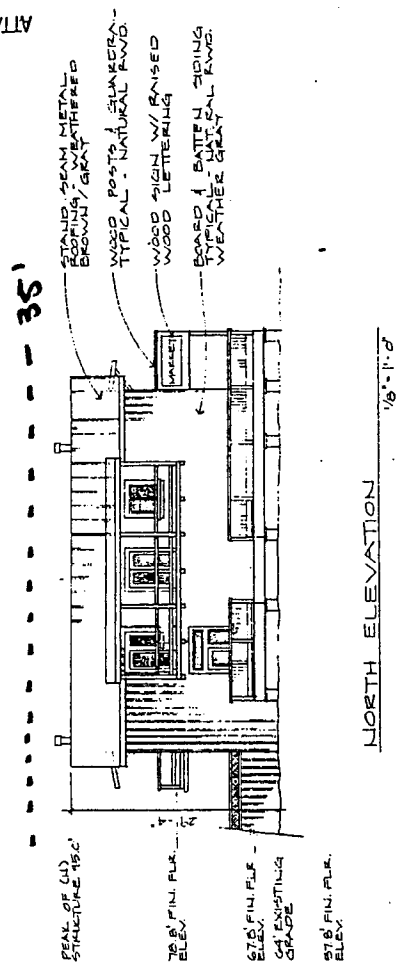
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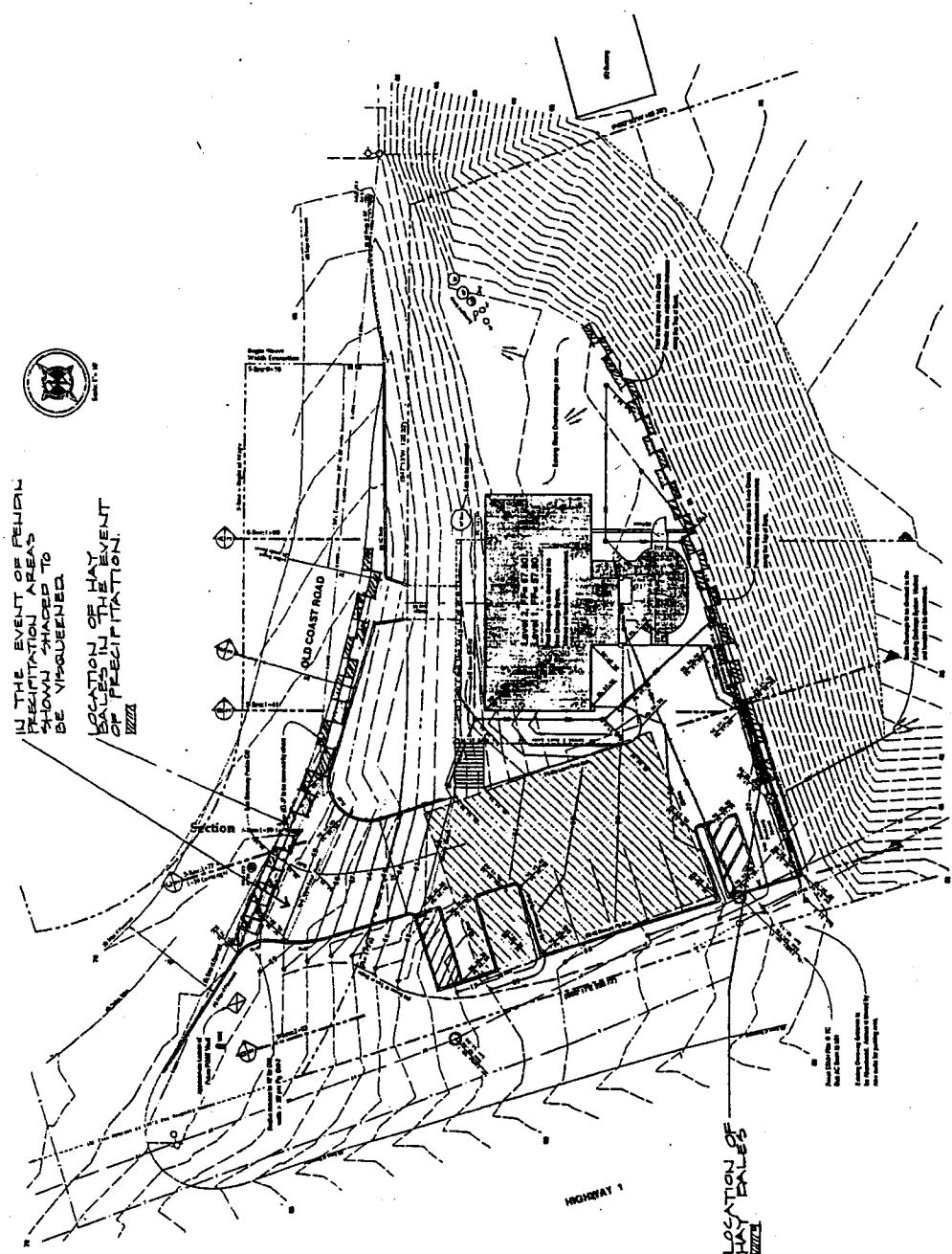
225 MIRACLE LN. SANTA CRUZ, CA 95060
 ARCHITECT: TERRI L. FISHER
 LICENSE # C4003
 4000 425-5705

THE LUERS BUILDING
 WINE TASTING/RETAIL ESTABLISHMENT
 PROJECT LOCATION: Highway 1, Carmel
 10-10-01
 OWNER: P.O. Box 128
 10-10-01

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SCALE	1/8" = 1'-0"
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ATTACHMENT 2



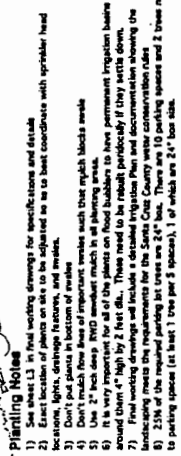
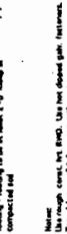


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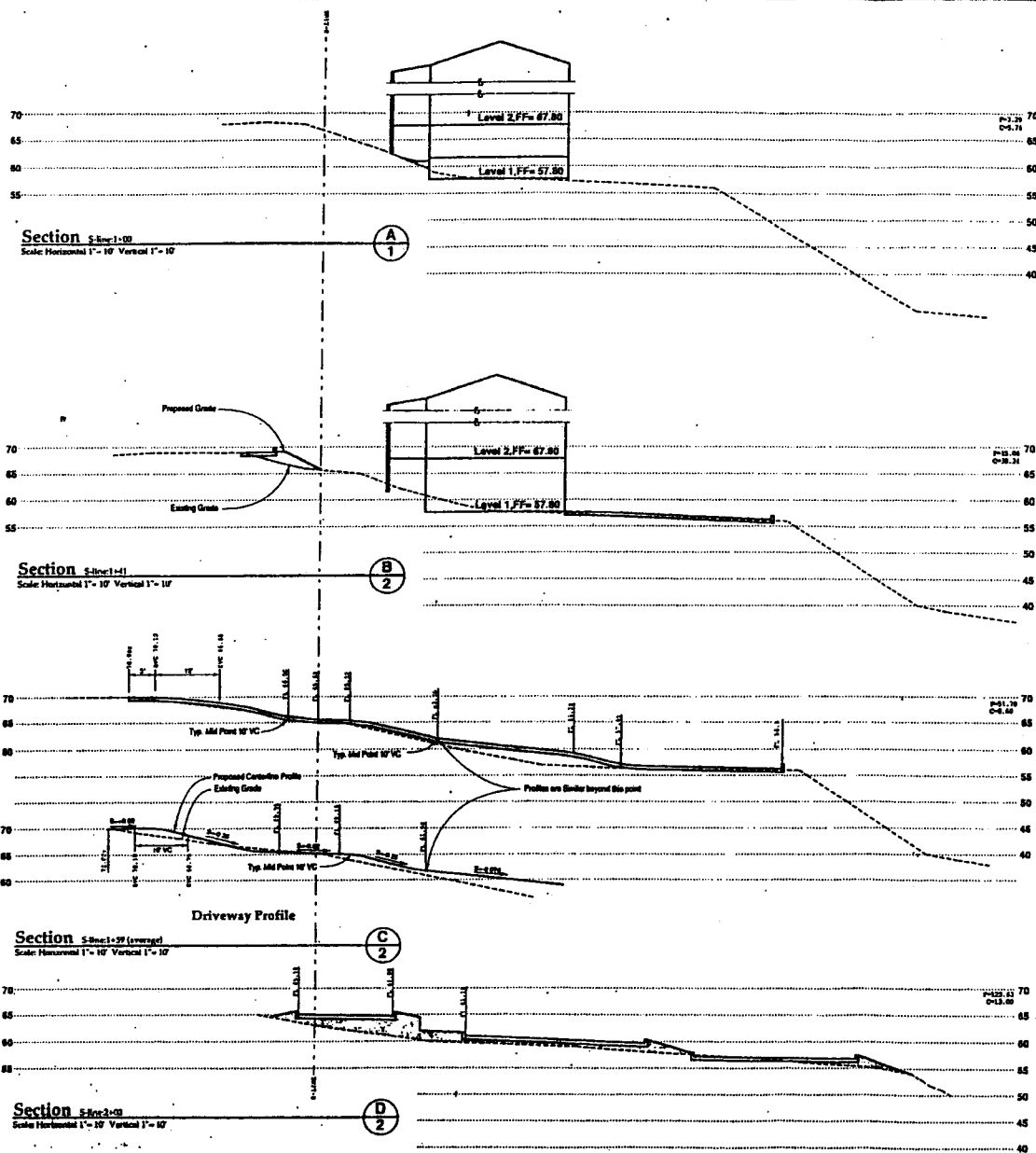


The final working drawings will include a detailed ingo-

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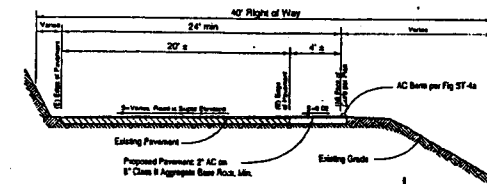
Evergreen olive trees and casting nutmegs soften the rooms of the building. Flamingo shrubs and ground covers that are low water use such as lavender and a transition from the coastal environment to the building.



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.

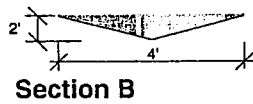
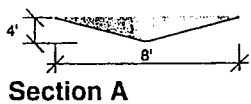
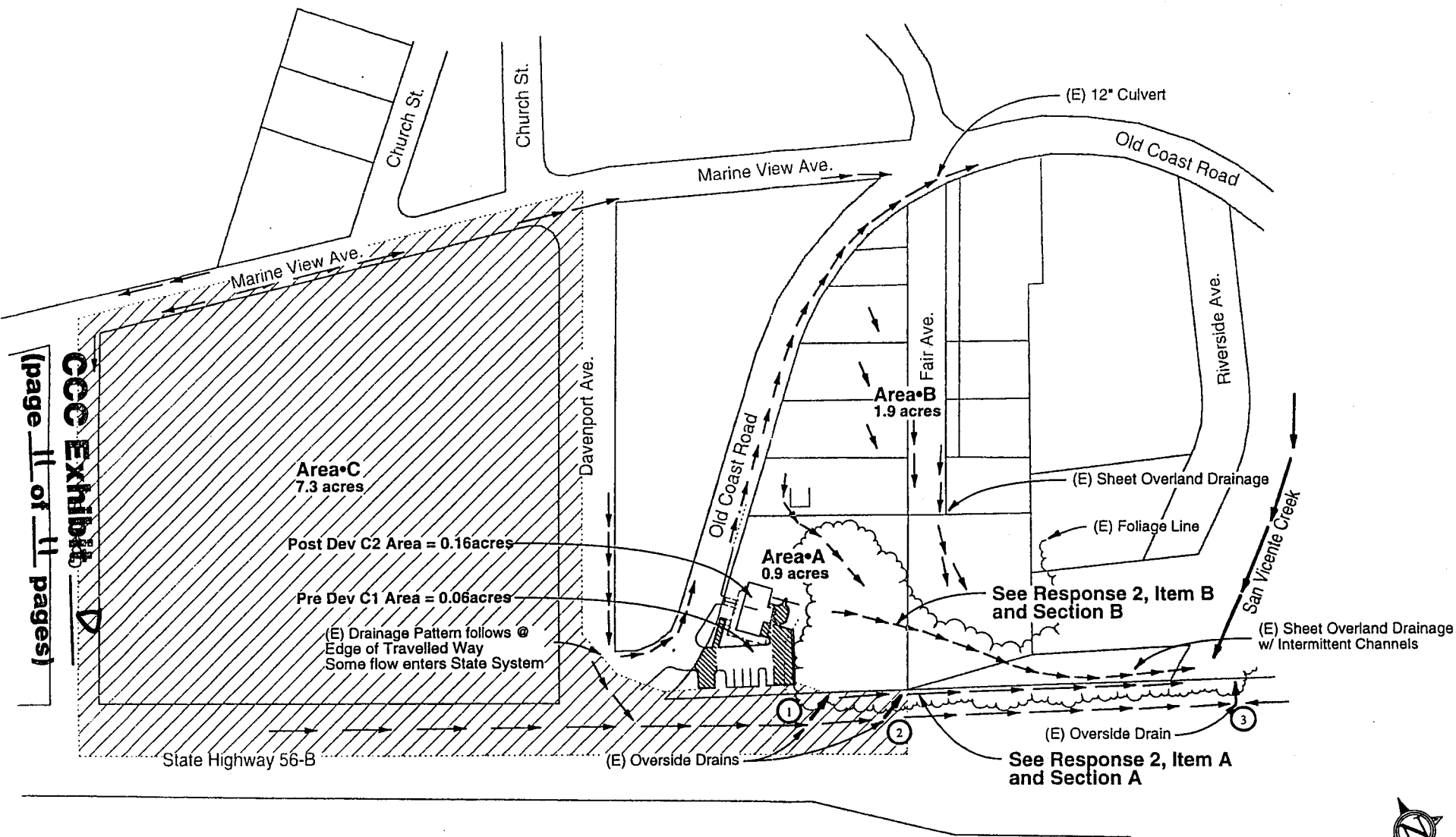


Proposed Improvements to Old Coast Road
Widen to 24' minimum from Hwy 1 to the end of the pedestrian bridge entrance to Level 2 of the proposed building.
A transition from the 24' wide street to the existing 20' wide street will connect to the Existing AC Base at 1' beyond the bridge entrance.

Typical Section Old Coast Road

No Scale

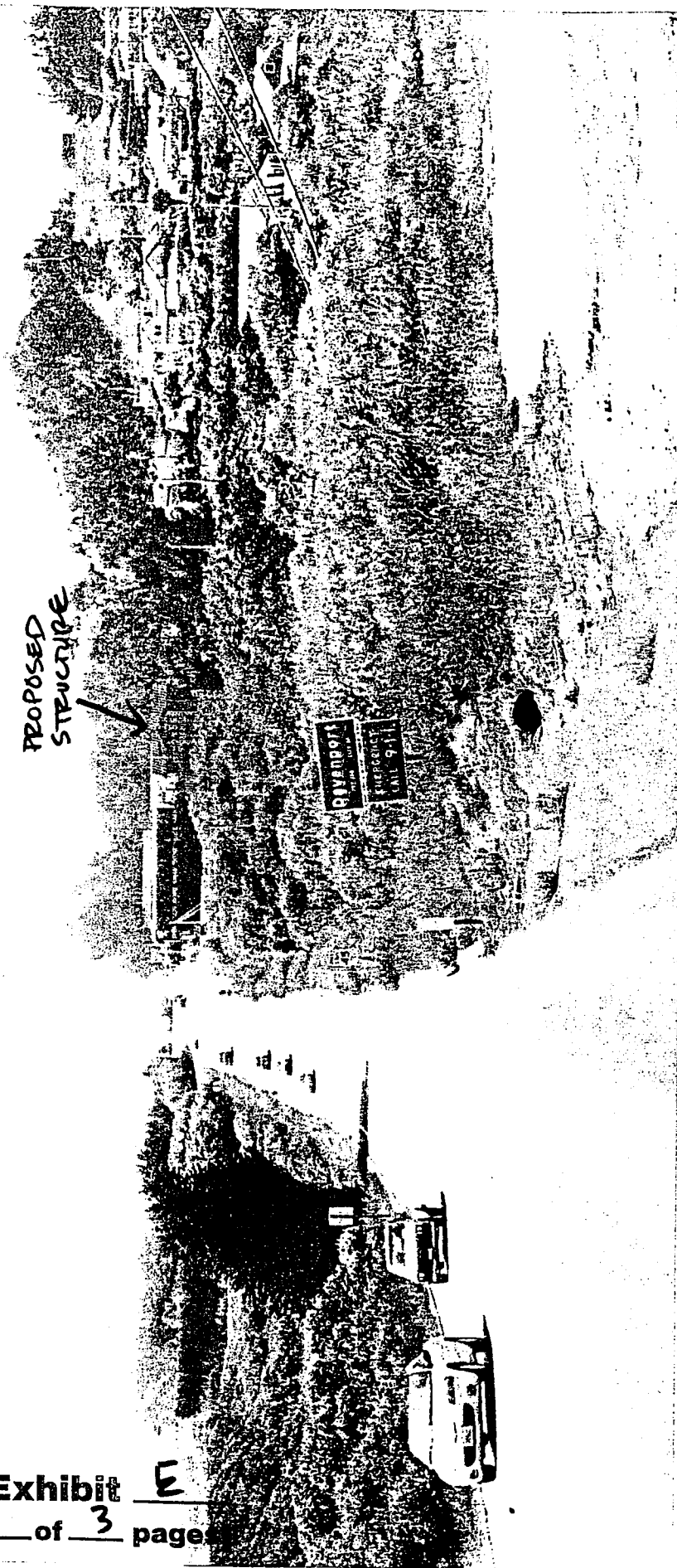




SITE DRAINAGE



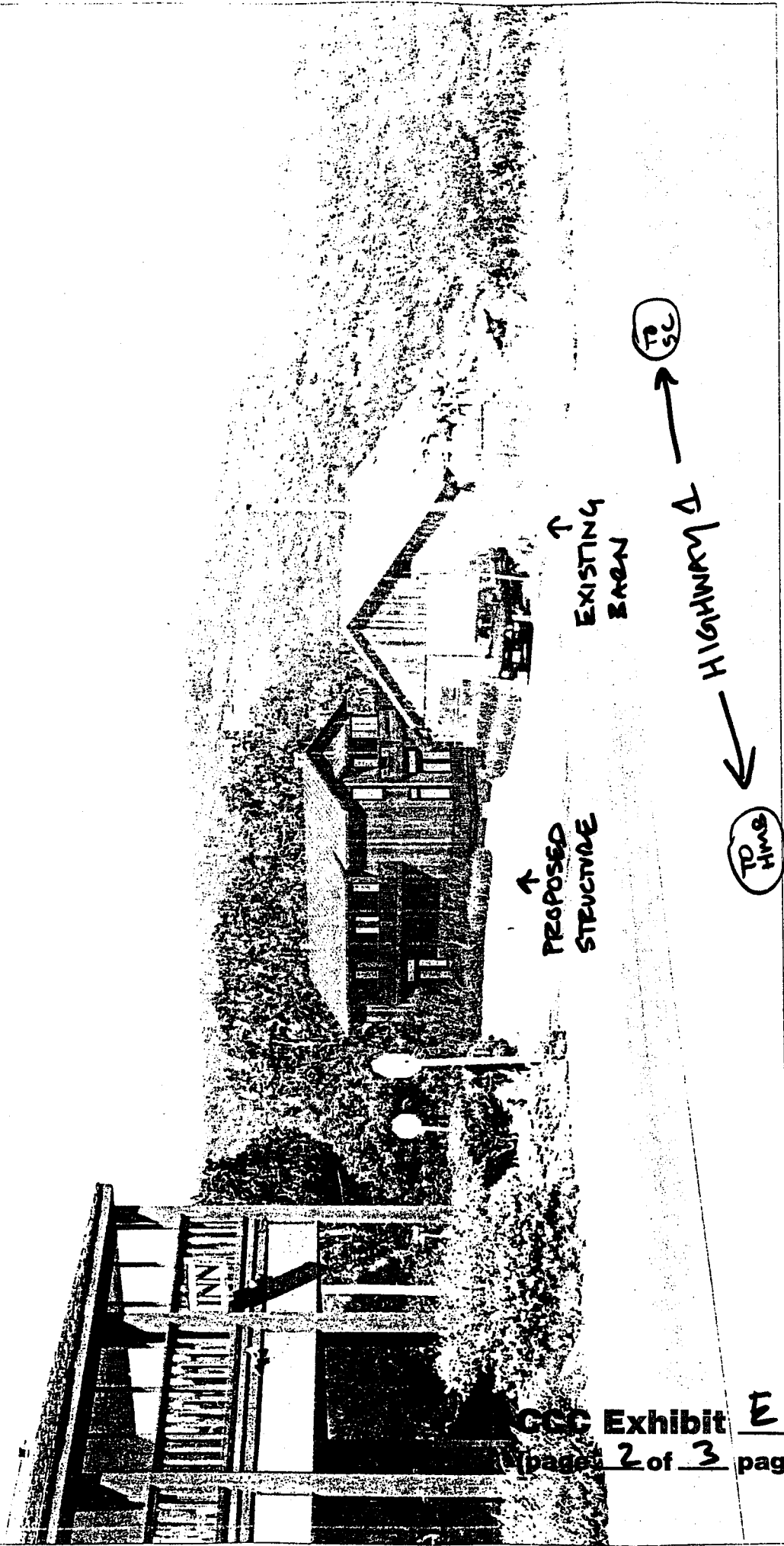
The Luers Building
Davenport



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

SE ELEVATION - TRAVELING NORTH ON HIGHWAY 1, ENTERING DAVENPORT

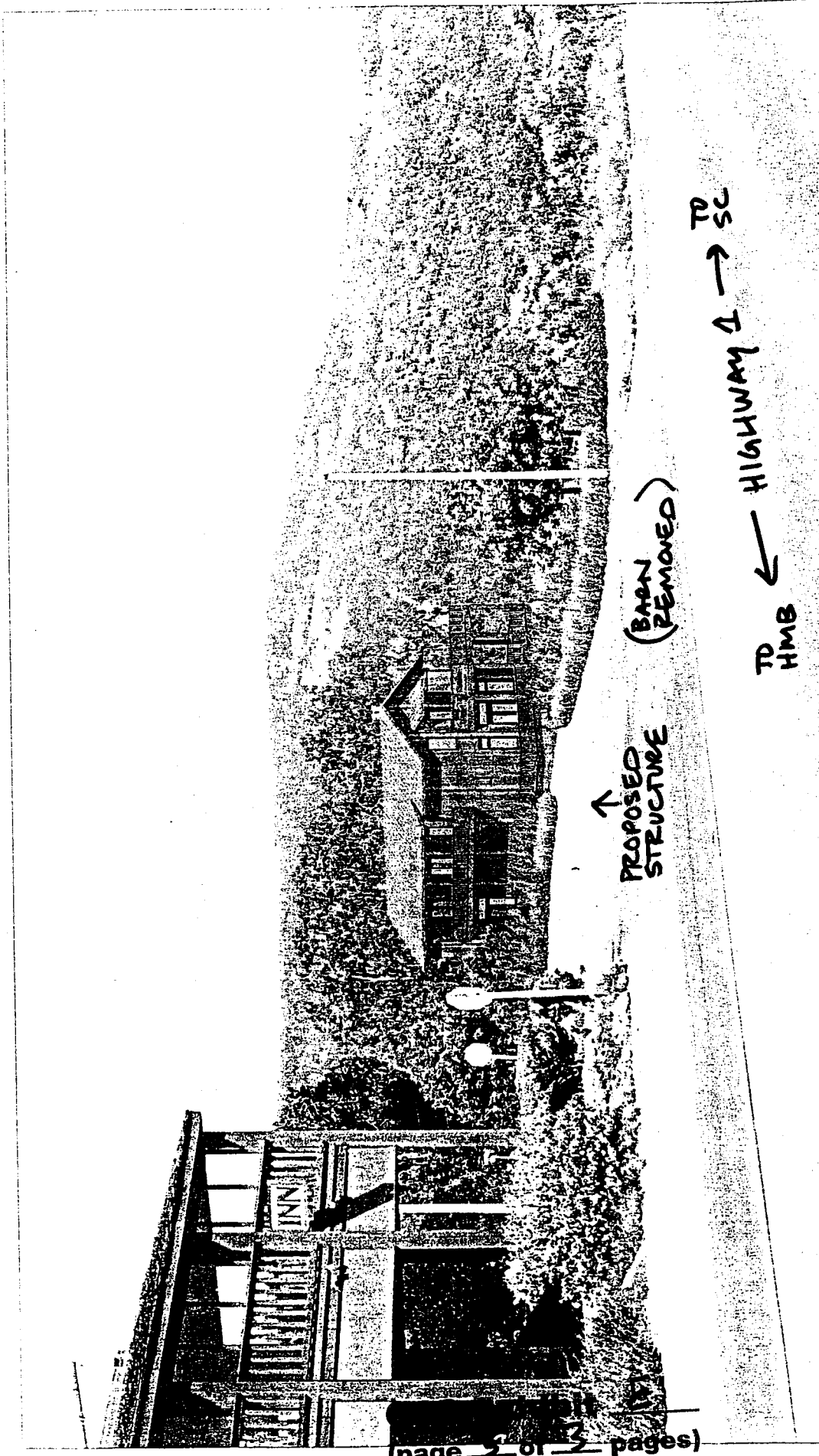
APPLICANT'S PHOTO SIMULATION
(POST PROJECT - BARN GONE)



Terri L. N. Fisher, Architect
Rendering: ArchiGraphics

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

APPLICANT'S PHOTO SIMULATION



(page 5 of 3 pages)

Terri L.N. Fisher, Architect
Rendering: ArchiGraphics

The Luers Building
Davenport

NW ELEVATION - TRAVELING SOUTH ON HIGHWAY 1, EXITING DAVENPORT

APPLICANT'S PHOTO SIMULATION

*** STAFF NOTE**

THESE DOCUMENTS WERE SUBMITTED TO COMMISSIONERS PRIOR TO THE SUBSTANTIAL ISSUE HEARING. DUE TO THEIR BULK, THEY ARE NOT REPRODUCED HERE. THEY WILL BE AVAILABLE FOR REVIEW AT THE DE NOVO HEARING (AND CAN BE REVIEWED PRIOR TO THAT DATE AT THE COMMISSION'S CENTRAL COAST OFFICE IN SANTA CRUZ).

RECEIVED

January 28, 2003

JAN 29 2003

Mr. Dan Carl
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re: Luers Building for Davenport, California:
Commission Appeal Number A-3-SCO-02-117

Dear Mr Carl:

I write in regard to the California Coastal Commission staff report recommending that the Commission find a substantial issue on the appeal of the proposed Luers Building (APN# 058-091-01) in Davenport, California. I request that, based on existing information and the information attached hereto, the Commission find no substantial issue regarding the Luers Building, or, in the alternative, that the no substantial issue hearing be postponed so that the staff can consider the documents attached.

I submit the following documents for the Commission's consideration and for inclusion into the administrative record for the Luers Building project (the "Luers Building"):

*** SEE STAFF NOTE**

- A. Riparian Hydrology Evaluation for Luers Property, prepared by Gary Kittleson, M.S., dated January 17, 2003;
- B. Biological Assessment for the Luers Building, prepared by Bryan M. Mori, Biological Consulting Services, dated January 15, 2003;
- C. Response of Terri L. N. Fisher, Architect, to Appeal Staff Report - Substantial Issue determination, dated January 24, 2003;
- D. Evaluation of Potential Traffic Impacts and Response to Comments, prepared by Higgins Associates Civil & Traffic Engineers, dated January 24, 2003.

As shown below, the facts summarized in these documents along with information already available support the Santa Cruz County Planning Commission's (the "SCPC") approval of this project as consistent with the policies and requirements of the County of Santa Cruz Local Coastal Plan (the "LCP"), and that no substantial issues remain.

A. RIPARIAN CORRIDOR PROTECTION

Chapter 16.30 of the Santa Cruz County Code sets development protections for riparian corridors. Section 16.30.040 states, in pertinent part:

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

- (a) Riparian corridors (defined in pertinent part as lands extending 50 feet out from each side of a perennial stream or 30 feet from an intermittent stream);
- (b) areas within the Urban Services Line or Rural Services Line which are within a buffer zone (which extends 50 feet from the edge of riparian woodland, plus another 10 foot setback).

Section 16.30.060, which codifies the exception to section 16.30.040, requires that:

the Approving Body shall make the following findings:

- 1. That there are special circumstances or conditions affecting the property;
- 2. That the exception is necessary for the proper design and function of some permitted or existing activity on the property;
- 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 Program Land Use Plan.

The SCPC made such findings in accordance with section 16.30.060. (SCPC Staff Report, Application No. 98-0234, 11.13.02, p. 13). The staff report recommending that the Coastal Commission find a substantial issue disagreed with these findings, stating:

"There is little in the administrative record regarding the expected effect of the project on existing riparian woodland, and limited if any biological justification supporting a reduced setback;" and

"...it does not appear that [the Building] has been planned around the site constraints." (Commission Staff Report, p. 9).

The conclusions of Staff notwithstanding, information already available to the Commission staff in the SCPC's record and the information attached to this letter support the SCPC's findings, and

do not support a finding of significant issue. In regard to the SCPC's findings of exception in accordance with section 16.40.060, the following should be noted:

1. Special Circumstances and Conditions Affecting the Property

- a. The site's awkward geography and topography is such that, as Ms. Fisher states in her Response: "*Maintaining the 50' buffer in addition to the 10' riparian setback would have prohibited a building pad anywhere on the site.*" Thus, the site's physical characteristics represent a special circumstance. In fact, it is difficult to conceive a more appropriate situation for an exception to the development provision as when honoring the full width of the buffer would effectively preclude development of a parcel, as is the case here. As staff noted in their report recommending Coastal Commission approval of the Odwalla Building, located in Davenport just across Highway One from the Luers Building and approved by the Commission in 2002:

"because of special circumstances applicable to the property, including size, shape, topography, location and surrounding existing structures, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification." (See Odwalla Building Appeal Staff Report, App. No. A-3-SCO-98-101, pp. 13-14).¹

Though not recognized in the staff report, this analysis is equally applicable to the Luers property.

- b. The existing barn on the Luers property encroaches further into the buffer than the proposed Building. Thus even rebuilding or maintaining the so-called gateway barn would impact the buffer to a greater extent than the proposed Building. It should also be noted that, far from a vanguard of community character, the existing barn is dilapidated and blighted (see Exhibit 1, photos), providing temporary refuge for transients and firewood for nighttime beachgoers. (see Exhibit 2, Licursi Letter, dated September 9, 2002, attached to SCPC Staff Report). The proposed Building would retain the simple aesthetics of the barn and would eliminate its blighted features, thus complimenting local character more than the existing barn.

¹ Also noted in the Luers Building Environmental Review Initial Study, June 20, 2002, p. 8: "*In this case it appears special circumstances exist, primarily the limited developable area on the property.*"

- c. The adjacent riparian woodland is of dubious quality, at best. As Mr. Mori stated in his Biological Assessment, attached, *"the riparian habitat values of the willow woodland appear to be limited, due to the absence of surface water, the fragmented nature and small patch size of the habitat, the prevalence of non-native ground cover in the understory, the close proximity of the surrounding residential and commercial development and, perhaps, noise associated with vehicular traffic on Highway One."* (p. 2). Furthermore, Mr. Kittleson notes in his Hydrology Evaluation, *"No evidence of significant surface flow in the existing drainage swale [in the woodland] was noted."* (p. 1.). Mr. Kittleson continues, *"... contiguous willow habitat between the subject property and San Vicente Creek appears only after 1967,"* and *"riparian habitat associated with San Vicente Creek is functionally separate from willow woodland habitat on the subject property."* (emphasis added).
- d. The Building site is located within the County's Rural Services Line, defined in County Code section 17.02. As stated in that section, the purpose of the Rural Services Line is to, among others, *"limit the extension of urban services to those areas within the Rural Services line in the Coastal Zone."* Since the Luers property is located within the Rural Services Line, and utility service is already available to the site, the proposed Luers Building is within an area identified by County Code and the LCP as most appropriate for development.

2. Necessary for Proper Design and Function of Permitted Activity

In her attached Response, Ms. Fisher notes the project has been designed to respect the buffer requirement to the maximum extent. But as she states, a building pad could not be located on the site if the full 60' buffer-and-setback were to be honored. Thus, it is necessary for the proper design and function for development on this site that an exception to section 16.30.040 be granted.

3. Protection of Public Welfare and Property Downstream

In his attached Riparian Hydrology report, Mr. Kittleson notes that minute run-off from the Building leading to San Vicente Creek would not lead to increased flood potential for the Creek. (p. 2). Additionally, on-site stormwater measures allow for silt and grease trapping and temporary detention and bio-filtration of stormwater flows, thus minimizing the potential for contribution of polluted run-off. Finally, Mr. Kittleson notes that San Vicente Creek enters culverts and then discharges into Monterey Bay immediately downstream of the Building site. Therefore no downstream property owners would be effected.

4. Riparian Corridor Protected, and No Feasible Less Environmentally Damaging Alternative Exists

- a. For clarity, it should be noted that the willow woodland discussed in the Staff report and adjacent to the Luers Building is not part of the San Vicente Creek Riparian Corridor. County Code Section 16.30.030 defines a Riparian Corridor as: *lands extending 50 feet from the mean high flow line of a perennial stream, or 30 feet from the same line of an intermittent stream*. San Vicente Creek is 400 feet away from the project; its 50 foot Riparian Corridor is 350 feet away from the footprint of the Luers Building. The willow woodland discussed in the staff report is considered Riparian Woodland only because it contains willow trees. (County Code section 16.30.030). There is no aquatic feature associated with the willow woodland, as both Mori and Kittleman note in their respective reports, attached.² This makes the willow woodland, at best, nominal riparian habitat, as Mori notes in his Biological Assessment. (p. 2).
- b. As noted in Ms. Fisher's Response, attached, no feasible alternative building alignment exists which could honor the full width of the 60 foot riparian woodland buffer. The site's sloping topography coupled with county building setback requirements leave little developable area outside the 60 foot riparian buffer (as little as a ten foot wide strip). Additionally, extensive grading would be required to develop on this area, since it includes the steepest part of the project site. Therefore, this project, with its minimum 35 foot buffer and numerous protection measures, represents the only feasible alternative.
- c. The San Vicente Creek Riparian Corridor lies more than 350 feet away from the footprint of the Building.³ Due to this distance, the Building is not close enough to physically reduce the Riparian Corridor. Moreover, as Mr. Kittleson notes in his attached Riparian Hydrology report, *"no defined surface water channels exist between the willow woodland on subject site and nearby San Vicente Creek riparian habitat."* (p. 2). Thus the small amount of surface water flow leaving the project would not flow into to San Vicente Creek. In addition, although the adjacent willow woodland is, at best, of limited habitat quality, the project will protect it through on-site stormwater measures that allow for temporary detention and bio-filtration of stormwater flows. (see Biological

² Mori notes "the absence of surface water" (p. 2), while Kittleman notes "no evidence of existing surface flow . . . despite significant antecedent rainfall in December, 2002."

³ Following the section's definition, the closest Riparian Corridor is that association with San Vicente Creek, over 350 feet from the footprint of the Building.

Assessment, p.5). The project will also implement native planting measures to protect the willow woodland. (p. 5).

- d. Furthermore, other design features of the proposed Building will reduce any impact on the adjacent willow woodland to insignificant levels. The lighting scheme used throughout the property will be designed to prevent the throwing of light and to otherwise minimize impact to the woodland. A barrier will be installed between the project and the willow woodland, designed to prevent wildlife species from being harmed by migrating onto the Building site. Therefore, this design represents the only feasible, least environmentally damaging alternative.

5. Conformity with Riparian Protection Statute, General Plan and LCP

- a. The granting of this exception is clearly in accordance with the County's Riparian Protection statute (County Code 16.30). As noted previously in part d., the riparian resources and water quality of San Vicente Creek remain protected by the project. Additionally, no part of the willow woodland will be physically impacted by development of the Building. The Building itself would observe a 35' buffer from the willow woodland. Building construction would also install a catchment for passive treatment of stormwater run-off. Therefore, impacts to the willow woodland would also be minimized. Finally, the Building would remove the dilapidated and blighted barn which itself intrudes further into the willow woodland habitat than the proposed Building.
- b. Furthermore, the SCPC staff report found that the Building is in conformity with the County's General Plan (see p. 6, " . . . *the project is consistent with the General Plan.*"), a finding which the Commission staff report does not challenge. Finally, the above discussion of the attendant facts, coupled with additional discussion below, elucidates the Luers Building's conformity with the policies of the County LCP.

Thus the facts demonstrate that there is no substantial issue regarding the willow woodland or San Vicente Creek riparian corridor, since Building design has included numerous features to mitigate any impact it may have had on these protected areas.

Mr. Dan Carl
California Coastal Commission
January 28, 2003
Page 7

B. COMMUNITY CHARACTER AND HIGHWAY ONE VIEWSHED

The LCP Land Use Policies 8.8.4 and 8.8.5 require that:

development in Davenport be consistent with the height, bulk, scale, materials and setbacks of existing development, generally small scale one- or two-story structures of wood construction; and

development along Highway One frontage shall . . . emphasize the rural community center character and visitor serving area character of Davenport.

County Code Section 13.20.143(c)(1)(i) requires that Davenport development along Highway One frontage shall:

emphasize Davenport 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.

In considering the issue of regulating a building's height and bulk in order to maintain a local aesthetic, Commission staff noted in its staff report for the Licursi Gallery, approved by the Coastal Commission in 2002 and located in Davenport just 1.5 blocks away from the proposed Luers Building:

"It is most appropriate for the community and the local government to establish the parameters of community character consistent with the Coastal Act here. It is not usually the best approach for a statewide body to intervene and establish the future character of a particular community. Rather it is hoped that the community and the local government can describe in detail and in policy and ordinance language, the appropriate "character" and a means for ensuring and achieving that goal that is consistent with the Coastal Act." (Licursi Gallery Appeal Staff Report, App. No. A-3-SCO-00-106, pp. 13).

The SCPC found that the Luers Building fits within the character of the surrounding area. (SCPC Report, p. 5). However, the staff report recommending that the Coastal Commission find a Substantial Issue disagrees with these findings, stating:

" . . . the existing weathered and rustic barn helps to define Davenport's character and the Highway One viewshed. Removing it and replacing it 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 three stories when the LCP describes one or two stories as generally indicative of Davenport's small scale character." (Commission Staff Report, p. 15).

Staff's conclusions are incorrect based on currently available information and that information attached to this letter.

1. Height and Footprint

- a. The height of the building will not have as exaggerated an impact as the staff report holds. At a maximum of 34' 9", the height of the Building is within the maximum height allowed by the LCP and County ordinance (35 feet). It is also less than five feet taller than the existing dilapidated barn structure.
- b. Although the Building consists of three stories when the typical Davenport building consists of one or two, the report fails to note that first story will be almost entirely obstructed from view because it is below Old Coast Road. (See Photos, Exhibit 3). As staff concluded recently in their report on the Licursi property, *"More important than a rote examination of building heights is (1) the effect that the building would have on maintaining the small scale one or two story structures of the Davenport frontage and (2) the effect that the building height would have on the public viewshed."* (Licursi Staff Report, pp. 9-10). Since the Building is below Old Coast Road it will retain the aesthetic of a two story building, and thus, it is in conformity with the character of Davenport.
- c. The footprint and bulk of the Building itself is actually *smaller* than that of the existing barn, and the existing barn protrudes further into the riparian buffer area than the proposed building.
- d. The Building would use a smaller footprint and would be less than 5' taller, at most, than the existing dilapidated barn. Since the Coastal Commission has recently approved two projects – the Licursi and Odwalla Buildings – which roughly replicate or slightly increase the height and bulk of predecessors on their properties, there is no appropriate reason for the Luers Building not to be afforded similar consideration. (Licursi Staff Report, p. 1, Odwalla Building Appeal Staff Report, App. No. A-3-SCO-98-101, pp. 13-14).
- e. Thus the height and footprint of the Building do not raise a substantial issue in regard to Davenport's character and aesthetic.

2. Building Form and Surrounding Character

- a. Recently approved structures in Davenport – the Licursi and Odwalla Buildings – have similar aesthetics: *"simple sloping roof, wood siding"* (Licursi Staff Report, p. 5), *"wooden structure [with] functional, straightforward unadorned appearance"* (Odwalla Staff Report, pp. 20-21). These aesthetics made those

buildings "entirely consistent with – and contribut[ing] to – Davenport community character." (Odwalla Staff Report, p. 21).

- b. As described by the SCPC (and see Exhibit 4, photos) the Luers Building is similar to the Licursi and Odwalla designs: simple form, finish material texture and color. (SCPC Report, pp. 65-66). These characteristics combine to retain the aesthetic of the existing barn and other buildings in Davenport. Further, covered wrap-around wooden decks compliment similar features which define the adjacent Cash Store.
 - c. The Luers Building is functionally in conformity with the character of commercial uses along Highway One in Davenport. As the SCPC staff report notes, the General Plan, the LCP and the property's zoning designation – C-1 Neighborhood Commercial – fully permit residential development up to 50% of the total floor area of a project. (SCPC staff Report, p. 13). This is borne out by existing and Coastal Commission approved projects adjacent to the Luers Building. The Coastal Commission has approved the Licursi Gallery, which contains 1,100 sq. ft. of second floor residential. The Coastal Commission approved Odwalla Building will contain 3,450 sq. ft of residential, and 4,830 sq. ft. of temporary occupancy space. The second level of the adjacent Cash Store is similarly dedicated to temporary occupancy residential. This is in keeping with other existing commercial use in Davenport, as shown in Exhibit 4, photos. Thus, the mixed-use makeup of the Luers Building is strongly in character with surrounding commercial development in Davenport.
 - d. The simple façade and roof proposed for the Building leaves it more in conformity with the revitalized character of Davenport than the existing dilapidated barn. As noted by staff in its report on the Licursi Gallery, *"remodeling along the Highway frontage has more recently injected a more finished façade as seen from the Highway."* (Licursi Staff Report, p. 8). These subtle and approachable changes in Davenport's Highway One frontage are leaving the dilapidated barn obsolete, rendering it an eyesore contradictory to the character of Davenport rather than its vanguard.
 - e. Thus the form of the Building and its agreement with surrounding structures do not raise a substantial issue in regard to Davenport's character and aesthetic.
3. Land Use
- a. The Building's proposed wine tasting/deli use is in conformity with LCP policy 8.8.4 and County Code section 13.20.143(c)(1)(i), which designate Davenport as a Coastal Special Community. These sections state that Davenport should be

emphasized as a visitor serving area. Since wine is an activity tending to focus almost exclusively on visitors, the Building's use as a wine tasting location fulfills the mandate of LCP policy 8.8.4 and County Code section 13.20.143(c)(1)(i).

- b. Thus the form of the Building and its agreement with surrounding structures do not raise a substantial issue in regard to Davenport's character and aesthetic.

C. PUBLIC ACCESS/TRAFFIC IMPACTS

In specific regard to Davenport, County Code section 13.20.143 requires the development of:

clear, coordinated traffic circulation.

Although approved by the SCPC, the Coastal Commission staff report finds the Building creates a substantial issue in regard to traffic, stating:

"[The Luers Building parking lot] would appear to create a public safety hazard particularly on a cumulative basis when considered in relation to [other reasonably foreseeable] development in Davenport. The report cites potential "queuing problems" from the parking lot configuration at an "already problematic" intersection. The staff report concludes that "the hazard created would adversely impact access . . . would confuse circulation . . . and adversely affect Davenport's character." (Commission Staff Report, p. 13).

Facts in the record do not support staff's assertion that the Building creates a substantial traffic issue.

- a. Higgins Associates' Evaluation of Potential Traffic Impacts, attached, notes that *"A review of the driveway spacing guidelines published by the Institute of Traffic Engineers indicates that the location of the project driveway is well beyond the minimum distance criteria associated with rural commercial or industrial use."* (pp. 4-5). Further, Higgins Associates note: *"Increase in peak hour traffic demands [associated with the Building] will not adversely impact operations at either SR 1 / Davenport Avenue or Davenport Avenue / Old Coast Road intersections . . . [nor would] project traffic have any adverse impact on turning movement operations at the SR 1 / Davenport intersection."* (p. 5). Thus the Building has adequately addressed increase in traffic flow related to its construction.
- b. Additionally, Coastal Commission staff has not raised the traffic issue with previously approved projects adjacent to the Building. Indeed, the Odwalla

Building, which uses the same intersection, contains twice as many parking spaces and anticipates accommodating significantly more visitors than the Building. Perhaps staff did not raise this issue in regard to the Odwalla Building because its plans include circulation improvements to Highway One, improvements which would benefit the Luers Building as well. (see Higgins Associates, p. 4). Staff does not discuss the effect these improvements would have for circulation into and around the Building, instead mentioning the Odwalla project only in regard to the Building's potential cumulative adverse traffic impacts.

Thus facts in the record, and those elucidated by the Higgins Associates Evaluation, do not support the contention that the Building creates a substantial issue regarding traffic circulation.

D. WATER QUALITY/SAN VICENTE CREEK HABITAT

The LCP establishes water quality protections for stream habitat such as San Vicente Creek. For example, LCP Policy 5.4.14 requires the County to:

Review proposed development projects and their potential to contribute to water pollution via increased stormwater run-off, and to utilize erosion control measures, on-site detention and other appropriate storm water BMPs.

The Coastal Commission staff report rightfully observes that San Vicente Creek is an important habitat resource for several special status wildlife species and should be protected. However, facts in the record do not support staff's assertion that a substantial issue exists merely because "*the Commission has expressed concerns regarding reliance on standard silt and grease traps to adequately protect receiving bodies from urban run-off pollutants.*" (Commission Staff Report, p. 10).

1. Magnitude of Contribution

- a. The Initial Study for the Luers Building, prepared in accordance with the California Environmental Quality Act, states that the post-development stormwater run-off will only increase by 0.1 cfs. Accordingly, the Study found the Luers Building would have *less than a significant impact* on stormwater drainage.
- b. In his Riparian Hydrology report, attached, Mr. Kittleson notes that "*untreated Fair Avenue urban drainage is the dominant water source that co-mingles with minor site drainage at recently installed 15" culvert . . . at the Sanitary District Sewer line.*" Therefore, with an increase of only 0.1 cfs, the project would still remain a minor contributor to stormwater flows.

2. On-Site Stormwater Pollution Prevention

- a. The SCPC staff report recommending approval of the Luers Building noted that silt and grease traps will be installed to filter all run-off from the parking lot. (SCPC staff report, p. 56). In addition, Mr Kittleson notes that "*a vegetated berm along the property boundary with Fair Avenue can allow for temporary detention and bio-filtration of post-development [stormwater flows].*" These two stormwater management measures are precisely what the LCP calls for in preventing polluted stormwater flow (*erosion control measures, on-site detention and other appropriate storm water BMPs*).
- b. Coastal Commission staff raise issue with the "efficacy" of grease and silt traps for preventing polluted stormwater run-off. However, in the recently approved Odwalla Building staff report, staff praised silt and grease traps, stating: "*filtering and treatment mechanisms proposed by the Applicant will ensure that site runoff is adequately cleansed prior to discharge.*" (Odwalla Staff Report, p. 52). Further, in conformity with staff recommendations in the Odwalla Building staff report,⁴ the Luers Building has reduced its parking lot area to the minimum size necessary. (Odwalla Staff Report, p. 52).
- c. The facts show that no substantial issue related to polluted stormwater run-off exists in this case: (1) the amount of run-off from the project site is minor taken in context with its surroundings; (2) multiple treatment methods, including methods previously recommended by Commission staff, will combine to assure adequate treatment of stormwater run-off.

E. WATER QUALITY/WASTEWATER

The LCP policy 7.19.1 establishes that the County shall require written commitment from a service district to provide wastewater treatment before approving a project. Coastal Commission staff found that since "*wastewater capacity issues in Davenport are unresolved . . . thus a substantial issue exists.*" This conclusion is simply not supported by the facts.

1. Satisfaction of LCP Policy

- a. First, and most obviously, The Davenport County Sanitation District provided the Building with a letter commitment to provide wastewater services. (See

⁴ The Odwalla Building Staff Report states: "*The primary mechanism for minimizing impervious surfaces and reducing parking lot-related polluted runoff is to reduce the size of parking areas to the minimum necessary.*" (p. 52).

Exhibit 5, DCSD Letter to Joan Van Der Hoeven, March 13, 2001). Thus the Building has satisfied the LCP policy requirement, and no substantial issue should adhere.

- b. Additionally, Coastal Commission staff also premises their finding on the fact that DCSD " . . . *raised concerns that curtailment of [wastewater] use* (by its main client, RMC) *could lead to overflow.*" This reasoning is pure conjecture. In fact, the County has approved an increase in RMC capacity, such that they would be using more wastewater.

2. Other Local Developments

Finally, the Coastal Commission has previously approved the Odwalla Building, which would contribute wastewater flows of over 1,400 gallons per day, almost 5 times the amount of the Building's daily outflow. There, as here, the DCSD had provided a written commitment to serve. If five times the amount of wastewater was not considered a substantial issue, it must be the case that the wastewater flows of the Building are similarly not a substantial issue.

F. WATER SUPPLY/SAN VICENTE CREEK HABITAT

The LCP establishes protections for streams such as San Vicente Creek that, in addition to domestic water supply, provides habitat for special status aquatic and water dependant species. For example, LCP Policy 5.6.1 states

[The County should] prohibit new . . . development or increases in the intensity of use, which require an increase in water diversion for Critical Water Supply Stream (including San Vicente Creek).

Facts in the record do not support staff's assertion that a substantial issue exists because "*it is not clear whether the additional water allotted to the approved development in this case would exacerbate [adverse] impacts or cause impacts of its own.*" (Commission Staff Report, p. 11).

1. Water Availability

Staff neglects to note that this project will not lead to an increase in water diversion of water from San Vicente Creek. The SCPC staff report recommending approval of the project notes that "*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 use.*" (SCPC staff report, p. 7) (emphasis added) (See Exhibit 6, DCSD Letter to Joan Van Der Hoeven, March 13, 2001). The Initial

Study prepared in accordance with the California Environmental Quality Act, notes that the project will have *no significant impact* on public and private water supply.

2. CDFG Comments

The California Department of Fish and Game (the "CDFG"), the state entity charged with protection of special status species in the State of California, made no mention of the project potential impact to the San Vicente Creek water supply. (See CDFG Letter to Paia Levine, dated May 14, 2002). Additionally, CDFG earlier concluded that water supply impacts of the much larger – and Commission approved – Odwalla Building were minimal. (See CDFG Letter to Kim Tschantz, dated August 29, 1999). CDFG concluded that since the proposed use is not large relative to the stream flows and since it draws water from the existing RMC Lonestar/Davenport water system, it would not have an adverse effect on water supplies in San Vicente Creek. Clearly then, if the much larger Odwalla building project would not have an impact, the impact of the Luers Building must be similarly nominal.

Staff appears to have ignored these facts and based their contention of substantial issue purely on conjecture. Analysis by the County and the State supports the conclusion that no substantial issues exists as to water supply.

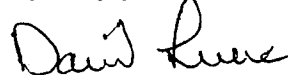
G. **CONCLUSION**

I ask that the Coastal Commission consider the facts and analyses discussed in the attached reports, as well as those already available, and conclude that no substantial issue

Mr. Dan Carl
California Coastal Commission
January 28, 2003
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regarding the Luers Building exists, or, in the alternative, that the Commission postpone the no substantial issue hearing so that the staff can consider the documents attached.

Very truly yours,



Mr. David Luers

Enclosures

cc: Supervisor Mike Reilly, Commission Chairman (w. encl.)
Dr. William A. Burke, Commission Vice-Chair (w. encl.)
Ms. Christina L. Desser, Commissioner (w. encl.)
Councilmember Gregg Hart, Commissioner (w. encl.)
Honorable Toni Iseman, Commissioner (w. encl.)
Mr. Patrick Kruer, Commissioner (w. encl.)
Ms. Cynthia McClain-Hill, Commissioner (w. encl.)
Mr. Pedro Nava, Commissioner (w. encl.)
Councilmember Scott Peters, Commissioner (w. encl.)
Supervisor Dave Potter, Commissioner (w. encl.)
Ms. Sara Wan, Commissioner (w. encl.)
Supervisor John Woolley, Commissioner (w. encl.)

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CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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Th12c**February 4, 2003 (for February 6, 2003 Hearing)****To:** Coastal Commissioners and Interested Persons**From:** Diane Landry, Central Coast District Manager
Dan Carl, Coastal Planner**Subject: Response to Additional Materials Submitted by Applicant
Appeal A-3-SCO-02-117 (Davenport barn)**

The Applicant has submitted additional materials since the staff report was completed and mailed. These materials were sent to each Commissioner by the Applicant. The District Director's report includes a copy of the materials submitted (without the exhibits). The purpose of this informational memo is to briefly respond to issues raised in the Applicant's submittal.

Please note that the Applicant's submittal does not change the staff report recommendation. Staff continues to recommend that the Commission find that a substantial issue exists with respect to the project's conformance with the certified Santa Cruz County Local Coastal Program (LCP) and take jurisdiction over the coastal development permit for the project. A de novo coastal development permit hearing would be scheduled at a later date.

The response below is organized to correspond to the sectioning in the Applicant's submittal.

Introduction (page 1)

Procedurally, the question in front of the Commission is whether the County's approval in this matter raises a substantial LCP conformance issue. On that note, the new materials submitted by the Applicant were not materials available to the County when they rendered their decision. Thus, in a technical manner, these materials are less relevant within the context of a substantial issue hearing where the fundamental question is whether the County decision made (based on the information in the administrative record) was justified and LCP consistent. Procedurally, such materials are generally submitted at the de novo stage of the appeal.

A. Riparian corridor Protection (page 2)

The Applicant offers only an incomplete definition of riparian corridors and where protection of them is required. Please note that the LCP categorically defines riparian woodland (such as that present at this location) as a riparian corridor (LCP 16.30.030). By definition, the LCP defines riparian corridors as environmentally sensitive habitat area (ESHA) as that term is understood in a Coastal Act context (LCP 16.32.040). Although represented as code cites, the Applicant has added parenthetical language to LCP 16.30.040 that does not exist. The added language implies that the subject site does not contain a riparian corridor. This is inaccurate (see staff report exhibit M for actual LCP citations).

**California Coastal Commission****February 2003 Meeting in Los Angeles**Staff: D. Carl Approved by: **cll**

A-3-SCO-02-117 Davenport barn response 2.4.2003.doc

CCC Exhibit 9
(page 1 of 12 pages)

A.1. Special circumstances affecting the property (page 3)

A.1.a. (page 3)

It appears to Staff that a building pad can be located on the site outside of the riparian corridor and required buffer. In fact, roughly half of the area on the plateau of the property (i.e., between the riparian area and Old Coast Road) is outside of the riparian buffer. It appears that there is adequate space outside of the required buffer in which to site a reasonably sized building pad respective of this constraint (see page 2 staff report exhibit D for a site plan).

The reference to the Commission's adopted variance findings on the Bailey-Steltenpohl project (CDP A-3-SCO-98-101) refers to incorrect page numbers. More importantly, using the Commission's findings on a different project as justification for a riparian exception in this case is not appropriate. By definition, variance/exception findings are site specific. Moreover, the variance findings in the Bailey-Steltenpohl case were to allow small variations in commercial front yard setback¹ and sign size standards,² and were not for any exceptions to habitat protective policies.

A.1.b. (page 3)

The Applicant correctly indicates that the existing barn encroaches slightly further into the required riparian buffer than does the proposed building (the existing barn is about 20 feet away from the riparian corridor, while the proposed building is about 32 feet away from the riparian corridor). However, this represents only a part of the proposed project. The proposed project also includes a parking lot that would have a zero setback from the riparian corridor, and an associated hard patio, outside activity area that would be about 20 feet from the riparian corridor (see staff report exhibit D). Thus, the proposed project would encroach further into the required buffer than does the exiting barn.

The Applicant indicates that rebuilding the barn would impact the buffer greater than the proposed building. There is nothing in the record to substantiate this assertion. In fact, as indicated above, the proposed project would encroach further into the required buffer than does the existing barn.

A.1.c. (page 4)

The Applicant, on the basis of his newly submitted information, indicates that the riparian corridor is of "dubious" resource value, based on new reports³ from his consulting biologist and hydrologist. The Applicant excerpts a few sentences from each new report in this as justification for his assertion. Please

¹ Allowing a minimum 4 foot front yard setback (to the parking lot only) when C-1 zoning requires 10 feet. Note for comparison that the barn parking lot was approved by the County with a roughly 2 foot parking lot setback (i.e., less of a setback than in the Bailey-Steltenpohl case). Note, too, that the front yard setbacks required in the barn case are 20 feet because, unlike the Bailey-Steltenpohl case, it is surrounded by residential zoning. Finally, note that the Commission required the main building's footprint in the Bailey-Steltenpohl case to be reduced (including requiring removal of a portion of the existing building) to maintain a 10 foot front yard setback.

² Allowing a 25 square foot main sign as opposed to the 12 square feet allowed. Note that the County approved 42.25 square feet of signs for the Applicant in the Davenport barn case even though the square footage approved was significantly less than in the Bailey-Steltenpohl case.

³ Note: see also the discussion on substantial issue procedures preceding.



note, that in addition to the quotes cited by the Applicant, and in contrast to the bolded components of them, both the consulting biologist and hydrologist indicate that the riparian corridor on the Applicant's property is continuously connected to the riparian corridor at San Vicente Creek by a band of willow vegetation running alongside of Highway One. Moreover, while each of the new reports base their riparian corridor resource value assessment on the lack of surface water on the Applicant's site, surface water is but one component of a riparian corridor. The presence of the willow riparian woodland in the Applicant's site is indicative of hydrology of some sort (or else the willows wouldn't be there), most likely sub-surface hydrology if there aren't other above-ground indications. Moreover, in contrast to some of the consultants new assertions regarding surface water flows, the County's file (including its environmental document) indicate that surface water from this site flows over ground to San Vicente Creek (for example, see drainage site plan on page 11 of staff report exhibit D).

Please note that the consulting biologist's assertion that the "willow woodland on the site is not technically considered riparian habitat" is incorrect. Please see discussion above on the LCP's definition of riparian corridors.

A.2. Necessary for proper design and function (page 4)

The Applicant indicates that the proposed project has been designed to respect the riparian buffer requirement "to the maximum extent" and thus the reduced buffer is necessary for the proper design and function for development on this site. On the contrary, it appears that the proposed project has not been designed to respect the buffer to the maximum extent feasible, and is not required to allow development on this site. At a minimum, the fact that a smaller project, sited further from the riparian corridor could most likely be constructed on this site raises a clear substantial issue with respect to LCP conformance. Moreover, one-half of the proposed project (and thus its scale and structural requirements) is for a conditional residential use on a commercial property, and not to allow the function of the principal commercial use. Thus, half of the project's overall scale could be removed without altering its commercial premise. Such downscaling in light of site constraints may be more appropriate than attempting to justify a much larger project irrespective of them.

A.3. Protection of Public Welfare and Property (page 4)

The Applicant indicates that the project includes bio-filtration. Please note that installing a bio-filtration component to the water quality treatment train is not part of the proposed project and was not required by the County. Rather, the County required the Applicant to install bio-filtration mechanisms if the Applicant's geotechnical engineer deemed it feasible; if it were deemed infeasible, then it wasn't required (see staff report exhibit H). The only biofiltration of runoff that is currently part of the project is the bio-filtration that would occur when site runoff was discharged at the base of the slope on the Applicant's property inasmuch as this runoff would go through existing riparian vegetation on its way to San Vicente Creek; such bio-filtration is what exists today, and is not in response to the additional runoff constituents expected to be released to the environment should the Applicant's project go forward as currently envisioned.

The Applicant indicates in any case that that no downstream property owners would be affected by the



runoff from the site. Staff is making the point that downstream resources (like San Vicente Creek and the Monterey Bay National Marine Sanctuary) would be adversely affected, not so much downstream property owners. These resources are public trust resources to be protected.

A.4 Riparian corridor protected and no feasibly less environmentally damaging alternative exists (page 5)

A.4.a. (page 5)

The Applicant in this section mischaracterizes the resources being protected, and belabors the point that San Vicente Creek proper is located about 100 yards southeast from the project site. The point to be made is that the LCP defines a certain area surrounding San Vicente Creek as a riparian corridor. It also defines the riparian woodland on the Applicant's site as a riparian corridor. It also defines additional willow woodland areas connecting the two areas as riparian corridor. Thus, there are a number of riparian corridors. It is not particularly important in this case as to what subset of them should be considered part of the *San Vicente Creek* riparian corridor.

Again, the Applicant here downplays the resource value of the riparian corridor on his site, including again citing the lack of surface water as indicative of a lack of resource value. Not only does one not necessarily imply the other, but the willow woodland by definition includes an aquatic feature. Absent a hydrologic feature it would not exist at this location. Moreover, evidence in the County's file, and indeed also in the Applicant's consulting biologist and hydrologist reports, indicates that drainage flows over the surface from the Applicant's site to San Vicente Creek, contrary to his assertions those cited in this section of his letter. At a minimum these questions raise a substantial issue.

A.4.b. (page 5)

The Applicant indicates that because of the site's sloping topography, the need to maintain setback requirements, and the extensive grading that would be required to develop outside of the riparian buffer, that the proposed project is the only feasible alternative. This does not appear to be the case. Subject to further de novo review, it appears likely that a smaller project could be developed at this location that better addressed site constraints, and was further from the riparian corridor, than that proposed. Such a project would need to be reduced in overall scale from that proposed. By doing so, the required site disturbance area could be reduced, as could the potential impacts to coastal resources (including riparian corridors, Highway One viewshed, Davenport's community character). Some small amount of fill nearest Old Coast Road may be necessary to achieve proper grades, but this is a minor constraint within the context of the project site and issues. The plateau area exists by virtue of previous fill placed here. The Applicant's proposed project does not represent the "only feasible alternative." On the contrary, it does not appear that the Applicant or the County has even entertained other alternatives against which to compare the existing proposed project alternative, thus raising a substantial issue with respect to LCP requirements.

A.4.c. (page 5)

This section includes a number of misrepresentations. It asserts that runoff from the site would not flow

CCC Exhibit 6
(page 4 of 12 pages)



into San Vicente Creek. This is contrary to information in the County's file (see discussion above). Moreover, the citation from the Applicant's consulting hydrologist mischaracterizes its meaning, and is taken out of context. The lack of "channels" does not equate to a lack of runoff. The runoff from this site would find its way to San Vicente Creek. The County's file and their underlying environmental document are clear on this. The Applicant's consulting hydrologist is clear on this as well when he indicates that "drainage [from the site and Fair Avenue] then passes overland across ruderal grasslands to the San Vicente Creek riparian corridor." The consulting hydrologist also confirms that runoff ultimately reaches the creek when he states that "the project site, under existing and proposed conditions represents an insignificant fraction of all flows to San Vicente Creek." Although he opines it is a fraction of the flow to the creek, he also indicates that it flows to the creek.

The Applicant states that the proposed building is not close enough to physically reduce the riparian corridor. The Applicant again attempts to equate this to the *San Vicente Creek* riparian corridor, but not only is the distinction between riparian areas on site and their connection to the creek difficult to measure (and thus to assert), it is irrelevant to the riparian corridor issue at hand (see also discussion above). In any case, although it would not physically require removal of riparian corridor, the increased intensity of use within the required setback would be expected to reduce the habitat value of the riparian corridor (due to increased noise, lights, activities, etc.). It is this type of use conflict that the buffer requirements were designed to address.

This section also again mis-represents that the project would include on-site bio-filtration of runoff. The project does not propose, and was only required to evaluate the feasibility of, bio-filtration of runoff (see also discussion above). There is no guarantee that the project as proposed would address water quality runoff concerns over and above the silt and grease trap that will function as a concrete mini detention pond. Such a treatment train would only minimally filter runoff, and would not treat runoff to remove expected constituent pollutants.

The Applicant indicates that the project includes native planting measures to protect the willow riparian woodland. This is inaccurate. The project as proposed does not include any such measures. The County did not otherwise require such measures.

A.5 Conformity with riparian protection statute (page 6)

A.5.a. (page 6)

The Applicant asserts that the project is in conformance with the riparian protection requirements of the LCP. This is inaccurate (as discussed above and as detailed in the staff report).

The Applicant indicates that the proposed building would be set back 35 feet from the riparian corridor. This is inaccurate, since the building itself would maintain a 32 foot setback from the riparian corridor. Moreover, this mischaracterizes the intrusion into the required setback that is associated with the proposed project. As indicated above, and as detailed in the staff report, the proposed project also includes a parking lot that would have a zero setback from the riparian corridor, and a associated hard patio outside activity area that would be a bout 20 feet from the riparian corridor (see staff report exhibit



D). Thus, the proposed project would encroach into all of the required buffer, and maintain a zero foot setback at its closest point (not 35 feet).

The Applicant asserts that the project would treat stormwater runoff. This is inaccurate (as discussed above). Other than the silt and grease trap (that would provide minimal filtering of runoff), there would be no treatment of runoff as that term is understood in a water quality sense (i.e., removing pollutants from runoff through physical, biological and chemical processes).

The Applicant again asserts that the existing barn encroaches further into the required riparian setback than does the proposed building. As detailed above, this again misrepresents this issue because the proposed project includes more components than just the building itself (including outdoor activity hardscape and a parking lot), and these components about the riparian corridor (i.e., a zero setback).

A.5.b. (page 6)

The Applicant indicates that Commission staff did not challenge the County's finding that the project was consistent with the County's General Plan. It is irrelevant if the project was or was not deemed consistent with the General Plan by the County. What is relevant for the coastal development permit decision is conformance with the LCP. Staff continues to recommend that the project as approved is not consistent with the LCP and thus raises a substantial issue.

B. Community character and Highway One viewshed (page 7)

The Applicant mischaracterizes and takes out of context the Commission's findings in the Licursi Gallery case (Appeal A-3-SCO-00-106). In that case, the Commission declined to take jurisdiction over a County decision along Davenport's main Highway One frontage in large measure because the Applicant was essentially replicating the previous historic Forrester's Hall structure that was demolished (see discussion in staff report). The findings made by the Commission that are cited by the Applicant were not meant to be a blanket assertion that the Commission would defer to the County in making future community character decisions. On the contrary, with those findings the Commission was discussing the lack of a specific plan for Davenport. It was (and is) hoped that specific policies and standards can be developed to guide development that respects the special character of Davenport and avoid the more subjective policy calls that must be made in the relative absence of more objective policies and standards. The Commission was encouraging just such a process to re-commence, and observing that such a grass-roots, community founded plan was generally the best way to begin to address such character issues rather than on a project-by-project basis. The Commission wasn't absolving itself from helping to define those specific policies, rather it was observing that the Davenport community and County necessarily needed to take the initial steps to conceptualize what those "character" policies ought to be and submit them to the Commission for certification.

Here is the full text of the finding cited by the Applicant (including the framing context that the Applicant omitted in his letter):

Finally, the Commission notes that the Town of Davenport is currently involved in a LCP



planning process with the County Planning Department. The Appellant generally asserts that the County LCP is inadequate to protect the special community character of Davenport. It is most appropriate for the community and the local government to establish the parameters of community character consistent with the Coastal Act here. It is not usually the best approach for a statewide body to intervene and establish the future character of a particular community. Rather, it is hoped that the community and the local government can describe in detail, and in policy and ordinance language, the appropriate "character" and a means for ensuring and achieving that goal that is consistent with the Coastal Act. Towards that end, the Appellant is encouraged to work within the Town planning process to help establish those parameters of scale and community. Although the Commission will have a role in certifying any such additional policies, and although the Commission takes this role seriously in terms of doing what's best for the community and the State, the initial planning changes are most appropriately undertaken by the County.

B.1.a. (page 8)

The Applicant again confuses the issue regarding the height of the proposed building. As noted in the staff report, Again, 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 staff report 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 staff report 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. As far as the County's written approval stands, the approved plans show a maximum proposed building height of 37 feet.

B.1.b. (page 8)

The Applicant indicates that the lowermost story of the proposed 3-story structure would be "obstructed" from view because it is lower than Old Coast Road. This represents only a part of the story. Yes, as viewed from Old Coast Road, the lower story would be partially obstructed. However, the lower story would be clearly visible as viewed from Highway One vantage points both due south of the structure and as one enters Davenport on northbound Highway One.

The Applicant concludes that because the lower story is below Old Coast Road, it will appear as a two-story building and thus be in conformity with Davenport's character. However, not only is the Old Coast Road lower story issue misrepresented and incorrect (as described above), it is overly simplistic to assert that a two-story structure makes the project consistent with Davenport's character. There is much more involved in this determination than a rote examination of the number of stories (including overall bulk, location in the site, etc.).



B.1.c. (page 8)

The Applicant asserts that the footprint and bulk of the building is smaller than that of the existing barn. Again, this is not accurate.

First, as detailed in the staff report, staff calculated the proposed building's footprint by adding the substantial area of 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 staff report exhibit D). This was calculated in this way due to the way in which the project has been designed with substantial area of wrap-around decks (and covered walkway for the 1st floor). The building footprint (for its overall massing and profile, not just internal square footage) is thus about 2,200 square feet.

Second, the building proposed is only a part of the overall footprint proposed. As detailed above, the proposed site disturbance overall is made up of much more than just the building by itself, and includes the associated hardscape and parking lot. The parking lot proposed is approximately 4,700 square feet, and the yard paths and patios area about an additional roughly 500 square feet. Structural footprint proposed is thus over 7,000 square feet; way in excess of the existing 2,600 square foot barn footprint.

Third, as to bulk, and as noted in the staff report, the new main building that would have an overall bulk, including decks, of roughly 6,400 square feet. This figure is arrived at because the project includes substantial area of wrap-around decks (and covered walkway for the 1st floor). 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. Interior space proposed is 4,316 square feet. Decks/covered walkways proposed is 2,084 square feet. The total building bulk proposed is thus 6,400 square feet. As to the existing barn's bulk, this is more difficult to measure in square footage since the County's file does not include site plans and elevations of the existing structure to be demolished. However, it can be estimated. Since about one-half of the existing barn structure appears to accommodate a second story, and since the footprint is about 2,600 square feet, its overall square footage appears to be about 3,900 square feet.⁴ While the barn square feet figure may be an estimate, the existing barn is clearly less overall bulk than the building proposed (i.e., 3,900 to 6,400 square feet).

As to the relationship of the barn's height to the proposed building's height, there is not adequate evidence in the file to conclude the exact difference in height. The County's file includes only one elevation of the barn on the approved plans, and it is not clear from what vantage point the elevation is taken. It is also not clear how its height should be measured in light of the topography as this relationship is not detailed in the administrative file. As observed in the staff report, the barn appears to be around 28 feet in height. The Applicant here asserts that the barn is about 30 feet in height and that the proposed structure would be about 5 feet taller. Given the uncertainties, an exact difference in height is difficult to measure. Suffice it to say that the proposed building would be taller by five feet than the existing barn, and maybe quite a bit more.

⁴ Note that this is subject to more precise verification at a later date.



The Applicant misrepresents the Commission's actions in the two most recent Commission decisions where Davenport's community character was an issue (i.e., 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 a *smaller* footprint and profile than that that existed previously (because a portion of the existing building was required to be removed). In the Forrester's Hall case, the development almost identically replicated the historic Forrester's Hall structure that had been demolished; the only difference in mass was that the roofline was raised about a foot at its pitch leading to a barely perceptible increase. Thus, the Commission has both reduce massing (Bailey-Steltenpohl) and allowed an extremely small increase (Forrester's Hall). Neither of these cases allowed for the magnitude of increased massing proposed here.

B.2.c. (page 9)

The Applicant asserts that the C-1 zoning district "fully permits" residential development. However, per the LCP, residential use (up to 50% of the project) is allowed in the C-1 district as a conditional use, it is not principally permitted. Thus, while it is an allowed use, it is not the LCP's principally identified use for the site.

Again, the Applicant misrepresents the previous two Davenport projects reviewed by the Commission, this time in terms of Commission of the visitor serving units provided. The Applicant applies the term "temporary occupancy residential" to overnight units to imply that this components of the Bailey-Steltenpohl project, and the existing Davenport Cash Store overnight units, can be considered residential. This is inaccurate. There is no such term used in the LCP. Overnight units are just that; visitor serving overnight units. Residential units are just that, permanent residential.

B.2.d. (page 9)

The Applicant asserts that the new building's roof and facade is more in keeping with the revitalized Davenport character than is the existing dilapidated barn that he asserts is "an eyesore contradictory to the character of Davenport." As stated in the staff report, Staff continues to believe that the weathered redwood-clad barn is a defining element of Davenport and the Highway One viewshed. Although it has been abandoned and is falling down, the rustic barn and surrounding riparian woodland vegetation help to define Davenport's character, and provide a connection to the town's historic past. As noted in the staff report, one alternative project not yet fully considered is whether there is a project alternative that involves replicating the barn in some way to address interwoven site constraints consistent with the LCP (i.e., maintaining existing profiles similar to the Bailey-Steltenpohl and Forrester's Hall cases).

C. Public Access/Traffic Impacts (page 10)

The Applicant asserts that "facts in the record do not support staff's assertion that the Building creates a substantial traffic issue." However, the facts in the record, including the 3 project comment letters from Caltrans attached to the staff report (see staff report exhibit L), raise issues regarding the potential for the project to worsen Highway One and general Davenport circulation.

CCC Exhibit 6
(page 9 of 12 pages)



As to the traffic report referenced as an attachment to the Applicant's letter, there was no such report attached to the package submitted to staff (it is unknown if the copies distributed to Commissioners by the Applicant included copies of this report). Only after contacting Caltrans on Monday, February 3, 2003 did Staff receive a copy of the cited report, without any of the referenced figures. Staff has not fully digested the traffic study, but does observe that the report bases potential Highway One impacts for the Bailey-Steltenpohl project on a 1996 report done for that project. It is important to note that the Bailey-Steltenpohl project was significantly reduced by the Commission in the coastal permit process and that the project that was approved by the Commission in December 2000 was extremely different, particularly in a traffic/circulation sense, than that that was originally proposed by the Applicant in that case. The main traffic/circulation difference is that instead of a main parking lot further upcoast on the Davenport frontage (opposite Center Avenue), with a service oriented accessway opposite Davenport Avenue (as proposed originally), the Commission-approved project removed the upcoast parking lot and required all parking and site access to the project to occur opposite Davenport Avenue. This is a much different scenario than that that was envisioned by the then Bailey-Steltenpohl in 1996.

Contrary to the Applicant's assertions, traffic and circulation was an issue in both the Bailey-Steltenpohl and Forrester's Hall case. In particular, in the Bailey-Steltenpohl case, it was a fundamental project constraint that helped to shape the ultimately approved project. It is not clear that the cited modifications to Highway One will help or hinder the Applicant's proposed project. Given that they potentially include setting aside a portion of the right-of-way for turn channelization to Bailey-Steltenpohl, it is conceivable that they will further condense the area into which turn movements to the Applicant's project are confined.

Staff notes that Caltrans has reconciled their issues with the proposed project and that Caltrans new comment letter to this effect is attached to the District Director's report. Notwithstanding this change in position for Caltrans, Staff continues to believe that the traffic issues associated with the proposed project are LCP conformance issues that were inadequately addressed in the County action.

D. Water quality/San Vicente Creek Habitat (page 11)

D.2.a. (page 12)

Again, the Applicant indicates that the project includes bio-filtration. As discussed above, this is not a part of the project (see previous discussion on this point).

D.2.b. (page 12)

The Applicant implies that Commission should find the silt and grease traps proposed here as adequate because silt and grease traps were found adequate in the Bailey-Steltenpohl case in 2000. Note that the effectiveness of different water quality BMPs is constantly being evaluated. Commission staff have learned much regarding water quality protection BMPs in the years since the Bailey-Steltenpohl project was approved, and are no longer recommending that silt and grease traps are adequate in cases with nearby sensitive receiving waterbodies (such as this case). This is an issue for de novo review and a substantial is raised with respect to water quality.

CCC Exhibit 6
(page 10 of 12 pages)



In addition, and as noted by the Applicant, a primary means of reducing water quality impacts from parking lots is to reduce the area given over to them. Staff notes that in this case the scale of the project is what dictates the scale of the parking area required. Although the Applicant indicates that the parking lot area has been reduced to the absolute degree feasible here, that is not the case. A smaller project, more in tune with the site constraints and LCP issues relevant to this location, would require a smaller parking area. A smaller parking area would have less of a water quality impact.

E. Water quality/wastewater (page 12)

E.1.b. (page 13)

The Applicant indicates that the recently approved RMC production increase would mean that RMC was using more wastewater (and thus, ostensibly, that the Applicant's project does not present an issue in this regard). However, and as noted in the staff report, 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). Thus, the RMC use of wastewater (and its effect on the overall wastewater system) remains uncertain.

E.2. (page 13)

The Applicant refers to the Bailey-Steltenpohl project as evidence that their wastewater generation should not be considered a substantial LCP conformance issue. However, the wastewater issue was one of many substantial issues in the Bailey-Steltenpohl case on which the Commission based their decision to take jurisdiction over that coastal development permit.

F. Water supply/San Vicente Creek Habitat (page 13)

F.1. (page 13)

The Applicant includes County staff report assertion as evidence that the project would not raise a water supply issue. However, the citation referenced was not based on evidence in the record. Moreover, neither the service provider nor the County identified the amount of water currently being diverted, how that water is allocated, and how this project would affect that allocation. This is precisely the level of uncertainty detailed in the staff report.

F.2. (page 14)

The Applicant references the Department of Fish and Game's (CDFG's) comments on the previous Bailey-Steltenpohl project related to water supply. What the Applicant does not indicate is the context in which CDFG's comments occurred. In that case, the Bailey-Steltenpohl project was significantly reducing the amount of water consumption from what previously occurred at that site for the Odwalla operation (cutting it roughly in half). Moreover, in the time since CDFG's comments on that project, CDFG has continued to raise concerns about the water supply situation associated with water withdrawals from San Vicente Creek (as noted in the staff report).



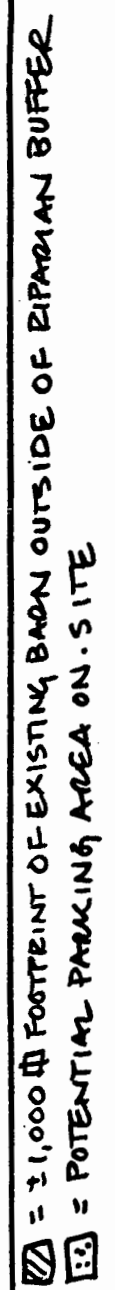
Conclusion

Staff has reviewed the County's administrative file and made a substantial issue recommendation based on that review. Staff has now reviewed the new information submitted by the Applicant since the time the staff report was completed and sent out, and continues to make the same substantial issue recommendation. In sum, Staff believes that the Applicant's new submittal does not accurately characterize the issues raised by the project. Staff continues to believe that the proposed project is not consistent with the LCP

Thus, Staff continues to recommend that the Commission find that a substantial issue exists with respect to the project's conformance with the certified Santa Cruz County Local Coastal Program (LCP) and take jurisdiction over the coastal development permit for the project. A de novo coastal development permit hearing would be scheduled at a later date.

CCC Exhibit 6
(page 12 of 12 pages)







Leurs

California Coastal Commission
Front Street
Santa Cruz, Ca.

Dear Commissioners;

Please continue to consider the protection of riparian corridors in Appeal # A-3-SCO-02-117. The setback and buffer zones are essential to protect species, water and community concerns.

Thank you for your understanding.
Sincerely
Norman Wolf

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MAY 16 2003

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COASTAL COMMISSION
CENTRAL COAST AREA

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(page 1 of 1 pages)

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE

725 FRONT STREET, SUITE 300

SANTA CRUZ, CA 95060

PHONE: (831) 427-4863

FAX: (831) 427-4877



May 20, 2002

Joan Van der Hoeven & David Carlson
Santa Cruz County Planning Department
701 Ocean Street, Suite 400
Santa Cruz, Ca 95060-4073

Subject: *Proposed Negative Declaration for Application 98-0234 (Davenport Barn Demo and Commercial/Residential Project) - SCH 2002042062*

Dear Ms. Van der Hoeven,

We received the proposed negative declaration (ND) for the above-referenced project and have the following comments for you to consider:

- We note that we previously commented on an earlier iteration of this project. Our previous concerns remain (please see attached June 8, 2000 letter); please consider them in the context of this revised project as well.
- The ND plans provide greater detail regarding the extent of the riparian resource here than we had previously understood. The ND indicates that the project would maintain a zero foot setback from the extent of riparian vegetation, and that a riparian exception is warranted in this case to allow for lesser than the minimum 60 foot setback (50 foot buffer plus ten feet of setback per LCP Zoning Section 16.30 et seq) required by the County LCP. However, the ND includes limited evidence with which to make such an assessment. In light of the significant riparian resources on the site, we do not understand why a biotic assessment and/or report has not been completed. We maintain that LCP minimum riparian buffer requirements should be met with this and other development, and that exceptions to such setback requirements cannot be made without adequate analysis of resource values and impacts due to proposed development. It may even be that resource concerns dictate a larger buffer. Within required buffer areas, passive recreation (such as interpretive pathways) may be appropriate, but other types of development (e.g., parking lots, patios, etc.) should be avoided. In any case, the required buffer area itself must be demarcated by a fence and/or vegetated barrier of some sort, and its management and preservation must be specified through required conditions of approval and property restrictions.
- The ND is unclear as to the precise location of San Vicente Creek in relation to the project site. It appears that the subject riparian corridor supports either an unnamed feeder to San Vicente Creek, or may in fact be the location of San Vicente Creek proper. This information is critical for making appropriate decisions regarding development here, and, in tandem with the expanded analysis of riparian issues as discussed above, needs to be clarified.
- Indirect impacts on the riparian corridor (including those from increased noise, lights,

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(page 1 of 5 pages)

activities, etc) must be prevented and/or minimized to the extent feasible to avoid degradation of such habitat. We note that the ND includes limited general discussion on this point (in particular, general lighting parameters), but is not adequately fleshed out for decision makers to be able to understand the impact of the project on riparian resources. We recommend that this general discussion be supplemented by an analysis of how the expected additional noise, light, and activity would impact specific biotic receptors within the riparian corridor. This will require a clear identification of where the noise, lights, and activities are expected to be located. Such analysis should clearly identify impact sources (e.g., a light standard visible from within the riparian corridor), the intensity of each impact source (e.g., the amount of illumination of the light standard), and the expected effect of the impact source on biotic receptors (e.g., decreased foraging activity due to nighttime illumination) and/or the cumulative effect of several impact sources combined (e.g., nighttime lighting along with amplified music at a residence). All assumptions and methodologies underlying the analysis should be provided.

- The ND describes the use of standard silt and grease traps. Please note that Commission staff are wary of relying upon standard silt and grease traps to adequately protect receiving waterbodies from urban runoff pollutants. The efficacy of such units is suspect in the Commission's experience. Alternatively, we suggest that catch basins that receive runoff from any areas subject to vehicular runoff be capable of both active filtration and active treatment of runoff. Alternatively, biofiltration (e.g., vegetated filtering areas) may also be necessary and/or might need to be combined with some form of engineered system in this case. Such water quality measures are critical given the receiving water body is San Vicente Creek (either through a feeder system or directly).
- We are disappointed in the manner in which the ND discounts Caltrans' concerns regarding the impact of the project on Highway One. We agree with Caltrans that a commercial project of this proposed type and magnitude could adversely affect traffic flows and lead to increased Highway One congestion. This is particularly the case given that the layout of Davenport's commercial frontage makes through traffic management difficult. The ND needs to further analyze the impact of the project on Highway One, including its cumulative impact, and develop mitigations and/or project alternatives in response.
- Given the public viewshed issues engendered by the subject proposal, we recommend that the project be staked and flagged for public review and any such staking analysis be photo-documented for decision makers. While the ND's photo-simulations are a useful tool, it has been the Commission's experience that staking and flagging provide a much better approximation of expected massing and attendant impacts from it. Such staking is particularly appropriate for such development that would be so clearly visible within the critical Highway One north coast viewshed.

In conclusion, from our current understanding of the proposed project, it appears that the proposal has not completely responded to the site constraints dictating the appropriate scale for

development here. On this note, the ND does not appear to have tracked our previous concerns. It appears as though project modifications may be necessary to address coastal resource issues at this location consistent with the LCP. Additional analysis of the issues identified herein and in our previous letter appears warranted to assist in developing appropriate project modifications and/or alternatives.

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to call me at (831) 427-4893.

Sincerely,



Dan Carl
Coastal Planner

Enclosure: June 8, 2000 Letter on Application 98-0234

cc: Terri L.N. Fisher (applicant's representative)
Supervisor Mardi Wormhoudt
Susan Young, Citizens for Responsible North Coast Planning
Katie Shulte Joung, State Clearinghouse (SCH # 2002042062)

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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PHONE: (831) 427-4863
FAX: (831) 427-4877



June 8, 2000

Joan Van der Hoeven
Santa Cruz County Planning Department
701 Ocean Street, Suite 400
Santa Cruz, Ca 95060-4073

Subject: *Project Comments for Application Number 98-0234 (Davenport Barn Demo and Commercial/Residential Project)*

Dear Ms. Van der Hoeven,

Thank you for forwarding the above-referenced development proposal to our office for review. These comments are based upon the brief project description you have provided, along with the proposed site plans that illustrate the project. After preliminary review of these materials, we have some questions and comments about the proposed development as it relates to applicable Santa Cruz County Local Coastal Program (LCP) policies as follows:

- This project appears to be primarily residential in a neighborhood commercial district. Residential is a lower priority than would be a visitor serving commercial use at this location. The LCP limits any such residential use here to 50% of the total floor area. Is the 50% requirement adhered to here? Also, residential is not a principal permitted use and thus the project is appealable to the Coastal Commission, and will need to be noticed as such.
- This project is within an LCP-recognized "Coastal Special Community" of Davenport. As such, the question arises as to whether or not this proposal is consistent with maintaining Davenport's community character. When evaluating the character of an individual building as it relates to other buildings in a community, a number of factors need to be considered, including the building's proportions, layout, exterior finish and any architectural embellishments. Equally important are height, bulk, and other considerations of scale. It is not clear that the proposed three-story, 34 to 36 foot height is consistent with LCP requirements requiring development to maintain the ongoing community character (for example, LUP Policy 8.8.4: "...generally small scale, one to two story structures..."). The Applicant should provide details to County planning on the structural parameters of existing development along Highway One in Davenport to assist in this determination. Such information should also include photo simulations with and without the proposed development here as seen from public viewing areas; most importantly from Highway One. Highway One is an LCP-designated scenic road for which development must minimize impact. In any case, please note that Countywide maximum considerations of mass and scale (such as height) may not be applicable here; these maximums are not entitlements, but rather maximums that may need adjustment in light of resource constraints (special community, scenic road, etc.) here.
- Does the barn proposed for demolition here have historical resource value? In any event, has a structural analysis been done to indicate whether or not the barn could be restored/remodeled in some way? If not historically protected, and if restoration proves infeasible, proposed development here could attempt to mimic the existing structure as much as possible. This

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(page 4 of 5 pages)

might take the form of replicating the barn, or development with similar barn-like features. Such development would appear to be more in tune with the existing character of the site and its surroundings.

- Will this project necessitate any Highway One road improvements (such as north and south bound turn lanes)? If so, any such improvements should be coordinated with potentially similar Highway One requirements due to proposed development seaward of Highway One at the former Odwalla building. If it hasn't been done already, Caltrans should be contacted.
- Is water service available for the proposed project? From our understanding, the Davenport Water and Sanitation District (DWSD) water system in Davenport suffers from limited water filter capacity at the water treatment plant, meaning customers may not be receiving adequately treated drinking water. Has this problem been addressed? Likewise, we understand that DWSD gets its water from Lone Star Industries, whose sources of water are San Vicente Creek and the tributary Mill Creek. Last we heard, while Lone Star has a riparian right, DWSD lacks an appropriate right for the water it diverts. Has DWSD perfected its water rights? Note that LCP Policy 5.6.2 designates San Vicente and Mill Creeks as "currently utilized at full capacity." Since that policy was written, the coho salmon and the California red-legged frog, which inhabit the creek, have been federally listed as "threatened," and the California Fish and Game Commission has designated San Vicente Creek as an endangered coho salmon spawning stream. What will be the water needs of the proposed project and what effect might these water needs have on in-stream flows and the associated riparian habitats? Consultation with the Department of Fish and Game will be imperative.
- It is unclear what type of filtration system will be put in place to control urban runoff from exiting the site; particularly for the proposed parking area. Engineered filtration should be required for any areas where typical urban runoff constituents will collect and be directed on and/or off site.
- The cumulative effect of this project in relation to planned and existing development in Davenport must be analyzed in light of the special character of this community.

Thank you for the opportunity to comment in the development stage of this project. As you move forward with your project analysis and environmental review, the issues identified above, as well as any other relevant coastal issues identified upon further review or due to project modifications, should be considered in light of the provisions of the certified Santa Cruz County LCP. In any event, we may have more comments for you on this project after we have seen additional project information or revisions. If you have any questions, please do not hesitate to call me at (831) 427-4893.

Sincerely,



Dan Carl
Coastal Planner

DEPARTMENT OF FISH AND GAME

POST OFFICE BOX 47

MARTINEZVILLE, CALIFORNIA 94599

(944) 5500



May 14, 2002

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Ms. Paia Levine
County of Santa Cruz
Planning Department
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060
Via Fax: (831) 454-2131

Dear Ms. Levine:

Mitigated Negative Declaration
Luers Project
Davenport, Santa Cruz County
SCH# 2002042062

Department of Fish and Game (DFG) personnel have reviewed the above-referenced document and have the following comments.

The project is located next to San Vicente Creek, a watercourse documented to contain California red-legged frogs (CRLF), a Federally-listed threatened species and State-listed species of special concern. Although the Negative Declaration acknowledges the possible presence of CRLF and provides measures to protect water quality, no provisions are proposed to protect against direct take of the frog during construction or day-to-day operation of the completed facility.

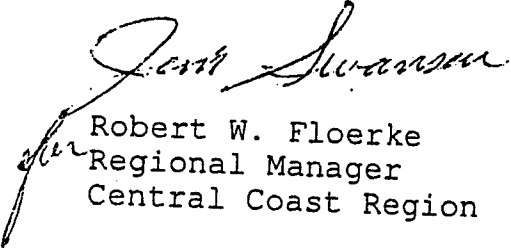
California red-legged frogs are known to move significant distances from water and might be found in the stream corridor at any time of the year. Individuals leaving the stream and moving across the project site could be harmed or killed by normal construction activities or traffic after the facility is open. To minimize this possibility, we recommend that mitigation measures be developed to avoid injury or mortality. Measures might include temporary barriers during construction to exclude frogs from the site and permanent walls to keep CRLF out of the traffic areas. Finally, we recommend that you and/or the property owner consult with the U. S. Fish and Wildlife Service.

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(page 1 of 2 pages)

Ms. Paia Levine
May 14, 2002
Page 2

Questions regarding this letter and further coordination on these issues should be directed to Mr. Dave Johnston, Environmental Scientist, at (831) 475-9065; or Mr. Scott Wilson, Habitat Conservation Supervisor, at (707) 944-5584.

Sincerely,


Robert W. Floerke
Regional Manager
Central Coast Region

cc: Office of Planning and Research
State Clearinghouse
Post Office Box 3044
Sacramento, CA 95812-3044

Ms. Amelia Orton-Palmer
U. S. Fish and Wildlife Service
2493 Portola Road, Suite B
Ventura, CA 93003

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831-459-9782

RCVD 10/11/01

STATE OF CALIFORNIA — BUSINESS, TRANSPORTATION AND HOUSING AGENCY

GRAY DAVIS, Governor

DEPARTMENT OF TRANSPORTATION

50 HIGUERA STREET

SAN LUIS OBISPO, CA 93403-8114

TELEPHONE: (805) 549-3111

TDD (805) 549-3258



October 5, 2001

5-SCr-001-28.73

Luers Davenport Barn

R/W & traffic

ATTACHMENT 14

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 functionally 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

Chris Shaeffer
District 5
Development Review Coordinator

CALTRANS
CORRESPONDENCE

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

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CCC Exhibit L
(page 1 of 76 pages)

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STATE OF CALIFORNIA — BUSINESS, TRANSPORTATION AND HOUSING AGENCY

GRAY DAVIS, Governor

DEPARTMENT OF TRANSPORTATION

80 HIGHER STREET
SAN LUIS OBISPO, CA 95069-8114
TELEPHONE: (805) 549-8111
TDD (HRT) 549-8239



November 16, 2001

S-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

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(page 2 of 3 pages)

DEPARTMENT OF TRANSPORTATION

50 HIGUERA STREET
SAN LUIS OBISPO, CA 93403-3114
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 4 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

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

District 5

Intergovernmental Review Coordinator

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

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.

DEPARTMENT OF TRANSPORTATION

50 HIGUERA STREET
SAN LUIS OBISPO, CA 93403-8114
TELEPHONE: (805) 549-3111
TDD (805) 549-3239

RECEIVED

FEB 04 2003

January 31, 2003

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

SCR-001-28.73

David Luers
334 Morrissey Boulevard
Santa Cruz, CA 95002

SUBJECT: Luers Building Project (Davenport Barn) Traffic Analysis

Dear Mr. Luers:

The California Department of Transportation (Department) District 5 has reviewed the traffic analysis dated January 24, 2003 prepared by Higgins Associates for the proposed Luers Building Project. The one-acre project site is located on the southeast corner of Route 1 and the Davenport Avenue/Old Coast Road intersection in the unincorporated area of Davenport in Santa Cruz County. The project will involve the removal of the existing Davenport Barn and construction of a roughly 4,300 square foot retail building with two residential apartments. District 5 staff would like to provide you with the following comments:

- 1) The traffic analysis adequately addresses our previous concerns regarding the potential traffic impacts of this proposed project upon Route 1 and the Route 1/Davenport Avenue intersection.

It should be noted that, according to the Department's records, the accident rate at the Route 1/Davenport Avenue intersection area has been below the statewide average when compared to similar state highway facilities.

- 2) The traffic analysis identifies the installation of advance warning signs (e.g. pedestrian crossing ahead, yield to cross traffic, etc.) as a potential safety improvement at the Route 1/Davenport Avenue intersection. It should be noted that the placement of any signage within the State's right-of-way will require the approval of an encroachment permit from District 5.

If you have any questions, you may call me at (805) 542-4751.

Sincerely,



Mike Galizio
District 5
Development Review Branch

cc: Roger Barnes, District 5 Traffic Operations; Larry Hail, Higgins Associates

CCC Exhibit L
(page 7 of 7 pages)

● 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.

LUP Program 5.2.a Riparian Corridors and Wetlands. Maintain and enforce a Riparian and Wetland Protection ordinance to protect riparian corridors, wetlands, lagoons, and inland lakes by avoiding to the greatest extent allowed by law the development in these areas.

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.

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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.

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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

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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

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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

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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.

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

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

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

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

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

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

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

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