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Appeal filed:	7/17/2008
Staff report prepared:	8/21/2008
Staff report prepared by:	Susan Craig/Alyse Larkin
Staff report approved by:	Dan Carl
Hearing date:	9/11/2008

## APPEAL STAFF REPORT SUBSTANTIAL ISSUE DETERMINATION ONLY

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**Appeal number** .....A-3-SCO-08-036, **Pleasure Point Roadhouse demolition**

**Applicant**.....Leila Naslund

**Appellants** .....Ross Eric Gibson and Charles Paulden

**Local government** .....Santa Cruz County

**Local decision** .....Santa Cruz County Coastal Development Permit (CDP) 08-0090 approved by the Santa Cruz County Planning Commission on June 13, 2008.

**Project location** .....Inland side of East Cliff Drive between 38th Avenue and Larch Lane in the Pleasure Point area of Live Oak in Santa Cruz County (23905 East Cliff Drive, APN 032-181-08).

**Project description**.....Demolish a single-family dwelling, also known as the Pleasure Point Roadhouse, and associated outbuildings.

**File documents**.....Administrative record for Santa Cruz County CDP Number 08-0090; Santa Cruz County certified Local Coastal Program (LCP).

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

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### A. Staff Recommendation

#### 1. Summary of Staff Recommendation

Santa Cruz County approved a CDP to demolish a single-family dwelling and four associated outbuildings at 23905 East Cliff Drive in the Pleasure Point area of Live Oak in Santa Cruz County. The site is known locally as the Pleasure Point Roadhouse site. The Appellants contend that the County's action was inconsistent with the LCP because the Roadhouse is a historic resource that needs to be protected as an integral part of Pleasure Point's community character, and that it should be purchased and rehabilitated as a public park and community center.

Although staff too believes that the highest and best use of the Roadhouse site would be through rehabilitation as a park and community center, the LCP does not designate this site for such use and development, and does not require such an outcome here. Furthermore, although it is clear that the



Roadhouse has a historic pedigree that cannot be denied, the LCP does not protect historic resources. In fact, despite staff's longstanding recommendation to the County to include the historic resource components of the County's general plan and non-LCP zoning code in the LCP, the County has resisted, and the applicable County historic resource policies (including those associated with designating historic resources and dictating how development associated with them is reviewed and addressed) are not part of the LCP. Thus the only way in which the historic resource value of the Roadhouse and its site is reflected in an LCP sense is strictly in terms of its contribution to Pleasure Point's community character, a resource that is protected by the LCP.

In this respect there is no denying that the Roadhouse has long been a part of the community character since its original construction in 1902. Likewise, though, it is equally clear that Pleasure Point's character is eclectic, and has been in an evolving state of change that has only intensified due to gentrification in the recent past. It is difficult in this sense to clearly establish the manner in which one site—the Roadhouse site in this case—contributes to or is required to maintain the “character” of this particular community. In addition, the concept of “community character” can be somewhat nebulous at times, and staff recognizes that reasonable people will disagree on such character and/or defining elements of it as a result. In this case, staff believes that much of the character of Pleasure Point is rooted in the intrinsic relationship between the built environment, its inhabitants, and the surfing area offshore as opposed to a specific site or sites in that sense. Perhaps the most specific manifestation of that character is the densely developed, smaller scale housing stock that once predominated the Pleasure Point area, and that still defines much of the community despite more recent larger and more expansive residential projects in the last two decades. It is really more this type of close-knit, small-scale housing stock and related informal beach community aesthetic and ambiance that best defines Pleasure Point's charm and appeal, and perhaps best defines what the community's character is and should be in an LCP sense.

Given that context, the demolition of the Roadhouse should not significantly adversely affect the community character of Pleasure Point inconsistent with the LCP. In fact, as a larger residential structure on a large piece of property (nearly an acre) with larger undeveloped spaces and outbuildings, the Roadhouse is somewhat atypical of the smaller scale, densely developed character described above, and its character contribution is as much in its historicity and its differences (that contribute to the eclectic built environment mix in this respect) than its similarities. The Roadhouse strikes an attractive craftsman silhouette as seen from East Cliff Drive (the main through public road in Pleasure Point) and represents an interesting feature in the viewshed, but it is neither evocative nor representative of Pleasure Point as a whole. The Roadhouse is also in fairly bad shape, and is clearly falling apart due to its age and deferred maintenance over time. Again, although staff would like nothing better than for the Roadhouse to be restored and re-visioned as a public park and community center (and the County considered acquiring the property for this purpose, but ultimately abandoned this option due to excessive costs), it is not required by the LCP. Likewise, although it would have been preferable to be able to evaluate what will follow on the site after demolition, and it is unfortunate that the application and the County's action did not include any discussion of what happens next (other than it will be graded and seeded with erosion control grasses when demolition is complete), this is not an LCP compliance issue. Clearly, the LCP protects the community's character whether the site is redeveloped



from a blank slate or if it is developed as part of a demolition and building project at the same time. In fact, presumably the County could require a future project to emulate Roadhouse development elements as a means of fostering community character through continuity to the past.

In conclusion, the Roadhouse demolition project presents some difficult LCP questions, and some difficult LCP judgment calls, in relation to protecting Pleasure Point's community character. Although there are preferred outcomes for the site that differ from just the demolition authorized, including historically accurate reconstruction and salvage of historic materials/elements, these outcomes are not required by the LCP in this case. Likewise, the County could still require a future project to emulate the Roadhouse, and could still choose to pursue acquisition and park development at this location. Staff sympathizes with the Appellants' frustration with the process and outcome for the site, including with respect to the lack of historic resource protection provisions in the LCP, but believes that the County-approved project is not inconsistent with the LCP and that it should not significantly adversely affect the community character of Pleasure Point. Thus, although the appeal raises valid LCP questions deserving of thoughtful consideration, the appeal contentions do not raise a substantial issue with respect to LCP conformance.

**Staff therefore 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 CDP for the project.** The required motion and resolution are found directly below.

## 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 County'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-SCO-08-036 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 of the majority of the appointed Commissioners present.

**Resolution to Find No Substantial Issue.** The Commission hereby finds that Appeal Number A-3-SCO-087-029 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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## B. Findings and Declarations

The Commission finds and declares as follows:

### 1. Project Location

The proposed project is located on the inland side of East Cliff Drive between 38th Avenue and Larch Lane (at 23905 East Cliff Drive, APN 032-181-08) just upcoast of 41st Avenue and “The Hook” coastal accessway in the Pleasure Point portion of Live Oak beach area of unincorporated Santa Cruz County.



### Santa Cruz County Regional Setting

Santa Cruz County is located on California's central coast and is bordered to the north and south by San Mateo and Monterey Counties (see Exhibit 1). The County's shoreline includes the northern half of the Monterey Bay and the rugged north coast extending to San Mateo County along the Pacific Ocean. The County's coastal zone resources are varied and oftentimes spectacular, including the Santa Cruz Mountains coastal range and its vast forests and streams; an eclectic collection of shoreline environments ranging from craggy outcrops to vast sandy beaches (in both urban and more rural locations); numerous coastal wetland, lagoon and slough systems; habitats for an amazing variety and number of endangered species; water and shore oriented recreational and commercial pursuits, including world class skimboarding, bodysurfing, and surfing areas; internationally renowned marine research facilities and programs; special coastal communities; vast State Park lands; and the Monterey Bay itself. The unique grandeur of the region and its national significance was formally recognized in 1992 when the area offshore of the County became part of the Monterey Bay National Marine Sanctuary (MBNMS), the largest of the thirteen such federally protected marine sanctuaries in the nation.

Santa Cruz County's rugged mountain and coastal setting, its generally mild climate, and its well-honed cultural identity combine to make the area a desirable place to both live and visit. As a result, the County has seen extensive development and regional growth over the years that the California Coastal Management Program has been in place. In fact, Santa Cruz County's population has more than doubled since 1970 alone with current State estimates indicating that the County is home to over one-quarter of a million persons.<sup>1</sup> This level of growth not only increases the regional need for housing, jobs, roads, urban services, infrastructure, and community services, but also the need for park areas, recreational facilities, and visitor serving amenities. For coastal counties such as Santa Cruz where the vast majority of residents live within a half-hour of the coast, and most significantly closer than that, coastal zone resources are a critical element in helping to meet these needs. Furthermore, with coastal parks and beaches themselves attracting visitors into the region, an even greater pressure is felt at coastal recreational systems and destinations like Pleasure Point. With the Santa Cruz County shoreline and beaches providing arguably the warmest and most accessible ocean waters in all of Northern California, and with the large population centers of the San Francisco Bay area, San Jose, and the Silicon Valley nearby, this type of resource pressure is particularly evident in coastal Santa Cruz County.

Live Oak is part of a larger area, including the Cities of Santa Cruz and Capitola, that is home to some of the best recreational beaches and ocean waters in the Monterey Bay area. Not only are north Monterey Bay weather patterns more conducive to beach and ocean recreation than the rest of the Monterey Bay area, and not only is it also home to multiple world class surfing areas, but north bay beaches are generally the first beaches accessed by visitors coming from the north of Santa Cruz. With Highway 17 providing the primary access point from the north (including from the San Francisco Bay Area, San Jose and the Silicon Valley) into the Monterey Bay area, Santa Cruz, Live Oak, and Capitola are the first coastal areas that visitors encounter upon traversing the Santa Cruz Mountains (see Exhibit

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<sup>1</sup> Census data from 1970 show Santa Cruz County with 123,790 persons; California Department of Finance estimates for 2007 indicate that over 265,183 persons reside in Santa Cruz County (*State of California, Department of Finance, July 1, 2007 County Estimates Ranked by Size, Numeric and Percent Change since July 1, 2006*; Sacramento, California; July 2007).



1). As such, the Live Oak beach area (including Pleasure Point) is an important coastal access asset for not only Santa Cruz County, but also the entire central and northern California region.

#### Live Oak Beach Area

Live Oak is the name for the unincorporated segment of Santa Cruz County located between the City of Santa Cruz (upcoast) and the City of Capitola (downcoast) (see Exhibit 1). Historically, less affluent immigrants from Ireland, Germany, and Portugal generally settled the area. These immigrants carved out a living for themselves through oat, hay, and wheat farms as well as cattle and horse ranches. Through much of its early history, Live Oak was isolated and difficult to traverse. Lakes, lagoons, and clay patches dotted the landscape, and there were few roads or bridges. Heavy rains and high tides often caused washouts of roads that did exist. Due to the relative isolation of the area, emergency services and law enforcement were equally scarce. This allowed rum-running, speakeasies and brothels to flourish. By the 1920s, “Soquel Point” became unofficially known as “Pleasure Point.” Around this time, economic activities in the area expanded to include truck farms, chicken ranches, flower nurseries, and bulb fields. Additionally, the easily accessible beaches of the area attracted and nurtured a growing tourism industry. Tourist cottages and campgrounds sprung up along the coast adjacent to swimmer-friendly coves and beaches.

The Live Oak coastal area nowadays is well known for excellent public access opportunities for beach area residents, other Live Oak residents, other Santa Cruz County residents, and visitors to the area. Walking, biking, skating, viewing, skimboarding, bodysurfing, surfing, fishing, sunbathing, and more are all among the range of recreational activities possible along the Live Oak shoreline. In addition, Live Oak also provides a number of different coastal environments including sandy beaches, rocky tidal areas, blufftop terraces, and coastal lagoons. These varied coastal characteristics make the Live Oak shoreline unique in that a relatively small area (roughly three miles of shoreline) can provide different recreational users a diverse range of alternatives for enjoying the coast. By not being limited to one large, long beach, or solely an extended stretch of rocky shoreline, the Live Oak shoreline accommodates recreational users in a manner that is typical of a much larger access system. Agriculture, immigrants, and this unique coast combined to help create a number of defined neighborhoods and special communities in the Live Oak area. However, throughout a good portion the 20th century the community character that defined this area often went unrecognized.

Due in part to its predominantly agricultural history, Live Oak was often viewed by its more affluent neighbors as lacking in cultural focus. After World War I, much of Live Oak was opened up to development through increasing road construction. Live Oak was seen as convenient place to locate less desirable businesses, such as waste processing and certain types of industry. Additionally, as compared to other areas of the County, Live Oak was designated to receive higher density development in the early 1970s. Since then, Live Oak has seen a large amount of construction, and many of the original homes and businesses that were located in the area have been replaced and redeveloped.

Primarily residential with some concentrated commercial and industrial areas, Live Oak is now a substantially urbanized area with few major undeveloped parcels remaining. Development pressure has been disproportionately intense for this section of Santa Cruz County. Because Live Oak is projected to



absorb the majority of the unincorporated growth in Santa Cruz County, development pressure will likely continue to tax Live Oak's public infrastructure (e.g., streets, parks, beaches, etc.) as the remaining vacant parcels are developed and developed residential lots are re-developed with larger homes.<sup>2</sup> Given that the beaches are the largest public facility in and out of the Live Oak coastal zone, this pressure will be particularly evident along the shoreline.

#### Pleasure Point

Pleasure Point is the name of the predominantly residential area located roughly between upcoast Moran Lake and downcoast 41st Avenue (at the "Hook" where it transitions to the Opal Cliffs area). Pleasure Point is also the name of the offshore surfing area between Soquel Point (a.k.a. "Pleasure Point") and the Hook.<sup>3</sup> This area has an informal, beach community aesthetic and ambiance that clearly distinguishes it from inland commercial areas as well as the downcoast Opal Cliffs neighborhood towards Capitola. Housing stock is eclectic and densely crowded together. Though certainly in the midst of a gentrification that has intensified over the last decade or so, the Pleasure Point area retains its informal charm and appeal, much of it rooted in the intrinsic relationship between the built environment, its inhabitants, and the surfing area offshore.

Pleasure Point is an extremely popular recreational surfing destination that is well known around the world. It is not uncommon to see more than 100 surfers in the water, even more when there are prime surfing conditions, and to see small groups of people lining East Cliff Drive both enjoying the shoreline view and watching the surfing below.

#### East Cliff Drive

East Cliff Drive is the major coastal thoroughfare through the Live Oak beach area of Santa Cruz County, and is a major segment of the California Coastal Trail. This roadway winds through the Live Oak beach area from the Santa Cruz Harbor through to Opal Cliffs, providing shoreline and ocean vistas where it is not impeded by residential and other development. Substantial residential development has occurred seaward of East Cliff Drive that mostly blocks any available coastal vistas from the road. This is in contrast to some other nearby urban areas where the first through public road is located immediately adjacent to the ocean, and residential development is confined inland of it (for example, West Cliff Drive in the City of Santa Cruz). Although it is not developed with significant recreational trail amenities (lacking even sidewalks in most locations), East Cliff Drive is an important recreational and other access facility that is used by a significant number of people (i.e., drivers, joggers, bicyclists, walkers, etc.) on an everyday basis.

One of the most popular sections of East Cliff Drive in this respect is the area between 32nd and 41st Avenues in Pleasure Point. The LCP designates this section of East Cliff Drive as a County Scenic

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<sup>2</sup> Live Oak is currently home to some 20,000 residents, and the LCP indicates that build-out would add approximately 10,000 Live Oak residents, and would require 150 to 180 acres of park acreage. Although Live Oak accounts for less than 1% of Santa Cruz County's total land acreage, this projected park acreage represents nearly 20% of the County's total projected park acreage.

<sup>3</sup> There are a number of individually named breaks within the overall Pleasure Point surf area (such as Sewer Peak, First peak, Second Peak, 38th Avenue, etc.), but the overall surf area is often referred to and known as Pleasure Point.



Road. At this location, East Cliff Drive is mostly directly adjacent to the bluff edge, with a dedicated pedestrian/bicyclist area on the seaward side, providing mostly unimpeded ocean views,<sup>4</sup> including of the world class Pleasure Point surfing area located directly offshore. Benches and tables further add to this area's function as a gathering place of sorts for coastal visitors and the Pleasure Point community. The Commission recently authorized the Pleasure Point Parkway project that will update and enhance the East Cliff Drive public recreational access corridor between 32nd and 41st Avenues (with new recreational trails, landscaping, benches, stairways, etc.); construction is currently set to begin on this project in 2009.<sup>5</sup>

In sum, East Cliff Drive is an extremely popular recreational use area for Pleasure Point residents as well as visitors from other parts of Live Oak, other parts of the County, and from further away. East Cliff Drive is a component of the California Coastal Trail, and a component of the Monterey Bay Sanctuary Scenic Trail, and is used by a significant number of people (i.e., joggers, bicyclists, walkers, etc.). East Cliff Drive was changed to one-way vehicular access in 1995 (in response to erosion of portions of it) with the area nearest the bluffs marked out as a multi-use recreational trail by a series of plastic bollards. The East Cliff Drive corridor from 32nd through 41st Avenues provides an amazing coastal vista, and many persons also enjoy this view by parking in the limited number of parking bays and/or by simply driving through and taking in the view. The area will be the subject of a major public access improvement project beginning in 2009.

#### The Pleasure Point Roadhouse

The proposed project is located on the inland side of East Cliff Drive between 38th Avenue and Larch Lane at 23905 East Cliff Drive (APN 032-181-08) just upcoast of 41st Avenue and "The Hook" coastal accessway. East Cliff Drive fronting the property was the site of a major road repair and seawall project overlooking a small, but very popular beach area known locally as 38th Avenue Beach (also known as the Hook Beach and Pleasure Point Beach), and the road here is fronted by a railing atop the sidewalk and seawall developed as part of this project.<sup>6</sup> The subject property is approximately 38,800 square feet (see page 2 of Exhibit 1), and is occupied by a single-family dwelling (known as the Pleasure Point Roadhouse), a carriage house/barn, and three cottages. All five structures are clustered on the southern portion of the property nearest to East Cliff Drive. The northern half of the property is generally undeveloped and is mostly covered by brush and ruderal undergrowth. The surrounding area is comprised of a residential neighborhood that consists of single-family dwellings, townhouses, and condominiums. The property has a land use designation of R-UM (Urban Medium Residential) and is in the RM-4 zone district (Multi-family Residential – 4000 sq. ft. minimum site area).

It is clear from the administrative record in this matter that the Roadhouse has an interesting and lively history. Irish immigrant John Henchy bought the property from Walter and Emma Morgan on October 2, 1897. Henchy, a saloon and brothel owner who had immigrated to San Francisco in the mid-

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<sup>4</sup> There are three intervening residential structures seaward of East Cliff Drive interspersed along this stretch, each blocking through views and access in different ways.

<sup>5</sup> CDPs 3-07-019 and A-3-SCO-07-015, approved December 2007.

<sup>6</sup> County CDP 96-0024 in 1996.





nineteenth century, built the original 2½ story brown-shingle/craftsman style “Roadhouse” in 1902. The carriage house/barn was constructed around this time as well. The original configuration of the building included a residence upstairs and, allegedly, a saloon downstairs. Henchy also owned the beach across the street that was then known as Cozy Cove Beach. In 1907, Henchy donated an easement from his property to help construct East Cliff Drive and improve access to Soquel Point. A year later he sold the Roadhouse to Nicholas and Mary Neary, fellow Irish immigrants from San Francisco. During their ownership several alterations were made to the building. However, after Prohibition in 1920 and the death of his wife in 1921, Mr. Neary sold the property to German-born Merced farmer John Menzel and his wife Elizabeth.

The isolation of the Live Oak area during the Prohibition era served the Menzels well. At that time the Roadhouse became a speakeasy. According to the file, rum-runners would bury alcohol at Cozy Cove and the Menzels would then sell it at the Roadhouse. However, the building’s speakeasy days apparently only lasted five years. In 1926 the Roadhouse passed to the hands of Anton and Ida Peterson. Anton Peterson was a Danish immigrant who grew up in Michigan and later moved to the West Coast. The Petersons converted the downstairs area into a grocery store and gas station with fueling pumps out front, while retaining the upstairs residence for themselves. They also built three tourist cottages on the property and two across the street. The Cozy Beach Resort operated until 1971. During that time the grocery store and gas station became an integral part of the local surf culture, where one could gas up the Woody and grab a snack between sets. After the death of Ida Peterson in 1971, Leila Naslund, the current Applicant, bought the property. Ms. Naslund converted the grocery area into rental units and removed the gas pumps from the front of the property.

In 2007 and 2008, the Roadhouse was reviewed along with 40 other properties by the Santa Cruz County Historic Resources Commission as a part of the Live Oak Historic Resources Inventory Update. The Roadhouse generated a large amount of intense public interest regarding its potential as a historic landmark. The Live Oak History Project (a subcommittee of the County Historic Resources Commission) named the Roadhouse the most important landmark in the Pleasure Point area as well as one of the top 25 most important landmarks in Live Oak. Ultimately, three studies of the site were developed as part of this process.<sup>7</sup> After reviewing these reports the County Historic Resources Commission unanimously determined that the Roadhouse did not warrant the County’s historic designation (i.e., was not determined to have local historical significance), but instead was rated as National Register (NR)-6 (see Exhibit 14).<sup>8,9</sup> On February 12, 2008, the Board of Supervisors voted 3-2

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<sup>7</sup> The three studies were conducted by Sheila McElroy from CIRCA: Historic Property Development; Anthony Kirk, Ph.D. (an architectural historian); and Katherine Petrin from the Architectural Resources Group (please see Exhibits 11, 12, and 13).

<sup>8</sup> County Zoning Code (non-LCP) Section 16.42.080(c) states: “Designation Criteria. Structures, objects, sites and districts shall be designated as historic resources if, and only if, they meet one or more of the following criteria and have retained their architectural integrity and historic value: (1) The resource is associated with a person of local, state or national historical significance. (2) The resource is associated with an historic event or thematic activity of local, state or national importance. (3) The resource is representative of a distinct architectural style and/or construction method of a particular historic period or way of life, or the resource represents the work of a master builder or architect or possesses high artistic values. (4) The resource has yielded, or may likely yield information important to history or prehistory.”



to designate the site NR-6. In other words, the Board determined that the Roadhouse was not historic per the County (non-LCP) Code, and thus wasn't protected as a County historic resource.

## 2. Project Description

The proposed project is to demolish the Roadhouse and the related outbuildings on the site, to grade the site evenly, and to seed the site with an erosion control grass seed mix. The project does not include new development on the site past the demolition.

## 3. Santa Cruz County CDP Approval

On June 13, 2008, the Santa Cruz County Planning Commission approved CDP Application Number 08-0090. The Planning Commission's approval was not appealed locally to the Board of Supervisors.<sup>10</sup> On July 2, 2008 notice of the County's final CDP action was received in the Commission's Central Coast District Office. The Coastal Commission's ten-working day appeal period for this action began on July 3, 2008 and concluded at 5 p.m. on July 17, 2008. Two valid appeals (see below) were received during the appeal period.

## 4. 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,

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<sup>9</sup> County Zoning Code (non-LCP) Section 16.42.080(d) states: "Rating of Significance. For purposes of administering the historic preservation program, general public information, and to aid in the nomination of historic resources to the National Register, designated historic structures, objects, sites and districts shall be assigned a National Register (NR) Rating Code for historic significance based upon guidelines published by the United State Department of Interior, National Park Service as follows: NR 1. A property listed in the National Register of Historic Places. NR 2. A property that has been determined to be eligible for listing on the National Register by the U.S. Department of the Interior. NR 3. A property eligible, in the opinion of the County Historical Resources Commission, to be listed on the National Register of Historic Places. NR 4. Property which may become eligible for listing on the National Register if additional research provides a stronger statement of significance, or if the architectural integrity is restored. These buildings have either high architectural or historic significance, but have a low rating in the other categories. NR 5. A property determined to have local historical significance." County Zoning Code (non-LCP) Section 16.42.080(f) states: "Potentially Significant Properties. The County shall maintain a listing of those properties which have been evaluated and determined to be ineligible for designation as an historical resource based on the criteria in paragraph (c) above and/or due to their deteriorated architectural integrity or condition. These properties shall be given a rating of significance of NR-6 and may be reevaluated periodically based on new conditions of improvements to the architectural integrity and condition of the structure."

<sup>10</sup> Because the County charges a fee for such appeals, potential appellants are not required to exhaust their local appeal remedies prior to appealing to the Commission. Unfortunately, this means that local appellate bodies are not afforded the opportunity of potentially addressing LCP-related issues and heading off appeals to the Coastal Commission. Commission staff have long recommended to the County that fees on local appeals for CDP items be eliminated so as to allow the local appeal process to function properly as envisioned, and to hopefully resolve local appeal issues locally (and ultimately to avoid appeals to the Commission). However, to date, the County has resisted this recommendation.



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 County's decision on this project is appealable because it involves development that is located within 300 feet of the top of the seaward face of the coastal bluff fronting East Cliff Drive.

The grounds for appeal under Section 30603 are limited to allegations that the 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 an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under Section 30604(b), if the Commission conducts a de novo hearing 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 approved the project following a de novo hearing.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant and the Applicant's representatives, 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 CDP determination stage of an appeal.

## 5. Summary of Appeal Contentions

The Appellants have submitted wide-ranging and lengthy appeals with a substantial number of cited policies (see Exhibits 3 and 4 for complete appeal documents).<sup>11</sup> Appellant Charles Paulden alleges a series of procedural errors on the part of the County and the Applicant. First, Mr. Paulden contends that the proposed demolition application was not properly noticed on the property, citing LCP Implementation Plan (IP) Section 13.03.070 as the LCP basis for his contention. However, IP Section 13.03.070 refers to public notice in the case of a public hearing for an LCP amendment. More applicable LCP references include IP Sections 18.10.223 and 18.10.224 that identify the required notification

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<sup>11</sup> It should be noted that in several cases the Appellants have cited outdated LCP policies or the Santa Cruz County General Plan (not LCP) as the basis of some of their appeal contentions. The LCP, however, is the applicable standard of review for appeal contentions. The Appellants have also occasionally cited sections of the Coastal Act, but only the public access policies of the Coastal Act are an applicable standard of review for appeal contentions. In these situations, and to err on the conservative side, the Commission has interpreted the issues raised in terms of applicable LCP and Coastal Act policies as much as possible, and LCP policies engendered by the issues raised by non-LCP citations have been identified where feasible and appropriate.



procedures for Zoning Administrator, Planning Commission, and Board of Supervisor public hearings. Mr. Paulden also contends that the County failed to complete a Determination of Habitability report, which is identified by IP Section 12.06.050, and that the omission is a problem because IP Section 12.06.010 states that “parcels currently used for residential use [should] be continued as residential when feasible.”

Both Appellants contend that it is necessary for the County to purchase the Roadhouse property and convert it into a public recreational center. Mr. Paulden states that the “Pleasure Point Planning process”<sup>12</sup> has called for the use of the Roadhouse site as a park and community center. He believes that the demolition of the Roadhouse will be counter to LCP Objective 8.8, which calls for the enhancement of established urban and rural communities. In support of this claim, Mr. Paulden cites several LCP objectives and LUP policies that underline the importance and outline the creation of coastal-dependant recreation, temporary visitor accommodations, and community parks and recreation facilities (including LUP Policies 2.16, 2.22, 2.22.1, 7.3.3, and LUP Objective 7.3). Mr. Paulden additionally cites LUP Policy 5.9.2, stating that this policy requires the Planning Department to purchase “Significant Resources” as necessary. However, this policy is referring to significant hydrological, geological, and paleontological resources. Possible applicable policies in this sense are LUP Policies 7.2.1 and 7.2.5 (which deal with the siting of neighborhood parks) as well as IP Section 15.01.070(a) (which deals with financing the acquisition of neighborhood parks). Mr. Gibson cites Coastal Act Policies 30213 and 30220,<sup>13</sup> indicating that a proposal to make the Roadhouse a bed and breakfast inn would reinforce Coastal Act priorities for public recreational use.

The Appellants furthermore contend that the Roadhouse is an important historic landmark and focal point in the Pleasure Point community. Mr. Paulden and Mr. Gibson point out that both the Kirk report and the CIRCA report (see Exhibits 11 and 12), which were presented to the County Historic Resources Commission and the Board of Supervisors, contained factual errors that led to an incorrect historic designation of NR-6. Specifically, the Appellants state that the architectural style and the dates of certain important events in the history of the Roadhouse were misidentified. They also point out that the CIRCA and Architectural Resources Group (see Exhibit 13) reviews called for the Roadhouse to become a part of a Historic District. Mr. Paulden additionally contends that the State has not reviewed the property for its historic eligibility. Unfortunately, the County’s historic resource policies, including those related to designation of historic landmarks and how such resources may or may not be developed, are not a part of the LCP.<sup>14</sup> Thus the only way in which the historic resource value of the Roadhouse and its site is reflected in an LCP sense is strictly in terms of its contribution to Pleasure Point’s community character, a resource that is protected by the LCP.

In this respect, the Appellants contend that the Roadhouse is an important focal point that is valued by

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<sup>12</sup> This refers to the ongoing Pleasure Point Community Plan planning process that is currently underway at the County level.

<sup>13</sup> The latter is probably more appropriately a reference to Coastal Act public access policies more generally requiring that maximum public recreational access opportunities be provided, among other things.

<sup>14</sup> Commission staff has long recommended that the County add the historic resource components of the County’s General Plan and non-LCP zoning code into the LCP, but the County has to date resisted this recommendation.



the local community, and that the history of the Roadhouse ties the neighborhood to its past and helps to set the community character of the area. The Appellants indicate that the Roadhouse is both a cultural and visual resource for the area. Mr. Paulden states that because the Roadhouse is located within the viewshed of a County-designated scenic road (East Cliff Drive) it should qualify as a Visual Resource and a Public Vista and must be protected. He cites LUP Policy 5.10.10, which designates East Cliff Drive as a scenic road, as well as Policies 5.10.1, 5.10.2, and 5.10.3, which describe the protection of visual resources. Mr. Paulden additionally states that the buildings on the subject property are a valued link to the community's past and are thus a "cultural resource."<sup>15</sup> Mr. Gibson also believes the Roadhouse is a visual resource. He states that:

*The Roadhouse complex is a part of a protected Special Community, {LCP p.6-8 to 6-12} a designated County Scenic Highway {LCP p.6-2, policy 6.1.1 c., p.6-13} & State Bike Route {LCP 1b., p.4-67}, a Scenic Corridor (LCP Policy 6.1.2 p 6-13), a major Beach Viewshed... {LCP policy 6.1.2 p.6-13}, and one of the county's top two Surfing Spots. {SC-LCP, p.5-1}."*<sup>16</sup>

Mr. Gibson states that these designations mark the Roadhouse as an important visual resource and qualify the onsite buildings for multiple layers of protection. Given citations by both Appellants, it is important to note that although it is clearly a special community, Pleasure Point is not one of the five LCP-designated Coastal Special Communities (CSCs) to which specific additional development review criteria apply. As such, there aren't any LCP CSC policies that apply to Pleasure Point.

Both Appellants claim that the Roadhouse is important architecturally, contending that the Roadhouse is a unique local landmark that represents a unifying architectural style for Pleasure Point. With regards to the contention that the Roadhouse is a unique landmark, both Appellants cite the Roadhouse's importance to the neighborhood and its intricate and interesting history.<sup>17</sup> Mr. Paulden and Mr. Gibson assert that the Roadhouse is a unique example of Arts and Crafts and Brown Shingle architecture. They state that this nature-oriented architectural aesthetic used to be the unifying style of Pleasure Point, but that the style is quickly being lost through new development. According to the Appellants, the demolition of the Pleasure Point Roadhouse will also detract from neighborhood character inventories that define construction regulations. Mr. Paulden cites Policy 8.4.5 in support of this contention, which requires that new discretionary project applications include a neighborhood character visual inventory. However, Policy 8.4.5 is not an LCP policy. Mr. Gibson cites Coastal Act Section 30001.5, LCP Policy 6.2.4, LCP pages 6-8, Coastal Act Section 30251, and LUP Policy 1.6 in support of this claim.<sup>18</sup> There is no LUP Policy 1.6. Also, Mr. Gibson states that LCP Policy 6.2.4 requires the use of natural materials

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<sup>15</sup> Mr. Paulden indicates that a "cultural resource" is something that a community values. However, the term "cultural resource" is not defined nor understood in LCP terms, other than perhaps in relation to Native American cultural sites.

<sup>16</sup> Please see page 9 of Mr. Gibson's appeal (Exhibit 4).

<sup>17</sup> However, as detailed above, the County's historic designation policies are not part of the LCP and cannot be applied in relation to CDP requirements. Mr. Paulden additionally states that LUP Objective 8.8 of the LCP calls for the preservation of unique characteristics in Special Communities, and Mr. Gibson cites Coastal Act Section 30253 as likewise protecting "unique characteristics of special communities." However, LUP Objective 8.8 is referring to LCP designated Coastal Special Communities, of which Pleasure Point is not currently one, and it is not clear that Coastal Act Section 30253 is applicable.

<sup>18</sup> Ibid; again, only the Coastal Act's access policies are a valid basis for appeal.



where feasible. However, this policy was removed from the LCP when it was updated in the early 1990s and cannot be used as an appeal basis.<sup>19</sup> An appropriate policy for this contention would be LUP Policy 5.10.7(b) or IP Section 13.20.130(d). Mr. Gibson further states that LCP pages 6-8 call for the identification of Special Communities. However, these LCP pages refer to state general plan process. A more applicable LCP policy in this respect is LUP Objective 8.8. Finally Mr. Gibson states that Coastal Act Section 30251 requires new development in scenic areas to be subordinate to the character of its setting and LUP Policy 1.6 requires new development to be visually compatible with the neighborhood.<sup>20</sup> The most applicable policy in an appeal context in this respect is probably Section 13.20.130(b)(1).

In sum, and despite some inadvertent incorrect citations that are not valid bases for appeal review (i.e., non-public access Coastal Act policies, General Plan and non-LCP Zoning Code policies, policies that no longer exist, etc.), it is clear that the Appellants are making several fundamental contentions that can be generally categorized in an LCP sense. The Appellants' contentions as to why the County's CDP decision is inconsistent with the LCP can be grouped into the following general categories:

- The County has considered purchasing the site as a public park and community center, this represents an essential goal for the area, and the Roadhouse and the site need to be protected for this purpose.
- The Roadhouse was inappropriately designated NR-6, this designation was based on incorrect information, and it deserves to be recognized as a protected historic resource.
- The Roadhouse is an integral part of the community character of Pleasure Point and should not be demolished.
- The County and the Applicant did not follow correct LCP procedural requirements for demolition projects, including a lack of adequate public notice.

In sum, the Appellants contend that demolition will remove a 100-year-old community resource, potential park site, neighborhood focal point, and unique historic landmark that helps set the community character of Pleasure Point. Given that the historic issue must be understood in terms of community character, the appeal contentions thus boil down to three contentions regarding the County's action: 1) it does not adequately protect community character; 2) it is not consistent with developing a community park at this site; and 3) it did not comply with demolition and public hearing procedures. See Exhibits 3 and 4 for the complete appeal documents, and see Exhibit 5 for cited and applicable policies.

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<sup>19</sup> Current LUP Policy 6.2.4 actually addresses the mitigation of geologic hazards.

<sup>20</sup> In the current Santa Cruz County LCP, Policy 1.6 does not exist.



## 6. Substantial Issue Determination

### A. Applicable LCP Policies

In terms of the procedural contentions, the most applicable LCP policies are those that describe how public notice is to be provided, and those that describe how potential demolition permits should be addressed (IP Sections 18.10.223 and 224, and IP Chapter 12.06). With respect to the contentions that the site should be reserved for a park, applicable policies include Coastal Act access policies as well as LCP policies identifying priority uses (including LUP Objective 2.22 et seq) and parks and recreation development (including LUP Chapter 7 and IP Chapter 15.01). With respect to historic resource contentions, because the sections of the County's General Plan and Zoning Code that address historic resources are not in the LCP, these can only be understood in relation to the LCP in terms of community character. Community character contentions are best understood in terms of LCP public view protection policies (including LUP Objective 5.10 et seq.) and coastal zone design criteria policies (IP Section 13.20.130). Please see Exhibit 5 for policies cited by the Appellants and for the applicable policies as described in this paragraph.

### B. Analysis

#### Roadhouse Site as Public Park and Community Center

With respect to appeal contentions related to using the Roadhouse site as a public park and community center, the LCP process is generally that park sites are designated in the LCP, and parks are pursued on them. In some cases, the LCP identifies potential park sites on land designated for other things (e.g., land designated residential can have a potential park site overlay) that must be reviewed for public acquisition and park use if the underlying owner pursues something other than a park; the Roadhouse site is not so designated.<sup>21</sup> Public park and recreation areas are clearly given priority over residential development by the LCP and the Coastal Act, but the site is not operating as a park, and is not designated for park use. In sum, neither the LCP nor the Coastal Act compel a park project at the site, nor do the applicable park policies disallow the demolition proposed.

There is little question that the site could serve as an appropriate park and community facility site, and little question that that would be supported by the Coastal Act and LCP were the County to pursue such an LCP change and/or project for the site.<sup>22</sup> However, that is a different question than whether the County's action was inconsistent with LCP and or Coastal Act access policies in terms of parks. The site

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<sup>21</sup> As indicated above, the property has a land use designation of R-UM (Urban Medium Residential) and is in the RM-4 zone district (Multi-family Residential – 4000 sq. ft. minimum site area). As previously indicated, the County is in the midst of an LCP planning exercise for Pleasure Point that could lead to the site being differently designated, but that process is ongoing and its outcome in this respect is uncertain, both because the County is in the middle of community visioning that must go through a series of County hearings, and because any changes ultimately must be reviewed and approved by the Commission as an LCP amendment. It is unclear as to when that process may be completed.

<sup>22</sup> In fact, the County recently pursued potential acquisition of the Roadhouse site in early 2008 for this purpose or others (including potentially a bed and breakfast inn, a youth hostel, and a museum), but this effort did not come to fruition due to concerns over high costs for acquisition and redevelopment.



is LCP-designated for residential use, and the demolition proposed does not conflict with such park policies. One could argue that the demolition could prejudice potential park acquisition and development efforts applicable to the site, and that may be true (including to the extent the Roadhouse proper were necessarily to be made into an integral part of such a facility at the site, and including to the extent the demolition project makes the property more expensive if it were to be subsequently sold), but those are really LCP planning issues and not LCP permitting issues. Clearly, there are good reasons why a park would be higher and better priority use under the Coastal Act and the LCP at this site, and that may still come to pass, but the LCP does not designate this site for such use and development, and does not require such an outcome in this application.

Thus, appeal contentions related to the Roadhouse site as a public park/community center do not raise a substantial LCP conformance issue. The Commission concurs that the site would make an excellent public park and community center if it could be purchased and rehabilitated, but the County's action is not inconsistent with applicable LCP and Coastal Act policies.

#### Public Views and Community Character

The public viewshed contentions, including those related to East Cliff Drive as an LCP-designated scenic road, can best be understood in terms of the effect of the project on visual compatibility and community character. While it is true that the site is within the East Cliff Drive viewshed, it is on the inland side of the road opposite from the main seaward view. That is not to say that this inland view is not important, rather it is to point out that the effect of the project in that sense is as part of the overall East Cliff Drive view experience as opposed to its effect on blocking or impairing an ocean, beach, or more natural area view. Similarly, given the presence of East Cliff Drive proper fronting and seaward of the site, the steep bluff/seawall fronting East Cliff, and the limited beach area at the pocket beach seaward of that, the site is not readily visible from the beach area below. In even more distant views from the water, the site blends into the background of the built environment that is the densely developed Pleasure Point area. In this sense, the most applicable LCP requirement is to ensure that the proposed development is visually compatible and integrated with the character of Pleasure Point. In other words, if the proposed project meets the LCP's compatibility requirements for maintaining community character, then it also meets the public viewshed requirements at this location.<sup>23</sup>

In this respect there is no denying that the Roadhouse has long been a part of the Pleasure Point community character since its original construction in 1902. Likewise, though, it is equally clear that Pleasure Point's character is eclectic, and has been in an evolving state of change that has only intensified due to gentrification in the recent past. It is difficult in this sense to clearly establish the

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<sup>23</sup> In one sense, this evaluation is made difficult by the fact that the proposed project does not include a replacement development for the site. Once the demolition is complete, the site will be graded flat and seeded with erosion control grasses, but the approved project does not include any indication of, or requirement for, a particular replacement development. Although the LCP's design and community character policies will most certainly apply to any future development, this project would result in an open field at the site at its completion. Although this makes the evaluation slightly less clear, the main premise of the appeal contentions remains the same - namely that the Roadhouse needs to be retained/restored as is to be able to maintain community character consistent with the LCP. The contentions are not about comparing an existing condition to a proposed condition; rather it is an acknowledgement that the existing condition (albeit potentially as restored/repaired) is required to maintain LCP consistency.





manner in which one site—the Roadhouse site in this case—contributes to or is required to maintain the “character” of this particular community. In addition, the concept of “community character” can be somewhat nebulous at times, and the LCP does not provide explicit conformance tests. Rather, it is a somewhat subjective analytic question, and the Commission recognizes that reasonable people will disagree on such character and/or defining elements of it as a result. In this case, and based on the Commission’s long experience with planning and regulatory matters affecting Pleasure Point, the Commission finds that much of the character of Pleasure Point is rooted in the intrinsic relationship between the built environment, its inhabitants, and the surfing area offshore as opposed to a specific site or sites. Perhaps the most specific manifestation of that character is the densely developed, smaller scale housing stock that once predominated the Pleasure Point area, and that still defines much of the community despite more recent larger and more expansive residential projects in the last two decades. It is really more this type of close-knit, small-scale housing stock and related informal beach community aesthetic and ambiance that best defines Pleasure Point’s charm and appeal, and perhaps best defines what the community’s character is and should be in an LCP sense.<sup>24</sup>

Given that context, the demolition of the Roadhouse should not significantly adversely affect the community character of Pleasure Point inconsistent with the LCP. In fact, as a larger residential structure on a large piece of property (nearly an acre) with larger undeveloped spaces and outbuildings, the Roadhouse is somewhat atypical of the smaller scale, densely developed character described above, and its character contribution is as much in its historicity and its differences (that contribute to the eclectic built environment mix in this respect) than its similarities. The Appellants contend that the Roadhouse represents the style of architecture that should be emulated by future construction, and that historically this architecture was the unifying style throughout the neighborhood. In this regard it is clear that the Roadhouse strikes an attractive craftsman silhouette as seen from the East Cliff Drive viewshed, and that it represents an interesting feature in the viewshed, but it is neither evocative nor representative of Pleasure Point as a whole. There are a wide variety of architectural styles in Pleasure Point, and it is not clear that there is any one unifying style. Really, as indicated above, it is more the small scale, dense development pattern that is at the core of protecting the character of Pleasure Point as opposed to one architectural style or another.

It is not that the Roadhouse is not an attractive structure, or more aptly that it could be with some restoration,<sup>25</sup> rather it is that its retention is not required to protect community character under the LCP. It is clear to the Commission that the Roadhouse represents a unique historic resource, and that its true contribution to Pleasure Point’s community character lies in that history. The Roadhouse and related

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<sup>24</sup> In this respect, and recognizing that the effort is ongoing and subject to change, the County’s current Pleasure Point Community Plan efforts can ultimately and readily be distilled to this fundamental premise, and much of the genesis of the plan is a community reaction to the larger scale residential structures that have been more the redevelopment and improvement rule than the exception in recent years in Pleasure Point.

<sup>25</sup> The Roadhouse structures have been vacated and are in a state of some disrepair. The buildings suffer from dry rot and termites, and have some structural defects that would require improvements to bring them up to code. In addition, the buildings have more recently been damaged through vandalism. In sum, it is clear that the buildings would require significant restoration to bring them back to their historic state, and at a minimum long-deferred maintenance and structural improvements would be necessary to meet current building codes. The Applicant has at least one bid for historic restoration that indicates that the cost of same would be in the neighborhood of \$2 million (see Exhibit 10). See also procedural findings that follow.



buildings there have obviously been an important part of Pleasure Point for a very long time and are valued by many people. Again, though, the LCP is the applicable standard of review in this case, and the LCP does not include the historic resource components of the County's General Plan and non-LCP zoning code. As such, the Roadhouse historic resource designation and the way in which such designation affects consideration of the proposed project are not valid appeal contentions or issues. Even so there is little doubt that its historicity is a factor in terms of its contribution to the community's character, but its demolition can still be found compatible with protecting that character, as the County did in this case.

Although it would have been preferable in that regard to be able to evaluate what will follow on the site after demolition, and it is unfortunate that the application and the County's action did not include any discussion of what happens next, this is not an LCP compliance issue. Clearly, the LCP protects the community's character whether the site is redeveloped from a blank slate or if it is developed as part of a demolition and building project at the same time. In fact, presumably the County could require a future project to emulate Roadhouse development elements as a means of fostering community character through continuity to the past.

Thus, appeal contentions related to protecting community character do not raise a substantial LCP conformance issue. The Commission concurs that the Roadhouse site contributes to the community's character, but that its demolition should not significantly adversely affect that character inconsistent with the LCP. As such, the County's action is not inconsistent with applicable LCP and Coastal Act policies.

#### Procedures

The procedural contentions are two-fold: that the residential demolition permit procedures were not followed, and that there was inadequate public notice before the County decided on the proposed project. In terms of the demolition permit procedures, the LCP could certainly be clearer as to the relation of a demolition permit to a coastal permit, but the main gist is that they are related but different processes. The applicable IP Section is part of the building regulations (Title 12) which is directed to building permits and related matters. Chapter 12.06 (cited by the Appellants) regarding the demolition of residential structures refers to "obtaining a demolition permit from the Building Official" and it sets up certain criteria for how this is to occur. Building permits, grading permits, and other construction-type permits have historically been addressed separately from the discretionary review associated with coastal permits. In fact, it has long been the County's practice to require building permits, grading permits, and other permits necessary to implement a discretionary decision as a condition of discretionary review approval. This framework is based on a distinction that a discretionary approval is at a broader level than the finer details that are often associated with implementing it (e.g., a building permit to ensure UBC consistency, etc.). The County's approval in this case includes a condition that the Applicant obtain the required demolition permit from the Santa Cruz County Building Official prior to



exercising the coastal permit (see page 6 of Exhibit 2).<sup>26</sup>

To the extent that the Appellants contentions regarding the demolition permit procedures are to the question of whether the structures are habitable and whether the procedures have been appropriately followed, these contentions are resolved by the required demolition permit process that would follow. To the extent they are questions as to whether the condition of the Roadhouse enters into the community character evaluation, they are only applicable inasmuch as the Roadhouse can only be understood in terms of its current state. In both cases and in that context, it is important to note that the Roadhouse appears to be in relatively poor condition, and the administrative record includes ample evidence showing this to be the case. For example, Criterium - Decker engineers conducted a structural inspection on January 29, 2007 that indicated that the main house and the carriage house/barn were in poor structural condition (see Exhibit 8). The report noted excessive differential settlement, out-of-level floors, excessive deflection of roof framing, poor resistance to lateral forces (both wind and seismic), weather damage, building code violations, insect damage, and dry rot. Likewise, termite analysis (conducted by Antique Termite, Inc.) identified a significant amount of termite infestations throughout the two buildings (see Exhibit 9). It is clear from looking at the structures that there are definitely some structural defects that would require improvements to bring them up to code (see photos in Exhibit 15). In addition, notwithstanding the site being fenced off, the buildings have more recently been damaged through vandalism (see photos in Exhibit 15). In sum, it is clear that significant long-deferred maintenance and structural improvements would be necessary to meet current building codes. Were the intent to be historic rehabilitation and restoration, even more significant work would be required. In this respect, the Applicant has at least one bid for historic restoration that indicates that restoration of the main building, carriage house, and three cottages would cost roughly \$2 million (see Exhibit 10).

The second procedural issue raised by the Appellants is that the public hearing for coastal permit application was not properly noticed. At a minimum, IP Sections 18.10.223 and 18.10.224 require public notice for such hearings through (1) newspaper notice; (2) conspicuous posting at the site subject to specific criteria; (3) mailed notice to property owners within 300 feet and occupants within 100 feet of the property, and to those who have filed a written request for such notice with the Planning Department; and (4) notice to each of the County Supervisors, all of which must be done at least ten days before a hearing.<sup>27</sup> The administrative record indicates that the notice procedures appear to have been complied with (see Exhibits 6 and 7) except with respect to the posting notice at the site. In this respect, the County provided the Applicant with a notice that was posted under an eave of a balcony at the site (see page 9 of Exhibit 3).<sup>28</sup> Due to its distance from public viewing areas, the notice was not easily seen or clearly readable, and it did not appear to otherwise meet the tests of Section 18.10.224. It

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<sup>26</sup> The demolition permit procedures include the requirement that if the Building Official determines the subject structure is structurally sound, and is structurally capable of being relocated, then the structure shall be deemed "habitable" and the structure is required to be offered up for sale, removal, or relocation subject to specific noticing and other procedures (see IP Section 12.06.050 in Exhibit 5). The County's action requires this process to be completed prior to exercise of the coastal permit.

<sup>27</sup> The LCP also provides for alternate noticing procedures when significant numbers of people would be noticed under the basic procedures. The alternate procedures were not applied to this application.

<sup>28</sup> According to the Applicant's daughter, this location was chosen to avoid rain damage to the notice, and because previous "No Trespassing" signs that had been posted at the chain link fence at the street had been ripped down.



appears that the County Planning Department verification procedures for ensuring adequate posting of notice at the site were not adhered to in this case.

It is unfortunate that the site was not better posted before the County's action, and it is unfortunate that the County's process was not such that this issue was caught and addressed before the hearing. There is little doubt that such site notice is important and effective for ensuring maximum public participation as directed by the LCP. The fact that the issues surrounding the Roadhouse have been widely publicized throughout the community otherwise (e.g., newspaper articles, etc.), and that the other noticing provisions were met, temper this oversight somewhat. In fact it is clear that many people were aware of the proposed project and made their views known on it to the County before the County's hearing on this matter (e.g., a petition to save the Roadhouse containing 323 online signatures was submitted to the County the day before the final Planning Commission hearing on the coastal permit).

Thus, in this case, the limited site posting is an LCP issue and a problem with the County's action, but it does not rise to the level of a substantial issue requiring Commission intervention. To the extent the lack of adequate site notice precluded some from participating locally, they will have their opportunity now at the Commission level given the appeal. In that respect, the site was posted with the Commission's goldenrod hearing notices on August 18, 2008 with instructions that three notices needed to be placed at the fence line along East Cliff Drive and that two notices needed to be placed along the fence line at Moana Way, and that these notices needed to remain in place through the Commission's decision on this matter.<sup>29</sup> In addition, the Commission is undertaking a significant mailing notice for this hearing that covers the LCP's 300-foot/100-foot requirement, all persons who submitted comments to the County for the Planning Commission hearing, and other interested parties (i.e., the Applicants, Appellants, Supervisors, area newspapers, etc.). In other words, the Commission intends—as it always does—to maximize public participation in this decision-making process, and presumably interested parties will be able to make their views known in that context for this hearing.

#### C. Substantial Issue Determination Conclusion

In conclusion, the Roadhouse demolition project presents some difficult LCP questions, and some difficult LCP judgment calls, in relation to protecting Pleasure Point's community character. Although there are preferred outcomes for the site that differ from just the demolition authorized, including historically accurate reconstruction and salvage of historic materials/elements, these outcomes are not required by the LCP in this case. Likewise, the County could still require a future project to emulate the Roadhouse, and could still choose to pursue acquisition and park development at this location. The Commission sympathizes with the Appellants' frustration with the process and outcome for the site, including with respect to the lack of historic resource protection provisions in the LCP, but believes that the County-approved project is not inconsistent with the LCP and that it should not significantly adversely affect the community character of Pleasure Point. Thus, although the appeal raises valid LCP questions deserving of thoughtful consideration, the appeal contentions do not raise a substantial issue with respect to LCP conformance and the Commission declines to take jurisdiction over the coastal

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<sup>29</sup> The Applicant was also provided extra replacement notices for this purpose in the event the original notices were somehow damaged, ripped down, etc.



development permit.

