

**CALIFORNIA COASTAL COMMISSION**

NORTH COAST DISTRICT OFFICE

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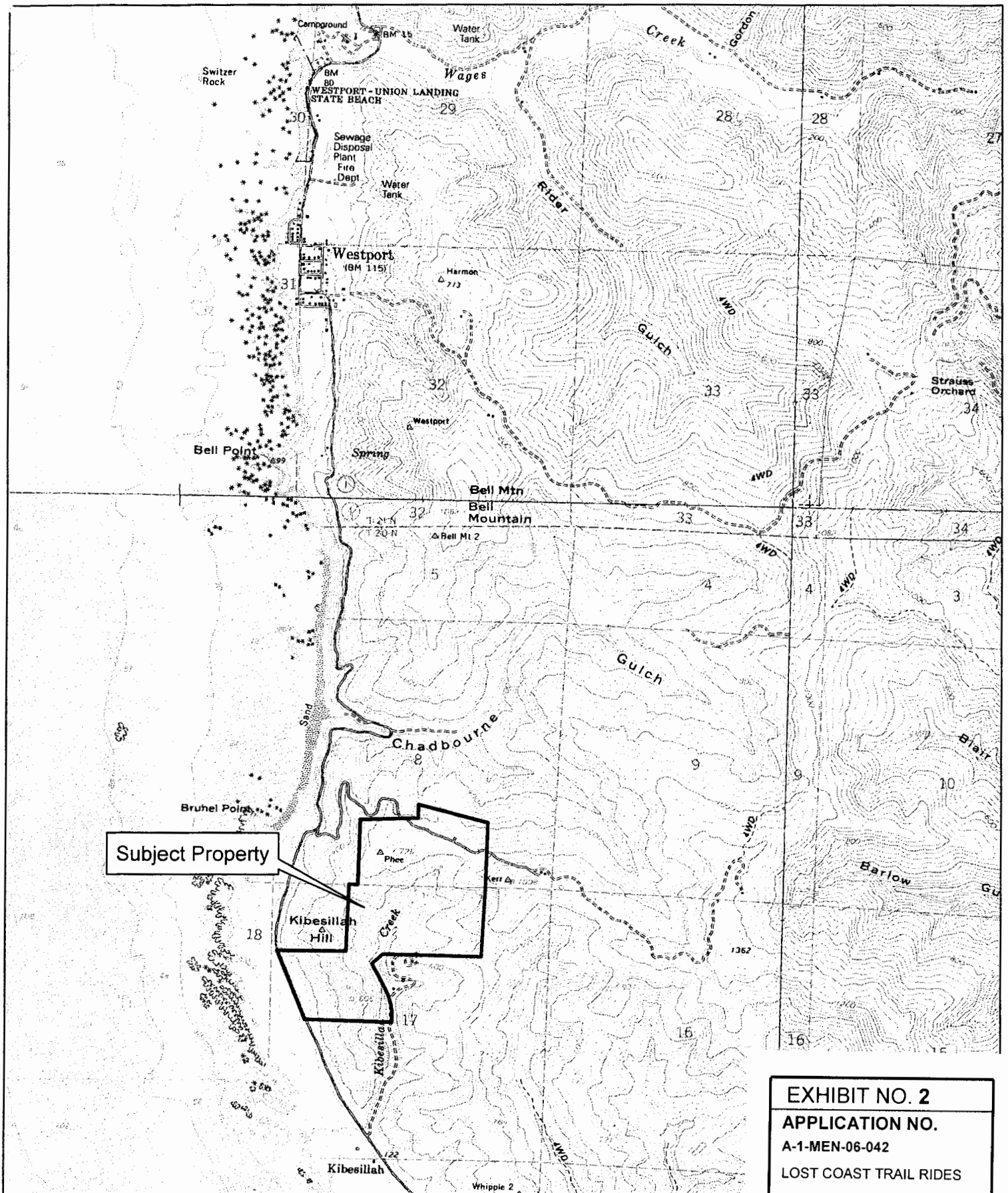
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Filed:	November 20, 2006
49 <sup>th</sup> Day:	Waived
Staff:	Tiffany S. Tauber
Staff Report:	February 2, 2007
Hearing Date:	February 16, 2007
Commission Action:	

**STAFF REPORT: APPEAL****SUBSTANTIAL ISSUE & DE NOVO**

APPEAL NO.:	A-1-MEN-06-046
APPLICANT:	Gary Quinton, Lost Coast Trail Rides
AGENT:	Ed McKinley
LOCAL GOVERNMENT:	County of Mendocino
DECISION:	Approval with Conditions
PROJECT LOCATION:	Approximately four miles south of Westport at mile post marker 74.09 on the east side of Highway One near its intersection with Bruhel Point Road, Mendocino County at 31901 Bruhel Point Road (APNs 015-070-55 & -56).
PROJECT DESCRIPTION:	Develop a commercial horse riding operation including construction of (1) an 18-foot-high, 3,564-square-foot barn with fencing, well, restroom facilities, and 12-car parking area, (2) new and maintenance of existing trails, and (3) an approximately 1.25-mile fire vehicle and horse access road. (Note: the road was denied by the County.)





**EXHIBIT NO. 2**  
**APPLICATION NO.**  
 A-1-MEN-06-042  
 LOST COAST TRAIL RIDES  
 VICINITY MAP

OWNER: QUINTON, Gary & Danne  
 CASE #: CDU 2-03  
 APNs: 015-010-16, 015-070-55, & 015-070-56

11-15/12-1

**MENDOCINO COUNTY  
PLANNING COMMISSION ACTION SHEET  
NOTICE OF FINAL ACTION**

**HEARING DATE:** October 19, 2006

**CASE NUMBER:** CDU 2-2003

**ENVIRONMENTAL CONSIDERATIONS:**

\_\_\_\_\_ Categorically Exempt  
  X   Negative Declaration  
\_\_\_\_\_ Environmental Impact Report

**RECEIVED**  
NOV 14 2006  
CALIFORNIA  
COASTAL COMMISSION

**ACTION:**

Approved   X (vote 6-0)   Denied \_\_\_\_\_ Continued to \_\_\_\_\_

**FINDINGS:**

Adopted per staff report   X   Modifications and/or additions \_\_\_\_\_

**CONDITIONS:**

Adopted per staff report \_\_\_\_\_ Modifications and/or additions   X  

Add Condition No. 23 as follows: The applicant shall comply with the mitigation measures provided within the Horse Manure Management Plan, dated 10/4/06, prepared by David Paoli

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

<b>EXHIBIT NO. 3</b>
<b>APPLICATION NO.</b>
A-1-MEN-06-042
LOST COAST TRAIL RIDES
NOTICE OF FINAL ACTION & COUNTY STAFF REPORT (1 of 13)

Signature on File

Signature

Title

Date

Mendocino County Department of Planning and Building Services

**STAFF REPORT FOR COASTAL DEVELOPMENT USE PERMIT**

**#CDU 2-2003  
JUNE 15, 2006  
PAGE PC - 1**

**OWNER:** GARY QUINTON  
31901 BRUHEL POINT RD.  
FORT BRAGG, CA 95437

**AGENT:** ED MCKINLEY  
237 MORROW ST.  
FORT BRAGG, CA 95437

**REQUEST:** Coastal Development Use Permit to operate a recreational horse stable for public trail rides and tours within the 250-acre ownership and permitted off site areas. Improvements include a 3,564 square foot barn, fencing repairs, establishment of a well, restroom facilities, parking area, maintenance of new and existing trails and development of a new fire access road.

**LOCATION:** Within the Coastal Zone, approximately 4 miles south of Westport, at mile post marker 74.09 Highway 1, lying on the east side of Highway 1, at its intersection with Bruhel Point Road, located at 31901 Bruhel Point Road; Assessor's Parcel Numbers 015-070-55, 015-070-56, and 015-010-16.

**TOTAL ACREAGE:** Approximately 141 acres of larger ownership

**ZONING:** Rangeland (R-L) and Upland Residential (U-R)

**ADJACENT ZONING:** North: Timberland Production (TPZ)  
East: TPZ, Forest Land (F-L), R-L  
South: F-L  
West: R-L, Open Space (O-S)

**GENERAL PLAN:** Rangeland (RL) and Remote Residential (RMR)

**EXISTING USES:** Vacant

**SURROUNDING LAND USES:** North: Timberland, Vacant  
East: Residential, Commercial Timberland  
South: Agriculture, Vacant  
West: Recreational, Vacant

**SURROUNDING LOT SIZES:** North: 56 ± acres  
East: 12 ± - 96 ± acres  
South: 148 ± acres  
West: 24 ± - 28 ± acres

**SUPERVISORIAL DISTRICT:** 4

**OTHER RELATED APPLICATIONS ON SITE OR SURROUNDING AREA:** Certificate of Compliance #CC 10-2000 recognized five underlying parcels within the 250+- acre ownership. Subsequent to the recognition of those parcels, Coastal Boundary Line Adjustment #CDB 21-01 was processed reconfiguring three of the five parcels. To the south of the project site, Coastal Development Use Permit #CDU 7-94/2000 was granted to allow for the

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annual extraction of 15,000 cubic yards of material from a hillside quarry. Immediately west of the proposed barn site is the location of the parking lot for access to State lands approved under CDU 2-02. This permit was approved upon appeal to the Board of Supervisors on January 27, 2004, after the Planning Commission denied the project without prejudice due to concerns about the lack of provision for garbage facilities and restrooms at the site. The site, now developed, contains the parking lot, informational plaques, benches and trails. South of the site, on the west side of Highway One, is the Pacific Star Winery, which was approved to expand under CDU 16-99.

**PROJECT DESCRIPTION:** The applicant proposes to develop a commercial horse riding stable on his property, located approximately four miles south of the Town of Westport. The project would include construction of a 3,564 square foot barn located adjacent to Highway One, across from the parking lot recently developed by the State of California at a vista point/public access site. The proposed barn includes 2,499 square feet of enclosed space and a 1,056 square foot open area covered by a roof.. A small, 12 space parking area, and portable restroom are also proposed around the barn. A new well will be dug to provide water to the site. The applicant would provide recreational trail rides throughout the 141+- acres of a 204+- acre ownership as well as provide trail rides on off-site locations, by trailering horses to those sites as may be requested by clients. The application indicates that could include private ranches, Jackson State Forest, Chadbourne Creek Beach, or established horse camps.

A number of trails exist within the ownership, including one developed a few years ago. This newer trail came to this department's attention pursuant to a complaint regarding non-permit grading. The grading done created an approximate four-foot wide trail, which includes a series of switchbacks on the steep hillsides rising up from the Kibesillah Creek, to the top of a ridge within the ownership. This permit would provide authorization for that grading, as well as new fire road that would run north/south along a ridge and a west-facing slope within the ownership, however a portion of the road would be on a neighboring property over which the applicant has an easement. The fire road would extend roughly 1.25 miles from Bruhel Point Road (aka Walters Hilltop), the access road to the existing dwellings located within the ownership, to Kibesillah Hill. The trails and roads would provide a network that could take a rider up the steep slope from the proposed barn/parking area, to the ridge top then through other more remote areas of the ownership, which includes lands that border Kibesillah Creek. The road would also provide access to a few of the parcels recognized by the Certificates of Compliance to Bruhel Point Road.

Existing fences would be repaired and new fences constructed as part of the project. New fences would be constructed with pressure treated poles with a wire top strand at approximately five feet, with four-foot high sheep wire fencing below. Along Highway One, old redwood spikes would be attached to the sheep wire fencing in the vicinity of the barn. A 16 square foot wooden sign is proposed near the entrance with the words "Lost Coast Trial Rides" and a phone number provided.

**ENVIRONMENTAL REVIEW:** In completing the environmental checklist, the following areas of environmental concern are noted:

Earth (Items 1A and 1E) and Water (Items 3B and 3E): Much of the property is very steep. The trails that have been cut utilize switchbacks to attain gains in elevation. At the time this office initiated enforcement action regarding the grading complaint, the applicant did seek counsel from an engineering firm to provide erosion control measures that were necessary to attenuate erosion concerns. A letter dated September 29, 2004 provided by the applicant from KPFF Consulting Engineers reports:

"The trails were monitored through the winter and showed no appreciable signs of erosion."

A subsequent letter of December 15, 2004 KPFF states:

Last fall, Mr. Quinton contacted me to assist in resolving the violation. The trail he had cut was/is about four feet wide. We had Mr. Quinton seed the cuts and fills and apply generous amounts of straw to the surface. The trails was monitored through the winter and inspected in the Spring. There were signs of mild erosion which appeared to have been dealt with in a timely manner. My instructions were to continue maintenance of the trail and advise us any erosion problems. In the case of moderate to extensive erosion, all locations should be gravel packed with a ¾" to 2" washed rock and covered with a jute erosion cloth and clear 6mil plastic staked at the perimeter. A straw bale wattle barrier should be placed down slope and staked appropriately. Engineering inspection should be called for immediately.

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Newly developed trails should be maintained in the same manner. Special attention should be paid to steepness of slope. In the eastern pasture area, additional trails ascending the slopes should be avoided. New trails formed by livestock should be hand maintained for erosion control and stability. On the western slope down by to Highway One, the existing trails should be utilized and "hand" improved as needed. Where connective trails are needed, these should be only developed by hand with the minimum influence on the existing environment and topography. No machinery should be utilized on the western slope without engineering review and county approval.

Any new on-site trails and the development of the new fire road have the potential to cause localized increases in erosion, sediment in water, compaction of soils, etc. Extensively used horse trails or roads can develop into minor compacted channels where water can increasingly erode away soil causing a change in the natural flow of water unless frequent "water bars" or other drainage controls are installed to direct water off the trail. The letter from KPFF provides a very general overview of the project stating:

"The majority of the area proposed for road construction is located on debris slide slopes, as described on the California Department of mines and Geology topographic maps. This geologic feature is typically composed of loose, unconsolidated soils that are highly erosive and prone to mass movement. With this in mind, any construction of slopes exceeding 50% should utilize full bench construction. This will require an excavator and dump truck to end haul material to a stable location such as a flat ridge tops. On slopes over 30% a three-quarter-bench should be utilized. This will require an excavator that may move material and incorporated it into the fill and the road prism. Any slopes less than 30% may utilize a side cast fill construction."

From Bruhel Road, the first half of the proposed fire road is proposed to extend south along a west-facing slope, several hundred feet above Highway One. The area is predominately tree covered and for the most part will be out of the public view. Based on the topographic map provided, the road then moves onto a saddle between the property's homesite and Kibesillah Hill, and then onto the east side of the hill top to the southern property boundary. This area is much more open coastal brush-land, and due to its height above Highway One, is again largely out of view. A subsequent map provided by KPFF Consulting Engineers depicts the topography of the area. While the road itself will range from 5% to 20% slopes, the side hills through which the road is planned to pass range from 10% to 65%, with a great majority of the road being through slopes of 35% to 50%.

The letter and map from the consulting engineer notes specifically it is not a grading plan, nor could it be characterized as a report. It provides some general design parameters for construction, drainage, erosion, and road stabilization issues. It notes that its conclusions are "a result of a CDF exemption in regards to specific road construction guidelines," and that unless the road is rocked, the road should have little to no winter or spring use. When asked by staff for further clarification of the development of the road, and the concerns about grading in this area of very steep slopes, the applicant provided a letter from Mr. Jim Glomb, Certified Engineering Geologist, who describes the project as follows:

"According to the grading plan dated 5/17/04, prepared by KPFF Consulting Engineers, the proposed 12 foot wide, 1 ¼ mile long roadway will traverse southward from Bruhel Point Road along steep slopes, up to about 1:1 (horizontal: vertical), and gently sloping ridgetops. Cut slopes are planned at a gradient of 1:2 (horizontal/vertical). The maximum proposed cut slope heights are approximately 12 feet."

He concludes:

"Based on our field work, literature review and analyses, we conclude that the subject site is geotechnically suitable for construction of the planned fire road/horse trail. It must be acknowledged, however, that road cuts will be subject to erosion and sloughing that will require periodic maintenance."

Attached to this report is a complete copy of Mr. Glomb's letter for consideration. The Coastal Element provides extensive guidelines for grading, erosion and run off. The attached Exhibit A is a list of standards excerpted from the coastal zoning regulations. While clearly not all of the code provisions are necessarily applicable to the project proposed, generally these standards suggest that construction in steep areas should generally be avoided and that natural landforms should not be manipulated excessively. Coastal Element. Section 20.492.014 (F) states specifically,

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"Development of sites that will result in road cuts, which pose a hazard and/or which create the potential for uncontrollable problems and adverse impacts from erosion and sedimentation, shall not be allowed. Alternative road routes may be required for projects. Where possible, roads in hilly areas should follow ridgetops to avoid extensive cuts and fills."

The applicant comments that the CDF exemption for roads is one that is utilized extensively in the timber industry, through a Timber Harvest Plan (THP) or CDF logging exemption. THPs are specifically exempted from the coastal permit process; hence this office would not be involved in the review of these exempt timber access roads. However, this road is not for the purpose of a timber harvesting operation. While staff can certainly understand the merits of such a road, both for the access it would provide to parcels within the ownership and to serve as a firebreak, given the slope constraints of the site, it is difficult to support. The applicant will cite a past fire in the area as justification, however the site is a ridge just above the ocean, in an area designated by CDF as having a "moderate" fire hazard severity rating.

Aside from the fire road, the existing (non-permit) trail on the east side of the ridge and the proposed new trail up from the stable/barn area would be authorized as part of this entitlement. While it is acknowledged that the trail would be cut through the same steep slopes as the road, a four foot wide meandering livestock trail, in staff's opinion, would not have the same impact as the mechanically installed fire access road. (See project recommendation)

Some grading will be necessary within the area of the proposed barn and parking area to facilitate construction. Drainage from the site will need to be directed to a satisfactory point to insure that facilities along Highway 1 are not impacted. This should be addressed through the encroachment permit procedure administered by Caltrans. Should the project be approved, a comprehensive grading plan shall be submitted for review and approval prior to any work. (See Conditions Numbers 1, 2 and 22)

Plant Life (Item 4C) and Animal Life (Item 5D): An early comment from the Department of Fish and Game was that the location of the barn/staging area could be a wetland, primarily due to the presence of plant species indicative of a wetland. KPFF Consulting Engineers also had staff perform a wetlands survey to determine if this area met the Coastal Elements definition of a wetland. The survey investigated existing vegetation, soils, and hydrology to determine if it met criteria. The survey concludes:

"The Quinton study area does not function as a wetland. The Equisetum (Horsetail) found at the site do not depend on wetland conditions to survive. Equisetum are capable of having deep and/or shallow rooting systems and are therefore physiologically able to function as a hydrophyte when wetland conditions exist or as an upland species when the soil is not wet for a significant period of time.

Saturated soil conditions are not found at this site during the wet or dry season. Since the water table is not at, or above the land surface during the wet season it could not support the hydrophytic plants included in the County's definition of wetland. "Wetlands are land where the water table is at, near or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes." Because none of the wetland ecology conditions exist at the site, the hydrophytes growing at the site are not functioning as hydrophytes if their root systems never encounter saturated conditions."

The Army Corps of Engineers, in a letter dated March 11, 2005 concurred with the consultant's conclusions that the property does not contain wetlands.

As noted, the trail network within the ranch itself includes areas that are in the vicinity of Kibesillah Creek. As part of the previous boundary line adjustment process, Gordon McBride identified the area of the property around the creek as an Environmentally Sensitive Habitat Area (ESHA) that warranted protection. That file contains an exhibit map prepared by Mr. McBride that depicts a 100 foot buffer around that area of the property near Kibesillah Creek. In an early discussion with the applicant, there was discussion of trail rides going to the area near the creek as a potential location for a break in the ride. If this is true, horses should be tied beyond the buffer area to limit impact to that resource. (See Conditions Number 3).

The project will bring intensified human intrusion into the area, therefore staff believes the project would be subject to the environmental filing fees found in the Fish and Game Code. (See Conditions Number 4)

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and Glare (Item 7A): The barn itself is proposed to have some exterior lighting fixtures. The fixtures are to be of a design that would be consistent with policies requiring downcast and shielded lighting. The number and exact location of the lighting fixtures is not provided. Conditions Number 5 requires the applicant to provide a detailed lighting plan prior to issuance of any construction permits. No lighting of the sign shall be permitted. (See Conditions Number 6)

Land Use (Item 8A): The area on which development would occur being zoned Rangeland (RL). Within the RL district a horse stable is a conditional use. Other portions of the ranch are zoned Upland Residential. The Coastal Act, in Section 30001.5(c), sets the following goals for all Land Use Plans for the coastal zone:

"Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners."

Transportation (Items 12A, 12B, and 12C): The project will take access directly from Highway One, immediately east of a newly constructed Caltrans visitor area. Caltrans will need to provide review the encroachment and potential increased drainage from the site. A consideration will be that the parking area and drive approach will need to accommodate larger pick up trucks and horse trailers. Sufficient area for internal movement/circulation will need to be provided. (Conditions Numbers 7 through 11 are provided)

Public Services (Item 13A): Fire: The site is within a State Responsibility Area. Fort Bragg Rural Fire District and the Westport Volunteer Fire District would likely also respond to any emergency. Compliance with fire safety standards reviewed and approved by CDF will address this concern. (See Conditions Number 12)

In assessing the proposed fire access road, in addition to those policies already noted regarding drainage, erosion, etc., the following General Plan policies are noted,

Coastal Element Policy 3.4-13 states:

"All new development shall meet the requirements for fire protection and fire prevention as recommended by responsible fire agencies."

Safety Element Fire Safety Policy (Existing Development) 3 states:

"Promote the maintenance of firebreaks, fuel breaks, green belts and emergency access routes for effective fire suppression with local fire departments and districts, the National Forest Service and the California Department of Forestry acting in concert."

While the development of the fire access road would be of assistance to a fire agency in an emergency, staff believes that the potential environmental consequences and potential Coastal Plan conflicts supercede the warrant for the road. (See Conditions Number 22)

Utilities (Item 15A): The applicant proposed to drill a well near the barn for water and install portable toilets for use at the site. However, the applicant has subsequently submitted a report from Carl Rittiman and Associates which describes soils testing done at the site and does conclude that, with some minor final testing, a system can be designed for the project.

Dependant on final design, the need for having a public restroom, a licensed water system, or the need for meeting other building and health code standards, e.g. handicapped accessibility requirements, will all need to be addressed within the building permit process. As this barn would be considered a commercial structure, a licensed engineer or architect will have to prepare the building plans. (See Conditions Number 13)

Aesthetics (Item 17A): The application gives little information regarding the details of the structures to be built. The barn would be a simple, rural style barn, with a natural wood exterior and a green roof. A four-foot tall, wood slat fence with a strand of barbed wire above would be built along the frontage. A sixteen square foot sign would be posted at the driveway entrance. The site is clearly and plainly visible from Highway One. Story poles have been in place for some time that outlines the rough parameters of the proposed structure. Additionally fencing will

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be installed and a parking lot would be developed. As noted, immediately across the street are lands owned by the State (Caltrans) and are now developed with a parking area and nature trails. State Parks commented:

"A small portion of the barn roof and western façade may be visible from Ten Mile Beach. This could easily be mitigated by any of the following recommendations:

1. Using dark, non-reflective roofing material and dark natural wood exterior, similar to what exists on the Pacific Star Winery buildings to the south, causing the structure to recede into the hillside.
2. Maintaining the row of large Cypress trees along the eastern shoulder of Highway 1, and extending the vegetative concealment further south and along the southern property line with additional Cypress trees.
3. Reducing the barn ridge height to the standard 18 foot maximum in the highly scenic corridor."

Subsequent to this early comment, State Parks did review the story poles erected on the site and concluded that the project would have no impact to Ten Mile Dune of MacKerricher State Park, or Westport Union Landing.

As noted, there would be no way to develop this site without it being clearly visible in the immediate area. An alternative would be to develop the stable facility at the ranch's main developed area, near the residential structures, however that would require clients/customers to drive up Bruhel Point Road some distance. This road is a private road serving other properties, and is a fairly steep, narrow dirt road, and would not be recommended for tourist use. Traveling along the highway, the site itself is only clearly visible along a very short stretch of the road in the immediate area. Even though there is no direct visual impact to State Park lands, staff recommends that the project only be developed with all of the mitigations noted above, with additional conditions requiring the under-grounding of any utilities, eliminating any portable toilets, limiting signage and lighting, etc. (See Conditions Numbers 14 through 20)

Archeological (Item 19): The project was surveyed and that survey was reviewed and accepted by the Archeological Commission. Should any archeological discoveries be made during the development of the site, the applicant is reminded of the provisions of the County Code dealing with such discoveries. (See Conditions Number 21)

**GENERAL PLAN CONSISTENCY RECOMMENDATION:** The proposed project is consistent with applicable goals and policies of the General Plan.

**RECOMMENDED MOTION:** Candidly, this application has taken quite a long time to make it to this point. While we acknowledge this is a small operation, likely to have an overall minimal impact, the information supplied has been consistently sparse in detail. We have insisted that the applicant provide information on the potential ESHA and several times requested greater detail regarding information on the road to be developed. While the applicant has been patient with the process, he has also been generally slow in providing requested information. At this point, staff is of the opinion that it would be appropriate to proceed to hearing, with conditions provided to insure compliance with Coastal Element development standards. We remain concerned with the development of the fire access road and therefore have recommended denial of that aspect of the proposal. Trails should be developed within the parameters of the consulting engineers instructions.

**Environmental Findings:** The Planning Commission finds that no significant environmental impacts would result from the proposed project which can not be adequately mitigated through the conditions of approval, therefore, a Negative Declaration is adopted.

**General Plan Consistency Finding:** As discussed under pertinent sections of this report, the proposed project is consistent with applicable goals and policies of the General Plan as subject to the conditions being recommended by staff.

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**Coastal Development Permit Findings:** The Planning Commission finds that the application and supporting documents and exhibits contain information and conditions sufficient to establish, as required by Section 20.532.095 of the Coastal Zoning Code, that:

1. The proposed development is in conformity with the certified local coastal program; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
3. The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of the Coastal Zoning Code, and preserves the integrity of the zoning district; and
4. The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.
8. The proposed use is compatible with the long-term protection of resource lands.
9. Agricultural Land Impact Findings.
  - (a) The project maximizes protection of environmentally sensitive habitat areas;
  - (b) The project minimizes construction of new roads and other facilities;
  - (c) The project maintains views from beaches, public trails, roads and views from public viewing areas, or other recreational areas;
  - (d) The project ensures the adequacy of water, wastewater disposal and other services;
  - (e) The project ensures the preservation of the rural character of the site.
  - (f) The project maximizes preservation of prime agricultural soils;
  - (g) The project ensures existing land use compatibility by maintaining productivity of on-site and adjacent agricultural lands.

**Project Findings:** The Planning Commission, making the above findings, approves #CDU 2-2003 subject to the conditions of approval recommended by staff.

**RECOMMENDED CONDITIONS:**

**A. Conditions which must be met prior to use and/or occupancy and for the duration of this permit:**

- \*\* 1. Grading done for the development of the riding trails and the building pad and parking areas, shall at a minimum conform to the following standards:

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- Adequate drainage controls shall be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.
  - The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.
  - All recommendations identified in the geotechnical investigation report prepared by Mr. Jim Glomb dated February 17, 2006 shall be incorporated into the design and construction of the development.
  - Construction and earthwork shall be supervised and certified by a licensed engineering geologist, or a registered civil engineer with soil analysis expertise to ensure that the mitigation measures are properly incorporated into the development.
  - Temporary erosion control measures shall be in place at the end of each day's work, and shall be maintained until permanent protection is established.
  - Native vegetation shall be reestablished on all areas of disturbed soil in conformance with Chapter 20.492 of the Mendocino County Code. A re-vegetation plan specifying methods, materials, plant species, and schedule shall be submitted to the Department of Planning and Building Services within 60 days of approval of CDU 2-03. All disturbed areas shall be seeded, and mulched if necessary, to prevent erosion.
  - Erosion control measures shall include but are not limited to: seeding and mulching exposed soil on hill slopes, strategic placement of hay bales below areas subject to sheet and rill erosion, and installation of bioengineering materials where necessary. Erosion control measures shall be in place prior to October 1<sup>st</sup>.
  - All earth-moving activities shall be conducted between {May 15<sup>th</sup>} and {October 15<sup>th</sup>} of any given calendar year.
- \*\* 2. The site shall be restored, upon termination of the use, to its natural state, to include reseeding and replanting of native or native-like vegetation, and grading to natural contours.
- \*\* 3. No animals shall be tied within the buffer areas near sensitive habitats, e.g. the riparian areas surrounding Kibesillah Creek to limit impact to that resource.
- \*\* 4. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$1275.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to June 26, 2006. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if project is approved) or returned to the payer (if project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void.
- \*\* 5. Prior to issuance of the building permit for any structure associated with this permit, the applicant shall submit an exterior lighting plan which is in compliance with Section 20.504.035 of the Mendocino County Code. The lighting fixtures shall be completely shielded and positioned in a manner that will not allow light glare to exceed the boundaries of the subject parcel. The number of exterior lighting fixtures shall be kept to the minimum required for safety.
- \*\* 6. No lighting shall be provided for any signage associated with this permit.

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- \*\*\* 7. A detailed parking and circulation plan shall be prepared, which provides adequate area for both parking and circulation movements outside public rights-of-way and private ways not intended for that purpose or use.
- \*\* 8. The access road and/or parking areas shall be surfaced with four (4) inches of gravel. Prior to the installation of the surfacing material, the natural grade shall be prepared in accordance with good engineering practices to insure long surface life.
- \*\* 9. A standard private road approach shall be constructed at the State Highway in accordance with encroachment permit procedures administered by the California Department of Transportation.
- \*\* 10. Traffic patterns and parking spaces shall be delineated on access routes and in parking areas.
- \*\* 11. Internal road and driveway improvements shall be constructed in accordance with improvement plans, to include erosion control and drainage plans, prepared by a licensed engineer and approved by the Mendocino County Department of Transportation.
- \*\* 12. The applicant shall comply with those recommendations in the California Department of Forestry (CDF) letter of April 24, 2003 or other alternatives as acceptable to CDF {(CDF# 198-03)} Written verification shall be submitted from CDF to the Department of Planning and Building Services that this condition has been met to the satisfaction of the California Department of Forestry.
- \*\* 13. Structures and facilities developed for the site shall meet or exceed the minimum standards of the Uniform Building Code and appropriate local and State public health requirements.
- \*\* 14. Final elevation drawings of all signs, including visual appearance, shall be submitted to the Department of Planning and Building Services for review and approval. The sign shall be made of wood and may not be illuminated.
- \*\* 15. All exterior building materials, colors and finishes shall be of dark earth tones and blend with the natural surroundings. Color samples shall be submitted to the Department of Planning and Building Services and approved by the Coastal Permit Administrator prior to approval of building permits. Windows shall be made of non-reflective glass. Any change in approved colors or materials shall be subject to the review and approval of the Department of Planning and Building Services for the life of the project.
- \*\* 16. The structure shall be a maximum of eighteen feet in height.
- \*\* 17. The evergreen trees surrounding the proposed structure that provide a significant visual buffer from Highway One and shall be retained. Prior to issuance of the Coastal Development Use Permit, the applicant shall submit for the review of the Department of Planning and Building Services a landscape plan (inventory) of the existing vegetation that identifies the location and size of all the evergreen trees used to screen the project from public view. Further, prior to issuance of the coastal permit, the applicant shall submit a landscape plan to the Coastal Permit Administrator for review and approval, that provides substantial visual screening of the structure and any other planned improvements, including corral and water tanks from the highway. This shall include provision for plantings along the south and west sides of the facility. The plan shall specify the use of native and drought tolerant plants which are acclimated to the exposed coastal growing conditions present on the site. Species and size of container stock shall be specified. All required landscaping shall be irrigated, staked, maintained, and replaced, as necessary, to ensure that a vegetative screen is established and maintained in perpetuity.
- \*\* 18. No tree removal or limbing of the existing trees shall occur without prior review and approval by the Department of Planning and Building Services. In the event that the screening trees die during the life of the project, they shall be replaced with similar species in the same location.

10 of 13

- \*\* 19. Fencing shall either be limited to 3.5 feet in height or installed with sufficient spacing so as to not obscure the encroachment.
- \*\* 20. Any new utilities or extension of utilities to the site shall be placed underground. Any restroom facility shall be developed within the structure.
- \*\* 21. In the event that archaeological resources are encountered during construction on the property, work in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.
- \*\* 22. That this permit shall not authorize the development of the proposed fire road. Any trail for equestrian use shall be developed within the outlines provided in the KPFF Consulting Engineers recommendations contained within their letter of December 15, 2004. No mechanical equipment shall be used to develop or maintain these trails, unless specifically authorized by the Coastal Permit Administrator to address an emergency situation and shall be done only under the direct supervision of a licensed engineer.

5/15/06  
DATE

Signature on File

FRANK LYNCH  
CHIEF PLANNER

FL/jc  
5/10/06

Negative Declaration

Appeal Fee - \$840.00  
Appeal Period - 10 days

\*\* Indicates conditions relating to Environmental Considerations - deletion of these conditions may effect the issuance of a Negative Declaration.

REFERRAL AGENCIES	REFERRAL NOT RETURNED	REFERRAL RECEIVED "NO COMMENT"	COMMENTS RECEIVED
Planning Department - Fort Bragg			X
Public Works		X	
Environmental Health		X	
Building Inspection - Fort Bragg		X	
Coastal Commission		X	
Caltrans			X
Trails Advisory Committee	X		
Assessor	X		
Ag Commissioner	X		
Sonoma State			X
Archeological Commission			X
Forestry Advisor	X		
Native Plant Society	X		
California Department of Forestry			X
Department of Fish & Game			X

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## EXHIBIT A

## Sec. 20.492.010 Grading Standards.

- (A) Grading shall not significantly disrupt natural drainage patterns and shall not significantly increase volumes of surface runoff unless adequate measures are taken to provide for the increase in surface runoff.
- (B) Development shall be planned to fit the topography, soils, geology, hydrology, and other conditions existing on the site so that grading is kept to an absolute minimum.
- (C) Essential grading shall complement the natural land forms. At the intersection of a manufactured cut or fill slope and a natural slope, a gradual transition or rounding of contours shall be provided.
- (D) The cut face of earth excavations and fills shall not be steeper than the safe angle of repose for materials encountered. Where consistent with the recommendations of a soils engineer or engineering geologist, a variety of slope ratios shall be applied to any cut or fill slope in excess of two hundred (200) feet in length or ten (10) feet in height. For individually developed lots, a variety of slope ratios shall be applied to all cut or fill slopes when a building pad area exceeds four thousand five hundred (4,500) square feet, or when the total graded area of the lot exceeds nine thousand (9,000) square feet. **The steepest permissible slope ratio shall be two to one (2:1), corresponding to a fifty (50) percent slope.**
- (E) The permanently exposed faces of earth cuts and fills shall be stabilized and revegetated, or otherwise protected from erosion.
- (F) Adjoining property shall be protected from excavation and filling operations and potential soil erosion.
- (G) The area of soil to be disturbed at any one time and the duration of its exposure shall be limited. Erosion and sediment control measures shall be installed as soon as possible following the disturbance of the soils. Construction equipment shall be limited to the actual area to be disturbed according to the approved development plans.

## Sec. 20.492.015 Erosion Standards.

- (A) The erosion rate shall not exceed the natural or existing level before development.
- (B) Existing vegetation shall be maintained on the construction site to the maximum extent feasible. Trees shall be protected from damage by proper grading techniques.
- (C) Areas of disturbed soil shall be reseeded and covered with vegetation as soon as possible after disturbance, but no less than one hundred (100) percent coverage in ninety (90) days after seeding; mulches may be used to cover ground areas temporarily. In environmentally sensitive habitat areas, the revegetation shall be achieved with native vegetation. In buffer areas adjacent to environmentally sensitive habitats, non-native vegetation may be used provided that it is non-invasive and would not adversely affect the environmentally sensitive habitat area.
- (D) **Mechanical or vegetative techniques to control erosion may be used where possible or necessary providing that they are fully discussed in the approved development plan.**
- (E) **To control erosion, development shall not be allowed on slopes over thirty (30) percent unless adequate evidence from a registered civil engineer or recognized authority is given that no increase in erosion will occur.**
- (F) Development of sites that will result in road cuts, which pose a hazard and/or which create the potential for uncontrollable problems and adverse impacts from erosion and sedimentation, shall not be allowed. Alternative road routes may be required for projects. Where possible, roads in hilly areas should follow ridgetops to avoid extensive cuts and fills.
- (G) Erosion control devices shall be installed in coordination with clearing, grubbing, and grading of downstream construction; the plan shall describe the location and timing for the installation of such devices and shall describe the parties responsible for repair and maintenance of such devices.

## Sec. 20.492.020 Sedimentation Standards.

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(A) Sediment basins (e.g., debris basins, desilting basins, or silt traps) shall be installed in conjunction with initial grading operations and maintained through the development/construction process to remove sediment from runoff wastes that may drain from land undergoing development to environmentally sensitive areas.

(B) To prevent sedimentation of off-site areas, vegetation shall be maintained to the maximum extent possible on the development site. Where necessarily removed during construction, native vegetation shall be replanted to help control sedimentation.

(C) Temporary mechanical means of controlling sedimentation, such as hay baling or temporary berms around the site, may be used as part of an overall grading plan, subject to the approval of the Coastal Permit Administrator.

(D) Design of sedimentation control devices shall be coordinated with runoff control structure to provide the most protection.

**(E) The grading plan when required shall set forth a schedule for the construction and maintenance of any structure to be developed under this section, and shall include a statement designating who shall be responsible for the long-term management of the devices.**

Sec. 20.492.025 Runoff Standards.

**(A) Water flows in excess of natural flows resulting from project development shall be mitigated.**

(B) If the Coastal Permit Administrator determines that a project site is too small or engineering, aesthetic, and economic factors make combined drainage facilities more practical for construction by the County, the County may require a fee and dedication of land, which the County shall use to construct these facilities. The County may allow several developers to jointly construct facilities to approved County specifications.

**(C) The acceptability of alternative methods of storm water retention shall be based on appropriate engineering studies.** Control methods to regulate the rate of storm water discharge that may be acceptable include retention of water on level surfaces, the use of grass areas, underground storage, and oversized storm drains with restricted outlets or energy dissipators.

(D) Retention facilities and drainage structures shall, where possible, use natural topography and natural vegetation. In other situations, planted trees and vegetation such as shrubs and permanent ground cover shall be maintained by the owner.

(E) Provisions shall be made to infiltrate and/or safely conduct surface water to storm drains or suitable watercourses and to prevent surface runoff from damaging faces of cut and fill slopes.

(F) Adequate maintenance of common and public retention basins or ponds shall be assured through the use of performance bonds or other financial mechanisms.

(G) Subsurface drainage devices shall be provided in areas having a high water table and to intercept seepage that would adversely affect slope stability, building foundations, or create undesirable wetness.

(H) A combination of storage and controlled release of storm water runoff shall be required for all development and construction that drains into wetlands.

(I) The release rate of storm water from all developments that drains into wetlands shall not exceed the rate of storm water runoff from the area in its natural or undeveloped state for all intensities and durations of rainfall. The carrying capacity of the channel directly downstream must be considered in determining the amount of the release.

(J) Where coastal development projects within the Gualala Town Plan planning area have the potential to degrade water quality, the approving authority shall require all relevant best management practices to control polluted runoff, as appropriate.

(K) All development that is within, or drains into, environmentally sensitive habitat, is a commercial or residential subdivision, is a service station or automotive repair facility or that includes commercial development or a parking lot, shall capture and infiltrate or treat, using relevant best management practices, including structural best management practices, all runoff from storms of a magnitude such that the runoff from eight-five (85) percent of storms is encaptured or treated.

13 of 13

## CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

710 E STREET, SUITE 200

EUREKA, CA 95501

VOICE (707) 445-7833 FAX (707) 445-7877



## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)Name: ~~Riviera-Walker~~ JUDITH VIDAVER, Friends of the Ten Mile, Sierra Club Mendocino

Mailing Address: PO Box 1006

City: Fort Bragg, CA

Zip Code: 95437

Phone: 707-964-2742

SECTION II. Decision Being Appealed

RECEIVED

NOV 20 2006

CALIFORNIA  
COASTAL COMMISSION

1. Name of local/port government:

Mendocino County Planning Commission

2. Brief description of development being appealed:

Placement of commercial horse riding stables on Highly Scenic coastal headlands near Westport, CA

3. Development's location (street address, assessor's parcel no., cross street, etc.):

31901 Bruhel Rd. Fort Bragg, CA. AP# 015-070-55, 015-070-56, 015-010-16. Development is on Highway 1 corridor.

4. Description of decision being appealed (check one.):

- ☐ Approval; no special conditions
- ☒ Approval with special conditions:
- ☐ Denial

EXHIBIT NO. 4

APPLICATION NO.

A-1-MEN-06-042

LOST COAST TRAIL RIDES

APPEAL (1 of 5)

**Note:** For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

**TO BE COMPLETED BY COMMISSION:**APPEAL NO: A-1-MEN-06-046DATE FILED: 11/20/06

**CALIFORNIA COASTAL COMMISSION**

NORTH COAST DISTRICT OFFICE

710 E STREET, SUITE 200

EUREKA, CA 95501

VOICE (707) 445-7833 FAX (707) 445-7877



DISTRICT:

North Coast

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)**

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☐ City Council/Board of Supervisors
- ☒ Planning Commission
- ☐ Other

6. Date of local government's decision: noticed Nov. 10, 2006

7. Local government's file number (if any): CDU-02-2003

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Gary Quinton  
31901 Bruhel Road  
Fort Bragg, CA 95437

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Judy Vidaver, Friends of The Ten Mile, PO Box 1006, Fort Bragg, CA 95437

(2) Rixanne Wehren, Sierra Club, PO Box 340, Albion CA 95410

(3) Mary Walsh, Sierra Club, PO Box 161, Albion, CA 95410

(4) Linda Perkins, Chair, Sierra Club, PO Box 2330, Fort Bragg, CA 95437

3 of 5

## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

### SECTION IV. Reasons Supporting This Appeal

#### **PLEASE NOTE:**

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

his proposal violates several provisions of the LCP:

LCP 3.5-1 The scenic and visual qualities of Mendocino County

coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas...New development in highly scenic areas...shall be subordinate to the character of its setting.

LCP 3.5-3 Any development permitted in [HSAs] shall provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails vista points...

[This area isn't just within a HSA, it is the heart of the HSA that stretches for nearly 12 miles from Ten Mile to Hardy Creek.]

LCP 3.5-4 Re Buildings in HSAs...Except for farm buildings, development in the middle of large open areas shall be avoided if an alternative site exists.

[The SR accurately describes this proposal as a "commercial" operation. And it is indeed located in the middle of a large open area as seen from the highway, the public land and the vista point.]

LCP 3.5-6 Development on a parcel located partly within the HAS...shall be located on the portion outside the viewshed if feasible.

[While the HSA is not clearly delineated in the SR, it is clear that portions of the parcel are not visible to the public.]

LCP 3.9 / Coastal Act Sec.30250 (a) New...development...shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or...in other areas where it will not have significant adverse effects...

The LCP specifies areas able to accommodate new development as: Cleone, Noyo, South Fort Bragg, Mendocino and Gualala.

LCP 3.7-4...Any visitor serving facility not shown on LUP Maps shall require an LUP amendment...

[As this proposal is described as a "commercial" facility it falls under zoning restrictions imposed on visitor serving facilities--it needs a LUP amendment.]

4 of 5

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**

**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.

Signature on File

\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent

Date:

\_\_\_\_\_  
Nov 16, 2006

**Note:** If signed by agent, appellant(s) must also sign below.

**Section VI. Agent Authorization**

I/We hereby authorize \_\_\_\_\_

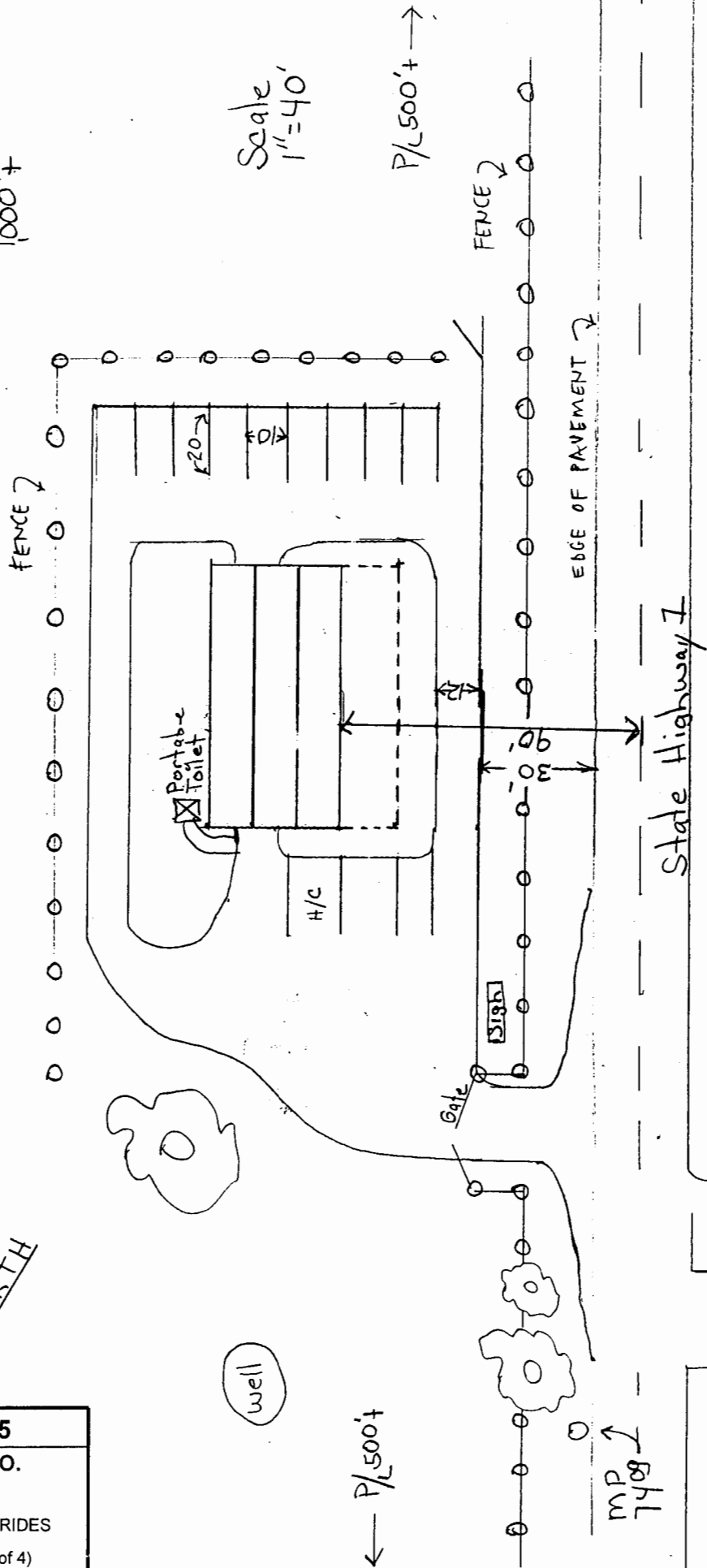
to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date:

585

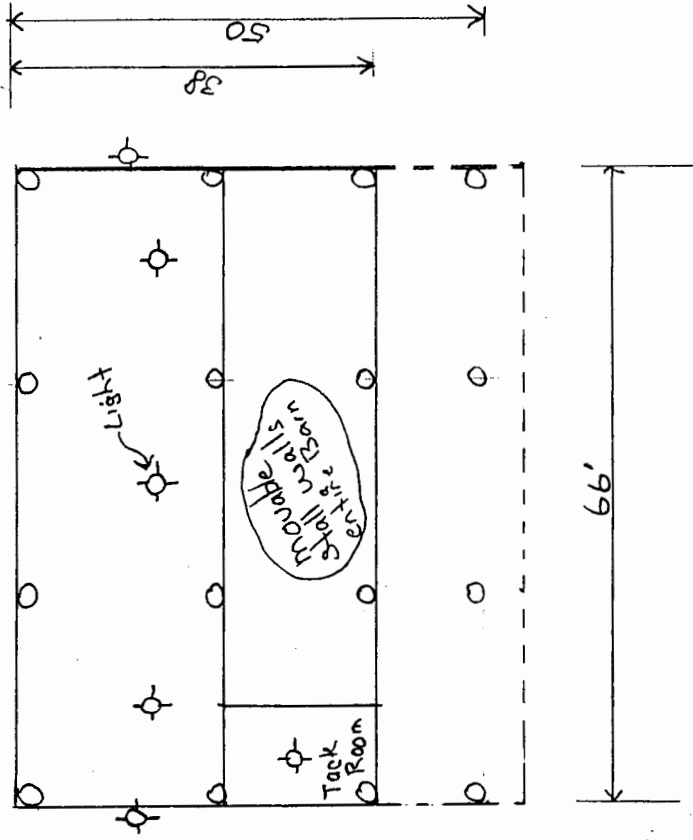
PROJECT PLANS (1 of 4)



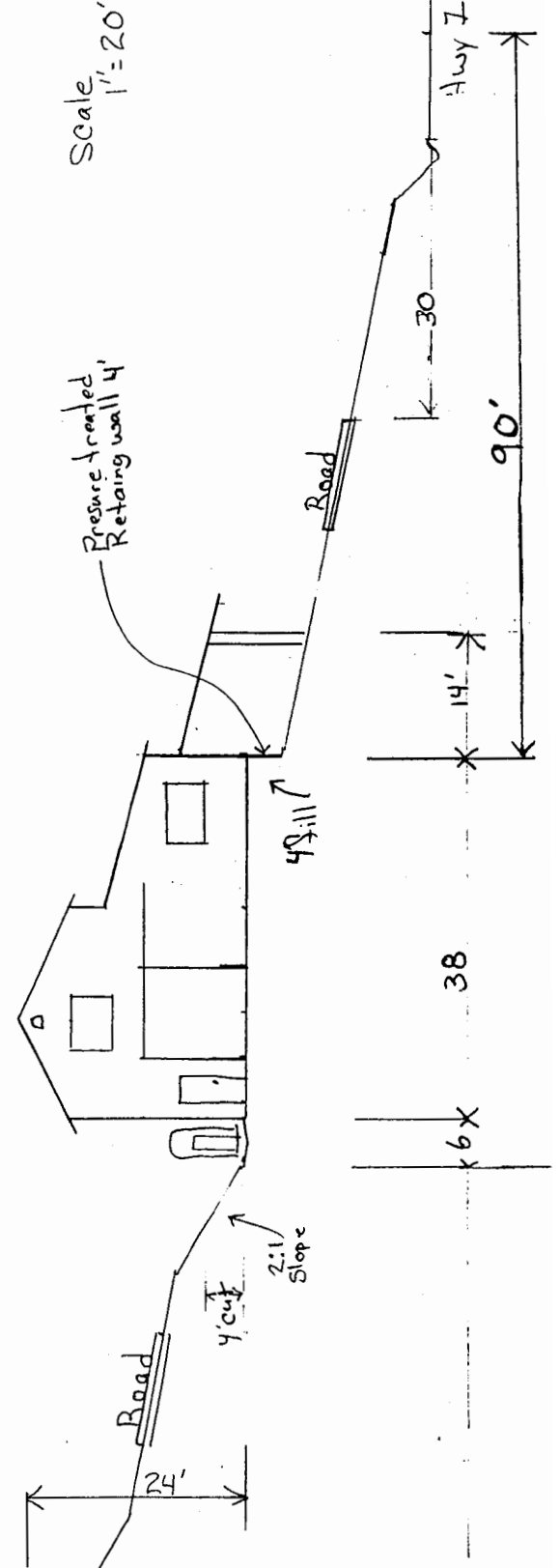
VISTA Parking



Lost Coast Trail Rides / Quinton  
Coastal Development permit application



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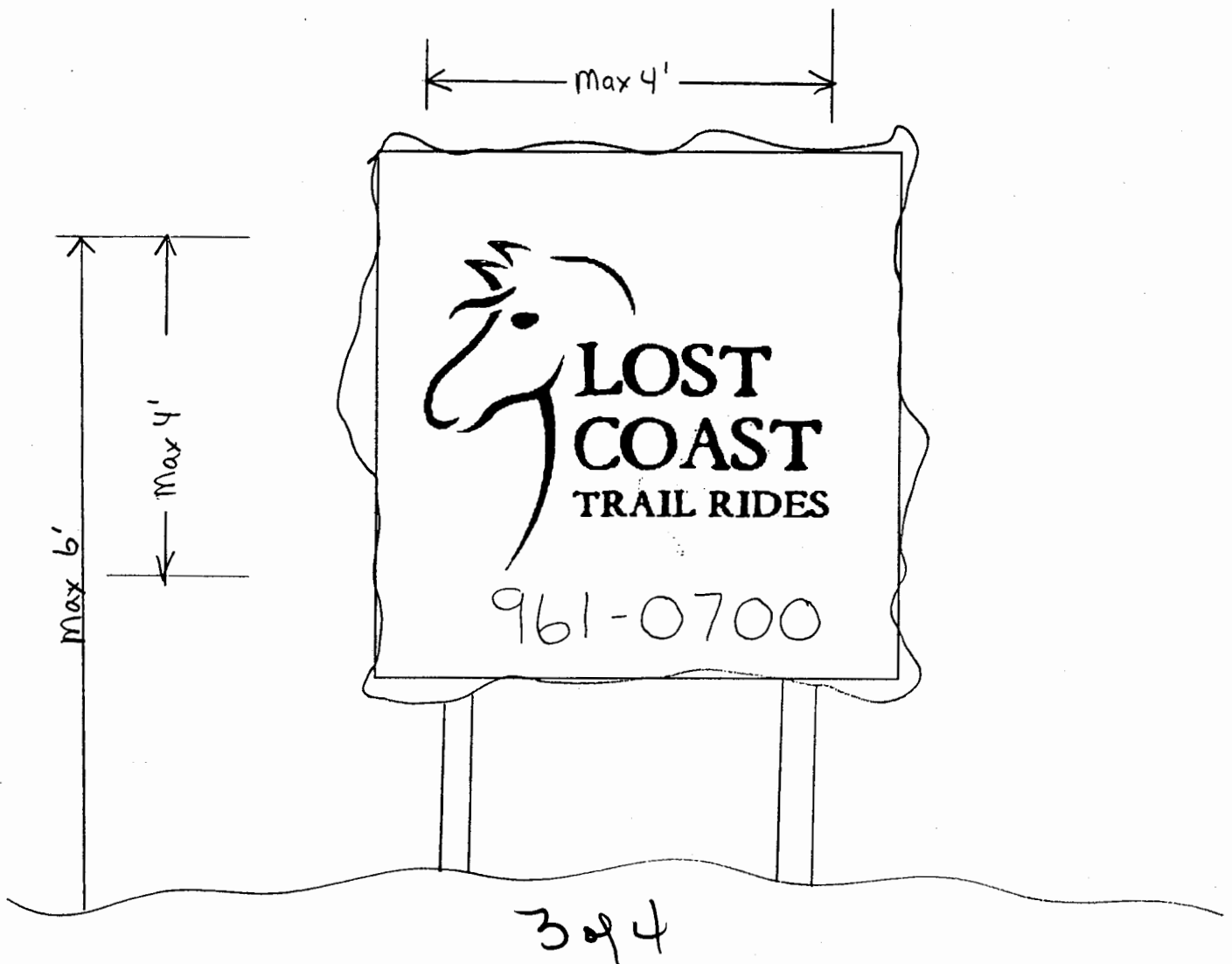
Loast Coast Trail rides / Quinton  
Coastal Development Application

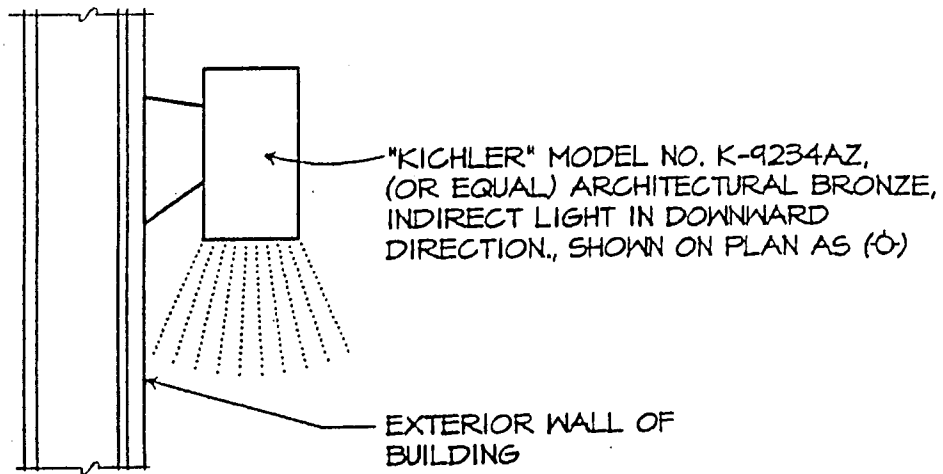
Sign Detail

Material – natural colored Redwood slab with routed letters and logo  
painted white

Mounted on 2 4X4 wood post

Size of lettered area not to exceed 4 feet X 4 feet





1  
A3

## TYP. EXTERIOR DOWN LIGHTING DETAIL

SCALE: 1½" = 1' - 0"

4 of 4

# oli Engineering & Surveying

100 Chestnut St., Fort Bragg, CA 95437  
Phone: 707-964-5225 – Fax: 707-961-1452 – Cell: 707-357-3193  
E-mail: [engineersurvey@yahoo.com](mailto:engineersurvey@yahoo.com)

CALIFORNIA REGISTERED CIVIL I  
OREGON REC  
OREGON PRO

EXHIBIT NO. 6

APPLICATION NO.

A-1-MEN-06-042

LOST COAST TRAIL RIDES

HORSE MANURE MANAGEMENT  
PLAN (PAOLI ENGINEERING &  
SURVEYING, OCTOBER 2006  
(1 of 3))

## HORSE MANURE MANAGEMENT PLAN CDU 2-2003/LOST COAST TRAIL RIDES

RECEIVED  
OCT 05 2006

### BACKGROUND

Gary Quinton is proposing to build a stable on the east side of Highway One, across from the Caltrans public parking lot at milepost 74.09. The purpose of the stable is to provide a focal point and shelter for horses rented by tourists taking trail rides on Quinton's property. The horses will only be stabled at this location during daylight hours, and when business is good the horses will be out on the trails perhaps ½ of the daylight hours. The proposed design surrounds the stable with parking spaces and driveways so when the horses are on site, they will be in the stable except when departing or arriving. Note that a portion of the barn is a shed roof with open sides. This would be the area where horses are saddled and tied up until the rides begin.

BY  
PLANNING & BUILDING SERVICES  
Ukiah, CA 95482

Since settlers came to this area over 100 years ago, this part of the coast was used as farmland and rangeland. The intensity of domestic animal grazing per acre has been far higher than the present proposal of about one horse per 20 acres. The new economic reality of the coast is that our farmland and grazing land cannot compete head-to-head with other parts of the State, Region and world. Our vitality is now tied to visitor serving facilities. Looking at the project in this light, it is simply a complementary extension of the campground at Wages Creek, the bed-and-breakfast inn at Westport, the Caltrans Vista Point and hiking trails across the highway, and the winery/tasting room ½ miles south. This is the type of future that the Coastal Plan is leading us to.

Any development has impact, and obviously the goal is to maximize positive impacts and minimize negative impacts. The positive impacts here are to increase recreational opportunities while providing economic sustainability. The concern about the negative impacts seems to be centered on potential degradation of groundwater and down-slope wetlands by leachate in horse manure.

### ANALYSIS

Horse manure contains plant nutrients, organic compounds and microorganisms. On the average, horse manure contains 1 percent nitrogen, ½ percent phosphorous and 1½ percent potassium. These are all ingredients that stimulate plant growth, which is often viewed as a good thing in an agricultural or rangeland setting. When these ingredients reach too high a concentration and find their way into groundwater, streams or ponds, they are considered a nuisance or health hazard. In the last few decades the management of effluent from humans and domestic animals has received a lot of attention and scientific research. Some states, such as Oregon, have voted on initiatives aimed at keeping farm animals out of streams and rivers. Our management goal for this project is to keep manure levels at an acceptable and sustainable level consistent with research recommendations.

There is a wealth of information on the Internet dealing with horses and horse manure management. A rule of thumb is that a full-time stable needs 0.8 to 1.5 acres of land per horse to spread manure on. Quinton's stable will have 12 stalls that are used part-time. A spreading area of 8 acres should be adequate. Quinton has 250 acres available, about 15 acres of which are on this lower level near the highway. A self-propelled scooper/spreader will be used to load and spread the manure on the pasture north and south of the stable. The proposed new well will be sealed to County Standards, but a 50-foot buffer from the spreading should be maintained. There is no live stream or spring in or adjacent to the spreading area.

Due to the confining of the horses to the covered stable area and the likelihood that the horses will not be in the barn during rainy weather because there will not be customers, there should be very little manure runoff on the parking area or down the entrance driveway to the highway. Any manure runoff would flow into the highway ditch on the east side of the highway and into an existing storm drain system that bypasses the scenic vista parking lot. Once again, run-off containing organics from the stables should be a very small amount.

The rebuilt fence between Quinton and the State highway will have a natural berm that always builds up over the decades along these old fences. This berm will provide a barrier to keep the spread manure runoff out of the State highway ditch.

Once the horses leave the barn area and begin traversing the trails, the manure is no longer going to be concentrated and experience has shown that natural dispersal by the animals is adequate. Most of Quinton's property is on a steep upgrade or top of ridge without live streams or springs, and horses on the trails will not be polluting surface waters.

There are numerous reports and studies that cite the beneficial effect of horse manure on the soil. Quinton may consider selling or giving away some of the manure to people in the area wanting to enhance the plant growth potential of their properties.

#### **USAGE WHEN TRAIL RIDES ARE NOT OFFERED**

During the winter months and other times when rides are not being offered, the horses will have the run of the entire Quinton property of 250 acres. There is an existing barn on the property up close to the house on the ridge, and it is likely that both barns will be used for shelter and for "horse maintenance". During these off-season times the number of horses at this proposed new stable will be less than 12, so the manure loading will also be less.

#### **IMPACT ON WETLAND WEST OF VISTA POINT**

Just west of the Caltrans Vista Point, the previously mentioned storm drain system outlets into a small wetland channel, whose water eventually outlets to the ocean. The closest part of this wetland is more than 200 feet away from the proposed manure spreading area of Quinton's property. Experience with local soils used in septic systems, such as the soils found at this site, indicate that the horizontal travel of leachate is only several feet, so long as the soil is not being over-saturated. Vertically, nutrients are filtered out of this type of soil within five feet. Based on this, no nitrogen/phosphorus/potassium from the manure spreading area should reach the wetland. If any of these nutrients reach the wetland it would be through the storm drain system, and we have already discussed that issue. If a small amount of nutrients do, somehow, reach the wetland, it will enhance plant growth.

#### **SUMMARY OF MANAGEMENT PLAN**

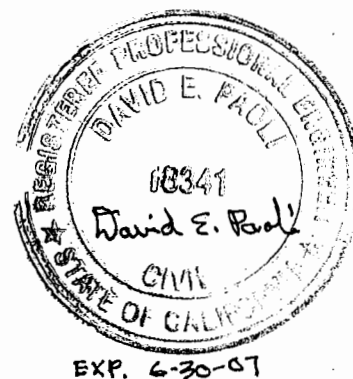
1. When trail rides are being given, confine horses to stable area before and after rides.
2. When trail rides are not being given, disperse horses on entire property and use the stable for some of the horses part of the time. Do not make this area a primary feeding location.
3. Muck stable area daily during usage period using mechanical pickup/spreader.
4. Spread manure over minimum of 8 acres.
5. Maintain berm at west fence-line to keep effluent out of highway ditch and storm drain system.

**IN CONCLUSION**, the impact of this facility on nearby wetlands, surface waters, highway drainage and the Vista Point parking area should be small. The impact to soil on the Quinton property should be positive.

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## REFERENCES

- Buchanan, Marc, PhD, Lead Author. "Horse Manure Management, A Guide for Bay Area Horse Keepers", Buchanan Associates, Scotts Valley, CA. 14 Sep. 2006.  
<http://www.mcstoppp.org/acrobat/Horse%20Manure%20Mangement.pdf>
- Westendorf, E. "Stable Management, Horses and Manure" February 16, 2004. Fact Sheet # 036. 14 Sep. 2006. <http://www.esc.rutgers.edu/publications/stablemg/FS036.HTM>
- *Communication and Educational Technology Services, University of Minnesota Extension Service.* "Manure and Pasture Management for Recreational Horse Owners", BU-07540 2000. 14 Sep. 2006.  
[http://www.extension.umn.edu/distribution/naturalresources/components/7540\\_03.html](http://www.extension.umn.edu/distribution/naturalresources/components/7540_03.html)
- *Council of Bay Area Resource Conservation Districts in cooperation with the USDA Natural Resources Conservation Service and the University of California Cooperative Extension.* Equine Facilities Assistance Program. "Horse Manure Management", Number 9, July 2000. 14 Sep. 2006. <http://californiarangeland.ucdavis.edu/Publications>
- Hudson, Larry, Extension Animal Scientist. *Clemson University Cooperative Extension USDA Water Quality Initiative.* Horses. "Manure Management", LL 53, November 1994. 14 Sep. 2006.  
[www.clemson.edu/psapublishing/Pages/ADVS/LL53.pdf](http://www.clemson.edu/psapublishing/Pages/ADVS/LL53.pdf)
- *EnviroHorse.* "Positive Aspects of Manure", April 16, 2001. 14 Sep. 2006.  
<http://www.californiastatehorsemen.com/enviro-aspects.htm>
- *RopinTheWeb.* *Agriculture, Food and Rural Development.* "Manure and Pasture Management for Horse Owners: Managing Manure by Spreading on Cropland or Pasture." January 27, 2004. 14 Sep. 2006. [http://www1.agric.gov.ab.ca/\\$department/deptdocs.nsf/all/agdex8014](http://www1.agric.gov.ab.ca/$department/deptdocs.nsf/all/agdex8014)



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Linda S. Adams  
Agency Secretary

**California Regional Water Quality Control Board**  
**North Coast Region**  
**William R. Massey, Chairman**

[www.waterboards.ca.gov/northcoast](http://www.waterboards.ca.gov/northcoast)  
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403  
Phone: (877) 721-9203 (toll free) • Office: (707) 576-2220 • FAX: (707) 523-0135



Arnold  
Schwarzenegger  
Governor

June 5, 2006

Mr. Frank Lynch  
County of Mendocino  
Department of Planning and Building Services  
501 Low Gap Road, Room 1440  
Ukiah, CA 95482

RECEIVED  
JUN 5 2006  
BY  
PLANNING DEPT  
UKIAH

<b>EXHIBIT NO. 7</b>
<b>APPLICATION NO.</b>
<b>A-1-MEN-06-042</b>
<b>LOST COAST TRAIL RIDES</b>
<b>REGIONAL WATER QUALITY</b>
<b>CONTROL BOARD LETTER</b>
<b>(JUNE 5, 2005) (1 of 2)</b>

Dear Mr. Lynch:

Subject: Case #: CDU 2-2003  
Proposed recreational horse stable, 31901 Bruhel Point Road, Fort Bragg, APN#  
015-070-55, 015-070-56, and 015-010-16

File: Mendocino County Use Permits

On May 17, 2006, our agency received a request for comments on a Use Permit for a proposed recreational horse stable located at 31901 Bruhel Point Road, approximately 4 miles south of Westport, in Mendocino County. The property is owned by Mr. Gary Quinton, and consists of assessor's parcel numbers 015-070-55, 015-070-56, and 015-010-16, comprising 250 +/- acres.

The proposed project will involve the operation of a recreational horse stable for public trail rides and tours. Improvements will include construction of a 3,564 square foot barn, restroom facilities, parking area, and a 1-¼ mile long by 12-foot wide roadway. Improvements will also include the installation of a water well, fencing repairs, and maintenance of new and existing trails.

Our agency has the following water quality concerns regarding this proposed project:

1. The Use Permit indicates that the construction of structures, parking lot, stables, and roads will result in more than an acre of soil disturbance. Dischargers whose projects disturb one or more acres of soil, or whose projects disturb less than 1 acre but are part of a larger common plan of development that in total disturbs 1 or more acres, are required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit, 99-08-DWQ). Construction activity subject to this permit includes clearing, grading and disturbances to the ground such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility.

The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP should contain a site

**California Environmental Protection Agency**

Recycled Paper



map(s) which shows the construction site perimeter, existing and proposed buildings, lots, roadways, storm water collection and discharge points, general topography both before and after construction, and drainage patterns across the project. The SWPPP must list Best Management Practices (BMPs) the discharger will use to protect storm water runoff and the placement of those BMPs. Additionally, the SWPPP must contain a visual monitoring program; a chemical monitoring program for "non-visible" pollutants to be implemented if there is a failure of BMPs; and a sediment monitoring plan if the site discharges directly to a water body listed on the 303(d) list for sediment. Section A of the Construction General Permit describes the elements that must be contained in a SWPPP.

2. The Use Permit indicates that the project proponent plans to operate recreational horse stables at the site, but does not indicate the number of horses that will be boarded at the facility. Animal housing facilities, including horse stables can generate large quantities of manure and manured bedding wastes; these wastes must be managed so as to avoid contaminating storm water runoff. Accordingly, the project proponent will need to develop a manure management plan that describes the method(s) that will be used to store and dispose of manure in a such a manner as to prevent it from coming into contact with storm water or other runoff, and/or from entering receiving waters.

Our agency appreciates the opportunity to comment on the Use Permit. Should you have any questions or comments please call me at (707) 576-2685 or e-mail me at [sgergus@waterboards.ca.gov](mailto:sgergus@waterboards.ca.gov).

Sincerely,

Signature on File

Scott A. Gergus  
Engineering Geologist

6506\_SAG\_Use Permit CDU 2-2003

CC: Mr. Gary Quinton, 31901 Bruhel Point Road, Fort Bragg, CA 95437  
Mr. Ed McKinley, 237 Morrow Street, Fort Bragg, CA 95437

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*California Environmental Protection Agency*



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Wetland Delineation Study  
For Proposed Coastal Development Permit AP # 015-070-56  
Prepared for:  
Gary Quinton 31901 Bruhel Point Road  
Fort Bragg Ca 95437

---

The Coastal Act and Mendocino County LCP define wetlands as:

*"Wetlands are land where the water table is at, near or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent or drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salt or other substance in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to (1) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic ; (2) the boundary between soil that is predominantly hydric and soil that predominantly non-hydric; or (3) in the case of wetlands without vegetation or soil, the boundary between land that is flooded or saturated at some time each year and land that is not."*

**EXHIBIT NO. 8**

**APPLICATION NO.**

**A-1-MEN-06-042**

**LOST COAST TRAIL RIDES**

**WETLAND DELINEATION**

**STUDY (KPFF, DELINEATION**

**CONDUCTED JULY 20, 2004**

**(1 of 6)**

## **1. Project Description and Area Description:**

Kpff conducted a Botanical survey for the purpose of wetland delineation on the property located at mile marker 74.09 North Highway One. The survey and delineation was conducted on July 20th, 2004 in order to determine the presence of an area that meets the definition of wetlands habitat described in the Mendocino County Code and the California Coastal Act.

The site is vegetated by Coastal Terrace Prairie (element code 41100-Holland 1996). The study area on parcel AP 015-070-56 has been historically leveled and sits at the toe of a slope. Highway One lies directly to the west.

## **2. Environmentally Sensitive Habitat Area (ESHA) Delineation**

### Methods

Kpff's study focused solely on wetland determination. The wetland delineation methodology followed the ESHA definition as stated in the California Coastal Act and the Mendocino County LCP.

Prior to visiting the site, all available reference materials were reviewed, including the Western Mendocino County Soil Survey, previous Botanical reports and maps depicting the natural topography of the site. The study area, as previously mentioned was visited on July 20th, 2004. The site was traversed and the area of concern was located. Soil was hand augured at the site in four locations; two within the ESHA and two outside the ESHA. The texture and moisture content of the soil was used in determining the boundary of the wetland. The soil profiles attained from the auger were described to include horizon depths, color, redox state and texture. Soil color is described by using the Munsell color charts (Gretag /Macbeth 2000). The redoxomorphic state was determined by applying muric acid and then alpha -alpha, Dipryridyl solution to determine the presence of reduced iron. The depth of the horizon was measured with a tape measure. A soil sample was taken to Kpff's soil laboratory and analyzed using the ASTM method 422-D, hydrometer analysis, to determine percent sand, clay and silt existing in the soil. Vegetation associated with wetlands is assigned hydrophilic status in accordance with the U.S. Fish and Wildlife Service list of plant species that occur in wetlands (Reed 1998). The plant classification system is based on the frequency plants are found in wetlands. The plants within the area of concern were observed for species determination and counted to determine the population. Upon species determination the "National list of plant species that occur in wetlands (Reed)"

2 of 6

was consulted to determine the status of plants at the site. Table 2, found below describes the classification used by Reed for determining the status of wetland plants.

The study area was searched for indicators of wetland hydrology. These include direct observation of soil saturation, surface sediments, drift lines, oxidized root channels and study of the available topographic maps.

### 3. Results and Discussion

#### Vegetation determination

Each plant stratum was examined and the following vegetation was observed.

**Table1. Vegetation present in study location**

Stratum	Species present	Percent Cover	Wetland status
Overstory	None present		
Midlevel	None present		
Groundlevel	California blackberry ( <i>Rubus ursinus</i> ),	13%	FACW* (Status undertimed)
	giant horsetail ( <i>Equisetum telameteia</i> )	31%	ObL (Hydrophyte)
	Colt's foot ( <i>Petasites frigidus</i> var. <i>palmatus</i> )	11%	FacW (Hydrophyte)
	sweet vernal grass ( <i>Anthoxanthum odoratum</i> ),	11%	FacU (Nonhydrophyte)
	velvet grass ( <i>Holcus lanatus</i> ),	19%	FaC (Hydrophyte)
	field horsetail ( <i>Equisetum arvense</i> )	15%	FaC (Hydrophyte)

3 of 6

**Table 2. Wetland status and symbols.**

Indicator Category	Symbol	Occurrence in Wetlands
Obligate Wetland	Obl	>99%
Facultative Wetland	FacW,	>64-99%
Facultative Wetland Status Uncertain	FacW*	Yet to be determined
Facultative	Fac	34-66%
Facultative Upland	FacU	1-33%
Upland	UPL	<1%

The vegetation present in the area of concern is dominated by 76% hydrophytes. Giant horsetail is the dominant species in the study area, making up 31% of the hydrophytes. Horsetail have a unique physiology as a hydrophyte in that the root system is uniquely developed. Horsetails (both *arvense* and *telameteia*) are capable of growing root systems down to several meters to reach water. The presence of hydrophytic plants appears to be an anomaly in an otherwise upland site.

Soils determination:

The Mendocino County Soil Survey, Western Part (2001), indicates that the study area is predominantly underlain by one soil mapping unit and describes the soil on the site as follows:

**115—Bruhel-Abalobadiah-Vizcaino complex, 9 to 30 percent slopes**

This map unit is on coastal hills and mountains. The vegetation is mainly perennial grasses and forbs or brush. Elevation ranges from 50 to 1,300 feet. The average annual precipitation is 40 to 55 inches, the average annual air temperature is about 53 degrees F, and the average frost-free period is 250 to 330 days.

This unit is about 40 percent Bruhel loam, 30 percent Abalobadiah loam, and 20 percent Vizcaino loam. The three soils occur as areas so intricately intermingled that it was not practical to map them separately at the scale used.

Included with these soils in mapping are small areas of Mallopass and Windyhollow soils. Also included are small areas that have slopes of 30 to 50 percent. Included areas make up about 10 percent of the total acreage of the unit. The percentage varies from one area to another.

4 of 2

The Bruhel soil is deep or very deep to weathered bedrock and is well drained. It formed in material derived from sandstone. Typically, the surface layer is dark grayish brown loam about 4 inches thick. The upper 17 inches of the subsoil is grayish brown clay loam. The lower 20 inches is brown gravelly loam and gravelly clay loam. Soft sandstone bedrock is at a depth of 41 inches.

Permeability is moderate in the Bruhel soil. Available water capacity also is moderate. The effective rooting depth is limited by weathered bedrock at a depth of 40 to 70 inches. Surface runoff is medium or rapid, and the hazard of water erosion is moderate if the surface is left bare.

The Abalobadiah soil is moderately deep to weathered bedrock and is well drained. It formed in material derived from sandstone. Typically, the surface layer is grayish brown loam about 13 inches thick. The upper part of the subsoil is brown sandy clay loam about 8 inches thick. The lower part of the subsoil is very pale brown gravelly sandy loam about 18 inches thick. Soft, fractured sandstone is at a depth of about 39 inches.

Permeability is moderate in the Abalobadiah soil. Available water capacity is low. The effective rooting depth is limited by weathered bedrock at a depth of 20 to 40 inches. Surface runoff is medium or rapid, and the hazard of water erosion is moderate if the surface is left bare.

The Vizcaino soil is shallow to weathered bedrock and is well drained. It formed in material derived from sandstone. Typically, the surface layer is grayish brown loam about 2 inches thick. The upper 11 inches of the subsoil is dark grayish brown sandy clay loam. The lower 4 inches is dark grayish brown gravelly clay loam. Soft sandstone bedrock is at a depth of about 17 inches.

Permeability is moderate in the Vizcaino soil. Available water capacity is very low. The effective rooting depth is 12 to 20 inches. Surface runoff is medium or rapid, and the hazard of water erosion is moderate if the surface is left bare.

The type of soil existing at the site is not present on the USDA's Natural Resource Conservation (NRC) list of hydric soils. The soil viewed at the site is consistent with the above description. There are no hydric soil indicators present at this site. The color of the soil is listed in Munsell soil color chart as 10 YR 3/3 dark grey brown. The soil color outside the study area is an identical color and chroma indicating water is not present long enough

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to induce any of the chemical reactions needed to create or maintain wetland conditions

#### Hydrology determination

The hydrology of the site does not meet wetland criteria. The study area is not natural, in that it has been altered by human activities. As stated above the site lies directly east of highway one. The highway's position is close enough to interrupt the natural hydrology of the area. Upon investigation of the soil Kpff determined that none of the primary or secondary indicators are present. Kpff obtained a copy of Carl Rittiman and Associates "wet weather monitoring" data sheets (page x of Appendix B) to determine if at any point during the year water reached the depth required to qualify as a wetland. The data sheets show that water did not reach the upper 70 inches of soil at any point during the year.

#### **4. Conclusion**

The Quinton study area does not function as a wetland. The *Equisetum* found at the site do not depend on wetland conditions to survive. *Equisetum* are capable of having deep and or shallow rooting systems and are therefore physiologically able to function as a hydrophyte when wetland conditions exist or as an upland species when the soil is not wet for a significant period of time.

Saturated soil conditions are not found at this site during the wet or dry season. Since the water table is not at, near or above the land surface during the wet season it could not support the hydrophytic plants included in the County's definition of a wetland. "*Wetlands are land where the water table is at, near or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes*". Because none of the wetland ecology conditions exist at the site, the hydrophytes growing at the site are not functioning as hydrophytes if their root systems never encounter saturated conditions.

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DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>  
POST OFFICE BOX 47  
YOUNTVILLE, CALIFORNIA 94599  
(707) 944-5500



January 24, 2005

Mr. Charles N. Hudson, Senior Planner  
County of Mendocino  
Planning and Building Services  
790 South Franklin Street  
Fort Bragg, CA 95437  
Via Fax: (707) 961-2427

REC

JAN 26 2005

PLANNING & BUILDING SERV  
FORT BRAGG CA

EXHIBIT NO. 9

APPLICATION NO.

A-1-MEN-06-042  
LOST COAST TRAIL RIDES

DEPARTMENT OF FISH &  
GAME LETTER (JANUARY 24,  
2005) (1 of 2)

Dear Mr. Hudson:

Quinton Coastal Development Use (CDU) 2-03  
Mendocino County

Department of Fish and Game (DFG) staff and Paula Deeter, Mendocino County Planning Department, attended a site-visit on January 13, 2005, to the above Quinton property. DFG is identified as a Trustee Agency pursuant to the California Environmental Quality Act (CEQA) Section 15386 and is responsible for the conservation, protection and management of the State's biological resources.

The site is located off Highway 1, approximately four miles south of Westport at Mile Post Marker 74.09 in Mendocino County. DFG was given the opportunity to conduct a site-visit with the County to assess the proposal to build a 12-space parking lot to facilitate a proposed horseback riding business.

The proposed parking lot site is a sloped wetland drainage immediately downhill from Kibesilla Creek. The site's ground was wet with a *Juncus* sp. growing throughout the immediate area. It is DFG's understanding that the parking lot could be moved southward to avoid impact to this area entirely and still allow the applicant their project. In that regard, DFG recommends that wetland delineation be done to allow the applicant to stay 100 feet outside of the wetland area.

The project as currently proposed may be within Federal jurisdiction and a Federal permit may be required. All proposed discharges of dredged or fill material into waters of the United States must be authorized by the U. S. Army Corps of Engineers

Mr. Charles N. Hudson  
January 24, 2005  
Page 2

(Corps) pursuant to Section 404 of the Clean Water Act (CWA) (33 U.S.C. Section 1344). Waters of the United States generally include intermittent streams and wetlands.

If you have questions or comments regarding this letter, please contact Mr. Liam Davis, Environmental Scientist, at (707) 944-5529; or Mr. Scott Wilson, Habitat Conservation Supervisor, at (707) 944-5584.

Sincerely,

Signature on File

Robert W. Floerke  
Regional Manager  
Central Coast Region

cc: Jane Hicks, Chief  
North Section Branch  
U. S. Army Corps of Engineers  
333 Market Street, 8<sup>th</sup> Floor  
San Francisco, CA 94105-2197

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# Jim Glomb

Geotechnical and Environmental Consulting, Inc.

152 Weeks Way • Sebastopol, CA 95472 • Phone 707-237-2703 Fax 707-237-2659

February 17, 2006  
Project 940

Mr. Gary Quinton  
31901 Bruhel Point Road  
Fort Bragg, CA 95437

## EXHIBIT NO. 10

### APPLICATION NO.

A-1-MEN-06-042  
LOST COAST TRAIL RIDES  
GEOTECHNICAL  
INVESTIGATION REPORT (JIM  
GLOMB, FEBRUARY 17, 2006)  
(1 of 4)

RECEIVED  
MAR 07 2006

BY  
PLANNING & BUILDING SERVICES  
Ukiah, CA 95482

RE: **Geotechnical Investigation Report**  
Proposed Fire Road/Horse Trail  
Kibesillah Hill  
Westport, California  
APN 015-080-041

Dear Mr. Quinton:

We are pleased to submit our geotechnical investigation report for the proposed fire road/horse trail on the Quinton property. The proposed project consists of construction of unpaved approximately 1 ¼ mile long roadway to provide fire vehicle and horse riding access.

The purposes of our work have been to investigate the geologic and soil conditions along the proposed driveway alignment and to provide geotechnical recommendations for the proposed grading.

## SCOPE

The scope of our work consisted of:

1. Review of geotechnical data pertaining to the site and vicinity;
2. Geotechnical field reconnaissance of the site and vicinity;
3. Exploration of subsurface conditions by excavation of 4 test pits at the site;
4. Geotechnical analysis of field data and grading plans.
5. Preparation of this report with our findings, conclusions and recommendations.

## DEVELOPMENT PLAN

According to a grading plan dated 5/17/04, prepared by kpff Consulting Engineers, the proposed 12 foot wide, 1¼ mile long roadway will traverse southward from Bruhel Point Road along steep slopes, up to about 1:1(horizontal:vertical), and gently sloping ridgetops. Cut slopes are planned at a gradient of 1:2 (horizontal:vertical). The maximum proposed cut slope heights are approximately 12 feet.

### SITE CONDITIONS

The proposed alignment traverses steep west and east facing natural slopes that vary from gradients of 3:1 to 1:1 (horizontal:vertical) and level to gently sloping ridgetops. Vegetation along the proposed driveway alignment consists chiefly of dense chapparral including scrub oaks, manzanita, native grasses and poison oak. Drainage is via sheet flow towards the west and east. Highway 1 is located downslope offsite about 1/3 mile to the west and Kibesillah Creek is located downslope to the east about 1/4 mile. No structures other than livestock fencing and a few motorcycle trails are present along or adjacent to the proposed alignment.

### GEOLOGIC SETTING

Our site investigation included geologic reconnaissance and mapping of existing roadcuts and soil/bedrock exposures along the alignment and in nearby areas. Also, four hand dug borings were drilled along the alignment. Our reconnaissance mapping and borings indicate that sloping portions of the alignment are generally underlain by about 3 feet of erodible topsoil and colluvium. Underlying the soils on slopes and at the surface on ridgetops is weathered, fractured, friable, variably bedded sandstone bedrock.

### CONCLUSIONS

Based on our field work, literature review and analyses, we conclude that the subject site is geotechnically suitable for construction of the planned fire road/horse trail. It must be acknowledged, however, that road cuts will be subject to erosion and sloughing that will require periodic maintenance. The following recommendations should be implemented in the construction phase of the roadway.

### RECOMMENDATIONS

We recommend that the entire proposed alignment, where on slopes, be graded as a full bench cut. Cutslope gradients should not exceed 1:2 (horizontal:vertical). Tops of cuts exposing erodible sediments should be rounded and hydroseeded to reduce erosion and sloughing. Roads with grades less than 7% should be outsloped at 5%. When road grades exceed 7%, roads should instead be waterbarred.

The engineering geologist should map the geologic condition of cutslopes during grading. In the case where unstable geologic conditions, such as slide prone out-of-slope bedding attitudes or deep soft soils are encountered, additional mitigation measures, such as laying back slopes or constructing stability fills, may be required.

The spoils from the full bench cuts should be transported to disposal areas within your property and compacted as specified below in the general grading recommendations.

#### Site Preparation and Grading

##### **General**

Grading is most economically performed during the summer months when the on-site soils are driest. Delays should be anticipated in site grading performed during the rainy season due to excessive soil moisture. Special and comparatively expensive construction procedures should be anticipated if grading must be completed during the winter.

##### **Clearing**

Areas to be graded or receive improvements should be cleared of unwanted tree stumps, debris, or other deleterious material, and then stripped of the upper soils containing root growth and organic

2 of 4

matter. We anticipate that the required depth of stripping will generally be about 4 inches. Deeper stripping, up to an estimated 3 feet, may be required to remove localized concentrations of organic matter, such as tree roots. The cleared materials should be removed from the site; strippings may be stockpiled for reuse as topsoil in landscaping areas.

#### **Overexcavation**

Surface soil should be overexcavated down to dense/stiff soil or bedrock in areas designated for placement of fill. Difficulty in achieving the recommended minimum degree of compaction described below should be used as a field criterion by the engineering geologist to identify areas of unstable soils that should be removed and replaced as properly moisture conditioned and compacted fill. The depth and extent of overexcavation should be approved in the field by the engineering geologist.

#### **Subgrade Preparation**

Exposed soils designated to receive engineered fill should be scarified to a minimum depth of 8 inches, and compacted to at least 85 percent relative compaction in accordance with ASTM test designation D 1557. Fill may be placed directly on native on site soils.

#### **General Engineered Fill**

Approved soils should be free of rocks or lumps greater than 4 inches in largest dimension and organic materials. Fill material should be approved by the engineering geologist prior to use.

General engineered fill should be placed in level lifts not exceeding 8 inches in loose thickness. Each lift should be compacted to at least 85 percent relative compaction in accordance with ASTM test designation D 1557. Fill moisture content and density should be verified by the geotechnical consultant.

#### **Cutslopes**

Cutslopes along the proposed roadway should be mapped by the engineering geologist to verify stable geologic conditions. In the case where unstable geologic conditions are encountered, cutslopes should be layed back or stabilized with engineered fill compacted as specified above. The fill should be benched into competent materials and should have a minimum horizontal thickness of 6 feet. The fill should be equipped with subdrains as specified in the field by the engineering geologist.

#### **Fillslopes**

Fillslopes should be constructed as specified above. In addition, the fills should have a basal key embedded at least 2 feet into competent materials, benches inclined at 2% into slope with vertical backs and subdrains as specified by the engineering geologist in the field during construction. A typical fill on slope detail is shown on Plate 4.

#### **Maintenance**

Periodic slope maintenance will be required.

#### **Supplemental Services**

A geotechnical consultant should be retained to observe site grading as well as to perform appropriate field testing of grading.

If, during construction, subsurface conditions different from those described in this report are observed, or appear to be present beneath excavations, we should be advised at once so that these conditions may be reviewed and our recommendations reconsidered. The recommendations made in this report are contingent upon our notification and review of the changed conditions.

If more than 18 months have elapsed between the submission of this report and the start of work at the site, or if conditions have changed because of natural causes or construction operations at or adjacent to the site, the recommendations of this report may no longer be valid or appropriate. In such case, we recommend that we review this report to determine the applicability of the conclusions and

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recommendations considering the time elapsed or changed conditions. The recommendations made in this report are contingent upon such a review. These services are performed on an as-requested basis and are in addition to this geotechnical investigation. We cannot accept responsibility for conditions, situations or stages of construction that we are not notified to observe.

### LIMITATIONS

This report has been prepared for the exclusive use of Mr. Quinton and his consultants for the proposed project described in this report. Our services consist of professional opinions and conclusions developed in accordance with generally-accepted engineering geologic and geotechnical engineering principles and practices. We provide no other warranty, either expressed or implied. Our conclusions and recommendations are based upon the information provided us regarding the proposed construction and professional judgment. Verification of our conclusions and recommendations is subject to our review of the project plans and specifications, and our observation of construction.

Site conditions and cultural features described in the text of this report are those existing at the time of our field work and may not necessarily be the same or comparable at other times.

The scope of our services did not include an environmental assessment or an investigation of the presence or absence of hazardous, toxic or corrosive materials in the soil, surface water, groundwater or air, on or below, or around the site, nor did it include an evaluation or investigation of the presence or absence of wetlands.

We trust this provides the information you require at this time. If you have questions or wish to discuss this further, please call.

Yours very truly,

Jim Glomb Consulting, Inc.

Signature on File \_\_\_\_\_

Jim Glomb  
Engineering Geologist, C.E.G. 1154



4 of 4



Consulting Engineers

September 29, 2004

Gary Quinton  
31901 Bruhel Point Road  
Fort Bragg, CA 95437

RE: Fire Road  
31901 Bruhel Point Road  
Fort Bragg, CA 95437

EXHIBIT NO. 11

APPLICATION NO.

A-1-MEN-06-042

LOST COAST TRAIL RIDES

FIRE ROAD LETTER (KPFF,  
SEPTEMBER 29, 2004) (1 of 2)

Dear Gary

The following recommendation should be followed for construction of a fire road as indicated in the attached maps and details (attachments 1 through 4). Construction and erosion control elements should be completed within the dry season. We recommend that no construction take place between October 15<sup>th</sup> and April 15<sup>th</sup>. Yearly weather patterns may require modifications to this schedule. Periodic inspections of the site should be performed during the construction. Please forward your construction schedule to us so that we may set up inspections that will coincide with mile stones in the construction. Note that this document is not to be considered grading plan. The access road should be constructed by an operator with a significant amount of experience in cutting roads of this nature.

#### **Road Construction**

The majority of the area proposed for road construction is located on debris slide slopes, as described on California Department of Mines and Geology topographic maps. This geologic feature is typically composed of loose, unconsolidated soils that are highly erosive and prone to mass movement. With this in mind, any construction on slopes exceeding 50% should utilize full bench construction (see attachment 2). This will require an excavator and dump truck to end haul material to a stable location such as flat ridge tops. On slopes over 30% a three-quarters bench should be utilized (see attachment 3). This will require an excavator that may move material and incorporate it into the fill and the road prism. Any slopes less than 30% may utilize a side cast fill construction (see attachment 4).

Constructing roads with a tractor, only, on slopes greater than 30% may result in unstable fills that would be prone to failure. In addition to these guidelines out sloping should be utilized, where applicable. In sloping with ditch relief will increase the cost of construction and may result in a less stable road surface.

Gary Quinton  
Fire Road  
31901 Bruhel Point Road  
Fort Bragg, CA  
Page 2 of 2  
September 29, 2004

### ***Road Drainage Structures***

Drainage structures should be installed on all portions of the road. The soil types in the area are described as highly to severely erosive. Proper drainage will allow for greater stability of the road surface and fills, and will lessen the need of frequent maintenance. Structures may be in the form of water bars. Where slopes are less than 25% water bars should be installed every 75-feet. Where slopes are greater than 25% they should be installed every 50-feet. Rolling dips may be utilized as an alternative to water bars. They will most likely require the use of a grader in addition to a tractor.

### ***Road Stabilization***

The soil exposed on the newly constructed road should be stabilized prior to the first rain events. This can be achieved by utilizing several methods. Seeding and mulching the exposed areas of the road surface and fill materials will be the most cost effective. Mulch should be applied to a depth of at least 2-inches with a 90% coverage rate. As an alternative to mulch, straw brush or logging slash may be utilized. Use of the road by vehicles or animals is highly discouraged during the winter and spring. No use will ensure that minimal damage will occur to drainage structures and will also ensure the potential of native vegetation regenerating. Rocking of the roads is encouraged if road use is to occur in the winter and spring. This will allow for greater road stability and access for any vehicle at any time of the year.


### ***Other Recommendations***


These recommendations were completed as a result of a CDF exemption in regards to specific road construction guidelines. The official guidelines are outlined in CDF's response to the Fire Safe application that the landowner completed. It would be in the landowner's best interest to follow those guidelines in order to allow for safe vehicular access. Further improvement of the fire road for a change in use is not advised. The above guidelines are for infrequent vehicular access only.

There are also existing trails which we reviewed last year for which we provided erosion control measures. The trails were monitored through the winter and showed no appreciable signs of erosion. We recommend that you continue to maintain the trails as previously prescribed and contact us in the event of any visible erosion which concerns you.

If you have any questions or need further information, please call me.

Sincerely, 

Signature on File 

Eric Valencia,   
Associate

2022



**Ed McKinley**  
**Amy Wynn**  
Permit and Land Use Consultants  
P.O. Box 488 Fort Bragg, CA 95437  
Telephone/Fax: 707 964 2537  
edmc@mcn.org amywynncdp@mac.com

December 14, 2006

Bob Merrill  
California Coastal Commission  
c/o San Francisco Office  
45 Fremont Ave Suite 2000  
San Francisco, CA 94105

<b>EXHIBIT NO. 12</b>
<b>APPLICATION NO.</b>
A-1-MEN-06-042
LOST COAST TRAIL RIDES
CORRESPONDENCE FROM
APPLICANT'S AGENT
(DECEMBER 14, 2006) (1 of 4)

RE: A-1-MEN-06-046

Dear Mr. Merrill,

We would like to respond to the appeal filed by Judith Vidaver. We believe that findings can be made to support a No Substantial Issue recommendation. I will list our responses in the order of items presented in the appeal form.

1. LCP 3.5-1 Scenic issues. The appellant's complaint is not specific but quotes scenic policies. Pertinent parts appear to be, "...development shall be sited and designed to protect views..." "New development in highly scenic areas...shall be subordinate to the character of its setting."

**Response.**

The development proposed has been designed to protect views to and along the ocean and to be subordinate to its surrounding. It will be placed adjacent to a stand of large cypress trees and due to the orientation of the development site to Highway 1 the barn will be shielded from view of highway travelers until vehicles are approximately 300' north of and 600' south of the site. When viewed from the CalTrans trails, and facing away from the ocean, one will see a small barn next to a large stand of trees, all of which are dwarfed by an approximately 400' high ridge immediately behind them.

A location within the large stand of cypress trees was considered early on and rejected because Monterey cypresses of this age and height tend to drop very large branches that could easily crush a section of the barn.

The proposed barn height is limited to 18' above average natural grade. The siding material will be weathered redwood board and batt material. Roofing to be dark green. The county Use Permit approval includes a condition requiring a landscape plan with provisions for new screening plants around the structure and in strategic locations along the highway.

Response to appeal of local approval of Use Permit.

A-1-MEN-06-046

Page 1 of 4

This development will be on the east side of the highway and is adjacent to a steep hillside. The barn will not break a ridgeline nor will it have expansive views behind it.

A barn and a horse corral are development tourists expect to see in rangeland. Barns and livestock are common along rural highways. Farm or rangeland structures are visually compatible with the open spaces in these areas.

This development compliments the CalTrans parking lot because the parking lot by itself is a modern convention. Placing the barn and corral immediately adjacent to the parking lot gives a visual purpose to the parking lot even though the two items are separately owned. It concentrates development and parked vehicles for both functions as opposed to the two activities being spread out laterally along the highway.

The visual points of interest in this area are on the west side of the highway. The attention of visitors at the CalTrans site is drawn to the west to the broad view of the ocean breakers. Most of the trail system and the accessible tide pools are to the north which places a very large stand of trees between those points and the proposed barn.

2. LCP 3.5-3. Scenic issues. "Any development permitted in [HAS's] shall provide for the protection of ocean and coastal views from public areas..." "This area is the heart of the HAS...(between) Tem Mile and Hardy Creek"

Response.

The proposed development was determined by county planning staff and by a unanimous vote of the Mendocino County Planning Commission to be consistent with LCP Highly Scenic policies and that the development will be subordinate to its setting. As stated above, the development is tucked next to a stand of large trees and against a hillside and additional screening vegetation is required.

The site is not the only visible development in the area quoted. At least two dense residential subdivisions and scattered residential, visitor serving and farm type structures exist along the road section quoted.

3. LCP 3.5-4. Structures in Highly Scenic Areas. "Except for farm buildings, development in the middle of large open areas shall be avoided if an alternative site exists."

Response.

The quoted section begins with, "Except for farm buildings...". We believe the intent of the use of the term, farm buildings, would include barns and accessory structures commonly found on rangeland.

There is no alternative location on the subject parcel for a business open to the

public. Likewise there is no feasible alternative on adjacent parcels under the same ownership. The owner's home site, on a separate parcel, is the only other level accessible site on the combined parcels. The major problem with locating a business at the home site is that it is accessible only by a very steep, one-lane private road. That road has steep banks and no guardrails. When two vehicles meet one of them must back up or downhill to one of the few wide spots available for passing.

This appeal item states that this development will be in the middle of a large open area, however, the visible area of land at this site is relatively small compared to the large open spaces between areas of development along this section of the coast. We believe the intent of the LCP section quoted is that a building should not be in the middle of an expansive area visible to the public. This site, on the east side of the highway, is not expansive and, perhaps more importantly, the proposed development is not in the middle of the available open space at all. It is adjacent to the large trees and the hillside.

California Coastal Records Project photo # 200503000 illustrates this point.

4. LCP 3.5-6. Development in Highly Scenic Areas. "Development on a parcel located partly within the Highly [Scenic Area]...shall be located on the portion outside the viewshed if feasible." "...It is clear that portions of the parcel are not visible to the public."

Response.

As stated above, there is no feasible alternative site on this parcel or contiguous parcels under the same ownership.

5. LCP 3.9 (to include Section 30250). Proximity to developed areas. "New...development...shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or...in other areas where it will not have significant adverse effects..." "The LCP specifies areas able to accommodate new development as: Cleone, Noyo, South Fort Bragg, Mendocino and Gualala."

Response.

We believe the quoted sections do not apply because, but not limited to, the Rangeland zoning specifically allows the proposed development as a Conditional Use. See Coastal Zoning Code Sec. 20.368.015 (C) Coastal Commercial Use Types:

Animal Sales and Services: Horse Stables; (and),  
Commercial Recreation: Outdoor Sports and Recreation

6. LCP 3.7-4. LUP amendment needed for visitor serving facility.

**Response.**

We believe this section applies to visitor overnight accommodations including Inns, Motels, Hotels, Resorts and Campgrounds. The proposed development falls under the LCP Rangeland zoning Commercial Use Types quoted above.

In addition, the California Coastal Commission previously approved the Pacific Star Winery located ½ mile to the south which includes a much larger footprint of development, taller building, is on the west side of the highway with an ocean view as a backdrop, and offers visitor tours and a wine tasting room. The development proposed in this Use Permit is far smaller in size and scope and is sited much less intrusively.

We believe that the visual aspect of this proposed business will be welcomed by the general public as being in character with and subordinate to the rural setting it is located in and that the horse riding business will provide needed additional low cost coastal recreation opportunities.

Amy and I will be in Ukiah Friday, December 14<sup>th</sup>, but we will be available by cell phone.

Amy Wynn: 707 813 8474  
Ed McKinley: 707 367 2485

Please don't hesitate to call us if you have questions or need additional information.  
Thank you.

Sincerely,

Signature on File

Ed McKinley

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APPELLANTS:

Judith Vidaver on behalf of Friends of the Ten Mile  
and Sierra Club Mendocino

SUBSTANTIVE FILE  
DOCUMENTS:

1) Mendocino County CDU No. 2-2003; and  
2) Mendocino County Local Coastal Program

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**SUMMARY OF STAFF RECOMMENDATIONS:**

**1. Summary of Staff Recommendation: Substantial Issue**

The staff recommends that the Commission, after public hearing, determine that a SUBSTANTIAL ISSUE exists with respect to the grounds on which the appeal has been filed, and that the Commission hold a *de novo* hearing, because the appellant has raised a substantial issue with the local government's action and its consistency with the certified Local Coastal Program (LCP).

The development, as approved by the County, consists of (1) construction of a 3,564-square-foot barn with fencing, well, restroom facilities, and 12-car parking area, (2) operation of the barn as a commercial recreational horse stable for public trail rides, and (3) development of new and maintenance of existing trails. The County denied the portion of the project proposing construction of a fire vehicle and horse access road.

The project site is located approximately four miles south of the village of Westport on the east side of Highway One near its intersection with Bruhel Point Road. The subject property consists of approximately 141 acres situated along the ridge and hillside that forms Kibesillah Hill and Kibesillah Creek watershed. The property is planned and zoned Rangeland (RL) and is located in a designated "highly scenic area." The surrounding area is largely characterized by its undeveloped, open expanses of steep, grassy ridgelines on the east side of Highway One and coastal terraces on the west side of the highway that afford spectacular, unobstructed views to and along the ocean.

The subject property is developed with an existing residence and ranch at the top of Bruhel Road located out of view from Highway One. The site of the County-approved commercial stable operation is located directly adjacent to Highway One at the base of an approximately 400-foot-high hillside that slopes steeply upward from the highway behind the project site and is largely vegetated with grasses and low shrubs. A grove of mature Cypress trees is located directly adjacent to the south of the barn site. Immediately west across the highway from the project site is a Caltrans vista point that provides public access to coastal trails and includes a parking lot, informational signs, and benches.

The primary issue raised by the appellant is an allegation that the County's approval of the project is inconsistent with requirements of the Mendocino County LCP relating to the protection of visual resources. The appellant contends that the approved project is

inconsistent with policies of the LUP requiring protection of scenic and visual qualities of Mendocino County, including LUP Policy 3.5-1 and 3.5-3 requiring that new development in highly scenic areas be (1) sited and designed to protect views to and along the ocean and scenic coastal areas, including highways, roads, coastal trails, and vista points, (2) visually compatible with the character of surrounding areas, and (3) subordinate to the character of its setting. Additionally, the appellant contends that the approved project is inconsistent with the development standards of LUP Policy 3.5-4 requiring that, except for farm buildings, development in the middle of large open areas shall be avoided if an alternative site exists. Lastly, regarding visual issues, the appellant contends that the approved project is inconsistent with the development standards of LUP Policy 3.5-6 requiring that development on a parcel located partly within the highly scenic areas delineated on the Land Use Maps shall be located on the portion of the property located outside the viewshed if feasible.

The appellant raises two additional contentions including that the approved project is inconsistent with (1) LUP Policy 3.7-4 that requires, in part, that any visitor serving facility not shown on the LUP Maps shall require an LUP amendment except in Rural Village (RV) and Commercial (C) Land Uses, and (2) text language of the LUP and Section 30250 of the Coastal Act regarding locating new development.

With regard to the appellant's contention alleging an inconsistency of the approved development with the visual resource provisions of the certified LCP, the approved development would be highly visible from northbound Highway One and entirely visible from the vista point and public access trails located on the west side of the highway directly across from the subject site. The views to and along the coast from this stretch of rolling, winding Highway One are sweeping and vast due to the undeveloped nature of the area. There is very little development located on either side of the highway for many miles in each direction with the exception of a few scattered residences, and a winery located approximately ½ mile south of the project site on the west side of the highway. The open coastal terraces to the west and steep, grassy hillsides to the east create the rural, agricultural character of the area.

The approved project was conditioned by the County to require that the applicant retain the existing evergreen trees that provide a visual buffer from Highway One and submit a landscaping plan that provides for planting vegetation along the south and west sides of the barn. However, Commission staff viewed the story poles erected at the site and believe that existing and new trees and vegetation would not effectively soften or screen the development to a degree that would significantly reduce the prominence of the approved development in a manner that would cause the development to be consistent with and subordinate to the character of the highly scenic area as required by LUP Policy 3.5-1 and 3.5-3. As noted above, the character of the area is largely defined by the very limited amount of development on either side of Highway One for many miles in each direction surrounding the project site. The commercial use of the horse stable would introduce large trucks, recreational vehicles, and trailers concentrated in the 12-car parking area as well as signs, and lighting. In addition to the fact that it would be the

only visible commercial development for many miles along an otherwise undeveloped coastal corridor, the visual prominence of the approved development would also be exacerbated by the fact that the commercial stable would be sited approximately 50 feet from the edge of Highway One unlike the few other existing structures along this stretch of highway, which are set back significantly further from the road.

The County's findings of approval do not include any analysis of the project's compatibility with the character of the area, or its subordination to the character of its setting as required by LUP Policy 3.5-1 and 3.5-3. Additionally, the County's findings do not include an analysis of all potential feasible alternatives that would locate development outside of the highly scenic viewshed as required by LUP Policy 3.5-6.

For all of the above reasons, staff recommends that the Commission find that the appeal raises a substantial issue of conformance of the project as approved by the County with the certified LCP policies with respect to the contentions raised concerning the protection of visual resources.

Staff recommends that the Commission find that the allegation regarding the inconsistency of the project as approved with Coastal Act Section 30250 and the prefatory text of LUP Section 3.9 regarding Coastal Act Section 30250(a) is a contention that is not based on the approved project's consistency with the policies and standards of the County's LCP, and as such, is an invalid ground for filing an appeal.

Staff further recommends that the Commission find that the allegation that the project is inconsistent with LUP Policy 3.7-4 regarding visitor serving facilities raises no substantial issue because horse stables are not a type of visitor serving facility addressed by LUP Policy 3.7-4. Stables are a conditional use in the Rangeland (RL) land use classification and zoning district and the County granted a Coastal Development Use Permit for the approved project on this basis.

**The motion to adopt the staff recommendation of Substantial Issue is found on page 9.**

## **2. Summary of Staff Recommendation *De Novo*: Denial**

Staff recommends that the Commission **DENY** the coastal development permit for the proposed horse stable, access road, and trails on the basis that the project, as proposed by the applicant, is inconsistent with Mendocino County's certified LCP regarding the protection of visual resources, water quality, environmentally sensitive habitat areas, and geologic stability.

The proposed project involves the development of a commercial horse riding operation including construction of an 18-foot-high, 3,564-square-foot barn, a 12-car parking area, well, and restroom facilities. The project also includes developing new, and maintaining

existing, trails and fencing and constructing a 1.25-mile fire vehicle and horse access road.

The project site is located approximately four miles south of the village of Westport on the east side of Highway One near its intersection with Bruhel Point Road. The subject property consists of approximately 141 acres situated along the ridge and hillside that forms Kibesillah Hill and Kibesillah Creek watershed. The property is designated and zoned Rangeland (RL) under both the Land Use Plan and Coastal Zoning Code and is located in a designated “highly scenic area.”

The subject property is developed with an existing residence and ranch at the top of Bruhel Road located out of view from Highway One. The site of the proposed commercial horse stable facility is located directly adjacent to Highway One at the base of the ridge. The approximately 400-foot-high hillside slopes steeply upward from the highway behind the project site and is largely vegetated with grasses and low shrubs. A grove of mature Cypress trees is located directly adjacent to the south of the barn site. Immediately west across the highway from the project site is a Caltrans vista point that provides public access to a network of coastal trails and includes a parking lot, informational signs, and benches.

As noted above, the project as proposed is inconsistent with Mendocino County’s LCP regarding the protection of (1) visual resources, (2) water quality, (3) environmentally sensitive habitat areas, and (4) geologic stability.

The primary visual resource issue raised by the proposed project is whether the commercial horse riding stable, located in a highly scenic area, would be visually compatible with, and subordinate to, the character of its setting, and protect coastal views from public areas as required by LUP Policies 3.5-1 and 3.5-3. The development site is located on the east side of Highway One, and thus would not block views to or along the ocean.

The surrounding area is largely characterized by its undeveloped, open expanses of steep, grassy ridgelines on the east side of Highway One and coastal terraces on the west side of the highway that afford spectacular, unobstructed views to and along the ocean. The views to and along the coast from this stretch of rolling, winding Highway One are sweeping and vast due to the undeveloped nature of the area. There is very little development located on either side of the highway along an approximately 12 mile stretch of highway from Hardy Creek to the Ten Mile River, with the exception of a few scattered residences, a winery located approximately ½ mile south of the project site, and the clustered development that comprises the small town of Westport. There is no visible commercial development along the east side of this segment of the highway and the proposed development would be the only visible commercial development for many miles along an otherwise undeveloped coastal corridor. The commercial use of the horse stable would introduce large trucks, recreational vehicles, and trailers concentrated in the 12-car parking area as well as signs, and lighting. Furthermore, the visual prominence of



the proposed development would also be exacerbated by the fact that the horse barn would be sited approximately 50 feet from the edge of Highway One, unlike the few other existing structures along this stretch of highway, which are set back significantly further from the highway. Based on a site visit by Commission staff and viewing the applicant's story poles from the highway and public vista point, it is clear that existing and new trees and vegetation would not effectively soften or screen the development to a degree that would significantly reduce the prominence of the approved development in a manner that would cause the development to be consistent with and subordinate to the character of the highly scenic area as required by LUP Policy 3.5-1 and 3.5-3.

Moreover, the application information suggests the applicant's commercial trail riding business has operated successfully in the recent past by transporting the horses from the applicant's existing barn located outside of a highly scenic area to other locations without the need for the proposed horse stable that would be located in the highly scenic area adjacent to Highway One. Therefore, staff believes that a feasible alternative exists that would avoid locating development in the highly scenic portion of the parcel as required by LUP Policy 3.5-6.

Regarding water quality, the site of the proposed stable facility drains to an existing Caltrans storm drain system located in Highway One. Storm water runoff is directed via a storm drain on the west side of the highway to a culvert that extends below the vista point parking lot and drains into a wetland located approximately 200 feet west of the project site and then eventually drains to the ocean. The LCP defines wetlands as a type of Environmentally Sensitive Habitat Area (ESHA) and sets forth specific standards for development in and adjacent to wetlands. LUP Policy 3.1-25 requires the protection of the biological productivity of coastal waters and Coastal Zoning Section 20.492.025 sets forth runoff standards and requirements for capturing, storing, and treating storm water runoff that drains to wetlands.

The proposed commercial horse stable would result in an increase in impervious surface at the subject site, which in turn would decrease the infiltrative function and capacity of existing permeable land on site. Reduction in permeable space therefore leads to an increase in the volume and velocity of storm water runoff that can be expected to leave the site. Confined animal facilities are one of the most recognized sources of non-point source pollutants since these types of developments have concentrated sources of animal wastes, which contain nutrients such as phosphorous and nitrogen as well as microorganisms such as coliform bacteria. The discharge of these pollutants to coastal waters can cause significant adverse cumulative impacts which reduce the biological productivity and the quality of coastal waters and wetlands, reduce optimum populations of marine organisms, and have adverse impacts on human health.

There is no evidence in the record that the applicant has prepared a drainage plan and/or a Storm Water Pollution Prevention Plan as required by Caltrans and the Regional Water Quality Control Board (RWQCB), respectively. The applicant did prepare a manure

management plan as required by the RWQCB. However, the plan includes only a very cursory discussion of the water quality impacts of the project and proposes to (1) spread manure over an eight acre area to the north and south of the proposed barn site adjacent to Highway One, and (2) prevent runoff from entering the storm drain system and wetland by use of a natural-forming berm barrier that, according to the plan, may take decades to form along the proposed fenceline between the barn site and the highway. The plan does not address how the manure waste would be kept out of the highway drainage system and away from the wetlands downstream of the culverts in the decades before such a natural berm builds up along the proposed new fence. In addition, the plan includes no hydrological analysis that evaluates how the existing drainage patterns would change as a result of the proposed development and no biological analysis of how such drainage impacts would affect the wetland ESHA receiving the site runoff.

In addition to potential impacts from the proposed horse stable discussed above, the proposed project also involves the construction of an approximately 1.25-mile fire vehicle and horse access road and the maintenance of existing and construction of new horse trails on the steep hillside rising above Highway One. According to geologic information contained in the administrative record, the subject hillside is largely comprised of debris slide slopes composed of loose, unconsolidated soils that are prone to mass movement. The soil types in the area are described as highly to severely erosive. Therefore, the proposed road and trail construction would increase erosion along the steep slopes that drain westward toward the highway storm drain system and wetland ESHA described above, thereby increasing the potential for sediment to be entrained in storm water runoff reaching the wetland and coastal waters beyond. Sedimentation increases turbidity which reduces the penetration of sunlight needed by aquatic vegetation that provides food and cover for aquatic species. Increased turbidity can cause disruptions to the reproductive cycle of aquatic species and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters and wetlands and reduce optimum populations of marine organisms in a manner that is inconsistent with the requirements of LUP Policy 3.1-25.

As proposed, the project fails to include provisions for drainage improvements that would store and dispose of manure in a manner that would prevent it from coming into contact with storm water or other runoff, and /or from entering receiving waters as required by the RWQCB. Additionally, as proposed, the project fails to include provisions for sediment basins, storage and controlled release of storm water runoff, or the capture and infiltration or treatment of storm water runoff as required by Coastal Zoning Code Section 20.492.025 for development that drains into environmentally sensitive wetland habitat.

Regarding the protection of ESHA, in addition to the wetland ESHA located on the west side of Highway One across from the project site discussed above, there is some question as to whether wetland habitat exists at the proposed site of the commercial horse stable as well. LUP Section 3.1-4 and CZC Section 20.496.025 limit the types of development

allowable within wetland areas and do not include commercial horse stables among the allowable uses. Additionally, LUP Section 3.1-7 and CZC Section 20.496.020 set forth requirements for development adjacent to environmentally sensitive habitat areas, including the establishment of adequate buffers.

The applicant's biological consultant indicates in a Wetland Delineation Study that a delineation was conducted in the dry season on July 20, 2004 to determine the presence of wetland habitat at the project site. The study indicates that the vegetation present at the site is dominated by 76% hydrophytes, 31% of which is comprised of giant horsetail (*Equisetum telamantea*). The biologist asserts that horsetail species have a unique physiology as a hydrophyte in that the root system is uniquely developed and is capable of growing root systems down to several meters to reach water. The study found that there were no hydric soil indicators at the site and that the hydrology of the site does not meet wetland criteria. Thus, the study concludes that "the presence of hydrophytic plants appears to be an anomaly in an otherwise upland site." However, in a following site visit by the Department of Fish and Game in the wet season on January 13, 2005, the DFG commented in a letter dated January 24, 2005 that, "The proposed parking lot site is a sloped wetland drainage immediately downhill from Kibesillah Creek. The site's ground was wet with a *Juncus sp.* growing throughout the immediate area...." The administrative record does not include a response from, or further study by, the applicant's biologist that addresses comments made by DFG suggesting that wetland habitat is present at the site. Thus, there is no conclusive evidence as to whether or not wetland habitat exists at the site of the proposed stable facility. As noted above, development of a horse stable facility within wetlands would be inconsistent with LCP limitations on allowable developments within wetlands.

Lastly, regarding erosion and geologic stability, the proposed project includes the construction of a 12-foot-wide, 1.25-mile long road to provide fire vehicle and horse riding access and the maintenance of existing and construction of new horse riding trails. The proposed road would traverse southward from Bruhel Point Road along steep west and east facing slopes that vary from gradients of 3:1 to 1:1 (horizontal:vertical), and gently sloping ridgetops. Development of the road would require excavating road cuts on the steep slopes. According to geologic information contained in the administrative record, the subject hillside is largely comprised of debris slide slopes composed of loose, unconsolidated soils that are prone to mass movement and are described on California Department of Mines and Geology topographic maps as highly to severely erosive.

The applicant has not prepared a grading plan for the proposed road, but two geologic information documents contained in the administrative record set forth generalized recommendations for road construction. Information prepared by the applicant's engineer indicates that constructing roads with a tractor on slopes greater than 30% may result in unstable fills that would be prone to failure. A report prepared by the applicant's geologist concludes that the subject site is geotechnically suitable for construction of the planned fire road/horse trail but states that "It must be acknowledged, however, that road cuts will be subject to erosion and sloughing that will require periodic maintenance."

Without a comprehensive grading plan, there is not sufficient evidence that the proposed road is planned and designed in a manner that would minimize erosion and ensure geologic stability. As stated above, the geologic information prepared for the project indicates that the subject site is extremely erosive and that road cuts would be subject to erosion and sloughing thereby suggesting that the proposed road would (1) exceed the natural existing erosion rate, (2) involve development on slopes over 30% resulting in on-going erosion, and (3) result in road cuts that create the potential for uncontrollable problems and adverse impacts from erosion and sedimentation in a manner that is inconsistent with the erosion standards set forth by CZC Section 20.492.015 (A), (E), and (F).

Staff notes that denial of the proposed permit would not eliminate all economically beneficial or productive use of the applicant's property or unreasonably limit the owner's reasonable investment backed expectations of the subject property. Denial of this permit request to construct a commercial horse stable at the base of the ridge adjacent to Highway One and to construct a road and trails on the steep hillside above the highway would still leave the applicant with the use of the existing residential and agriculture accessory structures and other available alternatives to use the property in a manner that would be consistent with the policies of the LCP.

Therefore, for all of the reasons discussed above, staff believes that the proposed development is not consistent with the certified LCP provisions intended to protect visual resources, water quality, environmentally sensitive habitat areas, and geologic stability. As there are no conditions that could be applied that could make the proposed project consistent with the LCP policies and standards discussed above, staff recommends that the Commission find that the permit application must be denied.

**The Motion to adopt the Staff Recommendation of Denial is found on page 10.**

**I. STAFF RECOMMENDATION, MOTION AND RESOLUTION ON SUBSTANTIAL ISSUE**

Pursuant to Section 30603(b) of the Coastal Act and as discussed below, the staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed. The proper motion is:

**Motion:**

I move that the Commission determine that Appeal No. A-1-MEN-06-042 raises No Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

**Staff Recommendation:**

Staff recommends a **NO** vote. Failure of this motion will result in a *de novo* hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

**Resolution to Find Substantial Issue:**

The Commission hereby finds that Appeal No. A-1-MEN-06-042 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency of the approved project with the Certified Local Coastal Plan.

**II. STAFF RECOMMENDATION, MOTION AND RESOLUTION ON DE NOVO**

Pursuant to Section 30625 of the Coastal Act and as discussed below, the staff recommends that the Commission determine that the development does not conform to the standards set forth in the certified Local Coastal Program and **deny** the permit. The proper motion is:

**Motion:**        **I move that the Commission approve Coastal Development Permit No. A-1-MEN-06-042 for the development proposed by the applicant.**

**Staff Recommendation of Denial:**

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**Resolution to DENY the Permit:**

The Commission hereby **denies** a coastal development permit for the proposed development on the ground that the development will not conform with the policies of the certified LCP. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

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## **PART ONE - SUBSTANTIAL ISSUE**

### **STAFF NOTES:**

#### **1. Appeal Process**

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603).

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within three hundred feet of the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, or within one hundred feet of any wetland or stream, or within three hundred feet of the top of the seaward face of any coastal bluff, or those located in a sensitive coastal resource area, such as designated "special communities."

Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program and, if the development is located between the first public road and the sea, the public access policies set forth in the Coastal Act.

The subject development is appealable to the Commission pursuant to Section 30603 of the Coastal Act because the approved development is (1) not designated the "principal permitted use" under the certified LCP, and (2) is located within a sensitive coastal resource area. Regarding the approved development's appealability because it is not a principal permitted use, stables are a conditional use in the Rangeland (RL) land use classification and zoning district and the County granted a Coastal Development Use Permit for the approved project on this basis. Regarding the approved development's appealability because it is located within a sensitive coastal resource area, Section 20.308.110(6) of the Mendocino County Zoning Code and Section 30116 of the Coastal Act define sensitive coastal resource areas as "those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity," including, among other categories, "highly scenic areas." The approved development is located within an area designated in the LCP on the certified land use map as a "highly scenic area," and, as such, is appealable to the Commission.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that the appeal raises no substantial issue of conformity of the

approved project with the certified LCP. Since the staff is recommending substantial issue, unless three Commissioners object, it is presumed that the appeal raises a substantial issue and the Commission may proceed to its *de novo* review.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised.

The only persons qualified to testify before the Commission on the substantial issue question are the applicants, the appellant and persons who made their views known to the local government (or their representatives). Testimony from other persons regarding substantial issue must be submitted in writing.

Unless it is determined that there is no substantial issue, the Commission will proceed to the *de novo* motion of the appeal hearing and review the merits of the proposed project. This *de novo* review may occur at the same or a subsequent meeting. If the Commission were to conduct a *de novo* hearing on the appeal, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program.

## **2. Filing of Appeal**

One appeal was filed by Judith Vidaver on behalf of Friends of the Ten Mile and Sierra Club Mendocino (Exhibit No. 4). The appeal was filed with the Commission in a timely manner on November 20, 2006, within 10 working days of receipt by the Commission of the County's Notice of Final Action on November 14, 2006 (Exhibit No. 3).

## **3. 49-Day Waiver**

Pursuant to Section 30621 of the Coastal Act, an appeal hearing must be set within 49 days from the date an appeal of a locally issued coastal development permit is filed. On, November 29, 2006, prior to the 49<sup>th</sup> day after the filing of the appeal, the applicant submitted a signed 49-Day Waiver waiving the applicant's right to have a hearing set within 49 days from the date the appeal had been filed.

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### **III. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

#### **A. APPELLANT'S CONTENTIONS**

The Commission received one appeal of the County of Mendocino's decision to approve the development from Judith Vidaver on behalf of Friends of the Ten Mile and Sierra Club Mendocino. The development, as approved by the County, consists of (1) construction of a 3,564-square-foot barn with fencing, well, restroom facilities, and 12-car parking area, (2) operation of the barn as a commercial recreational horse stable for public trail rides, and (3) development of new and maintenance of existing trails. The County conditioned its approval of the overall project to eliminate the portion of the project proposing construction of a fire vehicle and horse access road. The project site is located in a designated "highly scenic area" located approximately four miles south of Westport at mile post marker 74.09 on the east side of Highway One near its intersection with Bruhel Point Road, Mendocino County (APNs 015-070-55 & -56)

The appeal raises contentions alleging inconsistency of the approved project with the visual resource, new development, and visitor serving facility provisions of the County's certified LCP. The appellant's contentions are summarized below, and the full text of the contentions are included as Exhibit No. 4.

##### **1. Protection of Visual Resources**

The appellant contends that the approved project is inconsistent with policies of the LUP requiring protection of scenic and visual qualities of Mendocino County, including LUP Policy 3.5-1 and 3.5-3 requiring that new development in highly scenic areas be (1) sited and designed to protect views to and along the ocean and scenic coastal areas, including highways, roads, coastal trails, and vista points, (2) visually compatible with the character of surrounding areas, and (3) subordinate to the character of its setting.

Additionally, the appellant contends that the approved project is inconsistent with the development standards of LUP Policy 3.5-4 requiring that, except for farm buildings, development in the middle of large open areas shall be avoided if an alternative site exists. The appellant contends that the approved development is a commercial operation that would be sited in the middle of a large open area as seen from Highway One, the nearby vista point, and the public access trails located directly across the highway from the project site.

Lastly, regarding visual issues, the appellant contends that the approved project is inconsistent with the development standards of LUP Policy 3.5-6 requiring that development on a parcel located partly within the highly scenic areas delineated on the Land Use Maps shall be located on the portion outside the viewshed if feasible. The appellant asserts that although the designated highly scenic area is not clearly delineated



in the County's findings for approval of the project, it is clear that portions of the parcel are not within the public viewshed.

## **2. Locating New Development**

The appellant contends that the approved project is inconsistent with LUP Section 3.9 and Section 30250(a) of the Coastal Act. LUP Section 3.9 is a narrative discussion that includes reference to Coastal Act Section 30250(a) which requires that new development be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. The appellant contends that LUP Section 3.9 further lists specific existing developed areas able to accommodate new development and does not include the subject site, thereby suggesting that the subject site is not able to accommodate the development approved by the County.

## **3. Visitor-Serving Facility**

The appellant contends that the approved project is inconsistent with LUP Policy 3.7-4 that requires, in part, that any visitor serving facility not shown on the LUP Maps shall require an LUP amendment except in Rural Village (RV) and Commercial (C) Land Uses. The appellant contends that because the approved development is a commercial visitor serving facility not shown on the LUP maps, the project requires an LUP amendment.

## **B. LOCAL GOVERNMENT ACTION**

On October 19, 2006, the Mendocino County Planning Commission approved a Coastal Development Use Permit (CDU #02-2003) for the project with 23 special conditions included in their entirety in Exhibit No. 3.

Of particular relevance to the visual resource-related contentions of the appeal are Special Condition Nos. 5, 6, 14, 15, 16, 17, 18, and 20. These conditions require that: (#5) the applicant submit an exterior lighting plan prior to issuance of the building permit, (#6) no lighting be provided for any signage, (#14) the applicant submit final elevations and design plans of all signs to the County for review and approval showing the signs made of wood without illumination, (#15) all exterior building materials, colors, and finishes be of dark earth tone colors and blend with the natural surroundings, and that windows are of non-reflective glass, (#16) the barn structure be a maximum of eighteen feet high, (#17) the applicant submit a landscape plan providing for substantial visual screening of the structure and any other planned improvements including corral and water tanks from the highway, including plantings along the south and west sides of the facility, and requiring that evergreen trees surrounding the proposed structure be retained, and (#18) no tree removal or limbing of the existing trees occur without prior County review and

approval and that in the event that the screening trees die during the life of the project, they be replaced with similar species in the same location.

The applicant's project description in the application to the County also included the construction of an approximately 1.25-mile fire vehicle and horse access road extending from Bruhel Point Road (aka Walters Hilltop) and running north/south along a ridge and west-facing slope at the subject property. The County attached Special Condition No. 22 which prohibits development of the proposed fire access road due to erosion and geologic hazard concerns.

The decision of the Planning Commission was not appealed at the local level to the County Board of Supervisors. The County then issued a Notice of Final Action, which was received by Commission staff on November 14, 2006 (Exhibit No. 3). Section 13573 of the Commission's regulations allows for appeals of local approvals to be made directly to the Commission without first having exhausted all local appeals when, as here, the local jurisdiction charges an appeal fee for the filing and processing of local appeals. The County's approval of the project was appealed to the Coastal Commission in a timely manner on November 20, 2006, within ten working days after receipt by the Commission of the Notice of Final Local Action on November 14, 2006 (Exhibit No. 4).

### **C. COMMISSION'S APPEAL JURISDICTION OVER PROJECT**

As noted above, the County's action to approve a coastal development permit for the project with conditions was appealed to the Commission on the basis that the project (a) is located within a sensitive coastal resource area pursuant to Section 30603(a)(3) of the Coastal Act, and (b) is not designated the "principal permitted use" under the certified LCP.

#### **a) Sensitive Coastal Resource Area**

Section 30116 of the Coastal Act defines Sensitive Coastal Resource Areas as follows:

*"Sensitive coastal resource areas" means those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity. "Sensitive coastal resource areas" include the following:*

- (a) Special marine and land habitat areas, wetlands, lagoons, and estuaries as mapped and designated in Part 4 of the coastal plan.*
- (b) Areas possessing significant recreational value.*
- (c) Highly scenic areas. (emphasis added)*
- (d) Archaeological sites referenced in the California Coastline and Recreation Plan or as designated by the State Historic Preservation Officer.*
- (e) Special communities or neighborhoods which are significant visitor destination areas.*

*(f) Areas that provide existing coastal housing or recreational opportunities for low- and moderate-income persons.*

*(g) Areas where divisions of land could substantially impair or restrict coastal access.*

Section 30502 of the Coastal Act indicates that sensitive coastal resource areas are areas within the coastal zone where the protection of coastal resources and public access requires, in addition to the review and approval of zoning ordinances, the review and approval by the Commission of other implementing actions to protect coastal resources. Sensitive coastal resource areas (SCRAs) can be designated either by the Commission pursuant to Section 30502 of the Coastal Act, or by local government by including such a designation in its Local Coastal Program (LCP).

Section 30502 directs the Commission to designate SCRAs not later than September 1, 1977, pursuant to a report which must contain the following information:

- (1) A description of the coastal resources to be protected and the reasons why the area has been designated as a sensitive coastal resource area;*
- (2) A specific determination that the designated area is of regional or statewide significance;*
- (3) A specific list of significant adverse impacts that could result from development where zoning regulations alone may not adequately protect coastal resources or access;*
- (4) A map of the area indicating its size and location.*

The Commission did not ultimately designate SCRAs or make recommendations to the Legislature, as contemplated by Section 30502 and 30502.5. Because it did not designate SCRAs, the Commission does not have the authority to require local governments to adopt such additional implementing actions. Nothing in Sections 30502 or 30502.5, however, overrides other provisions in the Coastal Act that assign primary responsibility to local governments for determining the contents of LCPs and that authorize local governments to take actions that are more protective of coastal resources than required by the Coastal Act. Such Coastal Act provisions support the position that the Commission does not have the exclusive authority to designate SCRAs. In 1977, the Attorney General's Office advised the Commission that if the Commission decided not to designate SCRAs, local government approvals of development located in SCRAs delineated in LCPs would nonetheless be appealable to the Commission.

The ability of local governments to designate SCRAs in LCPs is further supported by the legislative history of changes to Section 30603. In 1982, after the 1978 deadline for the Commission to designate SCRAs, the Legislature amended the provisions of Section 30603 that relate to appeals of development located in SCRAs. (Cal. Stats. 1982, c. 43, sec. 19 (AB 321 - Hannigan).) The Legislature's 1982 revisions to the SCRA appeal process demonstrate that the Commission's decision not to designate SCRAs did not have the effect of preventing local governments from designating SCRAs through the LCP

process. If the Commission's decision not to designate SCRA's rendered the Coastal Act provisions that relate to SCRA's moot, the Legislature's action in 1982 would have been a futile and meaningless exercise. Instead, by deliberately refining the SCRA appeal process, the Legislature confirmed that local governments continue to have the authority to designate SCRA's.

Although a city or county is not required to designate SCRA's in their LCP, at least four local governments have chosen to do so. The Commission has certified LCP's that contain SCRA designations from the City of Grover Beach (1982), San Luis Obispo County (1987), the City of Dana Point (1989) and the segment of Mendocino County's LCP that covers areas outside of the Town of Mendocino (1992).

Designation of SCRA's in this manner is consistent with the reservation of local authority, under Section 30005, to enact certain regulations more protective of coastal resources than what is required by the Act. As noted above, the Coastal Act does not require local governments to designate SCRA's, but local governments are allowed to designate such areas.

The appeal of Mendocino County Coastal Development Use Permit (CDU) No. 02-2003 was accepted by the Commission, in part, on the basis that the project site is located in a sensitive coastal resource area designated by Mendocino County and certified by the Commission when the County's LCP was certified in 1992.

The applicable designation of sensitive coastal resource areas was accomplished in the LCP by defining sensitive coastal resource areas within the LCP to include "highly scenic areas," and by mapping specific geographic areas on the certified Land Use Maps as "highly scenic." Chapter 5 of the Mendocino County General Plan Coastal Element (the certified Land Use Plan) and Division II of Title 20, Section 20.308.105(6) of the Mendocino County Coastal Zoning Code (CZC), both define "Sensitive Coastal Resource Areas" to mean "those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity." Subparts (c) of these sections include "highly scenic areas." This definition closely parallels the definition of SCRA contained in Section 30116 of the Coastal Act. Mendocino LUP Policy 3.5 defines highly scenic areas to include, in applicable part, "those [areas] identified on the Land Use Maps as they are adopted." Adopted Land Use Map No. 8 (Westport) designates the area inclusive of the site that is the subject of Mendocino County CDU No. 02-2003 as highly scenic. Therefore, it is clear that by defining sensitive coastal resource areas to include highly scenic areas, and by then mapping designated highly scenic areas on the adopted Land Use Maps, the County intended that highly scenic areas be considered sensitive coastal resource areas.

Section 30603 of the Coastal Act states that "after certification of its local coastal program, an action taken by a local government on a coastal development permit may be appealed to the Commission..." Included in the list of appealable developments are developments approved within sensitive coastal resource areas. Additionally, Division II

of Title 20, Section 20.544.020(B)(6) of the certified Mendocino County Coastal Zoning Code specifically includes developments approved “located in a sensitive coastal resource area” as among the types of developments appealable to the Coastal Commission.

Therefore, for all of the above reasons, the Commission finds that as (1) highly scenic areas are designated and mapped in the certified LCP as a sensitive coastal resource area, and (2) approved development located in a sensitive coastal resource area is specifically included among the types of development appealable to the Commission in the certified LCP, Mendocino County’s approval of local CDU No. 02-2003 for the applicant’s proposed development is appealable to the Commission under Section 30603(a)(3) of the Coastal Act and Section 20.544.020(B)(6) of the certified Mendocino County Coastal Zoning Code.

b) Approved Development is Not a Principally Permitted Use

Coastal Act Section 30603(a)(4) and certified Mendocino County Coastal Zoning Code Section 20.544.020(B)(4) include in the list of appealable development those developments approved by a coastal county that are not designated as the principal permitted use under the certified zoning ordinance.

Coastal Zoning Code Section 20.368.015 includes “Animal Sales and Service: Horse Stables,” which is defined as including public stables, as one of the Coastal Commercial Use Types allowed by conditional use permit in the Rangeland (RL) zoning district. The County granted a Coastal Development Use Permit for the approved horse stable project on this basis.

Therefore, the Commission finds that as the approved development is not designated as the principal permitted use under the certified Mendocino County Coastal Zoning Code, the County’s approval of CDU No. 02-2003 for the applicant’s proposed commercial horse riding development is appealable to the Commission pursuant to Section 30603(a)(4) of the Coastal Act and CZC Section 20.544.020(B)(4).

**D. PROJECT AND SITE DESCRIPTION**

The project approved by the County involves the development of a commercial horse riding operation including construction of an 18-foot-high, 3,564-square-foot barn, a 12-car parking area, well, and restroom facilities. The project also includes developing new, and maintaining existing trails, and fencing. (See Exhibit Nos. 3 & 5.)

The project site is located approximately four miles south of the village of Westport on the east side of Highway One at mile post marker 74.09 near its intersection with Bruhel Point Road, known locally as Chato Road, or Walters Hilltop. The subject property consists of approximately 141 acres situated along the ridge and hillside that forms Kibesillah Hill and Kibesillah Creek watershed (see Exhibit No. 1 & 2). The property is

designated and zoned Rangeland (RL) under both the Land Use Plan and Coastal Zoning Code and is located in a designated “highly scenic area.” The surrounding area is largely characterized by its undeveloped, open expanses of steep, grassy ridgelines on the east side of Highway One and coastal terraces on the west side of the highway that afford spectacular, unobstructed views to and along the ocean.

The subject property is developed with an existing residence and ranch at the top of Bruhel Road located out of view from Highway One. The site of the County-approved commercial stable operation is located directly adjacent to Highway One at the base of the ridge. The approximately 400-foot-high hillside slopes steeply upward from the highway behind the project site and is largely vegetated with grasses and low shrubs. A grove of mature Cypress trees is located directly adjacent to the south of the barn site. Immediately west across the highway from the project site is a Caltrans vista point that provides public access to a network of coastal trails and includes a parking lot, informational signs, and benches.

A number of horse trails exist at the subject site, including a trail developed several years ago without benefit of necessary permits. The trail is approximately four-feet-wide with a series of switchbacks on the steep hillside rising from Kibesillah Creek to the top of the ridge. Existing fences would be repaired and new fences would be constructed as part of the approved project. New fences would be constructed with pressure treated poles with a wire top strand at approximately five-feet high with four-foot-high sheep fencing below. Along Highway One, old redwood spikes would be attached to the sheep wire fencing in the vicinity of the approved barn. A 16-square-foot wooden sign is proposed near the entrance printed with “Lost Coast Trail Rides” and the contact phone number.

The project as approved by the County involves providing recreational trail rides from the approved horse stable throughout the 140-acre property as well as at off-site locations as requested by clients, including locations such as private ranches, Jackson State Forest, Chadbourne Creek Beach, or established horse camps.

#### **E. SUBSTANTIAL ISSUE ANALYSIS**

Section 30603(b)(1) of the Coastal Act states:

*The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.*

Two of the contentions raised in this appeal present potentially valid grounds for appeal in that they allege the project’s inconsistency with policies of the certified LCP. These contentions allege that the approval of the project by the County is inconsistent with (1) LCP provisions regarding the protection of visual resources, and (2) LUP Policy 3.7-4

which requires, in part that any visitor serving facility not shown on the LUP Maps shall require an LUP amendment except in Rural Village and Commercial land use designations.

The Commission finds that the other allegation regarding the inconsistency of the project as approved with Coastal Act Section 30250 and LUP text Section 3.9 regarding Coastal Act Section 30250(a) is a contention that is not based on the approved project's consistency with policies and standards of the County's LCP, and as such, is an invalid grounds for basing an appeal.

**1. Appeal Contentions Based on Valid Grounds**

Two of the contentions raised in the appeal are based on valid grounds in that they allege that the approved project is inconsistent with the standards of the County's certified LCP. These two contentions are the contentions related to consistency of the project as approved with: (1) LCP provisions regarding the protection of visual resources; and (2) LUP Policy 3.7-4 which requires, in part that any visitor serving facility not shown on the LUP Maps shall require an LUP amendment except in Rural Village and Commercial land use designations.

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

*With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.*

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." (California Code of Regulations, Title 14, Section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and

5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing a petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that with respect to the allegation concerning the consistency of the project as approved with the provisions of the LCP regarding the protection of visual resources, the appeal raises a substantial issue of conformance of the approved project with the certified Mendocino County LCP.

As further discussed below, the Commission finds that with respect to the allegation regarding the protection of visitor serving facilities, the development as approved by the County raises no substantial issue with the certified LCP.

**a. Allegations Raising Substantial Issue**

**i. Visual Resource Protection**

The appellant contends that the approved project is inconsistent with policies of the LUP requiring protection of scenic and visual qualities of Mendocino County, including LUP Policy 3.5-1 and 3.5-3 requiring that new development in highly scenic areas be (1) sited and designed to protect views to and along the ocean and scenic coastal areas, including highways, roads, coastal trails, and vista points, (2) visually compatible with the character of surrounding areas, and (3) subordinate to the character of its setting.

Additionally, the appellant contends that the approved project is inconsistent with the development standards of LUP Policy 3.5-4 requiring that, except for farm buildings, development in the middle of large open areas shall be avoided if an alternative site exists. The appellant contends that the approved development is a commercial operation, rather than a farm building, that would be sited in the middle of a large open area as seen from Highway One, the vista point, and the public access trails located directly across the highway from the project site.

Finally, the appellant contends that the approved project is inconsistent with the development standards of LUP Policy 3.5-6 requiring that development on a parcel located partly within the highly scenic areas delineated on the Land Use Maps shall be located on the portion of the property located outside the viewshed if feasible. The appellant asserts that although the extent of the designated highly scenic area is not clearly delineated in the County's findings for approval of the project, it is clear that portions of the parcel are not within the public viewshed and thus, development should be sited at such alternative locations on the property.



LCP Policies and Standards:

LUP Policy 3.5-1 states in applicable part:

*The scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a protected resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting.* (emphasis added)

LUP Policy 3.5-3 states in applicable part:

*The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as “highly scenic areas,” within which new development shall be subordinate to the character of its setting. Any development permitted in these areas shall provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes. The entire coastal zone from the Ten Mile River estuary (including its wooded slopes, wetlands, dunes and ocean vistas visible from Highway 1) north to the Hardy Creek Bridge, except Westport Beach Subdivision which is a recognized subdivision...In addition to other visual policy requirements, new development west of Highway One in designated “highly scenic areas” is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Variances from this standard may be allowed for planned unit development that provides clustering and other forms of meaningful visual mitigation. New development should be subordinate to natural setting and minimize reflective surfaces... (emphasis added)*

LUP Policy 3.5-4 states in applicable part:

*Buildings and building groups that must be sited within the highly scenic area shall be sited near the toe of a slope, below rather than on a ridge, or in or near the edge of a wooded area. Except for farm buildings, development in the middle of large open areas shall be avoided if an alternative site exists.* (emphasis added)

...

LUP Policy 3.5-6 states in applicable part:

*Development on a parcel located partly within the highly scenic areas delineated on the Land Use Maps shall be located on the portion outside the viewshed if feasible. Highly scenic areas delineation is approximate and shall be subject to review and correction if necessary at the time of a land development proposal or application.* (emphasis added)

...

### **Discussion**

The appellant alleges that the approved development is inconsistent with the above-identified LCP provisions. Pursuant to LUP Policy 3.5-3, the project site is located within the mapped highly scenic area that includes the entire coastal zone from the Ten Mile River estuary north approximately 12 miles to Hardy Creek except the Westport Beach subdivision and the Town of Westport within the urban/rural boundary. LUP Policy 3.5-1 states that the scenic and visual qualities of Mendocino County coastal areas must be considered and protected by requiring that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and that in highly scenic areas, new development be subordinate to the character of its setting. LUP Policy 3.5-3 similarly requires that new development located within areas designated as highly scenic must be subordinate to the character of its natural setting and requires any development permitted in these areas to provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.

LUP Policy 3.5-4 requires that except for farm buildings, development in the middle of large open areas shall be avoided if an alternative site exists. Furthermore, LUP Policy 3.5-6 requires that development on a parcel located partly within the highly scenic areas delineated on the Land Use Maps shall be located on the portion outside the viewshed if feasible.

The primary issue raised by the appeal is whether the approved development, located in a highly scenic area, would be visually compatible with and subordinate to the character of its setting. The development site is located on the east side of Highway One, and thus does not raise an issue with regard to blocking views to or along the ocean. As part of the County's review of the application, the applicant installed story poles at the project site, outlining the height and perimeter of the approved horse barn in its proposed location. Based on Commission staff observation of the story poles during a site visit, it is apparent that the approved development would be highly visible from northbound Highway One and entirely visible from the parking area, benches, and public trails located at the vista point located on the west side of the highway directly across from the subject site. The grove of mature Cypress trees located adjacent to the north of the project site would

largely screen the view of the barn from the public approaching from southbound Highway One.

The views to and along the coast from this stretch of rolling, winding Highway One are sweeping and vast due to the undeveloped nature of the area. There is very little development located on either side of the highway for many miles in each direction with the exception of a few scattered residences, and a winery located approximately ½ mile south of the project site on the west side of the highway. The open coastal terraces to the west and steep, grassy hillsides to the east create the rural, agricultural character of the area. LUP Section 4.2 describes the area encompassing the project site and states:

*“Major development in this area is constrained due to the topography, the agricultural and timber resources and the highly scenic character of much of this segment of the coast. North of the Ten Mile River the coastal zone boundary is 1,000 yards from the shoreline, nearly all of it visible from Highway 1. This stretch is grand in scale, containing spectacular meetings of land and sea as the highway climbs to provide sweeping views of the Lost Coast and drops to narrow gulches near the shore...This plan has given further protection to the scenic and rural qualities of this area by...designating specific areas between Hardy Creek and the Ten Mile River as highly scenic areas within which new development must be subordinate to the character of its setting consistent with Policy 3.5-3.”*

The County’s findings state that the application gives little information regarding the details of the structures to be built, but describes the approved barn as a simple, rural style with a natural wood exterior and a green roof. Additionally, a four-foot tall wood slat fence with a strand of barbed wire above would be built along the [highway] frontage and a sixteen-square-foot sign would be posted at the driveway entrance. The County’s findings of approval do not include any analysis of the project’s compatibility with the character of the area, or its subordination to the character of its setting as required by LUP Policy 3.5-1 and 3.5-3. The County’s findings state simply that “the site is clearly and plainly visible from Highway One” and further state that “there would be no way to develop this site without it being clearly visible in the immediate area.”

The County goes on to note that an alternative would be to develop the stable facility at the ranch’s main developed area near the existing residential structures. However, the County notes that this alternative would require customers to drive up Bruhel Point Road, which is a private road serving other properties and is a fairly steep, narrow dirt road and, according to the County, would not be recommended for tourist use. The County’s findings do not include any further discussion of other potential feasible alternatives that would site the development outside of the highly scenic viewshed as called for by LUP Policy 3.5-6. For example, the applicant has an existing barn located at the top of Bruhel Point Road outside of the highly scenic area where horses are kept and are then transported via trailer to meet customers at select trail riding locations. The County did

not address this existing use as a feasible alternative to locating development within the highly scenic portion of the parcel.

As noted above, the approved development would be highly visible from northbound Highway One and entirely visible from the parking area, benches, and public trails located at the vista point on the west side of the highway directly across from the subject site. The grove of mature Cypress trees located adjacent to the north of the project site would largely screen the view of the barn from the public approaching southbound on the highway. LUP Policy 3.5-3 specifically requires the protection of ocean and coastal views from public areas including highways, coastal trails, and vista points. As the site is located on the east side of the highway, views of the ocean would not be impacted by the approved development, but the development would affect the character of the coastal view from these public vantage points.

The approved project was conditioned by the County to require that the applicant retain the existing evergreen trees that provide a visual buffer from Highway One and to submit a landscaping plan that provides for plantings along the south and west sides of the barn. However, it became evident to Commission staff from viewing the story poles from the highway and public vista point that although some mature trees exist to the north of the building site and the County conditioned the project to require additional landscaping, existing and new trees and vegetation would not effectively soften or screen the development to a degree that would significantly reduce the prominence of the approved development in a manner that would cause the development to be consistent with and subordinate to the character of the highly scenic area as required by LUP Policy 3.5-1 and 3.5-3. The character of the area is largely defined by the very limited amount of development on either side of Highway One for many miles in each direction surrounding the project site. Specifically, there are approximately six residential structures located on the east side of Highway One along an approximately 12 mile stretch of highway from Hardy Creek to the Ten Mile River, with the exception of the clustered development that comprises the small town of Westport. In addition, there is no visible commercial development along the east side of this segment of the highway and the development would be the only visible commercial development for many miles along an otherwise undeveloped coastal corridor. The commercial use of the horse stable would introduce large trucks, recreational vehicles, and trailers concentrated in the 12-car parking area as well signage and lighting. Furthermore, the visual prominence of the approved development would also be exacerbated by the fact that the horse barn would be sited approximately 50 feet from the edge of Highway One unlike the few other existing structures along this stretch of highway, which are set back significantly further from the highway.

Many appeals from Mendocino County raise issues of visual resource protection, and in acting on these appeals *de novo*, the Commission has denied some projects because of inconsistencies with visual resource protection policies. The protection of visual resources is required under Section 30251 of the Coastal Act, and in certifying LUP Policy 3.5-1, the Commission concurred with the introductory language of that policy

that the scenic and visual quality of the Mendocino County coastal area be considered and protected as a resource of public importance. As noted previously, LUP Section 4.2 describes this stretch of coast encompassing the project site as “*grand in scale, containing spectacular meetings of land and sea...*” The Commission often conditions permits it approves to require the applicant to relocate, redesign, or screen proposed development specifically to protect views of the ocean and scenic coastal areas. In addition, the approved development would be prominent from State Highway One, the sole continuous highway through the Mendocino County coastal zone. Highway One brings visitors from throughout the region, state, and world to the coast to enjoy its beauty. Thus, the appeal raises issues of regional and statewide significance. Furthermore, as the County’s findings did not fully address alternatives to the proposed project to minimize visual impacts, there is not a high degree of factual support for the County’s decision that the project is consistent with the visual resource policies of the certified LCP.

Therefore, the Commission finds that the project as approved by the County raises a substantial issue with respect to conformance of the approved project with LCP policies regarding visual resource protection, including, but not limited to, LUP Policies 3.5-1 and 3.5-3 as the approved development raises a substantial issue as to whether the development would be (1) sited and designed to protect views to and along scenic coastal areas, including highways, coastal trails, and vista points, (2) visually compatible with the character of surrounding areas, and (3) subordinate to the character of its setting. The Commission further finds that the project as approved by the County raises a substantial issue with respect to conformance of the approved project with LUP Policy 3.5-6, as the approved development raises a substantial issue as to whether feasible alternatives exist that would site the development outside of the highly scenic viewshed.

**b. Allegations Not Raising Substantial Issue**

**i. Visitor Serving Facilities**

**LCP Policies and Standards**

LUP Policy 3.7-4 states:

*Proposed sites or areas for additional visitor serving facilities are designated and reserved by a number indicating a category of VSF described in this section subject to the granting of a conditional use permit (\*C). Precise intensity of the proposed visitor accommodations and development standards shall be specified in the Zoning Regulations and regulated so that the use will be compatible with existing uses, public services and environmental resources. Any visitor serving facility not shown on the LUP Maps shall require an LUP amendment except in Rural Village (RV) and Commercial (C) Land Uses.*

*No development more intense than a single family residence shall be allowed on such a site, and then only if it is sited in such a location and manner that a visitor serving facility may still be placed on the site.*

LUP Section 2.2 describes Land Use Plan Map Designations, including Range Lands and Visitor Accommodations and Services and states, in applicable part:

**RANGE LANDS**

**Map Code: RL**

**Intent:** *The Range Lands classification is intended to be applied to lands which are suited for and are appropriately retained for the grazing of livestock and which may also contain some timber producing areas. The classification includes land eligible for incorporation into Type II Agricultural Preserves, other lands generally in range use, intermixed smaller parcels and other contiguous lands, the inclusion of which is necessary for the protection and efficient management of range lands.*

**Principal Permitted Use:** *Grazing and forage for livestock, including: raising of crops, wildlife habitat improvement; one single family dwelling per legally created parcel, harvesting of firewood for the residents personal use, home occupations.*

**Conditional Uses:** *Residential clustering, (as allowed by CL combining district.) Cottage industry; visitor accommodations where designated by an \* on the Land Use Maps; processing of natural resources (i.e. harvesting of hardwood, small electrical generating facilities and cutting and milling of lumber), recreational uses determined to be related to and compatible with ranching, conservation and the development of natural resources; extraction of sand, shale and gravel in conjunction with an approved permit, which shall include a restoration plan on shore oil and gas development, off-site alternative energy facilities, electrical transmission and distribution lines (see Policy 3.11-9), natural gas pipelines (see Policy 3.11-5); and farm worker housing consistent with Policy 3.2-1. [emphasis added]*

**VISITOR ACCOMMODATIONS AND SERVICES**

**(Located outside Commercial, Rural Village, and Fishing Village designations.)**

Map Codes: Existing Facilities - \*1, \*2, \*3, \*4, \*5

Conditional Facilities - \*1C, \*2C, \*3C, \*4C, \*5C

**Intent:** *The Visitor Accommodations and Services Combining District is intended to recognize visitor accommodations and services developed prior to adoption of the Coastal Plan and to provide for their continuation and expansion within the prescribed density limits. The combining district is also intended to ensure that sufficient sites are reserved for future facilities to meet the Coastal Act's requirement for this priority use.*

*Existing facilities are designated by an asterisk (\*) and number. Sites for future conditional facilities are designated by an asterisk (\*) and number followed by a "C" for conditional. The categories of facilities designated on the Land Use Maps have been determined by the existing use or the site characteristics and compatibility with surrounding development.*

*Categories are:*

- \*1 Inn, or Bed and Breakfast Inn.*
- \*2 Motel, Inn, or Hotel.*
- \*3 Campground and/or RV Campground or Hostel.*
- \*4 Restaurant, boat launching or rental, or visitor-oriented art and handcraft shops as examples.*
- \*5 Resort - Certain selected sites located in the area of the Coastal Zone have been allocated for a dispersed type of Visitor Serving Facility such as: dude ranches, dispersed overnight cabin accommodations, health spas and other similar uses.*

***Principal Permitted Uses - Existing Facilities:*** *In addition to the uses permitted in the classification with which the Visitor Accommodation and Services designation is combined, the appearance of an \*1, \*2, \*3, \*4 or \*5 on a parcel allows continuation of the visitor serving facility of the category indicated, and the expansion of the use within the specified density limits. Resource land encroachment shall be minimized. Categories 1, 2, 3 and 5 may have a Category 4 use as an accessory use.*

***Conditional Uses - Existing Facilities:*** *In addition to the conditional uses permitted in the classification with which the Visitor Accommodation and Services designation is combined, housing for employees may be provided.*

***Principal Permitted Uses - Conditional Facilities:*** *On sites designated with an \*1C, \*2C, \*3C, \*4C or \*5C, no development may occur more intense than a single family residence, and only if it is sited in such a location and manner that a visitor-serving facility may still be placed on the site.*

***Conditional Uses - Conditional Facilities:*** *In addition to the conditional uses permitted in the classification with which the Visitor Accommodation and Services designation is combined, a visitor serving facility of the category indicated may be developed subject to a use permit. Housing for employees may be provided. No conditional use shall be permitted that would preempt use of the site for a visitor serving facility. Categories 1, 2, 3 and 5 may have a Category 4 use as an accessory use. Criteria for approval of a specific development proposal shall include suitability of the specific site, Coastal Plan policies and the number of visitor serving uses existing or approved in the immediate vicinity and in the planning area. New visitor*

*serving facilities in the "Resort" category shall not be allowed on resource lands in Agriculture, Forest Land or Rangeland classifications.*

Coastal Zoning Code Section 20.368.015 lists Conditional Uses for RL Districts and states as follows:

*The following are permitted uses upon the issuance of a coastal development use permit:*

***(A) Coastal Residential Use Types.***

...

***(B) Coastal Civic Use Types.***

...

***(C) Coastal Commercial Use Types.***

*Animal Sales and Services: Auctioning;  
Animal Sales and Services: Horse Stables; [emphasis added]  
Animal Sales and Services: Kennels;  
Animal Sales and Services: Veterinary (Large Animals);  
Commercial Recreation: Outdoor Sports and Recreation;  
Cottage Industries.*

Coastal Zoning Code Section 20.308.110, Definitions (S), states the definition of “stables” as follows:

*(29) "Stable" means a structure or paddock used for the boarding, breeding, training, or raising of horses, including horses not owned by the occupants of the premises.*

*(30) "Stable, Public" means a stable or arena used for the riding, training and performing of horses by other than the occupants of the premises or their nonpaying guests, but excluding boarding or breeding stables.*

Coastal Zoning Code Section 20.324.020(B) defines the Animal Sales and Services use type as follows:

*Establishments or places of business primarily engaged in animal related sales and services. The following are animals sales and services use types:*

***(B) Animal Sales and Services: Horse Stables.*** *Boarding, breeding or raising of horses not owned by the occupants of the premises or riding of horses by other than*



*the occupants of the premises or their paying or non-paying guests. Typical uses include boarding stables, riding academy or public stables.*

Coastal Zoning Code Section 20.436.005, Intent, states the intent of the Visitor Accommodations and Services zoning district as follows:

*The VAS Combining District is intended to allow visitor accommodations and services to be developed on selected sites designated by the asterisk (\*) symbol on the land use plan maps of the Coastal Element of the General Plan and Coastal Zoning Maps. Additional sites for visitor accommodations outside of Commercial and Rural Village land use designations shall be the subject of a Local Coastal Program amendment. A single family residence may be developed in conjunction with or prior to the establishment of visitor accommodations and services if the site/parcel is not preempted for VAS facilities by such action. Preemption analysis will be performed prior to approval of a development permit pursuant to [Chapter 20.532](#). (Ord. No. 3785 (part), adopted 1991)*

Coastal Zoning Code Section 20.436.015 lists the Conditional Uses for VAS Combining Districts as follows:

*The following use types may be permitted in the Visitor Accommodations and Services Combining District with a coastal development use permit:*

***(A) Coastal Residential Use Types.***

...

***(B) Visitor Accommodations and Services Use Types.***

*(1) The following Visitor Accommodations and Services Use Types may be permitted where the corresponding symbol (\*1C, \*2C, \*3C, \*4C, \*5C) is found on the Land Use Plan Maps and Coastal Zoning Maps:*

*Bed and Breakfast Accommodation - \*1C;*

*Inn - \*1C;*

*Hotel - \*2C;*

*Inn - \*2C;*

*Motel - \*2C;*

*Campground - \*3C;*

*Hostel - \*3C;*

*Organized Camp - \*3C;*

*Recreational Vehicle Campground - \*3C;*

*Visitor-Oriented Eating and Drinking Establishments - \*4C;*

*Visitor-Oriented Retail Sales - \*4C;*

*Resort - \*5C.*

*(2) The following Visitor Accommodations and Services Use Types may be permitted as an accessory use with \*1, \*2, \*3 or \*5 uses:*

*Visitor-Oriented Eating and Drinking Establishments - \*4;*

*Visitor-Oriented Retail Sales - \*4.*

*(3) The following Coastal Commercial Use Types may be permitted as an accessory use with \*5 uses:*

*Commercial Recreation: Outdoor Sports and Recreation*

### **Discussion:**

One valid contention raised by the appellant does not raise a substantial issue of conformity of the approved project with the certified LCP. This contention cites LUP Policy 3.7-4 regarding visitor serving facilities. The appellant contends that the approved project is inconsistent with LUP Policy 3.7-4 that requires, in part, that any visitor serving facility not shown on the LUP Maps shall require an LUP amendment except in Rural Village (RV) and Commercial (C) Land Uses.

The appellant is correct in the assertion that a visitor serving facility designation is not shown on the applicable certified LUP map for the subject parcel, which is planned and zoned Rangeland (RL). As stated in LUP Policy 3.7-4 cited by the appellant, the LUP designates and reserves proposed sites or areas for visitor serving facilities (VSF) by assigning a number indicating a category of VSF. These VSF categories are set forth in LUP Policy 2.2 and Coastal Zoning Code Section 20.436.015 and include inns, bed and breakfasts, motels, hotels, campgrounds, RV campgrounds, hostels, restaurants, boat launching or rental, visitor-oriented shops, and resorts. Although the approved commercial horse stable that would provide trail rides to the visiting public could generally be considered a visitor serving use, the categories of visitor serving facilities referred to in LUP Policy 3.7-4 and listed in LUP Policy 2.2 and Coastal Zoning Code Section 20.436.015 specifically do not include horse stables. Rather, the proposed commercial horse riding stable is considered a conditionally permitted use in the Rangeland (RL) land use classification and zoning district.

Specifically, Coastal Zoning Code Section 20.368.015 lists “Animal Sales and Services: Horse Stables” as one of the Coastal Commercial Use Types allowed with a conditional use permit in the RL zoning district. Coastal Zoning Code Section 20.324.020(B) defines “Animal Sales and Service: Horse Stables” to include public stables. “Public stables” is further defined by Coastal Zoning Code Section 20.308.110 as “a stable for the riding... of horses by other than the occupants of the premises or their nonpaying guests...” The proposed commercial horse riding stable is intended to provide trail rides to the public and thus, meets the LCP definition of “public stable.” Stables are a form of recreational use determined to be related to, and compatible with, ranching under the conditional uses of the RL land use classification as set forth in LUP Section 2.2. The County granted a

Coastal Development Use Permit for the approved commercial horse riding stable on this basis.

Therefore, there is a high degree of factual support for the County to approve the use as a conditional use in the RL land use classification and zoning district. The approved public stable is not one of the visitor serving facility categories regulated by LUP Policy 3.7-4. Thus, the contention raised by the appellant regarding locating visitor serving facilities does not raise a substantial issue of conformance with the requirements of LUP Policy 3.7-4

Furthermore, whether or not this particular contention raises a substantial issue, the result would not affect the Commission's determination that the grounds for appeal raised with respect to the protection of visual resources raise a substantial issue of conformance of the project as approved with the certified LCP.

## **2. Appeal Contentions Not Valid Grounds for Appeal**

### **a. Locating New Development**

#### **LCP Provisions and Policies**

LUP Narrative 3.9 incorporates Coastal Act Section 30250(a) and states as follows:

*(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

#### **Discussion:**

One contention raised by the appellant is not a valid ground for basing an appeal. The appellant contends that the approved project is inconsistent with Section 30250 of the Coastal Act and LUP Section 3.9 regarding Section 30250(a) of the Coastal Act.

LUP Section 3.9 includes narrative discussion pertaining Coastal Act Section 30250(a) as a reference in the narrative, and is not specifically incorporated as an LCP policy or standard. Section 30603(b)(1) of the Coastal Act states that the grounds for an appeal shall be limited to an allegation that the development does not conform to the standards set forth in the certified LCP or the public access policies of the Coastal Act. As LUP

Section 3.9 regarding Coastal Act Section 30250 is not a standard of the certified LCP and as Coastal Act Section 30250 is not a public access policy of the Coastal Act, the contention is not a valid grounds for appeal. Even if the contention were a valid grounds for appeal, which it is not, the contention does not demonstrate that the approved project raises a substantial issue of conformance with LUP Section 3.9. The appellant contends that the LCP identifies areas able to accommodate new development such as Cleone, South Fort Bragg, Mendocino, and Gualala, thereby suggesting that because the subject site is not included as an identified area, that new development cannot be accommodated at the subject site. However, the narrative section cited by the appellant includes the phrase “but not limited to” indicating that areas other than those examples of areas specifically listed may be able to accommodate new development with the availability of adequate water and/or septic capabilities.

Therefore, the Commission finds that the contention regarding the inconsistency of the project as approved with Coastal Act Section 30250 and LUP text Section 3.9 regarding Coastal Act Section 30250(a) is a contention that is not based on the approved project’s consistency with policies and standards of the County’s LCP, and as such, is an invalid grounds for basing an appeal.

### **3. Conclusion**

The foregoing contentions raised by the appellant have been evaluated against the claim that the approved development raises a substantial issue in regard to conformance of the local approval with the certified LCP. Therefore, the Commission finds that the project as approved by the County raises a substantial issue with respect to conformance of the approved project with LCP policies regarding visual resource protection, including, but not limited to, LUP Policies 3.5-1, 3.5-3, and 3.5-6 as the approved development raises a substantial issue as to whether the development would be (1) sited and designed to protect views to and along scenic coastal areas, including highways, coastal trails, and vista points, (2) visually compatible with the character of surrounding areas, and (3) subordinate to the character of its setting, and (4) whether feasible alternatives exist that would avoid locating development within the highly scenic viewshed.

### **Conclusion of Part One: Substantial Issue**

The Commission finds that for the reasons stated above, the project as approved by the County raises a substantial issue with respect to the conformance of the approved project with respect to the policies of the certified LCP regarding the protection of visual resources.

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## **PART TWO—*DE NOVO* ACTION ON APPEAL**

### **Staff Notes:**

#### **1. Procedure**

If the Commission finds that a locally approved coastal development permit raises a Substantial Issue with respect to the policies of the certified LCP, the local government's approval is no longer effective, and the Commission must consider the merits of the project *de novo*. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application. Since the proposed project is within an area for which the Commission has certified a Local Coastal Program, but not between the first public road and the sea, the applicable standard of review for the Commission to consider is whether the development is consistent with Mendocino County's certified Local Coastal Program (LCP). Testimony may be taken from all interested persons at the *de novo* hearing.

#### **IV. FINDINGS AND DECLARATIONS FOR DENIAL**

The Commission hereby finds and declares:

##### **A. INCORPORATION OF SUBSTANTIAL ISSUE FINDINGS**

The Commission hereby incorporates by reference into its findings on the *de novo* review of the project the Substantial Issue Findings above.

##### **B. PROJECT AND SITE DESCRIPTION**

The proposed project involves the development of a commercial horse riding operation including construction of an 18-foot-high, 3,564-square-foot barn, a 12-car parking area, well, and restroom facilities. The project also includes developing new, and maintaining existing, trails and fencing and constructing a 1.25-mile fire vehicle and horse access road. The project proposes to provide recreational trail rides from the proposed horse stable throughout the 140-acre property as well as at off-site locations as requested by clients, including locations such as private ranches, Jackson State Forest, Chadbourne Creek Beach, or established horse camps.

The project site is located approximately four miles south of the village of Westport on the east side of Highway One at mile post marker 74.09 near its intersection with Bruhel Point Road, known locally as Chato Road, or Walters Hilltop. The subject property consists of approximately 141 acres situated along the ridge and hillside that forms Kibesillah Hill and Kibesillah Creek watershed. The property is designated and zoned

Rangeland (RL) under both the Land Use Plan and Coastal Zoning Code and is located in a designated “highly scenic area.” The surrounding area is largely characterized by its undeveloped, open expanses of steep, grassy ridgelines on the east side of Highway One and coastal terraces on the west side of the highway that afford spectacular, unobstructed views to and along the ocean.

The subject property is developed with an existing residence and ranch at the top of Bruhel Road located out of view from Highway One. The site of the proposed commercial horse stable facility is located directly adjacent to Highway One at the base of the ridge. The approximately 400-foot-high hillside slopes steeply upward from the highway behind the project site and is largely vegetated with grasses and low shrubs. A grove of mature Cypress trees is located directly adjacent to the south of the barn site. Immediately west across the highway from the project site is a Caltrans vista point that provides public access to a network of coastal trails and includes a parking lot, informational signs, and benches.

Existing fences would be repaired and new fences would be constructed as part of the proposed project. New fences would be constructed with pressure treated poles with a wire top strand at approximately five-feet high with four-foot-high sheep fencing below. Along Highway One, old redwood spikes would be attached to the sheep wire fencing in the vicinity of the proposed barn. A 16-square-foot wooden sign is proposed near the entrance printed with “Lost Coast Trail Rides” and the contact phone number.

The proposed project also includes the construction of a 12-foot-wide, 1.25-mile long road to provide fire vehicle and horse riding access and the maintenance of existing and construction of new horse riding trails. A number of horse trails exist at the subject site, including a trail developed several years ago without benefit of necessary permits. The trail is approximately four-feet-wide with a series of switchbacks on the steep hillside rising from Kibesillah Creek to the top of the ridge. The proposed road would traverse southward from Bruhel Point Road along steep west and east facing slopes that vary from gradients of 3:1 to 1:1 (horizontal:vertical), and gently sloping ridgetops. Development of the road would require excavating road cuts on the steep slopes. Vegetation along the proposed road alignment consists of primarily scrub oaks, manzanita, grasses, and poison oak. Drainage from the proposed road and trails would sheet flow towards Highway One approximately 1/3 mile downslope to the west and toward Kibesillah Creek located approximately 1/4 mile downslope to the east.

### **C. ANALYSIS OF LCP CONSISTENCY**

As discussed below, the Commission is denying the proposed development because it is inconsistent with certified LCP provisions intended to protect visual resources, water quality, environmentally sensitive habitat areas, and geologic stability. These inconsistencies cannot be resolved by permit conditions.

**1. Protection of Visual Resources**

LCP Policies and Standards:

LUP Policy 3.5-1 states in applicable part:

*The scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a protected resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting.* (emphasis added)

LUP Policy 3.5-3 states in applicable part:

*The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as “highly scenic areas,” within which new development shall be subordinate to the character of its setting. Any development permitted in these areas shall provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes. The entire coastal zone from the Ten Mile River estuary (including its wooded slopes, wetlands, dunes and ocean vistas visible from Highway 1) north to the Hardy Creek Bridge, except Westport Beach Subdivision which is a recognized subdivision...In addition to other visual policy requirements, new development west of Highway One in designated “highly scenic areas” is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Variances from this standard may be allowed for planned unit development that provides clustering and other forms of meaningful visual mitigation. New development should be subordinate to natural setting and minimize reflective surfaces...* (emphasis added)

LUP Policy 3.5-6 states in applicable part:

*Development on a parcel located partly within the highly scenic areas delineated on the Land Use Maps shall be located on the portion outside the viewshed if feasible. Highly scenic areas delineation is approximate and shall be subject to review and correction if necessary at the time of a land development proposal or application.* (emphasis added)

...

### Discussion

Policy 3.5-1 of the County's LUP provides for the protection of the scenic and visual qualities of the coast, requiring new development to be sited and designed to protect views to and along the ocean to be visually compatible with the character of surrounding areas, and in highly scenic areas, be subordinate to the character of its setting. Policy 3.5-3 similarly states that new development in designated "highly scenic areas" must be subordinate to the natural setting and requires any development in these areas provide for the protection of ocean and public views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes. Furthermore, LUP Policy 3.5-6 requires that development on a parcel located partly within the highly scenic areas delineated on the Land Use Maps shall be located on the portion outside the viewshed if feasible.

As described above, the proposed project involves the development of a commercial horse riding operation including construction of an 18-foot-high, 3,564-square-foot barn, a 12-car parking area, well, and restroom facilities. The project also includes developing new and maintaining existing trails and constructing an approximately 1.25-mile fire vehicle and horse access road.

The primary visual resource issue raised by the proposed project is whether the commercial horse riding stable, located in a highly scenic area, would be visually compatible with, and subordinate to, the character of its setting, and protect coastal views from public areas as required by LUP Policies 3.5-1 and 3.5-3. The development site is located on the east side of Highway One, and thus would not block views to or along the ocean.

The applicant installed story poles at the project site, outlining the height and perimeter of the proposed horse barn in its proposed location. Based on Commission staff observation of the story poles during a site visit, it is apparent that the proposed development would be highly visible from northbound Highway One and entirely visible from the parking area, benches, and public trails at the vista point located on the west side of the highway directly across from the subject site. The grove of mature Cypress trees located adjacent to the north of the project site would largely screen the view of the barn from the public approaching from southbound Highway One.

The views to and along the coast from this stretch of rolling, winding Highway One are sweeping and vast due to the undeveloped nature of the area. There is very little development located on either side of the highway for many miles in each direction with the exception of a few scattered residences, and a winery located approximately ½ mile south of the project site on the west side of the highway. The open coastal terraces to the west and steep, grassy hillsides to the east create the rural, agricultural character of the



area. LUP Section 4.2 describes the character of the area encompassing the project site and states:

*“Major development in this area is constrained due to the topography, the agricultural and timber resources and the highly scenic character of much of this segment of the coast. North of the Ten Mile River the coastal zone boundary is 1,000 yards from the shoreline, nearly all of it visible from Highway 1. This stretch is grand in scale, containing spectacular meetings of land and sea as the highway climbs to provide sweeping views of the Lost Coast and drops to narrow gulches near the shore...This plan has given further protection to the scenic and rural qualities of this area by...designating specific areas between Hardy Creek and the Ten Mile River as highly scenic areas within which new development must be subordinate to the character of its setting consistent with Policy 3.5-3.”*

As noted above, the character of the area is largely defined by the very limited amount of development on either side of Highway One for many miles in each direction surrounding the project site. Specifically, there are approximately six residential structures located on the east side of Highway One along an approximately 12 mile stretch of highway from Hardy Creek to the Ten Mile River, with the exception of the clustered development that comprises the small town of Westport. In addition, there is no visible commercial development along the east side of this segment of the highway and the development would be the only visible commercial development for many miles along an otherwise undeveloped coastal corridor. The commercial use of the horse stable would introduce large trucks, recreational vehicles, and trailers concentrated in the 12-car parking area as well as signs, and lighting. Furthermore, the visual prominence of the proposed development would also be exacerbated by the fact that the horse barn would be sited approximately 50 feet from the edge of Highway One, unlike the few other existing structures along this stretch of highway, which are set back significantly further from the highway. Based on a site visit and viewing the story poles from the highway and public vista point, it is clear that existing and new trees and vegetation would not effectively soften or screen the development to a degree that would significantly reduce the prominence of the proposed development in a manner that would cause the development to be consistent with and subordinate to the character of the highly scenic area as required by LUP Policy 3.5-1 and 3.5-3.

Moreover, there is evidence to suggest that the applicant's commercial horse riding business has operated in the past without the proposed horse stable that would be located in the highly scenic area adjacent to Highway One and without the access road and trails that would be located on the steep hillside above the highway. In the project description information contained in the application, the business operation is described as providing trail rides throughout the county for the past several years by trailering horses to the ride site of the customer's choice. The project description indicates that all ride information and payments are taken care of over the telephone and then the customer meets Lost Coast Trail Rides (LCTR) staff and horses at the ride site. The applicant has an existing

barn located at the top of Bruhel Point Road outside of the viewshed of the highly scenic area where horses are kept and are then transported to select trail riding locations.

Additionally, information in the administrative record indicates that Lost Coast Trail Rides has, in the past, conducted trail rides from an existing barn located on Bald Hill Road in the Fort Bragg area.

Further information contained in the administrative record from the LCTR web site suggests that trail rides have also been conducted from the parking lot at the Caltrans vista point located directly across from the proposed stable site by transporting the horses from the applicant's existing barn to the vista point. There is no evidence that the applicant has had authorization to use the vista point and public access trails for the commercial horse riding operation in the past. An Encroachment Permit issued by Caltrans for construction of a driveway approach at the proposed stable site (which expired on November 30, 2003) specifically prohibits the use of the Caltrans vista point for a parking facility for the applicant's business patrons. It is not clear whether Caltrans would authorize such use with necessary permits if so requested in the future.

Although it is not clear whether the applicant has to date obtained all necessary legal entitlements to operate horse rides at the Caltrans vista point, or other locations under the ownership of other public or private entities, the application information suggests the commercial trail riding business has operated successfully in the recent past by transporting the horses from the applicant's existing barn located outside of a highly scenic area to other locations without the need for the proposed horse stable that would be located in the highly scenic area adjacent to Highway One. Therefore, the Commission finds that a feasible alternative exists that would avoid locating development in the highly scenic portion of the parcel as required by LUP Policy 3.5-6.

Thus, the Commission finds the proposed project must be denied because it is inconsistent with LUP Policies 3.5-1, 3.5-3, and 3.5-4 requiring new development in highly scenic areas to be (1) sited and designed to protect views to and along scenic coastal areas, including highways, coastal trails, and vista points, (2) visually compatible with the character of surrounding areas, (3) subordinate to the character of its setting, and because a feasible alternative exists that would avoid locating development in the highly scenic portion of the parcel.

## **2. Water Quality**

### **Summary of LCP Provisions**

Section 20.496.010 of the Coastal Zoning Code states:

*...Environmentally Sensitive Habitat Areas (ESHA's) include: anadromous fish streams, sand dunes, rookeries and marine mammal haul-out areas, wetlands, riparian areas, areas of pygmy vegetation which contain species of rare or*

*endangered plants and habitats of rare and endangered plants and animals.*  
[emphasis added.]

LUP Policy 3.1-25 states:

*“The Mendocino Coast is an area containing many types of marine resources of statewide significance. Marine resources shall be maintained, enhanced and, where feasible, restored; areas and species of special biologic or economic significance shall be given special protection; and the biologic productivity of coastal waters shall be sustained.”* [emphasis added.]

Coastal Zoning Code Section 20.492.020(A) incorporates sedimentation standards and requires in part:

*(A) Sediment basins (e.g., debris basins, desilting basins, or silt traps) shall be installed in conjunction with initial grading operations and maintained through the development/construction process to remove sediment from runoff wastes that may drain from land undergoing development to environmentally sensitive areas.*

Coastal Zoning Code Section 20.492.025 incorporates runoff standards and requires in part:

...

*(H) A combination of storage and controlled release of storm water runoff shall be required for all development and construction that drains into wetlands.*

*(I) The release rate of storm water from all developments that drains into wetlands shall not exceed the rate of storm water runoff from the area in its natural or undeveloped state for all intensities and durations of rainfall. The carrying capacity of the channel directly downstream must be considered in determining the amount of the release.*

...

*(K) All development that is within, or drains into, environmentally sensitive habitat, is a commercial or residential subdivision, is a service station or automotive repair facility or that includes commercial development or a parking lot, shall capture and infiltrate or treat, using relevant best management practices, including structural best management practices, all runoff from storms of a magnitude such that the runoff from eight-five (85) percent of storms is encaptured or treated. (Ord. No. 3785 (part), adopted 1991, Ord. No. 4083, adopted 2002)*

### Discussion

As described above, the proposed project involves the development of a commercial horse riding operation including construction of an 18-foot-high, 3,564-square-foot barn, a 12-car parking area, well, and restroom facilities located immediately adjacent to Highway One. The project also includes developing new, and maintaining existing, trails and fencing and constructing an approximately 1.25-mile fire vehicle and horse access road along the ridge and steep hillside above the proposed barn site.

The site of the proposed stable facility drains to an existing Caltrans storm drain system located in Highway One. Storm water runoff is directed via a storm drain on the west side of the highway to a culvert that extends below the vista point parking lot and drains into a wetland located approximately 200 feet west of the project site and then eventually drains to the ocean. The LCP defines wetlands as a type of Environmentally Sensitive Habitat Area (ESHA) and sets forth specific standards for development in and adjacent to wetlands. LUP Policy 3.1-25 requires the protection of the biological productivity of coastal waters and Coastal Zoning Section 20.492.025 sets forth runoff standards and requirements for capturing, storing, and treating storm water runoff that drains to wetlands.

The proposed commercial horse stable would result in an increase in impervious surface at the subject site, which in turn would decrease the infiltrative function and capacity of existing permeable land on site. Reduction in permeable space therefore leads to an increase in the volume and velocity of storm water runoff that can be expected to leave the site. Confined animal facilities are one of the most recognized sources of non-point source pollutants since these types of developments have concentrated sources of animal wastes. Horse wastes, including manure, urine, waste feed, and straw, shavings and/or dirt bedding, can be significant contributors to pollution and are a breeding ground for parasites, flies and other vectors. In addition, horse wastes contain nutrients such as phosphorous and nitrogen as well as microorganisms such as coliform bacteria. The discharge of these pollutants to coastal waters can cause significant adverse cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters and wetlands, reduce optimum populations of marine organisms, and have adverse impacts on human health.

As noted above, site drainage is directed westward toward Highway One and the existing Caltrans storm drain facilities. A letter from Caltrans dated April 3, 2003 requests that the applicant submit a drainage plan, including an analysis of the impacts to Caltrans

culverts from additional surface runoff as a result of the proposed project. There is no evidence that the applicant has prepared such a drainage plan and/or received approval from Caltrans to direct site drainage toward the existing storm drain system and culverts.

Additionally, a letter from the Regional Water Quality Control Board (RWQCB) dated June 5, 2006 indicates that a Storm Water Pollution Prevention Plan (SWPPP) is required for the proposed project (Exhibit No. 7). The letter further reiterates the potential water quality impacts associated with horse wastes discussed above and states:

“Animal housing facilities, including horse stables, can generate large quantities of manure and manure bedding wastes; these wastes must be managed so as to avoid contaminating storm water runoff. Accordingly, the project proponent will need to develop a manure management plan that describes the method(s) that will be used to store and dispose of manure in such a manner as to prevent it from coming into contact with storm water or other runoff, and /or from entering receiving waters.”

There is no evidence that the applicant has prepared a Storm Water Pollution Prevention Plan to address potential water quality impacts associated with the proposed project as required by the RWQCB. The applicant did prepare a manure management plan (Exhibit No. 6). However, the plan includes only a very cursory discussion of the water quality impacts of the project and proposes to spread manure over an eight acre area to the north and south of the proposed barn site adjacent to Highway One using a self-propelled scooper/spreader. The plan also suggests that the fence proposed to be constructed between the site and the highway “will have a natural berm that always builds up over the decades along these old fences” and that such a berm would “provide a barrier to keep the spread manure out of the Highway drainage system.” The plan asserts that very little runoff would reach the wetland and if so, it would “enhance plant growth.” However, the plan does not address how the manure waste would be kept out of the highway drainage system and away from the wetlands downstream of the culverts in the decades before such a natural berm builds up along the proposed new fence. In addition, the plan includes no hydrological analysis that evaluates how the existing drainage patterns would change as a result of the proposed development and no biological analysis of how such drainage impacts would affect the wetland ESHA receiving the site runoff. As proposed, the project fails to include provisions for drainage improvements that would store and dispose of manure in a manner that would prevent it from coming into contact with storm water or other runoff, and /or from entering receiving waters as required by the RWQCB. Additionally, as proposed, the project fails to include provisions for sediment basins, storage and controlled release of storm water runoff, or the capture and infiltration or treatment of storm water runoff as required by Coastal Zoning Code Section 20.492.025 for development that drains into environmentally sensitive wetland habitat. Rather, the proposal depends solely on spreading the manure over a large area, which would cause the manure to be in direct contact with storm water runoff contrary to the direction of the RWQCB and LCP standards. Therefore, the Commission finds that manure spreading and a berm barrier that may take decades to form along the proposed fenceline as

suggested by the manure management plan are not sufficient measures to ensure the protection of the biological productivity of coastal waters as required by LUP Policy 3.1-25.

In addition to potential impacts from the proposed horse stable discussed above, the proposed project also involves the construction of an approximately 1.25-mile fire vehicle and horse access road and the maintenance of existing and construction of new horse trails on the steep hillside rising above Highway One. According to geologic information contained in the administrative record, the subject hillside is largely comprised of debris slide slopes composed of loose, unconsolidated soils that are prone to mass movement. The soil types in the area are described as highly to severely erosive. Therefore, the proposed road and trail construction would increase erosion along the steep slopes that drain westward toward the highway storm drain system and wetland ESHA described above, thereby increasing the potential for sediment to be entrained in storm water runoff reaching the wetland and coastal waters beyond. As discussed above, sedimentation increases turbidity which reduces the penetration of sunlight needed by aquatic vegetation that provides food and cover for aquatic species. Increased turbidity can cause disruptions to the reproductive cycle of aquatic species and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters and wetlands and reduce optimum populations of marine organisms in a manner that is inconsistent with the requirements of LUP Policy 3.1-25.

Therefore, the Commission finds the project as proposed must be denied because the applicant has failed to demonstrate that the development conforms with LUP Policy 3.1-25, requiring the protection of marine resources and the biologic productivity of coastal waters, and Coastal Zoning Section 20.492.025 requiring the provision for sediment basins, storage and controlled release of storm water runoff, and the capture and infiltration or treatment of storm water runoff for development that drains into environmentally sensitive wetland habitat.

### **3. Environmentally Sensitive Habitat Areas**

#### **Summary of LCP Provisions**

Section 20.496.010 of the Coastal Zoning Code states:

*...Environmentally Sensitive Habitat Areas (ESHA's) include: anadromous fish streams, sand dunes, rookeries and marine mammal haul-out areas, wetlands, riparian areas, areas of pygmy vegetation which contain species of rare or endangered plants and habitats of rare and endangered plants and animals.*  
[emphasis added.]

LUP Policy 3.1-4 states:

*As required by the Coastal Act, development within wetland areas shall be limited to:*

- 1. Port facility construction or expansion, Section 30233(a)(1).*
- 2. Energy facility construction or expansion, Section 30233(a)(1).*
- 3. Coastal-dependent industrial facilities such as commercial fishing facilities, construction or expansion, Section 30233(a)(1).*
- 4. Maintenance or restoration of dredged depths or previously dredged depths in: navigational channels, turning basins, vessel berthing and mooring areas, and associated with boat launching ramps.*
- 5. In wetland areas, only entrance channels for new or expanded boating facilities may be constructed, except that in a degraded wetland, other boating facilities may be permitted under special circumstances, Section 30233(a)(3). New or expanded boating facilities may be permitted in estuaries, Section 30233(a)(4).*
- 6. Incidental public services purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
- 7. Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- 8. Nature study purposes and salmon restoration projects.*
- 9. Aquaculture, or similar resource dependent activities excluding ocean ranching. (See Glossary)*

*In any of the above instances, the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes, shall be permitted in accordance with all other applicable provisions of this plan. Such requirements shall include a finding that there is no feasible less environmentally damaging alternative and shall include mitigation measures required to minimize adverse environmental effects, in accordance with Sections 30233 and 30607, and other provisions of the Coastal Act.*

Section 20.496.025 of the Mendocino County Coastal Zoning Code states, in part, that:

*(A) Development or activities within wetland and estuary areas shall be limited to the following:*

- (1) Port facility expansion or construction.*
- (2) Energy facility expansion or construction.*
- (3) Coastal-dependent industrial facilities, such as commercial fishing facilities, expansion or construction.*
- (4) Maintenance or restoration of dredged depths or previously dredged depths in navigation channels, turning basins, vessel berthing and mooring areas, and associated boat launching ramps.*

*(5) In wetland areas, only entrance channels for new or expanded boating facilities may be constructed, except that, in a degraded wetland, other boating facilities may be permitted under special circumstances.*

*(6) New or expanded boating facilities may be permitted in estuaries.*

*(7) Incidental public service purposes which temporarily impact the resource including but not limited to burying cables and pipes, or inspection of piers, and maintenance of existing intake and outfall lines.*

*(8) Restoration projects which are allowable pursuant to Section 30233(a)(7) of the Coastal Act are publicly or privately financed projects in which restoration is the sole purpose of the project...*

*(9) Mineral extraction, including sand for restoring beaches, except in ESHA's.*

*(10) Nature study purposes and salmon restoration projects.*

*(11) Aquaculture, or similar resource dependent activities excluding ocean ranching.*

LUP Policy 3.1-7 in applicable part states:

*“A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and shall not be less than 50 feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent environmentally sensitive habitat area and must comply at a minimum with each of the following standards:*

- 1. It shall be sited and designed to prevent impacts which would significantly degrade such areas;*



2. *It shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity; and*
3. *Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.*

Section 20.496.020 of the Coastal Zoning Ordinance reiterates the requirements of LUP Policy 3.1-7.

Discussion:

In addition to the wetland ESHA located on the west side of Highway One across from the project site as discussed in the Water Quality findings above, there is some question as to whether wetland habitat exists at the proposed site of the commercial horse stable as well. LUP Section 3.1-4 and CZC Section 20.496.025 limit the types of development allowable within wetland areas and do not include commercial horse stables among the allowable uses. Additionally, LUP Section 3.1-7 and CZC Section 20.496.020 set forth requirements for development adjacent to environmentally sensitive habitat areas, including the establishment of adequate buffers.

The applicant's biological consultant, kpff, indicates in a Wetland Delineation Study that a delineation was conducted in the dry season on July 20, 2004 to determine the presence of wetland habitat at the project site (Exhibit No. 8). The study indicates that the vegetation present at the site is dominated by 76% hydrophytes, 31% of which is comprised of giant horsetail (*Equisetum telmateia*). The biologist asserts that horsetail species have a unique physiology as a hydrophyte in that the root system is uniquely developed and is capable of growing root systems down to several meters to reach water. The study found that there were no hydric soil indicators at the site and that the hydrology of the site does not meet wetland criteria. Thus, the study concludes that "the presence of hydrophytic plants appears to be an anomaly in an otherwise upland site." However, in a following site visit by the Department of Fish and Game in the wet season on January 13, 2005, the DFG commented in a letter dated January 24, 2005 that, "The proposed parking lot site is a sloped wetland drainage immediately downhill from Kibesillah Creek. The site's ground was wet with a *Juncus sp.* growing throughout the immediate area..." (Exhibit No. 9). The administrative record does not include a response from, or further study by, the applicant's biologist that addresses comments made by DFG suggesting that wetland habitat is present at the site. Thus, there is no conclusive evidence as to whether or not wetland habitat exists at the site of the proposed stable facility. As noted above, development of a horse stable facility within wetlands would be inconsistent with LCP limitations on allowable developments within wetlands.

Therefore, the Commission finds that the applicant has failed to demonstrate that the proposed commercial horse stable development would not encroach into wetlands or wetland buffers and would be consistent with the requirements of LUP Sections 3.1-4 and 3.1-7 and CZC Sections 20.496.025 and 20.496.020 and therefore, must be denied.

#### **4. Grading, Erosion, and Sedimentation**

##### Summary of LCP Provisions

Coastal Zoning Code Section 20.492.015 sets forth Erosion Standards and states in part:

*(A) The erosion rate shall not exceed the natural or existing level before development.*

...

*(E) To control erosion, development shall not be allowed on slopes over thirty (30) percent unless adequate evidence from a registered civil engineer or recognized authority is given that no increase in erosion will occur.*

*(F) Development of sites that will result in road cuts, which pose a hazard and/or which create the potential for uncontrollable problems and adverse impacts from erosion and sedimentation, shall not be allowed. Alternative road routes may be required for projects. Where possible, roads in hilly areas should follow ridgetops to avoid extensive cuts and fills.*

...

##### Discussion:

The proposed project includes the construction of a 12-foot-wide, 1.25-mile long road to provide fire vehicle and horse riding access and the maintenance of existing and construction of new horse riding trails. The proposed road would traverse southward from Bruhel Point Road along steep west and east facing slopes that vary from gradients of 3:1 to 1:1 (horizontal:vertical), and gently sloping ridgetops. Development of the road would require excavating road cuts on the steep slopes. Vegetation along the proposed road alignment consists of primarily scrub oaks, manzanita, grasses, and poison oak. Drainage from the proposed road and trails would sheet flow towards Highway One approximately 1/3 mile downslope to the west and toward Kibesillah Creek located approximately 1/4 mile downslope to the east.

According to geologic information contained in the administrative record, the subject hillside is largely comprised of debris slide slopes composed of loose, unconsolidated

soils that are prone to mass movement and are described on California Department of Mines and Geology topographic maps as highly to severely erosive.

The applicant has not prepared a grading plan for the proposed road and one of two geologic information documents contained in the administrative record specifically states that the document prepared by kpff Consulting Engineers dated September 29, 2004 is “not to be considered a grading plan” (Exhibit No. 11). Both documents set forth generalized recommendations for road construction. For example, the information prepared by kpff recommends that any construction on slopes exceeding 50% should utilize full bench construction and indicates that constructing roads with a tractor on slopes greater than 30% may result in unstable fills that would be prone to failure.

A Geotechnical Investigation Report prepared by Jim Glomb Geotechnical and Environmental Consulting, Inc. dated February 17, 2006 sets forth general recommendations regarding clearing, overexcavation, cut and fill slopes, and subgrade preparation and concludes (Exhibit No. 10):

“Based on our field work, literature review and analyses, we conclude that the subject site is geotechnically suitable for construction of the planned fire road/horse trail. It must be acknowledged, however, that road cuts will be subject to erosion and sloughing that will require periodic maintenance.”

In its action on the proposed project, the County attached a special condition prohibiting construction of the proposed road citing concerns with grading in this area of steep, unstable, highly erodible slopes and references Coastal Zoning Code Section 20.492.015(F) that prohibits road cuts which pose a hazard and/or which create the potential for uncontrollable problems and adverse impacts from erosion and sedimentation. The applicant received approval from the California Department of Forestry (CDF) for the proposed road. However, in its findings regarding LCP consistency for the proposed project, the County states:

“While staff can certainly understand the merits of such a road, both for the access it would provide to parcels within the ownership and to serve as a firebreak, given the slope constraints of the site, it is difficult to support. The applicant will cite a past fire in the area as justification, however the site is a ridge just above the ocean, in an area designated by CDF as having a “moderate” fire hazard severity rating.”

Without a comprehensive grading plan, there is not sufficient evidence that the proposed road is planned and designed in a manner that would minimize erosion and ensure geologic stability. As stated above, the geologic reports indicate that the subject site is extremely erosive and that road cuts would be subject to erosion and sloughing thereby suggesting that the proposed road would (1) exceed the natural existing erosion rate, (2) involve development on slopes over 30% resulting in on-going erosion, and (3) result in road cuts that create the potential for uncontrollable problems and adverse impacts from

erosion and sedimentation in a manner that is inconsistent with the erosion standards set forth by CZC Section 20.492.015 (A), (E), and (F).

Thus, the Commission finds the project as proposed must be denied because it fails to demonstrate conformance with the erosion standards of Coastal Zoning Code Section 20.492.015.

## **5. Feasible Project Alternatives**

Denial of the proposed permit will not eliminate all economically beneficial or productive use of the applicant's property or unreasonably limit the owner's reasonable investment backed expectations of the subject property. Denial of this permit request to construct a commercial horse stable at the base of the ridge adjacent to Highway One and to construct a road and trails on the steep hillside above the highway would still leave the applicant with the use of the existing residential and agriculture accessory structures and other available alternatives to use the property in a manner that would be consistent with the policies of the LCP.

The applicant has an existing residence and barn on another portion of the applicant's 140-acre property off of Bruhel Point Road near the top of the ridge in an area outside of the highly scenic viewshed that the applicant can continue to use. In addition, as the area is outside of the highly scenic area viewshed, the applicant could potentially construct additional agricultural accessory structures and/or residential improvements near the existing development that would be consistent with the visual resource protection policies of the certified LCP.

Furthermore, as discussed in the visual resource findings in section (B)(1) above, there is evidence to suggest that the applicant's commercial horse riding business has operated in the past without the proposed horse stable that would be located in the highly scenic area adjacent to Highway One and without the access road and trails that would be located on the steep hillside above the highway. For example, information in the administrative record indicates that Lost Coast Trail Rides has, in the past, conducted trail rides from an existing barn located on Bald Hill Road in the Fort Bragg area and by transporting horses from the applicant's existing barn to designated trail riding locations.

Even if the applicant chose not to construct additional agricultural accessory structures and/or residential improvements near the existing development on the property, the applicant would still retain economically beneficial or productive use of the property in other respects. The subject property is zoned as rangeland, and the applicant can use the approximately 140-acre holding for a number of agricultural uses specified as principal permitted uses in the RL zone including grazing and forage for livestock and raising of crops, whether for an agricultural operation conducted by the owner himself, or through a lease to another rancher who could utilize the land in combination with other grazing lands in nearby areas. All of the above-referenced uses allow the owner economic use of

the subject property without developing the proposed commercial horse riding operation in the highly scenic portion of the property.

Therefore, the Commission finds that the applicant has an existing use of the property and feasible alternatives to the proposed project exist for the applicant to make economically beneficial or productive use of the property in a manner that would be consistent with the policies of the certified LCP.

### **Conclusion of Part Two: De Novo Action on Appeal**

As discussed above, the Commission is denying the proposed development because it is inconsistent with certified LCP provisions intended to protect visual resources, water quality, environmentally sensitive habitat areas, and geologic stability. The Commission finds that there are no conditions that could be applied that could make the proposed project consistent with the LCP policies and standards as discussed above. Therefore, the Commission finds that the permit application must be denied.

### **D. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 13906 of the California Code of Regulation requires Commission approval of coastal development permit applications to be supported by a finding showing that the application, as modified by any conditions of approval, is consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse impact that the activity may have on the environment.

The Commission incorporates its findings on conformity with LCP policies at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report.

As discussed herein, in the findings addressing the consistency of the proposed project with the certified LCP, the proposed project is not consistent with the policies of the certified LCP regarding the protection of visual resources, water quality, environmentally sensitive habitat areas, and geologic stability.

As also discussed above in the findings addressing project alternatives, there are feasible mitigation measures and feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project cannot be found consistent with the requirements of the Coastal Act to conform to CEQA.

**EXHIBITS:**

1. Regional Location Map
2. Vicinity Map
3. Notice of Final Action & County Staff Report
4. Appeal
5. Project Plans
6. Horse Manure Management Plan (Paoli Engineering & Surveying, October 2006)
7. Regional Water Quality Control Board Letter (June 5, 2006)
8. Wetland Delineation Study (kpff, delineation conducted July 20, 2004)
9. Department of Fish & Game Letter (January 24, 2005)
10. Geotechnical Investigation Report (Jim Glomb, February 17, 2006)
11. Fire Road Letter (kpff, September 29, 2004)
12. Correspondence from Applicant's Agent (December 14, 2006)