

CALIFORNIA COASTAL COMMISSION

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F10c

Appeal Filed:	04/28/2008
49 th Day:	06/16/2008
Staff Report Prepared:	05/22/2008
Staff Report Prepared By:	Susan Craig
Staff Report Approved By:	Dan Carl
Hearing date:	06/13/2008

APPEAL STAFF REPORT SUBSTANTIAL ISSUE DETERMINATION ONLY

Appeal number.....**A-3-CAP-08-021, Rispin Mansion Hotel Project Modifications**

Applicants.....Capitola Redevelopment Agency and The Rispin, LLC

Appellant.....Save the Habitat

Local governmentCity of Capitola

Local decisionApproved with conditions by the Capitola City Council on April 9, 2008 (City File No. 08-014, which amended City Coastal Development Permit (CDP) No. 05-005).

Project locationThe Rispin Mansion site at 2000 and 2005 Wharf Road, adjacent to Soquel Creek in the City of Capitola in Santa Cruz County (APNs 035-371-01 and 035-371-02).

Project description.....Modifications to a 25-unit hotel and public facility project approved in 2005, including realignment of a path and sewer line on the eastern side of the mansion and the removal of three trees in the mapped appeal zone.

File documents.....Final Local Action Notice for City of Capitola CDP No. 08-014; City of Capitola Local CDP File No. 05-005; City of Capitola certified Local Coastal Program (LCP).

Staff recommendation ...**No Substantial Issue**

A. Staff Recommendation

1. Summary of Staff Recommendation

On March 24, 2005 the City of Capitola approved a CDP for the Rispin Mansion redevelopment project (CDP 05-005). This CDP authorized redevelopment and restoration of the historic Rispin Mansion site as a 25-unit hotel with a range of related site improvements (including a wedding pavilion, meeting space, restored historic gardens, etc.). The CDP also authorized a series of public access improvements, including access to the restored grounds and some of the site facilities, as well as significant riparian and Monarch butterfly habitat enhancement, protection, and overall open space preservation.



California Coastal Commission

F10c-6-2008

On April 9, 2008, the City approved an amendment to CDP 05-005 to allow certain modifications to this base CDP, including the realignment of an entrance path and a sewer line on the eastern side of the mansion and the removal of three trees adjacent to the mansion within the mapped appeal zone (i.e., the area against which any appeal contentions are measured). The Appellant contends that the amendment will allow development in environmentally sensitive habitat areas (ESHAs) on the project site, specifically riparian areas and Monarch butterfly habitat. However, the project modifications in question are not located within the butterfly or riparian habitat areas. Rather, the path and sewer realignment and the three trees to be removed per the amendment are located along the eastern edge of the existing mansion that is not located within ESHA. The realigned path will actually be developed closer to the mansion (and further from Soquel Creek) than the path already approved in the base permit. The three trees to be removed to allow installation of the sewer line are not located within the riparian corridor nor in the LCP required riparian setback and will not negatively impact riparian nor monarch butterfly habitat on the site. Thus, the appeal contentions do not raise a substantial issue with respect to the amendment's conformance with the certified City of Capitola LCP. Thus, staff recommends that the Commission find that no substantial issue exists with respect to the grounds on which the appeal was filed, and that the Commission decline to take jurisdiction over the coastal development permit for the amended project.

2. Staff Recommendation on Substantial Issue

Staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal was filed. A finding of no substantial issue would mean that the City's decision in this matter would be final (conversely, a finding of substantial issue would bring the project under the jurisdiction of the Commission for hearing and action).

Motion. I move that the Commission determine that Appeal Number A-3-CAP-08-021 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

Staff Recommendation of No Substantial Issue. Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

Resolution to Find No Substantial Issue. The Commission hereby finds that Appeal Number A-3-CAP-08-021 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Program and/or the public access policies of the Coastal Act.



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C. Exhibits

 Exhibit 1: Project Location Maps

 Exhibit 2: Amended Project Plans

 Exhibit 3: Photographs of Project Site

 Exhibit 4: Applicable LCP Provisions

 Exhibit 5: Appeal Contentions

 Exhibit 6: City’s 2005 Conditions of Approval

 Exhibit 7: City’s March 2008 Staff Report, Adopted Findings, & Amended Conditions of Approval

 Exhibit 8: Correspondence from City’s Consulting Riparian and Monarch Butterfly Biologists

B. Findings and Declarations

The Commission finds and declares as follows:

1. Project Location and Site Background

The Rispin Mansion site is located in the City of Capitola in Santa Cruz County. The site is approximately 6.5 acres and is located along the eastern side of Wharf Road. The site is bounded by Soquel Creek to the east, open space to the north, a multi-family residential development to the south, and a residential care facility, as well as multi-family and single-family residences and a library site across Wharf Road to the west. About half of the site slopes steeply down to (and includes) Soquel Creek, and the other half of the site (nearer to Wharf Road) is more gently sloped. The northern third of the site is located outside of the coastal zone. See Exhibit #1 for location maps.

The site is home to the abandoned Rispin Mansion located along the edge of the slope above Soquel Creek. The Rispin Mansion was built by Henry Allen Rispin in 1922 as a vacation home. The mansion was constructed primarily out of concrete, as was the trend at that time, and combines mission, Spanish colonial, and Mediterranean style architecture. The mansion and grounds were eventually used as a convent, but since 1960 the mansion building has been vacant and has fallen into great disrepair. In December 1985, the City of Capitola purchased the Rispin Mansion property. The City subsequently entered into a partnership agreement with a private development team to redevelop and restore the

mansion building and adjacent grounds for both overnight accommodations and public uses. The Rispin Mansion was listed as a district on the National Register of Historic Places in 1991. Currently the mansion and surrounding project site area constitute an “attractive nuisance” for trespassing, vandalism, and related activities (see Exhibit #3 for photos of the project site).

Until 2005, the Rispin Mansion site constituted an area of deferred certification in which the Commission retained coastal permitting authority for development of the portions of the site that are located in the coastal zone. These areas were not certified as part of the original LCP certification due to a lack of specificity in the original LCP implementation plan with respect to visitor-serving development standards. However, in early 2005, the Commission certified standards for this site as part of the LCP, and CDP permitting jurisdiction thus transferred to the City (CAP-MAJ-2-04).

On March 24, 2005 the City of Capitola approved a CDP for redevelopment and restoration of the Rispin Mansion property as a 25-unit hotel and multiuse public facility (CDP 05-005; see Exhibit #6 for 2005 conditions of approval). The City’s approval included rehabilitation and restoration of the existing historic mansion and its grounds, as well as some expansion (construction of a new garden conservatory for weddings and other amenities), all subject to Secretary of Interior standards for historical sites. The City’s approval also included enhancement of riparian and monarch butterfly habitat on the property. The approved project also included public access to the site and for public use of some of the facilities (e.g., the conservatory, meeting rooms, etc.). To assure permanent protection for the historical and biological resources on the Rispin property, and to maintain public access, the City’s approval included conservation and preservation easements, for which the habitat conservation easements were to be placed over the riparian area adjacent to the mansion and the monarch butterfly habitat that exists on the property.

2. Project Description

On April 9, 2008, the City approved a number of amendments to the previously-approved CDP for the Rispin Mansion redevelopment and restoration project (see Exhibit #6 for base CDP conditions of approval, and Exhibit #7 for the City’s amendment staff report, findings, and modified conditions). The project amendments include changes to the approved project, some of which are: 1) outside the coastal zone; 2) inside the coastal zone but outside of the appeal zone; and, 3) inside the coastal zone and in the appeal zone. Only the amendments that are within the mapped appeal zone in the coastal zone are subject to the appeal contentions. The amended changes include:

- Addition of a spa (outside the coastal zone);
- Relocation of a guest room and construction of two guest rooms as a second story on the Villas Building (outside the coastal zone) (total number of rooms remains 25, the same as in the City’s 2005 approval of the project);
- Construction of the conservatory building simultaneous with Phase 1 of the project; modification in the design and an increase in size of the conservatory by the addition of a second level



(outside the coastal zone);

- Addition of an emergency access gate (in coastal zone but not in appeal zone);
- Relocation of the restored well house about 12 feet northeasterly from its existing location (in the coastal zone but not in the appeal zone);
- Relocation of the Rispin/Peery pathway about 6 feet north of the location in the 2005 approval (outside of the coastal zone);
- Relocation and redesign of the Americans with Disabilities Act (ADA) pathway to avoid removal of five oak trees; the new ADA path (located in the coastal zone but not in the appeal zone) will require the relocation of two palm trees;
- Replacement of an approved wrought iron fence with a plaster concrete wall (in the coastal zone but not in the appeal zone);
- Realignment and reduction in length of a previously approved path on the eastern side of the mansion (**located in the coastal zone and in the appeal zone**);
- Realignment of the location of the sewer line on the eastern side of the mansion (**located in the coastal zone and in the appeal zone**);
- Removal of one 12-inch redwood tree, one 12-inch maple tree, and one 9-inch maple tree to allow installation of the new sanitary sewer line to serve the project (**the three trees are located in the coastal zone and in the appeal zone**);
- Modifications to the entrance gate and driveway (in the coastal zone but not in the appeal zone);
- Modification of a number of conditions of approval (none affecting project components located in the coastal appeal zone (see pages 13-18 of Exhibit #7 for the amended conditions of approval)).

Thus, the only proposed amendments to the base CDP for the Rispin Mansion redevelopment and restoration project that are located within an appealable area in the coastal zone and thus are subject to this appeal are the realigned path and sewer line on the eastern side of the mansion building, and the removal of three trees adjacent to the mansion along the sanitary sewer line alignment (see Exhibit #2).

Notice of the City's final action regarding the CDP amendment was received in the Commission's Central Coast office on April 15, 2008. The Coastal Commission's ten-working-day appeal period for this action began on April 15, 2008 and concluded at 5 p.m. on April 28, 2008. One appeal (see Exhibit #5) was received during the appeal period.



3. Appeal Procedures

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. The City's CDP decision is appealable because a portion of the area of development is located within 100 feet of Soquel Creek. **However, only the components of the amended project that are located within 100 feet of Soquel Creek are subject to this appeal.**¹

The grounds for appeal under Section 30603 are limited to allegations that the appealable development does not conform to the certified LCP or to the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo CDP hearing on the overall project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. In other words, although appeal contentions are limited in this case to the mapped appeal zone, Section 30625 requires the Commission review the entire CDP action (in and out of the mapped appeal zone) if a substantial issue is found.² Under Section 30604(b), if the Commission conducts a de novo hearing on the CDP application and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. This project is not located between the nearest public road and the sea, and thus this additional finding would not need to be made if the Commission approves the project following a de novo hearing.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicants, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo stage of an appeal.

¹ The only reason that the City's CDP action is appealable is due to the development's proximity to Soquel Creek. As a result, and pursuant to Section 30603, the issues raised in the appeal can only pertain to that portion of the project located within 100 feet of the top of the creek bank (see Exhibit #2).

² Pursuant to Section 30625, the Commission shall hear an appeal of a CDP action unless there is no substantial issue per the appeal grounds of Section 30603. Thus, substantial issue determinations are based on the appeal grounds, and in this case as they apply within 100 feet of the top of the creek bank. If substantial issue is found on those appeal grounds, Section 30625 requires the Commission to hear the appeal of the local government action; or in other words, to "take back" the delegated authority to review the CDP application for that project.



4. Summary of Appellant's Contentions

The Appellant contends that the City-approved amended project will allow development in riparian areas on the site and in monarch butterfly habitat in violation of Coastal Act Section 30240, which protects environmentally sensitive habitat (ESHA). The standard of review, however, is the certified City of Capitola LCP, not the Coastal Act. Accordingly, the appeal contentions have been construed broadly and are understood and evaluated with respect to the consistency with the LCP's ESHA protection policies and standards (see Exhibit #4 for the applicable LCP provisions). Thus, given the bisecting coastal zone boundary and the fact that only a portion of the site and development is in the appealable area, the Appellant's contentions can be distilled down to a question of LCP consistency for the realigned path and sewer line and the removal of three trees in the appeal zone (see Exhibit #2). See Exhibit #5 for the complete appeal document.

Several months prior to the City's 2005 approval of a CDP for the Rispin project, the City entered into a stipulated judgment with Save the Habitat (the Appellant in this appeal) and WAVE. The purpose of the stipulated judgment was to resolve several lawsuits filed by Save the Habitat with respect to redevelopment of the Rispin site. The Appellant references the stipulated judgment in the appeal contentions. However, as discussed above, the only appropriate grounds for appeal are an allegation of inconsistency with the certified LCP. Thus, any contentions regarding the amended project's consistency with the stipulated judgment are not appropriate grounds for appeal.³

The Appellant also contends that the approved amendments contradict the language of a recorded conservation easement (for which the City Redevelopment Agency is the grantor and the City is the grantee) that applies to portions of the Rispin Mansion site. Again, the only appropriate grounds for appeal are an allegation of inconsistency with the certified LCP. Thus, any contentions regarding the amended project's consistency with the recorded conservation easement are not appropriate grounds for appeal.⁴

³ That said, the stipulated judgment indicates that it incorporates by reference the original CDP conditions of approval, and it further indicates that any changes to the judgment require consent of all parties to the judgment, including the Appellant. This requirement would appear to apply to changes to the base CDP conditions due to the City's amendment action. In other words, although the City may need to address stipulated judgment issues with the parties to the judgment outside of the appeal context, the existence of the stipulated judgment does not form the basis of an appropriate appeal contention nor does it raise an LCP conformance question overall.

⁴ The conservation easement was required by original CDP condition #64, and it was also part of the aforementioned stipulated judgment. The City has already recorded the easement document (as grant of an easement from the City Redevelopment Agency to the City) in relation to the base CDP. In the time since original recordation, the City has recognized that the conservation easement set up certain inconsistencies in relation to the CDP on which it was based and required (including easement language prohibiting certain aspects of the approved development in the conservation easement area that were clearly a part of the original CDP approval). The City intends to record a new conservation easement (pers. comm. Juliana Rebagliati, City of Capitola Community Development Director), as still required by the original CDP, subject to all of the relevant terms and conditions, and accounting for the changes per this CDP amendment. Procedurally, this represents a straightforward exercise as none of the CDP deadlines for its recordation have past (Condition #64 requires the conservation easement to be submitted prior to issuance of the building permit, and also requires that the easement be finalized and recorded prior to occupancy of the project) and the easement is by and between the City. In sum, the existing conservation easement, one that is not yet required to be recorded, and any claims of consistency with it do not form the basis for an appropriate appeal contention nor an LCP conformance question overall. In fact, the conservation easement is best understood in a CDP context as a pre-construction CDP condition still in the process of being met, and changes to the easement to better conform it to the



5. Substantial Issue Determination

The LCP protects ESHA and specifically protects the Soquel Creek riparian corridor and monarch butterfly winter resting sites as ESHA. Like the Coastal Act, non-resource dependent development is prohibited in these areas and development adjacent to these areas must be sited and designed to avoid significant degradation of these areas. In terms of the latter, the LCP requires a minimum 35-foot setback from riparian vegetation, but does not specify a setback distance for butterfly habitat. Relevant to the City-approved amendment, LCP Sections 17.95.010, 17.95.030, and 17.95.060 specifically require that new development adjacent to the Soquel Creek riparian corridor and monarch butterfly habitat avoid being sited within the root zone of riparian or butterfly host trees; be required to provide a minimum thirty-five foot setback from the outer edge of riparian vegetation; avoid removal of native riparian trees within the Soquel Creek riparian corridor; be required to provide qualified biological expertise in determining the precise location or boundary of natural areas, such as riparian corridors and essential monarch butterfly habitat, and mitigation measures to offset the impact of development on these areas; and, be sited and designed to prevent impacts that would significantly degrade butterfly groves. See Exhibit #4 for applicable LCP provisions.

Soquel Creek Riparian Habitat

Soquel Creek and associated riparian vegetation are located on the eastern portion of the mansion site. This area has been thoroughly evaluated and the edge of riparian vegetation well documented. The original project was approved with a riparian setback ranging from 50 to 75 feet to the mansion building and 45 to 65 feet to the path to be constructed in concrete along the alignment of the mansion's original brick walkway. The original sewer line was shown on the approved 2005 project plans as being partially located under the mansion building and then extending out along the eastern side of the building. Please see Exhibit #2 for the mapped edge of riparian vegetation; the LCP-required 35-foot minimum riparian setback; the previously approved path and sewer line; the amended path location and sewer location; and the three trees proposed for removal. Please see pages 4-5 of Exhibit #3 for photographs of these areas.

The realigned path is set back a minimum of 50 feet from the outer edge of the riparian vegetation, consistent with the LCP's minimum 35-foot development setback requirements. Additionally, this path is located about five feet further from the edge of riparian vegetation than the previously approved path and is about one-third the length of the previous path alignment approved by the City. In other words, the amendment moves the path closer to the approved building and reduces its scope, resulting in additional open space enhancement along the old path alignment. The sewer line alignment is adjacent to the path and is located about 45 to 60 feet from the edge of the riparian corridor. Therefore, with respect to riparian setbacks and impacts, the realigned path and sewer line both exceed the 35-foot riparian setback requirement of the LCP. The realigned path is also an improvement over the originally approved project with respect to the riparian setback. The City's consulting riparian biological expert has concluded (see page 1 of Exhibit #8) that the realigned path and sewer line will not result in a

actual CDP decision would be appropriate with or without the amendment, and will help with easement clarity and implementation over time.



substantial change to the biotic community adjacent to the mansion and the riparian corridor located on the project site. Thus, for all of the above reasons, the path/sewer components of the amendment are consistent with the LCP's ESHA and riparian provisions.

The LCP prohibits the removal of native riparian trees within the Soquel Creek riparian corridor. The three trees that would be removed per the amendment are located 50 to 60 feet from the edge of the riparian corridor (see Exhibit #2). Thus, these trees are not located in the riparian ESHA and are likewise located outside of the LCP-required minimum buffer. At least one of these trees would have been required to be removed by the original approval because the previously-approved sewer line alignment ran directly under this tree. Thus, although the amendment identifies three trees, it is really only two new trees being removed. In addition, it appears that the original approval would have required the removal of additional trees along the original sewer alignment, and the amended alignment has been designed to avoid these trees. The City's consulting biologist has determined that the removal of these three trees will not have negative impacts to the riparian habitat that is located approximately 50 to 60 feet east on the project site (see page 1 of Exhibit #8). In addition, Special Condition #55 of the City's original approval requires a final landscaping and tree replacement/mitigation plan; this condition has not been amended and remains in effect (see pages 16-17 of Exhibit #6). This condition requires that for every mature tree that is removed, four 24-inch box trees or twelve 15-gallon trees shall be planted on the Rispin site. Thus, between 12 and 36 trees (depending on size) will be planted on the project site to mitigate for the removal of the three trees necessary to accommodate installation of the sanitary sewer line. As with the path realignment, the reduced level of tree removal pursuant to the amendment is an improvement with respect to the riparian buffer compared to the original CDP approval. Thus, for all of the above reasons, the removal of these three trees is consistent with the LCP's ESHA and riparian provisions.

Monarch Butterfly Habitat

The monarch butterfly roosting area is located on the southern portion of the site (see Exhibit #2). The rest of the site, including trees and structures, serve as wind protection to the roosting area to varying degrees as one moves away from the roosting areas. Thus, interactions between structures, tree removal and tree replanting must be understood with this delicate balance in mind. The City's original approval was premised to a large degree on both siting and design to avoid habitat impacts (i.e., focusing development to the northern portions of the site, away from the roosting areas; use of zero emission vehicles, a prohibition on wood-burning stoves, etc.) and to require significant habitat enhancement and restoration. These original parameters are unchanged by the amendment. The realigned path is located approximately 40 feet further away from the edge of the roosting area than was the originally approved path (see Exhibit #2). The trees proposed for removal under the City-approved project amendment are located from 120 feet to 190 feet from the roosting area. The approved changes are minor with respect to their impacts on monarch butterflies, including because the path realignment reduces the scope of development. With respect to the trees, again these trees are slightly different trees than would have been removed pursuant to the original approval, but the difference is relatively minor, including when understood in terms of the base approval parameters that continue to apply. The City's consulting monarch butterfly biologist has determined that the three trees do not provide wind protection or over-

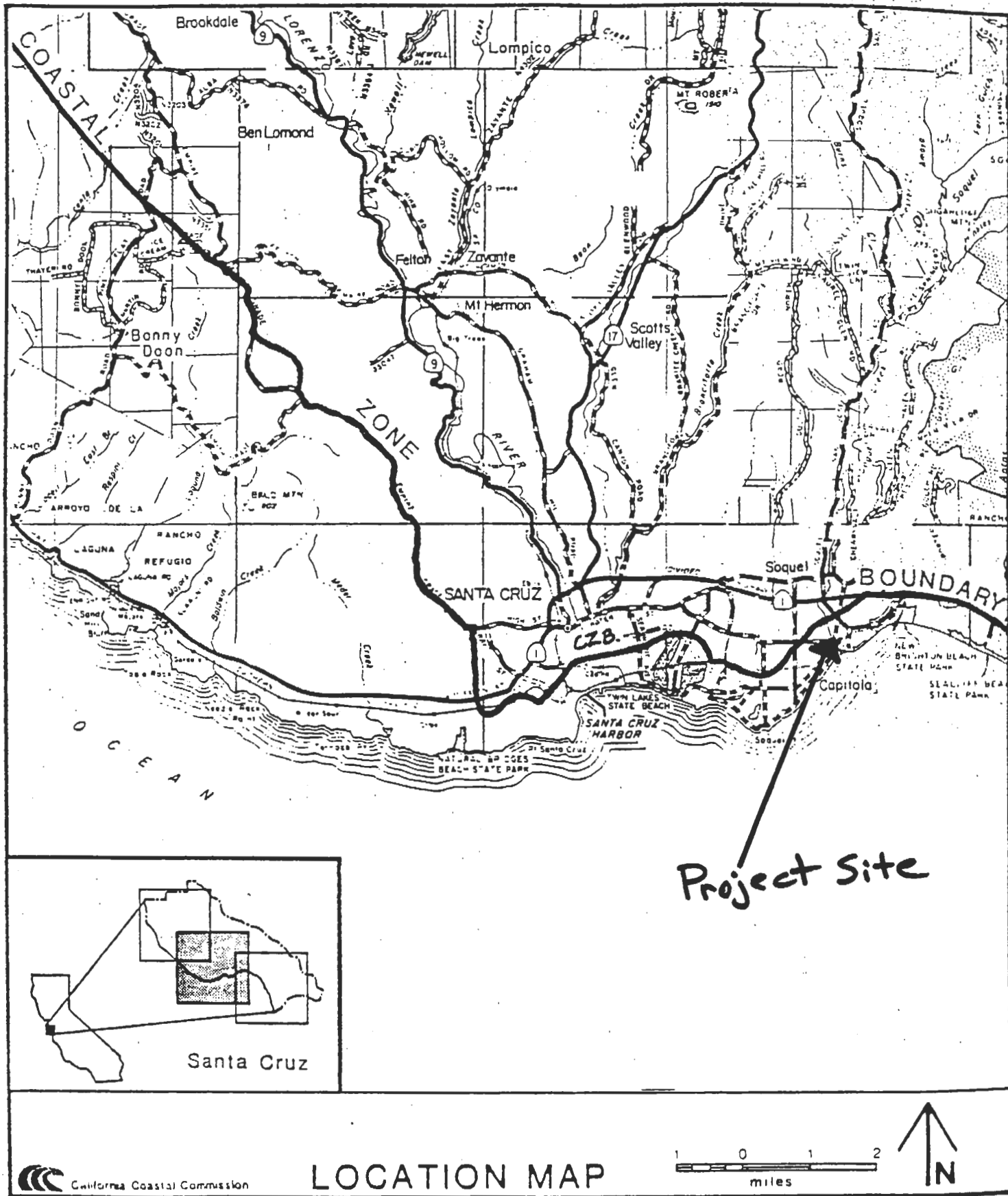


wintering habitat for the butterflies and their removal will not adversely impact the monarch butterfly over-wintering habitat that is located 120 feet to 190 feet away on the site (see page 2 of Exhibit #8). Additionally, as noted above, between 12 and 36 replacement trees will be planted on the Rispin site to mitigate the loss of the three trees. The location of these new trees will be determined by the project's monarch butterfly biologist in a manner to best benefit and enhance existing monarch habitat on the site (see Special Condition #55 on pages 16-17 of Exhibit #6). Thus, for all of the above reasons, the realigned path and the removal of the three trees is consistent with the LCP's ESHA and monarch butterfly over-wintering habitat protection provisions.

Conclusion

The appeal contentions do not rise to the level of a substantial issue with respect to the modified elements in the appeal zone (i.e. the realigned path and sewer line and associated revised tree removal) and their conformance with the certified LCP. The revisions to the originally approved and permitted project reduce coastal zone resource impacts, and are consistent with the LCP's ESHA provisions, including those protecting riparian and monarch butterfly habitat. The Commission finds that the appeal contentions do not raise a substantial LCP conformance issue and declines to take jurisdiction over the CDP for this project.





County of Santa Cruz

CCC Exhibit 1
(page 1 of 2 pages)

Sheet 2 of 3

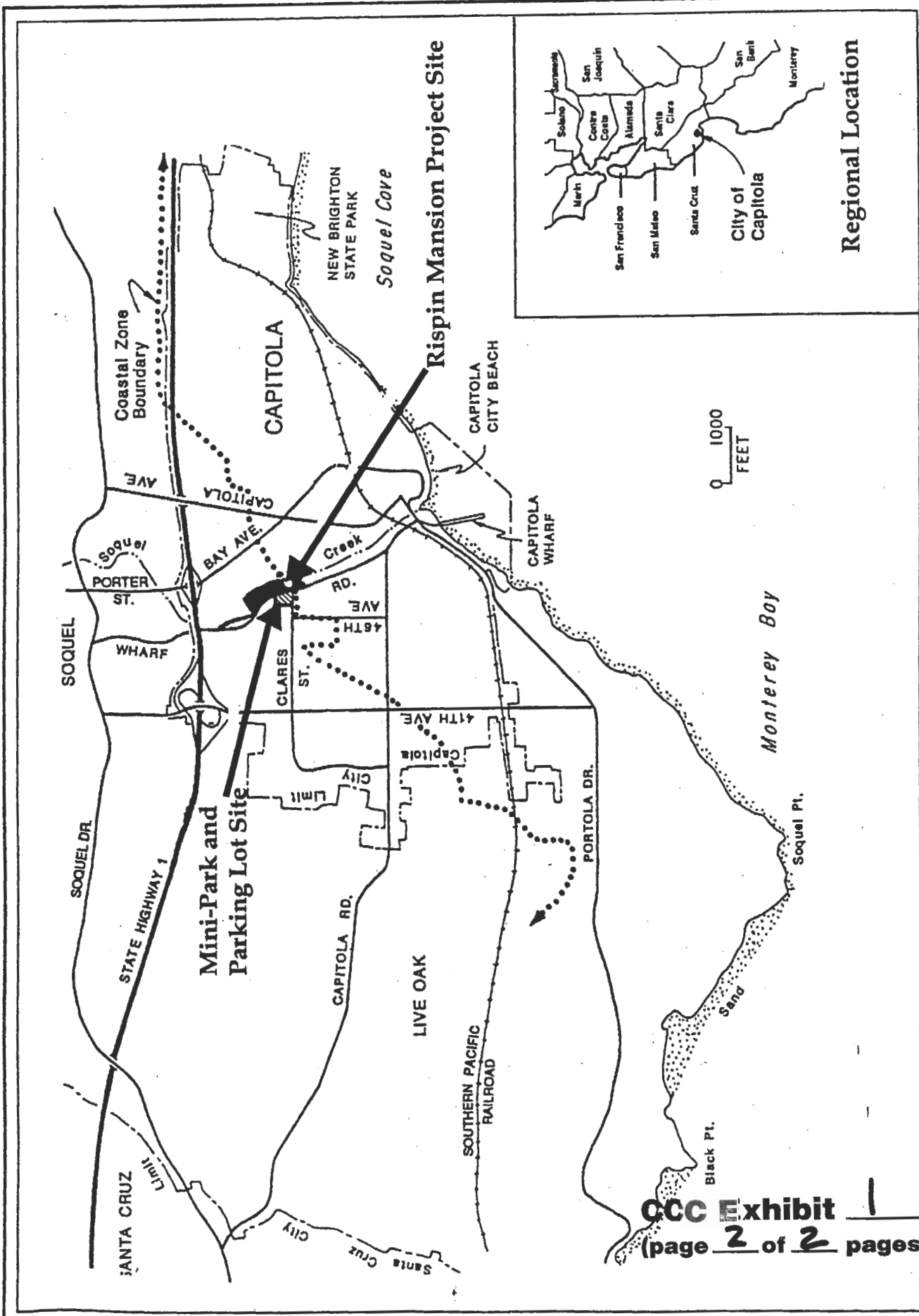


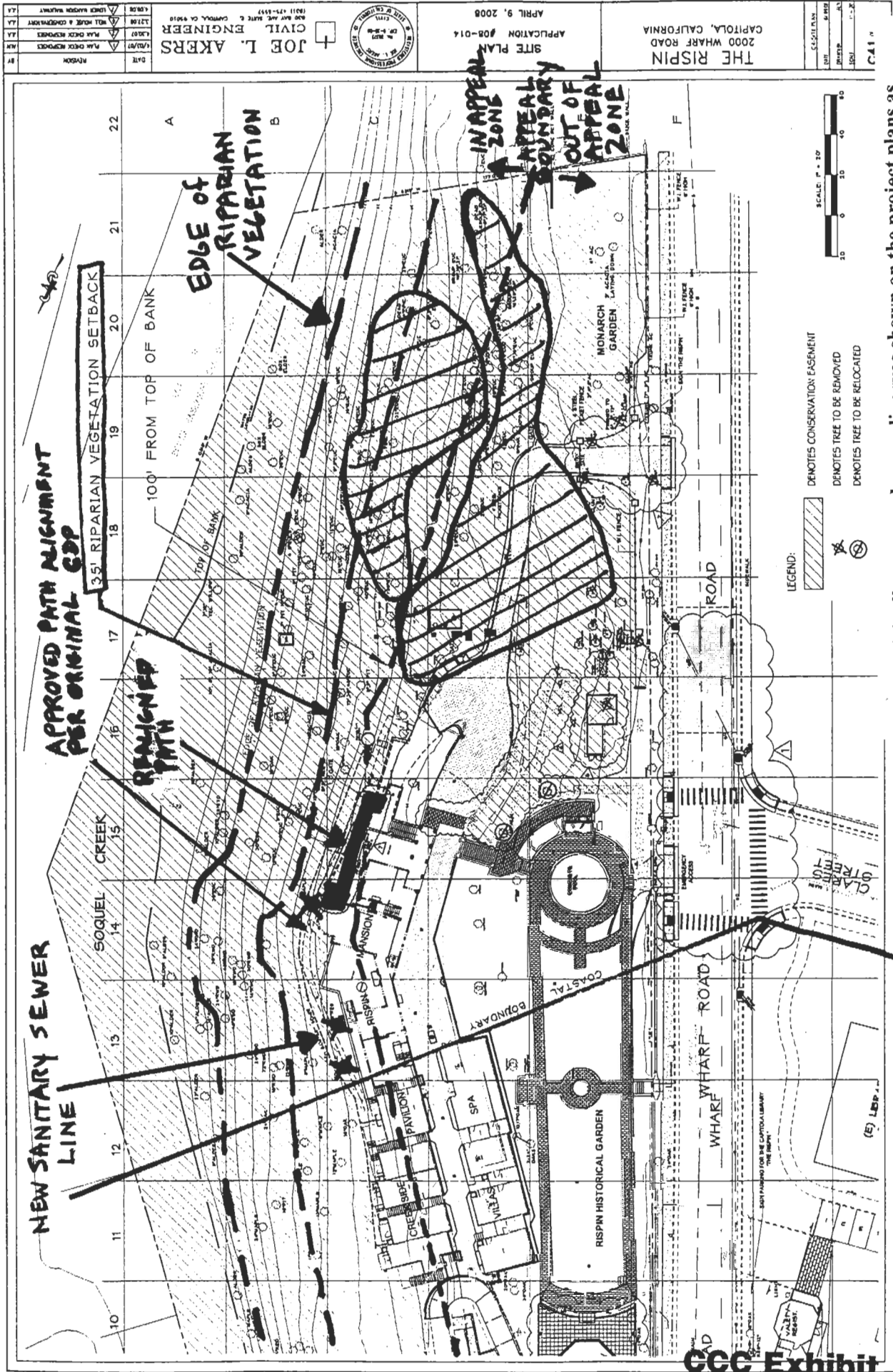


Figure
3-1

Site Location

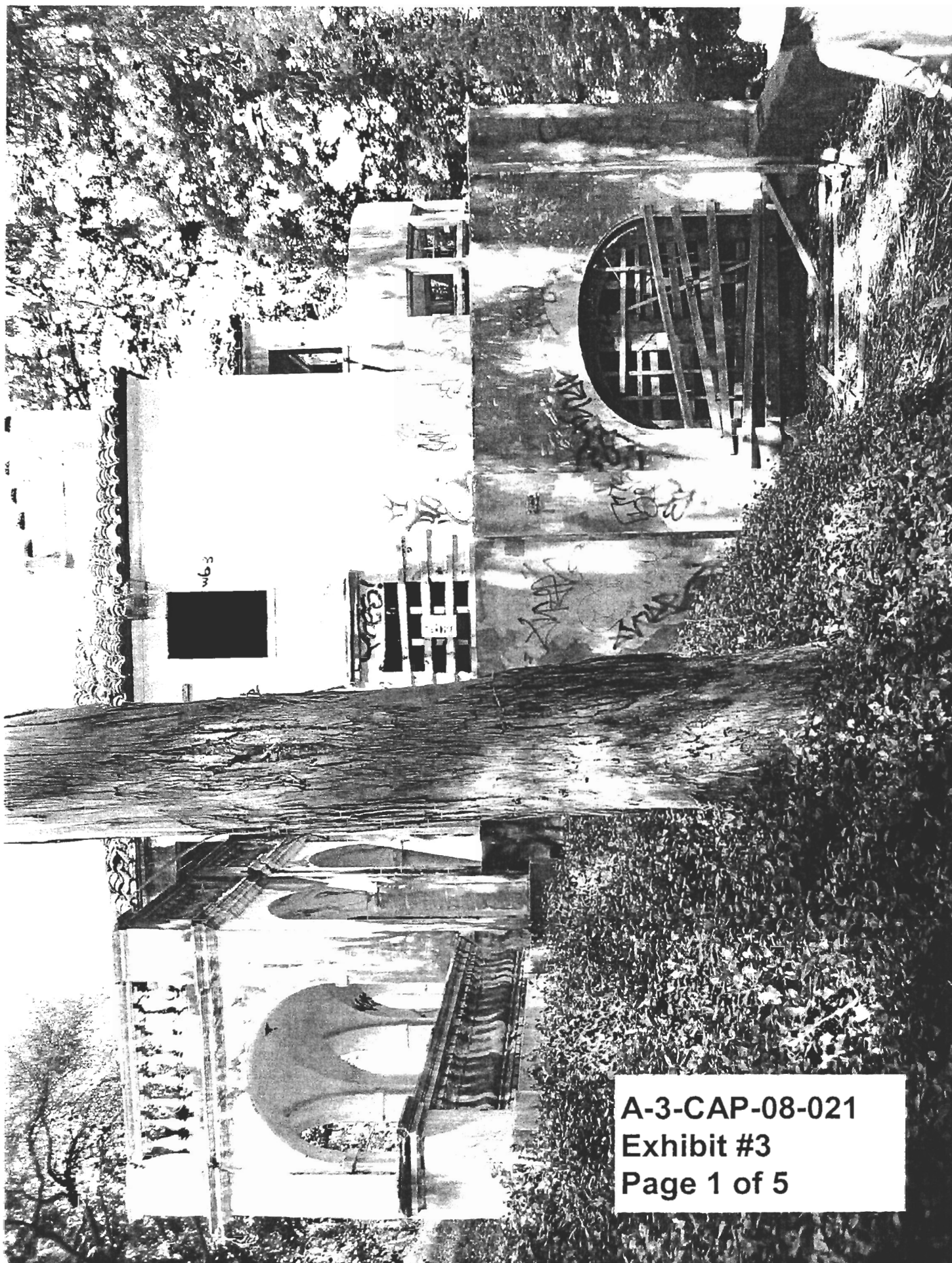
CCC Exhibit 1
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 = Monarch Butterfly Roosting Areas
 = trees proposed for removal (two maple trees; one redwood tree)

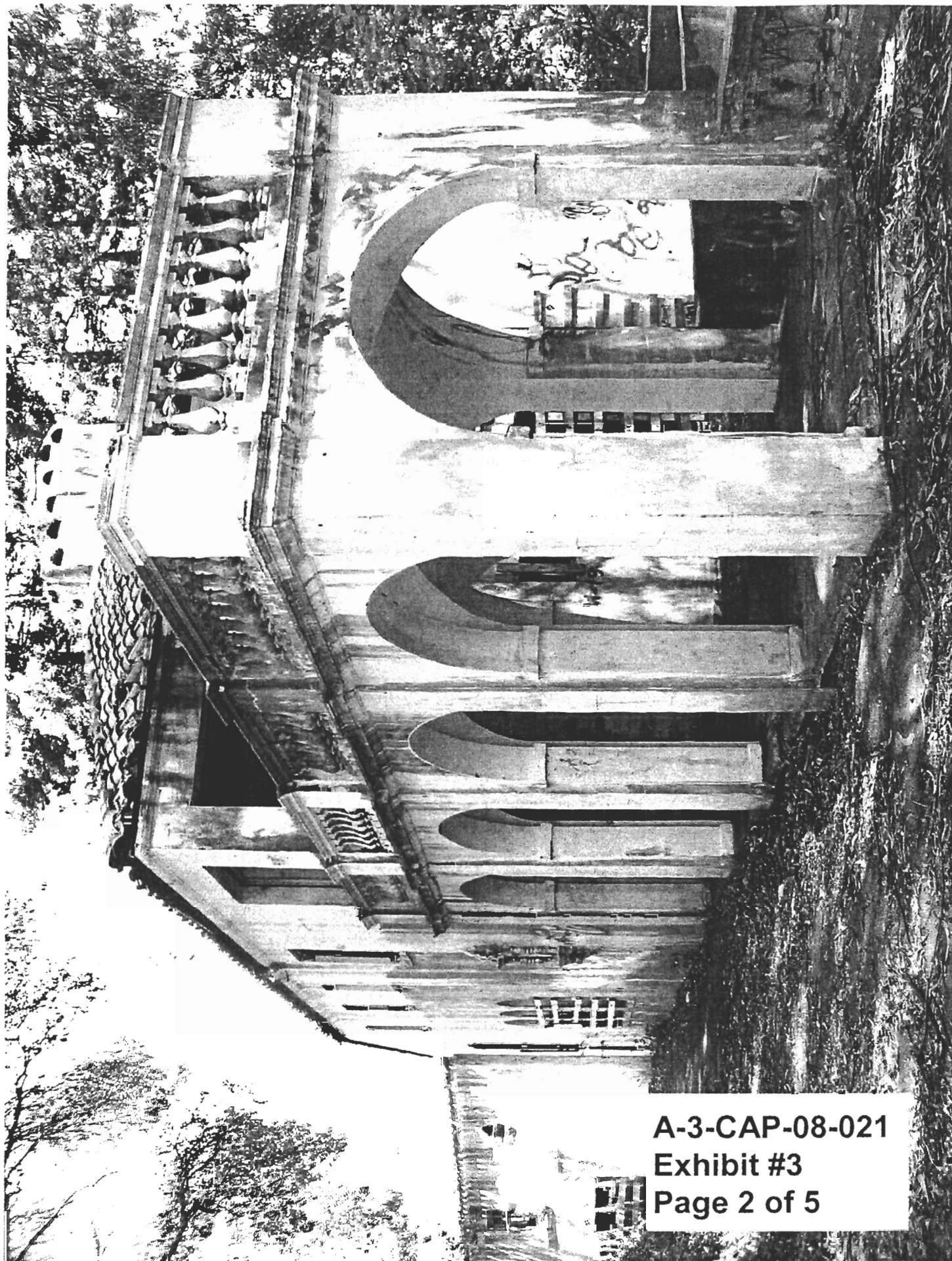


The originally approved sewer line was shown on the project plans as being located under the portion of the mansion building located in the coastal zone and extending out to the area behind the building in a location similar to where the new sanitary line is located.

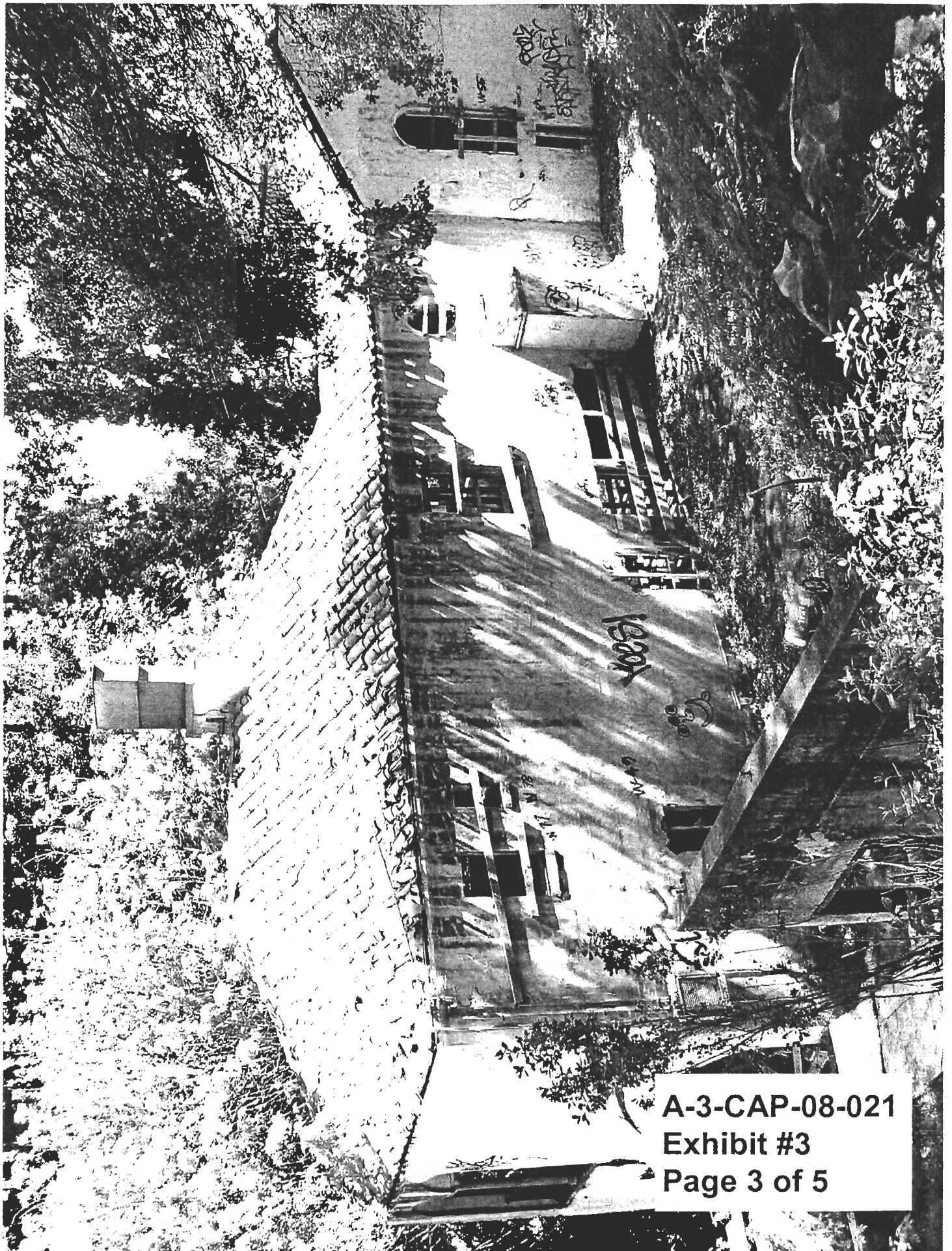
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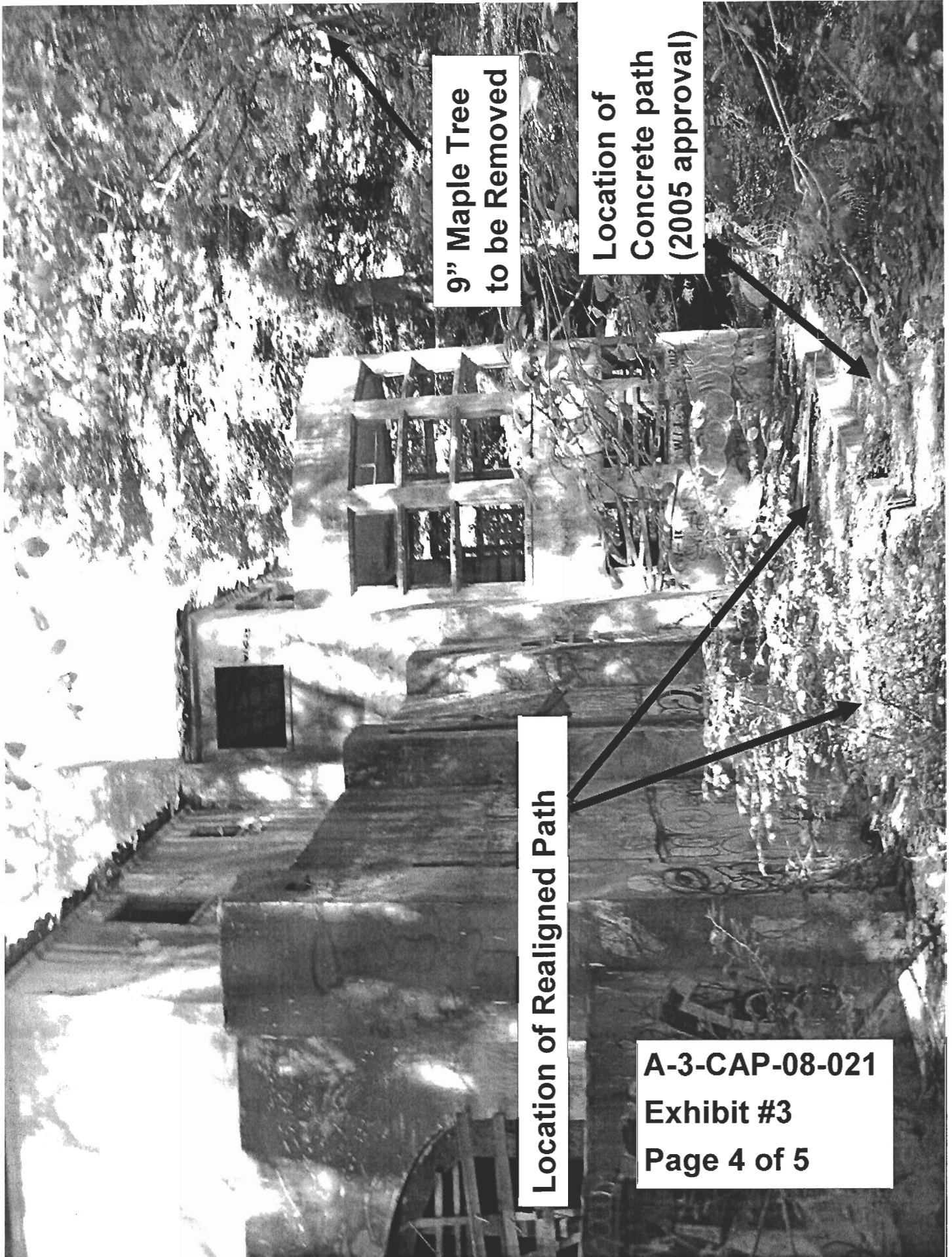
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Exhibit #3
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Exhibit #3
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9" Maple Tree
to be Removed

Location of
Concrete path
(2005 approval)

Location of Realigned Path

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Redwood Tree to be Removed

12" Maple Tree to be Removed

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Exhibit #3

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Applicable LCP Provisions

LCP Recreation and Visitor-Serving Facilities Policy IV-1: The City shall designate the following areas as visitor-serving and/or recreation uses: ...g) The Rispin parcels.

LCP Recreation and Visitor-Serving Facilities Policy IV-2: Areas designated as visitor serving and/or recreational shall be reserved for visitor support services or recreational uses. Permissible uses include, but are not limited to hotels, motels, hostels, campgrounds, food and drink service establishments, public facilities, public beaches, public recreation areas or parks, and related rental and retail establishments...Development can be accomplished through private or public means.

LCP Natural Systems Policy VI-2: It shall be the policy of the City of Capitola to protect, maintain and, where possible, enhance the environmentally sensitive and locally unique habitats within its coastal zone, including dedication and/or acquisition of scenic conservation easements for protection of the natural environment. All developments approved by the City within or adjacent to these areas must be found to be protective of the long-term maintenances of these habitats.

LCP Natural Systems Policy VI-3: It shall be the policy of the City of Capitola to maintain the maximum amount of native vegetation along Soquel Creek and other riparian areas, and to strongly support the California Department of Fish and Game in requiring a minimum flow that will support a healthy riparian habitat and permanent fishing resource in Soquel Creek.

LCP Natural Systems Policy VI-8: The City shall maintain and, as feasible, continue to enhance the habitat values of Soquel Creek through the use of the Automatic Review Zone for the Soquel Creek Riparian Corridor and Lagoon (as designated on Map VI-1). When considering or granting a permit in this area, the City shall give special consideration to the environmental sensitivity of this area, including dedication of scenic conservation easements. In addition, the City shall encourage the use of appropriate native local riparian vegetation.

LCP Natural Systems Policy VI-10: It shall be the policy of the City of Capitola to protect the winter resting sites of the Monarch Butterfly in the eucalyptus groves of Escalona Gulch, New Brighton Gulch, and Soquel Creek as designated on Map VI-2 by requiring detailed analysis of the impacts of development on the habitat.

Zoning Ordinance Section 17.30.042: The following are conditional visitor-serving uses on the Rispin site: **A.** Accessory structures and accessory uses appurtenant to any conditionally allowed use; **B.** Hotels, motels, hostels, inns, bed and breakfast lodging; **C.** On-site food service or restaurant, not including restaurants with drive-up windows or car service; **D.** Assemblages of people, such as festivals, not exceeding ten days and not involving construction of permanent facilities; **E.** Accessory structures and uses established prior to establishment of main use or structure; **F.** Habitat restoration; habitat interpretive facility; **G.** Live entertainment; **H.** Public and quasi-public uses including paths, public parks/gardens, public utility facilities; parking areas; **I.** Business establishments that provide commercial places of amusement or recreation, live entertainment, or service of

alcoholic beverages and that are located within 200 feet of the boundary of a residential district; **J.** Weddings; **K.** Business establishments that sell or dispense alcoholic beverages for consumption upon the premises; **L.** Other visitor-serving uses of a similar character, density, and intensity as those listed in this Section and determined by the Planning Commission to be consistent and compatible with the intent of this Chapter and the applicable land use plan; **M.** Retail shops and offices accessory to visitor-serving uses; **N.** One caretaker unit for the purpose of providing on-site security.

Zoning Ordinance Section 17.95.010: General regulations. In ruling on development applications concerning properties located within environmentally sensitive habitats dealt with in this chapter or as may be identified in the future, the following regulations shall be applicable: **A.** Siting, design, and other development conditions should be utilized to achieve the long term protection of the environmentally sensitive habitats. **B.** New development shall not be permitted to encroach into the waters of Soquel Creek or lagoon, nor be sited within the root zone of riparian or butterfly host trees, or require the removal of the trees. **C.** For new development the city shall maintain maximum setbacks from natural areas. **D.** In limited circumstances, where a vacant parcel lacking structure siting flexibility exists, a reduction of the standard setback may be permitted in order to allow for a minimum level of development, providing that it can be ensured that encroachment into the setback area will not have a significant effect on the natural area. **E.** In order to provide technical expertise concerning specific habitat protection issues, the city shall require the services of a biologist, botanist, forester, or other qualified professional to assist in determining such questions as the precise location or boundary of a designated natural area, or the effect of the proposed development project on the immediate and long term health and viability of the natural area. This may be required through the environmental impact review process. Mitigation measures as contained in the professional evaluations shall be made conditions of approval where needed to minimize impact. **F.** If necessary and appropriate to protect natural areas, consideration should be given to requesting or requiring permanent conservation easements over portions of property containing designated natural areas. All environmentally sensitive habitat areas and their buffer zones shall be protected by conservation easements or deed restrictions.

Zoning Ordinance Section 17.95.030: Soquel Creek riparian corridor regulations. In the Soquel Creek riparian corridor the following are required: **A.** Development in areas adjacent to the Soquel Creek riparian corridor shall be sited and designed to prevent impacts which would significantly degrade the area. **B.** A minimum thirty five foot setback from the outer edge of riparian vegetation shall be required for all new development. On the heavily developed east side of the lagoon and creek (from Stockton Avenue to Center Street) the setback requirement shall be measured from the bank of Soquel Creek. **C.** The applicant shall be required to retain a qualified professional to determine the location of the outer edge of riparian vegetation on the site and to evaluate the potential impact of development on riparian vegetation and report to the city his/her findings before final action on the application is made. Mitigation measures, as contained in the evaluation, shall be made conditions of approval when needed to minimize impacts. **D.** Removal of native riparian trees within the Soquel Creek riparian corridor shall be prohibited unless it is determined by the planning director that such removal is in the public interest by reason of good forestry practice; disease of the tree; or safety considerations. **E.** Snags, or

standing dead trees have high value as nesting sites and shall not be removed unless in imminent danger of falling. Removal shall be consistent with all applicable provisions of the Capitola tree cutting ordinance. Any such tree removal shall require replacement with a healthy young tree of an appropriate native riparian species. **F.** Coastal development permit applications within or adjacent to the Soquel Creek riparian corridor shall contain a landscaping plan which sets forth the location and extent of any proposed modification to existing vegetation and the locations, kinds, and extent of new landscaping. The emphasis of such plans shall be on the maintenance and enhancement of native riparian species and the removal of existing invasive species. New invasive plant or tree species shall not be permitted. **G.** Conformance to the Capitola erosion control ordinance (Chapter 15.28) shall be required. A drainage plan shall be provided for all projects adjacent to or in the riparian corridor. Grading shall be minimized within the riparian setback area. Grading shall not be permitted to damage the roots of riparian trees. Grading shall only take place during the dry season.

Zoning Ordinance Section 17.95.060 (in relevant part). Soquel Creek... Monarch butterfly habitat regulations. In the habitat described in subsection A, the requirements of subsections B and following must be met: **A.** Habitat Description. The Soquel Creek grove is located east of the intersection of Wharf Road and Clares Street, on the west side of the creek. The wintering site is part of the former Rispin Mansion property. Monterey pines, redwoods, and acacia are interspersed within the grove. **B.** Development in areas adjacent to the butterfly groves shall be sited and designed to prevent impacts which would significantly degrade the areas. **C.** The applicant shall be required to retain a qualified professional to determine the location of the outer edge of the Monarch habitat and to report to the city potential impacts and mitigation measures for proposed development. **D.** Removal of trees within the perimeter of the habitat areas shall be prohibited unless it is determined by the planning director that such removal is necessary by reason of good forestry practice, disease of the tree, or safety considerations. Any such determinations, including tree maintenance or trimming, shall be accompanied by a written evaluation of the impacts of the proposed action on habitat resources by a qualified expert on the Monarch butterfly. Such report and investigations shall be arranged by the city and paid for by the applicant as part of environmental review. **E.** Construction within or on properties contiguous to the designated butterfly groves shall be prohibited during fall and winter months when the Monarch butterflies are present. Removal or modification of trees within the groves shall not be permitted during these periods except when determined by the planning director to be a necessary emergency to protect human life or property. **F.** Coastal development permit applications within or adjacent to the Soquel Creek/Escalona Gulch Monarch butterfly habitats shall contain landscaping plans which set forth the location and extent of any proposed modifications to existing vegetation and the locations, kinds, and extent of new landscaping. The emphasis of such landscaping plans shall be on the maintenance and enhancement of the butterfly habitats. **G.** Conformance to the Capitola erosion control ordinance shall be required. Grading shall be minimized within the riparian setback area. Grading shall not be permitted to damage the roots of trees within the butterfly habitat areas. Grading shall only take place during the dry season

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

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

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: William Parkin, counsel for and on behalf of Save the Habitat

Mailing Address: 147 South River Street, Suite 221

City: Santa Cruz

Zip Code: CA

Phone: 429-4055

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Capitola

2. Brief description of development being appealed:

Project Application #08-014 to Amend Applications #97-95 and #05-005: Conditional Use Permit, Architectural and Site Review, and Coastal Permit for the Proposed 25-room hotel and spa at Rispin Mansion Project Site

3. Development's location (street address, assessor's parcel no., cross street, etc.):

2000 and 2005 Wharf Road, Capitola, CA 95010 APN Numbers 035-371-01, 035-371-02, and 034-541-34.

4. Description of decision being appealed (check one.):

- ☒ Approval; no special conditions
☐ Approval with special conditions:
☐ Denial

RECEIVED

APR 28 2008

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-CAP-08-021

DATE FILED: April 28, 2008

DISTRICT: Central

CCC Exhibit 5
(page 1 **of** 4 **pages)**

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

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

- ☐ Planning Director/Zoning Administrator
☒ City Council/Board of Supervisors
☐ Planning Commission
☐ Other

6. Date of local government's decision: April 9, 2008

7. Local government's file number (if any): Application #08-014

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

The Rispin LLC
c/o Jesse Nickell
777 North First Street, 5th Floor
San Jose, CA 95112

The Rispin LLC
c/o Alexander Henson, Esq.
27880 Dorris Drive #120
Carmel, CA 93923

Ricardo de la Cruz
Project Manager
Barry Swenson Builder
5300 Soquel Avenue, Suite 103
Santa Cruz, CA 95062

Ron Beardslee
110 Grand Avenue
Capitola, CA 95010

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

(1)

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

A two-year Coastal Development Permit was approved by the City of Capitola on March 24, 2005. However, the Coastal Development Permit ("CDP") was not issued until February 2008 when the City submitted the Final Local Action Notice to the Coastal Commission.

The Appellant, the City and Applicants are parties to a Stipulated Judgment which incorporates by reference the conditions of approval at the Rispin Mansion Project dated September 1, 2004. The Stipulated Judgment also required the City of Capitola to record a Conservation Easement around a significant portion of the Rispin Mansion site. The City recorded the Conservation Easement on June 21, 2005. The Conservation Easement is in place in perpetuity and protects riparian areas and Monarch Butterfly habitat, both of which are considered to be ESHA.

On March 27, 2008, the City Council approved Resolution 3686 amending the CDP which contradict the language of the Conservation Easements and project mitigations that were required to protect ESHA. The City violated the California Coastal Act because the proposal will allow development in riparian areas on the site and Monarch Butterfly habitat in violation of Public Resources Code Section 30240, which protects ESHA.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**SECTION V. Certification**

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



Signature of Appellant(s) or Authorized Agent

Date: 4/28/08

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

Section VI. Agent Authorization

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

VICE-CHAIR OF SAVETHE HABITAT



Signature of Appellant(s)

Date: 4/28/08

EXHIBIT B

**Rispin Development Project Conditions of Approval,
including Mitigation Measures and Mitigation Monitoring Program**

2005 Approval

APPLICATION #97-95 [REDACTED]

05-005

The following conditions of approval and mitigation measures are hereby imposed, and the mitigation monitoring program within is hereby approved and adopted. The (X_XX) notation after certain measures correlates to the identified mitigation measure that the condition carries forward/implements. For these conditions/mitigation measures, the "Responsible Party" and "Timing" is specifically indicated, which provides the necessary Mitigation Monitoring Program in compliance with CEQA.

Periodic Review of Operation in Accordance with Approved Conditional Use Permit

1. The applicant shall submit reports to the City of Capitola six (6) months and twelve (12) months after completion and initiation of each phase of operations, and annually thereafter. The reports shall summarize the level of use of guest rooms, meeting facilities and parking facilities during the initial six-month periods and the following years of operation, and shall address compliance with conditions of approval. For at least the first time period after Phase 1, staff shall also prepare a report to the City Council regarding compliance with conditions of approval, code compliance activity, and mitigation monitoring results. The City Council will review the applicant and staff reports at a public meeting. If staff and/or the applicant are recommending or requesting changes to the conditions of approval or to allowable levels of use, then the meeting shall be noticed and held as a public hearing.

Conditional Use Permit Conditions of Approval

2. The project shall be constructed in phases, with Phase 2 consisting of the Rispin Conservatory structure and associated improvements, and Phase 1 consisting of all other aspects of the development project. A building permit for the Phase 2 Rispin Conservatory shall not be issued until completion of the Wharf/Clares intersection, 41st/Clares intersection, and Claes Sreet traffic calming projects are completed, and also not any sooner than two (2) years after completion of the other improvements, after City Council approval of a final Conservatory Use Program and Parking Management Program at a public hearing. The Parking Management Program may include a proposal for shared parking, shuttle program, and/or valet parking, all of which is subject to final approval by the City Council. The Conservatory building shall be designed for an occupancy not to exceed 49 persons.

3. Prior to issuance of a Building Permit for the Rispin Conservatory, the applicant shall submit for City Council approval at a public hearing a Rispin Conservatory Use Program and Parking Management Program, which details the number, type and intensity of planned usage of the Conservatory, and which identifies adequate off-site parking supply and/or shuttle programs to meet parking demands for peak parking demands of the combined operations of the Rispin Mansion and Rispin Conservatory. Data collected over the prior 2 years shall be used to define the use program and to substantiate the parking demand for the combined Mansion + Conservatory proposed uses. In conjunction with approving the use and parking programs, the City Council shall establish maximum simultaneous occupancy of site facilities, which will revise condition #11 below. The City Council shall approve the Rispin Conservatory Use Program and Parking Management

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Program at a public hearing prior to issuance of a building permit for the Conservatory.

4. Prior to operation of the Rispin Mansion, the property owner and lessee shall develop and agree to an operational plan for public use opportunities, to be included within the Lease and Development Agreement, which may include, but not be limited to, the following:

- a. Agency and the developer could consider incorporating into any Lease and Development Agreement, a requirement that the Rispin Conservatory Use Program include, at a minimum, free use of the Conservatory building for city-sponsored meetings or events twice a month in the evening and twice a month during the day, scheduled for mutually acceptable times Monday through Friday; with no charge for use of the facility, parking and utilities (other services would not be included free of charge).
- b. The public should be provided opportunities to dine in Rispin dining facilities. [It is the intention of the operator to have the meeting and dining facilities open to the public within limits on number of persons during all hours when library is closed, but a minimum of once a week shall be provided.]
- c. Other than within the monarch habitat area south of the Mansion, and on the walkways accessing lodging rooms and the Rispin Terrace (identified on plan exhibit approved by the Council as Areas A and B), the public should have free, unrestricted access to the Rispin Gardens, grounds, and ADA and other pathways from 10:00 AM until sunset, with the exception that during private events, up to 30% of the Rispin Gardens area adjacent to the Conservatory (identified on plan exhibit approved by the Council as Area C) may be restricted from public use during the hours needed to accommodate the private event. This condition should not be interpreted to reduce or restrict access through the site to the Rispin-Peery Pedestrian and Bicycle Pathway and Bridge, which shall continue to be available to the public from sunup to sundown. Use of more than 30% of the Garden shall require administrative approval by the City Manager, or by the City Council upon referral by the City Manager, pursuant to standard City special event provisions of the Municipal Code and Administrative Procedures.
- d. Use of the Rispin Mansion meeting rooms (Pavilion, Terrace and dining rooms suitable for meeting use) should be made available to the public on a reservation basis; and the operator should offer a reduced rental rate for Capitola-based, non-profit groups for a minimum of four meetings per month. Reduced rate could be defined as a rental rate not exceeding the median rate of the 5 other private meeting facilities nearest the Rispin Mansion. The operator should inform the Community Development Director of the selected times for public non-profit meeting opportunities prior to finalization of the building permit and occupancy of the use.

5. Up to three events per week, each lasting no more than 5 hours, may be held within the 30% of the Rispin Garden available for private events. Use of more than 30% shall be subject to City Council approval. Unless approved by the City Council, during Phase 1 use of this 30% may be for weddings and other events, but not for fully catered meals; and dining (other than minimal food and drink service) associated with these events shall occur within the Mansion or off-site.

6. The operator shall be responsible for restoration and on-going maintenance of the historic Rispin Garden.

7. The Rispin Mansion shall accommodate an historical exhibit in a publicly accessible interior location, which shall be reviewed and approved by the Capitola Historic Museum staffperson prior to installation.

8. The Rispin Mansion shall be open to the public for historical tours on Sundays from 12:00 noon until 2:00 PM. Tours shall be conducted at the expense of the operator, including reasonable costs of sponsoring docent led tours in cooperation with the Capitola Historic Museum.

9. The operator shall install wrought-iron fencing (no solid wall except from the existing solid wall to the point where it joins the well house, if approved by the monarch expert) along the Wharf Road boundary of the monarch habitat area from the well house to the property line, and shall install appropriate signage and place written material in guest rooms and lobby to restrict public access to the monarch butterfly habitat area. However, subject to approval by the monarch biologist, the operator shall make the monarch butterfly habitat area available to school groups during the school week upon request and appointment; and shall offer public tours of the habitat area twice a week during weekends. Each tour shall be no more than 30 minutes in duration, with the operator to provide docents to guide tour activities.

10. Prior to issuance of a Building Permit the Applicant shall submit a public access easement for that portion of the Rispin site that identifies and ensures permanent availability for public use of the public pedestrian/ADA circulation system on site and the Rispin Garden. The specific easement area and responsibilities of the operator, City, and easement holder will need to be described in the easement document. The public access easement shall be finalized and recorded prior to occupancy of the project.

11. During library hours of operation, simultaneous use of Rispin Mansion guest rooms and dining/meeting rooms during Phase I shall be limited to a level which can be served by the 40 spaces available for Rispin uses at the Clares/Wharf parking lot, operating in "non-valet" mode, and ensuring independent access to 17 dedicated parking spaces for the Capitola Library. During Rispin hours of operation, there shall be a full-time attendant staffing the parking lot. To the extent that parking availability remains ensured for Rispin users, library patrons shall not be restricted from using available parking in the remaining "Rispin" parking spaces. When the library is not open, Rispin uses may be scheduled to a level that can be accommodated by 57 parking spaces. Loading and delivery zone/space can be jointly used by both library and Rispin uses, and the area for these loading and delivery functions shall be identified on the site plan and subject to final approval of the Community Development Director. A loading/delivery area in front of the Clares Street bus turnout shall be considered as an alternative to accommodating those functions within the parking lot on site. If the loading/delivery area is on site, then deliveries shall be scheduled for hours that the library is closed. In addition to guests staying in lodging rooms who may also be using dining/meeting rooms, a maximum of 25 non-guests may use dining/meeting facilities at any one time for any other purpose. The permitted maximum simultaneous occupancy during Phase 2 with addition of the Conservatory building will be established by the City Council in conjunction with its review of the use and parking programs. Seating capacities of dining/meeting rooms are as follows:

Rispin Terrace	25 persons
Rispin Pavilion	15 persons
Rispin Dining Room	10 persons

12. Use of the paved on-site Rispin driveway/parking area shall be limited to facility service/operation vehicles, either in ZEV or standard vehicles, in accordance with the monarch butterfly expert's direction and consistency with biological conditions of approval. Guests of the Rispin Mansion uses shall be prohibited from driving onto the site, and no guest parking on the Rispin site shall be allowed. All guest drop-offs shall occur in Zero Emission Vehicles, at all times of the year. The operator shall mail and otherwise make available information to guests at the time of reservation and check-in, consisting of a map and instructions for use of the Clares/Wharf parking lot.

13. During facility operation between October 1 and February 28 of each year, the monarch biologist shall determine whether the paved on-site Rispin driveway/parking area shall only be accessed by Zero Emission Vehicles for guest drop-off and deliveries, as outlined in the Mode A/B Site Operation Program discussed in the EIR. The operator shall only use ZEVs to access the site if so directed by the monarch biologist. Between March 1 and September 30, use of the site for guest drop-off and valet service in standard vehicles, in addition to the above, will be acceptable. Vehicles taller than the lowest tree canopies shall be restricted from entering the site. (R-26)

Responsible Party: Applicant shall include measures in operational documents for City to review and approve.

Timing: Prior to final inspection/occupancy; ongoing during project operation.

14. The Rispin Mansion operator shall operate all events in accordance within the following parameters, which are conditions of both the Conditional Use Permit and the *Entertainment Permit*. The Entertainment Permit shall be subject to annual renewal in accordance with applicable city codes and procedures.

- a. This project approval shall include approval of an entertainment permit, consistent with the following conditions of approval. The City Council has the discretion to schedule an annual review of the entertainment conditions of approval, pursuant to Chapter 5.24 of the Municipal Code (note that the City Council may impose any conditions reasonably related to the concerns described in the findings in city ordinance section 5.24.005, including significant noise reduction measures):
- b. Hours of operation for weddings and large meetings must be restricted to 8:00 AM to 10:00 PM (consistent with Noise Ordinance Chapter 9.12 of the Municipal Code), although small corporate breakfast meetings may occur as early as 6:30 AM.
- c. All outdoor weddings, meetings, gatherings and tours must be restricted to 8:00 AM to 10:00 PM. (R-60)

Responsible Party: Applicant to comply with above conditions of approval.

Timing: Conditions apply throughout occupancy.

- d. Amplified outdoor music/use of microphones shall not be permitted. Only live acoustic music shall be allowed at events. Use of karaoke machines, disc jockey, or amplified music shall not be allowed. No public address system shall be used for events and no amplification of live music shall be allowed.
- e. Facility rental agreements for events shall include an attachment containing the Conditional Use Permit conditions. Contracts for events not utilizing guest shuttle service shall contain a clause requiring the event invitation contain written

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instructions directing all guests to park within the Clares/Wharf parking lot and prohibiting parking on the surrounding neighborhood streets. Contracts for any events utilizing guest shuttle services shall contain a clause requiring that all event invitations contain a map and written instructions directing guests to the remote parking and shuttle, directing that all guests arrive at the remote parking at least 30 minutes in advance of the event, and prohibiting parking at the resort or on local neighborhood streets.

- f. A security guard or other qualified employee of the operator shall be present on site during all events to manage traffic, parking and guests. The employee shall carry a cellular phone, and the name and phone number of the employee shall be provided at least one week in advance of events to the City Chief of Police, and shall be posted at the gate entrance to the Rispin Garden. The operator shall maintain a log of any complaints received that shall be available to the City staff upon request.
- g. The only uses permitted on the south side of the site are scheduled monarch tours, which shall be guided by a docent who will enforce any noise reduction measures deemed necessary by the City Council.

Architectural and Site Review

15. The plans submitted and approved for a building permit shall be in conformance with the approved Rispin Development Project presented to the City Council on July 29, 2004 (Application #97-95 as amended), which reflect but are not limited to the following specific modifications made during the public hearing process:

- Use of tile on all roofs rather than planted roofs on certain structures
- No excavated game/exercise/laundry/storage area
- Aviary eliminated from south area
- Meandering pathway eliminated from south area
- No formalized parking area on site; only existing paved driveway/parking area to be used by facility operation and service vehicles in accordance with the approved Mode A/B operation.
- Well house to be historically restored, but not expanded in any way, including no patio/hardscape addition. No use of well house for caretaker's quarters/security, or for public restrooms, or for historical/butterfly interpretive center. Proposed use of well house for storage/ancillary uses only. Final plans to include historic rehabilitation of the full well house, including lattice tank enclosure.
- No incubation program for monarch butterflies.
- South end driveway to be restored with porous material; no expansion beyond existing dimensions.
- Revised joint use parking lot design to provide a 57-space parking lot to meet combined demand of the library and Rispin uses, while also ensuring independent access at all times to 17 "library" parking spaces/loading zone, and 40 "Rispin" spaces during "normal" mode and 70 spaces during possible "valet" mode.
- Reduction of size of Conservatory building by 180 square feet, to a 1,628 square foot facility to accommodate 49 persons. Conservatory to be constructed as a second phase, no sooner than 2 years after completion of Phase 1 improvements.
- Refined ADA-compliant access pathways through the site.
- No woodburning fireplaces.

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(page 5 of 31 pages)

16. The applicant shall construct a stairway connection behind the Conservatory building that allows pedestrians public access between Wharf Road and the Rispin-Peery pedestrian pathway. The applicant shall modify the Rispin-Peery pathway in the area of the north driveway to provide an ADA-compliant connection, generally in conformance with the diagram submitted to the Planning Commission on November 20, 2003. The existing "driveway" between Wharf Road and the Rispin-Peery pedestrian and bicycle pathway shall be improved with a handrail on the east side.

17. Site work proposed for the Rispin Mansion grounds and the Clares/Wharf parking lot shall include the following (the following description is detailed but not intended to strictly describe and limit improvements; the project shall be in substantial conformance with the features described below):

Rispin Mansion:

Removal of all existing utility lines underground and installation of new needed facilities;

A note shall be placed on the final building plans indicating that the utilities shall be underground to the nearest utility pole in accordance with Public Works Department requirements;

Removal of asphalt, and concrete driveways/pathways, which are largely buried, and replacement with brick pavers and/or decomposed granite pathways;

Development of pervious driveway improvements within the prism of the existing Rispin driveway, and an on-site parking/circulation area to accommodate service and operation vehicles, and including guest drop off by operator ZEV and other approved vehicles that travel from the Clares/Wharf parking lot;

Installation of new water service, including fire and domestic lines to each of the existing and proposed buildings, using water-saving features such as low-flow fixtures, EPA Energy Star appliances, a recirculating fountain, and drip irrigation;

Installation of a sewer pump that will be connected either with sewer lines along Wharf Road or Clares Street;

Grading for the proposed new buildings and parking;

Removal of no more than two oaks (Rispin Conservatory and Pathway to Rear), and one other tree for ADA pathway modification, and minor trees and shrubs currently growing within building envelopes;

Installation of a six-foot wrought iron fence, adjacent to the monarch butterfly habitat along Wharf Road from the well house to south end property line, to separate the site from the road, and construction of a new wrought iron fence surrounding the remaining property to supplement the original wall near the north end around the Conservatory (wrought iron fencing final details to return to the Planning Commission for final approval);

Landscaping with materials appropriate for the monarch butterfly habitat and riparian vegetation; using native species in areas other than the Rispin Garden & monarch area.

Incorporation of a monarch public education system;

Rehabilitation and/or restoration of the following Rispin Garden features, using pictures of the original:

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Rispin Garden:

Rose arbor,
 Sun dial,
 North end rock wall near the Rispin-Peery trail,
 Overlook balustrade,
 Reflective pool/fountain,
 Grand stairway,
 Balustrade in cast stone,
 Brickway and terraces surrounding the lawn and fountain,
 Lawn and landscaping, and
 The cast stone wall along Wharf Road (existing location)

Clares/Wharf Parking Lot:

Addition of trees and entrance landscaping, to be maintained by operator
 Widening of one library space nearest Wharf Rd, to serve as joint use loading space
 New trash enclosure for library
 New light standards in parking lot no more than 15' tall
 Resurfacing and restriping of parking lot, to achieve 2% slope
 Construction of ZEV/Valet/Registration building and ZEV parking area
 Installation of a gate on pedestrian path at entrance from library to Francesco housing
 Designation of appropriate handicap parking spaces
 Installation of a bus turnout along the Clares Street library frontage

18. Improvements to the structure and within the interior of *Rispin Mansion* shall be in substantial accordance with the approved plans, including the 25-room schedule shown on page A2-1 of the plans (the following description is detailed but not intended to strictly describe and limit improvements; the project shall be in substantial conformance with the features described below):

Asbestos testing and removal, and
 Testing the basement foundation, and
 Strengthening the floor framing system, and
 Meeting structural requirements.

The following features of the Mansion shall be repaired or restored, using historic photos, depending on their condition (i.e., features made of wood that have dry rot will be repaired or replaced to match existing features):

Two structurally unsound chimneys;
 Doors;
 Window frames and sashes;
 Walls (including removing lath that supported old plaster, and restoration with drywall);
 Moldings; and
 Stairs and flooring.

The following shall be added to the Mansion:

New floors in bathrooms,
 Hydronic heating,

CCC Exhibit 6
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Standard plumbing,
Electrical systems,
Insulation,
Gas,
Phone, and cable systems.

The following shall be included in the Rispin Mansion project:

Adding new windows and new doors;
Removing and adding interior walls;
Adding a small set of stairs on the east elevation;
Adding a handicap elevator/lift along the west side of the Mansion, using best available technology;
Removing and replacing the roof;
Rebuilding the main and secondary chimneys;
Restoring by plastering wherever needed over the concrete walls;
Removing mildew;
Applying masonry surface conditioner; and Power washing and painting the exterior.

19. If any upgrade modifications to the plans are desired by the applicant (i.e. windows, materials, colors, etc.), the changes may be approved by the Planning Department if they are determined to be consistent with the Secretary of the Interior's Standards for Historic Properties. Other changes may require Planning Commission approval.

20. Prior to the issuance of a building permit, the final building plans shall include curbs, gutters and sidewalk improvements along Wharf Road. The curb shall be a standard 6-inch vertical curb, not a rolled curb. The improvements shall be in place prior to final inspection subject to approval of the Public Works Director.

Geology and Soils Mitigation Measures/Conditions of Approval

21. In the event construction occurs between October 15th and April 15th, the Capitola Municipal Code requires erosion control measures to be implemented. The erosion control measures would include restrictions on grading and earthwork during the rainy season, and stabilizing all exposed soils and graded areas prior to onset of the rainy season through mulching and reseeded. Grading is permitted after April 15 and before October 15 only with installation of adequate sediment and erosion control measures, which may include fences or straw bales along drainage paths. Compliance with the municipal code requirements will ensure that no significant impacts related to erosion or sediment flowing into Soquel Creek will occur during construction. (R-2)

Responsible Party: Applicant shall include measures on plans submitted for grading/building permit for City to review and approve; City to periodically monitor and conduct on-site inspections.
Timing: Prior to grading/building permit issuance; ongoing during grading and construction.

22. Install and maintain silt basins and fences or straw bales along drainage paths during construction to contain on-site soils until bare slopes are vegetated. Carefully stockpile graded soils away from drainages. (R-2)

Responsible Party: Applicant shall include measures on plans submitted for grading/building permit for City to review and approve; City to periodically monitor and conduct on-site inspections.

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Timing: Prior to grading/building permit issuance; ongoing during grading and construction.

23. Revegetate graded slopes with appropriate native plant species (as determined by a qualified botanist) immediately upon completion of grading. A qualified botanist shall determine an appropriate native species palette in coordination with the monarch biologist, and shall guide the removal and replanting of vegetation in accordance with professional riparian restoration program standards. Native species should be native to the area, and cultivars of native species that may cause genetic pollution should not be used. (R-2)

Responsible Party: Applicant shall include measures on plans submitted for grading/building permit for City to review and approve; City to periodically monitor and conduct on-site inspections.

Timing: Prior to grading/building permit issuance; ongoing during grading and construction.

24. Comply with all applicable City of Capitola ordinances including landscaping compatibility for erosion control. Final landscape plans shall return to the Planning Commission for final review and approval. (R-2)

Responsible Party: Applicant shall include measures on plans submitted for grading/building permit for City to review and approve; City to periodically monitor and conduct on-site inspections.

Timing: Prior to grading/building permit issuance; ongoing during grading and construction.

25. Prior to issuance of a building permit, the applicant shall submit a flood elevation certificate indicating that the lowest habitable floor within the proposed addition as well as the elements that function as a part of the structure such as furnace, hot water heater or air-conditioner areas are above the base flood elevation (17 feet). (R-2)

Responsible Party: Applicant shall include measures on plans submitted for grading/building permit for City to review and approve; City to periodically monitor and conduct on-site inspections.

Timing: Prior to grading/building permit issuance; ongoing during grading and construction.

26. Comply with all applicable City of Capitola ordinances including landscaping compatibility for erosion control and replanting riparian vegetation along Soquel Creek. A qualified botanist shall determine an appropriate native species palette in coordination with the monarch biologist, and shall guide the removal and replanting of vegetation in accordance with professional riparian restoration program standards. Native species should be native to the area, and cultivars of native species that may cause genetic pollution should not be used.

27. Buildings shall be constructed in accordance with applicable Building Codes including the Historic Building Code and the site recommendations presented in the geotechnical and geologic hazard assessment by J. V. Lowney & Associates (January 1991) including, but not limited to, specifications regarding clearing, site grading and preparation, footings, foundations, slabs-on-grade, site drainage, and pavements or turf block. The applicant shall provide pertinent updates to the report as may be required by the Building Official. (R-1)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

28. Prior to issuance of a building permit the applicant shall submit a geotechnical report prepared by a qualified individual or firm, with the building plans for the structure. The building

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plans shall incorporate the recommendations contained in the geotechnical report, as verified by the Building Official. (R-1)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.
Timing: Prior to grading permit issuance.

29. Prior to issuance of a building permit, the applicant shall submit documentation confirming that a qualified geotechnical consultant has been retained to ensure that the recommendations contained in the geotechnical report have been properly implemented. (R-1)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.
Timing: Prior to grading permit issuance.

30. Prior to final inspection of the building permit, the applicant shall provide certification that development has occurred in accordance with the geotechnical report prepared for the project. (R-1)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.
Timing: Prior to grading permit issuance.

31. All curbs, gutters and sidewalks damaged during construction shall be repaired and/or replaced, subject to approval of the Public Works Director.

Fire Safety Mitigation Measures/Conditions of Approval

32. Prior to occupancy, the project applicant shall purchase for the Fire District a quick-attack (Type 4) fire engine that meets the specifications and design factors required by the District. (R-63)

Responsible Party: Applicant shall purchase specified fire apparatus for the District.
Timing: Prior to final inspection/occupancy.

33. The Mansion shall be equipped with fire and smoke detection system and notification equipment, as per the Uniform Fire Code/Central Fire Protection District Adopted Standard and Amendments. (R-64)

Responsible Party: Applicant shall include design in the plans for the District to review and approve.
Timing: Prior to building permit issuance.

34. The Mansion shall be equipped with built-in fire suppression equipment such as fire sprinklers, hood and duct fire suppression equipment and related protection devices, as per the current Fire Code adopted by the District. (R-65)

Responsible Party: Applicant shall include design in the plans for the District to review and approve.
Timing: Prior to building permit issuance.

35. The area around the Mansion is a wooded area with highly combustible eucalyptus trees and dead debris. The area adjacent to the Mansion shall have a defensible fire zone and proper clearances, based on consultation and approval by the District. (R-66)

Responsible Party: Applicant shall include design in the plans for the District to review and approve.
Timing: Prior to building permit issuance.

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36. Wet stand pipes or fire hydrants shall be installed at the north end of the Rispin Mansion building to provide adequate fire flow water to the east side of the building, including the vegetation on the steep slopes between the building and Soquel Creek, based on consultation and approval by the District. The location of such improvements shall not create an aesthetic impact; care shall be given to appropriate placement, screening, and color. Additionally, use of the State Historic Building Code or other mechanisms shall be employed, so that "red curbs" are not used on the Rispin Driveway. (R-67)

Responsible Party: Applicant shall include design in the plans for the District to review and approve.

Timing: Prior to grading permit issuance.

37. The remodel of the Mansion shall be completed with seismic and earthquake protection standards for occupancy use. (R-68)

Responsible Party: Applicant shall include design in the plans for the District to review and approve.

Timing: Prior to building permit issuance.

38. Fire and paramedic rescue access and egress into and within the site and buildings shall be identified for emergency responses to the Mansion. (R-69)

Responsible Party: Applicant shall include design in the plans for the District to review and approve.

Timing: Prior to final inspection/occupancy.

39. Emergency services and on-going fire prevention inspections for fire and life safety code compliance shall be required. (R-70)

Responsible Party: Fire District carries out period inspections; applicant/operator to comply.

Timing: Ongoing during project operation.

40. Future development will require an agreed-to revenue mechanism for the services required to protect the new development of the Mansion. (R-71)

Responsible Party: Applicant shall enter into specified agreement with District and City/RDA.

Timing: Prior to building permit.

41. All buildings shall comply with all current, applicable codes, standards and ordinances. (R-72)

Responsible Party: Applicant shall include design in the plans for the District and City to review and approve.

Timing: Prior to building permit issuance.

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Water Supply Mitigation Measures/Conditions of Approval

42. The applicant shall apply for water connection approval ("will serve" letter) from the SCWD. (R-73) The number and size of all water meters shall be determined by SCWD. (R-74)

Responsible Party: Applicant shall apply for a "will serve" letter. Applicant shall obtain determination from SCWD.

Timing: Prior to SCWD Board approval of water connection.

43. The applicant shall ensure that any wells on the property are destroyed in accordance with State Bulletin No. 74.

44. The final design shall satisfy all conditions imposed by the District to assure necessary water pressure, flow and quality; and shall satisfy all conditions for water conservation required by SCWD at the time of application for service (as detailed in their water efficiency checklist package), including the following:

A. Plans for a water efficient landscape and irrigation system shall be submitted to District Conservation staff for approval upon a determination that they meet SCWD's conservation requirements; All interior plumbing fixtures shall be low-flow and all applicant-installed water-using appliances (e.g., dishwashers, clothes washers, etc.) shall have the EPA Energy Star label. The project shall incorporate water conservation features in accordance with SCWD requirements, and the completed project shall be inspected by SCWD staff for compliance with all conservation requirements prior to commencing water service. (R-75 and C-10)

Responsible Party: Applicant shall include design in the plans for SCWD to review and approve; applicant shall obtain inspection from SCWD.

Timing: Prior to SCWD Board approval of water connection; prior to final inspection/occupancy.

B. In compliance with SCWD's "zero-impact" program, the development shall be required to bear the cost of retrofitting existing structures within SCWD's service area with low water use fixtures to achieve a level of water use reduction commensurate with the project's projected water use (hence the "zero impact") as determined by SCWD. The applicant is required to offset expected water use of the development by a 1.2 to 1 ratio by retrofitting existing developed property within the Soquel Creek Water District service area so that the new development has a "zero impact" on the District's groundwater supply. The applicant shall bear the costs associated with the retrofits as deemed appropriate by the District up to a maximum set by the District and pay any associated fees set by the District to reimburse administrative and inspection costs in accordance with the District's procedures for implementing this program. (R-76)

Responsible Party: Applicant shall consult with SCWD and carry out the retrofit process.

Timing: Prior to SCWD Board approval of water connection/operation.

45. The applicant shall ensure that any lease or sale agreement with the City/Redevelopment Agency includes the following clause: The City of Capitola supports the SCWD's efforts to develop a regional plan and to require low-flow fixtures and water-conserving landscaping of new development. The City will participate in the integrated plan as requested and assist with implementation of feasible recommendations that may be adopted by the SCWD, which may include various water supply improvements and funding mechanisms, such as fees on new development. (C-11)

Responsible Party: City.

Timing: Ongoing.

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Wastewater Treatment Mitigation Measures/Conditions of Approval

46. The pump station design shall be a duplex-type which is comparable to current public pump station standards. In addition, the pump station design shall comply with current standards and requirements regarding emergency overflow systems including, but not limited to, the following: power outage alarms, auxiliary energy source (natural gas), and worst-case capacity requirements. Operation and maintenance procedures for the pump station shall be established to maintain reliability. The pump station design and operations/maintenance procedures shall be reviewed and approved by the SCCSD. Storm water will be directed to the storm drain on Wharf Road. (R-77)

Responsible Party: Applicant shall include design/procedures in the plans and operational documents for SCCSD to review and approve.

Timing: Prior to grading permit issuance.

47. The applicant shall obtain a "will serve" letter, which requires payment of permit fees, and a capacity study in order to comply with SCCSD requirements for connecting to the existing wastewater system in the project vicinity. In addition, the applicant shall pay for infrastructure improvements required to accommodate the increased wastewater flows generated by the project. (R-78)

Responsible Party: Applicant shall obtain "will serve" letter; if infrastructure improvements are required, applicant shall include design in the plans for SCCSD to review and approve.

Timing: Prior to grading permit issuance.

48. The location of the Rispin Mansion force main shall be marked to prevent future damage to the line. (R-79)

Responsible Party: Applicant shall include design in the plans for SCCSD to review and approve.

Timing: Prior to grading permit issuance.

49. Incorporate water conservation features in accordance with SCWD requirements (see conditions above). (C-10)

Responsible Party/Timing: Compliance through Mitigation Measure R-75 – refer to that condition.

Biological Resources Mitigation Measures/Conditions of Approval

50. Pre-construction surveys for nesting raptors shall be performed by a qualified biologist to be retained by the applicant. If raptor nests are located during pre-construction surveys, a 300-foot buffer shall be established around each nest for the duration of the breeding season (August 1st, or until such time as the young are fully fledged as determined by a qualified biologist in coordination with the California Department of Fish and Game) to prevent nest harassment and brood mortality. Every effort shall be made to avoid removal of, or impact to, known raptor nests within project boundaries. If trees known to support raptor nests cannot be avoided, limbing or removal of these trees may only occur during the non-breeding season. (R-10)

Responsible Party: Applicant shall obtain pre-construction surveys and include measure in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

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51. Pre-construction surveys for roosting bats must be performed 30 days prior to construction by a qualified biologist to be retained by the applicant. If roosts are found, a Memorandum of Understanding (MOU) with the CDFG shall be obtained by the contractor in order to remove bat species, or the construction schedule shall be modified to initiate construction after August 1, when young are assumed to have fledged. Alternative habitat will need to be provided if bats are to be excluded from maternity roosts. If this is the case, a species-specific roost with comparable spatial and thermal characteristics shall be constructed and provided. CDFG and species-specific bat experts shall be consulted regarding specific designs if roost removal becomes necessary. (R-11)

Responsible Party: Applicant shall obtain pre-construction surveys and include measure in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

52. The monarch's overwintering habitat at the Rispin Mansion site shall be permanently managed by an independent monarch biologist, who is hired by the owners/operators of the Rispin Mansion and who will file an annual report with the City of Capitola, summarizing that year's habitat characteristics and any activities undertaken that involve the habitat. The judgment of the monarch specialist overrides the opinions of the applicant, landscape architect, arborist and work crews that may be involved in the decision-making process. At a minimum, the monarch biologist will have the following duties:

- a. Advise the owners/operators of the Rispin Mansion when monarch butterflies begin to use the overwintering habitat in the fall so the Mansion can shift to fall/winter operational mode, and similarly, advise the owners/operators when the monarchs have left the Rispin Mansion site in the spring so the Mansion can shift to spring/summer operational mode;
- b. Work with the arborist to determine how to best prune the trees at the Rispin Mansion to enhance overwintering habitat values for achieving wind protection, dappled light, roost limbs, etc. (C-2);
- c. Work with the landscape architect to insure that appropriate plant taxa are used to enhance overwintering habitat values for the monarch, and that the selected plant materials are placed at the most appropriate locations on the site;
- d. Monitor and manage the gradual removal of invasive/non-native ivy from the site as it is replaced by alternative, more desirable (native) nectarine sources (a qualified botanist shall determine an appropriate native species palette in coordination with the monarch biologist; native species should be native to the area, and cultivars of native species that may cause genetic pollution should not be used);
- e. Routinely work with the landscaping crew to insure that maintenance practices are compatible with protection and enhancement of the monarch's overwintering habitat;
- f. Periodically re-evaluate overwintering habitat conditions for the monarch and provide recommendations for corrective actions and improvements;
- g. Prepare a monarch overwintering habitat monitoring and management plan for the Rispin Mansion site, which will identify methods for annual monitoring of the

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butterfly and its habitat, plus identify specific management practices for all parts of the roost areas; and

- h. Advise the owners/operators about methods for propagating the milkweed food plant of monarch larvae in non-roosting portions of the site.
- i. Ensure that tree pruning and removal is done appropriate to the habitat. (R-12 and C-2)

Responsible Party: Applicant shall include measures in operational documents for City to review and approve; applicant shall contract with monarch biologist/expert and arborist.

Timing: Prior to grading permit issuance; ongoing during project operation.

53. The applicant shall take proper measures to avoid damage to the oaks, cypress and redwood in the monarch butterfly habitat areas. Specifically, grading or construction shall not occur within 15 feet of the base of all oak, cypress and redwood trees unless performed under the supervision of a qualified on-site arborist. (R-13 and C-2)

Responsible Party: Applicant shall include measure in the plans for the City to review and approve; City to periodically monitor/conduct on-site inspections.

Timing: Prior to grading permit issuance; ongoing during grading and construction.

54. A final landscaping and tree mitigation plan shall be implemented that contains the following measures for tree preservation during construction. This plan shall be reviewed and approved by the City of Capitola Planning Commission prior to construction.

- a. Provide for an on-site consulting arborist during preliminary grading. The City and the applicant shall work together to select the arborist, and the City shall agree to the selection of the arborist.
- b. Establishment of a tree preservation zone (TPZ) by installing fencing, with stakes embedded in the ground, no less than 48 inches in height, at the dripline (the perimeter of the foliar canopy) of the tree, or at the critical root radius, as defined by the consulting arborist. This installation will be done prior to any construction activities.
- c. Within the dripline of existing trees (the TPZ), no storage of construction materials, debris, or excess soil will be allowed. Parking of vehicles or construction equipment in this area is prohibited. Any solvents or liquids shall be properly disposed or recycled.
- d. Minimize soil compaction on the construction site. Protect the soil surface with a deep layer of mulch (tree chips). The addition of mulch will reduce compaction, retain moisture, and stabilize soil temperature.
- e. Maintain the natural grade around trees that are not removed. No additional fill or excavation will be permitted within areas of tree root development. If tree roots are unearthed during the construction process, the consulting arborist will be notified immediately. Exposed roots will be covered with moistened burlap until a determination is made by the on site arborist. The arborist shall advise regarding any hand excavation that is necessary.

- f. Any areas of proposed trenching will be evaluated with the monarch butterfly specialist, consulting arborist and the contractor prior to construction. All trenching on this site will be approved by the on-site arborist. Trenching within a tree dripline will be performed by hand. Tree roots encountered will be avoided or properly pruned under the guidance of the consulting arborist.
- g. Unauthorized pruning or canopy alterations of any tree on this site will not be allowed. If any tree canopy encroaches on the building site the required pruning will be done on the authority of the consulting arborist and monarch expert and to ISA pruning guidelines and ANSI A300 pruning standards. Education of landscaping and maintenance personnel shall be required prior to commencement of construction. (R-14 and C-2)

Responsible Party: Applicant shall include measures in the plans for the City to review and approve; City to periodically monitor/conduct on-site inspections.

Timing: Prior to grading permit issuance; ongoing during grading and construction.

55. The final landscaping and tree replacement/mitigation plan shall be reviewed by the landscape architect on the city's Architectural and Site Review Committee and shall return to the Planning Commission for final approval, and shall include the following components:

A. For every mature tree (of any species) that is removed, four (4) 24-inch box trees or twelve (12) 15-gallon trees shall be planted. For every sapling tree that is removed, one (1) 24-inch box tree or three (3) 15-gallon trees shall be planted. Loss of acacia clumps must be replaced at a 1-to-1 ratio (i.e., one 24-inch box or three 15-inch box) based on the number of trunks in the group. The on-site arborist shall determine the type of tree (i.e., mature, sapling, clump) that is being removed or permanently damaged prior to its removal. The following species may be used for replacing the acacia that are removed, based on their size and foliage, as recommended by the butterfly expert (Dick Arnold, Ph.D. and E.Bell, Ph.D.), such as:

- Red ironbark (*Eucalyptus sideroxylon*), recommended by both Elizabeth Bell and Dick Arnold as a roosting tree
- Holly-leaf cherry (*Prunus ilicifolia*), recommended by Dick Arnold as a windscreen
- Cooibah (*Eucalyptus microtheca*), roost tree

B. The locations on the project site for any replacement trees shall be in conformance with guidance from the qualified monarch expert to eventually compensate for limbs and trees lost due to project construction. As part of the landscaping and tree replacement/mitigation plan, the following shall be implemented:

- a. Acacia limbing or removal will be confirmed by consultation with the monarch biologist to be retained by the applicant and shall be done in accordance with the Interim Management Plan for Preservation of Rispin Mansion Butterfly Habitat and Screening of Rispin-Peery Bridge Connection (April 3, 2003, Lewis Tree Service) or through substitute equally-effective measures that may be identified by a qualified monarch biologist in consultation with a certified arborist.
- b. Replacement planting shall be done in consultation with the retained monarch biologist.

- c. As replacement plantings reach a sufficient size and stature to replace the remaining existing acacias (as determined by the consulting monarch biologist), these acacias will be permanently removed.
- d. Replacement plant taxa to be used for windscreening, dappled light, and nectar shall be the same as those listed above in the approved planting list, and those recommended in the landscape plans by Dick Arnold (also those recommended by The Monarch Project 1993).
- e. Trees must be planted between any parking or unloading/loading spaces near the Mansion and Area A to buffer the direct impacts to butterflies (see approved planting list above).
- f. Adequate setbacks to building walls shall be provided from tree trunks (15-foot minimum) to create "tree protection zones". Trees shall be protected with fencing during construction.
- g. A temporary fence, as approved by the on-site arborist, shall be placed around the entire roosting area bounded by Wharf Road, the south-gate access road and the Mansion fence that extends from the well-house to the south gate. This area shall not be used for parking or equipment and materials storage during the construction phase. (R-15)

Responsible Party: Applicant shall include measures in the plans for the City to review and approve.

Timing: Prior to grading permit issuance; ongoing during project operation.

56. Widening of the existing driveway on the south side of the site shall not be allowed. (R-16)
A handrail shall be installed on the north portion of the driveway between Wharf Road and the Rispin-Peery pathway.

Responsible Party: Applicant shall include measure/design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

57. During reconstruction/resurfacing of the driveway, the applicant shall adhere to specific guidelines for roadbed design, construction materials and procedures provided by the consulting arborist in order to avoid above and below ground damage to the trees near the driveway. These construction guidelines shall include the following:

- Hand grading or use of mini-excavator;
- Road bed fill not to exceed four inches in the acacia area;
- Use of light-colored, water permeable substrate for the road and parking lot surface;
- Establishment of tree protection zones;
- Limit use of driveway during construction to vehicles that clear the tree canopy;
- and
- Prohibit use of this driveway for construction vehicles and equipment between October 1 and February 28. (R-17)

Responsible Party: Applicant shall design measures/design in the plans for the City to review and approve; City to periodically monitor/conduct on-site inspection.

Timing: Prior to grading permit issuance; ongoing during grading and construction.

58. The final placement of the wrought iron fence along the Wharf Road site boundary shall be determined through on-site consultation with the monarch butterfly specialist or arborist to minimize damage to acacias that are important to the monarch habitat. The final design of the wrought iron fence shall provide for proper drainage and avoidance of root damage to preserve the trees in the habitat. The design specifications of the fence shall be reviewed and approved by the arborist. (R-18)

Responsible Party: Applicant shall include design in the plans for the arborist and the City to review and approve.

Timing: Prior to grading permit issuance.

59. During facility operation between October 1 and February 28 of each year, the monarch biologist shall determine whether the existing paved on-site Rispin driveway/parking area shall only be accessed by Zero Emission Vehicles for guest drop-off and deliveries, as outlined in the Mode A/B Site Operation Program discussed in the EIR. The operator shall only use ZEVs to access the site if so directed by the monarch biologist. Between March 1 and September 30, use of the site for service and operation purposes in standard vehicles, in addition to the above, will be acceptable (it is prohibited that guests drive on site and it is prohibited that valet vehicles be standard vehicles). Vehicles taller than the lowest tree canopies shall be restricted from entering the site. (R-21)

Responsible Party: Applicant shall include measure in operational documents for the City to review and approve.

Timing: Prior to final inspection/occupancy; ongoing during project construction.

60. Landscape and ground maintenance workers must be informed of conservation issues regarding overwintering monarch habitat through a training seminar conducted by the monarch expert. Use of blowers shall be prohibited between October 1 and February 28. (R-22)

Responsible Party: Applicant shall include measure in operational documents for the City to review and approve.

Timing: Prior to final inspection/occupancy; ongoing during project operation.

61. Site preparation (e.g., tree trimming, tree removal, grading, excavation, and roadbed construction) on the project site shall *not* occur when monarchs are potentially present (October 1 through February 28). (R-24)

Responsible Party: Applicant shall include measure in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

62. Use of biological insecticides (including bacteria, viruses, protozoans and nematodes) that are effective in the control of all lepidoptera shall be prohibited throughout the habitat. Chemical insecticides shall not be applied during the overwintering season (October 1 through February 28). Use of chemical insecticide agents during the non-roosting season may be done only if approved by the consulting butterfly expert. Grounds maintenance workers shall be made aware of monarch habitat conservation requirements as they pertain to grounds management (see mitigation R-22 above). (R-25)

Responsible Party: Applicant shall include measure in operational documents for the City to review and approve.

Timing: Prior to final inspection/occupancy; ongoing during project construction.

63. The following measures, at a minimum, shall be implemented during the time when monarchs are potentially present in the habitat (October 1 through February 28, or as determined by the monarch biologist):

- a. All pedestrians/visitors/guests shall be kept outside of the monarch roosting area by monarch biologist approved fencing.
- b. Outdoor activities, such as weddings, will be limited to designated portions of the Mansion property to avoid roosting area disruption.
- c. The lighting plan shall return to the Planning Commission for final approval prior to issuance of a building permit. Outside night-lighting along the paths and at the Mansion shall utilize low wattage bulbs and fixtures that are mounted close to ground level and directed away from the roosts. In addition, lighting shall not be directed toward Soquel Creek or on-site riparian vegetation. (R-26)

Responsible Party: Applicant shall include measures in operational documents for the City to review and approve.

Timing: Prior to final inspection/occupancy; ongoing during project operation.

Conservation Easement Mitigation Measure/Condition of Approval

64. Prior to issuance of a Building Permit the Applicant shall submit a conservation easement for that portion of the Rispin Mansion site that supports the primary overwintering habitat for the monarch butterfly, and the riparian habitat areas. The specific easement area and responsibilities of the operator, City, and easement holder will need to be described in the easement document. The conservation easement shall be finalized and recorded prior to occupancy of the project.

Steelhead Habitat&Other Riparian/Aquatic Species Mitigation Measures/Conditions of Approval

65. The removal of any riparian or upland trees on the Rispin site that provide shade to the Soquel Creek shall not be allowed. The amount of shading within the creek currently supplied by Rispin property trees shall be established as a base-line, and any actions reducing this percentage shall require management to improve stream shading by a City approved forester/botanist. Such management shall include planting of native riparian tree species along the creek (i.e. big-leaf maple, sycamore, alder, cottonwood, box-elder, willow), to provide shade and aid in cooling of the creek, and to enhance habitat. A qualified botanist shall determine an appropriate native species palette in coordination with the monarch biologist; native species should be native to the area, and cultivars of native species that may cause genetic pollution should not be used. (R-27)

Responsible Party: Applicant shall include the measure in the plans and operational documents for the City to review and approve.

Timing: Prior to grading permit issuance; ongoing during project operation.

66. Protect the eucalyptus grove and patches of redwood trees as valuable sources of shade to the stream, erosion prevention on the steep slope, and as monarch butterfly habitat. (R-28)

Responsible Party: Applicant shall include the measure in the plans and operational documents for the City to review and approve.

Timing: Prior to grading permit issuance; ongoing during project operation.

67. To assist with implementation of the Soquel Creek Management Plan, the applicant and the City Public Works Department shall consult with a qualified engineer (as determined by the City Public Works Director) to determine whether runoff from the Clares/Wharf parking lot could be detained to reduce the peak discharge level to the pre-development rate. If feasible (to be decided with contracted engineer), install a buried stormwater detention facility near the driveway that would feed into the existing drainage system. (R-29)

Responsible Party: Applicant shall consult with qualified engineer and if the measure is determined to be feasible, applicant shall include design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

68. Retrofit the storm drain pipe buried across the Rispin bench with a detention tank that can meter out water at a slower rate, with an overflow in the event that the tank becomes overwhelmed. This shall be done in consultation with a qualified engineer. (R-30)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

69. Stabilize the drainage channel leading from the energy dissipater to the creek (located in the south-central portion of the site) such as by rocking the channel with large cobbles that would not wash away, possibly grouted with concrete. This shall be done in coordination with a qualified engineer. (R-31)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

70. The addition of impermeable surfaces at the Rispin Mansion site shall be accompanied with an effective drainage plan. This drainage plan shall ensure the capture of any increase in runoff on the bench, without additional overland movement of water down the steep slope toward the creek (to minimize erosion and sedimentation, and the introduction of pollutants). (R-32)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

71. Improve the existing driveway on the south end of the site to facilitate rain percolation. Re-surface the driveway with porous pavement blocks or comparable material. (R-33)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

72. Extend the drainpipe from the walkway grate leading to the Rispin-Peery Bridge to Soquel Creek. (R-34)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

73. Investigate the hydrologic source of water flowing under the west footing of the Peery Park walk/bicycle bridge and re-route it away from the footing to a stable release point. This shall be done in coordination with a qualified engineer. (R-35)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

74. Remove non-native/invasive species in work areas within the riparian habitat (i.e. drainage improvements), and re-plant with appropriate native riparian species. A qualified botanist shall determine an appropriate native species palette in coordination with the monarch biologist, and shall guide the removal and replanting of vegetation in accordance with professional riparian restoration program standards. Native species should be native to the area, and cultivars of native species that may cause genetic pollution should not be used. (R-36)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

75. In coordination with the monarch specialist, remove non-native/invasive species (especially pampas grass) in the vicinity of the Peery Park walk/bicycle bridge. A qualified botanist shall determine an appropriate native species palette in coordination with the monarch biologist and shall guide the removal and replanting of vegetation in accordance with professional riparian restoration program standards. Native species should be native to the area, and cultivars of native species that may cause genetic pollution should not be used. (R-37)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

76. Repair or replace the retaining wall along the eastern edge of the Rispin Mansion. The replacement of this wall will require erosion/sedimentation control techniques recommended by a qualified engineer. (R-38)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

77. Replace the fence above the retaining wall of the Rispin Mansion to exclude people from accessing the creek through created footpaths. (R-39)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

78. Revegetate the existing shortcut path on the west side of the Rispin property (adjacent to the walkway) with native vegetation. Plant native thorny shrubs or undesirable species, such as blackberry or poison oak, adjacent to the walkway to discourage further use of the existing path. A qualified botanist shall determine an appropriate native species palette in coordination with the monarch biologist and shall guide the removal and replanting of vegetation in accordance with professional riparian restoration program standards. Native species should be native to the area, and cultivars of native species that may cause genetic pollution should not be used. (R-41)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

79. To avoid disturbance to steelhead (and other aquatic or semi-aquatic wildlife), nighttime lighting of the riparian habitat and/or Soquel Creek shall not be allowed. On-site lighting required for Mansion grounds shall not be oriented towards the creek. (R-42)

Responsible Party: Applicant shall include measure/design in the plans and operational documents for the City to review and approve.

Timing: Prior to grading permit issuance.

80. The City of Capitola shall continue its efforts to implement the Soquel Creek Lagoon Enhancement project, and work with the County to ensure that other storm drain and water quality improvements are implemented to reduce cumulative watershed impacts. (C-1)

Responsible Party: City

Timing: Ongoing.

Cultural Resources Mitigation Measures/Conditions of Approval

81. In the event that any archaeological or paleontological resources or human remains are discovered during grading or construction anywhere on the site, work shall be ceased within 150 feet of the find until it can be evaluated by a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented in accordance with CEQA Section 15064.5. All identified archaeological sites should be evaluated using the California Register of Historical Resources criteria, established by the State Office of Historic Preservation. Any discoveries shall be reported to the City Community Development Director. (R-43)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

82. In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps shall be taken: There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

A. The coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required; and

B. If the coroner determines the remains to be Native American: 1) the coroner shall contact the Native American Heritage Commission within 24 hours; 2) the Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent from the deceased Native American; 3) the most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98, OR

Where the following conditions occur, the City of Capitola or authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.

- A. The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the Commission.
- B. The descendent identified fails to make a recommendation; or
- C. The landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner. (R-44)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

Historic Resources Mitigation Measures/Conditions of Approval

83. The design of all new structures and materials of construction shall be compatible with and complement the Rispin Mansion's style as designed by George McCrae for Henry Allen Rispin. This design concept should be reviewed and approved by the City of Capitola City Council and by the State Office of Historic Preservation prior to beginning final design or construction to ensure that the project meets the Secretary of Interior's Standards for Treatment of Historical Properties. In particular, State and local decision-makers shall consider the following recommendations:

- The final design of the Rispin Pavilion shall be based on review and approval by the State Historic Preservation Officer such that material of construction, colors, and architectural style are appropriately compatible with and complement the historic features of the site.
- The final design of building roof covering shall be based on review and approval by the State Historic Preservation Officer such that the covering and other changes near the Mansion are in compliance with the Secretary of the Interior's Standards and Guidelines. Roofs over new structures shall be tile, not sod or landscaping.
- The color scheme of new buildings shall be based on review and approval by the State Historic Preservation Officer such that the colors contrast with the Mansion's white paint to differentiate the old buildings from the new, and are compatible with and compliment the Mansion (i.e., light tan or off-white). (R-45)

Responsible Party: Applicant shall include design in the plans for the City and SHPO to review and approve.

Timing: Prior to building permit issuance.

84. The design and rehabilitation of the Rispin Mansion (and well-house) must comply with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Historic Buildings, and the California State Historical Building Code. These documents shall be used as guidance documents for all agencies granting approval for the Rispin Mansion project. (R-46)

Responsible Party: Applicant shall include design in the plans for the City and SHPO to review and approve.

Timing: Prior to building permit issuance.

85. Prior to issuance of a Building Permit the Applicant shall submit a historic façade/conservation easement that includes the historic features of the Rispin Mansion site, including but not limited to all exterior facades and the Rispin Garden. The specific easement area and responsibilities of the operator, City, and easement holder will need to be described in the

easement document. The conservation easement shall be finalized and recorded prior to occupancy of the project.

86. Before construction begins, a Level 2 Historic American Building Survey/Historic American Engineering Record report on the Mansion and the entire District must be prepared in order to preserve a record of the Mansion. (R-47)

Responsible Party: Applicant shall have survey/record prepared for SHPO to review and approve.

Timing: Prior to building permit issuance.

87. Buildings shall be constructed in accordance with applicable Building Codes including the Historic Building Code and the site recommendations presented in the geotechnical and geologic hazard assessment by J. V. Lowney & Associates (January 1991) including, but not limited to, specifications regarding clearing, site grading and preparation, footings, foundations, slabs-on-grade, site drainage, and pavements or turf block. (R-1)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

88. The applicant shall maintain an exhibit documenting and interpreting the history of the Rispin Mansion and its place in the community within the lobby, hallway, or other suitable location within the Mansion. (R-48)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to building permit issuance.

Aesthetics Mitigation Measures/Conditions of Approval

89. On-site utilities must be located in inconspicuous screened areas or screened. Heating and cooling systems shall not be located on building roofs. (R-50)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to building permit issuance.

90. Building materials must be of a material or color that minimizes visual disruption and glare. (R-51)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to building permit issuance.

91. Any on-site buildings, signs, fences, walls, and entry gates must be consistent with the character of the Mansion and adjacent land uses. (R-52)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to building permit issuance.

92. A sign program shall be submitted to the City of Capitola Planning Commission for final review and approval, and approved prior to the issuance of a building permit.

93. Lighting must be designed to minimize off-site glare. The type, height, and spacing of lighting shall return to the Planning Commission for final review and approval prior to issuance of a

building permit. Lighting must be directed downward and away from Soquel Creek and residences to the east. Lights must be of minimum intensity necessary for safety lighting. Light standards shall be a maximum of 15 feet high. (R-53)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

Traffic And Circulation Mitigation Measures/Conditions of Approval

94. The Rispin Mansion project applicant shall provide the design for, and contribute its fair share of the construction costs for: a) improvements to the Clares/Wharf intersection, similar to the design proposed in the memo dated November 7, 2003 by Higgins & Associates; and b) a bus turnout on Clares Street in front of the library; and c) Clares Street traffic calming measures. The design process shall include an opportunity for public/neighborhood input. The improvements shall be reviewed and approved by the City Council, and shall include installation of an exclusive right turn lane on the southbound Wharf Road approach to the intersection with Clares Street, and installation of raised intersection, special paving, and "Light Guard" improvements in the paving to enhance pedestrian safety. After the exclusive right-turn lane is installed, the City shall monitor this intersection in the future and if the intersection LOS degrades to D, signalization shall be installed by the City or other improvements implemented to ensure that the LOS remains at C. (R-54 and C-5)

Responsible Party: City shall sponsor a public/neighborhood meeting to facilitate public input during the applicant's design phase. Applicant shall submit design for improvements at the time of submittal for a building permit. Design shall be approved by the City, and pro-rata contribution acceptable to the City shall be paid to the City prior to issuance of building permit.

Timing: At time of submittal for building permit; prior to issuance of building permit.

95. The Rispin Mansion project shall contribute its fair share of construction costs for the installation of an exclusive right turn lane on the southbound 41st Avenue approach to Clares Street. If the improvement is not implemented by the City prior to project occupancy, then this intersection would not operate at LOS C; therefore the statement of overriding considerations includes a finding that the benefits of the project outweigh the detriments of the time delay of implementation of this improvement. (R-55 and C-7)

Responsible Party: Applicant shall make a pro-rate contribution acceptable to the City; the applicant will pay to the City the amount determined by the applicant's traffic consultant as approved by City staff.

Timing: Prior to building permit issuance.

96. In addition to the Clares/Wharf intersection improvements, the applicant shall ensure that proper directional signage is installed to encourage pedestrians to use the crosswalk at the intersection of Clares Street and Wharf Road. (R-56)

Responsible Party: Applicant shall include design in the plans for the City to review and approve; applicant to install.

Timing: Installation prior to final inspection/occupancy.

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97. Install a stop sign at the project driveway approach out onto Wharf Road. (R-57)

Responsible Party: Applicant shall include design in the plans for the City to review and approve; applicant to install.

Timing: Installation prior to final inspection/occupancy.

98. Because vehicular access to the site will be restricted, and because the project parking area is located north of the Wharf Road/Clares Street intersection, appropriate guide signing shall be provided on Wharf Road and Clares Street to direct Rispin Mansion patrons to the parking area. (R-58)

Responsible Party: Applicant shall include design in the plans for the City to review and approve; applicant to install.

Timing: Installation prior to final inspection/occupancy.

99. The Rispin Mansion project applicant shall provide the design for traffic calming measures on Wharf Road, including the Clares/Wharf measures detailed in condition #94 above, and also including other improvements that may be required by the City of Capitola City Council (imposed prior to issuance of a building permit) along the frontages of the Rispin site and the Clares/Wharf site, such as sidewalk bulbs or other roadway improvements that have been demonstrated to reduce traffic speeds.

100. A study of the 41st Avenue corridor between Capitola Road and Highway 1 will be conducted by the City of Capitola to identify feasible improvements, including traffic signal coordination, that would improve corridor traffic operations. The proposed project shall provide a fair share contribution towards the cost for this study. (C-3 and C-8)

Responsible Party: Applicant shall make a pro-rata contribution acceptable to the City; the applicant will pay to the City the amount determined by the applicant's traffic consultant as approved by City staff.

Timing: Prior to final inspection/occupancy.

101. If a regional program exists to accept development impact fees toward the widening of Highway One, the Rispin project shall contribute its fair share of construction costs (pro-rata contribution) for the widening of Highway 1 to six lanes between State Park Drive and Larkin Valley Road, using the findings of the PSR completed in 2002. If there is no regional program at the time of issuance of a building permit, no fee shall be paid. (C-4)

Responsible Party: Applicant shall make a pro-rata contribution acceptable to the City and Regional Transportation Commission (RTC); the applicant will pay to the City or RTC the amount determined by the applicant's traffic consultant as approved by City and RTC staff.

Timing: Prior to final inspection/occupancy.

102. If a local or regional program exists to accept development impact fees toward improvements to the 41st Avenue/Highway One interchange/overcrossing, the Rispin project shall contribute its fair share of construction costs (pro-rata contribution) for the reconstruction of the Highway 1/41st Avenue interchange to include three through lanes on 41st Avenue and an additional exclusive right turn lane on the northbound 41st Avenue approach to the southbound Highway 1 on-ramp. With construction of this improvement, the LOS at the Highway 1 southbound ramp intersection and the Highway 1 northbound ramp intersection would be improved to LOS C under General Plan buildout conditions during the Saturday MD peak hour. (C-6)

Responsible Party: Applicant shall make a pro-rata contribution acceptable to the City and Regional Transportation Commission (RTC); the applicant will pay to the City or RTC the amount determined by the applicant's traffic consultant as approved by City and RTC staff.

Timing: Prior to final inspection/occupancy.

103. The 49th Avenue/Capitola Road intersection should be monitored by the City and a traffic signal installed when warranted based on intersection operations and volumes. Signalization of the intersection would result in LOS C operations during the weekday PM and Saturday peak hours. The proposed project shall provide a fair share contribution towards the cost of this improvement, if constructed within the first 3 years of project operation. If the improvement is not implemented by the City prior to project occupancy, then this facility would not operate at LOS C; therefore the statement of overriding considerations includes a finding that the benefits of the project outweigh the detriments of the time delay of implementation of this improvement. (C-9)

Responsible Party: City to monitor and determine whether fee required. If required, applicant shall make a pro-rata contribution acceptable to the City; the applicant will pay to the City the amount determined by the applicant's traffic consultant as approved by City staff.

Timing: Prior to final inspection/occupancy.

104. The parking lot at the Clares/Wharf site shall be improved to provide the proposed 57 parking spaces, net of ZEV parking/valet kiosk space and of library trash and recycling facilities. Although the library parking *requirement* under the zoning ordinance and the approved library permit is for only 10 spaces, the joint use parking lot shall be operated to provide 17 parking spaces dedicated for library use during library hours of operation, capable of being accessed and used by the public independent of any Rispin Mansion parking operations. To the extent that it would not interfere with Rispin Mansion uses, library users shall be allowed to use "Rispin" spaces that are available due to non-utilization by Rispin patrons, but may be restricted by the Rispin operator if needed to ensure availability for Rispin uses. During library hours of operation, Rispin Mansion lodging, wedding, and/or meeting uses shall not cumulatively demand more than 40 spaces, unless an off-site parking and shuttle system is approved by the Capitola City Council in accordance with use permit conditions of approval, which will need to allow for separate and independent access and use of 17 parking spaces for library users. Under any operational scenario, employees shall be prohibited from parking in the Clares/Wharf parking lot, and the applicant shall provide bus passes to any employee requesting such. In accordance with conditions of use permit approval for Phase 2 use of the Conservancy, prior to issuance of a Building Permit for the Rispin Conservatory, the applicant shall submit for City Council approval a Rispin Conservatory Use Program and Parking Management Program, which details the number, type and intensity of planned usage of the Conservatory, and which identifies adequate off-site parking supply and/or shuttle programs to meet parking demands for peak parking demands of the combined operations of the Rispin Mansion and Rispin Conservatory. In conjunction with approving the use and parking programs, the City Council shall establish maximum simultaneous occupancy of site facilities, which will revise condition #11.

Noise Mitigation Measures/Conditions of Approval

105. All newly constructed buildings must be designed to attenuate noise inside the buildings as required for habitable structures within the 60 dBA Ldn noise contour. Noise insulation features selected shall be incorporated in the design to ensure that noise levels do not exceed 45 dBA Ldn in habitable rooms. Conventional construction with closed windows and a fresh air supply, or air-conditioning, will normally achieve this goal. (R-59)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to building permit issuance.

Construction Noise Mitigation Measures/Conditions of Approval

106. The City shall require that the construction contractor implement noise control measures (Best Construction Management Practices) during project construction, as outlined below:

- a. Require use of construction equipment and haul trucks with noise reduction devices, such as mufflers, that are in good condition and operating within manufacturers' specifications.
- b. Require selection of quieter equipment (e.g., gas or electric equipment rather than diesel-powered equipment), proper maintenance in accordance with manufacturers' specifications, and fitting of noise-generating equipment with mufflers or engine enclosure panels, as appropriate.
- c. Prohibit vehicles and other gas or diesel-powered equipment from unnecessary warming up, idling, and engine revving when equipment is not in use and encourage good maintenance practices and lubrication procedures to reduce noise.
- d. Construct temporary plywood barriers around particularly noisy equipment or activities at appropriate heights.
- e. Locate stationary noise sources, when feasible, away from residential areas and perform functions such as concrete mixing and equipment repair off-site.
- f. Require that trucks removing soil and other material from the site use a city-approved route.
- g. Except under special circumstances approved by the City Building Official, limit excavation, hauling, and construction activities to the normal working day between the hours of 8 a.m. and 6 p.m. Monday through Friday. (R-61)

Responsible Party: Applicant shall include measures in the plans for the City to review and approve; City to periodically monitor/conduct on-site inspections.

Timing: Prior to grading permit issuance; ongoing during grading and operation.

Air Quality Mitigation Measures/Conditions of Approval

107. The applicant shall submit an earthmoving plan to the Public Works Director for review and approval, that incorporates the following construction practices to minimize exposed surfaces and generation of dust:

- a. Exposed earth surfaces shall be watered during clearing, excavation, grading, and construction activities. All construction contracts shall require watering in late morning and at the end of the day.
- b. The Public Works Director shall review and approve the applicant's plan for truck routes, days and hours of operation for excavated soil and other materials being removed from the site. Grading and other earthmoving shall be prohibited during high wind.
- c. Cover all inactive storage piles.
- d. Maintain at least 2 feet of freeboard for all loaded haul trucks.

- e. Throughout excavation activity, haul trucks shall use tarpaulins or other effective covers at all times for off site transport.
- f. Install wheel washers at the entrance to construction sites for all exiting trucks.
- g. Sweep streets if visible soil material is carried out from the construction site.
- h. Upon completion of construction, measures shall be taken to reduce wind erosion. Revegetation and repaving shall be completed as soon as possible.
- i. Post a publicly visible sign that specifies the telephone number and person to contact regarding dust complaints and who shall respond to such complaints, and take corrective action within 48 hours. The phone number of the Monterey Bay Unified Air Pollution Control District shall be visible to ensure compliance with Rule 402 (nuisance). (R-62)

Responsible Party: Applicant shall include measures in the plans for the City to review and approve; City to periodically monitor/conduct on-site inspections.

Timing: Prior to grading permit issuance; ongoing during grading and operation.

Hydrology And Water Quality Mitigation Measures/Conditions of Approval

108. The Rispin Mansion project drainage system shall be designed to control the release of storm water flows to pre-development levels using on-site detention, percolation and proper system capacities. The design of the drainage system shall be prepared and submitted to the City to demonstrate that the project complies with this measure and other applicable City standards. (R-3)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

109. The project applicant shall prevent sediments or other pollutants resulting from construction activities from entering storm water discharge. During construction, the following measures shall be implemented by the construction contractor:

- a. Only clear land that will be actively under construction within 6 to 12 months;
- b. Stabilize disturbed areas except where active construction is taking place. Provide permanent stabilization during finish grade and landscape the site;
- c. Dispose of all construction waste in designated area, and keep storm water from flowing on or off of these areas;
- d. Divert or intercept storm water before it reaches Soquel Creek, using temporary dikes, swales, or pipe slope drains; and
- e. Perimeter controls shall be placed where runoff enters or leaves the site prior to clearing, grubbing, and rough grading. Perimeter controls may include dikes, swales, temporary storm drains, sand bags or hay bales. Secured maintenance contracts shall be established to keep these systems operating. (R-4)

Responsible Party: Applicant shall include measures in the plans for the City to review and approve; City to periodically monitor/conduct on-site inspections.

Timing: Prior to grading permit issuance; ongoing during grading and operation.

110. The project applicant shall submit a Notice of Intent to the Regional Water Quality Control Board to obtain a State Water Resources Control Board General Construction Storm Water Permit. This shall include preparation and approval of a Storm Water Pollution Prevention Plan (SWPPP) and implementation of Best Management Practices to reduce water quality impacts as required by the Regional Water Quality Control Board. At a minimum, the measures in mitigation R-2 through R-9 shall be included in the SWPPP and implemented. (R-5)

Responsible Party: Applicant shall file a Notice of Intent and prepare the SWPPP; applicant shall include measures in the plans for the City to review and approve; City to periodically monitor/conduct on-site inspections.

Timing: Prior to grading permit issuance; ongoing during grading and operation.

111. The Rispin Mansion/Library project parking area shall be swept on a regular basis (four times per year). The applicant shall contract for vacuum sweeping. Vacuum or regenerative air sweepers are effective at removing the finer sediments that often bind a higher proportion of heavy metals. The sweeping frequency shall be increased just before the wet season (to once per month in September and October of each year) to remove sediments accumulated during the summer. (R-6)

Responsible Party: Applicant shall include measure in operational documents for City to review and approve.

Timing: Prior to final inspection/occupancy.

112. Install energy dissipators, sand traps and grease/sediment traps in storm drain outfalls that serve the Rispin site. All catch basins/traps that receive runoff from any areas subject to vehicular use shall be designed for both active filtration and active treatment of runoff. (R-7)

Responsible Party: Applicant shall include design in the plans for the City to review and approve.

Timing: Prior to final inspection/occupancy; ongoing during project operation.

113. The Rispin Mansion project shall maintain catch basins and storm water inlets on a regular basis to remove pollutants, reduce high pollutant concentrations, prevent clogging of the downstream conveyance system, and maintain the catch basins' sediment trapping capacity. Inspection of the drainage system shall be performed at least twice a year, and repairs and/or cleaning shall be completed prior to November 1. (R-8)

Responsible Party: Applicant shall include measure in operational documents for City to review and approve.

Timing: Prior to final inspection/occupancy; ongoing during project operation.

114. Minimize the amount of fertilizers and herbicides applied to the Rispin Gardens. Utilize slow-release chemical fertilizers and herbicides and avoid application prior to scheduled irrigation. The use of fertilizers and herbicides on-site must not conflict with the relevant mitigation intended to protect monarch butterflies (see mitigation R-25). (R-9)

Responsible Party: Applicant shall include measure in operational documents for City to review and approve.

Timing: Prior to final inspection/occupancy; ongoing during project operation.

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115. The City of Capitola shall continue its efforts to implement the Soquel Creek Lagoon Management and Enhancement Plan, and work with the County and other agencies to ensure that other storm drain and water quality improvements are implemented within the Soquel Creek watershed to reduce cumulative water quality impacts. (C-1)

Responsible Party: City.

Timing: Ongoing.

116. In addition to measures specified above, the applicant shall use all other available and feasible "Best Management Practices" during construction in order to ensure protection of the environment, including defining areas of construction, avoiding use of overly large equipment, and other management actions.

Indemnification and Hold Harmless Condition of Approval

117. As a condition of approval of the project, the developer shall defend, indemnify and hold harmless the City of Capitola and the Capitola Redevelopment Agency and their agents, officers and employees from any claim, action or proceeding against the City of Capitola or the Capitola Redevelopment Agency and their agents, officers or employees to attach, set aside, void or annul approval of Application #97-95 and/or certification of the Final EIR prepared for Application #97-95. Pursuant to this condition, the City of Capitola and/or the Capitola Redevelopment Agency shall promptly notify the developer/owner of any claim, action or proceeding regarding the project, and the City of Capitola and/or Capitola Redevelopment Agency shall cooperate with the developer/owner in the defense of such claim, action or proceeding. This condition does not obligate the applicant to defend existing lawsuits involving the Redevelopment Agency: (a) 6th District Court of Appeal Docket #H027470 (City sale of Rispin property to RDA); and (b) Santa Cruz County Superior Court Docket #CV149671 (RDA approval of Rispin RDA Plan Amendment).

Other Conditions Added During Project Review

118. The applicant shall enter into an agreement and shall deposit sufficient funds prior to issuance of a building permit to pay for city staff time related to mitigation monitoring, ensuring compliance with conditions of approval, ensuring project completion in accordance with the City Council approval, and other administrative efforts. Deposit of funds may be broken into phases, however sufficient funding must be deposited for each phase of effort prior to continuation of each phase of effort.

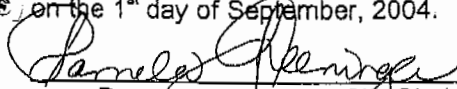
119. The discretionary permits associated with this project approval shall not expire until two years from the time that the Coastal Permit is issued by the Coastal Commission; the City Council may extend the permits to provide additional time upon the request of the applicant.

120. The applicant shall submit a delivery truck and service vehicle access and loading/unloading plan to the Community Development Director for approval at the time of submittal for a building permit.

121. The final site plan reflecting incorporation of the final conditions of approval shall be attached to the resolution approving the project prior to issuance of a building permit.

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This is to certify that the above and foregoing is a true and correct copy of Resolution No. 3393 passed and adopted by the Capitola City Council on the 1st day of September, 2004.


Pamela Greeninger, City Clerk

CMC



Item #: 4.A

CITY COUNCIL AGENDA REPORT

MEETING OF MARCH 27, 2008

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: March 18, 2008

SUBJECT: **RISPIN MANSION (APPLICATION #08-014)** Public Hearing on the Rispin Mansion Restoration & Hotel: Project Application #08-014 to Amend Applications #97-95 and #05-005: Conditional Use Permit, Architectural and Site Review, and Coastal Permit for the Proposed 25-Room Hotel at Rispin Mansion Project located at 2000 and 2005 Wharf Road in the AR/VS/PD "Automatic Review/Visitor Serving/Planned Development" Zoning District. [APNs 035-371-01 and -02 (Rispin) and APN 034-541-34 (Clares Street/Wharf Road) Presentation: Community Development Department

Recommended Action: Conduct a Public Hearing on the Rispin Mansion Project amendments. By motion and roll call vote adopt the Resolution (Attachment 1), approving Application #08-014, Amending Conditional Use Permit, Architectural and Site Review Design Permit, and Planned Development Permit #97-95 and Coastal Permit #05-005, based upon adoption of Findings, Conditions, Mitigation Measures and a Mitigation Monitoring Program for the Rispin Development Project.

BACKGROUND

The City Council completed a series of public hearings and approved the proposed Rispin Development Project (Application #97-95 as amended) on September 1, 2004 by adopting Resolution No. 3393 (Attachment 2). On March 24, 2005 the City Council held a public hearing and issued the Coastal Permit for the Rispin Project (Application #05-005) by adopting Resolution No. 3443 (Attachment 3). With both actions Council certified the Environmental Impact Report, adopted a Statement of Overriding Considerations, incorporated mitigation measures into the conditions of approval, and adopted a mitigation monitoring plan.

Since the time the project zoning entitlements were approved the applicant, The Rispin LLC, has worked to develop construction plans for a building permit, meet the requirements of the conditions of approval and mitigations, obtain the approvals from various responsible agencies, and further develop a business model and financing plan to build and operate a successful project. Through that process it has become clear that amendments to the original zoning permits are required in order to build the approved project, and to accommodate modifications requested by the developer partner. This application is to obtain the necessary amendments to the zoning permits.

On October 30, 2007, the City Council held a public meeting to discuss these modifications to the Rispin project and permits. Plan sets illustrating the modifications were distributed and discussed.

Council agreed with the changes in concept. Additionally, the Council directed staff to continue to work with the applicant, other agencies, and parties to the Stipulated Judgment to complete the necessary processes to approve modifications to the project, and bring back to Council all necessary permit amendments at a public hearing in the near future. The changes that were discussed by the Rispin Partners, the public, and the City Council included:

1. Addition of a spa facility.
2. Placing two guest units above two of the ground-level units.
3. A new design for the conservatory building, and a request to build it during the same time as the Mansion construction project.
4. Location of and design for the PG&E electrical transformer box, utility shed room attached to the Well House, the ADA paths (design), the entrance gate, the emergency gate, the wrought iron fence, and the trash enclosure.
5. Replace concrete walk on the southeast side of the Mansion for access to the basement room.
6. Tree removal and replacement necessary to construct the project.

These amendments are not considered major, and are recommended for approval by staff.

DISCUSSION

PROJECT DESCRIPTION

Approved Project. The Rispin Project is a Public/Private Partnership with the City of Capitola, the Capitola Redevelopment Agency, and The Rispin, LLC. The project is designed to restore the historic Rispin Mansion and grounds, to provide visitor-serving accommodations, to enhance public access to the site, and to preserve and enhance the habitats on site, including the Monarch butterfly over-wintering habitat.

The approved Rispin Mansion Hotel Project includes visitor-serving accommodations for 25 hotel guest units and a pavilion/meeting/multi-use facility at the site. As the Mansion and grounds are listed on the National Historic Register, an important part of the project includes restoration of the Mansion and the formal gardens, the fountain, the balustraded walkway, the belvedere (or overlook), the rose garden, and the well house at Wharf Road.

Under the plans approved in September 2004 and March 2005, the Mansion building would contain 13 guest rooms on three levels and in the basement, a living room, a dining room, a concierge area, a small service kitchen, a storage room, balconies on the west side, and an accessible entrance on the west side. In addition, historic and educational displays are proposed in the hallways, and two existing open terraces will be improved. The building is to be completely rehabilitated and distinctive elements of the building are to be restored.

The approved project also includes eight "North End" units adjacent to the Mansion in three buildings separated by stairwells. In addition, there are four units located in four buildings separated by entry stairwells and small courtyards north of the Mansion, known as "the Poor Clares Foundation Units," and west of the North End units.

The project approved by Permits #97-95 and #05-005 also includes:

- Construction of the Rispin Conservatory in the northern portion of the site as a second phase no sooner than two years after the beginning of the hotel operations;
- Restoration of the well-house;
- Reconstruction of the driveway south of the Mansion;

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- Installation of a wrought iron fence along south end of site to property line, and at the north end near the Conservatory and pedestrian path;
- Construction of a glass-covered pavilion and kitchen to be used for morning and afternoon food and beverage services and for afternoon wine for hotel guests. This facility will be open to the public for small groups on a reservation system, which will allow the Rispin/library parking lot to be switched to valet mode when necessary
- Construction of a valet kiosk (which will also house refuse bins for the library and ZEV parking) in the joint-use parking lot at the Clares/Wharf site (no parking spaces are proposed south of the Mansion); and
- Realignment of the pedestrian and bike pathway that leads from Wharf Road to the Peery Park Bridge over Soquel Creek.

The approved project incorporated the Environmental Impact Report (EIR) Alternative 2 project (the environmentally superior alternative site configuration), because of its ability to reduce significant and unavoidable impacts, and achieve the basic project objectives. Alternative 2 removed hotel units, parking and other development from the southerly portion of the site, thereby, reducing potential impacts to the monarch butterfly habitat.

EIR Alternative 2 included the following additional construction, which was not incorporated in the final approval:

- Restoration and expansion (approximately 300 square feet) of the Well House as an interpretive center, and would contain security office/quarters; no construction below the Well House is proposed. (The City Council, as part of approved Condition #15, required the Well House to be historically restored, but not expanded in any way, including no patio/hardscape addition. No use of well house for caretaker's quarters/security, or for public restrooms, or for historical/butterfly interpretive center. Proposed use of Well House for storage/ancillary uses only. Final plans to include historic rehabilitation of the full Well House, including lattice tank enclosure);
- Reconstruction of the historic Rispin aviary. (The City Council, as part of Condition #15, eliminated the Aviary);

When the City Council approved the Rispin project, the permits included 121 adopted conditions of approval, mitigation measures, and a mitigation monitoring program that can be found in Resolution 3393 (Attachment 2). Included were the following changes to the Alternative 2 project, memorialized in Condition 15:

- Use of tile on all roofs rather than planted roofs on certain structures
- No excavated game/exercise/laundry/storage area
- Meandering pathway eliminated from south area
- No formalized parking area on site; only existing paved driveway/parking area to be used by facility operation and service vehicles in accordance with the approved Mode A/B operation.
- No incubation program for monarch butterflies.
- South end driveway to be restored with porous material; no expansion beyond existing dimensions.
- Revised joint use parking lot design to provide a 57-space parking lot to meet combined demand of the library and Rispin uses, while also ensuring independent access at all times to 17 "library" parking spaces/loading zone, and 40 "Rispin" spaces during "normal" mode and 70 spaces during possible "valet" mode.
- Reduction of size of Conservatory building by 180 square feet, to a 1,628 square foot facility to accommodate 49 persons. Conservatory to be constructed as a second phase, no sooner than 2 years after completion of Phase 1 improvements.
- Refined ADA-compliant access pathways through the site.

- No woodburning fireplaces.

The historic renovation of the Mansion and new construction on site is required to follow the Secretary of Interior's Standards and Guidelines to prevent impacts to historic resources. All of the landscape enhancements, preservation and conservation easements, habitat management and monitoring, and all operational guidelines that were described as part of the proposed project, were also be included in this alternative and the approved project.

The Plans for the original approved project are included as Attachment 6.

Proposed Amended Project. The amended Rispin Hotel project includes the same facilities and improvements as the original approved project, with the addition of a spa facility. The distinct buildings of the project are described separately for ease of understanding. These buildings are: The Mansion; The Creekside; The Villas, and The Conservatory.

Plans submitted with Application #08-014 reflect the proposed revised project, and are included with the staff report as Attachment 4. The plan sheets stamped "Information Only" do not require amendment to the zoning entitlements, but are included to provide background information.

The proposed amended Rispin Hotel project will maintain 25 guest rooms, maintain two meeting/multi-use facilities (Pavilion and Conservatory), and add a Spa Facility. The hotel will have a small dining room that serves 10 people at a time with the terrace being used for casual gatherings. The General Public and the Hotel Guests may share all Rispin facilities during normal operating hours, subject to limitations on the total number of hotel/spa guests on site. However, on occasion, the Rispin facilities may be reserved for private parties, weddings, business meetings and other similar activities. The only change in the proposed use from that which was originally approved would be adding the spa services.

The following describes the proposed facilities of each building and summarizes the proposed changes to each.

The Mansion

With the proposed amended project "The Mansion," includes 10 guest rooms, three fewer rooms than the currently approved project, a Library and Office, Living Room, Dining Room, Kitchen, small storage area, and two terraces. (See Sheets A-2.1.1, A-2.1.2, and A-2.1.3 of Attachment 4 Proposed Plan Set) As with the approved project, historic and educational displays are proposed in the hallways. The building is to be completely rehabilitated, and distinctive elements of the building are to be restored.

The State Historic Preservation Officer (SHPO) preferred that the rooms with more public functions and unique qualities of the original mansion be maintained for similar use, allowing greater access for interpretation of the mansion. For this reason, and to provide a functional office for the hotel, the original mansion library is proposed to remain a library/office rather than a guest room. As well, the kitchen would be rebuilt in its original location, rather than as a guest room. Guest rooms were adjusted for better circulation and design within the Mansion. The California State Historic Preservation Office (SHPO) has approved all of the proposed changes, except for the final roof design for the enclosed outdoor terrace (See Attachment 9).

The existing paved/bricked path on the east side of the Mansion will be abandoned, and a new much shorter stair and elevated walk is proposed in order to access one of the guest rooms in the basement level (See Sheet A-1.0 of Attachment 4 Proposed Plan Set). The new walk would be in the location of the existing walkway at grade. As shown in the photo below, the area is currently disturbed and degraded. Therefore, the new walk would not create an impact on vegetation or

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supporting habitat, nor create a newly disturbed area. This new walkway is slightly within the conservation easement area, therefore, the conservation easement map would need to be amended (See conservation easement illustration, Attachment 8).



The Creekside Buildings

The new "wing" of buildings northerly of the Mansion is now referred to as "The Creekside." The amended Creekside portion of the project adds two guest rooms to this wing, for a total of 10 guest rooms and includes the originally approved Pavilion (See Sheets A-2.2.1, A-2.2.2, A-2.2.3, and A-4.4 of Attachment 4 Proposed Plan Set). SHPO requires the Creekside buildings to be subordinate in appearance and detail to the Mansion; therefore, these buildings are separated with stairs in between to limit the overall massing. The amended project is located in approximately the same area as the approved project, except that the Rispin/Peery path adjacent to this area will be moved in a northerly direction an additional 6 feet. A very small portion of the redesigned project (a portion of the stair and landing) is within the conservation easement area; therefore the conservation easement map will need to be amended (See Attachment 8).

The Villas Buildings

The row of new hotel units between the garden and the Creekside buildings is now referred to as "The Villas." The proposed amended project would add one guest room and a spa facility to The Villas. This results in two of the guest units located within a second story (See Sheets A-2.2.4, and A-4.5 of Attachment 4 Proposed Plan Set). Each guest unit is the same size as the rest of the units in this location. The architecture of these units, and the colors are the same as the approved units, including Spanish tile roofs. The footprint of the proposed amended project for this location is 2,892 square feet, which is 624 square feet larger than the approved project located in this area. The changed footprint is the result of the combined effect of adding the spa facility, responding to SHPO's request to maintain the original uses and more public areas within the Mansion, and responding to Council's direction in May 2007 to strive to maintain 25 guest rooms. Likewise, The

Rispin LLC developers have determined 25 rooms are necessary for a viable business operation. The proposed second story units and Spa were reviewed and approved by SHPO. (See Attachment 10.)

The Conservatory

The approved project includes a Conservatory building, with a dining/meeting room that serves 49 people per event, a kitchen, bathroom, and storage. A separate 200 square foot building for the zero emission vehicle (ZEV) parking was approved to be built nearby. The timeline for building the currently approved Conservatory can be found in Resolution 3393 (Attachment 2). Condition number 2 for the approved Rispin Hotel project allows the Conservatory project to be developed two years after the beginning of the hotel operation. At the end of the two years the City Council would have to approve a final Conservatory Use Program and Parking Management Program at a public hearing. The Parking Management Program may include a proposal for shared parking, shuttle program, and/or valet parking, all of which is subject to final approval by the City Council.

The proposed amended Conservatory is 4,379 square feet total in a 2,396 square foot footprint, with a new lower level containing support facilities for the site. The building would contain a kitchen, two bathrooms, hotel storage, a chiller/air conditioner for the Hotel, ZEV parking, elevator, and a dining/meeting room that serves 49 people per event. SHPO has approved the proposed conceptual changes for the amended Conservatory project, but they cannot approve the Conservatory until they review the final design. (See Sheet A-2.4.1 of Attachment 4 Proposed Plan Set.)

The Rispin LLC would like to amend the approved conditions of approval found in Attachment 2 to allow the Conservatory Building to be constructed at the same time as the rest of the project. Under this proposal the Conservatory would not be issued a Certificate of Occupancy until a Conservatory Use Program, and Parking Management Program is approved by City Council at a public hearing. The amended conditions are shown as Exhibit B to Attachment 1.

There are a few reasons to construct the Conservatory simultaneous with the hotel and restoration project. First, construction of a significant new building on site two years after opening the Hotel facility would be extremely disruptive of the newly establishing business. Such disruption could create a financial drain, and could diminish the facility's establishing reputation. It would require deconstruction and demolition of newly restored grounds, landscape features like the rose arbor, and the pedestrian pathway. In addition, the newly designed Conservatory efficiently incorporates facilities and improvements that would otherwise be built in various locations around the site. These include the ZEV parking, newly housed under the Conservatory, and the chiller/air conditioning equipment.

The certified EIR anticipated construction and operation of the Conservatory simultaneous with the Hotel and public access uses of the site. Therefore, approval of this amendment would not result in additional significant environmental impacts.

Rispin-Peery Pathway and ADA Paths

The Rispin-Peery Pathway and ADA Path will be built in general conformance with the design approvals on March 24, 2005. The Rispin-Peery Pathway will be rebuilt and paved. ADA paths will be installed to improve ADA access by providing an equivalent facilitation for the stair from Wharf Road to the Rispin-Peery Path, and rebuilding the path in certain sections to meet ADA standards. The path will continue to include a paved bike and pedestrian trail (See Sheet A-0.4, L-3, and C-5.2 of Attachment 4 Proposed Plan Set). Also, the historic rock wall will be restored and integrated with new masonry in the vicinity of the path. Construction of the pathways will require removal of Coast live oaks, and a hedgerow of Pittosporum.

Staff evaluated the option of eliminating the ADA access path from Wharf Road near the stairway, and possibly requesting a variation from standards from the City's ADA Compliance Committee. However, upon consideration and evaluation by the Building Official it is not possible to design an acceptable alternative project that would qualify for the findings needed to grant such a variation.

Parking

Parking is provided for the project consistent with the original approved project and certified EIR. Addition of the Spa will not require additional parking, as the number of guests on site will remain the same as was originally approved.

Parking for the Hotel and Spa guests is provided across the street at 2005 Wharf Road on the Capitola Library site. There are 57-striped parking spaces, of which three (3) are ADA spaces. (See Sheet A-0.6 of Attachment 4 Proposed Plan Set.) The Hotel and the Library share this site with 17 spaces assigned to the Library, and 40 spaces assigned to the Hotel. When the Library is closed, the Hotel may use the Library's 17 spaces as part of its parking inventory. During large events, the Rispin Hotel plans to use a Valet parking program and is able to park up to 70 autos when the Library is open and 87 autos when the Library is closed.

The certified EIR for the Rispin project proposed improvements to the joint-use parking at the corner of Clares Street to provide 60 spaces for the Rispin project, and the existing library. The certified EIR stated, "For special events, a valet parking system will be used that will allow for up to 90 parking spaces at the joint-use site."

The original Rispin project included 28 rooms, and a conservatory for 49 people, which the certified EIR's *Table 10* included as part of the baseline for determining parking adequacy. The final approved project room number was reduced to 25, and continued to include the conservatory for 49 people. The amended project also is for 25 rooms, and a conservatory for 49 people, however, the amended project includes a 1,192 square foot spa facility.

The certified EIR's parking analysis included *Table 10*, which summarizes parking under a worst-case scenario. *Table 10* demonstrates that the proposed joint use parking lot would provide adequate parking for the Rispin Mansion project and the existing library at the Clares/Wharf site during a special event.

Staff evaluated the parking impact with the Spa. Spas are a common amenity for this type of hotel development. If the Spa were treated separately, and the City applied the City's parking standard for commercial uses at 1 parking space per 240 square feet there would be a requirement for 5 parking spaces for the Spa. However, this standard would not be used to analyze a Spa, because the Zoning Ordinance Section 17.51130D defines the parking standards for a Hotel, which is one space for each guest room, and any additional spaces that the planning commission determines are necessary for the owners and employees. Nevertheless, if one did apply a commercial standard for the Spa there would still be enough parking under the amended plan. The certified EIR shows there are 60 approved spaces for Rispin and the Library. *Table 10* shows 10 spaces for the Library, but the City eventually allocated 17 for the Library, and 43 for the Rispin Mansion. *Table 10* shows that the worst-case scenario required a total of 53 spaces for the Rispin project, which leaves seven available spaces that would address the parking need for the Spa.

Table 10 demonstrates that the proposed joint use parking lot would provide adequate parking for the Rispin Mansion project and the existing library at the Clares/Wharf site during a special event; i.e., weddings. *Table 10* shows that the peak parking demand would occur on Saturdays between 8:00 p.m. and 9:00 p.m. when there is expected to be a minimum parking surplus of 37 spaces.

The actual conditions are expected to require less parking for the following reasons:

- The Rispin Conservatory would accommodate 49 people and every event will not be at maximum capacity.
- Some wedding or meeting guests will stay at Rispin as hotel guests; therefore, they could be included twice in *Table 10*.

In addition to parking for the uses detailed above during the Saturday worst-case scenario, there may be additional demand for parking by the general public coming to visit the open space. However, this type of use would typically occur during daytime hours when parking demands from the other uses in *Table 10* would be below the peak parking demand, and would thus be accommodated within the proposed parking supply. Based on this analysis, the Rispin Mansion project with the Spa Facility would have a less-than-significant impact on parking in the local area.

TABLE 10 FROM THE FINAL CERTIFIED EIR

Worst-Case Hourly Parking Analysis – Saturday						
HOUR OF DAY	RISPIN MANSION				LIBRARY	TOTAL
	HOTEL					
	% OF PEAK	SPACES	WEDDING SPACES	TOTAL SPACES	SPACES REQUIRED	SPACES REQUIRED
0:00	100%	29	0	29	0	29
1:00	100%	29	0	29	0	29
2:00	100%	29	0	29	0	29
3:00	100%	29	0	29	0	29
4:00	100%	29	0	29	0	29
5:00	100%	29	0	29	0	29
6:00	90%	26	0	26	0	26
7:00	70%	20	0	20	0	20
8:00	60%	17	0	17	0	17
9:00	50%	15	0	15	3	18
10:00	40%	12	20	32	10	42
11:00	35%	10	27	37	10	47
12:00	30%	9	27	36	10	46
13:00	30%	9	27	36	10	46
14:00	35%	10	5	15	10	25
15:00	40%	12	5	17	10	27
16:00	50%	15	20	35	10	45
17:00	60%	17	27	44	0	44
18:00	70%	20	27	47	0	47
19:00	80%	23	27	50	0	50
20:00	90%	26	27	53	0	53
21:00	95%	28	5	33	0	33
22:00	100%	29	0	29	0	29
23:00	100%	29	0	29	0	29
MAXIMUM HOURLY PARKING DEMAND						53
PROPOSED SPECIAL-EVENT PARKING SUPPLY						90
PARKING SURPLUS AT WORST-CASE PARKING DEMAND						37

Emergency Access Gate

In order to provide emergency access to the site, and meet Fire Standards, an emergency gate is required onto the Mansion grounds near the intersection with Clares Street, via the gardens to the Conservatory. In addition the garden path and turf will be constructed to carry the necessary loads for emergency vehicles. In appearance this change in landscaping will be imperceptible. (See Sheets L-1, C-5.1, and C-5.2 of Attachment 4 Proposed Plan Set.)

Mansion ADA Ramp

An ADA ramp is required to access the Mansion and Hotel from the gardens and grounds. The design originally approved would have required removal of significant oak trees and could not be engineered to meet the standards for required path grades. Conditions of approval and building codes require provision of ADA access throughout the site. The revised location is immediately south of the garden and reflecting pool. This location is outside of the identified Monarch butterfly overwintering areas. It is in a location that contains non-native invasive vinca understory plants. Entomologist Richard Arnold reviewed the design of the pathway in this location and determined it would not result in impacts to Monarch butterflies or their habitat. (See Sheets A-0.4, L2, and A-1.2.)

Well House Relocation

As required by condition of approval and authorized by SHPO, the Well House will be reconstructed to meet historic rehabilitation standards. However, in order to save significant large eucalyptus trees that have grown into the Well House foundations, the structure will be moved approximately 12 feet northeasterly. The Well House will be reconstructed to the exact same size and appearance. This relocation has been approved in concept by SHPO per a staff phone consultation. An amendment to the SHPO approval will be required. The new location is in an area overgrown with non-native invasive vinca. Entomologist Richard Arnold was consulted about this new design and finds it to be a superior plan as the eucalyptus trees would be maintained.

The Rispin Garden

The Rispin Garden will be restored to its historic grandeur and used as a public garden. The Rispin Garden, on occasion, may be reserved for private parties, weddings, business meetings, and other similar activities. No changes are proposed.

Monarch Over-wintering Habitat

The Monarch Habitat will be preserved in compliance with the certified EIR and adopted mitigation measures. No new development is proposed for this area.

Tree Removal, Replacement, and Management

The project and the EIR anticipated trees would be removed and replaced with construction of the project, and over time as a tool to manage and enhance the habitats on site.

The EIR found that the Alternative 2 project eliminated development in the environmentally sensitive habitat area, and that beneficial habitat enhancement programs were proposed as part of the project. However, an impact was identified that outdoor guest/visitor activities during butterfly roosting season may disturb the roost area. Therefore, the adopted conditions of approval and mitigation measures (R-12 through R-26) provide measures to address this impact with significant requirements for evaluating trees, protecting them during construction, monitoring their long term health, trimming trees, tree removal, and replacement. The conditions require the oversight of a Monarch expert biologist, a botanist, and an arborist over the long term to assure the important habitats on site are protected and maximum tree protection is provided.

Condition 55 (also a EIR mitigation measure) requires a final landscaping and tree replacement/mitigation plan be reviewed by the Planning Commission for final approval. In April

2007, the Planning Commission considered the plan prepared by Nathan Lewis and approved it, with the understanding that its implementation would be in the context of a long-term adaptive management plan for enhancement of the habitats on site. Condition 55 prescribes replacement requirements for tree removal that will be followed. As well, it requires replacement of the existing acacias as determined by the consulting monarch biologist.

Since last April a more restrictive tree removal plan has been prepared, which reduces the number of trees expected to be removed to 22 (counting the Pittosporum hedgerow as 5 trees). The reduction reflects modifications to the proposed project (such as moving the well house, relocating the sewer pump station) and re-evaluating construction methods and tolerances to protect trees (such as re-designing the area near the garage door). The project arborist, Nathan Lewis, would supervise construction near trees to direct activities and methods during critical construction phases. (See Attachment 12.) Where possible trees will be relocated on site.

In order to clarify the tree removal associated with the project and to be consistent with the mitigation measures for tree removal and habitat enhancement, Condition 17 would be amended. Condition 17 is not a mitigation measure. The new section of Condition 17 relative to tree removal would read:

~~"Removal of no more than two oaks (Rispin Conservatory and Pathway to Rear), and one other tree for ADA pathway modification, and minor trees and shrubs currently growing within building envelopes; Any tree removal shall be consistent with conditions of approval, and mitigations regarding habitat protection and restoration, tree removal, tree protection, and replacement."~~

Rispin Main Gate and Driveway Entrance

Condition of Approval 38 (and EIR Mitigation Measure 38) requires fire and paramedic rescue access and egress into and within the site. Condition 41 (EIR Mitigation Measure 72) requires all buildings to comply with all current, applicable codes, standards, and ordinances. The EIR finding relative to compliance with these fire and life safety codes noted that the mitigation must not conflict with, and should be in coordination with, the mitigation measures to protect habitats on site.

In order to comply with Fire Standards the main entrance driveway must be constructed to carry the weight and load of emergency vehicles. This requires a certain base compaction and grading for the driveway length. As a result, 4 acacia trees near the entrance must be removed since their roots would be substantially damaged. All of these acacia have significant lean to them and/or are in failing health. Staff and the applicant's engineers evaluated a number of options to determine if a design could be developed to maintain the trees. There is no other feasible option that would meet safety standards.

Condition 55 (mitigation R-15) allows for and requires removal of the acacia as suitable replacement trees are planted, per consultation with the monarch biologist. In order to remove these acacia for the driveway improvements, significant replacement trees will be planted in the vicinity of the entrance driveway under the direction of the biologists and the arborist. Under supervision of the monarch biologist, this will be carried out to protect the habitat values on site, in coordination with the mitigation measures. As there are acacia and other trees serving to provide windbreaks and dappled light in the immediate vicinity, with tree replacement, removal of these acacia will not conflict with the overall mitigating impacts of mitigation measures R-12 through R-26.

Coastal Permit

A portion of the project site is within the Coastal Zone of Capitola. Capitola has a certified Local Coastal Program and the authority to issue Coastal Permits within the City, including on the Rispin site.

The City issued a Coastal Permit for the original approved project on March 24, 2005. (See Attachment 3, Resolution 3443.) Some of the proposed amendments to the plans are located in the Coastal Zone and require amendment to the Coastal Permit. These include:

- Addition of the elevated path in the back of the Mansion,
- Modifying the entry gate and access design,
- Modifying the ADA path from the garden to the Mansion,
- Relocating the Well House

This project contains a Coastal Permit, approval of which is appealable to the California Coastal Commission, as it includes development within 100 feet of a stream. Any appeal must be filed with the Coastal Commission within 10 business days of receipt by the Coastal Commission of notice of final local action.

California Environmental Quality Act (CEQA)

The City Council certified the Final EIR for the Rispin project for the purpose of approving the zoning entitlements in September 2004 and again in March 2005. Council adopted a Statement of Overriding Considerations and approved the project based upon adoption of Findings, Conditions and a Mitigation Monitoring Program (See Attachments 2 & 3.) The amended project is substantially the same as the project evaluated in the certified EIR and approved by the City Council on September 1, 2004 and March 24, 2005; therefore, the certified EIR mitigations apply to the amended project. The project amendment will not create any adverse impacts, nor would it increase impacts that have been addressed in the certified EIR as mitigated, as it is substantially the same project that was approved by the City Council and referenced in the Environmental Impact Report, which was certified by the City Council.

RECOMMENDATION

Staff recommends adoption of the proposed Resolution (Attachment 1) and approval of the proposed project modifications and amendments to the adopted conditions of approval, consistent with the certified EIR and subject to all mitigation measures previously included in Resolution 3393.


1. Approval of the revised Plan Set entitled "Application 08-014: Amendments to Permits #97-95 and #05-005) Submittal March 27, 2008" date stamped March 21, 2008, including the following modifications:
 - a. Addition of a 1,192 square foot Spa facility,
 - b. Relocate guest rooms and construct two as a partial second story on the "Villas" buildings,
 - c. Modify the Conservatory building design and increase the size by adding a lower level with consolidation of other site improvements into the building,
 - d. Add an emergency access gate,
 - e. Modify the entrance gate design,
 - f. Move the restored Well House about 12 feet northeasterly,
 - g. Add an elevated access walkway to the back of the Mansion in the location of an existing walkway,
 - h. Move the rebuilt pedestrian/bicycle path an additional 6 feet north,
 - i. Modifications to comply with ADA pathway design requirements, and

- j. Construction of a concrete plaster wall instead of wrought iron in the vicinity of the Conservatory.
2. Modify Conditions of Approval as shown in Exhibit B to the Draft Resolution (Attachment 1), including:
- a. Amend Conditions 2, 3, and 104 to allow construction of the Conservatory at the same time as the rest of the project construction, restricting occupancy until a Conservatory Use Program and Parking Management Program is approved by the City Council,
 - b. Amend Conditions 12 and 59 to clarify conditions relative to vehicles on the Rispin Site consistent with mitigation measures of the EIR and other conditions,
 - c. Amend Condition 17 relative to tree removal consistent with mitigation measures of the EIR and other conditions,
 - d. Amend Condition 15 and 56 to require a handrail along the Rispin/Peery path as determined necessary by the Building Official.
 - e. Amend conditions directly related to the project changes described in Item 1. above, and
 - f. Other minor condition amendments for clarification.

FISCAL IMPACT

The financial details and fiscal impact will be discussed by the City Council and Redevelopment Agency Directors at a joint public hearing in the near future regarding compliance with the terms of the Lease and Development Agreement and approval of a Lease Agreement.

Report Prepared By: Anthony J. "Bud" Carney, AICP, Consulting Planner
and Juliana Rebagliati, Community Development Director

Reviewed and Forwarded By:
City Manager: 
(acting)

ATTACHMENTS

- 1. Draft Resolution Approving Application #08-014.
- 2. RESOLUTION NO 3393: Resolution of the City Council of Capitola certifying the Final Environmental Impact Report and adopting a statement of overriding considerations, and approving Application #97-95 as amended, based upon adoption of findings, conditions, and a mitigation monitoring program for the Rispin Development project adopted by the city council on September 1, 2004 (incorporated by reference into new coastal permit).
- 3. RESOLUTION NO 3443: Resolution of the City Council of Capitola certifying the Final EIR and adopting a Statement of Overriding Considerations, and Approving Coastal Permit Application #05-005, based upon adoption of Findings, conditions and a mitigation monitoring program.
- 4. Proposed Project Plan Set (Application #08-014) *
- 5. Tree Removal Plan Sets *
- 6. Approved Project Plan Set (Application #97-95 and #05-005)

CCC Exhibit 7
(page 12 of 20 pages)

EXHIBIT A**FINDINGS**

1. **FINDING:** The Permit is for amendment and modifications to approved Conditional Use, Architectural and Site Design, Planned Development, and Coastal Permits for the Rispin Project, for changes that are described in the Rispin Project Amendments staff report for the March 27, 2008, City Council meeting, including modifications to the Conditions of Approval contained herein as Exhibit B, and in substantial compliance with the Project Plan Set (Submittal: March 27, 2008) distributed with the staff report and date stamped March 21, 2008, and the Rispin Guest Room 101 Access Redesign pursuant to letter dated April 4, 2008, from Barry Swenson Builder.

EVIDENCE: Staff reviewed the project as contained in the application and accompanying materials for consistency with:

- 1) The certified City of Capitola Local Coastal Plan;
- 2) The City of Capitola General Plan;
- 3) The City of Capitola Municipal Code Zoning Ordinance; and
- 4) The resolutions of the subject approved permits.

EVIDENCE: Plans and materials contained in Application File Nos. #08-014, #05-005, and #97-95.

2. **FINDING:** The establishment, maintenance, or operation of the project applied for will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood or to the general welfare of the City.

EVIDENCE: The project, as described in the application and accompanying materials contained in the application file, was reviewed by the Community Development Department, and other relevant departments and agencies as appropriate. Conditions have been incorporated where appropriate to ensure the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood or the City in general. All conditions of the subject previous permits remain appropriate and applicable to the project and this approval, except as amended herein in Exhibit B.

3. **FINDING:** The project amendments will not have a significant adverse impact on the environment pursuant to the California Environmental Quality Act (CEQA). All findings, the statement of overriding consideration, impacts, mitigation measures, and mitigation monitoring program contained in Resolutions 3393 and 3443 and the Certified Final EIR for the project, remain applicable and appropriate to the project amendments.

EVIDENCE: The amendments and modifications to the Conditional Use, Architectural and Site Design, Planned Development, and a Coastal Permits for the Rispin Project do not intensify development, do not create adverse environmental impacts not previously addressed in the adopted Final EIR, and there are no changed sets of circumstances relative to the environmental setting or impacts.

EVIDENCE: The number of hotel guest units will remain 25, with the addition of a Spa. The Spa is a common feature and part of most "upscale" hotels, and does not generate a need for additional parking that cannot already be accommodated based upon the conclusions within the Traffic section of the certified EIR. Conditions of approval limit the number of people who can use the hotel and ancillary facilities. While the Spa results in two guest units being built at a higher elevation than anticipated in the EIR, there is no significant loss of view from public viewing points.

The change in timing of construction of the Conservatory will minimize the time of construction related noise and traffic. Because the change does not allow use of the Conservatory until the mitigation measures concerning traffic have been complied with, there will be no new or difference environmental impacts beyond those addressed previously in the EIR.

The changes in architecture, and location of certain facilities will have no new impacts inasmuch as the changes to the footprint of the buildings and the overall square footage are too insignificant to cause a change in impacts.

The changes in location of the ADA approved pathways do not entail any location having environmental impacts greater than those identified in the previously prepared Final EIR.

Changes in the trees removed to accommodate construction and maintenance was contemplated in the original conditions of approval and in the Final EIR. Thus the changes in the trees proposed for removal to accommodate the final plans for construction do not involve any impacts not previously addressed in the EIR. Further, pursuant to the conditions previously approved, the changes to the trees being approved for removal has been approved by both the arborist and butterfly experts designated to monitor the health of the butterfly habitat on the subject property as having no adverse impact upon the quality or quantity of butterfly habitat.

EVIDENCE: The City Council adopted Resolution No. 3393 on September 1, 2004 and Resolution No. 3443 on March 24, 2005, certifying the Final EIR for the purpose of approving Conditional Use Permit and Architectural and Site Review Design Permit #97-95 and Coastal Development Permit Application #05-005, and adopting a Statement of Overriding Considerations, Mitigation Measures, and a Mitigation Monitoring Program.

EVIDENCE: An Environmental Checklist for Supplemental Environmental Review of the Rispin Mansion Project Amendments (Application #08-014) was prepared to evaluate the proposed project revisions relative to the certified EIR and mitigation measures, and is incorporated by reference to this resolution including supporting material in the project file,

EVIDENCE: Based on the conclusions of the Supplemental Environmental Review the project amendment will not create any adverse impacts, nor would it increase impacts that have been addressed in the certified EIR as mitigated, as it is substantially the same project that was approved by the City Council and referenced in the Environmental Impact Report, which was certified by the City Council.

EVIDENCE: No subsequent or supplemental environmental impact report is required as: a) there are no substantial changes in the proposed project which require major revisions to the Final EIR; b) there are no substantial changes with respect to the circumstances under which the project is being undertaken which require major revisions to the Final EIR; and c) there is no new information which was not know and could not have been known at the time the environmental impact report was certified as complete.

4. **FINDING:** This project contains a Coastal Permit, approval of which is appealable to the Coastal Commission, as it includes development within 100 feet of a stream. Any appeal must be filed with the Coastal Commission within 10 business days of receipt by the Coastal Commission of notice of final local action.

EVIDENCE: City of Capitola's certified Local Coastal Plan, specifically Capitola Municipal Code Section 17.46.110 Appeals, and the Post LCP Certification Permit and Appeal Jurisdiction City of Capitola map (certified August 10, 1990).

EXHIBIT B

AMENDED CONDITIONS OF APPROVAL

The permit (Application #08-014) is for amendments to Conditional Use Permit, Architectural and Site Review Design Permit, Planned Development Permit, and Coastal Permits for modifications that are described in the staff report for the Rispin Project Amendments March 27, 2008 City Council meeting, including modifications to the Conditions of Approval contained herein as Exhibit B, and in substantial compliance with the project plan set entitled "Application 08-014: Amendments to Permits #097-95 & #05-005" (Submittal: March 27, 2008) distributed with the staff report and date stamped March 21, 2008.

The Coastal Permit amendment incorporates by reference Resolution No. 3443 adopted March 25, 2005, which certified the final environmental impact report and adopted a statement of overriding considerations, and approved coastal permit application #05-005, based upon adoption of findings, conditions and a mitigation monitoring program for the Rispin development project.

Except for the following amendments to Conditions of Approval of Resolution No. 3393, the amended project incorporates the remainder of all conditions contained within Resolution No. 3393 adopted September 1, 2004, for Conditional Use Permit, Architectural and Site Review Design Permit, and Planned Development Permit #97-95.

AMENDMENTS TO EXHIBIT B OF RESOLUTION NO. 3393

2. The project shall be constructed in phases, with Phase 2 consisting of the Rispin Conservatory structure and associated improvements, and Phase 1 consisting of all other aspects of the development project. A building permit for the Phase 2 Rispin Conservatory shall not be issued until ~~completion of the~~ applicant pays for the engineering of the improvements to Wharf/Clares intersection, 41st/Clares intersection, and Clares Sreet traffic calming projects, and pays for their fair share of construction of the improvements. While both Phases may be under construction at the same time, in no case shall an occupancy permit be issued for the Phase 2 Conservatory prior to the City Council approval of a final Conservatory Use Program and Parking Management Program at a public hearing, are completed, and also not any sooner than two (2) years after completion of the other improvements, after City Council approval of a final Conservatory Use Program and Parking Management Program at a public hearing. The Parking Management Program may include a proposal for shared parking, shuttle program, and/or valet parking, all of which is subject to final approval by the City Council. The Conservatory building shall be designed for an occupancy not to exceed 49 persons.

3. Prior to issuance of a Building Permit for the Rispin Conservatory, the applicant shall submit for City Council approval at a public hearing a Rispin Conservatory Use Program and Parking Management Program, which details the number, type and intensity of planned usage of the Conservatory, and which identifies adequate off-site parking supply and/or shuttle programs to meet parking demands for peak parking demands of the combined operations of the Rispin Mansion and Rispin Conservatory. ~~Data collected over the prior 2 years shall be used to define the use program and to substantiate the parking demand for the combined Mansion + Conservatory proposed uses.~~ In conjunction with approving the use and parking programs, the City Council shall establish maximum simultaneous occupancy of site facilities, which will revise condition #11 below. The City Council shall approve the Rispin Conservatory Use Program and Parking Management Program at a public hearing prior to issuance of an occupancy building permit for the Conservatory.

Conservatory & parking outside coastal zone; intersection outside of appeal zone.

Outside
appeal
zone

12. ~~Use of the paved on-site Rispin driveway/parking area shall be limited to facility service/operation vehicles, either in ZEV or standard vehicles, in accordance with the monarch butterfly expert's direction and consistency with biological conditions of approval. Guests of the Rispin Mansion uses shall be prohibited from driving onto the site, and no guest parking on the Rispin site shall be allowed. All guest drop-offs shall occur in Zero Emission Vehicles, at all times of the year. The operator shall mail and otherwise make available information to guests at the time of reservation and check-in, consisting of a map and instructions for use of the Clares/Wharf parking lot. [Note: Condition 12 was deleted, as it is inconsistent with Condition/Mitigation Measures 13 and 59.]~~

Architectural and Site Review

15. The plans submitted and approved for a building permit shall be in conformance with the approved Rispin Development Project presented to the City Council on July 29, 2004 (Application #97-95 as amended) with modifications contained in the plan set presented to City Council on March 27, 2008 (Application #08-014), which reflect but are not limited to the following specific modifications made during the public hearing process:

Outside
appeal zone

- Use of tile on all roofs rather than planted roofs on certain structures
- No excavated game/exercise/laundry/storage area
- Aviary eliminated from south area
- Abandon in-place the meandering pathway eliminated from south area located in the Monarch over-wintering habitat.
- No formalized parking area on site; only existing paved driveway/parking area to be used by facility operation and service vehicles in accordance with the approved Mode A/B operation.
- Well house to be historically reconstructed, as approved by SHPO restored, but not expanded in any way, including no patio/hardscape addition. No use of well house for caretaker's quarters/security, or for public restrooms, or for historical/butterfly interpretive center. Proposed use of well house for storage/ancillary uses only. Final plans to include historic rehabilitation of the full well house, including lattice tank enclosure. The Well House may be relocated in close proximity to its current location, in an easterly direction in order to save large eucalyptus trees, as approved by SHPO.
- No incubation program for monarch butterflies.
- South end driveway to be restored with porous material; no expansion beyond existing dimensions.
- Revised joint use parking lot design to provide a 57-space parking lot to meet combined demand of the library and Rispin uses, while also ensuring independent access at all times to 17 "library" parking spaces/loading zone, and 40 "Rispin" spaces during "normal" mode and 70 spaces during possible "valet" mode.
- Reduction of size of Conservatory building by 180 square feet, to a 1,628 square foot facility to accommodate 49 persons. Conservatory to be constructed as a second phase, no sooner than 2 years after completion of Phase 1 improvements. The Conservatory may be constructed to accommodate: A dining room that seats a maximum of 49 people, a standard commercial kitchen; two ADA restrooms; office and storage; and, to the extent possible consolidate on site facilities, such as: ZEV parking, Chiller, etc.
- Refined ADA-compliant access pathways through the site.
- No woodburning fireplaces.
- Weather Monitoring Stations may be installed as approved by the Community Development Director.

Outside
appeal
zone

Outside
appeal
zone

outside
appeal
zone

16. The applicant shall construct a stairway connection behind the Conservatory building that allows pedestrians public access between Wharf Road and the Rispin-Peery pedestrian pathway. The applicant shall modify the Rispin-Peery pathway in the area of the north driveway to provide an ADA-compliant connection, generally in conformance with the diagram submitted to the Planning Commission on November 20, 2003, to, and approved by the City Council on March 27, 2008. The existing "driveway" between Wharf Road and the Rispin-Peery pedestrian and bicycle pathway shall be improved with a handrail as determined by the Building Official.

17. Site work proposed for the Rispin Mansion grounds and the Clares/Wharf parking lot shall include the following (the following description is detailed but not intended to strictly describe and limit improvements; the project shall be in substantial conformance with the features described below):

Rispin Mansion:

Removal of all existing utility lines underground and installation of new needed facilities;

A note shall be placed on the final building plans indicating that the utilities shall be underground to the nearest utility pole in accordance with Public Works Department requirements;

Removal of asphalt, and concrete driveways/pathways, which are largely buried, and replacement with brick pavers and/or decomposed granite pathways;

Development of pervious driveway improvements within the prism of the existing Rispin driveway that accommodates all infrastructure and circulation requirements, and an on-site parking/circulation area to accommodate service and operation vehicles, and including guest drop off by operator ZEV and other approved vehicles that travel from the Clares/Wharf parking lot;

Installation of new water service, including fire and domestic lines to each of the existing and proposed buildings, using water-saving features such as low-flow fixtures, EPA Energy Star appliances, a recirculating fountain, and drip irrigation;

Installation of a sewer pump that will be connected either with sewer lines along Wharf Road or Clares Street;

Grading for the proposed new buildings and parking;

~~Removal of no more than two oaks (Rispin Conservatory and Pathway to Rear), and one other tree for ADA pathway modification, and minor trees and shrubs currently growing within building envelopes; Any tree removal shall be consistent with conditions of approval, and mitigations regarding habitat protection and restoration, tree removal, tree protection, and replacement.~~

Installation of a six-foot wrought iron fence, adjacent to the monarch butterfly habitat along Wharf Road from the well house to south end property line, to separate the site from the road, and construction of a new ~~wrought iron fence~~ plaster concrete wall surrounding the remaining property to supplement the original wall near the north end around the Conservatory (wrought iron fencing final details to return to the Planning Commission for final approval);

Landscaping with materials appropriate for the monarch butterfly habitat and riparian vegetation; using native species in areas other than the Rispin Garden & monarch area.

Incorporation of a monarch public education system;

Driveway is
outside appeal
zone

No oak trees
need to be
removed

consistent
w/special condition
#55 - see
Exhibit 6

outside
appeal zone

Rehabilitation and/or restoration of the following Rispin Garden features, using pictures of the original:

Rispin Garden:

Rose arbor,
Sun dial,
North end rock wall near the Rispin-Peery trail,
Overlook balustrade,
Reflective pool/fountain,
Grand stairway,
Balustrade in cast stone,
Brickway and terraces surrounding the lawn and fountain,
Lawn and landscaping, and
The cast stone wall along Wharf Road (existing location)

Clares/Wharf Parking Lot:

Addition of trees and entrance landscaping, to be maintained by operator
Widening of one library space nearest Wharf Rd, to serve as joint use loading space
New trash enclosure for library
New light standards in parking lot no more than 15' tall
Resurfacing and restriping of parking lot, to achieve 2% slope
Construction of ZEV/Valet/Registration building and ZEV parking area
Installation of a gate on pedestrian path at entrance from library to Francesco housing
Designation of appropriate handicap parking spaces
Installation of a bus turnout along the Clares Street library frontage

18. Improvements to the structure and within the interior of *Rispin Mansion* shall be in substantial accordance with the approved plans, including the 25-room schedule shown on pages A2-1 of the plans submitted to and approved by the City Council on March 27, 2008 (the following description is detailed but not intended to strictly describe and limit improvements; the project shall be in substantial conformance with the features described below):

Asbestos testing and removal, and
Testing the basement foundation, and
Strengthening the floor framing system, and
Meeting structural requirements.

The following features of the Mansion shall be repaired or restored, using historic photos, depending on their condition (i.e., features made of wood that have dry rot will be repaired or replaced to match existing features):

Two structurally unsound chimneys;
Doors;
Window frames and sashes;
Walls (including removing lath that supported old plaster, and restoration with drywall);
Moldings; and
Stairs and flooring.

The following shall be added to the Mansion:

New floors in bathrooms,
Hydronic heating,
Standard plumbing,
Electrical systems,
Insulation,
Gas,
Phone and cable systems.

The following shall be included in the Rispin Mansion project:

Adding new windows and new doors;
Removing and adding interior walls;
Adding a small set of stairs on the east elevation;
Adding a handicap elevator/lift along the west side of the Mansion, using best available technology;
Removing and replacing the roof;
Rebuilding the main and secondary chimneys;
Restoring by plastering wherever needed over the concrete walls;
Removing mildew;
Applying masonry surface conditioner; and Power washing and painting the exterior.

56. Widening of the existing driveway on the south side of the site shall not be allowed. (R-16)
A handrail shall be installed on the north portion of the driveway between Wharf Road and the Rispin-Peery pathway as determined by the Building Official. The existing "driveway" between Wharf Road and the Rispin-Peery pedestrian and bicycle pathway shall be improved with a handrail as determined by the Building Official.

Responsible Party: Applicant shall include measure/design in the plans for the City to review and approve.

Timing: Prior to grading permit issuance.

59. During facility operation between October 1 and February 28 of each year, the monarch biologist shall determine whether the existing paved on-site Rispin driveway/parking area shall only be accessed by Zero Emission Vehicles for guest drop-off and deliveries, as outlined in the Mode A/B Site Operation Program discussed in the EIR. The operator shall only use ZEVs to access the site if so directed by the monarch biologist. Between March 1 and September 30, use of the site for service and operation purposes in standard vehicles, in addition to the above, will be acceptable ~~(it is prohibited that guests drive on site and it is prohibited that valet vehicles be standard vehicles)~~. Vehicles taller than the lowest tree canopies shall be restricted from entering the site. (R-21)

Responsible Party: Applicant shall include measure in operational documents for the City to review and approve.

Timing: Prior to final inspection/occupancy; ongoing during project construction.

88. The applicant shall maintain an exhibit documenting and interpreting the history of the Rispin Mansion and its place in the community within the lobby, hallway, or other suitable location within the Mansion. (R-48)

Responsible Party: Applicant shall include design in the plans for City to review and approve.

Timing: ~~Prior to building permit issuance.~~ Prior to final occupancy.

CCC Exhibit 7
(page 19 of 20 pages)

outside
Coastal
zone

Driveway
is outside
appeal zone

Timing
changed
only

104. The parking lot at the Clares/Wharf site shall be improved to provide the proposed 57 parking spaces, net of ZEV parking/valet kiosk space and of library trash and recycling facilities. Although the library parking *requirement* under the zoning ordinance and the approved library permit is for only 10 spaces, the joint use parking lot shall be operated to provide 17 parking spaces dedicated for library use during library hours of operation, capable of being accessed and used by the public independent of any Rispin Mansion parking operations. To the extent that it would not interfere with Rispin Mansion uses, library users shall be allowed to use "Rispin" spaces that are available due to non-utilization by Rispin patrons, but may be restricted by the Rispin operator if needed to ensure availability for Rispin uses. During library hours of operation, Rispin Mansion lodging, wedding, and/or meeting uses shall not cumulatively demand more than 40 spaces, unless an off-site parking and shuttle system is approved by the Capitola City Council in accordance with use permit conditions of approval, which will need to allow for separate and independent access and use of 17 parking spaces for library users. Under any operational scenario, employees shall be prohibited from parking in the Clares/Wharf parking lot, and the applicant shall provide bus passes to any employee requesting such. In accordance with conditions of use permit approval for Phase 2 use of the Conservancy, prior to issuance of a Certificate of Occupancy Building Permit for the Rispin Conservatory, ~~prior to issuance of a Building~~ the applicant shall submit for City Council approval a Rispin Conservatory Use Program and Parking Management Program, which details the number, type and intensity of planned usage of the Conservatory, and which identifies adequate off-site parking supply and/or shuttle programs to meet parking demands for peak parking demands of the combined operations of the Rispin Mansion and Rispin Conservatory. In conjunction with approving the use and parking programs, the City Council shall establish maximum simultaneous occupancy of site facilities, which will revise condition #11.

Timing
changed
only



May 16, 2008

Juliana Rebagliati, AICP
Community Development Director
City of Capitola
420 Capitola Avenue
Capitola, CA, 95010

**Subject: Biotic Review of Access Redesign to Rispin Guest Room 101 and Tree Removal
for Utility Placement on the East Side of the Rispin Mansion**

Dear Juliana;

I have reviewed the proposed amendment and the proposed redesign of the access to proposed Room 101 on the east side of the Rispin Mansion and assessed whether or not the removal of the two big leaf maples and coast redwood tree adjacent to the back side of the mansion will result in a loss of stream shade cover for the riparian community along Soquel Creek. As proposed, the pathway as shown on Attachment A dated April 4, 2008, would not result in any removal of existing trees and would primarily occur in the same foot print as the existing walkway. This proposed feature will not result in any substantial change to the biotic environment that presently is found adjacent to the mansion. The buried utility corridor directly adjacent to the foundation wall on the east side of the mansion will require the removal of three smaller sized trees as shown on Site Plan Sheet C4.1 dated April 9, 2008. These trees provide minimal shade canopy and lean toward the mansion in an attempt to increase sunlight capture due to shading from the mature grove of coast redwood trees east towards the creek. None of these individual trees occur within the riparian habitat as characterized in the project environmental documents and delineated on the above cited figure. These trees do not offer critical shade cover for the creek or wind protection to the monarch butterfly grove to the south. As currently proposed in Amendment to Application #08-014, these proposed project developments will not result in new biological adverse impacts or require modification of mitigation measures and conditions proposed for the project.

Sincerely,

A handwritten signature in black ink, appearing to be "BD" followed by a horizontal line.

Bill Davilla, Principal

Cc: Susan Craig, California Coastal Commission

CCC Exhibit 8
(page 1 of 2 pages)

Richard A. Arnold, Ph.D.
President

Entomological Consulting Services, Ltd.

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19 May 2008

Juliana Rebagliati, AICP
Community Development Director
City of Capitola
420 Capitola Avenue
Capitola, CA 95010

RE: Rispin Mansion in Capitola, CA
Effects of Tree Removal on East Side on Monarch Butterfly Overwintering Habitat

Dear Juliana:

I have reviewed the proposed tree removal plan prepared by Joe Akers regarding the removal of two big leaf maples (9 and 12 in. diameters) and one redwood (12 in. diameter) tree that are currently growing in close proximity to the east side of the Rispin Mansion. I have also evaluated any potential impacts of their removal on the Monarch butterfly's overwintering habitat, which is located in the southern portion of the Rispin Mansion site.

Since these three trees are located near the mansion and on its east site, they do not provide any wind protection or other benefit to the butterfly or its overwintering habitat. Because winter storms in the Capitola area generally come from the west and northwest, these trees do not provide any wind protection for roosting Monarchs. Furthermore, because the mansion building is situated between these trees and the overwintering grove, the mansion building, rather than these three trees, would provide the wind protection. These three trees are not used for any other butterfly activities, such as roosting or foraging, so their loss will not adversely impact the overwintering Monarchs or its overwintering habitat.

Sincerely,



Richard A. Arnold, Ph.D.
President

Cc: Susan Craig, California Coastal Commission