

EXHIBIT E

REDUCED PHOTOCOPIES OF PROJECT PLANS



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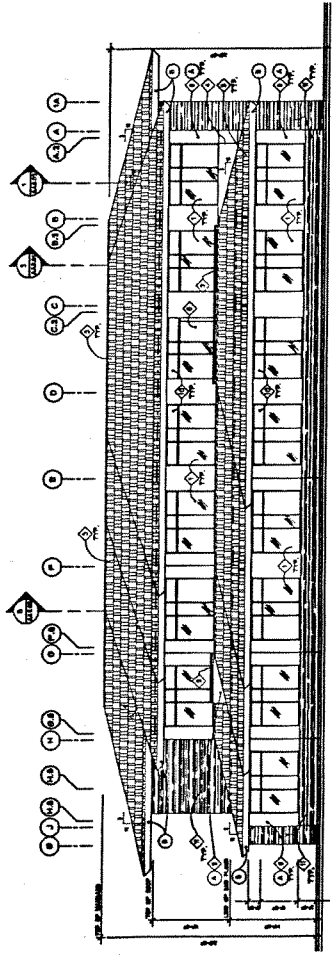
EXTERIOR FINISH NOTES

1. VERIFY GLASS - 1/2" GLASS WITH 1/8" SPACER
2. METAL BALCONY RAILINGS AND DETAIL AT SHIT, AINT
3. DOOR TO 1/2" PANEL WORKING PRODUCT, BARELITE BRIDGE PANEL 1/2" GLASS UP
4. ARCHITECTURAL OR SYMBOLS IN BALCONY DETAIL AT SHIT, AINT
5. ALUMINUM DOOR - SEE DOOR SCHEDULE
6. SHIT UNIT
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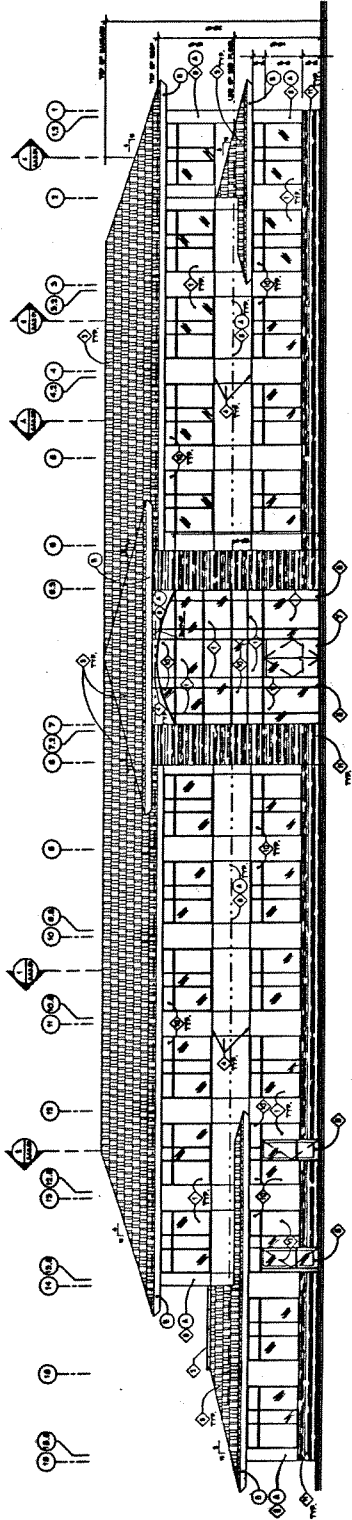
COLOR SCHEDULE

1. METAL PANELS - BRASS
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NORTH ELEVATION



NORTH ELEVATION

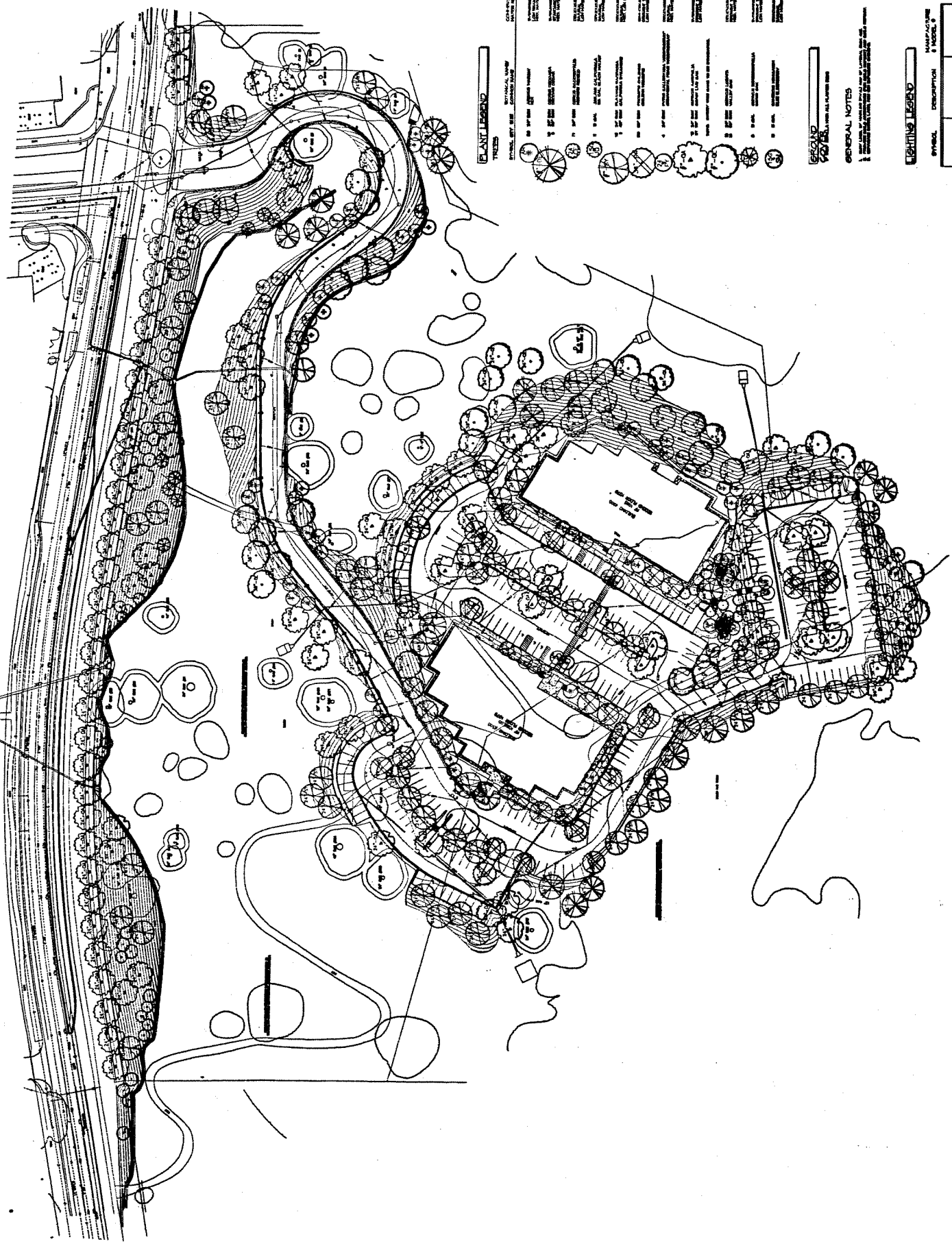




 CITY OF AGOURA HILLS		OVER-ALL GRADING PLAN SCHU DEVELOPMENT AGOURA HILLS 30200 & 30300 AGOURA ROAD		PROJECT NO. _____ SHEET 1 OF 1
CITY OF AGOURA HILLS APPROVAL		REVIEWED BY _____ DATE _____		PROJECT ENGINEER _____ DATE _____
REV	BY/DATE	DESCRIPTION OF CHANGE	REV	DATE



CONTRACT NO. 08-000001
 SHEET NO. 10
 DATE 11-26-07



PLANT LEGEND

SYMBOLS: (various tree symbols)

DESCRIPTION: (various tree names and sizes)

MANAGEMENT: (various codes)

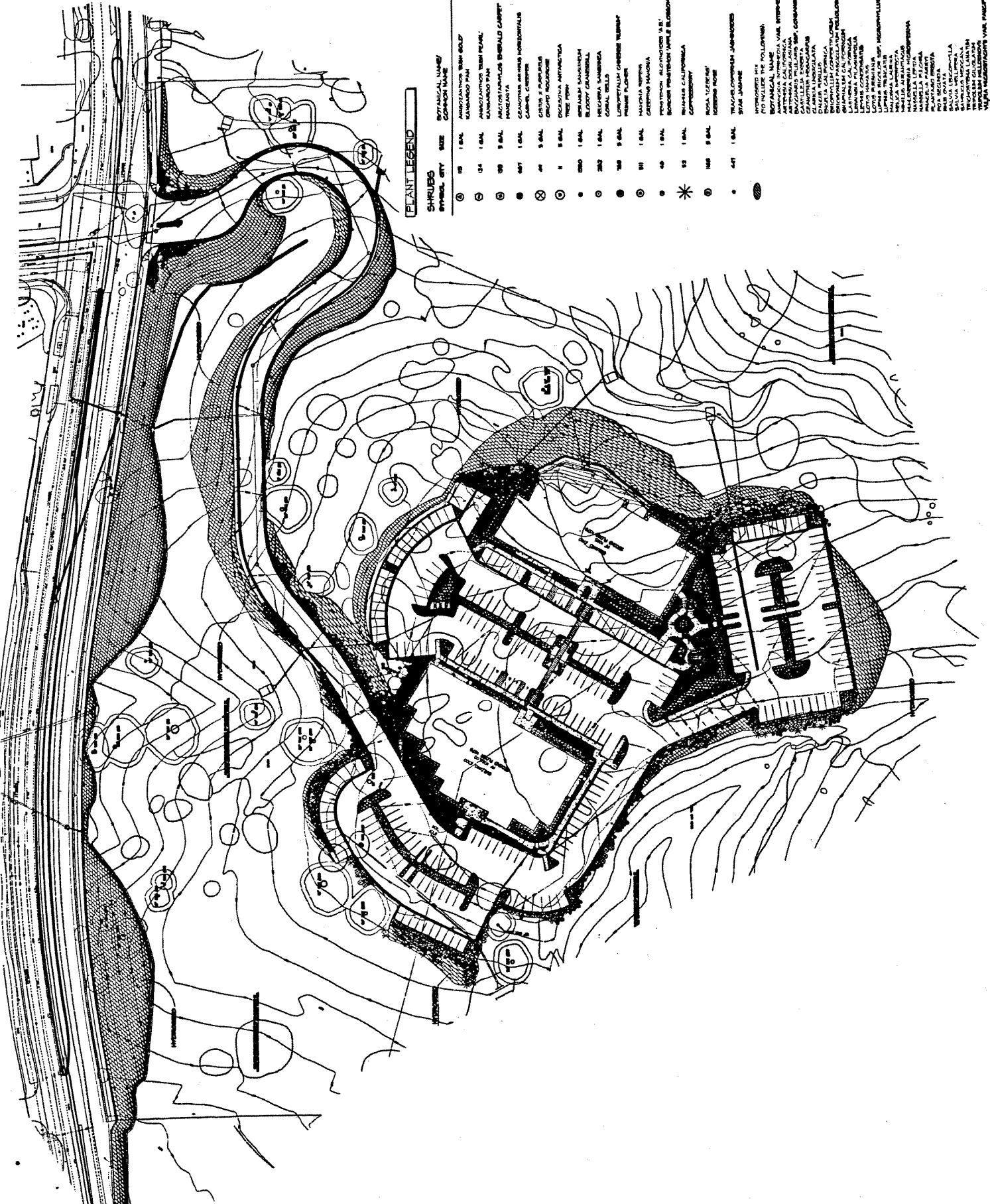
GENERAL NOTES

1. ALL TREES TO BE PLANTED BY THE CONTRACTOR.

2. ALL TREES TO BE PLANTED WITHIN THE SPECIFIED DEADLINES.

LEGEND

SYMBOL	DESCRIPTION	MANAGEMENT	YEAR
(Symbol)	SMALL TREE	(Code)	YEAR
(Symbol)	MEDIUM TREE	(Code)	YEAR
(Symbol)	LARGE TREE	(Code)	YEAR




PLANT LEGEND

SHRUBS SYMBOL	SIZE	BOTANICAL NAME / COMMON NAME	WATER REQ.
1	1 GAL	AGAVE	LOW WATER
2	1 GAL	AGAVE	LOW WATER
3	1 GAL	AGAVE	LOW WATER
4	1 GAL	AGAVE	LOW WATER
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6	1 GAL	AGAVE	LOW WATER
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EXHIBIT F


JUNE 9, 2004 CITY COUNCIL STAFF REPORT


REPORT TO CITY COUNCIL

APPRVD / ADPTED BY CITY COUNCIL
Approved on vote of 3/2 with Kuperberg & Corridori voting
NO- 06/09/04...Reso #03-1274 with following conditions:
Adding to Condition 79 "Disking shall not be used for fuel
modification." Adding to Condition 90 "The Lighting Plan
shall provide for timed on and off functions for onsite
lighting to reduce night lighting impacts while still providing
adequate onsite security lighting." 

DATE: JUNE 9, 2004

TO: HONORABLE MAYOR & MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER 

BY: MIKE KAMINO, DIRECTOR 
PLANNING AND COMMUNITY DEVELOPMENT

SUBJECT: APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF
CONDITIONAL USE PERMIT NO. 98-CUP-012 AND OAK TREE
PERMIT NO. 98-OTP-010, WHICH ALLOWS FOR THE
CONSTRUCTION OF TWO OFFICE BUILDINGS AT 30200 -30300
AGOURA ROAD (SCHEU DEVELOPMENT COMPANY,
APPLICANT).

The purpose of this item is for the City Council to conduct a public hearing to consider an appeal of the Planning Commission's approval of Conditional Use Permit No. 98-CUP-012 and Oak Tree Permit No. 98-OTP-010, which allows Scheu Development Company to construct two office buildings. Specifically, the City Council is requested to consider the applicant's design changes made since the last appeal hearing held on January 14, 2004.

As background, the Planning Commission held public hearings on January 16, 2003 and February 6, 2003 to consider Scheu Development Company's request for a Conditional Use Permit to construct two, two-story office buildings of 43,109 square feet and 42,640 square feet in size. The applicant also requested approval of an Oak Tree Permit to remove ten (10) oak trees and to encroach within the protected zone of ten (10) other oak trees for the proposed construction. The property is located on vacant land on the south side of the Agoura Road/Reyes Adobe Road intersection, west of the Renaissance Hotel, at 30200 and 30300 Agoura Road. The parcel is within the Ladyface Mountain Specific Plan Area.

On a 3-2 vote, the Planning Commission approved the project and certified the Environmental Impact Report that was prepared for the project. Chairperson Koehler and Commissioner Schwarz voted against the project, stating concerns with the architectural design of the buildings and the prominence of the development on the property.

On February 21, 2003, Council Member Corridori filed an application for appeal of the Planning Commission decision. In his attached appeal application, Council Member Corridori stated the following reasons for the appeal:

“The parcel is unique in the city because of its elevation and prominence. The project does not warrant the density increase and is not adequately screened by landscaping. The architecture is not consistent with the mountainside location.”

The City Council held a public hearing on March 26, 2003 to consider the appeal. The City Council continued the appeal to allow the applicant an opportunity to redesign the project. Comments expressed by Council Members included concerns regarding building size, location, the amount of proposed grading, the architectural design, landscaping and visual prominence.

At the applicant's request and without receiving public testimony, the appeal case was continued a total of four additional times after the March 26, 2003 public hearing. The applicant used this time to work with his consultants in submitting revisions and refinements to the plans for review by staff and the Architectural Review Panel. Proposed revisions to the project included 359 square foot and 2,694 square foot reductions in the size of each of the two buildings, resulting in a total combined building area of 82,696 square feet (85,749 square feet previously proposed). In addition to this building area reduction, façade changes to the building entrance areas, and changes to the landscape plan were also made.

The City Council considered these design revisions during a public hearing held on January 14, 2004. After receiving public testimony, the City Council voted to continue the case and recommended the applicant make further revisions to the project. Specifically, the Council asked that the scale and size of the project be reduced (preferably to approximately 65,000 square feet of total building area), and the additional architectural alterations be applied to the buildings to minimize the project's potential visual prominence.

The applicant has modified the plans in an attempt to address the City Council's concerns expressed on January 14, 2004. These specific changes are incorporated into the recent project plans and include:

1. A reduction in the size of Building #200 from 42,750 square feet to 34,452 square feet, and reduction in the size of building #300 from 39,946 square feet to 37,392 square feet. Thus, the total office area has been reduced from 82,696 square feet to 71,844 square feet. This represents a 10,852 square foot (13%) building size reduction from the previous submittal reviewed by the City Council, and a 13,905 square foot (16%) reduction from the building sizes approved by the Planning Commission.

2. A reduction in the size of the developable pad area from 5.22 acres to 4.92 acres (a 13,000 square foot reduction). This was accomplished by the reduction in building footprints, the reconfiguration of the rear (south) portion of the parking lot and the reduction of 20 parking spaces. However, the applicant is providing a total of 276 parking spaces for the project, which is 37 more parking spaces than the minimum number required for general office use within this project.
3. A change in the buildings' main entrance feature from a second floor balcony and open rotunda element to a two-story tower element of stone veneer. The previous exterior glass entry facades facing the courtyard area of the project were eliminated. The applicant is providing 5-foot to 18-foot roof overhangs on the buildings, and is replacing the brick veneer on the buildings with stone. Bronze colored tinted windows are now proposed and the green colored window mullions would be retained. The stucco colors have also changed to darker shades of tan. Both buildings are of the same architectural design, although their footprints are reversed.
4. A reduction in the number of Oak trees to be removed from ten (10) to nine (9).
5. A reduction in the number of average daily vehicle trips the project would generate from 1,162 to 792, based on a revised, independent traffic study that was reviewed by the City Traffic Engineer. This results in a reduction of morning peak period trips from 162 to 112, and a reduction in the afternoon peak period trips from 173 to 107.

The Architectural Review Panel reviewed the revised project design and finds it to be in compliance with the City Architectural Design Guidelines and Standards. Revised renderings and drawings have been submitted to further illustrate the changes.

The Planning Commission and the City Council have previously analyzed the project, including issues related to grading, traffic, visibility, and compliance with required development standards that are contained within the attached City Council staff report of January 14, 2004. However, a significant topic of discussion by the City Council focused on the "preferred development scenarios" of property in the Ladyface Mountain Specific Plan area that are identified in Scenario 1-A of the Specific Plan. This scenario, as it applies to the applicant's property, allows for the property to be developed with a building area of up to 52,000 square feet on a 5.23-acre pad area.

The preferred maximum pad area of 5.23 acres and maximum building area of 52,000 square feet for this parcel were established as Scenario 1-A in the Specific Plan. However, as these maximums were established only on a theoretical basis, a property owner may request, in connection with a Conditional Use Permit application, that the preferred development scenario building area be increased provided that the applicant meets his burden of complying with the required findings listed in the Specific Plan. The applicant requested that the Planning Commission allow the building area to be increased from 52,000 square feet to 85,749 square feet. The burden of proof must be based on tangible evidence as manifested through more detailed analysis such as a project-specific EIR, traffic report, soils report, oak tree report, grading plan, etc. The increase to 85,749 square feet, which was considered by the Planning Commission, has since been reduced in size to 71,844 square feet and is within the 97,300 square foot "maximum development scenario" permitted under Scenario 2-A of the Ladyface Mountain Specific Plan. Any increase beyond the Scenario 2-A maximum development scenario would require a Specific Plan Amendment.

In considering the proposal to increase the building size from Scenario 1-A up to Scenario 2-A, the City Council is required to consider specific required findings. Draft findings of approval for this proposed building size increase are included within attached Draft City Council Resolution No. 03-1274. To summarize, the buildings incorporate varied roof lines and natural building materials that are compatible with the natural features of the area. A traffic report was prepared which showed that the project will not reduce traffic levels of service. The applicant will be required to increase roadway capacities along Agoura Road and provide other acceptable traffic mitigation measures. Moreover, an Environmental Impact Report was prepared which forecasted that the project will not create any potentially significant, unavoidable environmental effects and mitigation measures have been identified. The project will be constructed within the maximum developable land area and will occupy 4.92 acres of the 5.22 acres of maximum building pad area. Landscaping will be provided that exceed the minimum requirements for the zone and the applicant has donated 80 acres of his lot as open space. Most retaining walls will be used to protect or enhance oak trees. The removal of nine (9) oak trees and the proposed encroachment into the protected zone of approximately ten (10) oak trees is needed for required road widening construction on Agoura Road and to provide needed access to the pad area. An Oak Tree Report was prepared for this project and measures have been identified to mitigate the loss and encroachment of the oak trees.

A Final Environmental Impact Report for the project was prepared for and certified by the Planning Commission. A Notice of Determination was filed with the County Clerk and posted on March 10, 2003. The appeal period to challenge the Planning Commission's

certification of the document expired on April 9, 2003. Thus, regardless of the appeal being heard by the City Council, the CEQA review for this case is complete unless the City Council directs that "substantive" changes be made in the project description which will result in some increased impacts on the physical environment. In such a case, a Mitigated Negative Declaration or Supplemental EIR would need to be prepared. However, the subject of the City Council appeal is generally limited to issues related to aesthetics and visual resources and the changes proposed, or being considered by the City Council, all of which will result in reduced visual impacts to the community viewshed. Therefore, no additional environmental analysis is needed at this time.

The City Environmental Analyst recommends that the City Council endeavor to make a final decision on this project by the end of July, 2004, since the "shelf life" of a project specific EIR is generally deemed to be two years. The Draft EIR was released to the public for comment in July of 2002. Therefore, in August of 2004, the utility of the EIR, for purposes of the final decision on the project, could be challenged.

Attached for reference is a copy of the January 14, 2004 City Council Staff Report (which includes the Planning Commission Staff Report, Meeting Minutes and Planning Commission Resolution No. 730) and a copy of the March 26, 2003 and January 14, 2004 City Council Meeting Minutes. The applicant will present the design changes made since the City Council's initial review of the project.

RECOMMENDATION

It is recommended that the City Council conduct a public hearing to consider an appeal of the Planning Commission's approval of Conditional Use Permit No. 98-CUP-012 and Oak Tree Permit No. 98-OTP-010 and to review the project design changes made since the January 14, 2004 appeal hearing. If the City Council votes to uphold the decision of the Planning Commission and approves the project as currently designed, it is recommended that attached draft Resolution No. 03-1274 be adopted, subject to conditions. The City Council also has the discretion to include additional conditions. Adoption of this Resolution would include the City Council's certification of the Final Environmental Impact Report prepared for this project, finding that it adequately analyzes the project's environmental impacts, and adopting the proposed mitigation and monitoring program prepared for this project. If the City Council votes to overturn the Planning Commission's decision and denies the project, a revised Resolution will be brought back for adoption at the next earliest possible City Council meeting.

City Council Staff Report
Appeal of 98-CUP-012 and 98-OTP-010
June 9, 2004
Page 6

ATTACHMENTS

- Draft City Council Resolution No. 03-1274
- Reduced Copies of Latest Project Plans
- City Council Meeting Minutes (January 14, 2004 and March 26, 2003)
- Previous City Council Staff Reports (January 14, 2004 and March 26, 2004)
- Appeal Application
- Planning Commission Meeting Minutes (February 6, 2003 and January 16, 2003)
- Planning Commission Resolution No. 730
- Planning Commission Staff Reports (February 6, 2003 and January 16, 2003)

EXHIBIT G

JANUARY 14, 2004 CITY COUNCIL STAFF REPORT

REPORT TO CITY COUNCIL

DATE: JANUARY 14, 2004
TO: HONORABLE MAYOR & MEMBERS OF THE CITY COUNCIL
FROM: GREG RAMIREZ, INTERIM CITY MANAGER *GR*
BY: MIKE KAMINO, DIRECTOR *mk*
PLANNING AND COMMUNITY DEVELOPMENT
SUBJECT: APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF
CONDITIONAL USE PERMIT NO. 98-CUP-012 AND OAK TREE
PERMIT NO. 98-OTP-010, WHICH ALLOWS FOR THE
CONSTRUCTION OF TWO OFFICE BUILDINGS AT 30200 -30300
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The Planning Commission held public hearings on January 16, 2003 and February 6, 2003 to consider Scheu Development Company's request for a Conditional Use Permit to construct two, two-story office buildings of 43,109 square feet and 42,640 square feet in size. The applicant also requested approval of an Oak Tree Permit to remove ten (10) oak trees and to encroach within the protected zone of ten (10) other oak trees for the proposed construction. The property is located on vacant land on the south side of the Agoura Road/Reyes Adobe Road intersection, west of the Renaissance Hotel, at 30200 and 30300 Agoura Road. The parcel is within the Ladyface Mountain Specific Plan Area.

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The City Council held a public hearing on March 26, 2003 to consider the appeal. (A copy of the March 26, 2003 staff report and meeting minutes are attached for reference.) The City Council continued the appeal to allow the applicant an opportunity to redesign the project. Comments expressed by Council Members included concerns regarding building size, location, the amount of proposed grading, the architectural design, landscaping and visual prominence.

At the applicant's request and without receiving public testimony, the appeal case was continued a total of four additional times after the March 26, 2003 public hearing. The applicant used this time to work with his consultants in submitting revisions and refinements to the plans for review by staff and the Architectural Review Panel. Proposed revisions to the project include 359 square foot and 2,694 square foot reductions in the size of each of the two buildings, resulting in a total combined building area of 82,696 square feet (85,749 square feet previously proposed). In addition to this building area reduction, façade changes to the building entrance areas, and changes to the landscape plan have also been made.

On October 28, 2003, the Architectural Review Panel reviewed the revised plans. The Panel understood that the City Council would determine whether the applicant sufficiently addressed the project design issues raised by the Council. In general, the Panel found the revisions to be in compliance with the Architectural Design Guidelines and Standards. The Panel suggested that in lieu of providing a colonnade (rotunda) structure, that the applicant provide a trellis over the balcony or eliminate the colonnade structure entirely. However, since the applicant chose to keep the colonnade structure, the Panel recommended that its design have greater compatibility with the natural setting of the property by including a more subdued, earthtone color. Accordingly, the applicant has chosen a tan color for the structure.

While the exterior glass entry facades facing the courtyard area of the project have been reduced in height, no other major architectural design changes are proposed for buildings. The applicant incorporated decorative paving and enhanced landscape features to further define the entrances of the buildings. In addition, variation in the color of the roof shingles is proposed, as recommended by the Architectural Review Panel. The Panel also recommended that the applicant consider using an alternate material or color that is more subtle and more in keeping with the natural environment than the red brick veneer. In response, the applicant is proposing a red brick veneer with a brushed finished on the buildings.

The City Council also requested that the landscape plan reflect a more native, naturalistic and less formal scheme that is consistent with the natural setting of the site. According to the City Landscape Consultant, the revised landscape plan was revised to reflect the comments of the Council, especially in the species and locations of proposed landscaping along Agoura Road, the on-site driveway, and the parking lot located to the northwest of the building pad area. Three additional draft conditions of approval concerning hydroseed mix and plant materials (Condition Nos. 51, 52, and 53) have been added to the Draft Resolution, as recommended by the City Landscape Consultant.

The latest plans indicate that Oak Tree Numbers 102 and 103, located in the parking lot that is northwest of the pad area, are to be retained. As discussed during prior review of the project, the proposed retaining wall scheme around these trees encroaches excessively on the trees and a significant grade differential is created between the trees and the surrounding parking lot. The Planning Commission, when they first reviewed the project in January and February of 2003, agreed with staff's recommendation that these two trees should be removed in order to reconfigure the parking lot and reduce the impacts to adjacent Oak Tree Nos. 101, 104 and 105 to the extent feasible. Also, the current Grading Plan indicates increased direct impacts to Oak Tree No. 100, as this Oak Tree was not previously approved for encroachment. It appears that these impacts could be eliminated through the introduction of a retaining wall at the edge of the protected zone. These issues are addressed as new conditions of approval (Condition Nos. 31 and 32) in the draft resolution.

The Planning Commission's analysis of the project, including issues related to grading, traffic, visibility, and compliance with required development standards are contained within the attached City Council staff report of March 26, 2003. However, a significant topic of discussion during the last City Council appeal hearing for this project related to the "preferred development scenarios" of property in the Ladyface Mountain Specific Plan area that are identified in Scenario 1-A of the Specific Plan. This scenario, as it applies to the applicant's property, allows for the property to be developed with a building area of up to 52,000 square feet on a 5.23-acre pad area.

The preferred maximum pad area of 5.23 acres and maximum building area of 52,000 square feet for this parcel were established as Scenario 1-A in the Specific Plan. However, as these maximums were established only on a theoretical basis, a property owner may request, in connection with a Conditional Use Permit application, that the preferred development scenario building area be increased provided that the applicant meets his burden of complying with the required findings listed in the Specific Plan. The applicant requested that the Planning Commission allow the building area to be increased from 52,000 square feet to 85,749 square feet. The burden of proof must be based on tangible evidence as manifested

through more detailed analysis such as a project-specific EIR, traffic report, soils report, oak tree report, grading plan, etc. This increase to 85,749 square feet (which has since been reduced in size to 82,696 square feet) is within the 97,300 square foot "maximum development scenario" permitted under Scenario 2-A of the Ladyface Mountain Specific Plan. Any increase beyond the maximum development scenario would require a Specific Plan Amendment.

In considering the proposal to increase the building size from Scenario 1-A up to Scenario 2-A, the Planning Commission was required to consider specific required findings. The Planning Commission's analysis of each of the findings is included in attached Planning Commission Resolution No. 730. In particular, Planning Commission's analysis included the following:

Required
Finding:

"The increased density will not reduce traffic Level of Service (LOS) at any intersection in the City to below LOS C as determined by the General Plan. In the event that the existing LOS is below C, then the increased density will not reduce the existing level of service to a lower level. Any increase in the traffic budget is offset by increases in roadway capacity or other acceptable mitigation measures."

Commission
Analysis:

The traffic impact study prepared for the project notes that the development would generate 1,162 vehicle trips to the City's road system. Of these, 162 trips would occur during the AM peak period and 173 during the PM peak period. Project trip generation during the off-peak hours (primarily between 9:00 AM to 4:00 PM) would be approximately 800 trips, or less than 100 per hour. The PM peak period traffic estimates generated by the project is within the 190 peak hour trips the Specific Plan has allotted for development of this parcel at the higher density (Scenario 2-A).

While the proposed development will result in significant traffic impacts at some study intersections, the relative contribution of the project to traffic volume growth in the area is small. Also, intersection capacity at several locations in the study area is already deficient. The applicant will be required to mitigate traffic impacts to levels of insignificance through roadway improvements included in the proposed mitigation and monitoring program that is included in the EIR.

Required
Finding:

"Manufactured slopes do not exceed a ratio of 2:1."

Commission
Analysis:

Cut slopes of 1.5:1 are proposed along Agoura Road, but are necessary for the required widening of Agoura Road. The City Geotechnical Consultant has tentatively approved the grading plan that allows for a reduction in the number of required on-site retaining walls through the use of cut slopes that are steeper than 2:1. The City Building Code allows the Planning Commission to consider cut slopes that are steeper than 2:1 on a case-by-case basis. The Planning Commission found that 2:1 cut slopes would require more grading and result in greater disturbance to the hillside. The Commission concluded that the 1.5:1 slope would be preferable.

Required
Finding:

"The increased density will not result in an increased loss of oak trees."

Commission
Analysis:

The increased density will not impact the increased loss of oak trees. The majority of oak trees proposed for removal are located near the Agoura Road frontage, where road widening improvements would be required regardless of the proposed increase in density. Driveway improvements will also result in the three (3) loss of oak trees, but the driveway location is appropriate for any building density located within the proposed pad area. The loss of oak trees are subject to proper mitigation.

Required
Finding:

"Exposed retaining walls will be used only to enhance design or to protect oak trees."

Commission
Analysis:

Most retaining walls will be used to protect or enhance the oak trees. A continuous retaining wall of approximately two feet in height will be located along the Agoura Road frontage. Existing topographic conditions in this area require the retaining wall for required road widening purposes.

Required
Finding:

"Grading will be limited and innovative building techniques such as stepped massing, sculpturing the building into the hillside, undergrounding parking, or other similar mitigating measures will be incorporated into the project."

Commission
Analysis:

The building pad area is appropriate for the locations of the building in that the placement of the buildings will not require removing oak trees within their immediate areas. The meandering driveway is appropriate for the varying contours of the parcel and the highest fill slope will be screened behind one of the proposed buildings. In addition, the applicant has staggered the placement of the two buildings on the property and is offering stepped massing to reduce the visual impact of the two story structures. The buildings are oriented and configured to reduce visibility of the parking lots.

Required
Finding:

"Landscaping will be provided that exceeds the minimum requirements."

Commission
Analysis:

The conceptual landscape plan for the project proposed the planting of several large boxed oak tree specimens in the incorporation of decorative and native shrubs into the buildable area of the property. A multitude of existing live and valley oak species throughout the property will be preserved and incorporated in the project site plan.

Including existing vegetation, 78% of the proposed development will be landscaped. The entrance to the building will have a pronounced landscape treatment and will also incorporate on-site native oak trees.

Required
Finding:

"The proposed project with the increased density will comply with the maximum developable land area, maximum building pad, and minimum open space requirements provided for Scenario 1-A in Table IV-1."

Commission
Analysis:

The maximum development potential of the parcel, as specified in Scenario 1-A in the Specific Plan, includes a development area of 52.5% of the parcel (under the Hillside Ordinance regulations) and a requirement of 47.5% to remain as open space. The maximum developable pad area is 5.23 acres.

The applicant has donated 80 acres of his lot as open space and is proposing to confine the development with a 5.22 acre sized pad area, thereby not exceeding the maximum development potential of the parcel. (Staff would note, though, that this represents nearly full build-out of the site, and would leave virtually no room for future expansion of the pad area unless the Specific Plan was amended.)

On February 2, 2003, on a 3-2 vote, the Planning Commission approved the attached Resolution No. 730 with the above findings to increase the building area beyond Scenario 1-A. Similar to the Planning Commission, the City Council also has the discretionary authority to approve or deny the increase in building area above Scenario 1-A.

The Final Environmental Impact Report (FEIR) prepared for this project includes a detailed analysis the following issues: Aesthetics/Visual Resources, Air Quality, Biological Resources, Geotechnical and Geological Hazards, Hydrology and Water Quality, Land Use, Noise, Public Utilities, Public Services, and Traffic and Circulation. While anticipated environmental impacts are identified within the FEIR, all can be mitigated to levels of insignificance. However, air quality impacts during the construction phase of the project was found to be unavoidably significant on a short-term basis. The City's Environmental Analyst has found that while the proposed siting of the buildings is at the highest part of the developable area on the site, the proposed pad area is likely the least environmentally impacting in comparison with other areas on the site.

The City Environmental Analyst has reviewed the project design changes made by the applicant since the March 26, 2003 City Council public hearing. A comparative analysis concluded that the overall effect of the revised project regarding aesthetics and visual resources and biological resources would be similar to the previously proposed project (reference attached memorandum dated January 1, 2004). Thus the analysis and conclusions provided in the Final EIR are still valid.

As part of this appeal hearing, the City Council is required to also consider certifying the Final EIR. If the City Council feels the Final EIR does not adequately analyze the project impacts, the EIR consultant would be directed to remedy any deficiencies in the Final EIR and present the revised Final EIR for further consideration. Certifying the Final EIR is not the same as upholding the Planning Commission's approval of the Conditional Use Permit. The two decisions are separate. It should be noted, however, that if the Planning Commission's approval of the Conditional Use Permit is overturned and the project denied, no action is required regarding the Final EIR.

To assure that all recommended mitigation measures will be appropriately addressed prior to and during building construction, the applicant will be responsible for complying with the Environmental Mitigation Monitoring Program attached to this report and listed in Chapter 18 of the Final DEIR.

Attached for reference is a copy of the March 26, 2003 City Council Staff Report (which includes the Planning Commission Staff Report, Meeting Minutes and Resolution No. 730) and a copy of the March 26, 2003 City Council Meeting Minutes. The applicant will present the design changes made since the City Council's initial review of the project.

RECOMMENDATION

It is recommended that the City Council conduct a public hearing to consider an appeal of the Planning Commission's approval of Conditional Use Permit No. 98-CUP-012 and Oak Tree Permit No. 98-OTP-010 and to review the project design changes made since the March 26, 2003 appeal hearing. If the City Council votes to uphold the decision of the Planning Commission and approves the project, it is recommended that attached draft Resolution No. 03-1274 be adopted, subject to conditions. The City Council also has the discretion to include additional conditions or to continue this matter again to allow for further redesign. Adoption of this Resolution would include the City Council's certification of the Final Environmental Impact Report prepared for this project, finding that it adequately analyzes the project's environmental impacts, and adopting the proposed mitigation and monitoring program prepared for this project. If the City Council votes to overturn the Planning Commission's decision and denies the project, a revised Resolution will be brought back for adoption at the next earliest possible City Council meeting.

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Appeal of 98-CUP-012 and 98-OTP-010
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ATTACHMENTS

- Draft City Council Resolution No. 03-1274
- Memorandum from City Environmental Analyst (January 1, 2004)
- March 26, 2003 City Council Meeting Minutes
- Reduced Copies of Latest Project Plans
- March 26, 2003 City Council Staff Report (including Planning Commission Staff Reports and attachments)