



Staff Report to the Zoning Administrator

Application Number: **111096**

Applicant: Brewer Consulting Inc.
Owner: Tesoro West Coast Company LLC
APN: 026-022-16

Agenda Date: 10/7/11
Agenda Item #: **3**
Time: After 10:00 a.m.

Project Description: Proposal to add beer and wine sales at an existing service station convenience store. Requires an amendment to Commercial Development Permit 02-0443.

Location: Property located on the southwest corner of Soquel Avenue and 7th Avenue. (2680 Soquel Avenue)

Supervisory District: 1st District (District Supervisor: John Leopold)

Permits Required: Amendment to Commercial Development Permit 02-0443

Staff Recommendation:

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 111096, based on the attached findings and conditions.

Exhibits

- | | |
|---|-------------------------------------|
| A. Project plans | E. Assessor's, Location, Zoning and |
| B. Findings | General Plan Maps |
| C. Conditions | F. Comments & Correspondence |
| D. Categorical Exemption (CEQA determination) | |

Parcel Information

Parcel Size:	.46 acres
Existing Land Use - Parcel:	Service station
Existing Land Use - Surrounding:	Mixed commercial and residential
Project Access:	Soquel Avenue and 7 th Avenue
Planning Area:	Live Oak
Land Use Designation:	C-C (Community Commercial)
Zone District:	C-2 (Community Commercial)
Coastal Zone:	___ Inside <u>X</u> Outside

Environmental Information

Geologic Hazards:	Not mapped/no physical evidence on site
Soils:	N/A
Fire Hazard:	Not a mapped constraint
Slopes:	N/A
Env. Sen. Habitat:	Not mapped/no physical evidence on site
Grading:	No grading proposed
Tree Removal:	No trees proposed to be removed
Scenic:	Not a mapped resource
Drainage:	Existing drainage adequate
Archeology:	Not mapped/no physical evidence on site

Services Information

Urban/Rural Services Line:	<u> X </u> Inside <u> </u> Outside
Water Supply:	City of Santa Cruz
Sewage Disposal:	Santa Cruz County Sanitation District
Fire District:	Central FPD
Drainage District:	Zone 5 Flood Control District

History

Commercial Development Permit 02-0443 authorized construction of a gasoline service station with a convenience store. Beer and wine sales were not authorized as part of Commercial Development Permit 02-0443. Per County Code 13.10.657(d), an amendment to the permit is required in order to authorize alcohol sales on the subject property.

Project Setting

The subject property is located at the southwest corner of Soquel Avenue and 7th Avenue in Live Oak. Another service station is located across 7th Avenue to the east and other commercial development is located along Soquel Avenue. Residential development is located to the south and southeast of the subject property. Green Acres Elementary School is located approximately 450 feet to the southeast off of Bostwick Lane.

Zoning & General Plan Consistency

The subject property is a .46 acre lot, located in the C-2 (Community Commercial) zone district, a designation which allows commercial uses. The existing service station is a permitted use within the zone district and the C-2 zoning is consistent with the site's (C-C) Community Commercial General Plan designation.

Beer & Wine Sales

This proposal is to modify the prior approval to allow the sale of beer and wine in the existing

convenience store. Beer and wine sales are allowed at gas stations (per County Code section 13.10.657) with public notice and review by the Zoning Administrator.

A number of other alcohol sales establishments exist in the project vicinity, and as a result a determination of Public Convenience or Necessity (PCN) is required in order for the Department of Alcoholic Beverage Control (ABC) to issue a license for the sale of beer and wine at the existing convenience store. The process for a PCN determination involves noticing the neighborhood for known problems and a review by the staff of the County Administrative Officer (CAO).

No known problems exist in relation to the existing establishments in the surrounding area, and the request to sell beer and wine for off site consumption is not opposed by Planning Department staff. The requirement for the PCN determination and licensing from the ABC are included as recommended conditions of approval, and any specific conditions resulting from the PCN determination will also be enforceable as conditions of this permit.

Conclusion

As proposed and conditioned, the project is consistent with all applicable codes and policies of the Zoning Ordinance and General Plan/LCP. Please see Exhibit "B" ("Findings") for a complete listing of findings and evidence related to the above discussion.

Staff Recommendation

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- **APPROVAL** of Application Number **111096**, based on the attached findings and conditions.

Supplementary reports and information referred to in this report are on file and available for viewing at the Santa Cruz County Planning Department, and are hereby made a part of the administrative record for the proposed project.

The County Code and General Plan, as well as hearing agendas and additional information are available online at: www.co.santa-cruz.ca.us

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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, and will not result in inefficient or wasteful use of energy, and will not be materially injurious to properties or improvements in the vicinity.

This finding can be made, in that the project is located in an area designated for commercial uses. No construction is proposed and the limited beer and wine sales from the existing convenience store is not anticipated to be materially injurious to properties or improvements in the vicinity.

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.

This finding can be made, in that the proposed location of the modification to sales at an existing convenience store will be consistent with all pertinent County ordinances and the purpose of the C-2 (Community Commercial) zone district, as the existing service station is a permitted use in the zone district and beer and wine sales is a typical service provided at a service station convenience store.

The project complies with the requirements of County Code section 13.10.657(e) (Sale of Alcoholic Beverages at Gas Stations), in that the concurrent retailing of motor vehicle fuel with beer and wine for off-premises consumption will not significantly adversely affect the public health, safety, or welfare from increases in noise, traffic and/or violations of traffic and other laws, because the existing service station is located in an urbanized area and a Public Convenience or Necessity determination will be required prior to the issuance of a license to sell beer and wine by the Department of Alcoholic Beverage Control. No known problems associated with off-premises alcohol consumption have been identified in the project vicinity.

The project complies with County Code section 13.10.657(f) and California Business & Professions Code 23790.5(d), in that restrictions on the display and advertisement of beer and wine shall be restricted by the conditions of this permit.

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.

This finding can be made, in that the existing commercial use is consistent with the use requirements specified for the Community Commercial (C-C) land use designation in the County General Plan.

A specific plan has not been adopted for this portion of the County.

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.

This finding can be made, in that the proposed modification to sales at an existing convenience store will not generate any additional trips or adversely impact existing roads and intersections in the surrounding area.

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.

This finding can be made, in that no changes are proposed to the existing service station and the existing use is consistent with the land use intensity and density of the neighborhood.

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.

This finding can be made, in that the proposed modification to sales at an existing convenience store will not result in any changes to the existing structure and is not subject to the design review ordinance.

Conditions of Approval

Exhibit A: Project Plans "Palisades Gas and Wash - USA Station #834", 1 sheets, CRMS architects & planners, inc, dated 8/12/03.

- I. This permit authorizes the sales of beer and wine at an existing service station convenience store for off-premises consumption subject to the following conditions. This permit amends Commercial Development Permit 02-0443 and all required conditions of approval for that permit are hereby incorporated into these conditions of approval by reference. This approval does not confer legal status on any existing structure(s) or existing use(s) on the subject property that are not specifically authorized by this permit. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/owner shall:
 - A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.
 - B. Submit proof that these conditions have been recorded in the official records of the County of Santa Cruz (Office of the County Recorder) within 30 days from the effective date of this permit.
- II. The sale of beer and wine for off-premises consumption is allowed at the existing service station convenience store subject to the following conditions:
 - A. Obtain a Public Convenience or Necessity determination from the office of the County Administrative Officer, and comply with all requirements of the Public Convenience or Necessity determination.
 1. All requirements of the Public Convenience or Necessity determination shall become conditions of approval of this permit. Failure to comply with any of the requirements of the Public Convenience or Necessity determination shall be considered as a violation of the terms of this permit.
 - B. Obtain a license for off-premises beer and wine sales from the Department of Alcoholic Beverage Control, and comply with all requirements of the Alcoholic Beverage Control license.
 1. All requirements of the Alcoholic Beverage Control license shall become conditions of approval of this permit. Failure to comply with any of the requirements of the Alcoholic Beverage Control license shall be considered as a violation of the terms of this permit.
- III. Operational Conditions
 - A. Compliance with all requirements of the Public Convenience or Necessity determination and the Alcoholic Beverage Control license shall be met on the

subject property at all times. Failure to comply with these requirements shall be considered as a violation of the terms of this permit.

- B. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.
- C. The advertisement and sale of beer and wine shall comply with the following conditions:
 - 1. No display of beer and/or wine shall be permitted within five feet of the cash register or of the front door.
 - 2. No advertisement or advertising of beer and/or wine shall be permitted on or at motor vehicle fuel islands.
 - 3. No sale of beer and/or wine shall be permitted from a drive-in window.
 - 4. No sale or display of beer and/or wine shall be permitted from an ice tub.
 - 5. No self-illuminated advertising for beer and/or wine shall be located on buildings or in windows.
 - 6. Employees on duty who sell beer and/or wine at gas stations shall be at least 21 years of age.
 - 7. The licensee, owner(s), partner(s) and employees shall be trained in a certified Responsible Beverage Service (RBS) program approved by the County Alcohol and Drug Program Administrator or the California Council on Responsible Beverage Service. The training shall be required within 30 days of the issuance of an ABC license; or 30 days from the hiring of any employee.
 - 8. Sales of alcoholic beverages shall not be permitted past 10:00 PM.
 - 9. There shall be no coin operated games or video machines maintained upon the premises at any time.
 - 10. The sales of beer or malt beverages in quantities of quarts, 22 oz., 32 oz, 40 oz or similar size containers is prohibited. No beer or malt beverage products shall be sold, regardless of size, by single containers, and must be sold in manufactured pre-packaged multi-unit quantities.
 - 11. No wine shall be sold with an alcoholic content of greater than 15% by volume except for "Dinner Wines" which have been aged two years or

more and maintained in corked bottles.

12. No alcoholic beverages shall be sold to any person while such person is in a motor vehicle.
13. No alcoholic beverages shall be consumed on any portion of the licensed premises or any portion adjacent thereto which is under the control of the licensee.
14. The sale and delivery of alcoholic beverages shall be made to persons who are within the licensed premises only and not through a pass-out window, or a slide-out tray to the exterior of the premises.
15. The possession of alcoholic beverages in open containers and the consumption of alcoholic beverages is prohibited on or around these premises.
16. The approval for sale of beer and wine shall be subject to review after one year, if any legitimate complaints are received regarding the sale of alcoholic beverages at the subject property.

IV. As a condition of this development approval, the holder of this development approval ("Development Approval Holder"), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys' fees), against the COUNTY, its officers, employees, and agents to attack, set aside, void, or annul this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.

- A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.
- B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:
 1. COUNTY bears its own attorney's fees and costs; and
 2. COUNTY defends the action in good faith.
- C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved

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the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.

- D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor'(s) in interest, transferee(s), and assign(s) of the applicant.

Minor variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

Please note: This permit expires three years from the effective date listed below unless the conditions of approval are complied with and the use commences before the expiration date.

Approval Date: _____

Effective Date: _____

Expiration Date: _____

Steven Guiney, AICP
Deputy Zoning Administrator

Randall Adams
Project Planner

Appeals: Any property owner, or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Zoning Administrator, may appeal the act or determination to the Planning Commission in accordance with chapter 18.10 of the Santa Cruz County Code.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOTICE OF EXEMPTION

The Santa Cruz County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA for the reason(s) which have been specified in this document.

Application Number: 111096

Assessor Parcel Number: 026-022-16

Project Location: 2680 Soquel Avenue, Santa Cruz

Project Description: Proposal to add beer and wine sales at an existing service station convenience store.

Person or Agency Proposing Project: Brewer Consulting Inc.

Contact Phone Number: (951) 698-6868

- A. ☐ The proposed activity is not a project under CEQA Guidelines Section 15378.
B. ☐ The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).
C. ☐ **Ministerial Project** involving only the use of fixed standards or objective measurements without personal judgment.
D. ☐ **Statutory Exemption** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).

Specify type:

E. ☒ **Categorical Exemption**

Specify type: Class 1 - Existing Facilities (Section 15301)

F. Reasons why the project is exempt:

Add additional retail sales to an existing service station in an area designated for commercial uses.

In addition, none of the conditions described in Section 15300.2 apply to this project.

Randall Adams, Project Planner

Date: _____

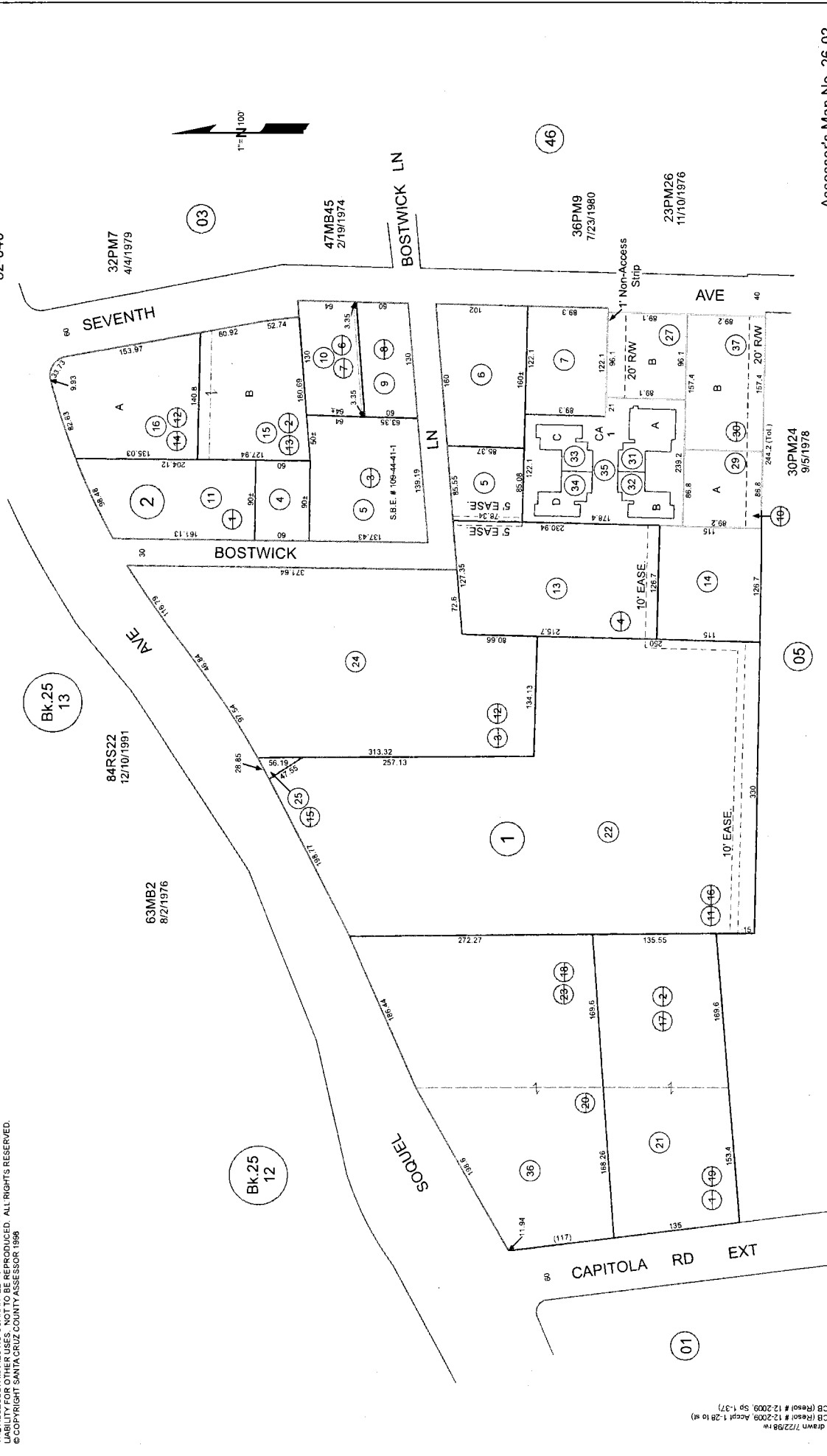
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POR. S. 1/2 SEC. 8, T.11S., R.1W., M.D.B. & M.

Tax Area Code
82-040

26-02

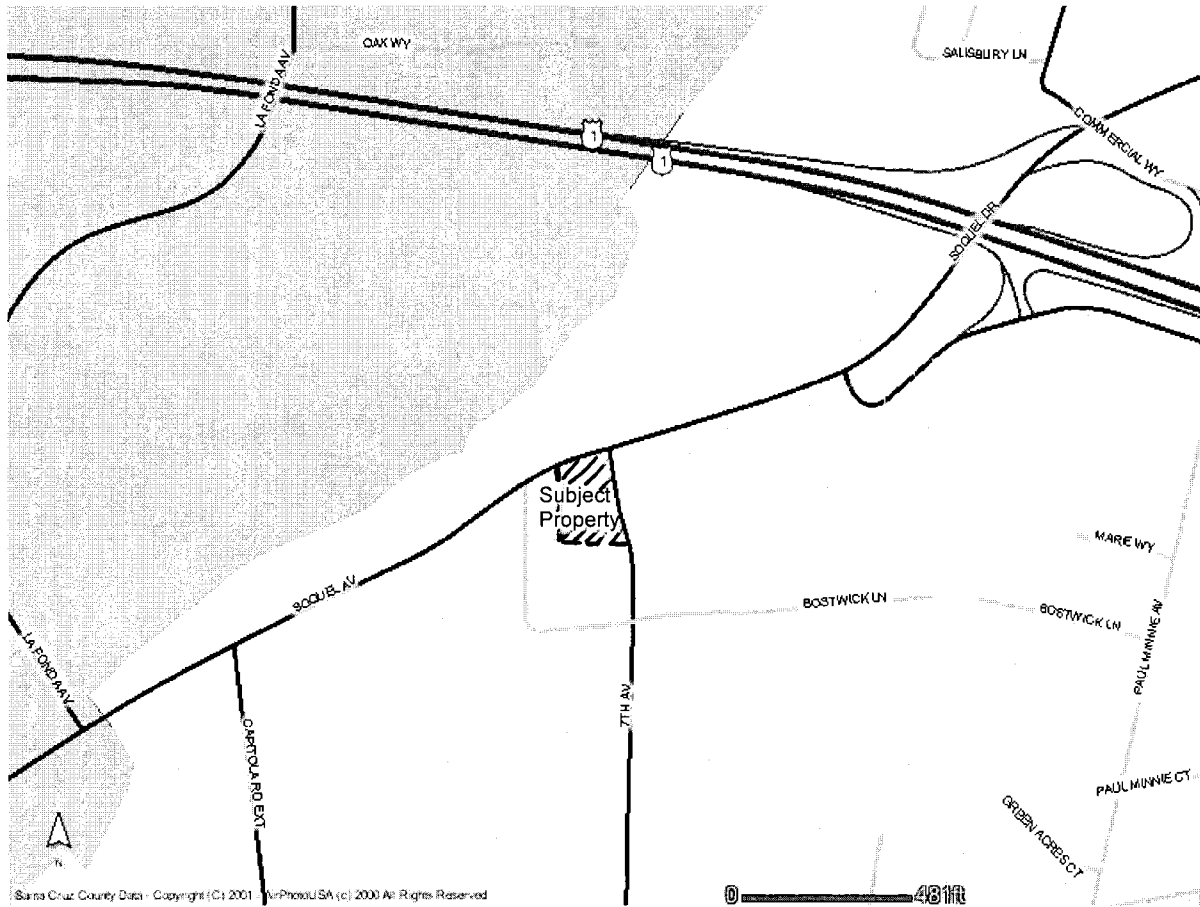


Note - Assessor's Parcel & Block
Numbers Shown in Circles.

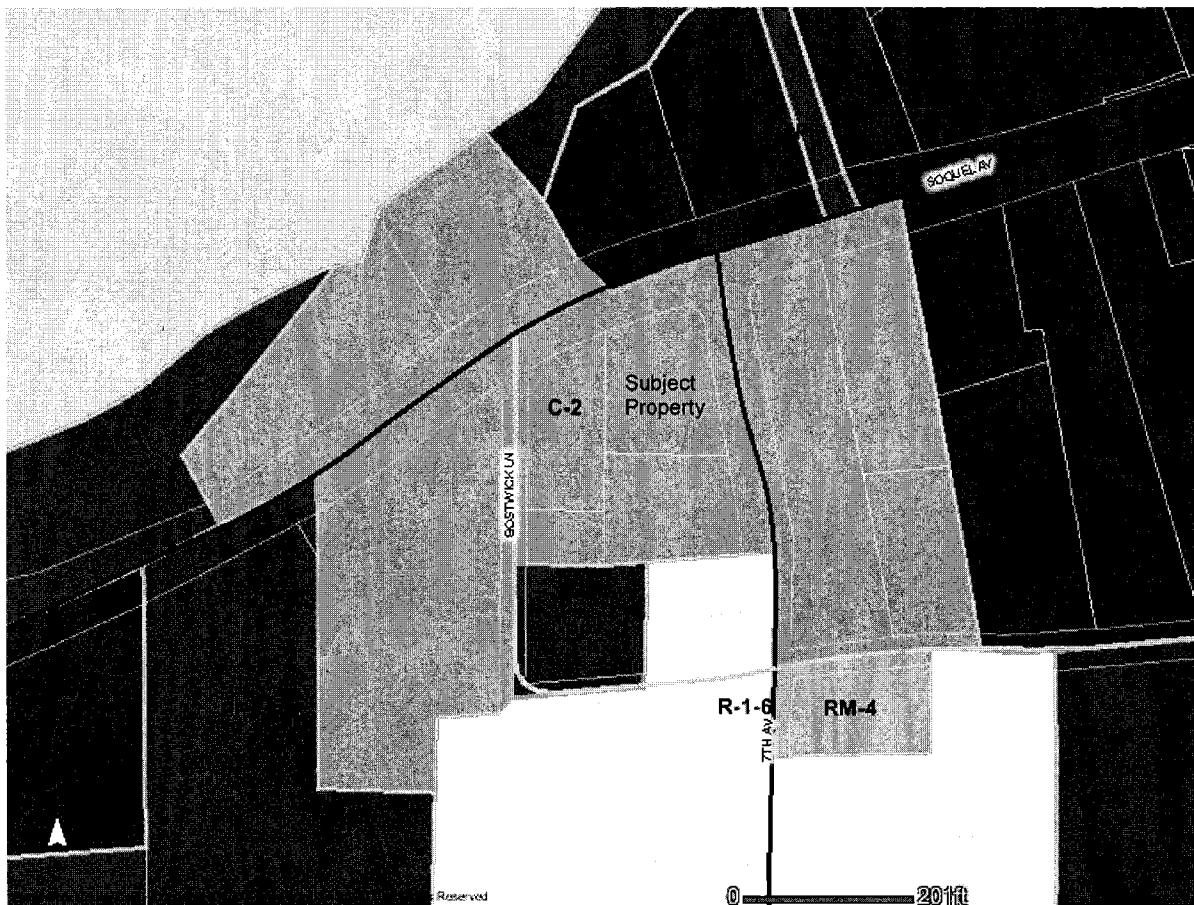
Assessor's Map No. 26-02
County of Santa Cruz, Calif.
July, 1998

Electronically drawn 7/22/98
Rev 6/17/10 CB (Revol # 12-2009, Acct 1-28 to 8)
Rev 6/17/10 CB (Revol # 12-2009, Sp 1-37)

Location Map



Zoning Map



General Plan Map

