

CALIFORNIA COASTAL COMMISSION

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Staff:	D. Carl
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APPEAL STAFF REPORT - DE NOVO REVIEW

Appeal numberA-3-SCO-02-092, Webb SFD/Coastview Drive improvements
Applicant.....Margaret Webb Trust
Appellants.....Commissioners Sara Wan and Pedro Nava
Local government.....Santa Cruz County
Local decisionApproved with Conditions (October 4, 2002)
Project location.....Coastview Drive off of East Cliff Drive adjacent to Corcoran Lagoon in the unincorporated Live Oak region of Santa Cruz County.
Project descriptionConstruct one single family dwelling, define two additional single family dwelling development envelopes, and improve Coastview Drive.
File documents.....Santa Cruz County Certified Local Coastal Program (LCP); Santa Cruz County coastal development permit (CDP) Application File 01-0090; Monterey Bay ReCAP.
Staff recommendation ...Approval with Conditions

Summary of staff recommendation: This proposed project is located adjacent to Corcoran Lagoon in the unincorporated Live Oak beach area of Santa Cruz County, just inland of East Cliff Drive and the beach. Coastview Drive is a private road that extends inland from East Cliff Drive immediately adjacent to the Lagoon, and the Applicant's three residential sites are on the opposite side of Coastview from it. At a January 2003 public hearing, the Commission found that a substantial issue exists with respect to the project's conformance with the certified Santa Cruz County LCP and took jurisdiction over the CDP for it. Although located in a fairly built-out residential area (the Live Oak beach area of the County), the project raises coastal resource issues primarily due to its location near Corcoran Lagoon (an LCP-designated environmentally sensitive habitat area (ESHA)), and because it is located on a LCP-designated Coastal Priority Site where specific public access and wetland protection requirements apply.

In the time since the substantial issue hearing, the Applicant has worked with Staff to address the substantial issues raised by developing a project that could be found consistent with the LCP, and has modified their proposed project accordingly. The project as now proposed: maintains a 100-foot residential setback from Corcoran Lagoon; includes natural filtration and treatment water quality BMPs



California Coastal Commission
August 11, 2004 Meeting in San Pedro

Staff: D. Carl Approved by: **DSC**

(developed in consultation with the Commission's water quality staff); includes a meandering public access pathway with benches to provide interpretive access to Corcoran Lagoon (and through access from East Cliff Drive to inland Portola Drive); includes placement of appropriate new signs to inform visitors of the path (and removal of existing signs that restrict such access); includes construction BMPs to protect access and Corcoran Lagoon habitat; and includes recordation of the terms and conditions as a deed restriction on the Applicant's property.

In addition to the Commission's standard conditions, one special condition is recommended that identifies the approved project via the submitted and proposed modified plans (for clarity in permit implementation and condition compliance). The Applicant and Staff are in agreement on the proposed project and the recommended conditions. The proposed project, as conditioned, addresses the previously identified substantial issues to the degree feasible, and it can be found consistent with the LCP and the applicable access and recreation policies of the Coastal Act. Staff recommends approval with conditions.

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1. Staff Recommendation on CDP Application

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

Motion. I move that the Commission approve Coastal Development Permit Number A-3-SCO-02-092 pursuant to the staff recommendation.

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

Resolution to Approve a Coastal Development Permit. The Commission hereby approves the coastal development permit on the grounds that the development as conditioned will be in conformity with the policies of the Santa Cruz County Local Coastal Program, and it will be in conformity with the access and recreation policies of Chapter 3 of the Coastal Act. Approval of the coastal development permit complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment; or (2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the development on the environment.

2. Conditions of Approval

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.



5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Approved Project.** The approved project is detailed in the plans submitted to the Coastal Commission titled *Coastview Drive Project* by Franks Brenkowitz & Associates last dated revised May 6, 2004 and dated received in the Coastal Commission's Central Coast District Office on May 11, 2004 (Approved Plans). All requirements identified in the Approved Plans are enforceable components of this coastal development permit. The Permittee shall undertake development in accordance with the Approved Plans. All components of the project shown in the Approved Plans shall be constructed and/or installed. Any proposed changes to the Approved Plans shall be reported to the Executive Director. No changes to the Approved Plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

Recommended Findings and Declarations

The Commission finds and declares as follows:

3. Project Description

A. Project Location

The proposed project is located along Coastview Drive between East Cliff Drive and Portola Drive near Corcoran Lagoon in the unincorporated Live Oak area of Santa Cruz County. See exhibit A for illustrative project location information.

Santa Cruz County Regional Setting

Santa Cruz County is located on California's central coast and is bordered to the north and south by San Mateo and Monterey Counties, respectively. The County's shoreline includes the northern half of the Monterey Bay upcoast of the Pajaro River and extending through the rugged north coast to San Mateo County along the Pacific Ocean. The County includes a wealth of natural resource systems within the coastal zone ranging from mountains and forests to beaches and lagoons and the Monterey Bay itself. The Bay has long been a focal point for area residents and visitors alike providing opportunities for surfers, fishermen, divers, marine researchers, kayakers, and boaters, among others. The unique grandeur of the region and its national significance was formally recognized in 1992 when the area offshore of the County became part of the Monterey Bay National Marine Sanctuary – the largest of the twelve 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 since the California Coastal Management Program has been in place. In fact, Santa Cruz County's population has more than doubled since 1970 alone with recent census estimates indicating that the County is 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 parks and 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 most significantly closer than that, coastal zone resources are a critical element in helping to meet these needs. Furthermore, with coastal parks and beaches themselves attracting visitors into the region, an even greater pressure is felt at coastal recreational systems and destinations like the Live Oak beach area. With Santa Cruz County beaches providing arguably the warmest and most accessible ocean waters in all of Northern California, and with the vast population centers of the San Francisco Bay area and the Silicon Valley nearby, this type of resource pressure is particularly evident in coastal Live Oak.

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

Live Oak Beach Area

Live Oak is the name for the unincorporated segment of Santa Cruz County located between the City of Santa Cruz (upcoast) and the City of Capitola (downcoast) (see page 2 of exhibit A). The Live Oak coastal area is well known for excellent public access opportunities for beach area residents, other Live Oak residents, other Santa Cruz County residents, and visitors to the area. Walking, biking, skating, viewing, skimboarding, bodysurfing, surfing, fishing, sunbathing, and more are all among the range of recreational activities possible along the Live Oak shoreline. In addition, Live Oak also provides a number of different coastal environments including sandy beaches, rocky tidal areas, blufftop terraces, and coastal lagoons. Live Oak also includes a number of defined neighborhood and special communities within it. These varied coastal characteristics make the Live Oak shoreline unique in that a relatively small area provides different recreational users a diverse range of alternatives for enjoying the coast. By

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.



not being limited to one large, long beach, or solely an extended stretch of rocky shoreline, the Live Oak shoreline accommodates recreational users in a manner that is typical of a much larger access system.

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

Proposed Development Site

The proposed project is located near Corcoran Lagoon on the inland side of East Cliff Drive, the first through public road parallel to the sea. East Cliff Drive extends over the Lagoon on a bridge and thus the Lagoon extends from inland Portola Drive under East Cliff and onto the beach,³ known locally as Santa Maria Cliffs Beach or Corcoran Lagoon Beach. This broad beach extends from a narrow tidal shelf area adjacent to Sunny Cove (upcoast) through to a promontory at 23rd Avenue that effectively contains the Lagoon proper most of the year. Contrasting this wide sandy beach area at the Corcoran Lagoon inlet area, the beach setting changes quite drastically at this 23rd Avenue promontory and becomes extremely narrow all the way down to the westernmost outcroppings of rock at Soquel (aka Pleasure) Point (downcoast). This narrow portion of the beach is defined on its inland edge by rip-rap protecting residential structures along the blufftop and is most often referred to as 26th Avenue or Moran Lake Beach.

Coastview Drive, also known as 22nd Avenue, extends along the western side of the Lagoon from East Cliff Drive to inland Portola Drive. Coastview has a gate on its East Cliff Drive entrance, and a wood fence with a pedestrian pass-through at its Portola Drive end; a myriad of signs discouraging and/or prohibiting access and parking are posted at each end.⁴ The first 100 yards or so of Coastview Drive extending from East Cliff Drive inland is paved at a width of approximately 15 feet with a curb, gutter, and short fence along the Lagoon side; this paved section looks like – and functions as – a long residential driveway. The remainder of the Coastview Drive parcel is unpaved, though fairly compacted from years of automobile use (the unpaved section provides the only access to an existing residence immediately north of the vacant residential parcels that are the subject of this application). In other words, though called a "Drive," such distinction is in name only because the Coastview parcel doesn't look like or function as what most people might consider a road. A mature row of trees, primarily eucalyptus, extends along the western edge of the Lagoon (and the eastern edge of Coastview) from East

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

³ Due to fluctuations on Lagoon water levels, it is not always present on the seaward side of East Cliff.

⁴ The Commission has not to date found evidence of CDPs for the gate, fence, and prohibitive signage. Thus, at this time, they are considered unpermitted for the purpose of the evaluation of this project.



Cliff to Portola. Coastview currently provides access from East Cliff Drive to four existing single family residences, and from Portola Drive to one existing single family residence (inland of the fence at the Portola end); all of these existing residences are located opposite Coastview Drive from the Lagoon.

This proposed project involves the Coastview Drive parcel itself and the last three vacant residential parcels (APNs 028-173-05, 07, and 08) located opposite the road parcel from the Lagoon. These parcels are located just inland of the hard-packed portion of the Coastview parcel (i.e., the portion used to access the existing residence to the north) and between existing developed SFDs on either side. The vacant property slopes gently upward (at about a 10% slope) away from Coastview and Corcoran Lagoon.

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

B. Proposed Project

The Applicant proposes to construct an SFD on APN 028-173-07, to define development envelopes to facilitate future SFD construction on the vacant parcels on either side of APN 028-173-07 (i.e., on APNs 028-173-05 and 028-173-08); and to improve the Coastview Drive parcel by extending the pavement, installing a biofiltration water quality system, constructing a 3-foot wide public pedestrian trail between Portola Drive and East Cliff Drive, and modifying signage (see selected proposed plan sheets in exhibit B). More specifically:

- Residential Development. A two story, 26-foot tall, roughly 2,800 square foot single-family home would be constructed on the middle lot of the three vacant lots on Coastview Drive (i.e., on APN 028-173-07).
- Development Envelopes. Development envelopes would be established on the vacant parcels on either side of APN 028-173-07 (i.e., on APNs 028-173-05 and 028-173-08) that maintain a minimum 100-foot setback from Corcoran Lagoon. Separate CDPs would be required before any residential development could be pursued on these other two lots in the future.
- Coastview Drive Pavement. The existing pavement on the Coastview Drive parcel (300 feet in length) would be extended 180 feet inland over the existing hard pack, and widened from 15 feet to 20 feet.
- Coastview Drive Drainage. The existing catch basin on the Coastview Drive parcel (currently draining unfiltered road runoff directly to Corcoran Lagoon) would be removed and replaced by a roughly 10-foot wide biofiltration swale running along the Lagoon side of the road. This swale has been designed using the California Best Management Practices handbooks, and with the assistance of Commission water quality staff. The swale would include gross filtration at the edge of the roadway through a perforated header filter, and then filtration and treatment of runoff by the native grasses and plants in the swale. It would be sloped from either end of Coastview to the approximate midpoint of the road to allow adequate runoff residence time, and then directed through another filter



and an underground pipe to a cobble discharge trench. The road would be swept at least once per year prior to October 15th, and all components of the swale system would be maintained at least twice per year (pre and post-rainy season).

- **Coastview Drive Pedestrian Path.** A 3-foot wide decomposed granite, meandering pedestrian trail would be constructed on the Lagoon side of the Coastview Drive parcel to provide public pedestrian and interpretive access between East Cliff Drive and inland Portola Drive. Benches would be installed to further enhance enjoyment of the Lagoon.
- **Coastview Drive Gate and Fence.** The fence with pedestrian pass-through at the more inland end of the Coastview Drive parcel (nearer Portola Drive) would be modified to allow fire department access (i.e., the existing opening would be enlarged to 12-feet, and three lockable bollards would be spaced across the new opening). The gate at the intersection of the Coastview Drive parcel with East Cliff Drive would be extended 5 feet to account for the newly widened road width.
- **Coastview Drive Signs.** All existing Coastview Drive signs would be removed and four new signs would be installed (two at either end of Coastview). The signs at either end of the paved road would identify Coastview Drive as a private road, and the signs at either end of the pedestrian path would identify the pathway as a public nature trail.

See selected proposed plan sheets, including sign text and controlling plan notes, in exhibit B.

4. CDP Findings

A. Applicable Policies

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

Furthermore, Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." Because this project is located between East Cliff Drive (the first through public road) and Corcoran Lagoon, for public access and recreation issues the standard of review is not only the certified LCP but also the access and recreation policies of the Coastal Act.



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

ESHA

The LCP designates Corcoran Lagoon as both Sensitive Habitat and ESHA as that term is understood within a Coastal Act context (LUP Policy 5.1.2(i) and 5.1.3, IP Chapter 16.32). The LCP requires that development be set back a minimum of 100 feet from Corcoran as measured from its high water mark (IP Section 16.32.090(A)(11)) and designates this 100 foot area as a riparian corridor (LUP Policy 5.2.1 and IP Chapter 16.30). Riparian corridors are also designated as both Sensitive Habitat and ESHA by the LCP (LUP Policy 5.1.2(j) and 5.1.3, IP Chapter 16.32) within which development is generally prohibited (IP Section 16.30.040 and IP Chapter 16.32). Certain development is exempted for the setback requirements (e.g., continuation of pre-existing uses in certain situations) (IP Section 16.30.050), and exceptions to setback requirements are allowed in certain circumstances, subject to making specific exception findings (IP Sections 16.30.060 and 16.32.100).

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

Public Access and Recreation

The LCP contains a series of interwoven policies which, when taken together, reinforce and reflect the Coastal Act mandate to maximize public access and recreational opportunities, protect existing public access and encourage public access and recreational enhancements (such as public parking, trails, and other facilities) to increase enjoyment of coastal resources and to improve access within the Live Oak coastal region (LCP Chapters 3 and 7). The LCP policies also target the Live Oak coastal area for specific enhancements, such as parking (including LCP Programs 7.5a, 7.7a and 7.7b) and clear visitor signage (LCP Program 7.7f). Existing public access use is protected (LCP policy 7.7.10). These policies are reinforced by the Coastal Act that includes requirements to maximize access, protect existing access, provide access in new development projects, and protect lands for public recreational uses and facilities (including Coastal Act policies 30210 – 30214, 30221 – 30223, and 30240(b)).

Priority Uses and Sites

The LCP designates both the residential property and the Coastview Drive right-of-way as "Coastal Priority Sites" to which special development standards and requirements apply (LCP Policy 2.23 et seq). The designated priority use for these sites is public access and parking, and specific requirements apply to maximize such public access and to maximize protection of Corcoran Lagoon. The sites are designated for acquisition ("D" combining park site overlay district), meaning that the LCP requires that



the County evaluate the sites for potential acquisition as part of any development application.⁵ The LCP requires that a master plan be prepared that is designed to achieve LCP priority site objectives as part of an approval. The LCP establishes a priority of uses within the coastal zone where recreational uses and facilities are a higher priority than residential uses, and the LCP prohibits the conversion of a higher priority use to a lower priority use (LCP Policy 2.22 et seq); in road improvement projects, priority is given to providing recreational access (LCP Policy 3.14 et seq). These LCP policies are more generally mimicked by the Coastal Act policies cited above.

Community and Scenic Character

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

B. Analysis of Consistency with Applicable Policies

1. ESHA

The project includes development within the LCP-required 100-foot buffer (per the LCP, measured from the high-water mark of Corcoran Lagoon).⁶ This includes the aforementioned Coastview Drive improvements within about 35 feet of the Lagoon, the pathway within about 25 feet, a residential driveway within about 55 feet, and future residential driveways (for the development envelopes) within about 45 feet and 75 feet respectively. Although the proposed residence (and future residences within the proposed building envelopes) would meet the 100-foot setback requirement, these related developments would not.

The Applicant's proposed project would result in additional urban infill development adjacent to Corcoran Lagoon. This will have an incremental impact on Lagoon resources. However, the Lagoon is already ringed by similar development, including existing residential development along Coastview Drive, and the incremental addition would be minor in this respect. Moreover, the Applicant's proposed project has been designed to maintain a 100-foot setback from the Lagoon for the SFD and any future SFDs; this setback distance is generally more than that of existing Lagoon-edge development in this area. The road improvements have been minimized in their extent, are primarily located in a hard pack

⁵ Note that the County did such an evaluation and decided not to pursue acquisition.

⁶ Where setbacks from the Lagoon are discussed in these findings, the setback is understood to be measured from the Applicant-identified high-water mark of the Lagoon, and not from a more precisely delineated edge of Lagoon. Similarly, where identified here, the edge of the Lagoon is taken to be the same high-water mark.



area already used for vehicle access to existing residences, and the project incorporates a state of the art biofiltration system for runoff. The pedestrian path would both provide through access, as well as enhanced interpretive access along the Lagoon. Long-term maintenance of the path and water quality system is included. The project incorporates construction BMPs designed to fully protect access and lagoon resources. Taken together, the roadway/driveway development within the required 100-foot setback (as well as development adjacent to the 100-foot setback), should have minor impacts on the Lagoon, and should enhance Lagoon water quality.

In order to allow the driveways, road, drainage, and path development within the required setback, a riparian exception is required (per LCP Sections 16.30.060 and 16.32.105 – see exhibit C). The five LCP-required exception findings can be made in this case. Coastview Drive provides the only access to these three residential properties, and driveways off of it are the only way to access development envelopes set back 100 feet from the Lagoon (required findings 1 and 2). The development within the required setback includes built-in measures to protect the Lagoon, appears to be the least environmentally damaging feasible alternative (because there are no other access alternatives available), provides public interpretive pedestrian access, and because of these reasons can be found consistent with the objectives of the LCP (required findings 3, 4, and 5).

The proposed project can be found consistent with the ESHA policies of the LCP cited above. In addition, the drainage improvements specifically are consistent with the special use standards that apply to Coastview Drive as an LCP Coastal Priority Site, as cited above.

2. Public Access and Recreation/Priority Site

Trail Access

The public has long used the Coastview Drive parcel as a through public access trail connecting from inland Portola Drive through to East Cliff Drive and the beach. In part, this is the reason for the LCP's Coastal Priority Site designation and requirements.

The proposed public pedestrian trail and the proposed sign changes would enhance through access from East Cliff to Portola by providing a designated space for pedestrians to move between these two roads, and providing clear direction for such use (see plans and sign text in exhibit B). The trail has also been designed to be consistent with and cognizant of the Lagoon aesthetic (i.e., separated from the Coastview paved area, made up of decomposed granite, and incorporating a curvilinear meander). This portion of the project should enhance public access as directed by the Coastal Act and LCP policies cited above.

Parking Access

The Live Oak beach area is an important recreational asset for Live Oak residents, other County residents, and visitors to the area. Parking is extremely limited in this area, predominantly provided by on-street parking that itself is further limited by significant amounts of private encroachments into the public right-of-way, inadequate definition of the public-private delineation point at the street's edge, no parking and restrictive parking signs (both privately posted and posted by the County), and a peak-



season preferential permit parking program. There is a high demand for additional parking areas, but publicly available property on which to construct such improvements is lacking and rising coastal land costs limit the feasibility of purchasing properties for such public uses. The LCP contains multiple policies and programs detailing the need for parking enhancement in the Live Oak beach area; the Coastal Act likewise supports such goals and requires that public parking access be maximized.

Coastview Drive has historically been used for public parking adjacent to the Lagoon. Because the road is mostly unimproved and narrow, there isn't much space for parking, and thus past parking has been limited in this respect. Use of the Coastview Drive in this way has also been more recently restricted by the existing signage and gated access discouraging parking. In part because of the parking deficit in coastal Live Oak, and in part because of the historic use of the site for public beach parking, the LCP designates the subject site, including both the vacant residential lots and Coastview Drive itself, as a priority location to maximize public beach parking (LCP Policy 2.23 et seq, LCP Programs 7.5a, 7.7a, and 7.7b).

It appears that providing public parking on the three residential properties would be infeasible for several reasons. First, the vacant residential properties are located on land that slopes away from Coastview Drive and the Lagoon (roughly a 10% slope), and it isn't clear that public parking could be physically accommodated on these sites without significant grading and disturbance. Second, they are surrounded by existing developed residential properties, and are located opposite Corcoran Lagoon, and it isn't clear that such a use would be compatible. Third, these sites, other than the flatter portion of them immediately adjacent to Coastview Drive, do not appear to have been used historically for public parking. Fourth, the use of the sites for public parking would raise significant takings issues. Fifth, it isn't clear from where the funding might come to acquire and develop such parking. And finally, even if the preceding issues could be surmounted, only a limited amount of parking could possibly be provided on these properties.

As to providing public parking on Coastview, that too appears problematic at this time. Coastview Drive itself is fairly narrow, even if paved to 20 feet as proposed, and improvements to it to widen it even more significantly to provide space for additional parking (and space for cars to turn around) would raise potential Lagoon impact issues, as would the intensification of such a use adjacent to the Lagoon. Like the residential properties, it would also raise funding questions.

In sum, it appears infeasible to provide for an expanded parking area and parking at this time. Such parking would only accommodate a small number of cars (probably up to a dozen if the road were expanded to the maximum in areas where such expansion were not constrained by slopes and significant riparian vegetation), and would be at the expense of further impacting Lagoon resources. Thus, the continued existing of the modified fence and gate at either end of Coastview to exclude general vehicular access (but not to physically exclude pedestrian access because there would still be space for same) does not raise significant concerns at this time.

Conclusion

The proposed development can be found consistent with the LCP and Coastal Act public access,



recreation, and priority site policies cited above.

3. Community and Scenic Character

The project is located in an area that is visible from public viewing areas (such as East Cliff Drive), and that is part of the larger Corcoran Lagoon landscape. The road improvements proposed should readily fit into this viewshed, particularly with the biofilter planting area and the curvilinear nature path with benches, with minor impacts, if any. The removal of the existing plethora of signs and replacement with a fewer number should also help in this respect.

In terms of the proposed residential development, some amount of additional incursion into the viewshed is unavoidable if these sites are developed because they are clearly visible in public views. Additional development in the viewshed would not be an anomaly, though, because the Lagoon is surrounded by similar residential and other urban development. In this case, an approximately 2,800 square foot residence would be constructed on APN 028-173-07. Its viewshed impact would be tempered by the fact that it would be a long (extending away from the Lagoon) structure as opposed to a wide structure within the public viewshed (see elevations in exhibit B), and significant front yard area tree and shrub plantings are proposed to soften its front facade. Existing Lagoon vegetation and trees also would provide some screening in this respect. The main Lagoon-fronting elevation shows the residence to be similar in size, scale, and design as surrounding development, and not outside of the general range of development in this part of coastal Live Oak.⁷

The proposed development can be found consistent with the LCP's community and scenic character policies cited above.

4. Consistency Analysis Conclusion

The Applicant's proposed project will result in additional urban infill development adjacent to Corcoran Lagoon. This will have an incremental impact on Lagoon resources. However, the Lagoon is already ringed by similar development, including existing residential development along Coastview Drive, and the incremental addition would be minor in this respect. Moreover, the Applicant's project has been designed to maintain a 100-foot setback from the Lagoon for the SFD and any future SFDs; this setback distance is generally more than that of existing Lagoon-edge development in this area. The road improvements have been minimized in their extent, are primarily located in a hard pack area already used for vehicle access to existing residences, and the project incorporates a state of the art biofiltration system for runoff. The driveway, road, and path improvements are allowable within the LCP-required setback because Coastview Drive provides the only access to these residential properties, and such development includes built-in measures to protect the Lagoon, appears to be the least environmentally

⁷ In terms of the proposed development envelopes on the other vacant properties, these would allow for slightly smaller (APN 028-173-08) and slightly larger (APN 028-173-05) gross square footages if they are developed with residential structures because these parcels are smaller and larger, respectively, than the property to be developed now. The precise parameters of these future residential structures, as well as their consistency with the LCP in this regard, would be the subject of future CDP applications. That said, it is unlikely that they would result in any more character or viewshed degradation than the currently proposed residence.



damaging feasible alternative (because there are no other access alternatives available), allows continued pedestrian access, and because of these reasons can be found consistent with the objectives of the LCP. Taken together, the roadway/driveway development within the required 100-foot setback (as well as development adjacent to the 100-foot setback), should have minor impacts on the Lagoon, and should enhance Lagoon water quality. The signed pedestrian path would both provide through access, as well as enhanced interpretive access along the Lagoon. Long-term maintenance of the path and water quality system is included. The project incorporates construction BMPs designed to fully protect access and lagoon resources during construction activities to the degree feasible.

In sum, the project as now proposed represents the most resource protective project possible when all of the private property and LCP issues are weighed together for this site and this project.⁸ Residential development and access to it are minimized to the degree feasible, pedestrian/interpretive access is signed and provided, and Lagoon water quality is enhanced. One special condition is included solely for clarity in project implementation and condition compliance (see special condition 1).

Thus, as conditioned, the project addresses the previously identified substantial LCP issues and can be found consistent with the certified LCP and the applicable access and recreation policies of the Coastal Act.

C. California Environmental Quality Act (CEQA)

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

The County, acting as the lead CEQA agency, exempted the project from CEQA. 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.

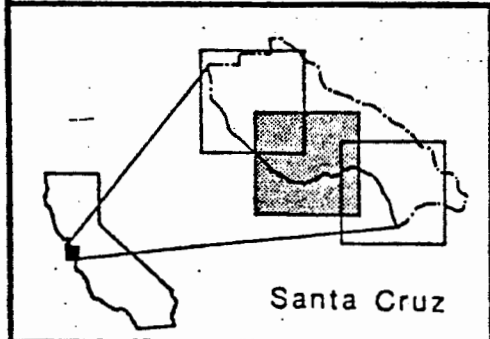
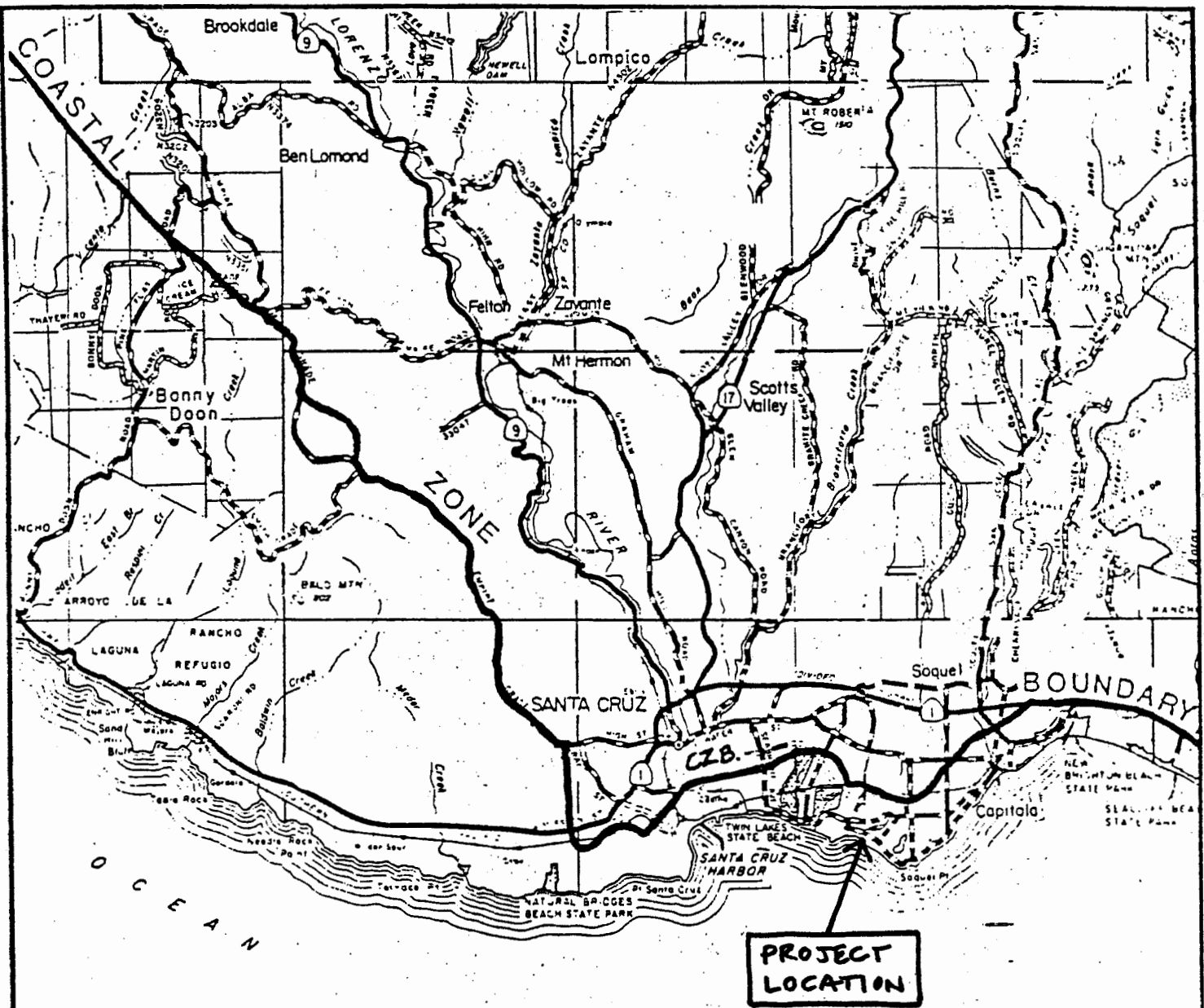
As shown in the foregoing, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval

⁸ Note that the LCP's Coastal Priority Site policies require that a master development plan be developed when development is proposed on any portion of such sites. In this case, the development proposed covers all of the priority site and thus this approval is a de facto master plan. Although this can be found consistent in this special case (because this project came to the Commission on appeal long after the master plan was to have been prepared during the course of initial project review at the County), it is not the preferred implementation of this LCP requirement and the Commission expects that future projects involving Coastal Priority Sites (and required master plans) will include master plan development and review as part of the initial County application review process.



of the proposed project, as modified, would have on the environment within the meaning of CEQA. Thus, if so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).





MONTEREY BAY

California Coastal Commission

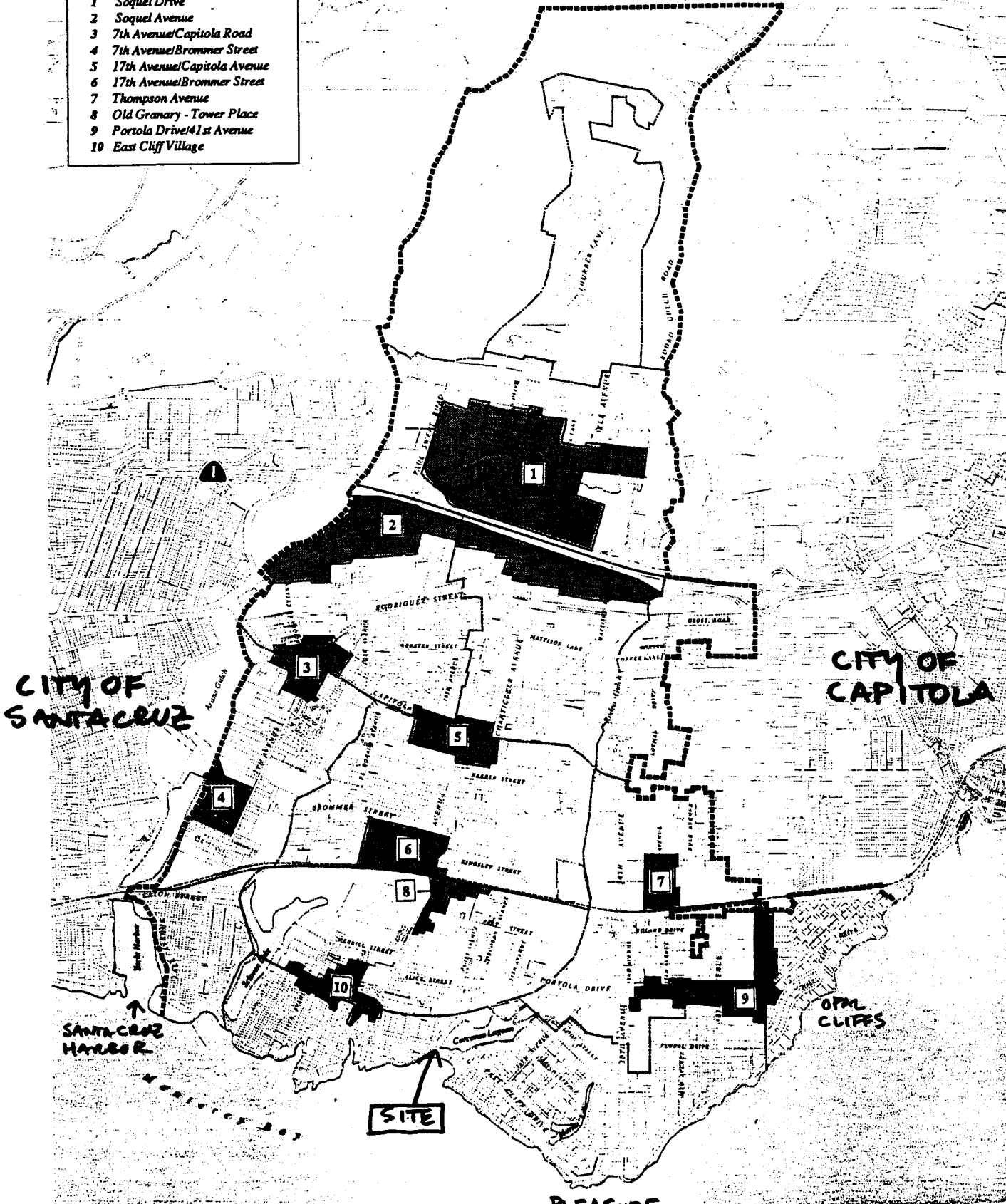
LOCATION MAP

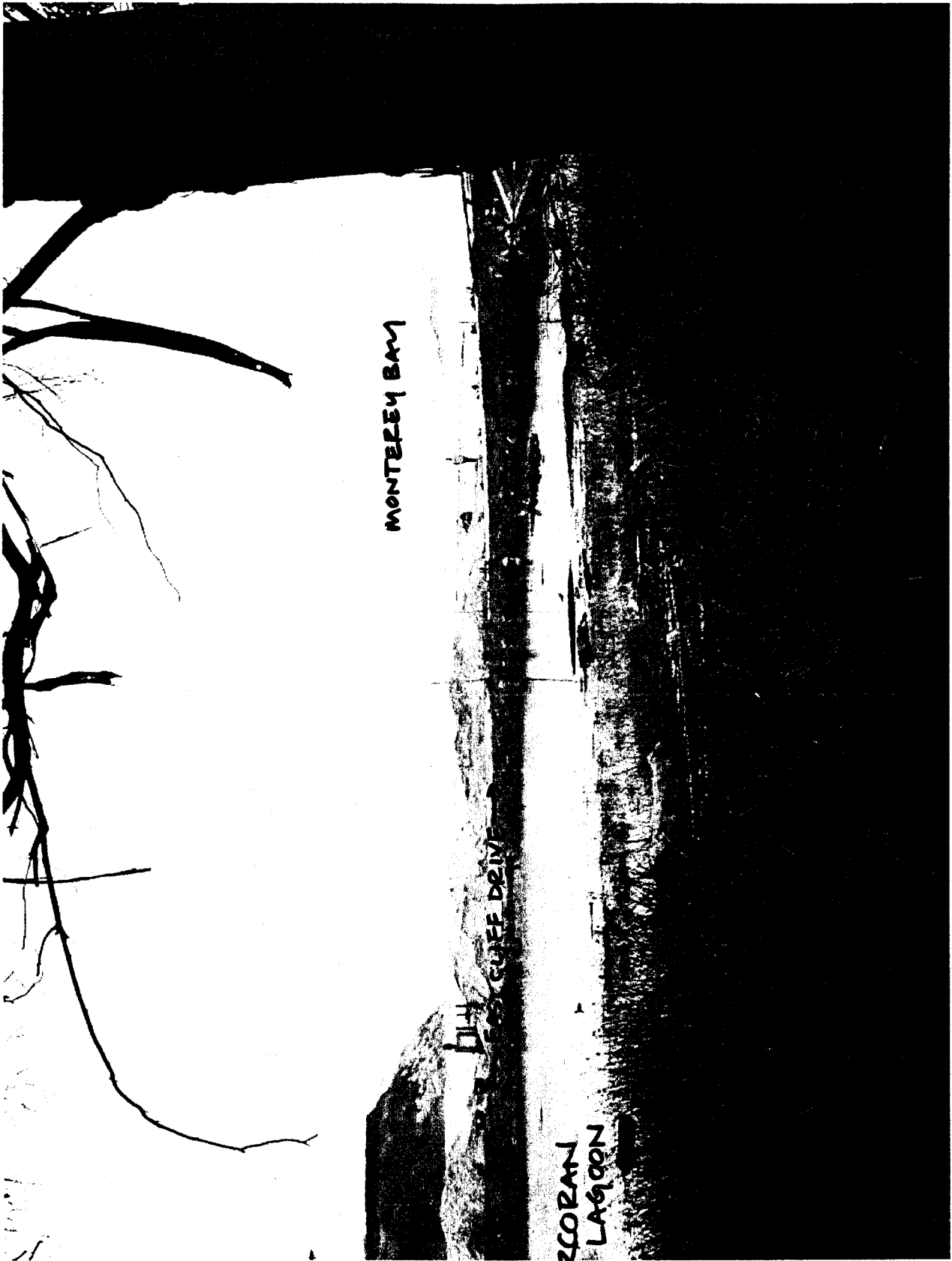


LIVE OAK

LEGEND

- 1 Soquel Drive
- 2 Soquel Avenue
- 3 7th Avenue/Capitola Road
- 4 7th Avenue/Brommer Street
- 5 17th Avenue/Capitola Avenue
- 6 17th Avenue/Brommer Street
- 7 Thompson Avenue
- 8 Old Granary - Tower Place
- 9 Portola Drive/41st Avenue
- 10 East Cliff Village





2322
AVE

CORCORAN
LAGOON

MONTEPEY BAY

DUN CUFF DRIVE

BEACH AND BAY AS VIEWED FROM COASTVIEW
DRIVE PROJECT AREA.



EAST CLIFF DRIVE ↗

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



72

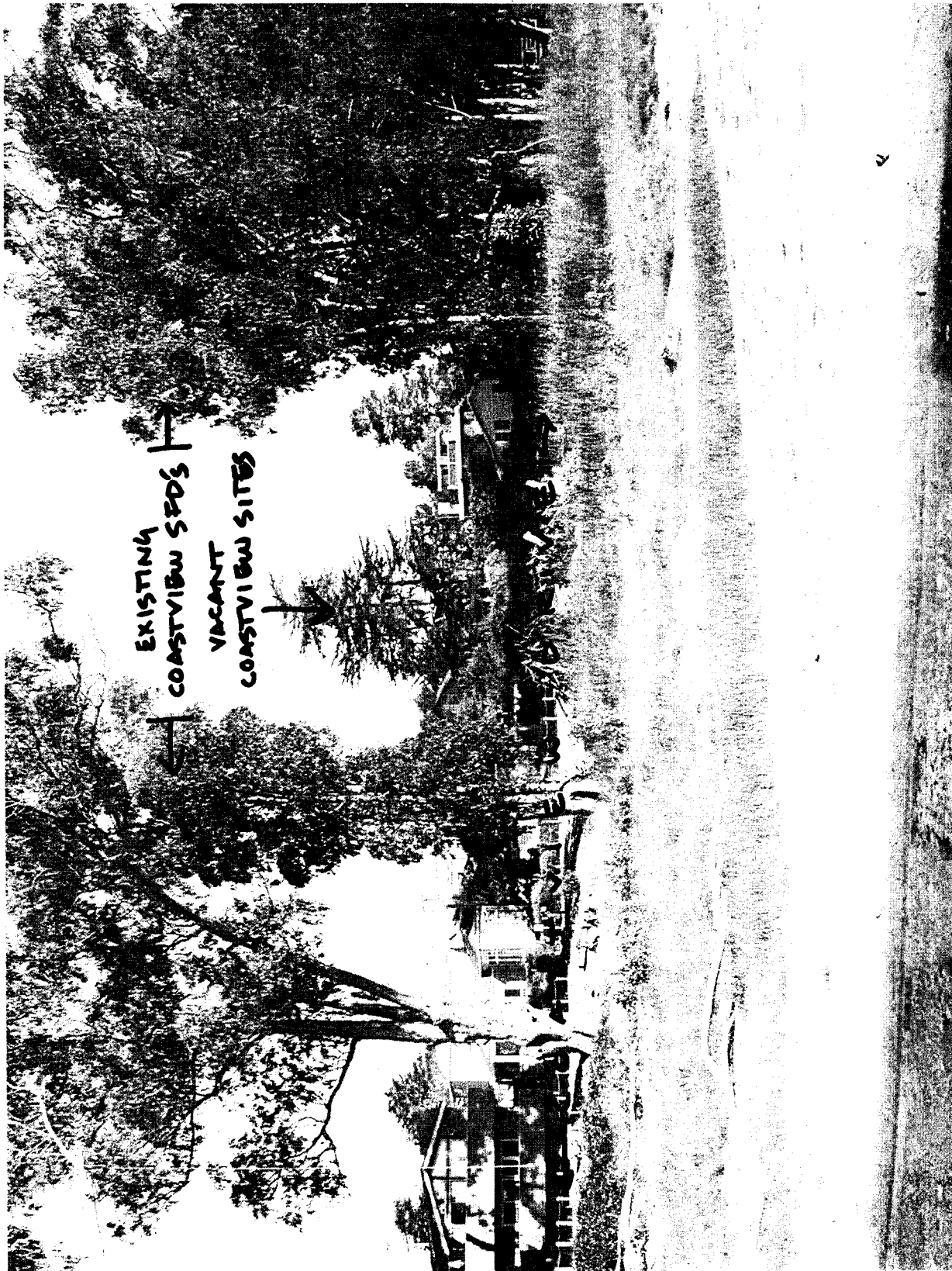
RESI
PROP
SITE

MID-POINT OF COASTVIEW DRIVE LOOKING INLAND
TOWARDS PORTOLA DRIVE



COASTVIEW DRIVE AS VIEWED TOWARD EAST
CLIFF DRIVE FROM PORTOLA DRIVE

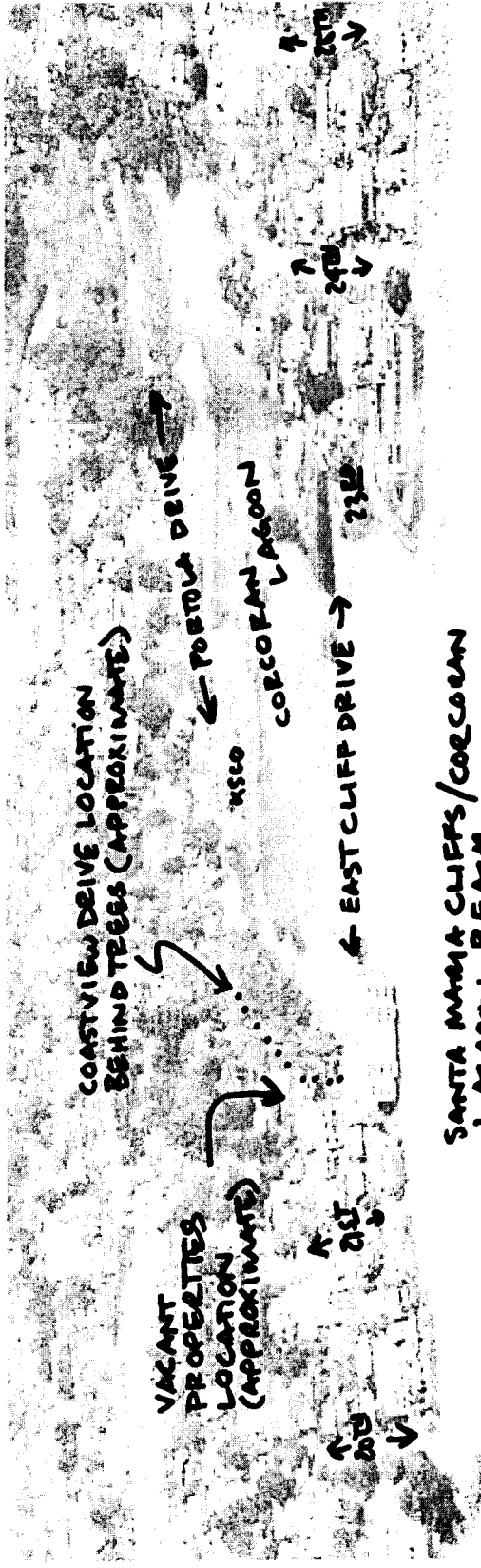
58



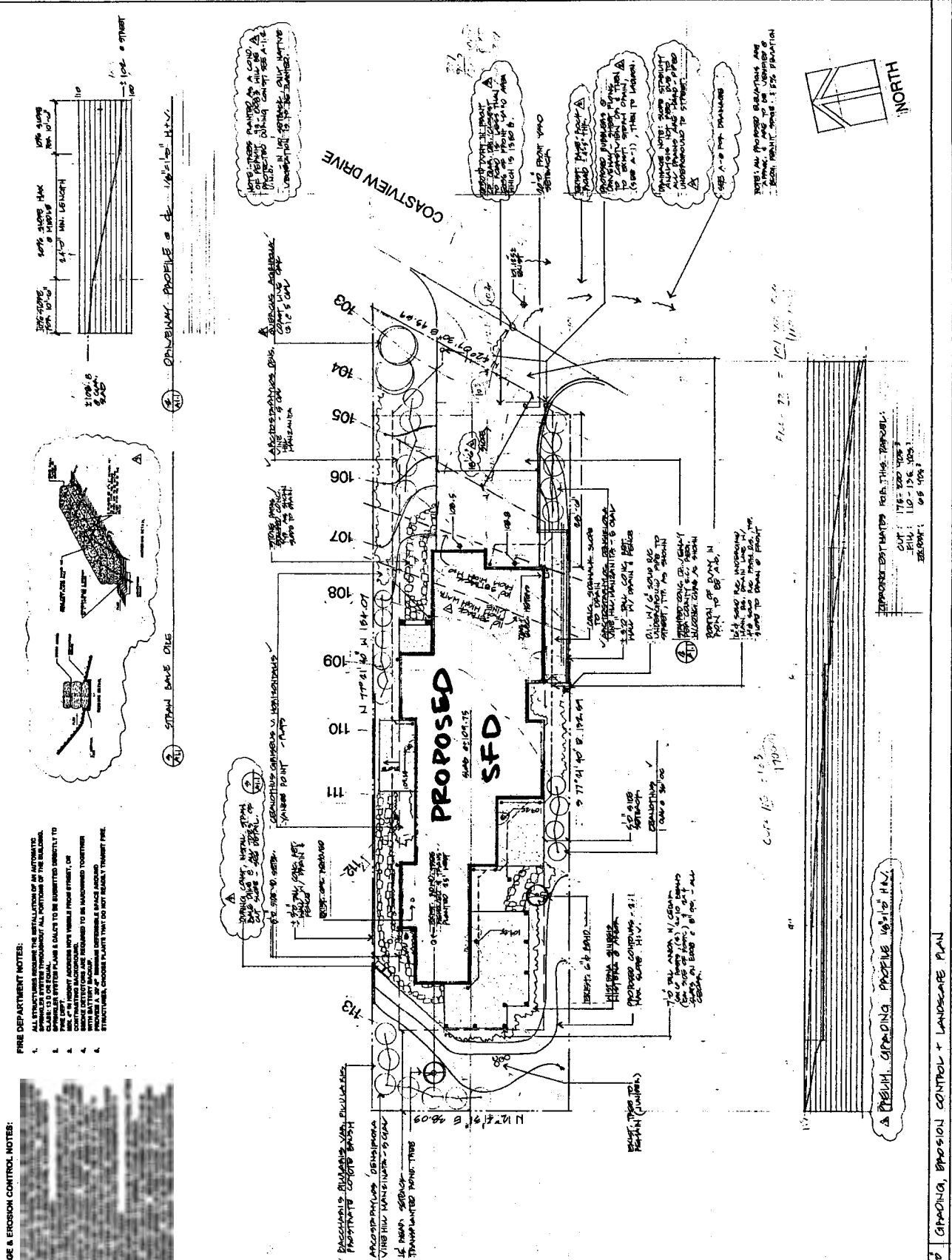
EXISTING
COASTVIEW SFD'S

VACANT
COASTVIEW SITES

COASTVIEW DRIVE AND VACANT PROPERTIES
AS VIEWED ACROSS CORCORAN LAGOON FROM
EAST CLIFF DRIVE



SEASIDE CALIFORNIA COASTAL RECORDS PROJECT (M 625, 8/11/2002)



SITE, DRAINAGE & EROSION CONTROL NOTES:

1. ALL STRUCTURES SHALL BE CONSTRUCTED TO THE EXISTING GRADE.
2. ALL STRUCTURES SHALL BE CONSTRUCTED TO THE EXISTING GRADE.
3. ALL STRUCTURES SHALL BE CONSTRUCTED TO THE EXISTING GRADE.
4. ALL STRUCTURES SHALL BE CONSTRUCTED TO THE EXISTING GRADE.
5. ALL STRUCTURES SHALL BE CONSTRUCTED TO THE EXISTING GRADE.

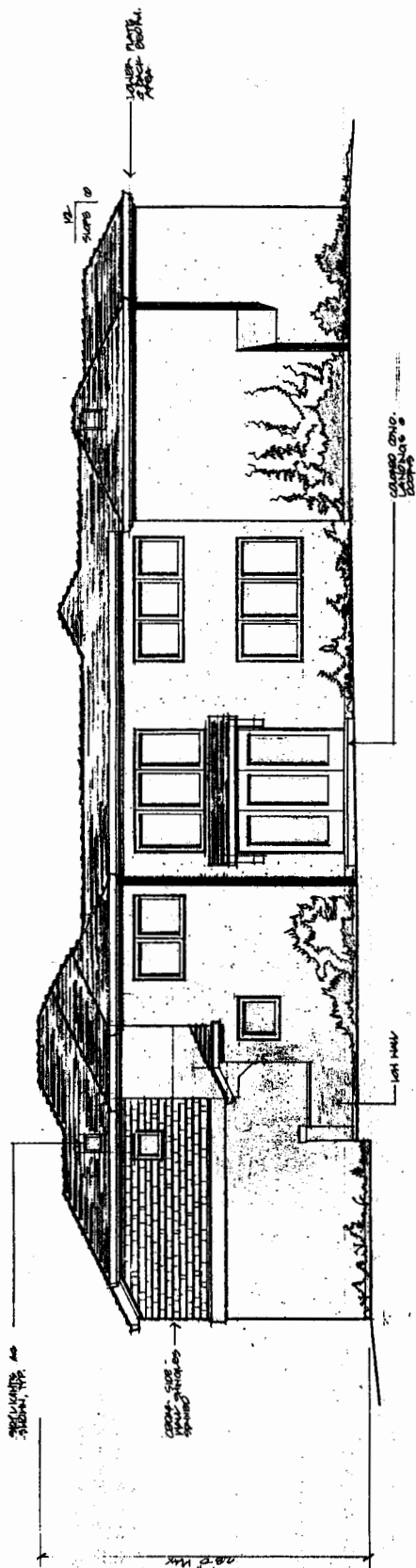
FIRE DEPARTMENT NOTES:

1. ALL STRUCTURES SHALL BE CONSTRUCTED TO THE EXISTING GRADE.
2. ALL STRUCTURES SHALL BE CONSTRUCTED TO THE EXISTING GRADE.
3. ALL STRUCTURES SHALL BE CONSTRUCTED TO THE EXISTING GRADE.
4. ALL STRUCTURES SHALL BE CONSTRUCTED TO THE EXISTING GRADE.
5. ALL STRUCTURES SHALL BE CONSTRUCTED TO THE EXISTING GRADE.

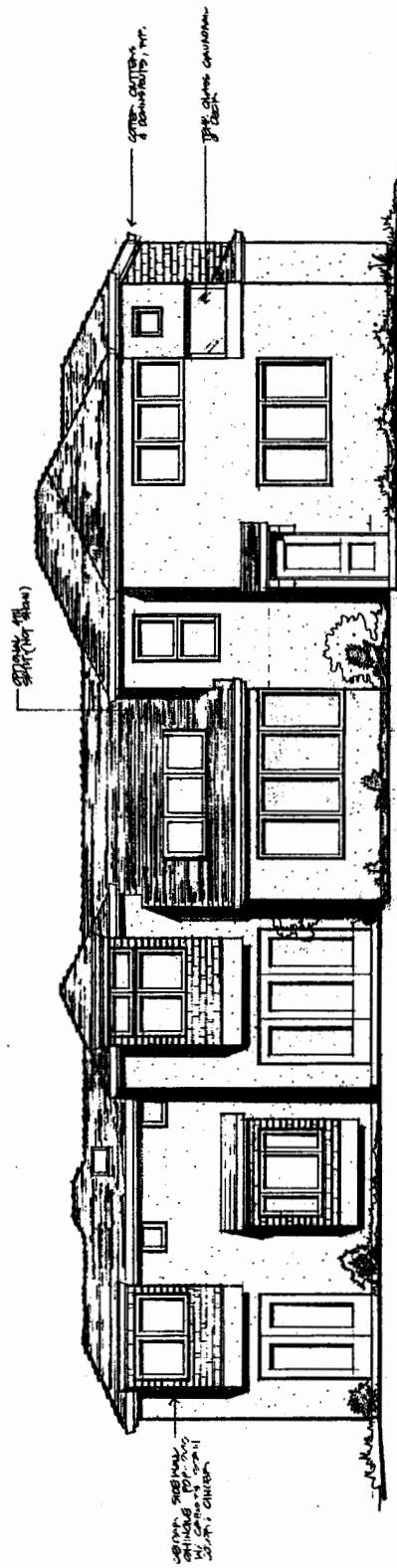
PROPOSED ESTIMATED COSTS:
 EST. COST: 175-220,000
 PER AC: 110-150,000
 PER AC: 65,000

PROPOSED GRADING PROFILE 1/8" = 1'-0" MAX.

PROPOSED GRADING, EROSION CONTROL + LANDSCAPE PLAN



1 1/4" = 1'-0" NORTH ELEVATION



1 1/4" = 1'-0" SOUTH ELEVATION

1535 Seabright Avenue, Suite 200, Santa Cruz, CA 95062
 Franks Brenkowitz & Associates
 Architecture / Planning

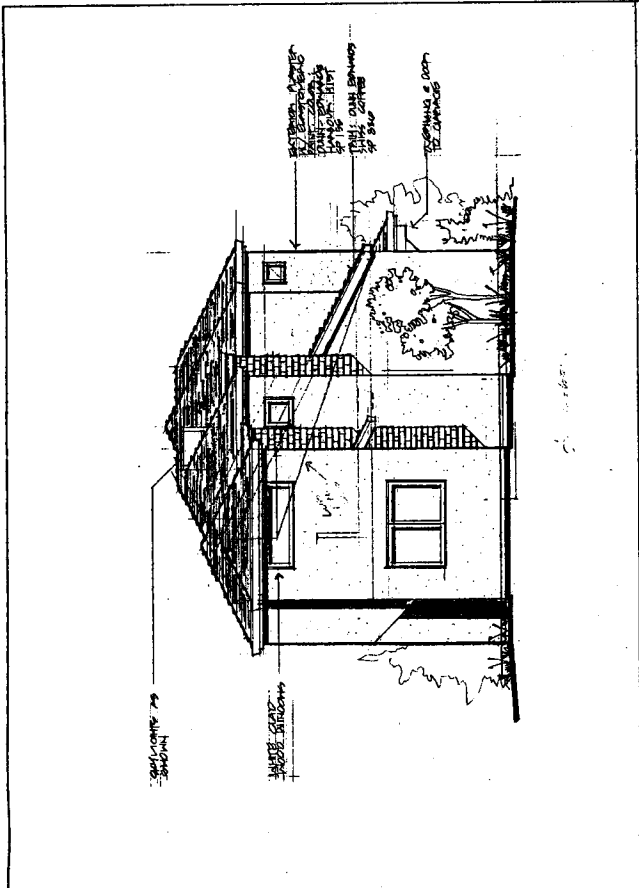
COASTVIEW DRIVE PROJECT

EXTERIOR ELEVATIONS

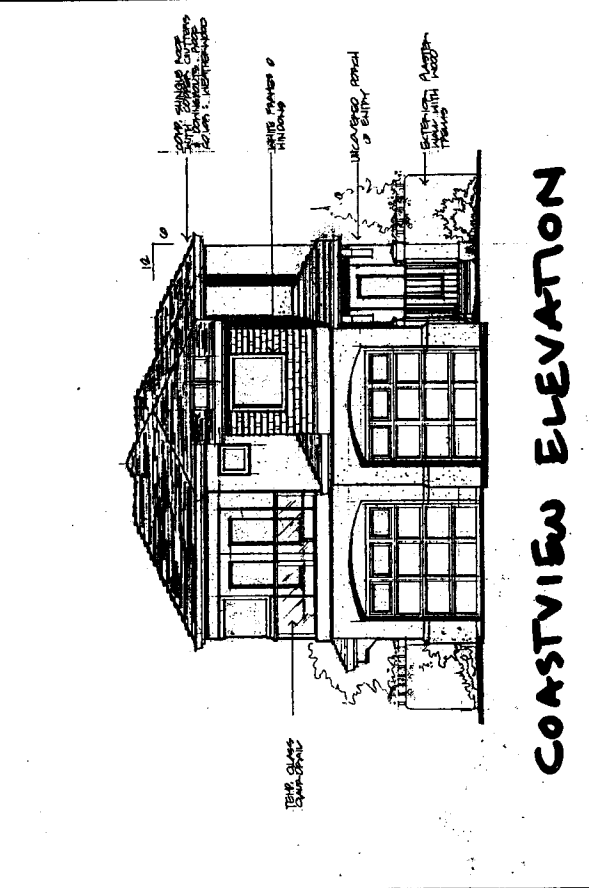
DATE: 6-20-01
 A + B - 02
 A 3-20-01

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

SHEET NO. A-4
 OF 14 SHEETS



2 1/4" = 1'-0" WEST ELEVATION

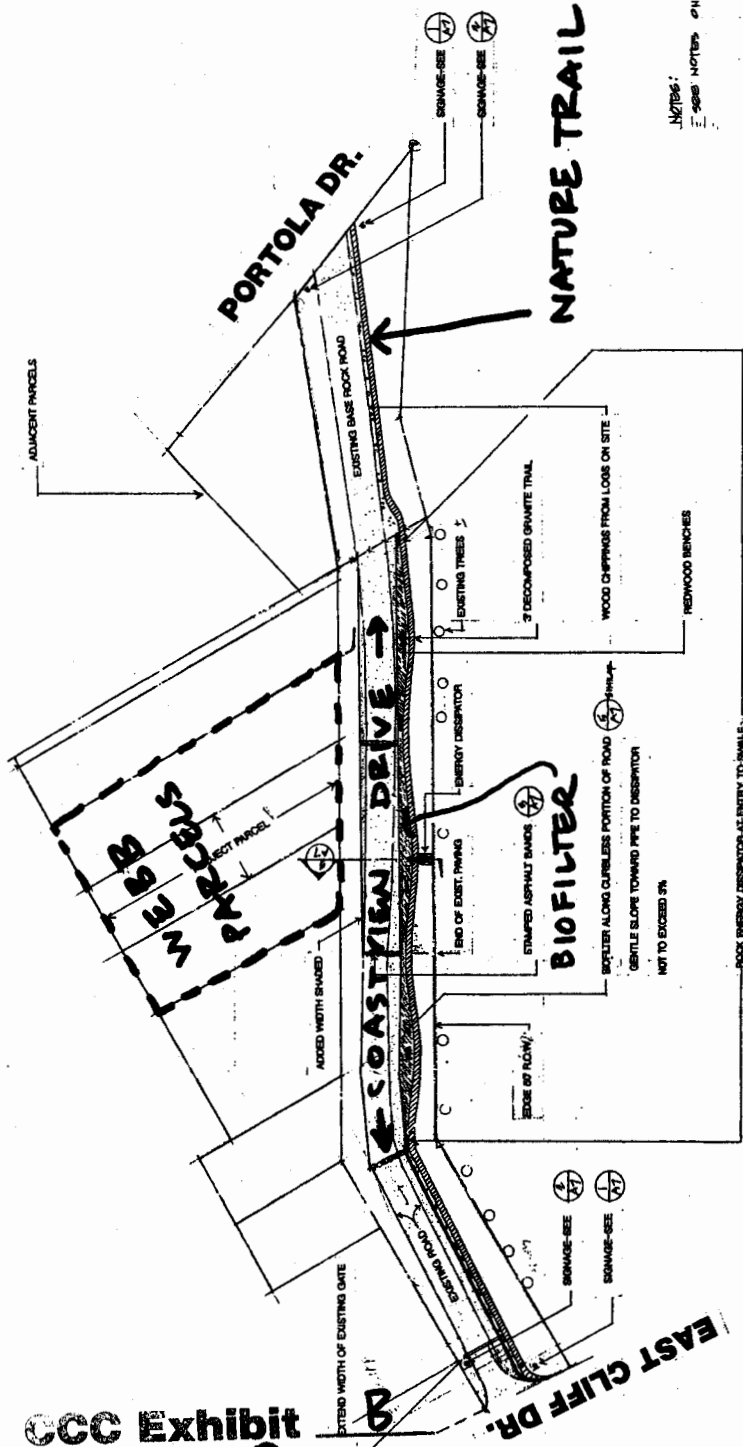


1 1/4" = 1'-0" EAST ELEVATION

COASTVIEW ELEVATION

3 NTS CALCULATIONS

1. AREA CALCULATIONS
 2. PERIMETER CALCULATIONS
 3. VOLUME CALCULATIONS
 4. WEIGHT CALCULATIONS
 5. MOMENT CALCULATIONS
 6. STRESS CALCULATIONS
 7. DEFLECTION CALCULATIONS
 8. STABILITY CALCULATIONS
 9. FOUNDATION CALCULATIONS
 10. STRUCTURAL ANALYSIS
 11. MATERIAL PROPERTIES
 12. DESIGN REQUIREMENTS
 13. CONSTRUCTION DETAILS
 14. FINISHES
 15. SCHEDULES
 16. SPECIFICATIONS
 17. NOTES
 18. REFERENCES
 19. APPENDICES
 20. INDEX



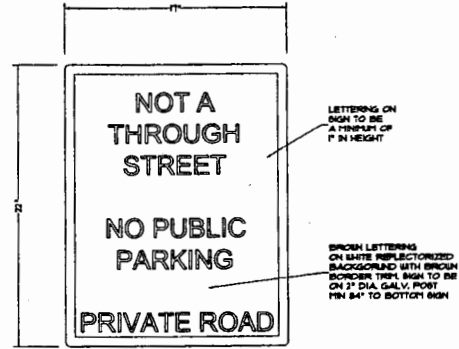
NOTES:
 SEE NOTES ON SHEET A-5 & A



CCC Exhibit
 (page 5 of 10 pages)

SIGN + BIOFILTER DETAILS

SEE SHEET A-8 FOR NOTES

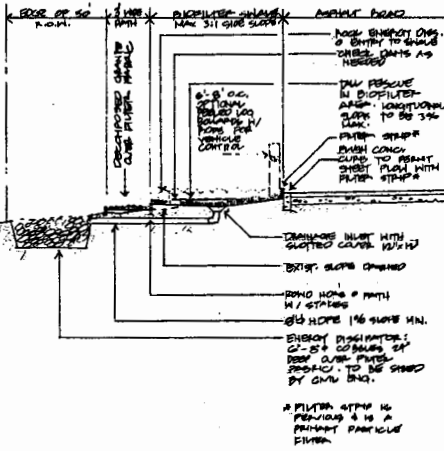


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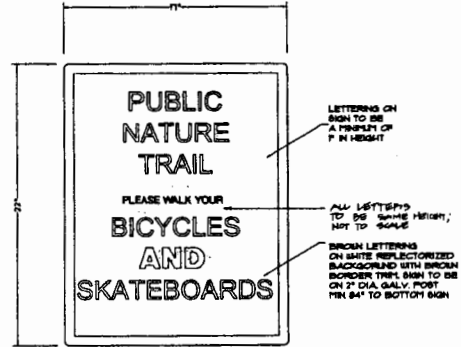
4 NTS NOTES

2 NOSCALE ENTRY SIGNAGE

(page 6 of 10 pages)
CC Exhibit B



EXAMPLE OF PATTERNS FOR ASPHALT RAISED BANDS IN ADD.



5 1/4" x 10" BIOFILTER DETAIL

3 NTS STAMPED ASPHALT

1 NOSCALE NATURE TRAIL SIGNAGE Δ

Staff Note: The following are the controlling plan note requirements identified on page A-8 of the proposed plans (reproduced in text form because the notes cannot be read when sheet A-8 is reduced to 8½" x 11").

PROJECT NOTES:

(The Permittee acknowledges and agrees, on behalf of itself and all successors and assigns, that: the following notes are an integral part of the project, and if there is a question of interpretation between the other plan sheets and these notes, the notes shall be controlling.)

CONSTRUCTION CONDITIONS:

1. Construction Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two sets of a Construction Plan (in 11" x 17" format with a graphic scale) to the Executive Director for review and approval. The Construction Plan shall include, at a minimum, the following:
 - (a) Construction Areas. The Construction Plan shall identify the specific location of all construction areas, all staging areas, all storage areas, all construction access corridors (to the construction sites and staging areas), and all non-construction pedestrian/vehicular access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to minimize construction impacts on Corcoran Lagoon, and to have the least impact on pedestrian/vehicular access.
 - (b) Construction Methods and Timing. The Construction Plan shall specify all construction methods to be used, including all methods to be used to keep the construction areas separated from Corcoran Lagoon and pedestrian/vehicular access corridors, and shall include a final construction schedule. All erosion control/water quality best management practices to be implemented during construction and their location shall be noted.
 - (c) Construction Coordinator. The Construction Plan shall designate a construction coordinator to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and in emergencies), and shall include their contact information (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction. The Construction Plan shall require that the construction coordinator record the name, phone number, and nature of all complaints received regarding the construction, and that the construction coordinator investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.
 - (d) Construction Criteria. The Construction Plan shall, at a minimum, include the following required criteria specified via written notes on the Plan:
 - All work shall take place during daylight hours and lighting of Corcoran Lagoon is prohibited unless, due to extenuating circumstances, the Executive Director authorizes non-daylight work and/or Lagoon area lighting.
 - Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage

areas.

- The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; and remove all construction debris from the Lagoon area).
 - All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day. At a minimum, silt fences, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from entering into Corcoran Lagoon.
 - The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction. The Permittee shall undertake construction in accordance with the approved Construction Plan. Any proposed changes to the approved Construction Plan shall be reported to the Executive Director.
2. Construction Site Documents. DURING ALL CONSTRUCTION, copies of each of the following shall be maintained in a conspicuous location at the construction job site at all times (where such copies shall be available for public review) and all persons involved with the construction shall be briefed on the content and meaning of each prior to commencement of construction: (a) the signed coastal development permit, (b) the approved final plans, and (c) the approved construction plan. In addition, the designated construction coordinator's contact information (including their address and 24-hour phone number at a minimum) shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies).

PLAN NOTES:

1. Signs

- a. PRIOR TO CONSTRUCTION OF COASTVIEW DRIVE ROAD IMPROVEMENTS, all existing signs within the Coastview Drive right-of-way and/or adjacent to it, including all signs located where the Coastview Drive right-of-way intersects the East Cliff Drive and Portola Drive right-of-ways, shall be removed.
- b. PRIOR TO CONSTRUCTION OF COASTVIEW DRIVE ROAD IMPROVEMENTS, two new signs (approximately 17" x 22" in size with lettering a minimum of 1" in height) shall be installed at the intersections of both Coastview Drive with East Cliff Drive and with Portola Drive (i.e., two signs at each intersection). The first sign shall state "NOT A THROUGH STREET, NO PUBLIC PARKING, PRIVATE ROAD" and shall be located on the west side of either end of Coastview Drive (Coastview Drive Signs). The second sign shall state "PUBLIC NATURE TRAIL, PLEASE WALK YOUR BICYCLES AND SKATEBOARDS" and shall be located on the east side of either end of Coastview Drive adjacent to the 3' wide decomposed

granite nature trail (Nature Trail Signs). The Nature Trail Signs shall use earth tone colors.

- c. Signs other than the Coastview Drive Signs and the Nature Trail Signs shall be prohibited within the Coastview Drive right-of-way and/or adjacent to it.
 - d. It is the Permittee's responsibility to maintain the Coastview Drive Signs and the Nature Trail Signs in their approved state in perpetuity, including replacing and/or repairing the signs to ensure that the nature trail and the Coastview Drive right-of-way are always signed as described above.
 - e. Changes to the Coastview Drive Signs and/or the Nature Trail Signs shall be prohibited without an amendment to this coastal development permit.
2. Public Nature Trail
- a. The public shall be allowed to use the entirety of the 3' wide decomposed granite nature trail located on the Coastview Drive right-of-way and extending from the East Cliff Drive right-of-way to the Portola Drive right-of-way (Public Nature Trail), including any benches or other related amenities adjacent to it. Impediments to such public use, including but not limited to use restriction signs and obstructions on the trail, shall be prohibited.
 - b. It is the Permittee's responsibility to maintain the Public Nature Trail in its approved state in perpetuity, including repairing the trail surface and headers as necessary to ensure stable and safe access across it, and repairing and/or replacing any benches or other related amenities adjacent to it.
 - c. Changes to the Public Nature Trail shall be prohibited without an amendment to this coastal development permit.
3. Bio-Filter System
- a. The bio-filtration swale, perforated header, drain, discharge pipe, and energy dissipater located along the eastern side of Coastview Drive (Bio-Filter System) shall filter and treat runoff to remove typical urban runoff pollutants.¹ The swale shall be vegetated with only native and non-invasive plant species that are specifically known to effectively remove pollutants and that are appropriate wetland upland species (e.g., native grasses, juncus, etc.).
 - b. The Bio-Filter System shall be sized for the volume of runoff produced from irrigation and from each and every storm and/or precipitation event up to and including the 85th percentile 24-hour runoff event for volume-based Best Management Practices (BMPs) and/or the 85th percentile, 1-hour runoff event (with an appropriate safety factor) for flow-based BMPs.
 - c. All vehicular traffic and parking areas shall be swept and/or vacuumed at regular intervals and at

¹ Typical urban runoff pollutants describes constituents commonly present in runoff associated with precipitation and irrigation. Typical runoff pollutants include, but are not limited to: paints, varnishes, and solvents; hydrocarbons and metals; non-hazardous solid wastes and yard wastes; sediment from construction activities (including silts, clays, slurries, concrete rinsates, etc.); ongoing sedimentation due to changes in land cover/land use; nutrients, pesticides, herbicides, and fertilizers (e.g., from landscape maintenance); hazardous substances and wastes; sewage, fecal coliforms, animal wastes, and pathogens; dissolved and particulate metals; and other sediments and floatables.

least once prior to October 15th of each year. Any oily spots shall be cleaned with appropriate absorbent materials. All debris, trash and soiled absorbent materials shall be disposed of in a proper manner. If wet cleanup of any of these areas is absolutely necessary, all debris shall first be removed by sweeping and/or vacuuming, all drain inlets shall be sealed, and wash water pumped to a holding tank to be disposed of properly and/or into a sanitary sewer system.

- d. All components of the Bio-Filter System shall be maintained at least twice yearly: (1) between October 1st and October 15th; and (2) between April 15th and May 1st. Such maintenance shall include clean-out, repair, and/or replacement (including removal of sediment in the swale, and regular mowing and/or replacement of plants in the swale) as necessary to ensure that the Bio-Filter System effectively filters and treats runoff to remove typical urban runoff pollutants.
 - e. It is the Permittee's responsibility to maintain the Bio-Filter System in its approved state in perpetuity.
 - f. Changes to the Bio-Filter System shall be prohibited without an amendment to this coastal development permit.
4. Setbacks: The Permittee acknowledges and agrees, on behalf of itself and its successors and assigns, that any future residential development on parcels 5 and 8 shall be set back a minimum of 100 feet from the high water line of Corcoran Lagoon as shown on Sheets A-1, A-1.2, A-1.3.
5. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit to the Executive Director for review and approval documentation demonstrating that the Permittee has executed and recorded against the parcel(s) governed by this permit and owned by the Permittee a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property, and (2) imposing the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description and site plan of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

A-3-SCO-02-092 Applicable Policies

1. Environmentally Sensitive Habitat Area (ESHA) Policies

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Public Access and Recreation Policies

A. Applicable Coastal Act Policies

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water “shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3.” Because this project is located between East Cliff Drive (the first through public road) and Corcoran Lagoon, for public access and recreation issues the standard of review is not only the certified LCP but also the access and recreation policies of the Coastal Act.

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

Section 30210: In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211: Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212(a): Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...

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

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

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

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

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

B. Applicable LCP Policies

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

Coastal Priority Sites and Priority of Uses

LUP Policy 2.22.1 Priority of Uses within the Coastal Zone. Maintain a hierarchy of land use priorities within the Coastal Zone:

First Priority: Agriculture and coastal-dependent industry

Second Priority: Recreation, including public parks; visitor serving commercial uses; and coastal recreation facilities.

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

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

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

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

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

LUP Coastal Priority Site – Coastview Drive

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

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

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

Circulation and Priority to Recreational Access

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

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

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

Maximizing Public Access and Recreation

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

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

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

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

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

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

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

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

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

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

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

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

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

LUP Policy 7.7.10 Protecting Existing Beach Access. Protect existing pedestrian...and bicycle access to all beaches to which the public has a right of access, whether acquired by grant or through use, as established through judicial determination of prescriptive rights.... Protect such beach access through permit conditions...

LUP Policy 7.7.11 Vertical Access. Determine whether new development may decrease or otherwise adversely affect the availability of public access, if any, to beaches and/or increases the recreational demand. If such impact will occur, the County will obtain as a condition of new development approval, dedication of vertical access easements adequate to accommodate the intended use, as well as existing access patterns...

3. Community and Scenic Character Policies

A. Applicable Coastal Act Policies

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

Section 30251. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

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

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

B. Applicable LCP Policies

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

Objective 8.8, Villages, Towns and Special Communities. To recognize certain established urban and rural villages as well as Coastal Special Communities for their unique characteristics

and/or popularity as visitor destination points; to preserve and enhance these communities through design review ensuring the compatibility of new development with the existing character of these areas.

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

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

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

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

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

LUP Policy 5.10.2 Development Within Visual Resource Areas. *Recognize that visual resources of Santa Cruz County possess diverse characteristics.... Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks and design to protect these resources consistent with the objectives and policies of this section. ...*

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

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

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

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

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

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

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

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

* → Riparian Corridor. Any of the following:

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

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

Vegetation. Any species of plant.

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

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

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

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

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

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

✶ → 16.30.060 EXCEPTIONS. Exceptions and conditioned exceptions to the

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

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

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, partner-

ship, 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 designat-

ed 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,

conditions.

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

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

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

A. ENVIRONMENTALLY SENSITIVE HABITAT AREAS (Continued)

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

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

16.32.095 PROJECT DENSITY LIMITATIONS

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

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

(Ord. 4346, 12/13/94)

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

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

1. That adequate measures will be taken to ensure consistency with the purpose of this chapter to minimize the disturbance of sensitive habitats; and
2. One of the following situations exists:
 - (i) The exception is necessary for restoration of a sensitive habitat; or
 - (ii) It can be demonstrated by biotic assessment, biotic report, or other technical information that the exception is necessary to protect public health, safety, or welfare.

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

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

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

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

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

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

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

Exhibit C
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