

677

REZONING FINDINGS:

1. THE PROPOSED ZONE DISTRICT WILL ALLOW A DENSITY OF DEVELOPMENT AND TYPES OF USES WHICH ARE CONSISTENT WITH THE OBJECTIVES AND LAND-USE DESIGNATIONS OF THE ADOPTED GENERAL PLAN; AND,

Rezoning this parcel to the "SU (Special Use) zone district will limit the density of development and types of uses to those permitted by the three implementing zone districts of the General Plan land use designation of "Neighborhood Commercial". These three zonings are "C-1" (Neighborhood Commercial), "CT" (Tourist Commercial) and "PA" (Professional Administrative) zoning districts.

2. THE PROPOSED ZONE DISTRICT IS APPROPRIATE OF THE LEVEL OF UTILITIES AND COMMUNITY SERVICE AVAILABLE TO THE LAND; AND,

Rezoning this parcel to the "SU" zone district will not change the utility and community services generated by this parcel if the existing "C-1" zoning was retained. As discussed in finding 1 above, the rezoning will result in the types of uses allowed in the three commercial zone districts that implement the "Neighborhood Commercial" designation. All three zonings have similar utility and community service needs.

3.
 - a) THE CHARACTER OF DEVELOPMENT IN THE AREA WHERE THE LAND IS LOCATED HAS CHANGED OR IS CHANGING TO SUCH A DEGREE THAT THE PUBLIC INTEREST WILL BE BETTER SERVED BY A DIFFERENT ZONE DISTRICT; OR,
 - b) THE PROPOSED REZONING IS NECESSARY TO PROVIDE FOR A COMMUNITY RELATED USE WHICH WAS NOT ANTICIPATED WHEN THE ZONING PLAN WAS ADOPTED; OR,
 - c) THE PRESENT ZONING IS THE RESULT OF AN ERROR; OR,
 - d) THE PRESENT ZONING IS INCONSISTENT WITH THE DESIGNATION SHOWN ON THE GENERAL PLAN.

A rezoning to the "SU" zone district will allow the visitor accommodation uses permitted in the "CT" zone district which are not permitted under the parcel's current zoning. General Plan policies 2.13.5 and 8.8.2 encourage the provision of visitor-serving commercial services within the Highway 1 frontage of Davenport, where this site is located. Prior to the adoption of the 1994 General Plan, this parcel was zoned "CC" (Coastal Commercial). This zoning district has since been eliminated and parcels previously zoned "CC" were rezoned to the 'C-1' zone district on a County-wide basis. Affects to this property were not considered when this rezoning occurred. Therefore this rezoning is necessary to allow the uses encouraged by the General Plan.

Greg Steltenpohl and Fred Bailey
 Application No.: 95-0685
 A.P.N.: 58-121-04

678

COASTAL ZONE PERMIT FINDINGS:

1. THAT THE PROJECT IS A USE ALLOWED IN ONE OF THE BASIC ZONE DISTRICTS, OTHER THAN THE SPECIAL USE (SU) DISTRICT, LISTED IN SECTION 13.10.170(d) AS CONSISTENT WITH THE GENERAL PLAN AND LOCAL COASTAL PROGRAM LUP DESIGNATION.

The mixed uses of visitor accommodations, restaurant, micro-juicer-y, offices (of less than 50% the total floor space of the project building) and ancillary residential units are allowed in the implementing zone districts of the parcel's General Plan designation of "Neighborhood Commercial".

2. THAT THE PROJECT DOES NOT CONFLICT WITH ANY EXISTING EASEMENT OR DEVELOPMENT RESTRICTIONS SUCH AS PUBLIC ACCESS, UTILITY, OR OPEN SPACE EASEMENTS.

The project has been designed so that it will not encroach or otherwise impact the existing 30 foot wide rail road right-of-way located along the southwestern edge of the parcel. Caltrans has given preliminary approval for a minor encroachment into the Highway 1 right-of-way to maintain project landscaping along the highway side of the new parking lot because it will be located in a part of the right-of-way that is not planned for traffic use nor development.

3. THAT THE PROJECT IS CONSISTENT WITH THE DESIGN CRITERIA AND SPECIAL USE STANDARDS AND CONDITIONS OF THIS CHAPTER PURSUANT TO SECTION 13.20.130 et seq.

Subject to the concurrent approval of the proposed rezoning, the project is consistent with the design criteria and special use standards and conditions of this chapter pursuant to Section 13.20.130 et seq., in that the project does not involve excessive grading, is visually compatible with the character of the surrounding Highway 1 commercial frontage of Davenport, has been designed to not block views of the shoreline from public areas, has been sited and designed to place the main structure within the basic footprint of the existing building thereby making the new building subordinate to the character of the site. The project complies with the special standards of Section 13.20.143 (Davenport Special Community Design Criteria) in that the project provides visitor serving uses, as encouraged by that Section and will provide adequate parking as determined by Sections 13.10.552 and .553. The project will provide for bicycle parking and will also provide low growing landscaping that will help screen recessed parking without obstructing ocean views.

Greg Steltenpohl and Fred Bailey
 Application No.: 95-0685
 A.P.N.: 58-121-04

679

4. THAT THE PROJECT CONFORMS WITH THE PUBLIC ACCESS, RECREATION, AND VISITOR-SERVING POLICIES, **STANDARDS AND MAPS** OF THE GENERAL PLAN AND LOCAL COASTAL PROGRAM LAND USE PLAN, SPECIFICALLY CHAPTER 2: FIGURE 2.5 AND CHAPTER 7, AND, AS TO ANY DEVELOPMENT BETWEEN AND NEAREST PUBLIC ROAD AND THE SEA OR THE SHORELINE OF ANY BODY OF WATER LOCATED WITHIN THE COASTAL ZONE, SUCH DEVELOPMENT IS IN CONFORMITY WITH THE PUBLIC ACCESS AND PUBLIC RECREATION POLICIES OF CHAPTER 3 OF THE COASTAL ACT COMMENCING WITH SECTION 30200.

The project site, located between the shoreline and the first public road, contains one public pedestrian trail to the beach that will not be affected by this project. General Plan/Local Coastal Program policy 7.7.15 identifies Davenport Bluff and Davenport Beach as areas designated for primary public access. The project has been conditioned to require that a permanent pedestrian easement be placed over this trail to ensure that public access along the trail continues in perpetuity.

Four other less used trails are located to the northwest of the trail described above. These four trails traverse the steep bluff and have resulted in accelerated erosion on this unstable slope. The continued use of any of these four trails would exacerbate the continued erosion problem. To solve the erosion problem and provide a second trail access to the beach, the project has been conditioned to require that the applicant construct a stairway down the steep slope to replace the four damaged trail routes. The condition includes placing the stairway and a connecting trail under a permanent pedestrian easement as well as a route that connects the stairway to Highway 1 so that complete pedestrian access is provided from Highway 1 to the beach without causing erosion problems on the steep slope.

The project design includes a coastal/marine viewing area on the coastal side of the new parking lot so people can utilize this area for whale watching or similar passive recreational pursuits as now occur at the site. All of these provisions and design features comply with General Plan/LCP policies 7.6.2, 7.7.1, 7.7.11 and 7.7c regarding coastal recreation and beach access.

5. THAT THE PROPOSED DEVELOPMENT IS IN CONFORMITY WITH THE CERTIFIED LOCAL COASTAL PROGRAM.

The proposed project is in conformity with the County's certified Local Coastal Program in that:

- a. The project has been sited and designed to minimize visual impacts as much as possible as discussed in detail in the Initial Study and staff report;
- b. No development will occur within the riparian corridor thereby protecting this significant natural resource;

15

Greg Steltenpohl and Fred Bailey
Application No.: 95-0685
A.P.N.: 58-121-04

680

- c. Pedestrian access to the beach will be provided and improved from the existing situation and public trail easements will be secured for the public's permanent use;
- d. The project will provide visitor serving uses in accordance with the policies and standards of the Davenport Special Community.

Greg Steltenpohl and Fred Bailey
 Application No.: 95-0685
 A.P.N.: 58-121-04

C 81

DEVELOPMENT PERMIT FINDINGS:

1. THAT THE PROPOSED LOCATION OF THE PROJECT AND THE CONDITIONS UNDER WHICH IT WOULD BE OPERATED OR MAINTAINED WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY, OR WELFARE OF PERSONS RESIDING OR WORKING IN THE NEIGHBORHOOD OR THE GENERAL PUBLIC, OR BE MATERIALLY INJURIOUS TO PROPERTIES OR IMPROVEMENTS IN THE VICINITY.

The location of the project and the conditions under which it would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, and will not result in inefficient or wasteful use of energy, and will not be materially injurious to properties or improvement in the vicinity in that the project is located in an area designated for commercial uses and project development will be located on areas of the site not encumbered by physical constraints to development. Construction will comply with prevailing building technology, the Uniform Building Code, and the County Building ordinance to insure the optimum in safety and the conservation of energy and resources. In addition, the project was issues a Mitigated Negative Declaration on February 24, 1998. All 11 mitigation measures to avoid or significantly minimize environmental impacts have been incorporated into the permit conditions for this project.

2. THAT THE PROPOSED LOCATION OF THE PROJECT AND THE CONDITIONS UNDER WHICH IT WOULD BE OPERATED OR MAINTAINED WILL BE CONSISTENT WITH ALL PERTINENT COUNTY ORDINANCES AND THE PURPOSE OF THE ZONE DISTRICT IN WHICH THE SITE IS LOCATED.

Upon rezoning the project as proposed, the project site will be located in the "SU" zone district. One of the purposes of the "SU" zone district is to accommodate mixed uses allowed by the parcel's General Plan designation, but would not be permitted in any other zoning district; such is the case with this commercial mixed use project. The conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the "SU" zone district in that the primary use of the property will be those commercial uses consistent with the General Plan land use designation of the site of "Neighborhood Commercial,,".

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

The project is located in the "Neighborhood Commercial" land use designation. The proposed mixed commercial and residential use is consistent with all elements of the General Plan in that all the uses are conditionally permitted in the "C-I" and "VA,, zone districts which are both underlying zoning districts that correspond to the General Plan

17

Greg Steltenpohl and Fred Bailey
 Application No.: 95-0685
 A.P.N.: 58-121-04

682

designation of the property. The project is consistent with the General Plan in that the project is required to provide the needed upgrades to domestic water and sanitation service so the project can be adequately provided with these services without impacting these services for other customers of the Davenport Water and Sanitation District. Further, the use is not located in a hazardous or environmentally sensitive area and the proposal protects natural resources by expanding in an area designated for this type of development.

The project is consistent with the North Coast Beaches Master Plan in that the project has been conditioned to maintain and enhance public pedestrian access to Davenport Beach, as well as, facilitate safe and coordinated vehicular access to the adjoining vacant parcel now owned by RMC Lonestar if that parcel is ever developed in the future.

4. THAT THE PROPOSED USE WILL NOT OVERLOAD UTILITIES AND WILL NOT GENERATE MORE THAN THE ACCEPTABLE LEVEL OF TRAFFIC ON THE STREETS IN THE VICINITY.

The use will not overload utilities and will not generate more than the acceptable level of traffic on the streets in the vicinity in that the commercial and residential uses of this project will not use an inordinate amount of electricity or natural gas. Further, the increase of traffic generated by the project at build-out will be 28 vehicle trips/weekday peak hour and 35 vehicle trips/weekend peak hour. These increase in peak hour volumes will not change the operational level of service on this segment of Highway from its current LOS rating of "C" ..

5. THAT THE PROPOSED PROJECT WILL COMPLEMENT AND HARMONIZE WITH THE EXISTING AND PROPOSED LAND USES IN THE VICINITY AND WILL BE COMPATIBLE WITH THE PHYSICAL DESIGN ASPECTS, LAND USE INTENSITIES, AND DWELLING UNIT DENSITIES OF THE NEIGHBORHOOD.

The proposed commercial mixed use/residential project will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects, land use intensities, and dwelling unit densities of the neighborhood in that visitor-serving commercial uses will continue to be provided on the Highway 1 frontage of Davenport as encouraged by the General Plan and County Code. The design of the project continues to limit structural development on that portion of the parcel where the existing building is located. This design preserves coastal and marine views as well avoids other visual impacts that could be created by a project with more structural development on the site. The project will increase the number of dwelling units from 1 dwelling to 2 dwellings at build-out. Both dwellings will be accessory to the visitor-serving uses and other commercial uses of the project. All services can be provided to both dwellings in addition to the mixed commercial uses on the site.

Greg Steltenpohl and Fred Bailey
Application No.: 95-0685
A.P.N.: 58-121-04

683

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

The proposed development is consistent with the Design Standards and Guidelines of the County Code in that the development:

- a. Will be compatible with existing land use patterns as discussed in finding 5 above;
- b. Includes architectural elements, exterior materials and colors that comply with the "Coastal Special Communities" standards of the General Plan/LCP and the County Code;
- c. Includes a requirement for a right-of-way over the new project entrance to benefit the adjoining parcel to the northwest so coordinated parking lot design may occur with that parcel if it is ever developed in the future;
- d. Will maintain the natural site amenity of a marine viewing area on the bluff through incorporating a public open space with benches between the top of the bluff slope and the new parking lot; and
- e. Has been designed to maintain coastal and marine views from public streets and private properties with minimal effects;

In accordance with Section 13.11.053, an exception to the parking lot landscaping standards of the Design Review Ordinance has been made to allow only low growing shrubs and ground cover as proposed by the applicant instead of trees and high growing shrubs which are the standard for commercial parking lots. This exception recognizes the significant visual resource location of the site which provide coastal and marine views for the public even when the viewing is done from Highway 1 or other properties beyond the site. This exception will allow landscaping to be installed in the parking lot that does not obstruct views of the ocean and coastline.

19

Greg Steltenpohl and Fred Bailey
 Application No.: 95-0685
 A.P.N.: 58-121-04

684

VARIANCE FINDINGS:

1. THAT BECAUSE OF SPECIAL CIRCUMSTANCES APPLICABLE TO THE PROPERTY, INCLUDING SIZE, SHAPE, TOPOGRAPHY, LOCATION, OR SURROUNDINGS, THE STRICT APPLICATION OF THE ZONING ORDINANCE DEPRIVES SUCH PROPERTY OF PRIVILEGES ENJOYED BY OTHER PROPERTY IN THE VICINITY AND UNDER IDENTICAL ZONING CLASSIFICATION.

The 2.9 acre project parcel contains several constraints that reduce the net developable area of the site and reduce its 140 foot width to a lesser width for development purposes. The parcel has a long narrow semi-rectangular shape that is encumbered by a 30 foot wide rail road right-of-way along the entire coastward edge of the parcel. Much of this right-of-way is bordered by a steep undevelopable slope that further restricts the developable width of the parcel. The southeastern 33% of the parcel contains a riparian corridor and is not developable land. These characteristics result in parcel with about 1.45 acre of developable land. In addition, the property is located between Highway 1, a designated scenic roadway, and the coast and therefore occupies a significant visual resource area. Views of the coast and ocean are maximized when development is clustered on such properties.

2. THAT THE GRANTING OF THE VARIANCE WILL BE IN HARMONY WITH THE GENERAL INTENT AND PURPOSE OF ZONING OBJECTIVES AND WILL NOT BE MATERIALLY DETRIMENTAL TO PUBLIC HEALTH, SAFETY, OR WELFARE OR INJURIOUS TO PROPERTY OR IMPROVEMENTS IN THE VICINITY.

The granting of the Variance will be in harmony with the general intent and purpose of zoning objectives and will not be materially detrimental to public health, safety, or welfare or injurious to property or improvements in the vicinity in that the Variance will allow the main project building to be located within the footprint area of the existing building thereby avoiding a northwestern projection of the building that could impact some coastal views. The reduction of the front yard setback to 0 feet for the reconstruction of the main project building will actually be an improvement over the current situation where the existing building encroaches into the Highway 1 right-of-way by at least 8 feet. A 0 foot front yard setback will be limited to a 53 foot long portion of the main building. A substantial separation occurs between the site's front property line and the roadbed of Highway 1. Caltrans does not have any plans to widen the roadway in the foreseeable future. Therefore, the separation that occurs between the front property line of the subject parcel and the travel lanes/shoulder of the highway will continue into the foreseeable future, and this separation will provide a buffer similar to a front yard setback between the building and traffic traveling on Highway 1.

3. THAT THE GRANTING OF SUCH VARIANCES SHALL NOT CONSTITUTE A GRANT OF SPECIAL PRIVILEGES INCONSISTENT WITH THE LIMITATIONS

Greg Steltenpohl and Fred Bailey
Application No.: 95-0685
A.P.N.: 58-121-04

685

UPON OTHER PROPERTIES IN THE VICINITY AND ZONE IN WHICH SUCH IS SITUATED.

The granting of the Variance to reduce the front yard setback to 0 feet for a 53 lineal foot portion of the structure will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such is situated in that the physical characteristics and rail road right-of-way discussed in finding 1 above result in development limitations that are not common with other parcels in the area. In addition, the location of this property between Highway 1 and the coast results in it occupying a more significant visual resource area than most other properties in the area. The Variance will allow structural development to be clustered within the area where the existing building is located and therefore minimize visual effects to the scenic highway and coastline.

, 21