



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
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KATHLEEN MOLLOY, PLANNING DIRECTOR

May 14, 2015

Agenda Date: July 6, 2018

Agenda item #: 2

Zoning Administrator
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

Subject: Public Hearing to Consider an Appeal of the Administrative Approval of Application 171254, for a proposed Restaurant (Betty Burgers) at 415 Trout Gulch Road, APN 041-011-32.

Zoning Administrator:

You are being asked to consider an appeal of the administrative approval of a proposal to change the occupancy of an existing commercial building from a dry cleaner/laundromat to Betty Burgers, a 1950's style burger restaurant (see Exhibit C of this report for the administratively approved Staff Report, Findings, Conditions of Approval and approved plans). The project is proposed to include a remodel of the existing 3,000 square foot commercial building. The proposed changes include cosmetic upgrades to the exterior of the building, with revised windows, new stucco over the existing concrete block walls, reconstruction of the marquee overhang and the construction of raised parapet walls at the north and east elevations. In addition, new signage for the restaurant will be added. Interior changes include opening up the partition between the two original spaces (dry cleaner and laundromat) to create a dining area with a food service counter, kitchen/food prep area, restrooms and also a storage area with a cooler and freezer. The project also includes a 336 square foot outdoor dining patio, construction of a new enclosure to screen the trash and recycling bins and reorganization and re-striping of the parking area to include 15 on-site parking spaces, 12 shared-use parking spaces on adjacent parcel APN 041-011-34 (Bayview Hotel parcel) and 5 parking spaces on APN 041-011-35 (the Trout Gulch Crossing building) that will be available for customers after 6:00pm. New landscaping is also proposed, together with pedestrian friendly improvements including a revised crosswalk at Trout Gulch Road. The proposed restaurant would be located on a 12,615 square foot parcel zoned Community Commercial (C-2), that is accessed from Trout Gulch Road. The project requires a Commercial Development Permit.

The April 10, 2018 approval of this project was appealed on April 24, 2018 by Becky Steinbruner on behalf of Christina Locke, owner of the adjacent Bayview Hotel and Restaurant on APN 041-011-34, located at 8041 Soquel Drive. The appeal has been made on the basis of concerns about the approved parking plan for the proposed restaurant and how the project may negatively impact the adjacent Bayview Hotel and

Restaurant. Particular concern has been expressed regarding the use of 12 parking spaces on APN 041-011-34 that are designated for shared-use between the two parcels. Staff's responses to the appellants' specific grounds for appeal are given below:

A. Based upon meetings with the applicant, Ms. Laurie Negro, the Appellant understood that the agreement regarding the 12 "shared use" parking spaces would be interpreted to mean that the spaces would be counted 50%/50% for each business.

The Appellant's letter claims that because the current administrative approval, does not include a provision that the shared parking spaces be divided evenly between the two businesses, this would allow Betty Burgers to claim all 12 shared parking spaces. This is not accurate. The parking demand analysis in the parking study for the proposed Betty Burgers restaurant, prepared by Ron Marquez, Traffic Engineer, determined that because the Betty Burgers and the Bayview Hotel and Restaurant's peak hour restaurant and hotel uses generally occur at different times, the overall peak demand for the 12 shared spaces would not exceed the number of spaces provided. In other words, there will be times during the day when the use of the 12 spaces in the shared parking area may be utilized mostly for the Bayview Hotel and Restaurant, and other times when the spaces may largely be utilized by customers of the proposed Betty Burgers. As a result, there should be sufficient parking available for both commercial uses. It should also be noted that if the shared parking were divided as suggested, this would reduce the available parking for the Bayview Hotel and Restaurant and therefore the Hotel would be out of compliance with previously approved permits.

Minor Land Division Permit 85-0661 approved the division of an original L-shaped parcel developed with two structures, the Bayview Hotel and the Betty Burgers building (at that time a dry cleaner/laundromat), resulting in the current two parcels. A condition of approval of that Permit required an easement for a shared parking area to be recorded on the resulting Bayview Hotel parcel, to ensure that there would be parking available for the existing and potential future uses on both parcels. Therefore, because the parking for the Bayview Hotel and Restaurant, as approved by Minor Land Division Permit 85-0661, includes the shared use of parking within the easement area, an application would need to be submitted for an Amendment to that Permit to allow for the shared spaces to be divided 50%/50%. No application has been submitted for an Amendment to Minor Land Division Permit 85-0661. Furthermore, such an application would require the submittal of a parking study for the Bayview Hotel and Restaurant as well as a revised parking study for the proposed Betty Burgers restaurant to show that there would be adequate available parking for each use independent of the other. Consistent with the existing shared parking agreement, the conditions of approval for application 171254 therefore do not place any restriction on the use of the 12 spaces by either of the businesses.

B. The parking analysis conducted by Marquez Transportation Engineering is inaccurate.

In her letter, the Appellant contends that the Parking Analysis, which indicates that the peak parking demand for Betty Burgers would be around the noon hour, tapering off during the afternoon and evening hours when the Bayview hotel and Restaurant experiences the highest demand, is incorrect. She also states that the parking study did not accurately reflect the parking needs of the Bayview Hotel and Restaurant and is therefore "flawed and unrealistic" because it does not account for the historic and future breakfast, lunch and dinner schedule, and the associated parking demand for customers and staff.

The parking study conducted by Marquez Engineering acknowledges that, based upon standard Institute of Transportation Engineers (ITE) parking generation rates, the adjoining Bayview Hotel, which includes 17 rooms and a restaurant of 3,200 square feet, does not currently have sufficient on-site peak demand parking availability (including the 12 shared-use spaces). Therefore, rather than limiting the use of the commercial building on the adjacent parcel due to an adjoining parking deficiency, the analysis in the parking study focuses on the hourly parking demand for the 12-space shared parking easement.

Review of the potential "future breakfast, lunch and dinner schedule for the Bayview Hotel and Restaurant" is beyond the scope of the current application, which is for a change of occupancy of an existing commercial building, not on the same parcel as the Bayview Hotel and Restaurant. Accordingly, the scope of the review of parking was limited to review of the area of overlap between the two adjacent businesses, specifically the 12 shared use spaces. However, it should be noted that parking for the Bayview Hotel and Restaurant was originally reviewed under Minor Land Division Permit 85-0661 and that, at that time the hotel did include a full-service restaurant.

During the review of application 171254 staff also had concerns that the parking study might not adequately account for the potential that Betty Burgers would have a second peak period during the evening hours. Therefore, the conditions of approval for application 171254 include a requirement that an additional 5 parking spaces be made available on the adjacent parcel APN 041-011-35 (that is under the same ownership). These 5 spaces would be available for the exclusive use of Betty Burgers during dinner hours (after 6:00pm) and a parking easement would be required to be recorded. This parking easement would reside in perpetuity for the life of the Betty Burgers restaurant or for any future restaurant on the subject parcel. As a result, adequate parking will be available at all times for the proposed restaurant.

C. The parking analysis conducted by Marquez Transportation Engineering does not take into account weekend parking demands and special events at the Bayview Hotel and Restaurant.

The Appellant is concerned that the parking demand study does not take into account peak events for the Bayview Hotel, including increased use at weekends and the potential for special events such as weddings at the hotel.

As described above, the parking study acknowledges that Bayview Hotel does not have sufficient parking. The need for additional parking to accommodate events at the Bayview Hotel and Restaurant was addressed by Commercial Development Permit 101114, which set up conditions of approval under which larger events such as weddings, would be allowed. However, the approved parking plan for Commercial Development Permit 101114, which included the construction of additional parking on a currently vacant portion of the parcel at the rear of the hotel, has not been implemented. The parking demand study for the proposed restaurant therefore focuses on the hourly parking demand for the 12-space shared parking easement. This methodology is designed to ensure that the proposed restaurant use will not further reduce the available parking for the Bayview Hotel and Restaurant and that there will be sufficient parking available for the proposed restaurant based upon the shared use of the 12 parking spaces

Furthermore, because the parking plan submitted with 101114 indicated that 100% of the 12 shared-use parking spaces would be available for the Bayview Hotel and also included parking spaces within a right-of-way easement on the Bayview Hotel parcel that provides access to the Trout Gulch Crossing parcels, 101114 included a specific condition of approval that sets out that: "If there are any future reductions in on-site parking (due to site improvements, accessibility requirements, improvements to or use of the easement between the Bayview Hotel and the Trout Gulch Crossing property or any other reason)", that this would result in a reduction in "the total number of individuals who could be in attendance during the events based on the parking ratio of 2.5 guests per parking space and 0.3 spaces per employee" (in this context the "Trout Gulch Crossing property" refers to both the subject parcel and adjacent APN 041-011-35, that are held in the same ownership). Therefore, it was acknowledged with the approval of Commercial Development Permit 101114, that the ability to host larger events at the Bayview Hotel would be restricted by potential future changes in the use of the adjacent parcels and easement areas. This condition of approval of 101114 provided a mechanism by which the potential for future development of the Trout Gulch Crossing properties, including the subject property, would not be restricted due to a parking deficiency on the Bayview Hotel parcel.

In the future, if the rear of the Bayview Hotel property is proposed to be improved for additional parking, it is possible that 3 of the existing 12 shared spaces may be required to be relocated to provide access to this new parking area. To allow for this, an additional condition of approval of has been added to application 171254

requiring that, if the owner of the Bayview Hotel agrees to provide additional shared parking at the rear of APN 041-011-32 (Bayview parcel) for Betty Burgers (or any future restaurant), that the property owner of APN 041-011-32 (Betty Burgers) shall consent to this relocation of parking. The replacement parking is required to be within a recorded easement area and with the number of new shared parking spaces to equal the number of shared parking spaces that are deleted. As a result, the proposed change of use from a dry cleaner/laundromat to a restaurant, will not reduce the potential for the development of additional parking for the Bayview Hotel property.

D. There is conflicting information set forth between the staff report findings and the Marquez Parking Memorandum.

The Appellant questions the accuracy of information and analysis and believes that this could negatively impact the property rights and commercial use of the Bayview Hotel and Restaurant.

The discrepancy in the figures cited in the parking study and in the staff report comes from different methods of calculation. Calculations in the Marquez parking study are based upon ITE standard parking ratios, which are applied to the entire 3,336 square foot area of the proposed restaurant building and dining patio. Calculations set out in the staff report are based upon County Code section 13.10.552(B) "Off-street parking requirements for non-residential uses", in which the calculation of required parking is based upon the net area of the proposed restaurant, including the patio but excluding all areas used for storage, resulting in an area of 2,353 square feet. County Code also requires additional parking for employees. Although the two methods of calculation are different, as set out in the staff report the results of both methods of calculation show that sufficient parking exists for the proposed restaurant. Therefore, there will be no impact on the property rights or use of the Bayview Hotel and Restaurant.

E. The project has been conditioned to allow for a possible shared parking agreement between the Betty Burgers Restaurant and the neighboring Aptos Village development by allowing for possible future pedestrian access across the Appellant's parcel.

The Appellant is concerned that the condition of approval (condition II.I.) does not honor her property rights and that she may not be included in agreements or discussions with the Aptos Village project owners.

Although the staff report does discuss available parking within the Aptos Village area to provide a wider context for the proposed restaurant use, the approval of application 171254 does not require a shared parking agreement between Betty Burgers and the Aptos Village development. However, because pedestrian circulation throughout the Aptos Village Core is desirable and because it is possible that either residents of the Aptos Village or visitors who have parked elsewhere in

the adjacent commercial area, will walk to Betty Burgers, the conditions of approval of 171254 allow for a possible future pedestrian link. To facilitate this future pedestrian route, the conditions of approval of 171254 require that before any pedestrian access can be created, the property owners of APN 041-011-34 (Bayview) and APN 041-101-45 (Aptos Village) must be party to this agreement. Therefore, the Appellant (or any future owner of the Bayview Hotel and Restaurant) is required to be included in future discussions and agreements that affect their property.

The Appellant also is concerned that if the Aptos Village project "becomes more occupied than the parking designed for 61% occupancy, and the tenants begin to restrict parking uses for specific businesses and residents", that overflow parking during peak hours for the Betty Burgers restaurant will not be available. As set out above, the approval of the proposed restaurant is not based upon potential overflow parking within the Aptos Village. The reference to "61% occupancy", a figure included in an e-mail from the project architect, should be explained, since the Appellant appears to have misunderstood what this figure represents. The figures quoted by the project architect are from the Aptos Village Parking Analysis, prepared in 2010 for the adjacent commercial development. The study sets out that the peak parking demand for all potential uses in the Aptos Village is calculated to be 663 spaces, but that a total of 1,095 spaces, including on-street parking, will be available in the Aptos Village area. Based upon these figures, only 61% of the available parking would be required to be used, even during peak demand periods. As a result, the remaining 428 spaces (39% of the available spaces) represent a reserve parking capacity that will be available for out of the ordinary events such as large retail sales, weddings, and County and State Park activities. The 61% occupancy figure does not refer to the occupancy of the buildings, it refers to the occupancy of available parking.

F. There is conflicting information regarding trip ends (traffic) generated by the project.

The Appellant has questions concerning what they perceive as conflicting information in the staff report and "past application data" regarding the number of new traffic trips that would be generated by the proposed restaurant (16, 78 or 68 trips). The reason for the concern is that the Appellant feels that traffic generation could impact parking for the area and result in overall traffic congestion problems. The Appellant also "insists" that a new weekday and weekend traffic count analysis of Trout Gulch Road between Soquel Drive and Cathedral Drive, be required as a condition of approval of 171254.

The following is a clarification of the figures included in the Appellant's letter, to explain the perceived "discrepancies": The Department of Public Works, Road Engineering section required submittal of an initial trip generation analysis for the proposed project, to determine a) an estimate of net new AM/PM peak hour traffic volumes (change from approved use to proposed use) in order to assess whether or

not a full Traffic Impact Study would be required and b) calculations of average daily weekday trips to determine the required Transportation Improvement Area fees.

The Trip Generation Analysis prepared by Marquez Transportation Engineering indicated that 16 new trips were estimated for the proposed restaurant. These 16 new trips would all be PM trips because the restaurant, which would open at 11:00am, would not generate trips during the AM peak. The threshold, above which preparation of a full Traffic Impact Study would be required, is 20 or more peak hour trips and therefore the proposed Betty Burgers restaurant did not meet the threshold triggering a requirement for a full Traffic Impact Study.

Initial calculations of Transportation Improvement Area fees by the Road Engineering section resulted in a figure of 78 trips upon which fees would be based. However, per the Memorandum from Ron Marquez, dated January 24, 2018 it was determined that a 20% of pass-by trips reduction could be applied to the daily trip rate for the proposed restaurant. This resulted in a figure of total 68 trips. To clarify exactly how the Road Engineering section calculated these figures, a complete breakdown is provided as Exhibit F of this report.

With regard to the Appellant's concern that trip generation rates affect parking, it should be noted that while they are related, these two aspects of transportation engineering are analyzed separately. Please see the previous discussions regarding the parking study that was prepared by Marquez Transportation Engineering.

G. Fire safety concerns

The Appellant wants assurance that the fire suppression system at the proposed Betty Burgers restaurant will be brought up to current Fire Code as has been required at the historic Bayview Hotel and Restaurant. The appellant is also concerned, based upon a conversation between Lezanne Jeffs and Ms. Steinbruner, that a fire suppression sprinkler system might not be required in the restaurant.

The preliminary plans for the proposed restaurant were reviewed by the Aptos/La Selva Fire Protection District and have been approved. To ensure that the proposed project is in full compliance with Fire Codes, further review of the proposed restaurant will be required before a Building Permit can be issued for the remodel of the building. Therefore, as required by the conditions of approval of application 171254, the proposed restaurant will meet all the requirements of the Aptos/La Selva Fire Protection District.

With regard to the referenced conversation, Lezanne Jeffs told Ms. Steinbruner that it was possible that a backflow prevention device might not be required because a new sprinkler system may not need to be installed. Ms. Steinbruner had previously expressed concerns about the visual impact of a backflow prevention device. The information was based upon a brief conversation with the project engineer and was

relayed to Ms. Steinbruner to allay her concerns. It should be noted however, that construction details have not been submitted for the proposed upgrade of the existing commercial building and that the extent of improvements required to meet Fire Codes has not been fully determined. However, as stated above, the proposed restaurant will be required to be upgraded in accordance with the requirements of the Aptos/La Selva Fire Protection District to meet all relevant Fire Safety Codes.

H. Pedestrian safety

The Appellant feels that pedestrian safety issues are being overlooked in general for the Aptos Village community and feels that the TIA fees being paid by the Applicant must be dedicated to pedestrian safety measures at this location. The Appellant acknowledges that application 171254 includes a condition of approval that the crosswalk at Valencia Road shall be relocated, but feels that the installation of flashing red lights, activated by pedestrians and bicyclists, should also be installed at the crosswalk to insure safe crossing of Trout Gulch Road.

As a condition of approval of application 171254, a total of \$40,800 in TIA fees (based upon 68 new vehicle trips as outlined above) are required to be paid. The Planning Department does not have the authority to direct the Department of Public works as to how these funds are subsequently allocated. However, the Appellant's concerns and their request for flashing red lights at the relocated crosswalk, have been passed on to the Department of Public Works.

I. One-year review of Permit 171254 to evaluate the success of the shared parking agreement.

The Appellant wants a condition of approval to be added to 171254 that reflects her request for re-evaluation, with both property owners present, of the shared parking arrangement after one year of Betty Burgers being in operation.

A one-year review of the proposed restaurant is not appropriate because there are no potential impacts, unusual circumstances or unanswered questions that have not been addressed by the conditions of approval of application 171254. It has been demonstrated, based upon the parking study prepared by Marquez Transportation Engineering, that the proposed restaurant will not reduce available parking for the Bayview Hotel and Restaurant due to use of the shared parking area serving the two parcels. Moreover, the shared parking area, which was required by a condition of approval of Minor Land Division Permit 85-0661 (as described in item A. above), existed prior to the submittal of application 171254, and is a private document that cannot be revised without the approval of both affected property owners. Revision to the easement agreement would also require an amendment to Minor Land Division Permit 85-0661, including submittal of individual parking studies for both properties. Therefore, it would not be appropriate to require an amendment to the shared parking agreement as a condition of approval of Permit 171254. However, this does not preclude the ability of the two affected property owners to jointly apply

for an amendment to Land Division Permit 85-0661 at some time in the future, should the use of the shared-use parking area become problematic. Based upon the available existing parking, the proposed Betty Burgers restaurant would conform to the requirements of County Code and no justification exists to require the review of the historic shared parking agreement as part of this project.

Conclusion and Recommendation

The proposed change the occupancy of an existing commercial building from a dry cleaner/laundromat to a 1950's style burger restaurant (Betty Burgers) is consistent with all County General Plan policies and the County Code, and staff recommends that the Zoning Administrator take the following actions:

- Accept the proposed CEQA Categorical Exemption; and
- Approve Application No. 171254 with revised conditions of approval;

Sincerely,



Lezanne Jeffs
Project Planner
Development Review Section

Reviewed By:


Jocelyn Drake
Principal Planner
Development Review Section

Exhibits:

- A. CEQA categorical Exemption
- B. Appeal Letter submitted by Becky Steinbruner on behalf of Christina Locke
- C. Staff Report for application 171254 including Findings and Conditions of Approval
- D. Revised conditions of approval
- E. Project plans and photo-simulation street view of the proposed restaurant
- F. Calculation of Trip Generation Fees
- G. Comments and correspondence

**CALIFORNIA ENVIRONMENTAL QUALITY ACT
NOTICE OF EXEMPTION**

#078-18

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.

RECEIVED
CLERK OF THE BOARD

Application Number: 171254

Assessor Parcel Number: 041-011-32

Project Location: 415 Trout Gulch Road, Aptos

APR 10 2018

BOARD OF SUPERVISORS
COUNTY OF SANTA CRUZ

Project Description: Proposal to change the occupancy of an existing commercial building from a dry cleaner/laundromat to a restaurant (Betty Burgers).

Person or Agency Proposing Project: Dee Murray

Contact Phone Number: (834) 475 5336

- 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).
E. ☒ **Categorical Exemption**

Specify type: Class 3 - New Construction or Conversion of Small Structures (Section 15303)

F. Reasons why the project is exempt:

Conversion of an existing commercial building of less than 10,000 square feet in size, from one commercial use to another commercial use, that is within a commercial zone district that allows for the new use, and where only minor modifications are proposed to the exterior of the structure.

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


Lezanne Jeffs, Project Planner

Date: April 10, 2018

THIS NOTICE HAS BEEN POSTED AT THE CLERK
OF THE BOARD OF SUPERVISORS OFFICE FOR A

PERIOD COMMENCING Apr-12 20 18

AND ENDING May-12 20 18

EXHIBIT A

8041 Soquel Drive
Aptos, CA 95003
April 24, 2018

Ms Kathy Molloy, Santa Cruz County Planning Director
4th Floor
701 Ocean Street
Santa Cruz, CA 95060

Hand Delivered April 24, 2018

Dear Ms. Molloy,

In accordance with Section 18.10 of the Santa Cruz County Code, I am hereby appealing the Level 4 Approval of Application 171254 (APN 041-011-32), Betty's Burger. I am the owner of the adjacent historic Bayview Hotel property (APN 041-011-34) and did file a letter of protest on March 27, 2018 regarding my concerns about the shared parking agreement and overall parking issues related to this Application and change of use. Those concerns were not at all addressed in the Conditions of Approval for Application 171254.

I have personally met with the Applicant, Ms. Laurie Negro, multiple times and thought we had reached an agreement that the 12 shared parking spaces would be divided 50% / 50% (6 spaces to be counted for each owner's use) AT ALL TIMES OF THE DAY AND NIGHT. I submitted this agreement as part of my March 27 protest letter to Planner Lezanne Jeffs to make sure it was addressed in the impending Application's Conditions of Approval. It was not, and therefore, I feel I must appeal the approval to insure that my property rights and commercial uses of my property are protected now and into the future. The current approval would allow Betty's Burger to claim all 12 shared parking spaces and this is unacceptable.

Here are the reasons that I am appealing the approval of Application 171254:

1) "The graph below reflects the hourly parking demand for Betty's Burgers and the parking demand for the 12 space easement as described above. The peak parking demand for Betty's Burgers is around the noon hour and tapers off during the afternoon and evening hours when the Bayview experiences the highest demand." (page 2 of Marquez Parking Memorandum)

The expert parking analysis conducted by Marquez Transportation Engineering to support the parking requirements of County Code 13.10.553 (B) did not accurately account for the parking needs of the Bayview Hotel and Restaurant's historic and future breakfast, lunch and dinner schedule, And associated parking demand for customers and staff. Mr. Marquez never consulted me regarding his information to support my commercial use regarding the parking analysis for the Betty's Burger use. To claim that my business parking needs are confined to the evening hours is flawed and unrealistic, and would severely limit my future property uses.

2) The Marquez Parking Study did not account for weekend parking demands and special events that have historically occurred at the Bayview Hotel and Restaurant. The graph submitted in the report do not in fact identify if the parking demand numbers submitted are for a weekday or weekend, but given the photocopy of "Land Use 932 Weekday Urban Peak Period Parking Demand (Family Restaurant)" on page 5 of the report (it is of very poor copy quality), I must assume that no attention was given to weekend parking requirements. I currently am permitted to hold special events with up to 50 guests,

and may be permitted to hold larger events in the future with certain improvements.

Because these events typically occur on weekends for extended hours, my parking needs will require the 50% allotment of the parking spaces shared with Betty's Burgers for the entire day time and evening hours.

3) There is conflicting information set forth between the Staff Report Findings and the Marquez Parking Memorandum, leading me to question the accuracy of information and careful analysis that could potentially negatively impact my property rights and commercial uses. The Marquez Study (page 1) reports the Betty's Burgers claims 3,336 SF and requires 27 parking spaces, while Ms. Jeffs' report (page 2) claims a total of 2,353 SF and requires 26 parking spaces.

This inconsistent information deeply concern me as the adjacent property owner who will be sharing the parking areas with Betty's Burgers and *must* insist the discrepancies be addressed.

4) Ms. Jeffs included a possible shared parking agreement between the Applicant and the Aptos Village Project owners, placing a condition (#7I) that "If agreement can be made between all property owners, pedestrian access shall be provided between the shared parking area on APN 041-011-34 and APN 041-011-45 to allow pedestrian circulation from the Aptos Village Core. Documentation of all negotiations between property owners shall be provided to the Planning Department to document any such agreement or lack thereof."

I would like to respectfully point out that Ms. Jeffs has made Condition of Approval for Betty's Burger that names my property as a matter of subject but is not honoring my property rights and ownership. I repeat that I was never consulted by Mr. Marquez for the parking analysis, and am concerned that I may not be included in agreements or discussions with the Aptos Village Project owners. I insist that this Condition of Approval be changed to specifically require my approval and involvement at all phases of the discussion process.

I would also like to respectfully point out that while the Aptos Village Project may supply some parking for Betty's Burgers peak overflow needs, Mr. Miguel Podolsky informed Ms. Negro in a January 22, 2018 communication: "Note that on the Aptos Parking Study, the overall reserve capacity for the development is 482 spaces. That number reflects a 61% occupancy factor, well below normally accepted measurements of parking capacity." The CCR agreements for the Aptos Village Project tenants clearly states that the tenants will have full control over limiting future parking uses to best benefit the needs of the tenants. (Attachment A)

If the Aptos Village Project becomes occupied more than the parking designed for 61% occupancy, and the tenants begin to restrict parking uses for specific businesses and residences, I am concerned that any overflow parking agreements to serve the Betty's Burgers needs will not be realistic and in fact, intensify parking problems the area, including the front of my property, where already patrons of Cafe Sparrow park and cross over Soquel Drive.

5) I also have further questions about conflicting information in the Staff Report and past Application data regarding the number of new trips generated by the Applicant. The December 15, 2017 Response Letter (item #2) states the Trip Generation Analysis prepared by Marquez Transportation Engineering indicates that 16 new trips are estimated for the restaurant. In the letter from Ms. Jeffs to the Applicant's agent, Ms. Dee Murray, also dated December 15, 2017, (page 3) the number of new daily trips generated by the project is 78, for a TIA fee total of \$46,800. In the Application Conditions of

Approval, (7G) the number is 68 trips with a TIA fee of \$40,800. I do not have confidence that there is accurate information regarding the number of new trips generated by the new Betty's Burgers restaurant use for the property adjacent to me, and I feel this could impact the parking for the area and overall traffic congestion problems. I want this information clarified because it may affect my property and commercial uses.

A certain percentage of the Betty's Burgers anticipated new trip generation is based on pass-by traffic. I am aware that there has been no recent traffic count and analysis for Trout Gulch Road since 2004. Therefore, I insist that there be required a new weekday and weekend traffic count analysis on Trout Gulch Road between Soquel Drive and Cathedral Drive as a Condition of Approval.

6) Condition of Approval 7H states "The crosswalk at Trout Gulch Road that provides pedestrian access from Valencia Road, shall be relocated in accordance with the requirements of the Department of Public Works, Road Engineering section, and County Design Guidelines, as shown on Exhibit A." Because it will be very likely that patrons will park on Valencia Street and walk to Betty's Burgers, using this pedestrian crosswalk, and given the anticipated increase in traffic on Trout Gulch Road once the Aptos Village Project is occupied (especially the New Leaf Market), I feel the TIA fees being paid by the Applicant must be dedicated to pedestrian safety measures at this location.

I feel the pedestrian safety issues are being overlooked in general for this area and for the safety of the Aptos Village community, there be required installation of flashing red lights at the crosswalk that are activated by pedestrians and bicyclists to insure safe crossing of Trout Gulch Road to the Betty's Burgers restaurant.

7) Condition of Approval 7F states "Meet all requirements and pay applicable plan check fee of the Aptos/La Selva Fire Protection District." Planner Lezanne Jeffs recently mentioned to Ms. Steinbruner, when she was asking about this Application, that the Applicant will not be required to install a new fire suppression sprinkler system in the restaurant. This concerns me greatly as a neighboring property and fellow restaurant owner.

I want assurance that the fire suppression system in Betty's Burgers be brought to current code, as I have had to do at the historic Bayview Hotel and Restaurant.

8) I stated in my March 27, 2018 letter that I wanted a Condition of Approval placed on application 171254 that after one year of operation, the permit be reviewed to evaluate, with both property owners present, the success of the shared parking agreement with the new, more-intensive restaurant use that Betty's Burgers will impose and that other arrangements be made if there are problems. This simple and fair request was not honored in the Betty's Burgers Application approval.

I want a Condition of Approval added that reflects my request for re-evaluation of the shared parking arrangement after one year of Betty's Burgers operation.

In closing, I am disappointed that I must take this appeal action at all because I truly want to be a cooperative business neighbor with Ms. Negro. However, because my concerns listed here and in my March 27, 2018 letter have not been addressed in writing within the documents associated with the Application 171254 staff approval, I feel I have no choice but to take appeal action to protect my own property values and commercial uses.

Sincerely,



Cristina Locke
Bayview Hotel Owner

C: ✓ Ms. Lezanne Jeffs, Planner
Ms. Laurie Negro, Betty's Burgers
Santa Cruz County Zoning Administrator

1 attachment

Lezanne Jeffs

From: Miguel Podolsky <miguel@mparchitecture.com>
Sent: Monday, January 22, 2018 1:40 PM
To: Lezanne Jeffs
Cc: Laurie Negro; Dee Murray
Subject: FW: revised files Betty Burgers 12-27-17, revised trip generation, new parking analysis by Ron Marquw, including Aptos Village Parking Study
Attachments: Betty 12-27-17.pdf; Re: RE: Trip Generation Analysis- revision requested from Rodolfo Rivas; Betty incomplete 12-15 RESPONSE 12-27.pdf; Fwd: Bayview fence; Parking Memo.pdf; Aptos Village Parking 2010.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Lezanne, I'm mailing you the same revised plans (adding 1 tree), revised trip generation (adding the word PM to traffic trips) response letter etc.

In addition there is a new memorandum by Ron Marquez, transportation engineer, "Parking Memo", supporting the shared parking situation on the 12 spaces shared with the Bayview Hotel. The 2010 Aptos Village Parking Study has also been included for reference.

Note that on the Aptos Parking Study, the overall reserve capacity for the development is 482 spaces. That number reflects a 61% occupancy factor, well below normally accepted measurements of parking capacity.

I'm on my way to the County to deliver hard copies.

Thank you,
Miguel

Miguel Podolsky Architect
miguel@mparchitecture.com
<http://www.mparchitecture.com/>
of (831) 763-1550, cel (831) 818-1294
86 Lilly Way, La Selva Beach, CA 95076

-----Original Message-----

From: Miguel Podolsky [mailto:miguel@mparchitecture.com]
Sent: December 26, 2017 6:08 PM
To: 'Lezanne Jeffs'
Cc: Dee Murray (deelnuse@yahoo.com); Laurie Negro (laurie@bettyburgers.com); rn.mrqz@yahoo.com
Subject: FW: revised files Betty Burgers 12-27-17

Hi Lezanne, attached please find revised drawings (Betty 12-27-19), trip generation, response letter and owner's mail to Bayview Hotel (regarding fence).

Tomorrow Wednesday I'll submit to the County 3 full and complete paper sets per your incomplete letter. These PDF files are a back-up for your files.

Because the revisions are very minor (adding 1 tree, adding the word PM to traffic trips), we were hoping that you could review and deem complete prior to customary 30 days.

The owner is trying to move the process diligently as things always take longer than expected.

Thank you,
Miguel



Staff Report & Development Permit Level 4 – Administrative Review

Application Number: 171254

APN: 041-011-32

Applicant: Dee Murray

Owner: Negro/Valledor

Site Address: 415 Trout Gulch Road, Aptos

Proposal & Location

The proposal is to change the occupancy of an existing commercial building from a dry cleaner/laundromat to a restaurant (Betty Burgers) in the C-2 zone district. This requires a Commercial Development Permit.

The property is located on the west side of Trout Gulch Road (415 Trout Gulch Road), approximately 225 feet north of Soquel Drive, in the Aptos Village.

Background and History

The existing commercial building was constructed on the parcel in 1949, before building and development permit requirements, and was initially used as the Aptos Post Office. When the Post Office relocated in 1964, the building was first converted for office uses and later became a laundromat with a dry cleaning business which operated on the site until 2016. There is no record of any permits for these earlier changes of use. Since 2016, when the parcel was sold to the current owners, the building has been vacant. Application 171254 for a new restaurant use, was submitted on August 34, 2017.

Since 1979, land use in the Aptos Village has been governed by the Aptos Village Community Design Framework, a Specific Plan which was originally approved by the Board of Supervisors on April 17, 1979 and amended on June 18, 1985. Subsequently, the Aptos Village Community Design Framework was superseded by the Aptos Village Plan, adopted by the Board of Supervisors on February 23, 2010, and then revised September 25, 2012, a guiding document that provided an updated and coordinated plan for the entire Aptos Village area, including a comprehensive plan for the development of several large vacant parcels, and a framework to guide all future public and private improvements in the area. The subject parcel is located within the "Village Core", that portion of the Aptos Village Plan that includes all of the previously vacant parcels and where the majority of the proposed new development is currently occurring.

Analysis

The subject property is a parcel of approximately 12,615 square feet, located in the C-2 (Community Commercial) zone district, a designation that allows restaurants and other community serving uses. The proposed restaurant, which will be in an existing commercial building, is a principal permitted

use within the zone district, subject to the approval of an Administrative Commercial Development Permit, and the zoning is consistent with the site's Community Commercial (C-C) General Plan designation. The proposed change of use of the existing commercial building to a restaurant use is also consistent with the use and development standards set out in the Aptos Village Plan.

The proposed remodel of the existing commercial building will not result in any additional floor area and the proposed exterior changes to the building will consist of cosmetic upgrades that include revised windows, new stucco over the existing concrete block walls, reconstruction of the marquee overhang and the construction of raised parapet walls at the north and east elevations. In addition, new signage for the restaurant will be added. Interior changes include opening up the partition between the two original spaces (dry cleaner and laundromat) to create a dining area with a food service counter, kitchen/food prep area, restrooms and also a storage area with a cooler and freezer. The project also includes a small outdoor dining patio, construction of a new enclosure to screen the trash and recycling bins, reorganization and re-striping of the parking area and new landscaping together with pedestrian friendly improvements that include a revised crosswalk at Trout Gulch Road and upgraded pedestrian access to the site.

Parking

As set out in County Code section 13.10.552(B) "off-street parking for non-residential uses", for a restaurant use one off-street parking space is required to be provided for each 100 square feet of floor area (excluding storage), plus 0.3 parking spaces per employee. The proposed restaurant will include 2,017 square feet of floor area (excluding storage areas) and a 336 square foot outdoor dining patio, a total of 2,353 square feet. There will be a total of 6 employees for the restaurant. Therefore a total of 26 parking spaces are required, 24 based upon the area of the use and 2 additional employee spaces.

The proposed restaurant is located within a parking area that includes a total of 32 spaces. Of these, 14 standard spaces and 1 van accessible space are located on the subject parcel, an additional 12 shared use parking spaces are located on the adjacent parcel, APN 041-011-34 (Bayview Hotel and Restaurant), within an area that is subject to a recorded parking easement providing parking for both the proposed restaurant and the hotel, and 5 parking spaces located on APN 041-011-35 that will be within an exclusive-use parking easement area for use after 6:00pm.

Because 12 of the 32 spaces will be shared with the adjacent Bayview Hotel and Restaurant use, the applicant is requesting approval of a parking plan in conformance with County Code section 13.10.553(B)(5). In support of the parking plan, a Parking Study, prepared by a licensed traffic engineer, has been submitted for the proposed restaurant use. The Parking Study specifically addresses the use of shared parking areas. It also takes into account the hourly variations in parking demand among the various land uses and the location of the restaurant in a mixed use development where the land uses result in people being attracted to two or more land uses on a single automobile trip. The parking demand analysis in the Parking Study for the proposed Betty Burgers restaurant, completed by Ron Marquez, Traffic Engineer, determined that even during Betty Burgers' and Bayview Hotel and Restaurant's peak hour restaurant and hotel uses, the overall peak demand is projected to not exceed 25 spaces, below the 27 spaces provided on the project site in combination with the shared parking easement. It should be noted that the findings of the Parking Study, do not account for the provision of 5 additional spaces on the adjacent parcel, APN 041-011-35, a parcel

that contains office/specialty uses with daytime hours and that is currently held in the same ownership as the proposed restaurant. The 5 spaces are located at the rear of the Trout Gulch Crossing building and are contiguous with and accessed directly from the parking area on the subject parcel. Therefore, to ensure that sufficient parking will be available during peak dinner hours, a condition of approval has been added to this Permit, requiring that an easement be recorded on APN 041-011-35 setting out that these 5 spaces will be available for the exclusive use of Betty Burgers after 6:00pm. As required by Santa Cruz county Code section 13.10.555, the parking easement will reside in perpetuity for the life of the Betty Burgers restaurant or for any future restaurant on the subject parcel. As a result, in the unlikely event that future seasonal hotel or Bayview Restaurant parking demand differs from the current demand as anticipated by the Parking Study, an additional five adjacent spaces will be provided for Betty Burgers evening parking use at the time when the Bayview Hotel/restaurant peak hours occur.

Therefore, based upon the findings of the Parking Study for the subject property and the existing shared parking easement area, together with the provision of 5 additional exclusive use parking spaces on APN 041-011-35 during dinner hours, it has clearly been demonstrated that there will be sufficient parking available to support the proposed restaurant use.

It should also be noted that the proposed restaurant is located in the Aptos Village, an area that actively promotes pedestrian and bicycle use and which is also served by public transportation. The closest bus stop is located adjacent to the intersection of Trout Gulch Road and Soquel Drive, which is approximately 200 feet from the proposed restaurant. Furthermore, new streets currently under construction within the Aptos Village Core, have been designed to include parking bays that will be available for shared use by all users of the Village. The Aptos Village Parking Study, prepared in conjunction with the Aptos Village Plan, concluded that, based upon traffic engineering methodology, there will be a reserve of up to 97 parking spaces within the Village Core and up to 428 spaces within the Aptos Village as a whole, for use by residents and visitors of the Aptos Village area.

Primary vehicle access to the site would be from Trout Gulch Road at a point approximately 330 feet north-east of the corner of Soquel Avenue, together with a secondary, narrower, exit-only driveway that is approximately 180 feet from Soquel Avenue. Access is provided via rights-of-way that cross adjacent APNs 041-011-34 and 35 and that run through the parking area and around the proposed restaurant building. All of the parking spaces on both the subject parcel and within the existing shared parking easement area, as well as the 5 spaces on APN 041-011-35, will be accessed from these rights-of-way, and the entire area is paved such that it appears to be one contiguous parking lot. Pedestrian access to the site is available from Trout Gulch Road. In addition the crosswalk that provides access from Valencia Road across Trout Gulch Road, will be relocated and improved as a condition of approval of this project. If agreement can be reached with the adjacent property owner to the northeast, provision of a direct pedestrian link to the new developments in the Aptos Village Core is also encouraged.

Bicycle parking for the proposed restaurant is required to be provided at one space per 400 square feet of floor area (excluding storage) and also for the outdoor dining patio. Plans show a total of 6 bicycle rack parking spaces which meets this requirement. A designated loading zone is not required by County Code. Deliveries to the restaurant will occur between 8:00am and 10:00am before the

restaurant is open for service, and during this time trucks will park on the subject parcel. Hours of operation for the proposed restaurant will be 11:00am to 11:00pm daily.

Signs

The sign standards set out in the Aptos Village Plan area allow for a maximum of half a square foot of sign area for each linear foot of frontage of the business. There is no limitation on the number of signs so long as the maximum sign area is not exceeded. Proposed signs for the restaurant include two circular logo-signs, one on each of the two proposed parapet walls as described above, and a business-name sign, comprised of free-standing letters, that will be mounted along the marquee overhang adjacent to Trout Gulch Road. The logo-sign over the restaurant entrance at the north elevation of the building will be flat-mounted to the wall, the logo-sign at the east elevation will be a blade sign mounted on a projecting decorative wall and will not extend more than 24" from the wall in accordance with the standards set out in the Aptos Village Plan. The parcel has a frontage of 230.61 linear feet, which allows for a total sign area of 115 square feet. The total combined area of the proposed signage will be 104.5 square feet which is less than the allowed maximum sign area. Details of proposed additional directional signage including signs regarding the use of parking spaces in accordance with the approved parking plan are required, as a condition of approval of this project, to be reviewed and approved prior to the issuance of any Building Permits.

Historic

Because the subject property is developed with a structure that is more than 50 years old and also because of its location within the Aptos Village, an area that contains several historic structures, an evaluation of the historic significance of the site was required for this project. A Historic Report was therefore submitted in support of the proposed project. The evaluation conducted for the preparation of this report found that because the building was not constructed during a period of historic significance for the Aptos Village and because it does not contribute to the sense of historic place, the site and its building do not meet the criteria for designation as a historic resource. The structure is therefore not eligible for listing in the County Historic Resources Inventory, or in the California Register and as a result, no further historic review is required for this project.

Design Review

The proposed remodel of the exterior of the existing building is subject to Design Review as set out in County Code section 13.11.040(E). Currently the building is a low-profile, rectangular concrete block structure that includes a marquee overhang along the east elevation and also along a portion of the north elevation. The proposed restaurant has been designed to resemble a 1950's diner and will therefore maintain the basic form of the existing building built in 1949. However, the structure will be remodeled to include new parapet walls at the north and east elevations that will break up and add visual interest in views of the structure from Trout Gulch Road. In addition, the existing marquee overhang will be extended further along the northern elevation. These upgrades, together with new windows and doors and a freshly painted stucco exterior will upgrade the overall appearance of the building. In addition to the remodel of the building, a small structure is proposed to be constructed to house trash and recycling facilities. Because of the sloped nature of the existing parking lot, to avoid excessive grading the proposed trash enclosure has been required to be located centrally within

the parking lot where it will be visible from Trout gulch Road. To reduce the potential impact of this small building additional landscaping, including vines and a specimen tree, has been required to screen and soften its appearance in views from the road. Further landscaping including additional tree planting, will also be installed within a planting area fronting onto Trout Gulch Road. If agreement can be reached with the owner of the Bayview Hotel, a replacement fence and additional landscaping within the shared parking easement, at the rear of parking spaces will also be added.

The proposed remodel of the building, together with the proposed addition of landscaping, will bring the site into greater conformance with the requirements of the County Design Review Ordinance. Currently there is no landscaping provided for the site. The proposed project will therefore improve the appearance of the site and enhance the surrounding land uses and the natural landscape.

Findings are on file in the County Planning Department.

Staff Recommendation

The Planning Department has taken administrative action on your application as follows:

 X Approved (if not appealed).
 Denied (based on the attached findings).

NOTE: This decision is final unless appealed.

See below for information regarding appeals. You may exercise your permit after signing below and meeting any conditions which are required to be met prior to exercising the permit. If you file an appeal of this decision, permit issuance will be stayed and the permit cannot be exercised until the appeal is decided.

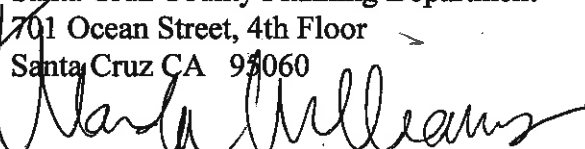
**Please note: This permit will expire unless exercised prior to the expiration date.
(See the Conditions of Approval below for the expiration date of this permit.)**

If you have any questions about this project, please contact Lezanne Jeffs at:
(834) 454-2480 or lezanne.jeffs@santacruzcounty.us

Report Prepared By:


Lezanne Jeffs
Santa Cruz County Planning Department
701 Ocean Street, 4th Floor
Santa Cruz CA 95060

Report Reviewed By:


Wanda Williams
Assistant Director
Santa Cruz County Planning Department

Mail to: Dee Murray
2272 Kinsley Street
Santa Cruz, CA 95062

Appeals

In accordance with Section 18.10 et seq of the Santa Cruz County Code, the applicant or any aggrieved party may appeal an action or decision taken on a Level IV project such as this one. All appeals shall be made in writing and shall state the nature of the application, your interest in the matter and the basis on which the decision is to be considered to be in error. Appeals must be made no later than fourteen (14) calendar days following the date of publication of the action from which the appeal is being taken and must be accompanied by the appropriate filing fee.

Conditions of Approval

Exhibit A. Project plans, 6 sheets, 5 sheets prepared by Miguel Podolsky, Architect, 4 dated 9/29/17 and 1 dated 11/15/17, and 1 sheet prepared by Ifland Engineers, dated 11/15/17

- I. This permit authorizes the remodel of an existing commercial building to a 2,017 square foot restaurant with a 336 square foot dining patio as indicated on the approved Exhibit "A" for this permit. 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. Obtain a Building Permit from the Santa Cruz County Building Official.
 - C. Any outstanding balance due to the Planning Department must be paid prior to making a Building, Grading, or Demolition Permit application. Applications for Building, Grading, or Demolition Permits will not be accepted or processed while there is an outstanding balance due.
 - D. Obtain an Encroachment Permit from the Department of Public Works for all off-site work performed in the County road right-of-way.
 - E. 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. Prior to issuance of a Building Permit the applicant/owner shall:
 - A. Submit final architectural plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "A" on file with the Planning Department. Any changes from the approved Exhibit "A" for this development permit on the plans submitted for the Building Permit must be clearly called out and labeled by standard architectural methods to indicate such changes. Any changes that are not properly called out and labeled will not be authorized by any Building Permit that is issued for the proposed development. The final plans shall include the following additional information:
 1. A copy of the text of these conditions of approval incorporated into the full size sheets of the architectural plan set.
 2. One elevation shall indicate materials and colors as they were approved by this discretionary application. In addition to showing the materials and colors on the elevation, the applicant shall supply two color and material sheets, printed on paper, (8 1/2" x 11" format) to be included with the building permit plans. The perpendicular sign-wall at the east elevation shall be revised to be painted either gray or beige to match the walls.

EXHIBIT C

3. Submit a landscape plan for the proposed planting areas to include the following information:
 - i. Proposed ground treatment for all new planting areas (soil preparation, mulching etc.).
 - ii. A detailed plant palette including the size, spacing, location and total number of each species to be planted.
 - iii. All proposed planting shall be chosen to blend with the existing and proposed landscaping in the Aptos Village. Palm trees are not approved.
 - iv. Planting adjacent to the proposed trash enclosure shall include vines that will screen and soften the appearance of the structure. An additional planting pocket for vines shall be included at the south elevation of the proposed trash enclosure.
 - v. Details of any wires or trellis to support vines.
 - vi. Note on the plans that the proposed specimen tree adjacent to the trash enclosure shall be minimum 15 gallon size.
 - vii. Note on the plans that an automatically timed irrigation system with drip components will be used for all new planting areas.
 - viii. Details of ongoing maintenance.
 4. Provide details of proposed exterior lighting. All fixtures shall comply with provisions of the Aptos Village Plan, and shall be consistent with and complement the character of the architecture of the Village by being historically appropriate.
 5. Provide details of proposed signage in parking areas designating the allocation of parking spaces and, where appropriate, time restrictions that apply.
 6. Provide details of directional signage regarding ingress/egress to the parking area from Trout Gulch Road. The southernmost driveway shall be exit only.
 7. Show that the location of the required water backflow prevention device. This facility shall be in a location where it will be screened from public viewpoints to the greatest extent possible by landscaping or other means and shall be colored to most effectively blend into its surroundings or with the adjacent building. A location behind the building where it is not visible from Trout Gulch Road is preferred.
- B. Meet requirements of the County Department of Public Works, Stormwater Management. Drainage fees may be assessed if there is a net increase in impervious area.
- C. Meet all requirements of the Accessibility plan review.
- D. Meet all requirements of the Soquel Creek Water District.

- E. Meet all requirements of the Santa Cruz County Sanitation District.
- F. Meet all requirements and pay any applicable plan check fee of the Aptos/La Selva Fire Protection District.
- G. The development is subject to Aptos Transportation Improvement Area (TIA) fees that are currently \$600 per daily new trip generated by the proposed use. The number of daily new trips (for determination of TIA fee purposes only) generated by the project is 68 trips. Pay the current TIA fees of \$ 40,800 (68 x \$ 600 = \$ 40,800) for the proposed change of use, to be split evenly between Transportation Improvement Fees and Roadside Improvement Fees.
- H. The crosswalk at Trout Gulch Road that provides pedestrian access from Valencia Road, shall be relocated in accordance with the requirements of the Department of Public Works, Road Engineering section, and County Design Guidelines, as shown on Exhibit A.
- I. If agreement can be made between all property owners, pedestrian access shall be provided between the shared parking area on APN 041-011-34 and APN 041-101-45 to allow pedestrian circulation from the Aptos Village Core. Documentation of all negotiations between property owners shall be provided to the Planning Department to document any such agreement or lack thereof.
- J. Required off-street parking shall include the following:
- 15 spaces on the subject parcel (including 1 Accessible space).
 - 12 parking spaces on APN 041-011-34 subject to the shared parking easement as designated on The Parcel Map recorded at 46PM57.
 - 5 spaces on APN 041-011-35 subject to an easement as described at K. below, attached to the land, granting the exclusive use of the area behind the Trout Gulch crossing building for restaurant parking after 6:00pm.

Standard parking spaces must be 8.5 feet wide by 18 feet long and must be located entirely outside vehicular rights-of way. Parking must be clearly designated on the plot plan. The parking lot shall be slurry sealed and re-stripped in accordance with Exhibit A.

- K. An easement, in perpetuity, attached to APN 041-011-32, granting a total of 5 off-site parking spaces at the rear of the building on APN 041-011-35, shall be recorded in the office of the County Recorder. The easement shall designate the off-street parking facilities (5 spaces) and the uses and structures to be served, with legal descriptions of the sites involved, and shall specify the hours of operation (after 6:00pm), provide for maintenance, and certify that the easement shall not be terminated, and that the off-street parking facility shall not be used for any other purpose unless development permit amendment has been approved subject to Santa Cruz County Code chapter 18.10, eliminating the requirement for the parking facility

or approving alternative parking facilities. Prior to recording, the easement shall be submitted to the Planning Department for review and approval.

- L. Provide required off street parking for 6 bicycles. Spaces shall be 2 feet wide by 6 feet long and shall include racks to which bicycles can be locked. All spaces must be located entirely outside vehicular rights-of way.

III. All construction shall be performed according to the approved plans for the building permit. Prior to final building inspection, the applicant/owner must meet the following conditions:

- A. All site improvements shown on the final approved Building Permit plans shall be installed.
- B. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.
- C. Pursuant to Sections 16.40.040 and 16.42.080 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.080, shall be observed.

IV. Operational Conditions

- A. This permit allows for the sale of wine, beer and cider, for on-site consumption. Meet all requirements of the California Alcoholic Beverage Control (ABC). No sale of liquor is allowed without an Amendment to this Permit.
- B. Hours of Operation: The hours of operation shall be between 11:00am and 11:00pm daily
- C. Loading: All deliveries to the property shall be between the hours of 8:00am and 11:00am daily.
- D. All landscaped areas are to be maintained in good condition. Weeds shall be removed and dead or dying plants shall be replaced. If authorized by the owners of the Bayview Hotel, replacement fencing may be erected at the rear of the parking easement area without a requirement for additional review. The installation of additional landscaping along the fence (vines) is also encouraged.
- E. No outdoor storage is allowed.
- F. All trash and recycling receptacles are to be located within the trash enclosure and gates shall remain closed.

EXHIBIT C

- G. All parking areas shall be maintained in good condition and shall be re-sealed and re-striped as necessary. Maintenance of shared parking areas shall be carried out in accordance with the provisions of recorded easements governing their use.
- H. 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.
- V. 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 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.

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

EXHIBIT C

Please note: This permit expires three years from the effective date listed below unless a building permit (or permits) is obtained for the primary structure described in the development permit (does not include demolition, temporary power pole or other site preparation permits, or accessory structures unless these are the primary subject of the development permit). Failure to exercise the building permit and to complete all of the construction under the building permit, resulting in the expiration of the building permit, will void the development permit, unless there are special circumstances as determined by the Planning Director.

Approval Date: April 10, 2018
Effective Date: April 24, 2018
Expiration date: April 24, 2021

EXHIBIT C

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 existing commercial building is located in an area designated for community serving commercial uses and the proposed change of occupancy is an allowed use in the zone district. The proposed restaurant will be located within the existing commercial building with an additional 336 square foot dining patio, and is served by an existing paved parking lot. Access to the parking area is from Trout Gulch Road the existing access driveways will comply with the requirements of the Department of Public Works Road Engineering and Encroachment Divisions to ensure traffic safety.

Construction of tenant improvements will be required to comply with prevailing building technology, the California Building Code, and the County Building ordinance to ensure the optimum in safety and the conservation of energy and resources. The proposed restaurant will not deprive adjacent properties or the neighborhood of light, air, or open space, in that the proposed use will be located in an existing single story building that complies with all current setbacks that ensure access to light, air, and open space in the area. Further, the structure is surrounded on all sides by streets/rights-of-way.

- 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.**

The proposed restaurant and the conditions under which it will be implemented will be consistent with all pertinent County ordinances and the purpose of the C-2 (Community Commercial) zone district, in that the proposed use will be a community serving commercial use. The restaurant will not adversely impact the light, solar opportunities, air, and/or open space available to other structures or properties in that there will be no expansion of the existing single-story building. Further, the structure is surrounded on all sides by streets/rights-of-way and the existing structure complies with County Code section 13.10.333(A) (Site and Structural Dimensions), in that the building complies with all current setback requirements for parcels in the C-2 zone district.

The proposed parking for the restaurant complies with County Code section 13.10.552 through 13.10.555 in that a total of 32 spaces will be available for the proposed restaurant use. Of these, 14 standard spaces and 1 van accessible space are located on the subject parcel, an additional 12 shared use parking spaces are located on the adjacent parcel, APN 041-011-34 (Bayview Hotel and Restaurant), within an area that is subject to a recorded parking easement providing parking for both the proposed restaurant and the hotel, and 5 parking spaces located on APN 041-011-35 that will be within an exclusive-use parking easement area for use after 6:00pm.

EXHIBIT C

Because 12 of the 32 spaces will be shared with the adjacent Bayview Hotel and Restaurant use, the applicant is requesting approval of a parking plan in conformance with County Code section 13.10.553(B)(5). In support of the parking plan, a Parking Study, prepared by a licensed traffic engineer, has been submitted for the proposed restaurant use. The Parking Study specifically addresses the use of shared parking areas. It also takes into account the hourly variations in parking demand among the various land uses and the location of the restaurant in a mixed use development where the land uses result in people being attracted to two or more land uses on a single automobile trip. The parking demand analysis in the Parking Study for the proposed Betty Burgers restaurant, completed by Ron Marquez, Traffic Engineer, determined that even during Betty Burgers' and Bayview Hotel and Restaurant's peak hour restaurant and hotel uses, the overall peak demand is projected to not exceed 25 spaces, below the 27 spaces provided on the project site in combination with the shared parking easement. It should be noted that the findings of the Parking Study, do not account for the provision of 5 additional spaces on the adjacent parcel, APN 041-011-35, a parcel that contains office/specialty uses with daytime hours and that is currently held in the same ownership as the proposed restaurant. The 5 spaces are located at the rear of the Trout Gulch Crossing building and are contiguous with and accessed directly from the parking area on the subject parcel. Therefore, to ensure that sufficient parking will be available during peak dinner hours, a condition of approval has been added to this Permit, requiring that an easement be recorded on APN 041-011-35 setting out that these 5 spaces will be available for the exclusive use of Betty Burgers after 6:00pm. As required by Santa Cruz county Code section 13.10.555, the parking easement will reside in perpetuity for the life of the Betty Burgers restaurant or for any future restaurant on the subject parcel. As a result, in the unlikely event that future seasonal hotel or Bayview Restaurant parking demand differs from the current demand as anticipated by the Parking Study, an additional five adjacent spaces will be provided for Betty Burgers evening parking use at the time when the Bayview Hotel/restaurant peak hours occur.

Therefore, based upon the findings of the Parking Study for the subject property and the existing shared parking easement area, together with the provision of 5 additional exclusive use parking spaces on APN 041-011-35 during dinner hours, it has clearly been demonstrated that there will be sufficient parking available to support the proposed restaurant use.

Furthermore, the proposed restaurant is located in the Aptos Village, an area that actively promotes pedestrian and bicycle use and which is also served by public transportation. The closest bus stop is located adjacent to the intersection of Trout Gulch Road and Soquel Drive, which is approximately 200 feet from the proposed restaurant. Furthermore, new streets currently under construction within the Aptos Village Core, have been designed to include parking bays that will be available for shared use by all users of the Village. The Aptos Village Parking Study, prepared in conjunction with the Aptos Village Plan, concluded that, based upon traffic engineering methodology, there will be a reserve of up to 97 parking spaces within the Village Core and up to 428 spaces within the Aptos Village as a whole, for use by residents and visitors of the Aptos Village area.

The layout of the parking and the driveway entrances and exits have been reviewed and approved by the Road Engineering and Encroachment sections of the Department of Public Works.

Therefore this finding can be made.

- 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 Community Commercial (C-C) land use designation.

The proposed restaurant is consistent with the General Plan, in that the proposed use is allowed within the Community Commercial (C-C) land use designation as specified in General Plan Policy 2.14.2 (Allowed Uses – Community Commercial) and within the implementing C-2 (Community Commercial) zone district.

The proposed project will result in a quality commercial design as specified in General Plan Policies 2.14.6 (Quality of Commercial Design), 8.5.2 (Commercial Compatibility with Other Uses) and 8.5.3 (Commercial Design – Areas with Unique Design Guidelines) in that the proposed use will be located within an existing commercial building which includes adequate and appropriate circulation and parking. Signage will comply with the existing approved sign program for the Aptos Village and all exterior lighting will comply with provisions of the Aptos Village Plan, and will be consistent with and complement the character of the architecture of the Village by being historically appropriate. In addition, new landscaped areas which are proposed along the frontage with Trout Gulch Road and also within the parking lot adjacent to the trash will enclosure will provide color and visual interest and will screen and soften the proposed restaurant and associated structures.

This proposed project complies with all of the provisions of the Aptos Village Plan.

- 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 proposed restaurant will be located within an existing commercial building and will not overload utilities or generate more than the acceptable level of traffic on the streets in the vicinity. The expected level of traffic has been calculated to be a total of 68 trips per day, which is not expected to negatively impact the existing roads in the surrounding area. Further, as set out in the Parking study, traffic generated by the project will be spread out throughout the day. Deliveries to the site will occur between 8:00am and 11:00am so as not to coincide with traffic generated by the restaurant and the majority of deliveries will arrive in vans or other small vehicles and will be made throughout the week so that there will be minimal impact. Furthermore, road improvements are proposed along Trout Gulch Road and Soquel Avenue in conjunction with the implementation of the Aptos Village Plan, including the recent installation of a traffic signal at the intersection of Trout Gulch Road and Soquel Avenue. The installation of these improvements, together with additional public roads that are proposed through the Village Core, will ensure that the restaurant use will not create adverse traffic conditions.

The proposed project has been reviewed and accepted by the Department of Works Road Engineering Division.

Therefore this finding can be made.

- 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**

EXHIBIT C

aspects, land use intensities, and dwelling unit densities of the neighborhood.

This finding can be made, in that the existing commercial building is located in a mixed commercial neighborhood containing a variety uses and architectural styles, and the proposed remodel of the 1949 building to resemble a 1950s diner, 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 commercial/restaurant will be of an appropriate scale and type of design that will enhance the aesthetic qualities of the surrounding properties and will not reduce or visually impact available open space in the surrounding area.

Currently the building is a low-profile, rectangular concrete block structure that includes a marquee overhang along the east elevation and also along a portion of the north elevation. The proposed restaurant has been designed to resemble a 1950's diner and will therefore maintain the basic form of the existing building built in 1949. However, the structure will be remodeled to include new parapet walls at the north and east elevations that will break up and add visual interest in views of the structure from Trout Gulch Road, and the existing marquee overhang will also be extended further along the northern elevation. These upgrades, together with new windows and doors and a freshly painted stucco exterior will upgrade the overall appearance of the building. The remodel of the building, together with the proposed addition of landscaping in the parking lot to screen and soften the building, parking lot and trash enclosure, will bring the site into greater conformance with the requirements of the County Design Review Ordinance. Currently there is no landscaping provided for the site. The proposed project will therefore improve the appearance of the site and enhance the surrounding land uses and the natural landscape.

Conditions of Approval
(Revised for hearing on July 6, 2018)

Exhibit A. Project plans, 6 sheets, 5 sheets prepared by Miguel Podolsky, Architect, 4 dated 9/29/17 and 1 dated 11/15/17, and 1 sheet prepared by Ifland Engineers, dated 11/15/17

- I. This permit authorizes the remodel of an existing commercial building to a 2, 017 square foot restaurant with a 336 square foot dining patio as indicated on the approved Exhibit "A" for this permit. 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. Obtain a Building Permit from the Santa Cruz County Building Official.
 - C. Any outstanding balance due to the Planning Department must be paid prior to making a Building, Grading, or Demolition Permit application. Applications for Building, Grading, or Demolition Permits will not be accepted or processed while there is an outstanding balance due.
 - D. Obtain an Encroachment Permit from the Department of Public Works for all off-site work performed in the County road right-of-way.
 - E. 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. Prior to issuance of a Building Permit the applicant/owner shall:
 - A. Submit final architectural plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "A" on file with the Planning Department. Any changes from the approved Exhibit "A" for this development permit on the plans submitted for the Building Permit must be clearly called out and labeled by standard architectural methods to indicate such changes. Any changes that are not properly called out and labeled will not be authorized by any Building Permit that is issued for the proposed development. The final plans shall include the following additional information:
 1. A copy of the text of these conditions of approval incorporated into the full size sheets of the architectural plan set.
 2. One elevation shall indicate materials and colors as they were approved by this discretionary application. In addition to showing the materials and colors on the elevation, the applicant shall supply two color and material

sheets, printed on paper, (8 1/2" x 11" format) to be included with the building permit plans. The perpendicular sign-wall at the east elevation shall be revised to be painted either gray or beige to match the walls.

3. Submit a landscape plan for the proposed planting areas to include the following information:
 - i. Proposed ground treatment for all new planting areas (soil preparation, mulching etc.).
 - ii. A detailed plant palette including the size, spacing, location and total number of each species to be planted.
 - iii. All proposed planting shall be chosen to blend with the existing and proposed landscaping in the Aptos Village. Palm trees are not approved.
 - iv. Planting adjacent to the proposed trash enclosure shall include vines that will screen and soften the appearance of the structure. An additional planting pocket for vines shall be included at the south elevation of the proposed trash enclosure.
 - v. Details of any wires or trellis to support vines.
 - vi. Note on the plans that the proposed specimen tree adjacent to the trash enclosure shall be minimum 15 gallon size.
 - vii. Note on the plans that an automatically timed irrigation system with drip components will be used for all new planting areas.
 - viii. Details of ongoing maintenance.
4. Provide details of proposed exterior lighting. All fixtures shall comply with provisions of the Aptos Village Plan, and shall be consistent with and complement the character of the architecture of the Village by being historically appropriate.
5. Provide details of proposed signage in parking areas designating the allocation of parking spaces and, where appropriate, time restrictions that apply.
6. Provide details of directional signage regarding ingress/egress to the parking area from Trout Gulch Road. The southernmost driveway shall be exit only.
7. Show that the location of the required water backflow prevention device. This facility shall be in a location where it will be screened from public viewpoints to the greatest extent possible by landscaping or other means and shall be colored to most effectively blend into its surroundings or with the adjacent building. A location behind the building where it is not visible from Trout Gulch Road is preferred.

- B. Meet requirements of the County Department of Public Works, Stormwater Management. Drainage fees may be assessed if there is a net increase in impervious area.
- C. Meet all requirements of the Accessibility plan review.
- D. Meet all requirements of the Soquel Creek Water District.
- E. Meet all requirements of the Santa Cruz County Sanitation District.
- F. Meet all requirements and pay any applicable plan check fee of the Aptos/La Selva Fire Protection District.
- G. The development is subject to Aptos Transportation Improvement Area (TIA) fees that are currently \$600 per daily new trip generated by the proposed use. The number of daily new trips (for determination of TIA fee purposes only) generated by the project is 68 trips. Pay the current TIA fees of \$ 40,800 (68 x \$ 600 = \$ 40,800) for the proposed change of use, to be split evenly between Transportation Improvement Fees and Roadside Improvement Fees.
- H. The crosswalk at Trout Gulch Road that provides pedestrian access from Valencia Road, shall be relocated in accordance with the requirements of the Department of Public Works, Road Engineering section, and County Design Guidelines, as shown on Exhibit A.
- I. If agreement can be made between all property owners, pedestrian access shall be provided between the shared parking area on APN 041-011-34 and APN 041-101-45 to allow pedestrian circulation from the Aptos Village Core. Documentation of all negotiations between property owners shall be provided to the Planning Department to document any such agreement or lack thereof.
- J. Required off-street parking shall include the following:
 - 15 spaces on the subject parcel (including 1 Accessible space).
 - 12 parking spaces on APN 041-011-34 subject to the shared parking easement as designated on The Parcel Map recorded at 46PM57.
 - 5 spaces on APN 041-011-35 subject to an easement as described at K. below, attached to the land, granting the exclusive use of the area behind the Trout Gulch crossing building for restaurant parking after 6:00pm.

Standard parking spaces must be 8.5 feet wide by 18 feet long and must be located entirely outside vehicular rights-of way. Parking must be clearly designated on the plot plan. The parking lot shall be slurry sealed and re-stripped in accordance with Exhibit A.

in favor of (?)



- K. An easement, in perpetuity, attached to APN 041-011-32, granting a total of 5 off-site parking spaces at the rear of the building on APN 041-011-35, shall be recorded in the office of the County Recorder. The easement shall designate the off-street parking facilities (5 spaces) and the uses and structures to be served, with legal descriptions of the sites involved, and shall specify the hours of operation (after 6:00pm), provide for maintenance, and certify that the easement shall not be terminated, and that the off-street parking facility shall not be used for any other purpose unless development permit amendment has been approved subject to Santa Cruz County Code chapter 18.10, eliminating the requirement for the parking facility or approving alternative parking facilities. Prior to recording, the easement shall be submitted to the Planning Department for review and approval.
- L. Provide required off street parking for 6 bicycles. Spaces shall be 2 feet wide by 6 feet long and shall include racks to which bicycles can be locked. All spaces must be located entirely outside vehicular rights-of way.

III. All construction shall be performed according to the approved plans for the building permit. Prior to final building inspection, the applicant/owner must meet the following conditions:

- A. All site improvements shown on the final approved Building Permit plans shall be installed.
- B. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.
- C. Pursuant to Sections 16.40.040 and 16.42.080 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.080, shall be observed.

IV. Operational Conditions

- A. This permit allows for the sale of wine, beer and cider, for on-site consumption. Meet all requirements of the California Alcoholic Beverage Control (ABC). No sale of liquor is allowed without an Amendment to this Permit.
- B. Hours of Operation: The hours of operation shall be between 11:00am and 11:00pm daily

- C. Loading: All deliveries to the property shall be between the hours of 8:00am and 11:00am daily.
 - D. All landscaped areas are to be maintained in good condition. Weeds shall be removed and dead or dying plants shall be replaced. If authorized by the owners of the Bayview Hotel, replacement fencing may be erected at the rear of the parking easement area without a requirement for additional review. The installation of additional landscaping along the fence (vines) is also encouraged.
 - E. No outdoor storage is allowed.
 - F. All trash and recycling receptacles are to be located within the trash enclosure and gates shall remain closed.
 - G. All parking areas shall be maintained in good condition and shall be re-sealed and re-stripped as necessary. Maintenance of shared parking areas shall be carried out in accordance with the provisions of recorded easements governing their use.
 - H. If the owner of the Bayview Hotel wishes to develop additional parking at the rear of APN 041-011-32 (Bayview parcel) and agrees to provide additional shared parking within the new parking area for Betty Burgers or any future restaurant on APN 041-011-32, that the property owner of APN 041-011-32 shall consent to this relocation of parking to allow for access to the new parking lot. The replacement parking is required to be within a recorded easement area and with the number of new shared parking spaces to equal the number of shared parking spaces that are required to be deleted.
 - I. 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.
- V. 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 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.

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

Please note: This permit expires three years from the effective date listed below unless a building permit (or permits) is obtained for the primary structure described in the development permit (does not include demolition, temporary power pole or other site preparation permits, or accessory structures unless these are the primary subject of the development permit). Failure to exercise the building permit and to complete all of the construction under the building permit, resulting in the expiration of the building permit, will void the development permit, unless there are special circumstances as determined by the Planning Director.

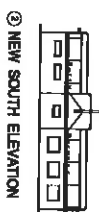
Approval Date: _____

Effective Date: _____

Expiration date: _____



① NEW WEST ELEVATION



③ NEW SOUTH ELEVATION



④ NEW EAST ELEVATION



② NEW NORTH ELEVATION

ELEVATIONS
SEE SHEET 24 FOR EXISTING AND NEW ELEVATIONS



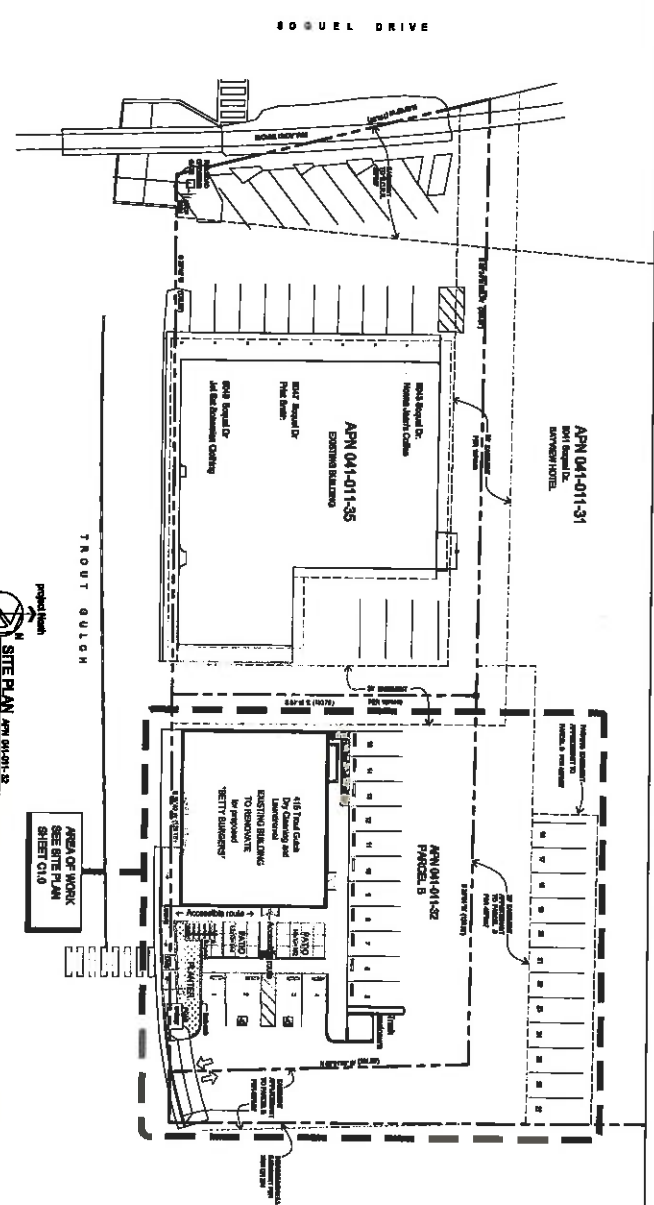
NEW FLOOR PLAN
SEE SHEET 24 FOR EXISTING AND NEW FLOOR PLAN



3D NEW VIEW
SEE SHEET 24 FOR EXISTING AND NEW BUILDING VIEW



SITE PLAN
SEE SHEET 24 FOR EXISTING AND NEW BUILDING VIEW



VICINITY MAP

PROJECT DATA

PROJECT DESCRIPTION
The proposed building is a single-story structure with a total area of approximately 10,000 square feet. It will be used for commercial purposes, specifically as a restaurant and bar. The building will be constructed on a lot that is currently vacant. The proposed building will be a single-story structure with a total area of approximately 10,000 square feet. It will be used for commercial purposes, specifically as a restaurant and bar. The building will be constructed on a lot that is currently vacant.

PROJECT ADDRESS: 415 TROUT GULCH ROAD, APTOS, CA 95020

OWNER: LARSEN BROS. & SONS, INC.

ARCHITECT: MARIE POCOCK ARCHITECT

ENGINEER: PLAND ENGINEERS, INC.

DATE: 11-14-17

PROJECT NO: 041-011-32

REVISION: 1

REVISION: 2

REVISION: 3

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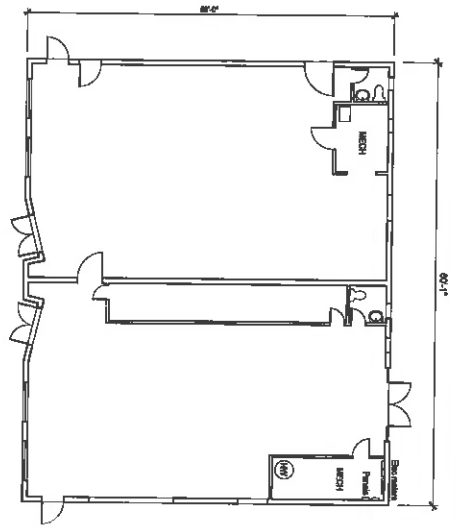
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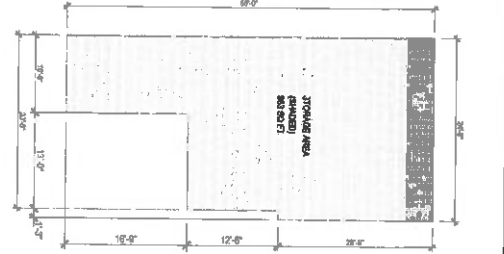
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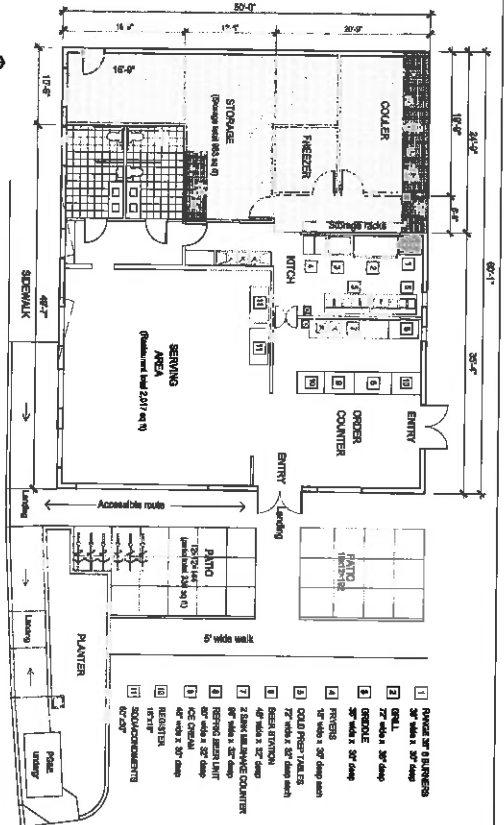
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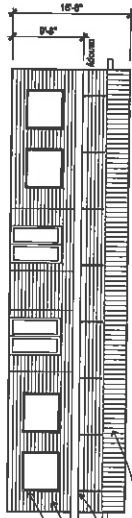
EXISTING FLOOR PLAN



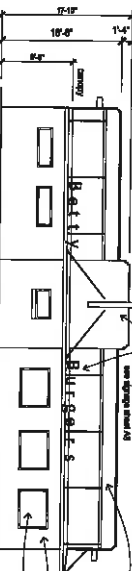
NEW REMODELED STORAGE DIMENSIONS



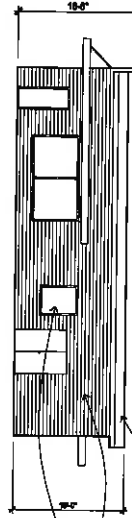
NEW REMODELED FLOOR PLAN



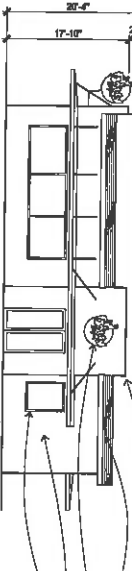
EXISTING SOUTH ELEVATION



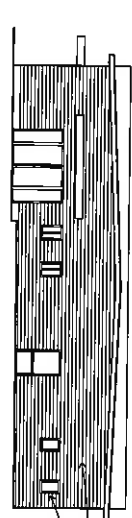
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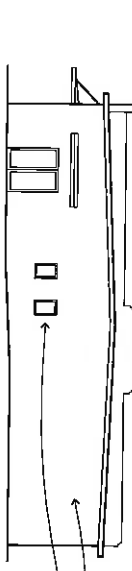
EXISTING EAST ELEVATION



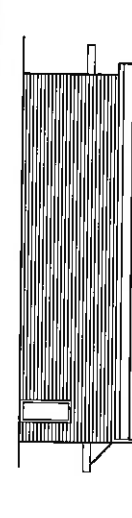
NEW EAST ELEVATION



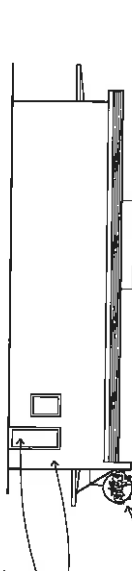
EXISTING NORTH ELEVATION



NEW NORTH ELEVATION

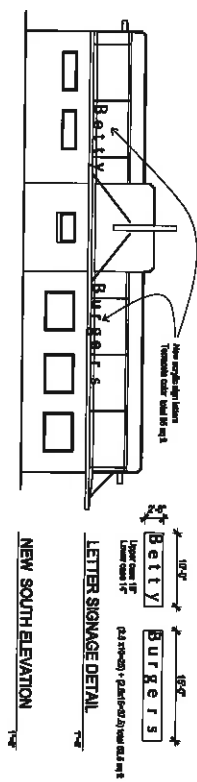
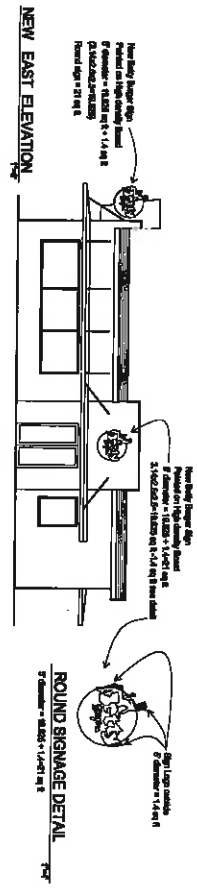


EXISTING WEST ELEVATION



NEW WEST ELEVATION

BETTY BURGERS APTOS, RESTAURANT
415 Trout Gulch Road, Aptos CA. APN 041-011-32



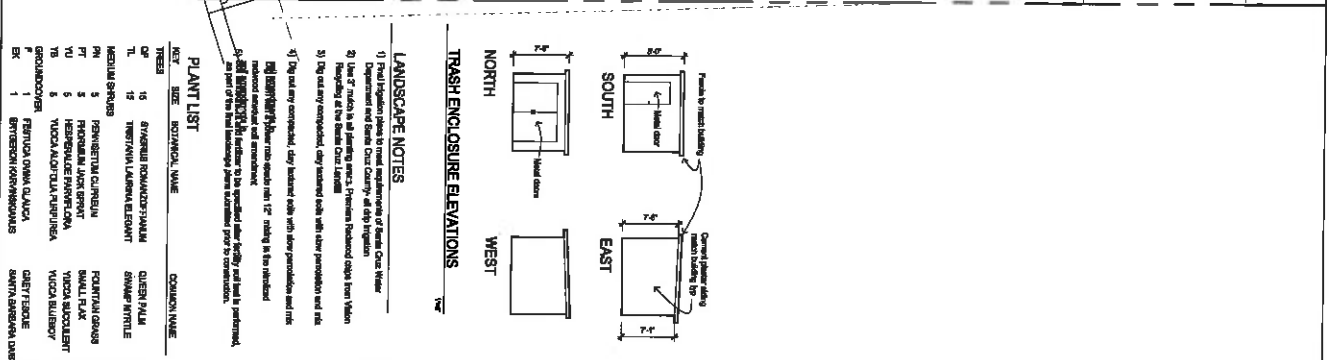
EXISTING BUILDING VIEW

RTB

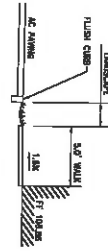
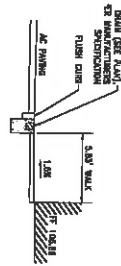
RENOVATED BUILDING 3D MODEL VIEW

RTB

<p>PROJECT: BETTY BURGERS APTOS, RESTAURANT</p> <p>145 Trout Gulch Road, Aptos CA. APN 041-011-32</p>		<p>Sheet: 14-001-1</p> <p>Scale: 1/8" = 1'-0"</p> <p>Date: 10/1/17</p>
<p>FILE: 14-001-1</p> <p>DATE: 10/1/17</p> <p>DESIGN: A/E/C/T/S</p> <p>DRAWN: JLP</p> <p>CHECK: JLP</p> <p>DATE: 10/1/17</p>	<p>PROJECT: BETTY BURGERS APTOS, RESTAURANT</p> <p>145 Trout Gulch Road, Aptos CA. APN 041-011-32</p>	<p>Sheet: 14-001-1</p> <p>Scale: 1/8" = 1'-0"</p> <p>Date: 10/1/17</p>

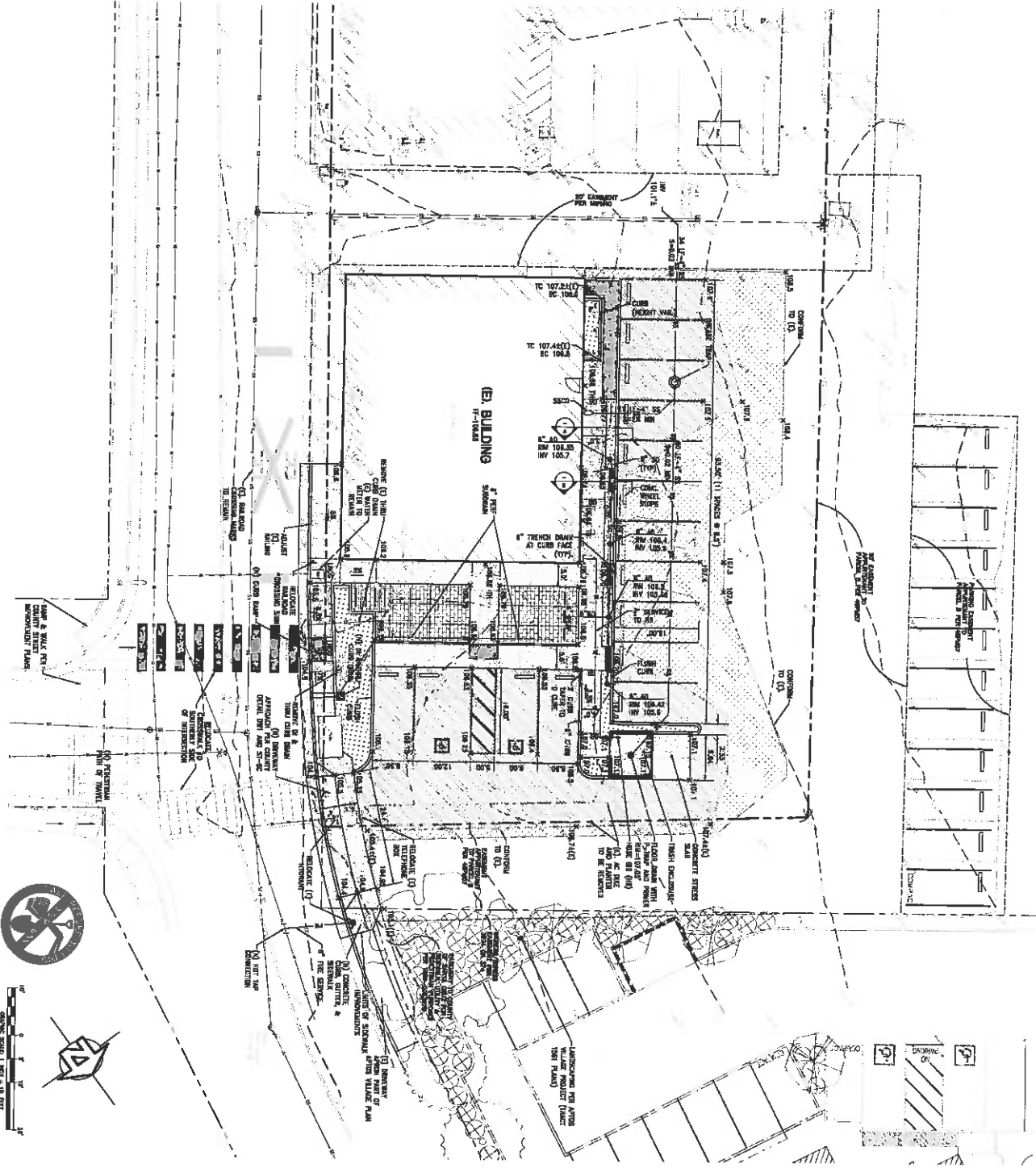
[illegible]

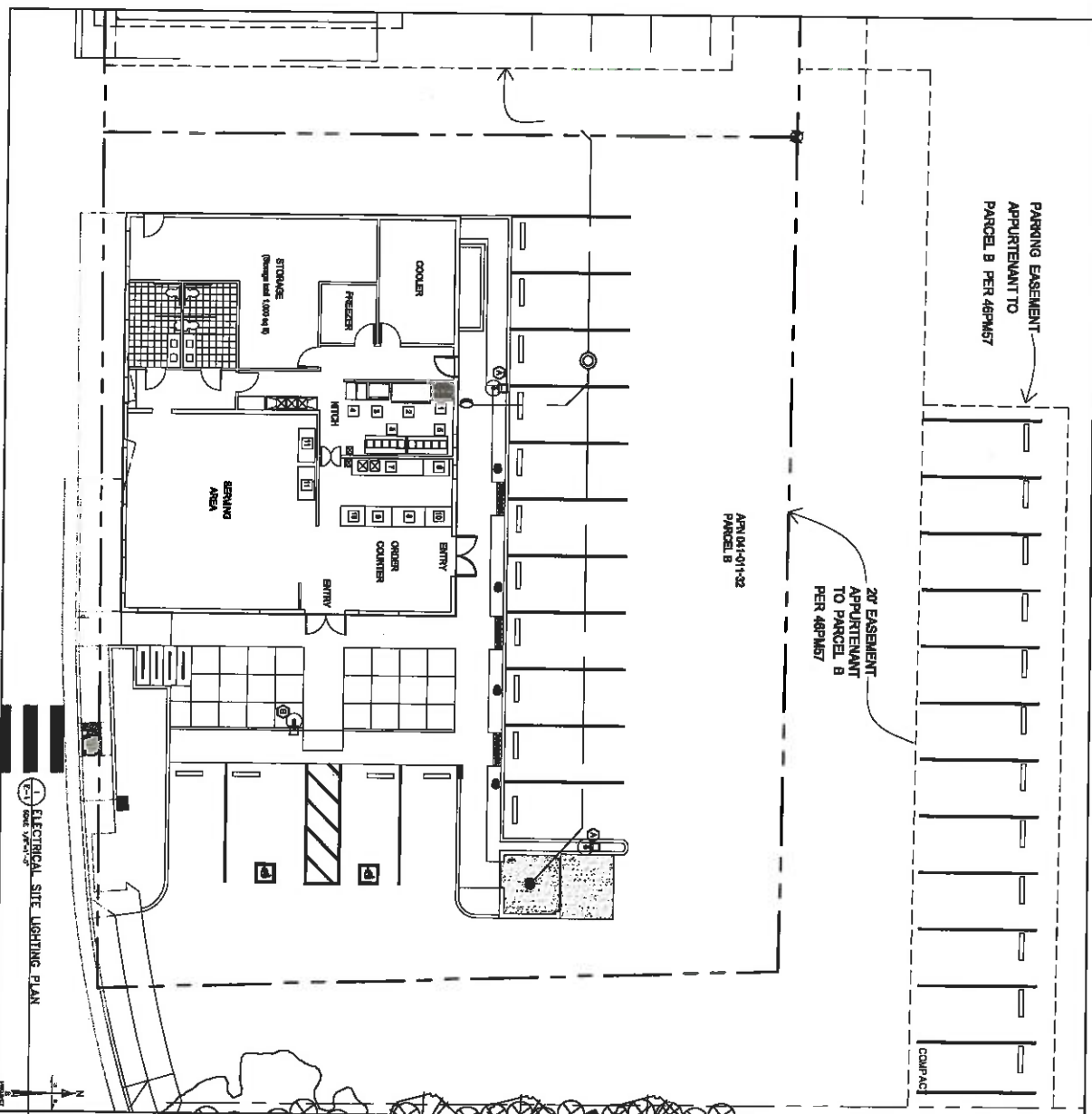
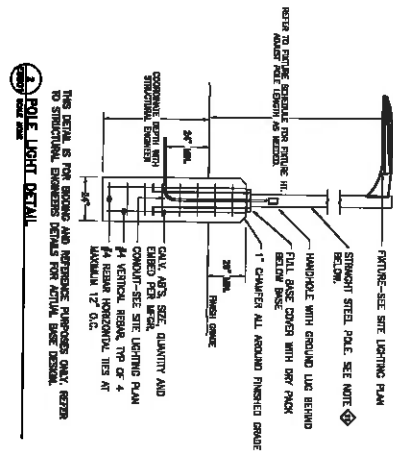
					
NEW ASPHALT	ASPHALT OVERLAY	CONCRETE	PERVIOUS PAVERS	DETACHABLE WEARING SURFACE	NEW LANDSCAPING


$$k_1 = 5' / k_1' = 5'$$

$$M_1 = 5^1 / \text{etc. } 1^n = 5^n$$

SELECT FACT, AREA	SELECT WORK AREA	CONTINO WORKSHEET
11.067 SF	11.127 SF	10.714 SF
4.332 SF	4.75 SF	4.801 SF
TOTAL WORKSHEET AREA = 11.067 SF + 11.127 SF + 10.714 SF = 32.908 SF		

1. UTILITY AND FIRE HYDRANT RELATION TO BE COORDINATED WITH UTILITY COMPANY AND FIRE DEPARTMENT DURING THE CONSTRUCTION DOCUMENT PHASE.
2. A/CV/REFLECTED IMPERVIOUS AREA IS LESS THAN 3,000 SF, THEREFORE, PROJECT IS CLASSIFIED AS A MEDIAN PROJECT AND BURS ARE TO BE UTILIZED. PROJECT INCLUDING PERVIOUS PAVING AND NEW LANDSCAPING.

[illegible]



Fixture Schedule Building 05

Fixture ID	Description	Lamps	Accessories	Notes	Brand	Part No.	BLDG SAVING
A	PARCEL AREA LIGHT	(1) 40W LED	FOOTCUT AT 10' MAXIMUM HEIGHT	PARCEL AREA LIGHT	PARCEL AREA LIGHT	PARCEL AREA LIGHT	1-4-1
B	PARCEL AREA LIGHT	(1) 40W LED	FOOTCUT AT 10' MAXIMUM HEIGHT	PARCEL AREA LIGHT	PARCEL AREA LIGHT	PARCEL AREA LIGHT	1-4-1

ELECTRICAL SITE LIGHTING PLAN

BETTY BURGERS APTOS, RESTAURANT
415 Trout Gulch Road, Aptos CA. APN 041-011-32

EXHIBIT E

CALCULATION OF TRIP GENERATION FEES

(Copied from Department of Works, Road Engineering Section comments)

REVIEW No. 2, 12/8/2017

Permit Conditions and Additional Information:

The development is subject to Aptos Transportation Improvement Area (TIA) fee at a rate of \$600 per daily new trip generated by the proposed use. The total TIA fee is to be split evenly between Transportation Improvement Fees and Roadside Improvement Fees.

The proposed development as indicated on the Trip Generation Analysis prepared by Marquez Transportation Engineering provides the new average daily trips generated by the proposed project. A trip generation rate of 127.15 per 1,000 SF was used on the consultant's trip generation report to estimate the number of daily trips for restaurant use as well as a rate of 44.32 per 1,000 SF for the laundromat. However, the Board approved fee schedule allows a maximum trip rate of 40.00 per 1,000 SF be used for such facilities. This results in lower TIA fees as compared to using trip rates of 127.15 and 44.32 respectively. Based on the information above, the fees are calculated as follows:

Trips for restaurant = **120 trips** (3,000 SF x (40 / 1,000 SF))

Trips for Laundromat (credit for existing use)

Per the Trip Generation Analysis, the trip rate for the laundromat is 34.86 % in value compared to the trip rate for the restaurant ((44.32 / 127.15) x 100 = 34.86 %). As a result, using such percentage ratio, it is estimated that **42 trips** is the number of daily trips associated with the laundromat (34.85 % of 120 trips = 42)

The number of daily new trips (for determination of TIA fee purposes only) generated by the project is **78 trips** (120 trips – 42 trips = 78 trips).

TIA fee = **\$ 46,800** (78 x \$ 600 = \$ 46,800).

REVIEW No. 3, 2/20/2016

Permit Conditions and Additional Information:

Per Memorandum from Ron Marquez, Transportation Engineering dated January 24, 2018 it has been determined that a 20% of pass-by trips reduction can be applied to the daily trip rate for the proposed restaurant; as a result, the new TIA fees for the development is \$ 40,800. See TIA fees determination below.

EXHIBIT F

The development is subject to Aptos Transportation Improvement Area (TIA) fee at a rate of \$600 per daily new trip generated by the proposed use. The total TIA fee is to be split evenly between Transportation Improvement Fees and Roadside Improvement Fees.

The proposed development as indicated on the Trip Generation Analysis prepared by Marquez Transportation Engineering provides the new average daily trips generated by the proposed project. A trip generation rate of 101.7 per 1,000 SF was used on the consultant's trip generation report to estimate the number of daily trips for restaurant use as well as a rate of 44.32 per 1,000 SF for the laundromat. However, the Board approved fee schedule allows a maximum trip rate of 40.00 per 1,000 SF be used for such facilities. This results in lower TIA fees as compared to using trip rates of 101.7 and 44.32 respectively. Based on the information above, the fees are calculated as follows:

Trips for restaurant = **120 trips** (3,000 SF x (40 / 1,000 SF))

Trips for Laundromat (credit for existing use)

Per the Trip Generation Analysis, the trip rate for the laundromat is 43.57 % in value compared to the trip rate for the restaurant ((44.32 / 101.7) x 100 = 43.57 %). As a result, using such percentage ratio, it is estimated that **52 trips** is the number of daily trips associated with the laundromat (43.57 % of 120 trips = 52 trips)

The number of daily new trips (for determination of TIA fee purposes only) generated by the project is **68 trips** (120 trips – 52 trips = 68 trips).

TIA fee = **\$ 40,800** (68 x \$ 600 = \$ 40,800).

Lezanne Jeffs

From: Dee Murray <deelnduse@yahoo.com>
Sent: Wednesday, May 9, 2018 3:19 PM
To: Lezanne Jeffs
Cc: Laurie Negro; Miguel Podolsky
Subject: Development Permit No. 101114, APN: 041-011-34

Dear Lezanne,

I would like to bring to your attention after reading the records in the Planning Dept. for Development Permit No. 101114, APN: 041-011-34, in my opinion as a Land Use Consultant, it appears that the signature page for the permit and conditions was not signed by the owner. Also, the conditions of approval of the permit were not recorded. I also didn't see a signed authorization form from the property owners of APN's: 04-011-32 & 35 that encompasses the shared easement for the parking. Assuming this is correct, it appears that Development Permit No. 101114 is null and void.

Please let me know if you have any further questions.

Dee Murray
Land Use Consultant
(831) 475-5334
Cell (831) 332-4630
deelnduse@yahoo.com



Virus-free. www.avg.com

Lezanne Jeffs

From: Lezanne Jeffs
Sent: Wednesday, June 6, 2018 11:16 AM
To: Steve Wiesner; Rodolfo Rivas
Subject: Application 171254, Betty Burgers
Attachments: Appeal of Betty Burgers- application 171254.pdf

Hi Steve and Rodolfo,

As you are aware, application 171254 for the proposed Betty Burgers restaurant at 415 Trout Gulch Road in Aptos (former dry cleaner/laundromat), has been appealed by Becky Steinbruner on behalf of Christina Locke, owner of the Bayview Hotel. Since this appeal concerns several issues that relate to parking, traffic and also pedestrian safety I thought that it would be appropriate to pass this letter on to you, so that you are aware of the issues that have been raised (see attached). Please let me know if you have any comments.

One item in that I wanted to draw particular attention to is that the Appellants are requesting, in addition to the requirement that the crosswalk at Valencia Street being relocated (a condition of approval of 171254), that TIA fees "must be dedicated to pedestrian safety measures at this location". What is desired is "the installation of flashing red lights at the crosswalk that are activated by pedestrians and bicyclists to insure safe crossing of Trout Gulch Road to the Betty Burgers restaurant". Although the Planning Department does not have authority to direct how TIA fees are expended, I am passing this on to you for your consideration.

If you have any questions, please let me know.

Lezanne

Lezanne Jeffs
Senior Planner
Development Review
Tel: (831) 454 2480
lezanne.jeffs@santacruzcounty.us





COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123
KATHLEEN MOLLOY, PLANNING DIRECTOR

June 8, 2018

Christina Locke
Bayview Hotel
8041 Soquel Drive
Aptos CA, 95003

Re: Appeal of application 171254 for a proposed restaurant (Betty Burgers) at 415 Trout Gulch Road, Aptos; APN 040-011-32

To Christina Locke:

The purpose of this letter is to notify you that your appeal of application 171254 has been scheduled for hearing by the Zoning Administrator. The hearing will be held in the Board of Supervisors Chambers at 701 Ocean Street, 5th floor, Santa Cruz CA 95060 on Friday July 6, 2018, starting at 9:00am.

If you have any questions or comments relative to the information contained in this letter, please do not hesitate to contact me.

Sincerely,

Lezanne Jeffs
Development Review Planner
(831) 454-2480
lezanne.jeffs@co.santa-cruz.ca.us

Cc. Becky Steinbruner via e-mail