



Staff Report to the Zoning Administrator

Application Number: **08-0435**

Applicant: Marc Westburg
Owner: Laurie Negro & Juan Valledor
APN: 033-113-38

Agenda Date: February 6, 2009
Agenda Item #: **1**
Time: After 10:00 a.m.

Project Description: Proposal to reduce the size of an existing 6800 square foot commercial building, increase the parking and remodel to add a restaurant, resulting in a 2148 square foot restaurant, 1335 square feet of retail space and 645 square feet of storage with 35 parking spaces. Requires an Amendment to Master Occupancy Plan 02-0505, a Coastal Development Permit, a Variance to the sign ordinance to allow an increase from the allowable 50 square feet to up to a total of 150 square feet of signage, and Design Review.

Location: The project is located at 1000 41st Avenue in Santa Cruz between Gladys Avenue and Bain Avenue.

Supervisory District: First District (District Supervisor: John Leopold)

Permits Required: Amendment to Master Occupancy Plan 02-0505

Technical Reviews: none

Staff Recommendation:

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 08-0435, based on the attached findings and conditions.

Exhibits

- | | |
|---|------------------------------|
| A. Project plans | E. Assessor's parcel map |
| B. Findings | F. Zoning map |
| C. Conditions | G. Project plans |
| D. Categorical Exemption (CEQA determination) | H. Comments & Correspondence |

Parcel Information

Parcel Size:	21,910 square feet
Existing Land Use - Parcel:	Commercial (currently unoccupied)
Existing Land Use - Surrounding:	Commercial and residential
Project Access:	Two driveways off 41 st Avenue
Planning Area:	Live Oak
Land Use Designation:	C-C (Community Commercial)

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

Zone District: C-2 (Community Commercial)
Coastal Zone: ☒ Inside ☐ Outside
Appealable to Calif. Coastal Comm. ☐ Yes ☒ No

Environmental Information

Geologic Hazards: Not mapped/no physical evidence on site
Soils: Elkhorn Sandy loam
Fire Hazard: Not a mapped constraint
Slopes: 2-9 % maximum; no change to existing
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: ☒ Inside ☐ Outside
Water Supply: City of Santa Cruz Water District
Sewage Disposal: Santa Cruz County Sanitation District
Fire District: Central Fire District
Drainage District: Zone 5

History

Permits 83-276-PD and 83-277-U authorized the original commercial building development on the project site. Permit 94-0219 amended these earlier permits and allowed for a 1,266 square foot addition to the existing building. Commercial Development Permit 02-0505 established a Master Occupancy Plan to allow for future commercial tenant changes, subject to consistency with County parking requirements. The potential for a food-oriented business was identified under 02-0505, subject to the requirement for a permit from Environmental Health.

Consultation 08-0175 initiated the current proposal by establishing the requirements, parameters and applicable levels of review for adding a restaurant to the existing commercial building. It was determined that a Level 5 Amendment to 02-0505 and Design Review would be required to address the proposed new restaurant.

The subject parcel was zoned C-1 (Neighborhood Commercial) for many years, and was rezoned to C-2 (Community Commercial) as part of the 1994 General Plan Update rezoning process (Ord. 4315, 5/24/94).

Project Setting

The proposed project is along the 41st Avenue commercial corridor and within the County Redevelopment Agency (RDA) Pleasure Point Commercial Plan area. It is approximately 600 feet north of Portola Drive and roughly ¼ mile from the East Cliff area of Pleasure Point. A variety of commercial uses, including existing restaurants, are along 41st Avenue. Parcels to the east along Bain and Gladys Avenues are zoned single-family residential, and to the west of 41st Avenue there are areas zoned for multi-family and/ or mobile home residential uses. The rear (east) property line

of the subject parcel is adjacent to single-family residential lots.

Zoning & General Plan Consistency

The subject property is a 21,910 square foot lot, located in the C-2 (Community Commercial) zone district, a designation that allows commercial uses, including restaurants. The proposed restaurant and commercial retail/ office building is a principal permitted use within the zone district and the project is consistent with the site's (C-C) Community Commercial General Plan designation.

The existing rear (east) setback is less than the C-2-required 30 feet for abutting a residentially-zoned parcel. However, there is no proposed alteration or change to the existing building, other than a reduction of the south elevation, so a Variance to setback standards is not required.

Variance to Sign Standards

A Variance to sign standards is requested by the applicant, in order to increase the 50 square feet of signage allowable under the County sign ordinance (Chapter 13.10.581) to a total of up to 150 square feet. Pursuant to 13.10.581(a), a corner location is one of the factors that may justify a Variance to sign standards, and because the proposed project is on a vehicle-oriented commercial corridor with two street corners, the requested sign coverage appears to be appropriate and in scale with the site and with surrounding development. The proposed signs have been reviewed as part of the Design Review process, and would use appropriate lighting.

Analysis

The proposed new restaurant in an existing commercial building is located within the 41st Avenue commercial corridor, which extends from Soquel Drive to the north to East Cliff Drive to the south. A single-family residential neighborhood is adjacent to the east, and several residents have expressed concerns regarding the potential impacts of a nearby restaurant operation.

The existing commercial building is currently vacant. The site was originally occupied by a bank, and under the existing Master Occupancy Plan, the building contained an insurance agency, a software company and administrative offices for Big Brother/ Big Sister. It has an interior courtyard, and with the proposed removal of part of the south elevation to provide more parking, it will become a U-shaped structure. The potential for a food-oriented business was identified under Master Occupancy Plan # 02-0505, subject to the requirement for a permit from Environmental Health. The restaurant is proposed for the portion of the building that directly fronts 41st Avenue, and restaurant-related activities will be buffered from the residential neighborhood by the wing of the building that would have retail or office tenants at the same intensity as previously. The proposed outdoor dining areas are directly facing 41st Avenue and inside the interior courtyard area. The restaurant entrance is also within the interior courtyard, and thus much of the activity and sound that might be generated by restaurant patrons will be substantially separated and buffered by the retail/ office wing of the building, as well as by distance. The roof housing that contains the kitchen vents is directly along the 41st Avenue frontage, and more than 100 feet from the nearest residential structure.

The existing rear (east) setback of the building from the property line is approximately 20 feet. The rear setback standard for C-2 zoned parcels (usually 0 feet) is 30 feet when abutting a residentially-zoned parcel, pursuant to County Code Section 13.10.333. However, no changes are proposed to the non-conforming setback area, so a Variance is not required, pursuant to County Code Section 13.10.265. There is a 6-foot solid wooden fence along the rear property line, which will offer some

level of sound buffering, and a 10 X 10 foot solidly-fenced trash enclosure approximately 10 feet from the rear property line. Hours for delivery, trash pick-up and exterior lighting will be regulated in order to minimize residential impacts. Restaurant hours are proposed as 10am-10pm daily.

There are two existing driveways from 41st Avenue into the parking areas of the site, and the northernmost entry is approximately 30 feet from the intersection of 41st Avenue and Gladys Avenue. The Department of Public Works Road Engineering's review of the project recommended that the applicant consider moving the north driveway to take access to the site off Gladys Avenue rather than 41st. However, out of concern for minimizing residential neighborhood impacts, the applicant is not electing to move the access to Gladys. Road Engineering has stated in their review comments that they do not expect an increase in vehicular trips from the previously-approved commercial building uses; therefore staff has determined that the change to the access driveway will not be required.

The project site is identified in the Pleasure Point Commercial Area Plan (1995, prepared by the County Redevelopment Agency) as being directly adjacent to the "commercial core" within the "transitional retail area". This transitional area has a mixture of different commercial and retail uses adjacent to residential zoning, and the Pleasure Point Commercial Plan emphasizes the need for increased commercial vitality in this area, including street-front improvements. The County Redevelopment Agency (RDA) has reviewed the project and offered direction for street trees and other improvements consistent with the ongoing revitalization plans for the area. The layout of the parcel and the existing building serve to buffer the activities associated with the proposed restaurant from the residential parcels to the east, by virtue of the fact that the restaurant frontage is along the 41st Avenue corridor, and the less-intensive office and retail uses will occur in the part of the property adjacent to residential parcels at the same intensity as was the case with previous uses of the existing commercial building. Project conditions will limit hours of operation, lighting and noise impacts in order to ensure compatibility with nearby residential uses.

Local Coastal Program Consistency

The proposed restaurant and commercial retail/ office building is in conformance with the County's certified Local Coastal Program, in that the commercial building is sited and designed to be visually compatible, in scale, and integrated with the character of the surrounding commercial and residential neighborhood. Developed parcels in the area contain other commercial buildings and residential dwellings. Size and architectural styles vary widely in the area, and the design submitted is consistent with the existing range. The project site is not located between the shoreline and the first public road and is not identified as a priority acquisition site in the County's Local Coastal Program. Consequently, the proposed project will not interfere with public access to the beach, ocean, or other nearby body of water.

Design Review

The proposed restaurant and commercial retail/ office building complies with the requirements of the County Design Review Ordinance, in that the proposed project will incorporate site and architectural design features such as landscaping, trees, awnings and a wall mural/ sculptural projection to add visual interest along 41st Avenue to create an appealing visual impact. Signs and lighting will also be appropriate and will not glare into surrounding parcels.

Coastal Development Permit Findings

1. That the project is a use allowed in one of the basic zone districts, other than the Special Use (SU) district, listed in section 13.10.170(d) as consistent with the General Plan and Local Coastal Program LUP designation.

This finding can be made, in that the property is zoned C-2 (Community Commercial), a designation that allows restaurants and other commercial uses. The proposed commercial/retail space and restaurant is a principal permitted use within the zone district, consistent with the (C-C) Community Commercial General Plan designation of the site.

2. That the project does not conflict with any existing easement or development restrictions such as public access, utility, or open space easements.

This finding can be made, in that the proposal does not conflict with any existing easement or development restriction such as public access, utility, or open space easements in that no such easements or restrictions are known to encumber the project site.

3. That the project is consistent with the design criteria and special use standards and conditions of this chapter pursuant to section 13.20.130 et seq.

This finding can be made, in that the proposed commercial development received Design Review subject to the County Design Review Ordinance, and is consistent with commercial development in the surrounding neighborhood in terms of architectural style. The site is surrounded by lots developed to an urban density, and the proposed landscaping and exterior design and finishes will be complementary to the existing 41st Avenue commercial corridor. A proposed sculptural projection for the elevation facing 41st Avenue has been reviewed by the County Urban Designer and will add visual interest to the site. Proposed signs have also been reviewed by the County Urban Designer and determined to be appropriate and in character with commercial development in the neighborhood. Signage will meet all criteria of the sign ordinance (Chapter 13.10.581) except for the requested Variance to increase the allowable 50 square feet to up to a total of 150 square feet of signage in order to accommodate the special circumstances of a double-corner lot. The development site is not on a ridge, beach, or bluff top.

4. That the project conforms with the public access, recreation, and visitor-serving policies, standards and maps of the General Plan and Local Coastal Program land use plan, specifically Chapter 2: figure 2.5 and Chapter 7, and, as to any development between and nearest public road and the sea or the shoreline of any body of water located within the coastal zone, such development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act commencing with section 30200.

This finding can be made, in that the project site is not located between the shoreline and the first public road. Consequently, the commercial/ retail and restaurant space will not interfere with public access to the beach, ocean, or any nearby body of water. Further, the project site is not identified as a priority acquisition site in the County Local Coastal Program.

5. That the proposed development is in conformity with the certified local coastal program.

This finding can be made, in that the structure is sited and designed to be visually compatible with the character of the surrounding commercial neighborhood. Additionally, commercial uses are allowed uses in the C-2 (Community Commercial) zone district of the area, as well as the General Plan and Local Coastal Program land use designation. Developed parcels in the area contain other commercial uses along 41st Avenue and single-family dwellings and multi-family dwellings in residentially-zoned parcels off the commercial corridor. Size and architectural styles vary in the area, and the design submitted is consistent with the existing range.

Environmental Review

Environmental review of the proposed project per the requirements of the California Environmental Quality Act (CEQA) has resulted in the determination that the proposed project is exempt per CEQA Section 15303 (Class 3- New Construction).

Conclusion

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

Staff Recommendation

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- **APPROVAL** of Application Number **08-0435**, based on the attached findings and conditions.

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

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

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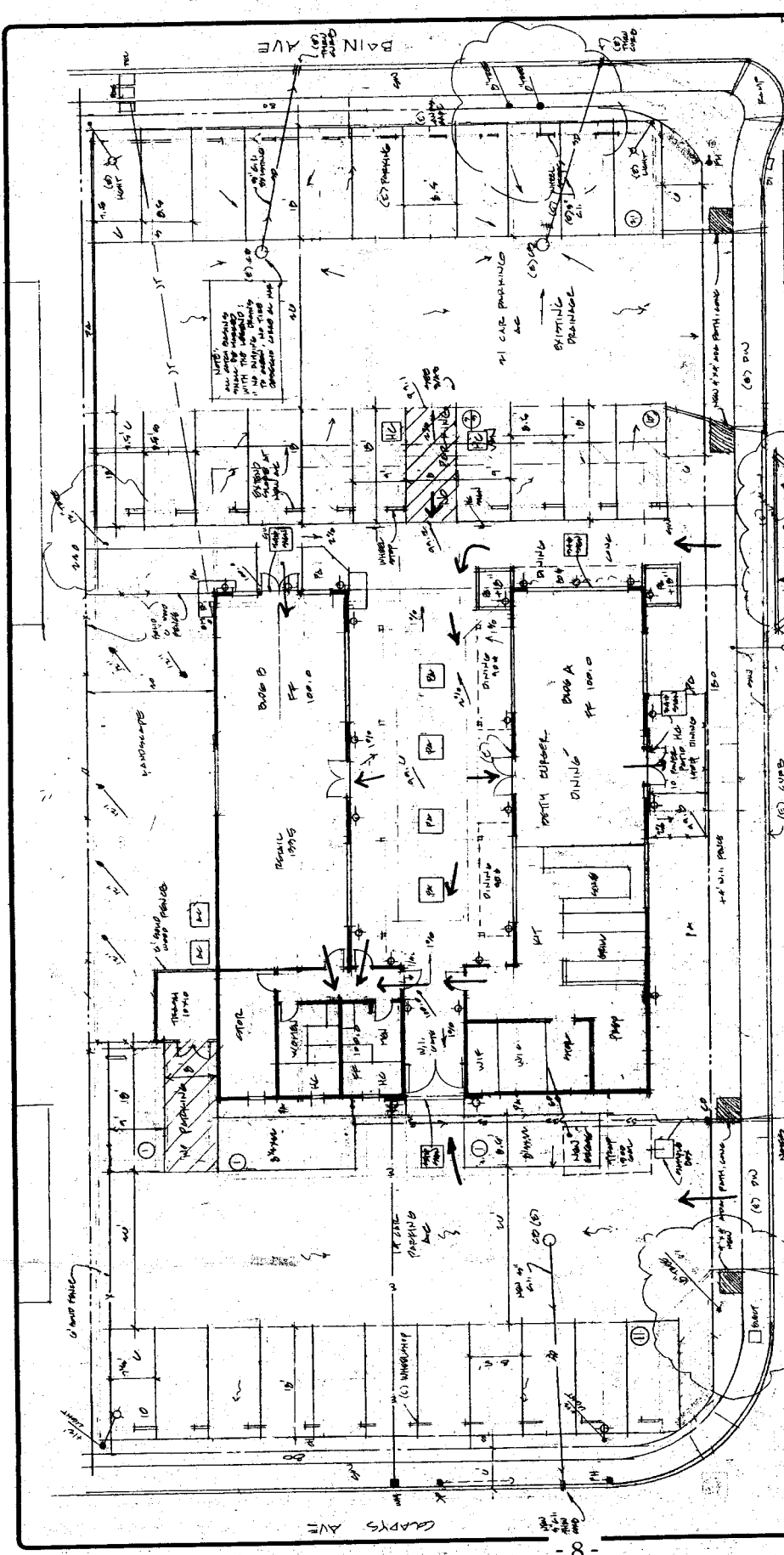
NO.	DATE	REVISIONS
10	7.1.8	
11	11.1.8	
12	11.1.8	

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 SANTA CRUZ 2

SITE PLAN

NO.	DATE	REVISIONS
1	11.1.8	
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3	11.1.8	



LOT AREA 12,000 sq. ft.
 BUILDING AREA 11,000 sq. ft.
 PARKING AREA 1,000 sq. ft.
 TOTAL AREA 12,000 sq. ft.

NO.	DATE	REVISIONS
1	11.1.8	
2	11.1.8	
3	11.1.8	

EXHIBIT A
 1. BUILDING LAYOUT
 2. PARKING LAYOUT
 3. LANDSCAPE LAYOUT
 4. UTILITY LAYOUT
 5. FENCE LAYOUT
 6. SIGNAGE LAYOUT
 7. LIGHTING LAYOUT
 8. SECURITY LAYOUT
 9. ACCESS LAYOUT
 10. EGRESS LAYOUT
 11. VENTILATION LAYOUT
 12. HEATING LAYOUT
 13. COOLING LAYOUT
 14. WATER LAYOUT
 15. SEWER LAYOUT
 16. GAS LAYOUT
 17. TELEPHONE LAYOUT
 18. CABLE LAYOUT
 19. FIBER LAYOUT
 20. RADIATION LAYOUT
 21. SOUND LAYOUT
 22. VIBRATION LAYOUT
 23. EMISSION LAYOUT
 24. INTERFERENCE LAYOUT
 25. OBSTRUCTION LAYOUT
 26. HAZARD LAYOUT
 27. POLLUTION LAYOUT
 28. CLIMATE LAYOUT
 29. SOIL LAYOUT
 30. VEGETATION LAYOUT
 31. ANIMAL LAYOUT
 32. PLANT LAYOUT
 33. MINERAL LAYOUT
 34. METEOROLOGICAL LAYOUT
 35. AERONAUTICAL LAYOUT
 36. MARITIME LAYOUT
 37. SPACE LAYOUT
 38. TIME LAYOUT
 39. ENERGY LAYOUT
 40. MATERIAL LAYOUT
 41. INFORMATION LAYOUT
 42. COMMUNICATION LAYOUT
 43. TRANSPORTATION LAYOUT
 44. INFRASTRUCTURE LAYOUT
 45. ENVIRONMENTAL LAYOUT
 46. SOCIAL LAYOUT
 47. ECONOMIC LAYOUT
 48. POLITICAL LAYOUT
 49. LEGAL LAYOUT
 50. ETHICAL LAYOUT
 51. RELIGIOUS LAYOUT
 52. CULTURAL LAYOUT
 53. ART LAYOUT
 54. SCIENCE LAYOUT
 55. TECHNOLOGY LAYOUT
 56. MEDICINE LAYOUT
 57. LAW LAYOUT
 58. BUSINESS LAYOUT
 59. EDUCATION LAYOUT
 60. RECREATION LAYOUT
 61. SPORTS LAYOUT
 62. ENTERTAINMENT LAYOUT
 63. MEDIA LAYOUT
 64. JOURNALISM LAYOUT
 65. LITERATURE LAYOUT
 66. MUSIC LAYOUT
 67. VISUAL ARTS LAYOUT
 68. PERFORMING ARTS LAYOUT
 69. CULINARY LAYOUT
 70. FASHION LAYOUT
 71. BEAUTY LAYOUT
 72. HEALTH LAYOUT
 73. FITNESS LAYOUT
 74. WELLNESS LAYOUT
 75. LIFESTYLE LAYOUT
 76. HOBBIES LAYOUT
 77. INTERESTS LAYOUT
 78. PASSIONS LAYOUT
 79. VALUES LAYOUT
 80. BELIEFS LAYOUT
 81. OPINIONS LAYOUT
 82. ATTITUDES LAYOUT
 83. MENTAL LAYOUT
 84. EMOTIONAL LAYOUT
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 87. BEHAVIORAL LAYOUT
 88. PERSONALITY LAYOUT
 89. CHARACTER LAYOUT
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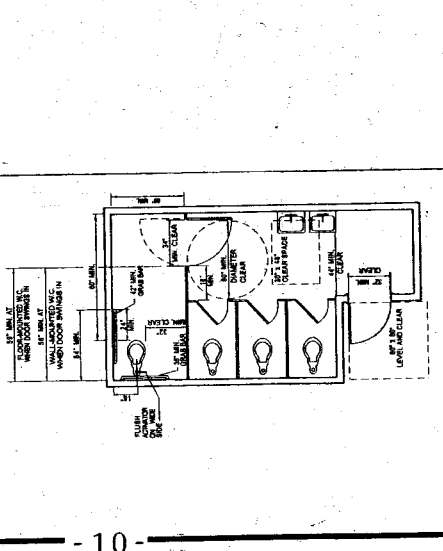
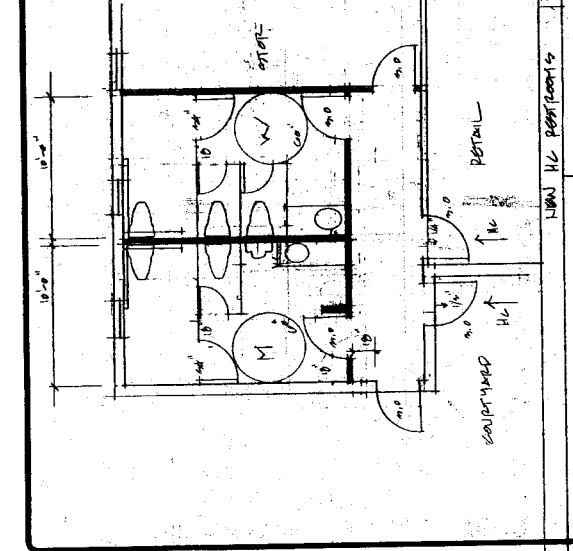
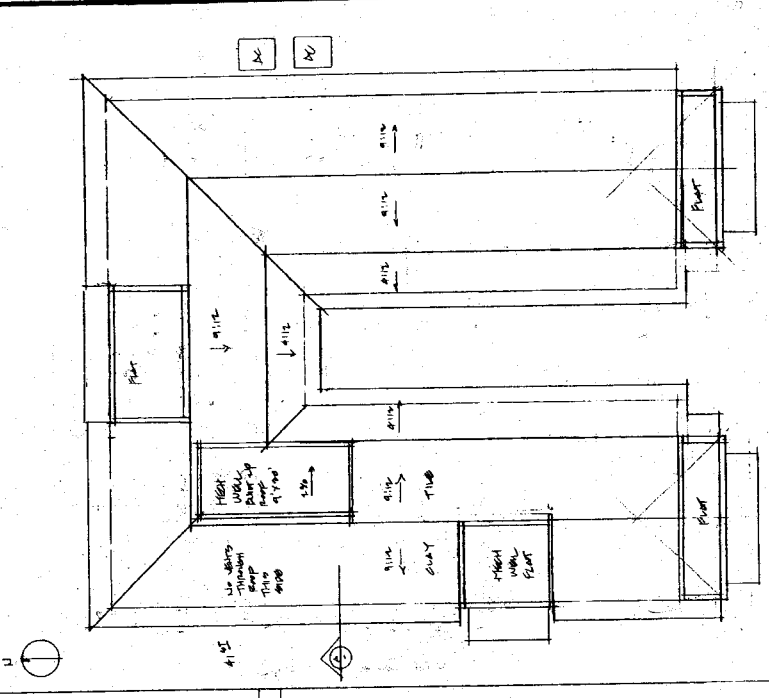
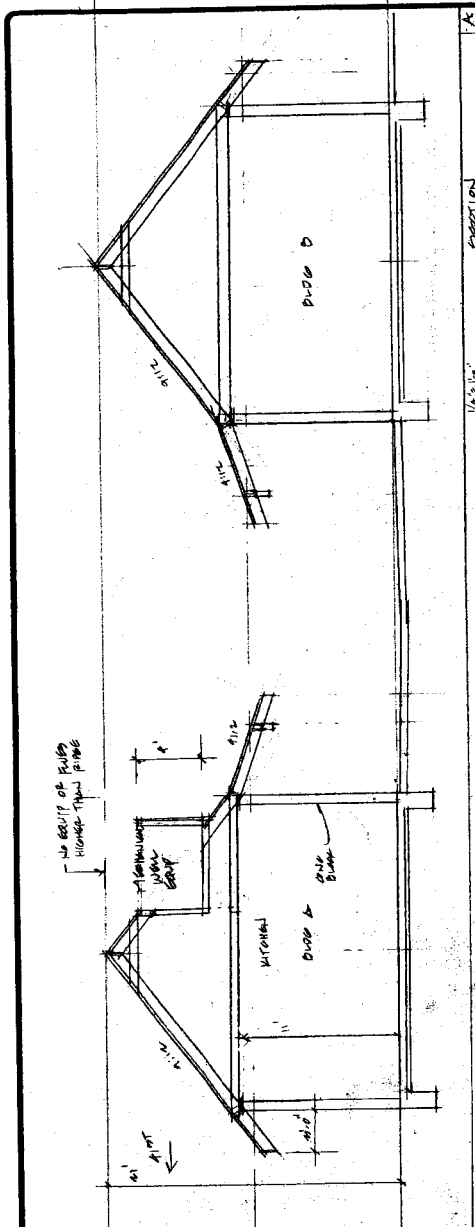
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Daryl Fazekas, Architect
 80 W. Main St.
 Los Gatos, CA 95030
 Fax (408) 395-9680
 (408) 395-9400
 APN 094-119-90

DEPT
 BUREAU
 1000 4th ST
 SAN JOSE, CA 95128

GENERAL
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THIS DRAWING ALLOWS FOR THE SHORTEST PERIOD OF TIME FOR THE CONSTRUCTION OF THE PROJECT. IT IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT.

100% COMPLETE BUILDING CODE

EXHIBIT A

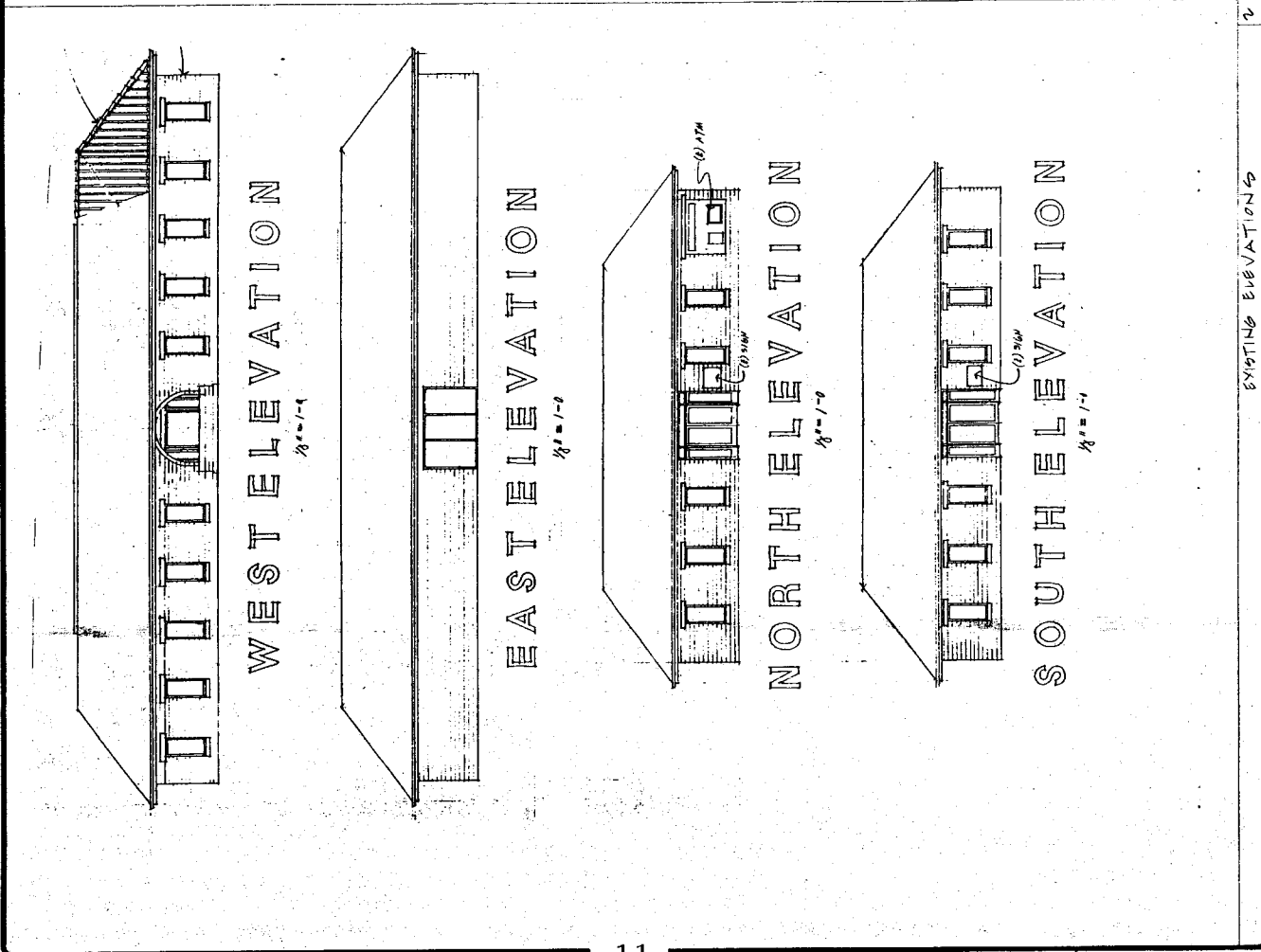
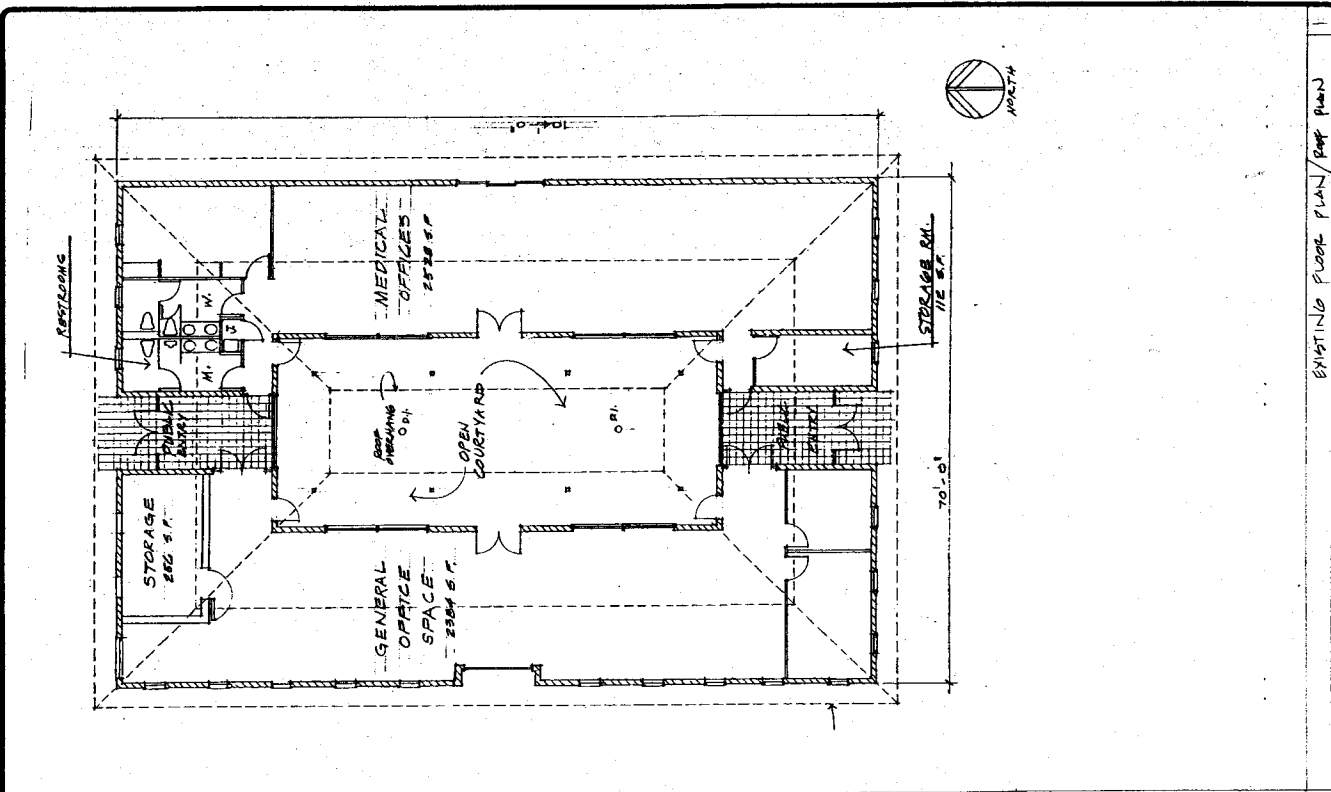
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Daryl
Fazekas,
Architect
80 W. Main St.
Los Gatos, CA 95030
Tel: (408) 395-5880
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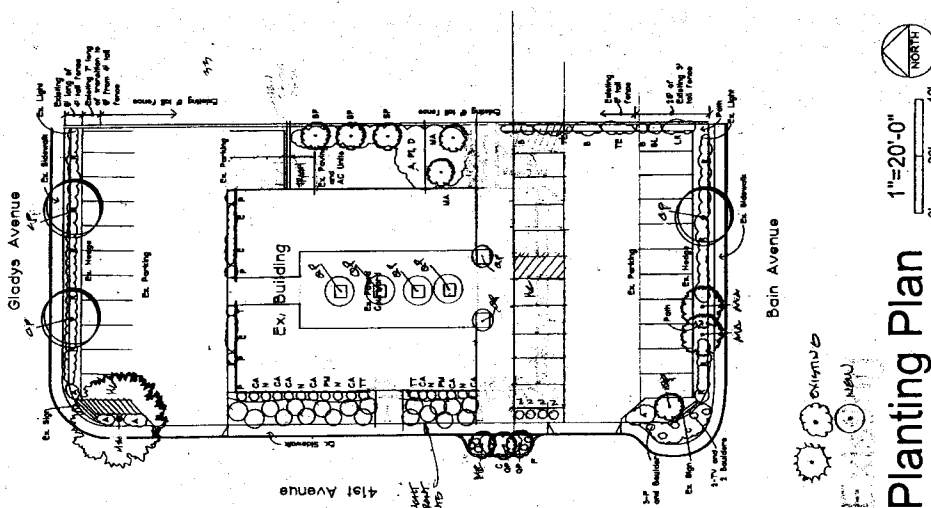
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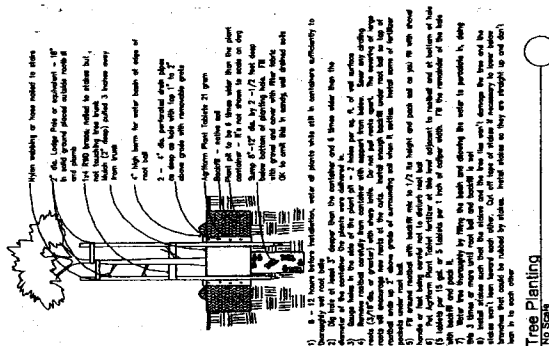
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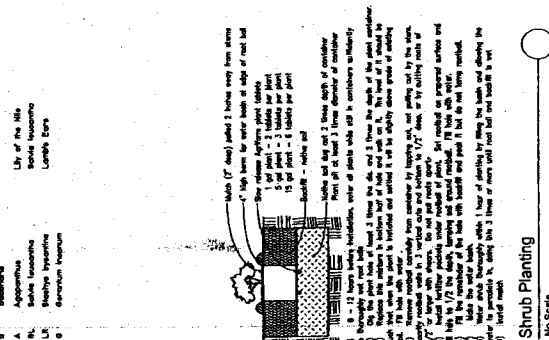
Proposed Plant Legend
 KEY: BOTANICAL NAME, COMMON NAME
 1. *Platanus illinoensis* - COMMON NAME: *Platanus illinoensis*
 2. *Exochorda virginiana*

Landscape Notes
 1. There is an existing edge irrigation system on the south side of the building. Make sure it is working properly.
 2. Edge irrigation system is to be installed along the south side of the building.
 3. Edge irrigation system is to be installed along the south side of the building.



Existing Plant Legend
 KEY: BOTANICAL NAME, COMMON NAME
 1. *Platanus illinoensis* - COMMON NAME: *Platanus illinoensis*
 2. *Exochorda virginiana*

Landscape Notes
 1. There is an existing edge irrigation system on the south side of the building. Make sure it is working properly.
 2. Edge irrigation system is to be installed along the south side of the building.
 3. Edge irrigation system is to be installed along the south side of the building.



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 and is not encumbered by physical constraints to development. Construction will comply with prevailing building technology, the California Building Code, and the County Building ordinance to insure the optimum in safety and the conservation of energy and resources. The proposed commercial/ retail and restaurant space will not deprive adjacent properties or the neighborhood of light, air, or open space, in that the structure meets all current setbacks that ensure access to light, air, and open space in the neighborhood.

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

This finding can be made, in that the proposed location of the commercial- retail and restaurant and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances, with the granting of a Variance to the sign ordinance standards (Chapter 13.10.581) to increase the allowable 50 square feet to up to a total of 150 square feet of signage in order to accommodate the special circumstances of a double-corner lot. The proposed project is also consistent with the purpose of the C-2 (Community Commercial) zone district in that the primary use of the property will be one commercial/ retail and restaurant space that meets all current site standards for the zone district.

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 commercial use is consistent with the use and density requirements specified for the Community Commercial (C-C) land use designation in the County General Plan.

The proposed commercial- retail and restaurant will not adversely impact the light, solar opportunities, air, and/or open space available to other structures or properties, and meets all current site and development standards for the zone district as specified in Policy 8.1.3 (Residential Site and Development Standards Ordinance), other than the existing non-conformity of the rear (east) setback. The commercial- retail and restaurant will not adversely shade adjacent properties, and will meet current setbacks for the zone district that ensure access to light, air, and open space in the neighborhood.

The proposed commercial/ retail and restaurant space is not improperly proportioned to the parcel size or the character of the neighborhood as specified in General Plan Policy 8.6.1 (Maintaining a Relationship Between Structure and Parcel Sizes), in that the proposed commercial- retail and

restaurant space complies with the site standards for the C-2 zone district (including setbacks, lot coverage, floor area ratio, height, and number of stories, other than the existing non-conformity of the rear setback) and will result in a structure consistent with a design that could be approved on any similarly sized lot in the vicinity.

A specific plan has not yet been adopted for this portion of the County, but development and revitalization of the area is addressed in the County Redevelopment Agency (RDA) Pleasure Point Commercial Area Plan (1995), and the proposed restaurant and commercial uses are consistent with the goals and desired outcome of commercial revitalization as identified in the 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.

This finding can be made, in that the proposed commercial/ retail and restaurant space is on an existing developed lot that has already generated commercial customer traffic in its past uses. The level of vehicular traffic generated by the proposed restaurant is expected to be adequately serviced by the additional parking spaces that will be provided, and it is not anticipated that restaurant patrons will adversely impact existing roads and intersections in the surrounding area. County DPW Road Engineering personnel have reviewed the project, and have determined that the proposed development is not expected to increase vehicular trips beyond the previously-approved commercial building use.

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 proposed structure is located in a mixed neighborhood containing a variety of architectural styles, and the proposed commercial/ retail and restaurant space is consistent with the commercial land use intensity and density of the neighborhood commercial corridor.

The project site is identified in the Pleasure Point Commercial Area Plan (prepared by the County Redevelopment Agency) as being directly adjacent to the "commercial core" in the "transitional retail area". This transitional area has a mixture of different commercial and retail uses adjacent to residential zoning, and the Pleasure Point Commercial Plan emphasizes the need for increased commercial vitality in this area, including street-front improvements. A proposed sculptural projection for the elevation facing 41st Avenue has been reviewed by the County Urban Designer and will add visual interest to the site. The County Redevelopment Agency (RDA) has also reviewed the project and offered direction for street trees and other improvements consistent with the ongoing revitalization plans for the area. The layout of the parcel and the existing building serve to buffer the activities associated with the proposed restaurant from the residential parcels to the east, by virtue of the fact that the restaurant frontage is along the 41st Avenue corridor, and less-intensive office and retail uses will occur in the part of the property adjacent to residential parcels at the same intensity as was the case with previous uses of the existing commercial building. Project conditions will limit hours of operation, lighting and noise impacts in order to ensure compatibility with nearby residential uses.

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/ retail and restaurant space will be of an appropriate scale and type of design that will enhance the aesthetic qualities of the surrounding properties with adequate landscaping, appropriate lighting, awnings and a mural/ sculptural element on the 41st Avenue frontage, and will not reduce or visually impact available open space in the surrounding area.

**Variance Findings
(for an increase in allowable sign square footage)**

1. That because of special circumstances applicable to the property, including size, shape topography, location and surrounding existing structures, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

This finding can be made. The subject parcel with one commercial building is a double-corner lot on a busy commercial corridor characterized by vehicular traffic. In order for the restaurant location to be identifiable from each approach, it is appropriate to have signage on three sides of the building. Each street frontage on the subject parcel would have signage that is of the same scale as what would be allowable on a commercial building with only one street frontage. Other commercial properties with single frontages have the privilege of up to 50 square feet of signage in order to be identified from the street; because of the special circumstance of being situated on a double-corner lot, more signs are required in order to have the same privilege enjoyed by other properties in the vicinity and under identical zoning classification.

2. That the granting of such variance will be in harmony with the general intent and purpose of zoning objectives and will not be materially detrimental to public health, safety or welfare or injurious to property or improvements in the vicinity.

This finding can be made. The proposed signs are part of a coherent design for the proposed commercial business, and are not individually out of scale with each visible building elevation. The proposed signs have been reviewed by the County Urban Designer as part of the required Design Review for the project. The signs are proposed to be a total maximum of 150 square feet or less (126 square feet is the exact number proposed), and will be conditioned to have downward-directed non-glaring lighting. Aside from the variance to maximum allowable square footage, the signs will be in conformance with all other requirements of the County sign ordinance, Chapter 13.10.581, and are appropriate for a commercial restaurant use.

3. That the granting of such a variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such is situated.

This finding can be made. Allowing a Variance to allowable square footage so that the commercial business (restaurant and offices) can be identified from each street frontage in the same manner as other businesses is not a grant of special privilege, and the signs will conform to all other requirements of the County sign ordinance, Chapter 13.10.581.

Conditions of Approval

Exhibit A: Plans, 10 sheets, by Daryl Fazekas, Architect, dated 10/07/08 and revised 11/11/08.

- I. This permit is an Amendment to Master Occupancy Permit 02-0505, and all required conditions of approval for that permit are hereby incorporated into these conditions of approval by reference, except where specifically amended herein. This permit authorizes the reduction of an existing 6800 square foot commercial building in order to increase the parking area and remodel the building to add a restaurant, resulting in a 2148 square foot restaurant, 1335 square feet of retail space and 645 square feet of storage with 35 parking spaces. A Variance to the sign ordinance to allow an increase from the allowable 50 square feet to up to a total of 150 square feet of signage is also approved, in accordance with the signage shown on the project plans (Exhibit A). 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 Demolition Permit from the Santa Cruz County Building Official.
 - C. Obtain a Building Permit from the Santa Cruz County Building Official.
 1. Any outstanding balance due to the Planning Department must be paid prior to making a Building Permit application. Applications for Building 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. In accordance with Sanitation District Code Section 7.04.375 regarding Private Sanitary Sewer System Repair, prior to building permit submittal, the applicant is required to video-record all on-site sewer laterals up to and including the connection to the public sewer main and make repairs if needed to any damaged or leaking pipes. Color video results of a sufficient quality to observe interior pipe condition shall be made available to the District for review. Applicant shall obtain a sewer repair permit from the District and shall have repairs (if any) inspected by the District. An approved copy of the sewer system plan shall be attached to the building permit submittal.
 - F. For Accessibility requirements, please provide the following information on plans submitted with the building permit application:
 1. Provide a path of travel verification form, complete bathroom elevations and details, stairway and ramp details, signage details and all other details

pertaining to accessibility.

2. Provide details for workspace clearances in the kitchen.
3. Verify door landing width and depth, threshold height, door hardware and 5-pound maximum door opening force for accessible entry doors.
4. Show that the restrooms are compliant with all accessibility requirements.
5. Show that interior doors along the path of travel have an 18-inch strike side clearance.
6. Show accessible wheelchair seating and accessible counter height at the register.
7. Dimension the 48-inch required clearance outside the doors to the mens' and womens' restrooms.
8. Appropriate counter heights shall be noted at the appropriate dining and service areas.
9. All accessibility plans shall reference California Building Code Chapter 11B for Disabled Access.

II. Prior to issuance of a Building Permit the applicant/owner shall:

- A. Submit proof that these conditions have been recorded in the official records of the County of Santa Cruz (Office of the County Recorder).
- B. 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. One elevation shall indicate materials and colors as approved by this Discretionary Application.
 2. Grading, drainage, and erosion control plans.
 3. Details showing compliance with fire department requirements, including all requirements.
- C. Submit four copies of the approved Discretionary Permit with the Conditions of

Approval attached. The Conditions of Approval shall be recorded prior to submittal, if applicable.

- D. Meet all requirements of and pay Zone 5 drainage fees to the County Department of Public Works, Drainage. Drainage fees will be assessed on the net increase in impervious area.
 - E. Provide final plans for grease interceptors/ traps to the County Sanitation District for review, and schedule an inspection by the County Sanitation District Environmental Compliance Unit (phone: 831-477-3907).
 - F. Obtain an Environmental Health Clearance for this project from the County Department of Environmental Health Services.
 - G. Meet all requirements and pay any applicable plan check fee of the Central Fire Protection District.
 - H. Provide required off-street parking for 35 cars. 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.
- 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. The three existing catch basins on the site plan must be replaced with County-standard water quality treatment units (per figure SWM-12 in the County Design Criteria Manual) or equivalent. A recorded maintenance agreement (the form is available from the Public Works office) for the water quality treatment units must be executed.
 - 1. All sinks and floor drains must be routed through a grease interceptor with the exception of hand washing sinks and bathroom drains. All grease interceptors for the commercial kitchen shall meet the County Design Criteria.
 - 2. Floor drains must be installed with screens that prevent solids from blocking the facility pipes and from entering the sanitary sewer. Garbage grinders are prohibited in commercial kitchens.
 - D. Pursuant to Sections 16.40.040 and 16.42.100 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 16.42.100, shall be observed.

- E. Exterior lighting shall conform to the lighting plan submitted for this discretionary application. All exterior lighting shall be directed onto the site and away from adjacent properties. Lighting in parking and circulation areas shall utilize low-rise light standards or light fixtures attached to the building.

IV. Operational Conditions

- A. 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.
- B. Hours of construction shall be Monday-Friday 8a.m.- 5p.m., excluding holidays.
- C. In order to minimize noise impacts, no outdoor speakers shall be allowed for announcing food orders or playing music.
- D. Hours of restaurant operation are 10a.m. to 10 p.m. daily.
- E. All food deliveries shall occur between the hours of 6 a.m. and 9:30 a.m.
- F. Garbage pick-up shall occur between 6 a.m. and 4 p.m. on Mondays.

- 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.

Minor variations to this permit that 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 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: _____

Don Bussey
Deputy Zoning Administrator

Alice Daly
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: 08-0435

Assessor Parcel Number: 033-113-38

Project Location: 1000 41st Avenue, Santa Cruz, CA 95062

Project Description: Proposal to reduce the size of an existing 6800 square foot commercial building, increase the parking and remodel to add a restaurant. Will result in a 2148 square foot restaurant, 1335 square feet of retail space and 645 square feet of storage.

Person or Agency Proposing Project: Marc Westburg

Contact Phone Number: 831-458-5240

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

Specify type:

E. ☒ **Categorical Exemption**

Specify type: Section 15303(c): New Construction or Conversion

F. Reasons why the project is exempt:

Conversion of an existing 6800 square foot commercial building to include a restaurant

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

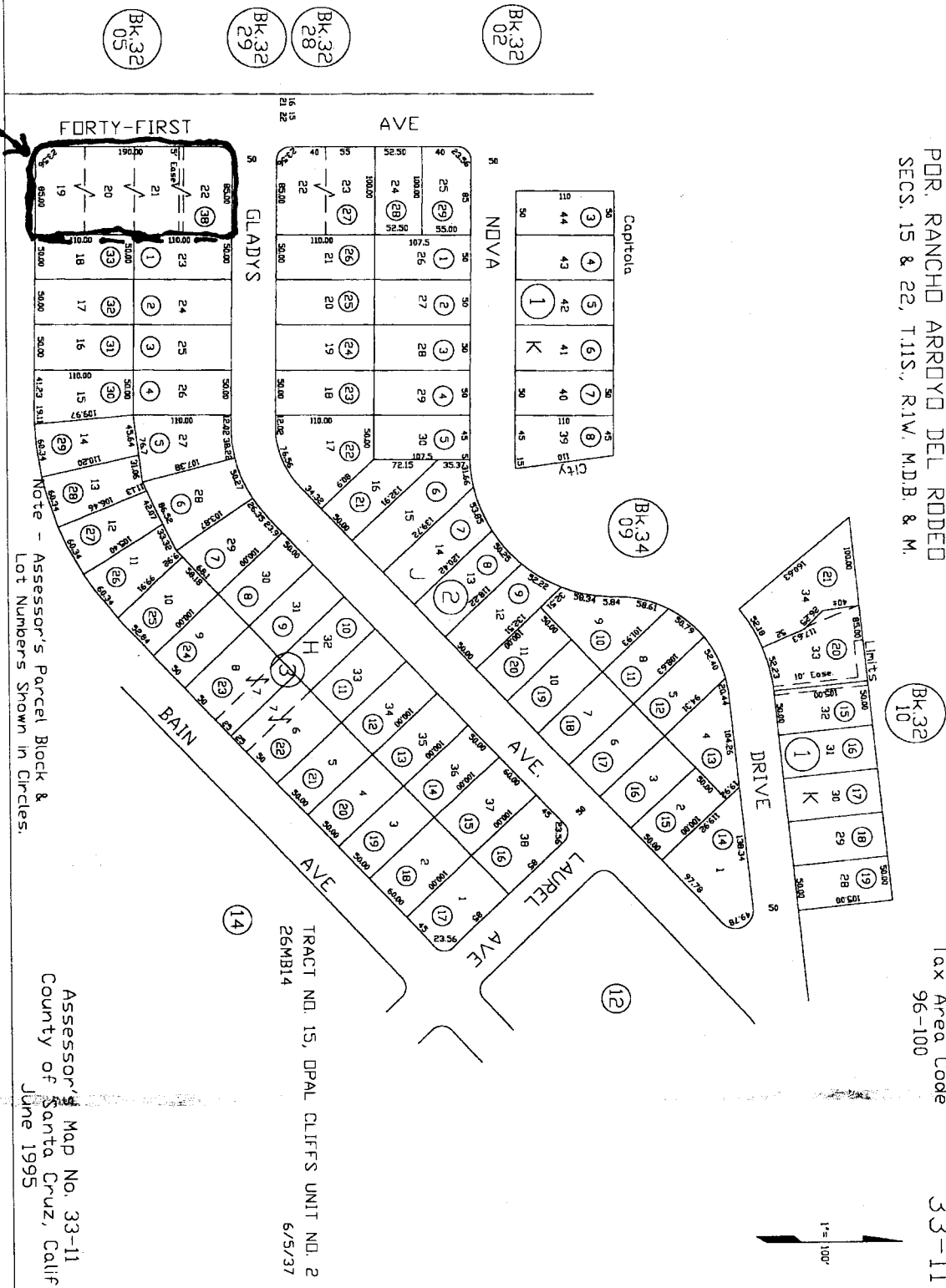
Alice Daly, Project Planner

Date: _____

Electronically drafted 6-2-95 KSA
Rev. 4/9/98 (G (CA consolidation)
Rev. 4/12/01 rev (changed page refs)

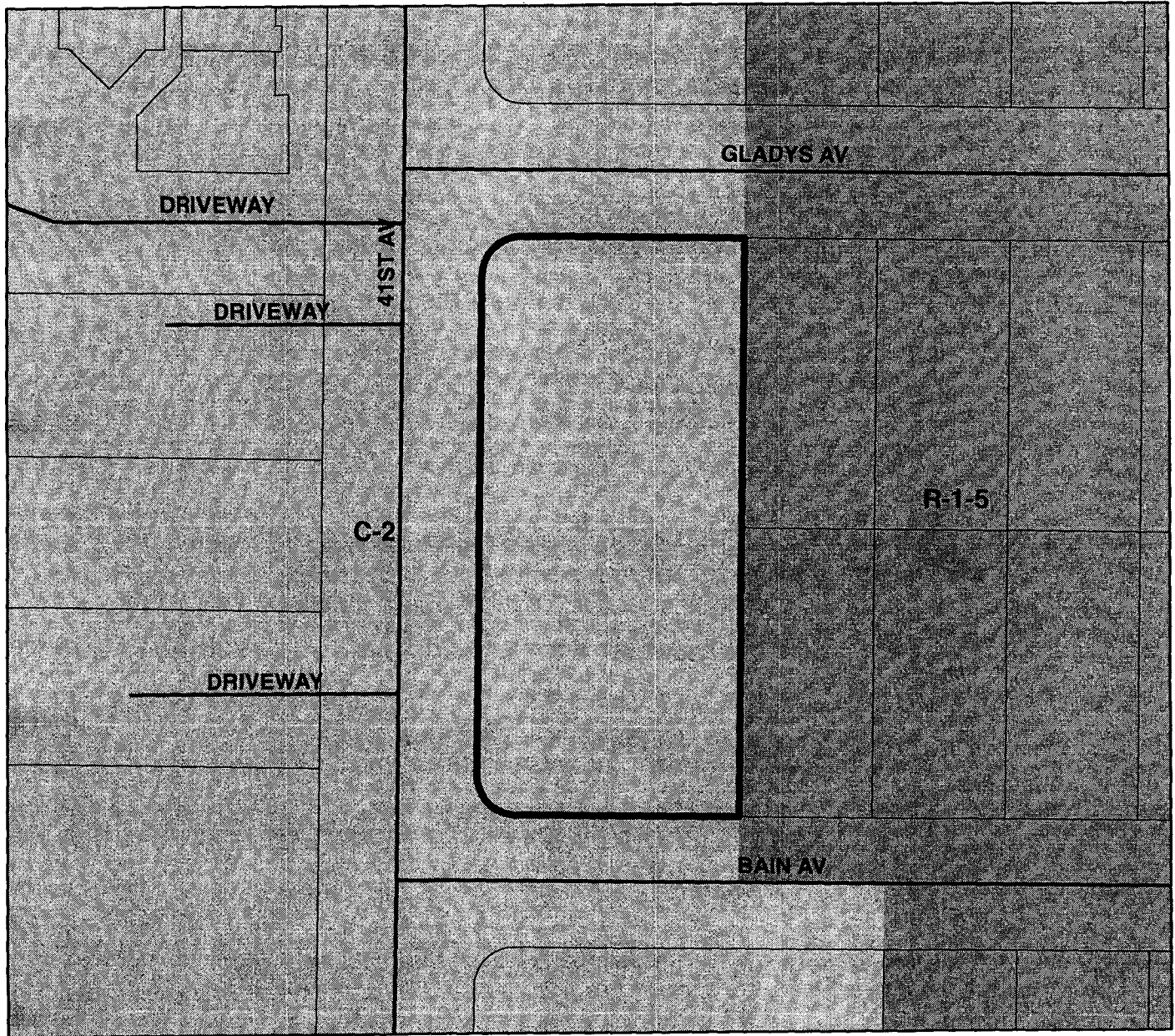
FOR TAX PURPOSES ONLY

THE ASSESSOR MAKES NO GUARANTEE AS TO MAP ACCURACY NOR ASSUMES ANY
LIABILITY FOR OTHER USES. NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.
© COPYRIGHT SANTA CRUZ COUNTY ASSESSOR 1995









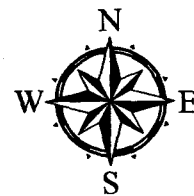
Zoning Map



0 50 100 200 300 400 Feet

LEGEND

-  APN: 033-113-38
-  Assessors Parcels
-  Streets
-  COMMERCIAL-COMMUNITY
-  RESIDENTIAL-SINGLE FAMILY



Map Created by
County of Santa Cruz
Planning Department
October 2008

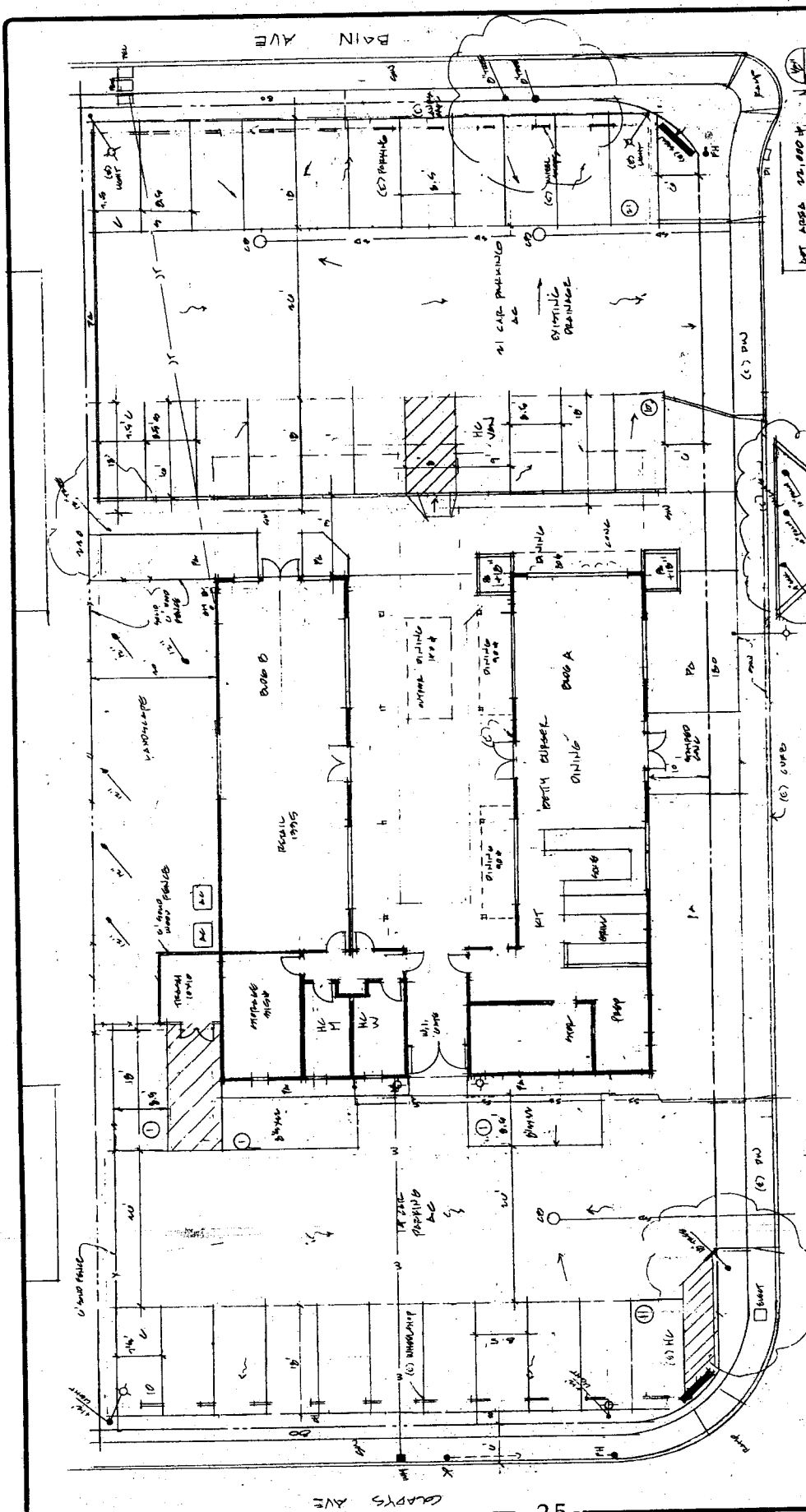
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NO. 17	
NO. 18	
NO. 19	
NO. 20	

Daryl Fazekas, Architect
 80 W. Main St.
 Los Angeles, CA 90012
 (408) 395-9400
 FAX (408) 395-9400
 Daryl Fazekas
 650 N. Main St.
 Apt. 202-103-15
 900-0175

BETTY DUBOZ
 1000
 41st AVE
 SANTA CRUZ

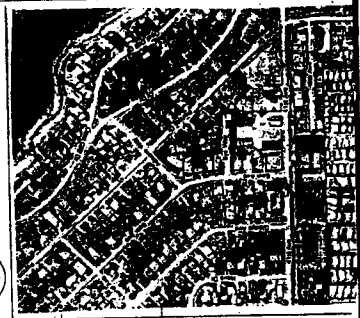
SITE PLAN

DATE	5/7/82
BY	DA
PROJECT	BETTY DUBOZ
NO.	1

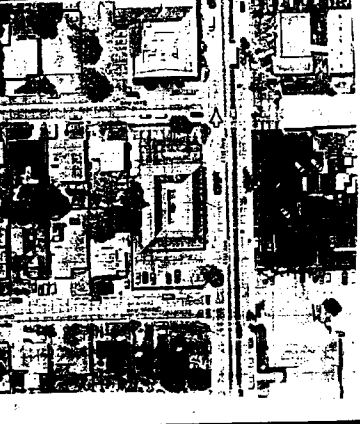


SITE PLAN

LOT AREA 22,000 sq. ft.
 Bldg A 10,000 sq. ft.
 Bldg B 10,000 sq. ft.
 Bldg C 10,000 sq. ft.
 Bldg D 10,000 sq. ft.
 Bldg E 10,000 sq. ft.
 Bldg F 10,000 sq. ft.
 Bldg G 10,000 sq. ft.
 Bldg H 10,000 sq. ft.
 Bldg I 10,000 sq. ft.
 Bldg J 10,000 sq. ft.
 Bldg K 10,000 sq. ft.
 Bldg L 10,000 sq. ft.
 Bldg M 10,000 sq. ft.
 Bldg N 10,000 sq. ft.
 Bldg O 10,000 sq. ft.
 Bldg P 10,000 sq. ft.
 Bldg Q 10,000 sq. ft.
 Bldg R 10,000 sq. ft.
 Bldg S 10,000 sq. ft.
 Bldg T 10,000 sq. ft.
 Bldg U 10,000 sq. ft.
 Bldg V 10,000 sq. ft.
 Bldg W 10,000 sq. ft.
 Bldg X 10,000 sq. ft.
 Bldg Y 10,000 sq. ft.
 Bldg Z 10,000 sq. ft.



LANDSCAPE	INTERIOR AREA
Bldg A	10,000
Bldg B	10,000
Bldg C	10,000
Bldg D	10,000
Bldg E	10,000
Bldg F	10,000
Bldg G	10,000
Bldg H	10,000
Bldg I	10,000
Bldg J	10,000
Bldg K	10,000
Bldg L	10,000
Bldg M	10,000
Bldg N	10,000
Bldg O	10,000
Bldg P	10,000
Bldg Q	10,000
Bldg R	10,000
Bldg S	10,000
Bldg T	10,000
Bldg U	10,000
Bldg V	10,000
Bldg W	10,000
Bldg X	10,000
Bldg Y	10,000
Bldg Z	10,000



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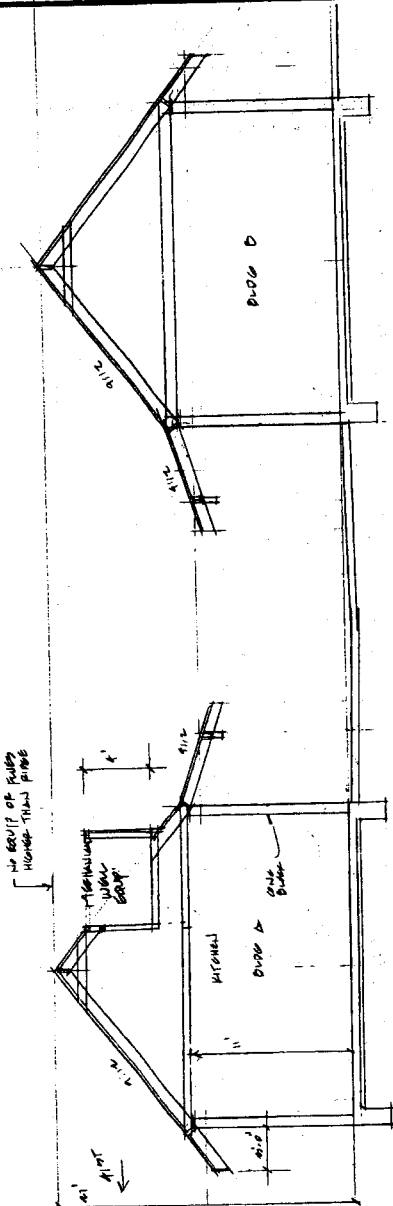
Daryl Fazekas, Architect
 80 W. Main St.
 Los Angeles, CA 90012
 Tel: (408) 395-5880
 Fax: (408) 395-9400
 Apr 09, 11, 95

BETTY
 BURGER
 1000 AIR AT
 1000 AIR AT

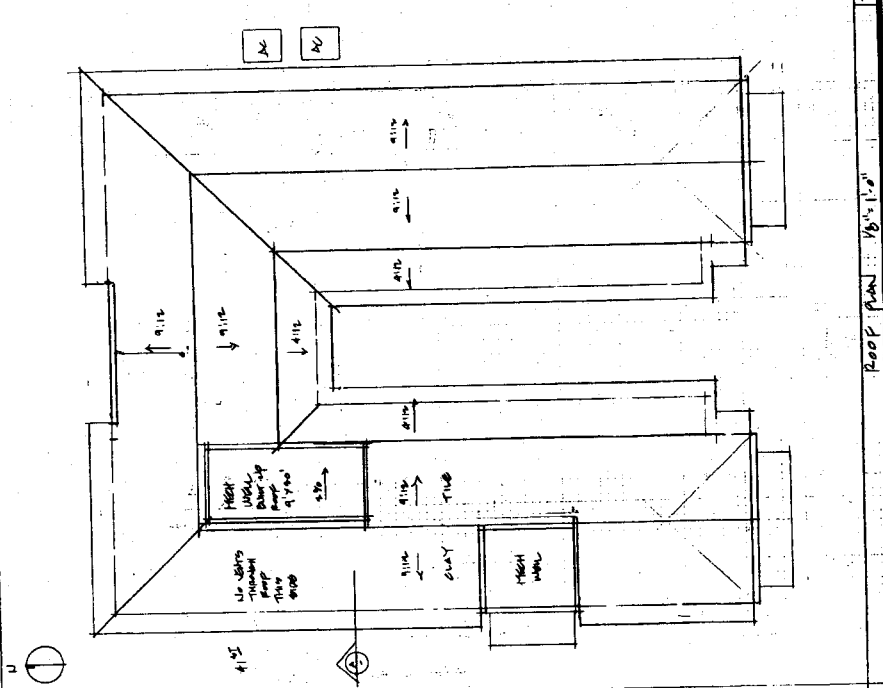
DESIGN
 ROOF PLAN

NO.	DATE	BY	REVISION
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A3

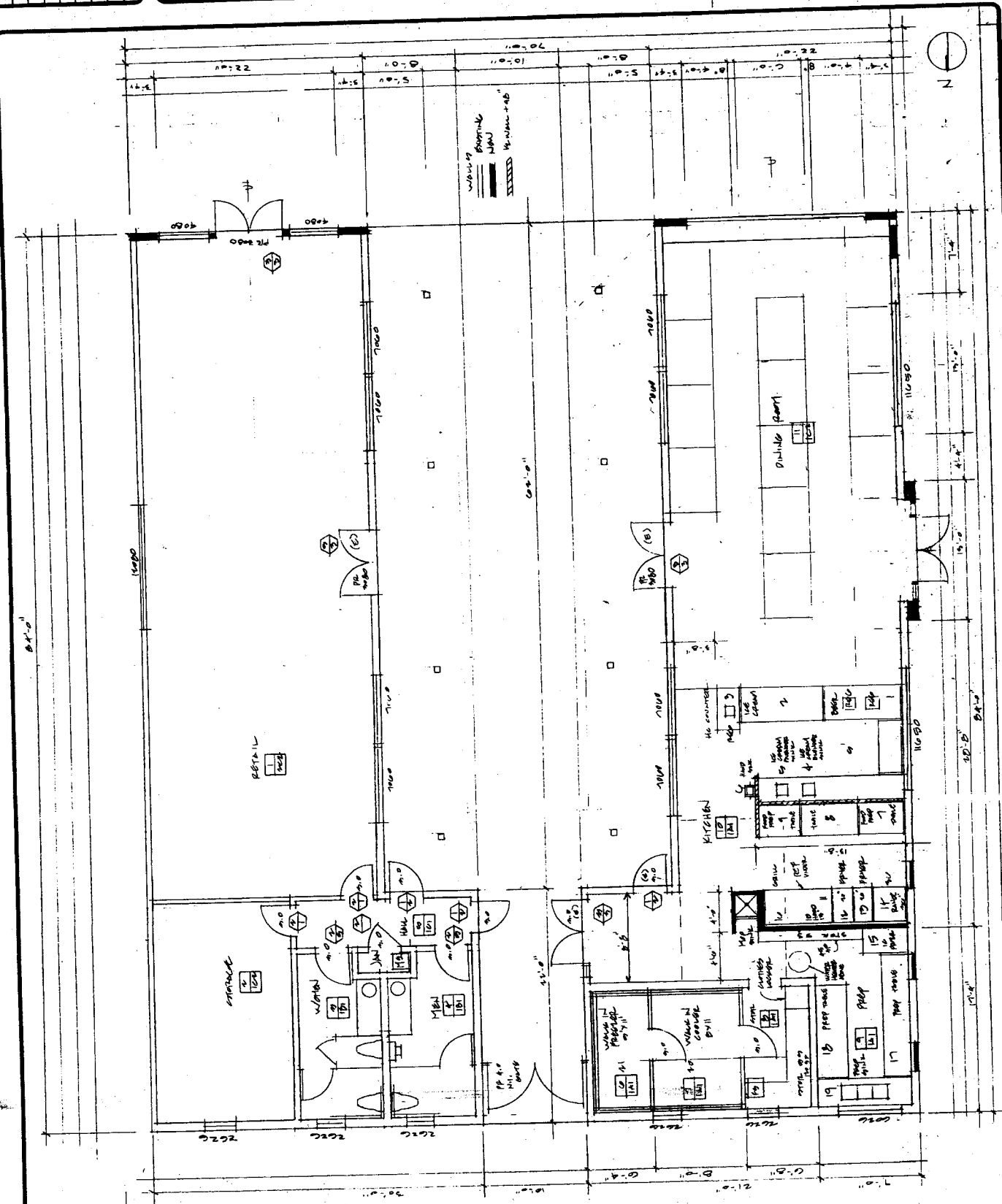


Section A-A



Roof Plan: 10' x 10'

2

[illegible]

1 2 3 4 5 6
 DOOR MARK: 1 2 3 4 5 6
 WIDTH 1 2 3 4 5 6
 HEIGHT 1 2 3 4 5 6
 TYPE 1 2 3 4 5 6
 FRAME 1 2 3 4 5 6
 WHITE GRP. 1 2 3 4 5 6

SEWING MACHINE	1	2	3	4	5	6
DOUBLE LOCKER		✓				
LATCHSET				✓		
LOCK SET	✓					
SEARLOCK	✓					
MAGIC	✓					✓
MUSKILL	✓					✓
CLOSER						

ROOM FINISH SCHEDULE

120 - ROUGHWALLPAPER
14 - CEILING
BASE
V = VAL
W = WALL
FLOOR
C = CARPET

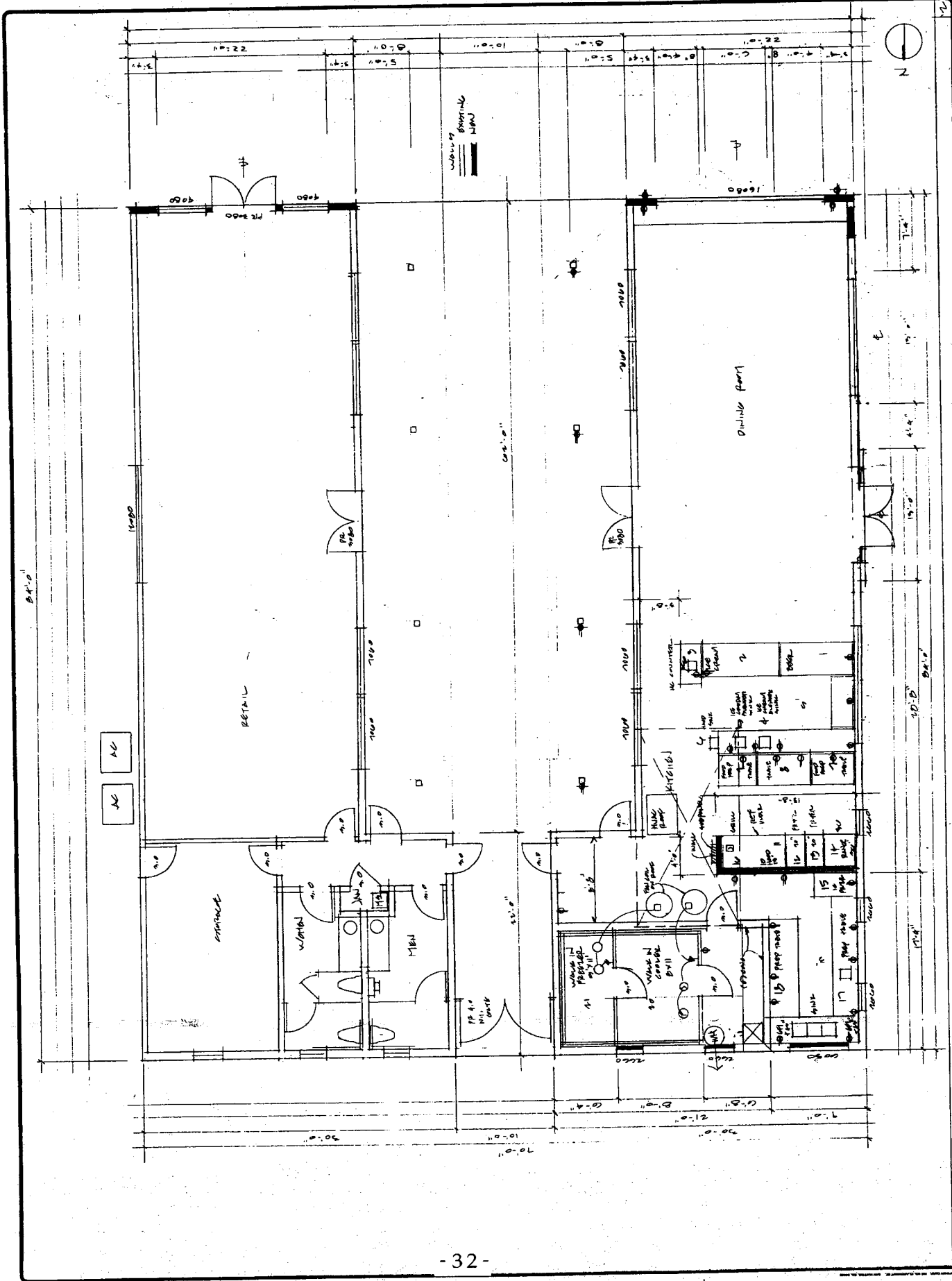
28

	1	2	3	4
TYPE				
CAMPT/GLED	✓			
CAMPT/ON/O				
VET				
COMBIC/TILE	✓			
UNFINISHED				
NUMBER/BS	✓			
TILE/BS	✓			
WALL / WAINSCOT				

	1	2	3	4	5
SWIFT-7					
SWIFT-10					
SWIFT-12					
SWIFT-14					
SWIFT-16					
SWIFT-18					
SWIFT-20					
SWIFT-22					
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SWIFT-188					
SWIFT-190					

SWIFT-192

DATE	
SHEET NO.	
DATE	
SCALE	1/4" = 1' @
DRAWN BY	PET
CHECKED BY	
APPROVED BY	
TITLE	A8



[illegible]

Existing Planting Plan

with a few proposed plants

1"=20'-0"

0 20' 40'

NORTH

- [illegible]

- 1 - 12 hours before
- 2 - 10-15 minutes before
- 3 - 10-15 minutes after
- 4 - 1 hour before
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- 99 - 1 hour after
- 100 - 1 hour before

No Score

November 24, 2008

Alice Daly
Santa Cruz County Planning Department
4th Floor
701 Ocean Street
Santa Cruz, California 95060

Dear Alice:

RE: Betty's Burger Proposal
1000 41st Avenue, Santa Cruz, California 95062 – Commercial Building

Thank you very much Alice for your time spent on the phone several weeks ago. As I mentioned, we met on Wednesday, October 22nd, 2008 at 7 PM with approximately 30 concerned neighbors and the new owner, Laurie Kneagro (?) and her contractor Marc Wesburg, Wescoe Development and Construction.

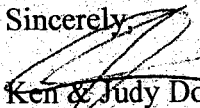
We are highly concerned with the following concept of a restaurant opening in the commercial location. We understand the C-2 zoning allows for restaurants, however maintaining the commercial building for office space usage is our ideal situation.

The following outlines our concerns for the community and are not listed in any particular order:

- 1) Hours of operations (current Betty's Burger hours open until 10 pm weekdays and 11 pm weekends)
- 2) Other restaurants within the Pleasure Point area close earlier, with the exception of Vallarta's however they are not located within single family residences
- 3) Home values declining
- 4) Loss of peace of mind (safety issues/concerns)
- 5) Lack of privacy in the neighborhood
- 6) Loitering
- 7) Grease
- 8) Smells – Air pollution
- 9) Demographics of clientele - Motorcycles
- 10) Garbage and garbage pick up times
- 11) Pests and rodents
- 12) Noise pollution
- 13) Parking
- 14) Traffic, congestion and speeding
- 15) Delivery routes and times
- 16) Increased fire danger (from kitchen cooking/frying and cigarettes)
- 17) There are already 11 eating establishments in the Pleasure Point neighborhood

Please consider these items when reviewing the proposal.
Thank you.

Sincerely,


Ken & Judy Dobberpuhl
4135 Bain Avenue
Santa Cruz, California 95062
#831.464.1802

November 24, 2008

Alice Daly
Santa Cruz County Planning Department
4th Floor
701 Ocean Street
Santa Cruz, California 95060

Dear Alice:

RE: Betty's Burger Proposal
1000 41st Avenue, Santa Cruz, California 95062 – Commercial Building

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We are highly concerned with the following concept of a restaurant opening in the commercial location. We understand the C-2 zoning allows for restaurants, however maintaining the commercial building for office space usage is our ideal situation.

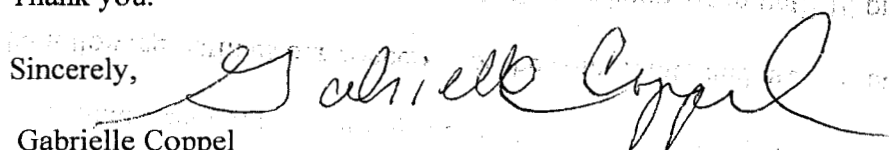
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- 2) Other restaurants within the Pleasure Point area close earlier, with the exception of Vallarta's however they are not located within single family residences
- 3) Home values declining
- 4) Loss of peace of mind (safety issues/concerns)
- 5) Lack of privacy in the neighborhood
- 6) Loitering
- 7) Grease
- 8) Smells – Air pollution
- 9) Demographics of clientele - Motorcycles
- 10) Garbage and garbage pick up times
- 11) Pests and rodents
- 12) Noise pollution
- 13) Parking
- 14) Traffic, congestion and speeding
- 15) Delivery routes and times
- 16) Increased fire danger (from kitchen cooking/frying and cigarettes)
- 17) There are already 11 eating establishments in the Pleasure Point neighborhood

Please consider these items when reviewing the proposal.

Thank you.

Sincerely,


Gabrielle Coppel
4330 Bain Ave.
Santa Cruz, CA 95062

November 24, 2008

Alice Daly
Santa Cruz County Planning Department
4th Floor
701 Ocean Street
Santa Cruz, California 95060

Dear Alice:

RE: Betty's Burger Proposal
1000 41st Avenue, Santa Cruz, California 95062 – Commercial Building

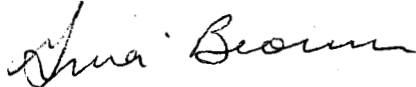
Thank you very much, Alice, for your time spent on the phone with Judy several weeks ago. Many of us that attended the meeting that was set up with the owner of 1000 41st Ave. were quite surprised to find that the property changed zoning and was purchased without any notice to or by the neighbors of this property. I believe Judy covered our concerns, which are many, about opening a restaurant so close to so many single family residences. We all could elaborate on each concern listed which would create a BOOK full of discussion for why there shouldn't be a restaurant at that location. After fully addressing these concerns, can the planning department still truly justify why there should be one?

I copied the list from Judy's letter. It is listed below. I fully agree that all these issues apply. As she stated, we feel that the commercial building is more compatible to its surroundings as office/ retail space.

Please consider these items when reviewing the proposal.

Thank you.

Sincerely,



Gina Brown
4325 Bain Ave
Santa Cruz CA. 95062

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The following outlines our concerns for the community and are not listed in any particular order:

- 1) Hours of operations (current Betty's Burger hours open until 10 pm weekdays and 11 pm weekends)
- 2) Other restaurants within the Pleasure Point area close earlier, with the exception of Vallarta's however they are not located within single family residences
- 3) Home values declining
- 4) Loss of peace of mind (safety issues/concerns)
- 5) Lack of privacy in the neighborhood
- 6) Loitering
- 7) Grease
- 8) Smells - Air pollution
- 9) Demographics of clientele - Motorcycles
- 10) Garbage and garbage pick up times
- 11) Pests and rodents
- 12) Noise pollution
- 13) Parking
- 14) Traffic, congestion and speeding
- 15) Delivery routes and times
- 16) Increased fire danger (from kitchen cooking/frying and cigarettes)
- 17) There are already 11 eating establishments in the Pleasure Point neighborhood