



Staff Report to the Zoning Administrator

Application Number: **07-0444**

Applicants: Leung Family Investments
Owners: Leung Family Investments
APN: 033-141-56

Agenda Date: 12/7/07
Agenda Item #: 2
Time: After 10:00 a.m.

Project Description: Proposal to amend permit 05-0126 to serve alcoholic beverages at an existing restaurant within 200 feet of a residential district.

Location: Property located on the east side of 41st Avenue at 900 – 41st Avenue.

Supervisory District: First District (District Supervisor: Janet Beautz)

Permits Required: Amendment to Commercial Development Permit 05-0126

Staff Recommendation:

- Approval of Application 07-0444, based on the attached findings and conditions.
- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.

Exhibits

- | | |
|---|------------------------------|
| A. Project plans | E. Location map |
| B. Findings | F. General Plan map |
| C. Conditions | G. Zoning map |
| D. Categorical Exemption (CEQA determination) | H. Comments & Correspondence |

Parcel Information

Parcel Size:	14,250 square feet
Existing Land Use - Parcel:	Commercial
Existing Land Use - Surrounding:	Commercial and Residential
Project Access:	41 st Avenue
Planning Area:	Live Oak
Land Use Designation:	C-C (Community Commercial)
Zone District:	C-2 (Neighborhood Commercial)
Coastal Zone:	<u>X</u> Inside <u> </u> Outside

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

Appealable to Calif. Coastal Comm. X Yes — No

Environmental Information

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

Services Information

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

History

Commercial Development Permit 05-0126 allowed the demolition of an existing building and construction of a new 2,100 square foot structure for use as a restaurant. This application is to amend Commercial Development Permit 05-0126 to allow alcoholic beverage service at the restaurant.

Project Setting

Commercial uses surround the property on all but the eastern side where residential uses abut the subject parcel. The rear portion of the subject property is a parking lot, and the restaurant is oriented towards 41st Avenue with outdoor dining provided on a patio. Access to the subject property is via 41st Avenue, a major arterial roadway.

Zoning & General Plan Consistency

The subject property is a 14,250 square feet parcel, located in the C-2 (Community Commercial) zone district, a designation that allows commercial uses. This proposal is to serve alcoholic beverages in a restaurant, which is a permitted use within the zone district. The project is consistent with the site's (C-C) Community Commercial General Plan designation. Because the subject parcel is within 200 feet of a residential use, County Code section 13.10.654 requires discretionary review and a public hearing of the proposal.

Analysis

The serving of alcoholic beverages will be ancillary to the primary use of the business as a restaurant. Staff recommends minimizing the potential impacts to the adjacent residential use by conditioning this approval to allow alcohol sales only with food purchases. In addition, both food and alcohol sales are recommended to stop at 10:00 PM.

Conclusion

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

Staff Recommendation

- **APPROVAL** of Application Number **07-0444**, based on the attached findings and conditions.
- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.

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

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

Report Prepared **By:** Lawrence Kasparowitz
Santa Cruz County Planning Department
701 Ocean Street, 4th Floor
Santa **Cruz** CA 95060
Phone Number: (831)454-2676
E-mail: pln795@co.santa-cruz.ca.us

Development Permit Findings

1. That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, and will not result in inefficient or wasteful use of energy, and will not be materially injurious to properties or improvements in the vicinity.

This finding can be made in that the project is located in an area designated for commercial uses. The proposed sale of alcoholic beverages will be allowed only with food purchase, during limited hours, and will comply with all applicable laws and licenses governing the sale of alcohol. These conditions will reduce the potential impacts to the residential use to the east of the property. The project, **as** conditioned, will not be detrimental to the health, safety, or welfare of surrounding neighbors or **the** general public.

2. That the proposed location of the project and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the **zone** district in which the site is located.

This finding can be made in that the proposed amendment to allow alcoholic beverage service and the conditions under which the restaurant would be operated will be consistent with all pertinent County ordinances and the purpose of the C-2 (Community Commercial) zone district in that **the** primary use of the property will be as a restaurant alcoholic beverage service will be ancillary to the existing restaurant use.

3. That the proposed use is consistent with all elements of the County General Plan and with any specific plan which has been adopted for the area.

This finding can **be** made, in that the proposed amendment to allow alcoholic beverages to be served at the existing restaurant will be compatible with the allowed residential use in the C-C (Community Commercial) General Plan designation.

There has been no specific plan adopted for this portion of the County.

4. That the proposed **use** will not overload utilities and will not generate more than the acceptable level of traffic on the streets in the vicinity.

This finding can be made, in that the proposed sale of alcoholic beverages is a use to be added to an existing restaurant. The level of traffic generated by the proposed project is not anticipated to change, and therefore will not adversely impact existing roads and intersections in the surrounding area.

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5. That the proposed project will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects, land use intensities, and dwelling unit densities of the neighborhood.

This finding can be made, in that the primary use of the subject property will continue to be a restaurant alcoholic beverage service will be ancillary to this approved use. The proposed alcoholic beverage service will be conditioned to reduce any potential impacts to the surrounding neighborhood.

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Conditions of Approval

Exhibit A: Architectural plans prepared by Herbert Ichikawa, Architect, dated November 4, 2001 (revised 12/12/06).
Landscape plans prepared by Greg Lewis, Landscape Architect, dated January 9, 2001 (revised April 21, 2005).

- I. This permit amends Commercial Development Permit 05-0126 to authorize the on-site sale of alcoholic beverages. 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. Provide proof that a license has been obtained from the Department of Alcoholic Beverage Control (ABC), or a copy of the exemption letter.
 - C. Obtain an Environmental Health Clearance for this project from the County Department of Environmental Health Services.
- II. Operational Conditions
 - A. Alcoholic beverages may be purchased only in conjunction with a food purchase and must be consumed on site.
 - B. No separate bar area is allowed.
 - C. Food and alcoholic beverage sales must stop at 10:00 PM.
 - D. The service of alcoholic beverages must comply with all the requirements of the Department of Alcoholic Beverage Control (ABC).
 - E. All required licenses shall be obtained, and all local, state and federal laws pertaining to the sale and consumption of alcohol shall be followed.
 - F. Broadcast music is allowed only indoors during the hours of operation until 9:00 PM with the requirement that the noise level associated with the indoor use cannot exceed 45 decibels at the property line. No live music is allowed.
 - G. This permit may be revoked if any documented incidents of violence, disturbance of the peace, or any other deleterious impacts to the surrounding community can be demonstrated to be a direct result of alcoholic beverage service.
 - E. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the

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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.

111. 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.

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

Please note: This permit expires two years from the effective date unless you obtain the required permits and commence construction.

Approval Date: _____

Effective Date: _____

Expiration Date: _____

Don Bussey
Deputy Zoning Administrator

Lawrence Kasparowitz
Project Planner

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOTICE OF EXEMPTION

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

Application Number: 07-044
Assessor Parcel Number: 033-141-56
Project Location: 900 41st Avenue, Santa Cruz

Project Description: Proposal to serve alcoholic beverages at an existing restaurant within 200 feet of a residential district

Person Proposing Project: Leung Family Investments

Contact Phone Number: (831) 247-4686

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

Specify type:

E. X Categorical Exemption

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

F. Reasons why the project is exempt:

Existing commercial development in an area designated for commercial uses.

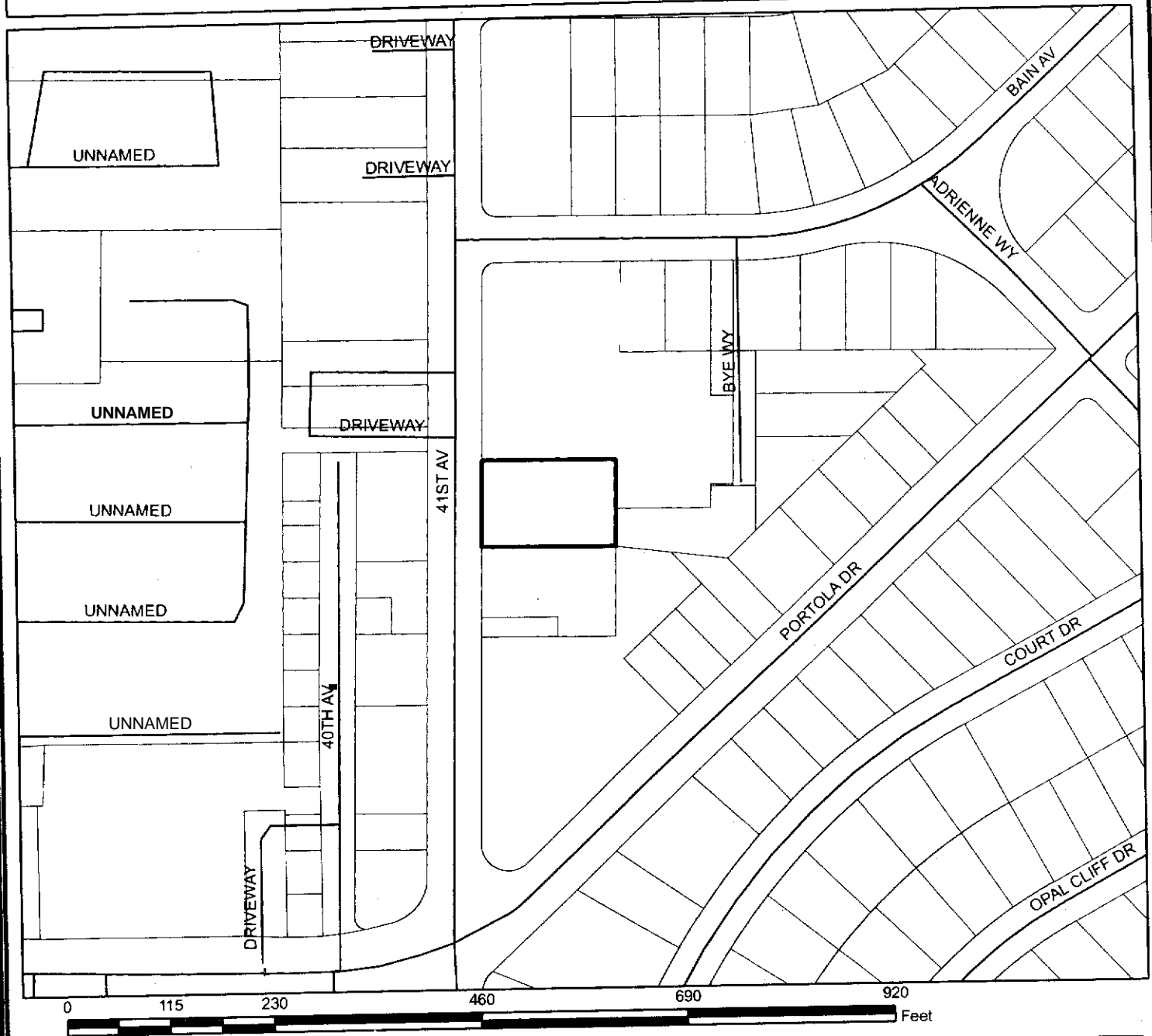
In addition, none of the conditions described in Section 15300.2 apply to this project.

Lawrence Kasparowitz, Project Planner




Date: _____

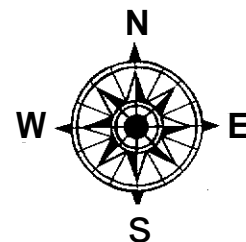


Location Map



LEGEND

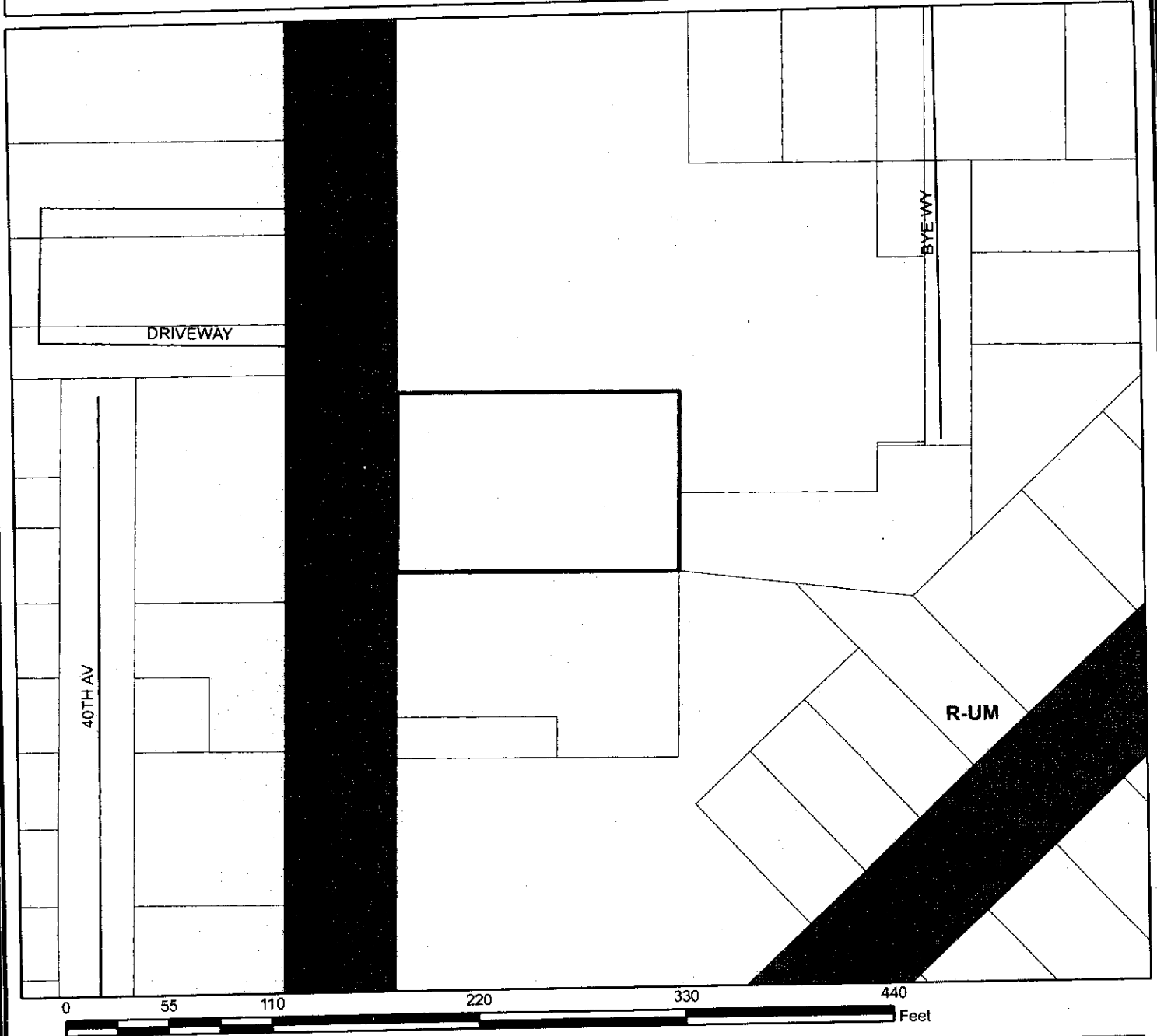
-  APN: 033-141-56
-  Assessors Parcels
-  Streets






Map created by
county of Santa Cruz
Planning Department
August 2007

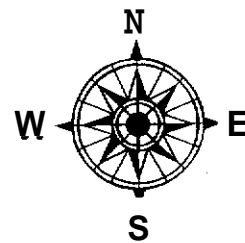


General Plan Designation Map



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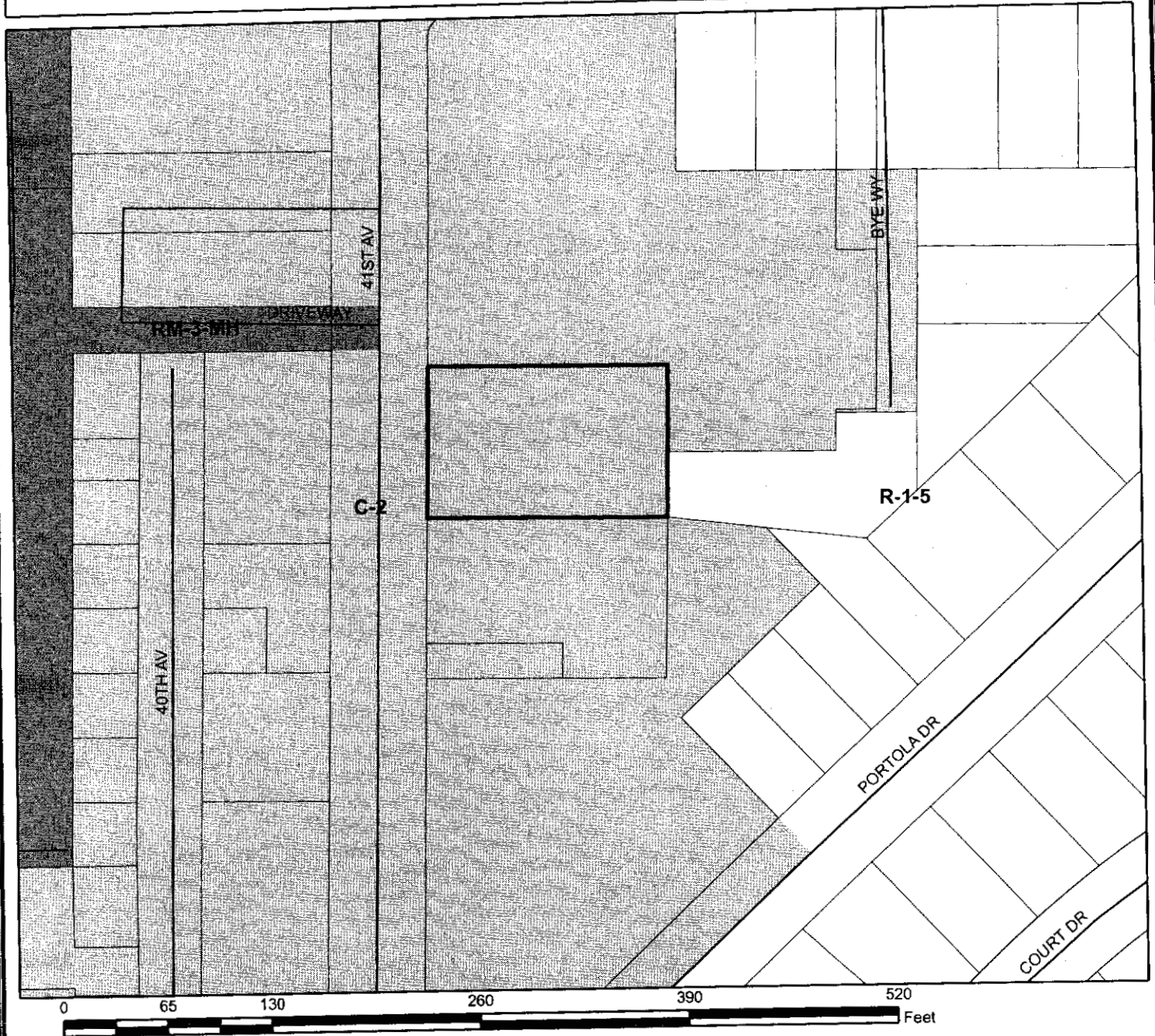
-  APN: 033-141-56
-  Streets
-  Assessors Parcels
-  Commercial-Community
-  Residential - Urban Medium Density



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Zoning Map



LEGEND



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Assessor's Parcels

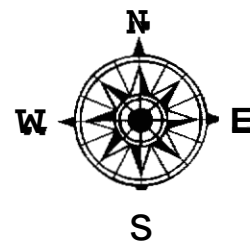
lots

COMMERCIAL-COMMUNITY



RESIDENTIAL-MULTI FAMILY

RESIDENTIAL-SINGLE FAMILY



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