

CALIFORNIA COASTAL COMMISSION

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F8a

MEMORANDUM

Date: September 6, 2007

To: Commissioners and Interested Parties

From: Peter Douglas, Executive Director
Robert S. Merrill, District Manager – North Coast District

Subject: **Addendum to Commission Meeting for Friday, September 7, 2007
North Coast District Item F8a, Appeal No. A-1-MEN-07-028 (Jackson-Grube Family, Inc.)**

STAFF NOTE

This addendum makes certain additions to the written staff recommendation dated August 21, 2007. The addendum presents supplemental findings for a determination that the appellant has raised a substantial issue with the local government's action and its consistency with the certified Local Coastal Program (LCP). These findings address the appellants' contentions regarding inconsistencies with LCP policies concerning (1) the provision of adequate water to serve a development, and The published staff recommendation did not include findings addressing this contention.

CHANGES TO THE FINDINGS OF THE STAFF RECOMMENDATION

Add the following to Finding E, "Substantial Issue Analysis." The new finding language should be inserted on Page 34 of the staff recommendation at the end of Section 1 of the finding headed, "Allegations Raising Substantial Issue" that begins on page 20 of the report.

- d. **Approved Development Does not Provide for Adequate Water Service**

LCP Policies and Standards:

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LUP Policy 3.8-1 states in applicable part:

Highway 1 capacity, availability of water and sewage disposal system and other known planning factors shall be considered when considering applications for development permits. [emphasis added]

LUP Policy 3.8-9 states in applicable part:

Commercial developments and other potential major water users that could adversely affect existing surface or groundwater supplies shall be required to show proof of an adequate water supply, and evidence that the proposed use shall not adversely affect contiguous or surrounding water sources/supplies. Such required proof shall be demonstrated prior to approval of the proposed use.

Coastal Zoning Coastal Zoning Code Section 20.532.095 states:

Section 20.532.095 Required Findings for all Coastal Development Permits.

(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish 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 this Division 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. [emphasis added]

(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. [emphasis added]...

Discussion:

Appellants 1, 3, and 4 contend that the project is inconsistent with LCP policies calling for locating development within areas able to accommodate the development in that there is no assurance that there is adequate ground water to serve the approved development. The appellants note that in approving the project, the County relied on a hydrological study that is 13 years old that does not reflect current groundwater conditions and the light rainfall of recent years. The study was prepared for the original inn project approved by the County in 1996 which was a significantly smaller project with less water demand. In addition, the 13 year-old studies contain a number of deficiencies, including, but not limited to the fact that the study contained no analysis of water supply and impacts in dry years such as 2006-2007. Appellant 4 notes that the project site is within a "Critical Water Area," in which water supplies are already stretched thin and contends that the approved project provides no assurances that ground water supplies of adjoining homes would not be compromised by pumping ground water to serve the development.

As cited above, LUP Policy 3.8-1 requires the County to consider the availability of water when considering coastal development permit applications. Coastal Zoning Coastal Zoning Code Section 20.532.095 states that the granting of any coastal development permit by the approving authority shall be supported by findings which establish that the proposed development will be provided with adequate utilities. LUP Policy 3.8-9 specifically requires that commercial developments and other potential major water users that could adversely affect existing surface or groundwater supplies shall be required to show proof of an adequate water supply, and evidence that the proposed use shall not adversely affect contiguous or surrounding water sources/supplies. Furthermore, the policy requires that such required proof shall be demonstrated prior to approval of the proposed use.

The County staff report also indicates, as noted by the appellants, that the project site lies within an area containing "Critical Water Resources" as designated by the 1982 County Coastal Ground Water Study, which when combined with Coastal Groundwater Development Guidelines adopted by the County in 1989, requires a hydrological study for commercial projects proposing 1,500 gallons per day (gpd) or more. The County staff report acknowledges that the current project would have an estimated maximum demand of approximately 2,600 gpd.

In its findings for approval of the project, the County indicates that a hydrological report was prepared in 1994 for the previous inn project approved for the site, and that the 1994 study estimated that "well yield in the area to be more than 8,000 gpd, significantly exceeding the proposed water demand for the inn." The County did not require a new hydrological study for the current project based on the results of the 1994 study. The County's findings indicate that the County Water Agency concurred with the planning staff's determination not to require a new hydrological study and that the CWA noted that "in many areas of the County, the results from a 12-year-old Hydrological Study would

be obsolete; However, [CWA staff was] not aware of any significant change in groundwater use in the area,” and felt that the 1994 study would be valid for purposes of the current project.

The Commission notes however, that the statement that the County is not aware of any significant change in groundwater use does not mean that groundwater supplies and conditions haven’t actually changed. No analysis is provided discussing what development relying on groundwater usage has actually occurred in the area since 1994 to demonstrate the alleged lack of change in groundwater usage. In addition, whether or not the usage of groundwater has changed does not take into account changes in the natural groundwater supply itself due to such factors as changes in aquifer recharge rates and changes in groundwater flow due to changes in the substrate from earthquakes, erosion, and other natural factors. Given the passage of a full 13 years since preparation of the hydrology report, the chance of such changes in conditions would seem relatively high.

With the County’s reliance on the 13-year old hydrological study and the lack of a current study, the legal and factual support for the local government’s decision that the project conforms to the water supply policies and standards of the LCP is low. Therefore, the Commission finds that a substantial issue is raised as to whether the applicants have truly demonstrated that (a) adequate water supply exists to serve the approved development as required by LUP Policies 3.8-1 and 3.8-9 and CZC Section 20.532.095. Furthermore a substantial issue is raised as to whether the applicants have truly demonstrated that the approved commercial development would not adversely affect contiguous or surrounding water sources/supplies as required by LUP Policy 3.8-9.

e. **Approved Development Does Not Conform with Use and Size Limitations of *1C Designation.**

LCP Policies and Standards:

LUP Policy 3.7-1 states:

The land use plan designates the existing visitor serving facilities and reserves appropriate sites for future or potential visitor serving facilities.

LUP Policy 3.7-2 states:

Because unrestricted development of visitor facilities would destroy those qualities that attract both residents and tourists, limitations on visitor facilities by type and location shall be as set by Policy 3.7-1 and illustrated by Table 3.7-2 which reflects a tabulation

based on land use maps (see footnotes) to avoid highway congestion, degradation of special communities, and disruption of enjoyment of the coast.

LUP Policy 3.7-3 states:

Visitor serving facilities and proposed sites where the Coastal Commission has approved the issuance of permits are designated on the land use maps, and are reserved for those visitor accommodations as defined in Chapter 2. Provision has also been made for the following visitor services: boat launching or rental, visitor-oriented and handicraft shops. Precise intensity of visitor accommodations and development standards shall be specified by zoning regulations so the developments will be compatible with the natural setting and surrounding development. Visitor serving facilities which might occur in commercially designated areas have not been specifically designated, except for the Mendocino Town Plan. (See Appendix 10 for listing of privately operated visitor serving facilities.)

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.

Policy 3.7-4.1 states:

Transference from one location to another of a visitor serving facility designation shown on the Land Use Plan maps shall require a Land Use Plan amendment. If an existing facility is being relocated, operation of the existing facility shall not continue beyond commencement of operations at the new site.

LUP Chapter 4.2 designates the subject parcel with an #1C overlay, indicating a 10-unit inn could be allowed if granted a conditional use permit.

Sec. 20.332.005 General Description of Visitor Serving Use Types.

Visitor Accommodations and Services use types include services oriented to serve primarily visitor-related needs and which serve as attractors and attractions to the Mendocino County Coastal Area. (Ord. No. 3785 (part), adopted 1991)

Sec. 20.332.010 Bed and Breakfast Accommodation - *1.

Any building or portion thereof or group of buildings containing two (2) but no more than four (4) guest rooms or suites each used, designed or intended to be used, let or hired out for occupancy by transient guests for compensation or profit wherein breakfast may be provided to said guests for compensation or profit. (Ord. No. 3785 (part), adopted 1991)

Sec. 20.332.015 Inn - *1.

Any building or portion thereof or group of buildings containing five (5) but no more than ten (10) guest rooms or suites each used, designed or intended to be used, let or hired out for occupancy by transient guests for compensation or profit, and where regular meals may be provided for compensation or profit to guests occupying the overnight accommodations. Provision of regular meals to other than transient occupants of the facility shall require a coastal development use permit. (Ord. No. 3785 (part), adopted 1991)

Sec. 20.332.020 Hotel - *2.

Any building or portion thereof containing five (5) but no more than twenty (20) guest rooms or suites each used, designed or intended to be used, let or hired out for occupancy by transient guests for compensation or profit wherein meals may be provided for compensation or profit to guests occupying the overnight accommodations. Provision of regular meals to other than transient occupants of the facility shall require a coastal development use permit. (Ord. No. 3785 (part), adopted 1991)

Sec. 20.332.025 Inn - *2.

Any building or portion thereof or group of buildings containing five (5) but no more than twenty (20) guest rooms or suites each used, designed or intended to be used, let or hired out for occupancy by transient guests for compensation or profit, and where regular meals may be provided for compensation or profit to guests occupying the overnight accommodations. Provision of regular meals to other than transient occupants of the facility shall require a coastal development use permit. (Ord. No. 3785 (part), adopted 1991)

Sec. 20.332.030 Motel - *2.

Any building or portion thereof or group of buildings containing five (5) but no more than twenty (20) guest rooms or suites where such rooms or suites are directly accessible from an outdoor parking area and where each is used, designed or intended to be used, let or hired out for occupancy by transient guests for compensation or profit. (Ord. No. 3785 (part), adopted 1991)

Sec. 20.332.035 Campground - *3.

An area or a tract of land where camping in tents, cabins or out of doors occurs. (Ord. No. 3785 (part), adopted 1991)

Sec. 20.332.040 Hostel - *3.

Any building or portion thereof or group of buildings containing five (5) or more guest rooms or suites, or providing dormitory sleeping accommodations for five (5) or more transient guests for the purpose of providing low cost public travel accommodations to recreational travelers. The hostel shall contain a kitchen and sanitary facilities for use by the transient guests. (Ord. No. 3785 (part), adopted 1991)

Sec. 20.332.045 Organized Camp - *3.

Group camping on a site with program and facilities established for the primary purpose of providing an outdoor group living experience with social, spiritual, educational, or recreational objectives for five (5) days or more during one (1) or more seasons of the year may be permitted in compliance with the following conditions.

(A) Camp is located on a permanent site.

(B) Camp has a well defined program of organized supervised activity in which campers are required to participate.

(C) There is present at the camp a qualified program director and a staff adequate to carry out the program.

(D) A major portion of daily program activities are out-of-doors.

(E) Establishments which rent or lease facilities on an individual, family, or group basis for the principal purpose of sporting or other unorganized recreational activities should be considered an organized camp.

(F) Camps operated by organizations such as the Y.M.C.A., Y.W.C.A., Girl Scouts of America, Boy Scouts of America, Camp Fire Girls, Salvation Army, etc., are true prototypes of organized camps. Membership in one (1) of the following organizations is indicative of status as an organized camp:

- (1) The American Camping Association;*
- (2) The Christian Camp and Conference Association;*
- (3) The California Association of Private Camps;*
- (4) The Association for Outdoor Education Inc.; or*
- (5) Other similar camping associations. (Ord. No. 3785 (part), adopted 1991)*

CZC Sec. 20.332.050 Recreational Vehicle Campground - *3.

An area or a tract of land where overnight camping in recreational vehicle(s) or tents occurs. (Ord. No. 3785 (part), adopted 1991)

CZC Sec. 20.332.055 Visitor-Oriented Eating and Drinking Establishments - *4.

*Establishments or places of business primarily engaged in the retail sale of prepared food and beverage for on-premises consumption by the touring public. These establishments may cater to on-site lodging establishments, and may be allowed as an accessory use with *1, *2, *3 or *5 uses with the granting of a coastal development use permit. (Ord. No. 3785 (part), adopted 1991)*

CZC Sec. 20.332.060 Visitor-Oriented Retail Sales - *4.

*Sale or rental of goods and merchandise primarily oriented to the touring public. Typical uses include: photography services; handcrafted items; souvenir shops; notions; bicycle and rollerskate rentals; sporting equipment and apparel. These uses may be allowed as an accessory use with *1, *2, *3 or *5 uses with the granting of a coastal development use permit. (Ord. No. 3785 (part), adopted 1991)*

CZC Sec. 20.332.065 Resort - *5.

Resort sites located within the Coastal Zone encompass a dispersed type of Visitor Accommodations and Services such as: dude ranches, dispersed overnight cabin accommodations, health spas and other similar uses. New Visitor Accommodations and Services in the "Resort" category shall not be allowed on resource lands in Agricultural, Forest Lands or Range Land classifications. (Ord. No. 3785 (part), adopted 1991)

CZC Sec. 20.436.005 Intent.

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)*

CZC Sec. 20.436.010 Principal Permitted Uses for VAS Combining Districts.

*The following visitor accommodations and services use types are permitted where the corresponding symbol (*1, *2, *3, *4, *5) is found on the Land Use Plan maps and Coastal Zoning Maps (See [Chapter 20.332](#))....*

(B) Visitor Accommodations and Services Use Types.

*Bed and Breakfast Accommodation - *1;
Inn - *1;
Hotel - *2;
Inn - *2;
Motel - *2;
Campground - *3;
Hostel - *3;
Organized Camp - *3;
Recreational Vehicle Campground - *3;
Visitor-Oriented Eating and Drinking Establishments - *4;
Visitor-Oriented Retail Sales - *4;
Resort - *5. (Ord. No. 3785 (part), adopted 1991)*

CZC Sec. 20.436.015 Conditional Uses for VAS Combining Districts.

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.

Employee Caretaker Housing.

(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. (Ord. No. 3785 (part), adopted 1991)

CZC Sec. 20.436.020 Site Development Regulations for VAS Combining Districts.

Within the VAS Combining District, site development regulations of the base zone shall apply. (Ord. No. 3785 (part), adopted 1991)

CZC Sec. 20.436.025 Additional Requirements for the VAS Combining District.

(A) No development more intense than a single-family residence shall be allowed on a parcel within the VAS Combining District prior to the parcel being developed with a Coastal Visitor Accommodations and Services Use Type. A residence will be allowed only if it is sited in such a location and manner that a Coastal Visitor Accommodations and Services Use Type may still be placed upon the site.

(B) Approval of visitor accommodation and service facilities shall be based upon the suitability of the site to accommodate the use(s) proposed, including water availability,

septic disposal capability, environmental constraints, the number of visitor serving uses existing or approved in the immediate vicinity and in the planning area, and consistency with all other regulations of this Division.

(C) Approval of new visitor accommodation and service facilities or expansion of existing visitor accommodation and service facilities shall minimize encroachment on resource lands. The development of new visitor facilities in the Resort category shall not be allowed on resource lands in the AG, FL, TP, or RL Districts.

*(D) Employee housing, other than Employee Caretaker Housing, may be allowed only with a Resort - *5 designation, consistent with all other regulations of this Division including density/intensity of the base zoning district.*

(E) Visitor accommodations and services on parcels adjoining the shoreline as identified on the public access maps shall provide public access to the blufftop and/or the shoreline. The access, to be required as a condition of permit approval or other methods as described in [Chapter 20.528](#), shall be available to the public at large as well as to guests. In the event that the use is changed to a use other than visitor accommodations or services, an irrevocable offer to dedicate an easement for public access shall be made available to a public entity for acceptance and management. If the accessway is reopened, it shall remain available to the public free of entrance charge.

(F) Where a site contains a single-family residence and a visitor accommodation and service facility, the conversion of a single-family residence to a vacation home rental shall be considered an addition or expansion of unit(s) to the visitor accommodation and service facility. The conversion may be allowed with a coastal development permit, provided that the conversion meets the allowable density of the visitor accommodation and service facility and all other provisions of this Division.

(G) If a resort is proposed to be developed on more than one (1) legal lot, it shall be developed on contiguous lots held under one (1) ownership and will be considered one (1) lot for all purposes under the Coastal Element and this Division. Property developed with a resort shall not be allowed to be divided and/or sold from the remainder of the property unless all resort uses on the property are discontinued or a Local Coastal Program amendment and/or new use permits are processed and approved for the continuation of any visitor serving uses.

(1) For the purposes of this section, the term "contiguous" includes properties separated only by road easement(s), rights-of-way or public land provided such separation does not exceed three hundred (300) feet.

(H) Expansion and development of visitor serving facilities, including restaurants, shall be compatible with the character of their surroundings. A site plan, grading plan,

landscaping plan, and outdoor lighting plan shall be submitted and shall illustrate the following.

(1) Building materials shall be natural, such as wood or stone, and shall utilize primarily earth-tone colors.

(2) Proposed tree removal and grading shall be shown on the site development plans but shall be minimized to that which is necessary for accommodation of the main and accessory structures. Where there are alternatives to development which minimize tree removal and/or grading, the development proposal shall be modified as necessary such as in location, siting, size, design, and bulk, in order to incorporate the alternative.

(3) The design and scale of individual proposed structures shall be subordinate to surrounding landforms. (Ord. No. 3785 (part), adopted 1991)

CZC Sec. 20.436.030 Maximum Density for VAS Combining Districts.

One dwelling unit per parcel until a visitor use is established. Thereafter, as provided in the base zone. Densities for the following categories shall be based upon environmental constraints and conformance with all regulations of this Division with density not to exceed those limits listed below:

(A) Maximum visitor unit density per category as noted below:

(1) Inns.

*(a) Inn - *1 or *1C: 10 guest rooms or suites. Note: A bed and breakfast accommodation is limited to four (4) guest rooms or suites. Dining facilities for guests shall not exceed three (3) chairs per guest room or suite.*

*(b) Inn - *2 or *2C: 20 guest rooms or suites. Dining facilities for guests shall not exceed three (3) chairs per guest room or suite.*

*(2) Hotel - *2 or *2C: 20 guest rooms or suites. Dining facilities for guests shall not exceed three (3) chairs per guest room or suite.*

*(3) Motel - *2 or *2C: 20 guest rooms or suites.*

*(4) Campground - *3 or *3C: Ten (10) campsites per acre.*

*(5) Hostel - *3 or *3C: Thirty (30) guests.*

*(6) Recreational Vehicle Campground - *3 or *3C: Ten (10) spaces per acre.*

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*(7) Visitor-Oriented Eating and Drinking Establishment - *4 or *4C: When developed as an accessory use to visitor accommodation services to provide regular meals to members of the public other than transient occupants of the facility, the total seating capacity shall not exceed three (3) chairs per guest room or suite pursuant to subsection (A)(1) and subsection (A)(2), above, plus one (1) additional chair for every two (2) guest rooms or suites.*

*(8) Visitor-Oriented Retail Sales - *4 or *4C: When developed as an accessory use to visitor accommodation services, the gross floor area shall not exceed twenty (20) percent of the gross floor area of the visitor accommodation on the site but in no case shall exceed six-hundred forty (640) square feet maximum.*

*(9) Resort - *5 or *5C: The maximum visitor unit density for a Resort *5 or *5C shall be based on environmental constraints (i.e., site specific conditions such as traffic, water, sewerage) and conformance with all regulations of this Division with the density not to exceed three (3) guest rooms or suites per acre up to twenty (20) acres; two (2) guest rooms or suites per acre for each additional acre up to fifteen (15) acres. Total not to exceed ninety (90) guest rooms or suites.*

(B) Densities for the following categories shall be based upon environmental constraints and conformance with all regulations of this Division, including the regulations for the base zoning district:

*(1) Organized Camp - *3 or *3C: Maximum of ten (10) campsites per acre.*

*(2) Visitor-Oriented Eating and Drinking Establishments - *4 or *4C: When developed as the only use on the site and not accessory to any visitor accommodation or service facility.*

*(3) Visitor-Oriented Retail Sales - *4 or *4C: When developed as the only use on the site and not accessory to any visitor accommodation or service facility. (Ord. No. 3785 (part), adopted 1991)*

Discussion:

Appellants 1, 3, and 4 contend that the development as approved by the County is not consistent with the *1C designation applied to the property in the certified LCP because the appellants believe the approved use is of a much greater intensity than development that is allowed.

The *1C designation is a land use and zoning overlay over the base remote residential land use classification and zoning district that allows for the construction of up to a 10-

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unit inn with a coastal development use permit. The overlay is one of several visitor accommodation and services (VAS) defined in the LUP that can be applied to a property covering a variety of visitor use types ranging from campgrounds to resorts. The *1C designation is defined in the LUP as any building or portion thereof or group of buildings containing five or more guest rooms or suites each designed or intended to be used, let or hired out for occupancy by transient guests for compensation of profit, and where regular meals may be provided for compensation or profit. A resort, on the other hand is defined in the LUP as a dispersed type of Visitor Serving Facility such as dude ranches, dispersed overnight cabin accommodations, health spas and other similar uses. The approved project includes seven units, within the range allowable under the *1C designation. The units, however, are much larger than the typical visitor serving units typically seen along the Mendocino coast. Instead of having one bedroom and sometimes a sitting area and bathroom, many of the approved units include multiple bedrooms, each with its own bathroom, and many with a kitchen, dining room, and sitting room. One of the units approved under the current permit is as large as 2,600 square feet in size, bigger than many local houses. Furthermore, the approved facility is designed to accommodate large events, and includes a large maintenance barn, spa, conference room, caterer's kitchen, and outdoor activity area. The conditions of approval allow for unlimited numbers of special events at the facility, such as weddings, so long as the events are limited to a maximum of 99 persons.

The size and scale of the approved 7-unit inn is much larger than other *1C inn facilities approved in the past. Therefore, the County's approval of the project will have high precedential value for future interpretations of its LCP provisions regarding visitor serving facilities. The Commission finds that a substantial issue is raised as to whether the approved development is consistent with the *1C overlay and meets the definition of an inn or whether the approved development should more properly be classified as a resort under the LUP, given the activities the development is designed to accommodate, the large overall size of the development, the facilities that would be available at the inn, and the large size of the units.

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

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| Filed: | July 23, 2007 |
| 49 th Day: | September 10, 2007 |
| Staff: | Robert S. Merrill |
| Staff Report: | August 21, 2007 |
| Hearing Date: | September 7, 2007 |

STAFF REPORT: APPEAL**SUBSTANTIAL ISSUE**

| | |
|----------------------|---|
| APPEAL NO.: | A-1-MEN-07-028 |
| APPLICANTS: | Jackson-Grube Family, Inc. |
| LOCAL GOVERNMENT: | County of Mendocino |
| DECISION: | Approval with Conditions |
| PROJECT LOCATION: | Approximately four miles south of Westport, on the west side of Highway One, at 31502 North Highway One (APNs 015-380-03; 015-380-04; 015-380-05; 015-380-13; 015-330-19; 015-330-27; 015-330-28; 015-070-45; 015-070-49; 015-070-511 015-070-47; and 015-070-52.). |
| PROJECT DESCRIPTION: | Build a 10-unit inn in 2 phases. Phase I to consist of (1) the demolition and reconstruction of the former Orca Inn into a main unit of 2,961 sq. ft., an upstairs unit of 1,089 sq. ft. and a downstairs unit of 833 sq. ft., (2) a 1,276 sq. ft. two floor manager's unit, (3) 1,269 sq. ft. equipment barn, 648 sq. ft. maintenance shop, and (4) a 240 sq. ft. generator/pump shed. Phase II would consist of (1) 7 units with 3 added to the main building in two storied units of 954 sq. ft., 951 sq. ft., and 820 sq. ft., (2) 2 units within a detached bunkhouse of 531 sq. ft. and 757 sq. ft., and (3) 2 separate cottages of |

835 sq. ft. and 915 sq. ft., respectively. A 778 sq. ft. spa, wells, septic system, roads and underground utilities are also proposed within the approximate 3.7-acre area of development.

APPELLANTS:

- (1) Molly Warner & Britt Bailey
- (2) Commissioners Pat Kruer and Sara Wan;
- (3) Mendocino Group Sierra Club, Attn: Rixanne Wehren & Friends of the Ten Mile, Attn: Judith Vidaver;
- (4) Margery S. Cahn Trust & Whiting Family Revocable Trust

SUBSTANTIVE FILE
DOCUMENTS:

- 1) Mendocino County CDU No. 6-2006 and
 - 2) Mendocino County Local Coastal Program
-

SUMMARY OF STAFF RECOMMENDATIONS:

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 appellants have raised a substantial issue with the local government's action and its consistency with the certified Local Coastal Program (LCP) and the public access policies of the Coastal Act.

The development, as approved by the County, consists of the establishment of a 7-unit inn with an additional manager's unit in two phases on a portion of a 400-acre parcel located in the rural and sparsely developed northern Mendocino coast approximately four miles south of Westport, on the west side of Highway One, at 31502 North Highway One.

The subject site is located on a flat, open coastal terrace to the west of the highway vegetated with low-growing grasses and a single mature Cypress tree (See Exhibit 2) that is designated as highly scenic. The site is developed with a ranch house and several associated clustered structures bordered by a white fence that contrasts starkly against the surrounding undeveloped terrace. The land surrounding the existing fenced development is used for grazing cattle. Due to the flat terrain and lack of tall vegetation or varied topography, the project site is highly visible from Highway One in both directions. The views to and along the coast from this stretch of Highway One are sweeping and vast due to the largely 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 on the east side of the highway, and a winery located approximately

two miles north of the project site on the west side of the highway. The open coastal terrace to the west and steep, grassy hillsides to the east create the rural, agricultural character of the area.

The Commission received four separate appeals of the project as approved by the County, collectively raising 10 basic contentions alleging inconsistency of the approved project with the certified Mendocino County LCP. Staff recommends that the Commission find that 8 of the contentions raise a substantial issue of conformance of the approved project with the certified Mendocino County LCP, including the contentions concerning the consistency of the project as approved with the provisions of the LCP regarding (1) allowable development under the *1C land use designation that applies to the subject property which allows for development of a 10-unit inn, (2) the protection of visual resources in highly scenic areas, including requirements for development to be subordinate to the character of its setting, (3) height limitations in highly scenic areas, (4) the protection of views to the ocean and scenic coastal areas, (5) the provision of lower cost visitor serving facilities, (6) the protection of Environmentally Sensitive Habitat Areas (ESHA) from the impacts of approved development, (7) the provision of adequate water and septic services to accommodate approved development, and (8) traffic impacts on the use of Highway One.

The certified LCP requires that development within highly scenic areas be subordinate to the character of its setting. Given (a) the large size of the development (approximately 16,000 square feet) in this largely undeveloped area, (b) the appearance of the fenced inn compound, (c) the visual effect of planting a number of trees for screening purposes in the middle of a largely treeless terrace where the planted tree themselves would appear out of character with the landscape around it, and (d) the visual prominence and glare from cars parked at the site, portable restrooms, signs, lighting, tents, and other temporary structures that would be associated with the unlimited number of weddings and other special events accommodating up to 99 people that the approved permit allows to occur on the grounds of the facility, staff recommends that the Commission find that the Commission finds that the approved project raises a substantial issue of conformance with the requirements of LUP Policies 3.5-1 and 3.5-3 and Coastal Zoning Ordinance Section 20.504.015(C)(3) that new development be subordinate to the character of the natural setting.

The Coastal Zoning Code defines environmentally sensitive habitat areas (ESHA) and includes among other habitats, wetlands, riparian areas, and habitats of rare and endangered plants. LUP Policy 3.1-7 and Coastal Zoning Code Section 20.496.020 require that a buffer area of a minimum of 100 feet shall be established adjacent to all ESHAs, unless an applicant can demonstrate, after consultations and agreement with the California Department of Fish and Game (DFG) that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. LUP Policy 3.1-7 requires that development permitted within

an ESHA buffer area shall generally be the same as those uses permitted in the adjacent environmentally sensitive habitat area, and that structures are allowable within the buffer area only if there is no other feasible site available on the parcel. Consistent with Section 30240 of the Coastal Act, residential and inn development of the kind approved by the County are not identified within the LCP as uses allowed within ESHA. As (1) the County found the project consistent with the LCP ESHA policies based on 15-year old botanical surveys that cannot possibly identify plants on the property determined to be to be ESHA within the last 15 years and identify the current extent of Mendocino paintbrush and other rare plants, and (2) the wetland delineations performed in the past indicating no wetlands existed on the site were not based on LCP and Coastal Act wetland definitions, staff recommends that the Commission find that the project as approved by the County raises a substantial issue of conformance with the provisions of LUP Policy 3.1-7, and Coastal Zoning Code Section 20.496.020 as the protection of ESHA on the site in a manner consistent with the policies has not been assured.

LUP Policy 3.8-1 requires that Highway One capacity be considered when reviewing applications for development permits. Additionally, CZC Section 20.532.095 sets forth required findings for all coastal development permits and requires, in applicable part, that public services, including public roadway capacity, be considered and be found adequate to serve the proposed development. The County's findings do not make it clear that the traffic impacts from the specific use of the inn itself have been addressed, as the findings do not include a discussion of how the peak traffic estimates were calculated. For example, it is not clear whether the number of inn units and the related total guest capacity of the inn as approved by the County were taken into account to determine the potential traffic impacts on Highway One. As the County did not require a project-specific traffic study, the potential impacts to Highway One from the increase in intensity of use of the site as an inn, and for special events at the inn, have not been adequately considered. Therefore, staff recommends that the Commission find that the project as approved by the County raises a substantial issue with respect to conformance of the approved project with LCP policies regarding impacts to Highway One, including, but not limited to, LUP Policy 3.8-1 and CZC Section 20.532.095(A)(6), as the approved development raises a substantial issue as to whether the roadway capacity is adequate to serve the proposed development.

Regarding consistency with the *1C designation, the designation is a land use and zoning overlay over the base remote residential land use classification and zoning district that allows for the construction of up to a 10-unit inn with a coastal development use permit. The overlay is one of several visitor accommodation and services (VAS) defined in the LUP that can be applied to a property covering a variety of visitor use types ranging from campgrounds to resorts. The *1C designation is defined in the LUP as any building or portion thereof or group of buildings containing five or more guest rooms or suites each designed or intended to be used, let or hired out for occupancy by transient guests for compensation of profit, and where regular meals may be provide for compensation or

profit. A resort, on the other hand is defined in the LUP as a dispersed type of Visitor Serving Facility such as dude ranches, dispersed overnight cabin accommodations, health spas and other similar uses. The approved project includes seven units, within the range allowable under the *1C designation. The units, however, are much larger than the typical visitor serving units typically seen along the Mendocino coast. Instead of having one bedroom and sometimes a sitting area and bathroom, many of the approved units include multiple bedrooms, each with its own bathroom, and many with a kitchen, dining room, and sitting room. One of the units approved under the current permit is as large as 2,600 square feet in size, bigger than many local houses. Furthermore, the approved facility is designed to accommodate large events, and includes a large maintenance barn, spa, conference room, caterer's kitchen, and outdoor activity area. The conditions of approval allow for unlimited numbers of special events at the facility, such as weddings, so long as the events are limited to a maximum of 99 persons. Staff believes that the project as approved raises a substantial issue of whether the approved development is consistent with the *1C overlay and meets the definition of an inn or whether the approved development should more properly be classified as a resort under the LUP, given the activities the development is designed to accommodate, the large overall size of the development, the facilities that would be available at the inn, and the large size of the units.

The LCP limits the height of structures within highly scenic areas west of highway one to 18 feet and one story, unless the development would not affect views to the ocean and would be compatible with surrounding development. Staff notes that the main building of the approved project includes elements that are 25 feet tall and two stories. The portions of these building above 18 feet would obstruct blue water view of the ocean as seen from Highway One. Therefore, staff recommends that the Commission find that the project as approved raises a substantial issue of conformance with the structure height limits in highly scenic areas.

As noted above, the development would obstruct some blue water view. The view blockage would result not just from the 25-foot high structures but also from the approved fence that would surround the 3.4-acre inn complex and the required landscaping that includes trees to screen the development. Given the wide-open landscape of the site that is largely devoid of trees, the 277-foot by 335-foot inn complex would block a significant amount of view. Therefore staff recommends that the Commission find that the project as approved raises a substantial issue of conformance with the highly scenic policies that state that approved development must protect views to the ocean and scenic coastal areas.

The approved development would rely on groundwater pumped from wells on the property. The site is designated in the LCP as a critical water area where groundwater is relatively scarce. The County findings do not demonstrate that sufficient ground water exists to both serve the anticipated demand for water at the development and avoid

depleting groundwater reserves to an extent that would adversely affect wetlands fed by the groundwater or the water supply of neighboring residents. Therefore staff recommends that the Commission find that the project as approved raises a substantial issue of conformance with the provision of Section 20.532.090 that require that the granting of a coastal development permit be supported by findings which establish that the proposed development will be provided with adequate utilities and will not have any adverse impacts on the environment.

Policy 3.7-5 of the LUP states, in applicable part, that lower-cost visitor and recreational facilities for persons and families of low and moderate income shall be protected, encouraged and, where feasible provided. The large size of the units to be provided at the inn with multiple bedrooms, bathrooms, sitting rooms, and kitchens are much larger than most visitor accommodations along the Mendocino coast and given the other amenities that will be provided with the facility, the units will likely be rented at the high end of the price range for visitor accommodations found on the Mendocino Coast. As the units would likely be rented at the high end of the range, the visitor accommodations being provided are not lower cost facilities generally available for persons of low and moderate income. Therefore, staff recommends that the Commission find that the project as approved raises a substantial issue of conformance with LUP Policy 3.7-5 and its provisions that lower-cost visitor and recreational facilities for persons of low and moderate income shall be encouraged and where feasible provided.

Therefore, staff recommends that the Commission find that the contentions are valid grounds for an appeal, and that the contentions raise a substantial issue of conformity of the approved development with the certified LCP and the public access policies of the Coastal Act.

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

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.

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 approved 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, (2) is located between the sea and the first public road paralleling the sea, (3) within three hundred feet of the top of a seaward facing coastal bluff, and (4) is located within a sensitive coastal resource area. 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 appellants 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* portion of the appeal hearing and review the merits of the proposed project.

This *de novo* review may occur at the same or 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

Four appeals were filed including an appeal from: (1) Molly Warner & Britt Bailey on July 23, 2007, (Exhibit No. 6); (2) Commissioners Pat Kruer and Sara Wan on July 25, 2007 (Exhibit No. 7); (3) Mendocino Group Sierra Club, Attn: Rixanne Wehren & Friends of the Ten Mile, Attn: Judith Vidaver on July 26, 2007 (Exhibit No. 8); and (4) Margery S. Cahn Trust, Deborah Cahn, Trustee & Whiting Family Revocable Trust, Judith Whiting, Trustee on July 26, 2007 (Exhibit No. 9). All four appeals were filed with the Commission in a timely manner within 10 working days of receipt by the Commission of the County's Notice of Final Action (Exhibit No. 10) on July 13, 2007.

3. Addendum

This staff report does not contain certain findings supporting a determination that the project raises a substantial issue of conformance of the approved development with the certified LCP and the public access policies of the Coastal Act. These findings include the analysis of substantial issue for the contentions raised by the appellants that (a) the development as approved by the County is not consistent with the *1C designation applied to the property in the certified LCP, (b) the approved development is inconsistent with the visual resource protection policies that regulate the height of development within highly scenic areas, (c) the approved development is inconsistent with the visual resource protection requirements of LUP Policies 3.5-1 and 3.5-3 and Coastal Zoning Code Section 20.504.015(C)(1) that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, (d) the approved development fails to address policies of the LCP and the Coastal Act that stress the importance of providing low-cost visitor serving facilities, and (e) the project is inconsistent with LCP policies calling for locating development within areas able to accommodate the development in that there is no assurance that there is adequate ground water to serve the approved development while not jeopardizing the ground water supplies of adjoining homes. Staff was unable to complete the findings prior to the mailing of the staff report. However, staff will present the recommended findings for substantial issue as part of an addendum at the Commission meeting. The findings will reflect the basis for determining that the project as approved raises a substantial issue of conformance with the certified LCP and the public access policies of the Coastal discussed in the Summary of the Staff Recommendation.

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION

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-07-028 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 of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-1-MEN-07-028 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 development with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. APPELLANTS' CONTENTIONS

The Commission received four separate appeals of the County of Mendocino's decision to approve the development, including appeals from: (1) Molly Warner & Britt Bailey (Exhibit No. 6); (2) Commissioners Pat Kruer and Sara Wan (Exhibit No. 7); (3) Mendocino Group Sierra Club, signed by Rixanne Wehren & Friends of the Ten Mile, signed by Judith Vidaver (Exhibit No. 8); and (4) the Margery S. Cahn Trust, Deborah Cahn, Trustee & the Whiting Family Revocable Trust, Judith Whiting, Trustee (Exhibit No. 9).

The development, as approved by the County and described more fully in Finding D below, consists of the establishment of a 7-unit inn with an additional manager's unit in two phases on a portion of a 400-acre parcel located in the rural and sparsely developed northern Mendocino coast approximately four miles south of Westport, on the west side of Highway One, at 31502 North Highway One.

The four appeals raise contentions alleging inconsistency of the approved project with the certified Mendocino County LCP, including, but not limited to, LCP provisions addressing (1) allowable development under the *1C land use designation that applies to the subject property which allows for development of a 10-unit inn, (2) the protection of visual resources in highly scenic areas, including requirements for development to be subordinate to the character of its setting, (3) height limitations in highly scenic areas, (4) the protection of views to the ocean and scenic coastal areas, (5) the provision of lower cost visitor serving facilities, (6) the protection of Environmentally Sensitive Habitat Areas (ESHA) from the impacts of approved development, (7) the provision of adequate water and septic services to accommodate approved development, (8) consistency with the California Environmental Quality Act, (9) the protection of historic and archaeological resources from the impacts of approved development, and (10) traffic impacts on the use of Highway One.

The appellants' contentions are summarized below, and the full text of each of the four appeals is included as Exhibit Nos. 6 through 9.

1. Approved Development Does Not Conform with Use and Size Limitations of *1C Designation.

Appellants 1, 3, and 4 contend that the development as approved by the County is not consistent with the *1C designation applied to the property in the certified LCP because the appellants believe the approved use is of a much greater intensity than development that is allowed. The *1C designation is an overlay applied in the LUP and zoning maps over base land use classification and zoning district designations to allow for the development an inn with up to 10 units or suites. The appellants note that the LUP and Zoning code have separate designations for more intensive resort uses, and allege that the approved development is more of a resort than an inn as many of the approved units include multiple bedrooms, each with its own bathroom, and many with kitchens, dining room, sitting room, and outdoor activity area. Appellant 3 notes that the previous approval granted by the County for inn development at the site only involve inn units that only contained one bedroom per unit with no kitchens. The appellants note that one of the units approved under the current permit is as large as 2,600 square feet in size, and Appellant 3 notes that this is bigger than many local houses. In addition, the appellants note that the approved development includes a large maintenance barn, spa, conference room, caterer's kitchen, and outdoor activity area. Furthermore, the appellants note that the conditions of approval allow for unlimited numbers of special events at the facility, such as weddings, so long as the events are limited to a maximum of 99 persons. Moreover, Appellant 4 asserts that the approved use is inconsistent with the definitions of an inn contained in the LCP because the catering kitchen will serve meals to up to 99 guests and an inn authorized by the zoning, can serve meals only to guests occupying the overnight accommodations.

2. Approved Development Not Subordinate to the Character of its Setting.

Appellants 1, 2, and 3 contend that the approved development is inconsistent with the visual resource protection policies of the LCP that regulate development within highly scenic areas, particularly requirements that development be subordinate to the character of its setting. The appellants note that the size of the approved development is significant (approximately 16,000 square feet) for the remote and rural open area where it is located, even with the County's conditions requiring elimination of three of the ten units originally proposed, and contend that the mass of the development is not consistent with the character of the area. Appellant 1 contends that because there are so many buildings clustered together and closed off from all ocean views towards the west by a fence, the approved development would present the appearance of a faux fort. Appellant 2 notes that the approved project involves planting eight trees to screen the inn from Highway One as well as additional landscaping involving several hedgerows, gardens, grass fields, and rocks/boulders throughout the project area and asserts that these elements combined with the cluster of fenced development would not be subordinate to the character of the expansive coastal terrace dominated by low-growing natural grasses and largely defined

by the lack of trees. Appellant 2 also notes that the County's findings of approval do not include an analysis of the project's subordination to the character of the setting as required by LUP Policy 3.5-1 and 3.5-3 and Coastal Zoning Code Section 20.504.015(C)(3). Furthermore, Appellants 2 and 3 contend that without specific controls on the number of special events and the manner in which they are conducted, development associated with these events for which up to 99 people are allowed would result in a significant number of cars parked at the site, the placement of portable restrooms, signs, lighting, tents, and other temporary structures that would not be subordinate to the character of the open coastal terrace setting as required by LUP Policy 3.5-1 and 3.5-3 and Coastal Zoning Ordinance Section 20.504.015(C)(3).

3. Approved Development Not Consistent with Height Limits in Highly Scenic Areas.

Appellants 2 and 3 contend that the approved development is inconsistent with the visual resource protection policies of the LCP, particularly the provisions that regulate the height of development within highly scenic areas. Appellant 1 notes that the project as approved involves the construction of nine new buildings at the site totaling approximately 16,000 square feet including two project elements where the 18-foot-height standard required by Coastal Zoning Code Section 20.504.015(C)(2) would be exceeded, including the replacement of an existing 26'-5" structure with one of equal height, and the construction of an approximately 25-foot-high roof over a portion of the main structure. Appellant 3 notes that most of the approved buildings are two-story and asserts that such buildings violate the limitations of LUP Policy 3.5-3 that limit new development west of Highway One in designated highly scenic areas to one-story above natural grade unless an increase in height would not affect public views to the ocean or be out character with surrounding structures.

4. Approved Development Blocks Ocean Views, Inconsistent with Policies Requiring Protection of Views to and Along the Ocean and Scenic Coastal Areas.

Appellant 3 contends that the approved development is inconsistent with the visual resource protection policies of the LCP, particularly the requirements of LUP Policies 3.5-1 and 3.5-3 and Coastal Zoning Code Section 20.504.015(C)(1) that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas. The appellants believe that the fact that there is so little development on the coastal terrace in the project area makes the area special and deserving of the highly scenic area designation and note that the area where the approved project is located is one of the very few areas remaining where people can experience a relatively unobstructed view of the coast and ocean. Appellant 3 takes exception with the County's findings for approval that the broad coastal terrace is large enough to accommodate the inn development without greatly interfering with views, asserting that such a rationale is

equivalent to saying that oil wells off the coast would be OK because you could block them out of your view by holding up a dime. Appellant 3 asserts that the building facades are massive and continuous (approximately 275 feet long) and will block ocean and coastal views. The appellants also notes that the trees that would be planted to partially screen the development would themselves block the ocean view. In addition, Appellant 3 asserts that a thorough visual analysis has not been conducted to enable decision makers to fully evaluate the project's impacts on views.

5. Approved Development Fails to Provide Low Cost Visitor Facilities

Appellant 1 contends that the approved development fails to address policies of the LCP and the Coastal Act that stress the importance of providing low-cost visitor serving facilities. The appellants assert that the approved project is a high-end facility and as such, fails to address requirements to encourage and provide low-cost accommodations.

6. Approved Development Does not Protect Environmentally Sensitive Habitat

Appellants 1 and 3 contend that the approved development fails to adequately protect environmentally sensitive habitat inconsistent with the ESHA protection policies of the LCP in that the project. The appellants assert that the County considered and approved the development despite the outdated 13-year old botanical study submitted for the project. The appellants note that vehicles associated with special events at the facility would likely be parking in fields that may contain sensitive species that have only been identified as ESHA species in recent years and were not addressed in the 13-year old botanical study. Appellant 3 asserts that without a new botanical survey to locate new rare plants, it is impossible to even identify an acceptable building envelope.

7. Approved Development Does not Provide for Adequate Water Service

Appellants 1, 3, and 4 contend that the project is inconsistent with LCP policies calling for locating development within areas able to accommodate the development in that there is no assurance that there is adequate ground water to serve the approved development. The appellants note that in approving the project, the County relied on a hydrological study that is 13 years old that does not reflect current groundwater conditions and the light rainfall of recent years. The study was prepared for the original inn project approved by the County in 1996 which was a significantly smaller project with less water demand. In addition, the 13 year-old studies contains a number of deficiencies, including, but not limited to the fact that the study contained no analysis of water supply and impacts in dry years such as 2006-2007. Appellant 4 notes that the project site is within a "Critical Water Area," in which water supplies are already stretched thin and contends that the approved project provides no assurances that ground water supplies of adjoining homes would not be compromised by pumping ground water to serve the development..

8. Approval of the Development Violated the California Environmental Quality Act (CEQA)

Appellants 3 and 4 contend the County's approval of the development violated the California Environmental Quality Act (CEQA). Appellant 4 asserts that the project was approved by the County Planning Commission before a negative declaration was adopted, contrary to CEQA requirements, and that an EIR should have been prepared because the record includes substantial evidence that the approved project will cause significant adverse impacts to coastal views, traffic and water availability. Appellant 3 asserts that the environmental review conducted by the County failed to assess the potential for cumulative adverse effects of the project as required by CEQA. In addition, Appellant 3 asserts that the County's approval of the project is inconsistent with CEQA because with the County's reliance on outdated studies and special conditions requiring the submittal of future plans by the applicants for mitigating potentially significant effects, the environmental review conducted by the County failed to demonstrate that potentially significant adverse effects of the development would be reduced to a level of insignificance.

9. Approved Development Does not Protect Archaeological and Historic Resources

Appellant 3 contends that the approved development fails to adequately protect archaeological and historic resources inconsistent with the archaeological and historic protection policies of the LCP. The appellants include a memorandum from a registered professional archaeologist stating that the project site has a lengthy history of use first as a ship landing starting in the 1870s, and later as a farm and would likely have buried deposits and features. The memorandum states that the 1990 archaeological survey submitted by the applicants for the project is seriously flawed and inadequate to inform a decision about the potential impacts of the approved development on archaeological and historic resources. The memorandum suggests that the archaeological report (1) did not include routine inspection of historic maps and other historical information, (2) did not describe the inspection methods utilized to provide a clear understanding of how intensively the parcel was surveyed and whether the level of scrutiny provided was sufficient to discover resources that could be anticipated, (3) acknowledged that the 34-acre parcel surveyed was the site of the historic town of Newport but did not record that site and did not evaluate the town and archaeological deposits associated with the town qualify as historic resources for purposes of compliance with CEQA, and (4) did not identify and evaluate archaeological or historic resources on the surrounding approximately 860 acres owned by the applicants to determine whether the approved intensified land use would adversely impact archaeological and historic resources on the larger property.

10. Traffic Impacts of the Approved Development Have Not Been Adequately Evaluated

Appellant 3 contends that the traffic impacts of the development were not adequately evaluated, inconsistent with LCP policies designed to avoid significant impacts to the use of Highway One by motorists and bicyclists. The appellants note and assert that the traffic analysis prepared by county staff does not take into account potential traffic impacts associated with full use of the approved development.

B. LOCAL GOVERNMENT ACTION

On June 21, 2007, the Mendocino County Planning Commission conditionally approved the coastal development permit for the project (CDU #6-2006) (Exhibit No. 10). As discussed above, the development, as approved by the County, consists of the establishment of a 7-unit inn with an additional manager's unit in two phases on a portion of a 400-acre parcel located in the rural and sparsely developed northern Mendocino coast approximately four miles south of Westport, on the west side of Highway One, at 31502 North Highway One.

The approved permit imposed 36 special conditions. A number of these special conditions pertain to the appeal's contentions. These include several conditions that address the protection of visual resources including: (1) submittal of a parking plan that minimizes impacts on visual resources by limiting the size of overflow parking areas and requires existing vegetation to be retained, (2) submittal of a revised lighting plan to remove upcast lighting, (3) deletion of units 4-6 from the development, (4) undergrounding of utility lines, and (5) use of exterior building materials of earth tone colors, and (6) submittal of a landscaping plan. Other conditions pertinent to the contentions of the appeals include (7) encouragement to the applicant to enter into a water sharing agreement to the immediate neighbors to ensure long term availability of water; (8) demonstration of continuous use of the property as a visitor serving facility; (9) halting development if archaeological resources are encountered and not resuming development until the archaeological discovery is evaluated; and (10) limitations on special events to less than 100 persons unless new coastal development permit authorization is obtained first.

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 July 13, 2007 (Exhibit No. 11). 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 by Appellant A on July 23, 2007. The appeals from Appellants B, C, and D were filed on July 25, 2007, July 26, 2007, and July 26, 2007, within 10-working days after receipt by the Commission of the Notice of Final Local Action.

C. PROJECT SITE BACKGROUND

Coastal development permits were approved for development of an inn facility at the subject property twice previously. In September 1984, prior to certification of the Mendocino LCP, the Coastal Commission granted Coastal Development Permit No. 1-83-278 for conversion of an existing residence into a four-unit bed and breakfast inn, subject to conditions, including conditions requiring recordation of an offer to dedicate coastal access. The prior to issuance conditions of this permit were never met, the approval expired, and the permit was never issued.

In 1996, four years after certification of the LCP, the County Planning Commission approved Coastal Development Permit No. CDU 9-95, allowing for a 10-unit inn involving the remodeling of the existing large ranch house into two guest units and manager's quarters and the construction of eight new individual guest cottages. The Planning Commission approval was subsequently appealed to the Board of Supervisors and approved by the Board on May 13, 1996. The County's approval included conditions requiring recordation of an offer to dedicate coastal access. The Board's approval in turn, was later appealed to the Coastal Commission (Appeal No. A-1-MEN-96-028). On July 10, 1996, the Coastal Commission determined that the appeal raised no substantial issue, allowing the County's approval of CDU 9-95 to stand.

The applicants sued the County, challenging the condition requiring coastal access on the grounds that a nexus did not exist between the impacts of the project on public access and the exaction of property for public access purposes. Eventually a settlement of the law suit was reached between the applicants and the County that provide for the County to drop the condition requiring the offer of dedication of public access in exchange for the applicants (1) conveying fee title to the County of a one-acre portion of the approximately 400-acre subject property, (2) paying the County \$25,000 toward the development of coastal access in the area, and (3) dedicating an easement for public access through property along a 15-foot strip on the west side of the Highway One right-of-way. On August 3, 2000, the County then approved Coastal Development Use Permit Modification #CDUM 9-95/2000 as a means of implementing the terms of the settlement agreement.

Prior to the start of construction of the inn project approved under Coastal Development Use Permit CDUM 9-95/2000, the applicant proposed significant alterations to the site layout and interior design of the project. According to County staff, the County

determined that because the project changes were so substantial, an entirely new application would be required for the project. The applicants submitted the application for the current project that was approved by the County and appealed to the Coastal Commission.

D. PROJECT AND SITE DESCRIPTION

The development, as approved by the County, consists of the establishment of a 7-unit inn with an additional manager's unit in two phases on a portion of a 400-acre parcel located in the rural and sparsely developed northern Mendocino coast approximately four miles south of Westport, on the west side of Highway One, at 31502 North Highway One.

The approximately 400-acre parcel was recognized by Certificate of Compliance #CC 39-90 granted by the County in April 1995. The irregularly-shaped parcel extends across a coastal terrace from the ocean approximately 800 feet eastward to Highway One and beyond the highway as much as 1,600 feet farther east. The property slopes gently westward across the coastal terrace at an approximately 3-5% grade. Botanical surveys conducted in 1991 and 1992 indicate that the only environmentally sensitive habitat on the property consists of a rare plant population of Mendocino paintbrush located along the bluffs. The subject property and most of the surrounding coastal terrace is covered mostly by grasses. The lack of trees and the very limited and widely scattered development in the area gives the landscape a very open appearance with substantial views of the ocean and coastline. (See Exhibit 2). The certified LCP designates the area as a highly scenic area.

The subject property is currently developed with a ranch house and several agricultural and accessory structures. The property has been used in part for agricultural grazing. The subject property is zoned as Remote Residential with a 20-acre minimum parcel size and a Planned Unit Development Combining District. The base zoning district is also overlain by an *1C designation, which allows for the development of an inn of up to 10 units. The zoning on surrounding lands includes additional Remote Residential as well as Range Land and Forest Land.

The inn complex would be constructed within an area of approximately 277-feet wide by 335-feet-long, approximately 150 feet from the bluff edge at its closes point. The inn complex would be surrounded by new fencing on the three sides and a sunken wall "ha-ha" on the westernmost (as well as a portion of the southern boundary). The "ha-ha" is a sunken wall and hedge arrangement that would serve as a barrier to the livestock that is raised on the property without impairing views from the inn complex to the ocean.

The total lot coverage of the entire project approved by the County is 14,428 square feet. The project would be built in two phases. Phase 1 would including the demolition and

reconstruction of an existing two-story ranch house that previously operated as the Orca Inn, into a main 2,961-square-foot unit with three upstairs bedrooms, each with its own bathroom, and downstairs including a kitchen, dining and reception rooms. The roofline of the structure would extend north covering an enclosable 831-square-foot outdoor activity area, a 255-square-foot caterer's kitchen, and a 693-square-foot conference room. The north end of the building would also house two additional guest units on separate floors, 1,089 and 833 square feet respectively. The larger unit would contain two bedrooms. The first phase of the project also includes a 1,276-square-foot two-story manager's unit, a 1,269-square-foot equipment barn, a 648-square-foot maintenance shop, and a 240-square-foot generator/pump shed. Total lot coverage for this phase is 9,766 square feet.

Phase 2 of the project as approved, would add the final four guest units as well as a 778-square-foot spa. Two of the new units would be located in a detached annex or "bunkhouse" and would include one 531-square-foot unit with a single bedroom kitchen and bathroom, and another 757-square-foot unit with two bedrooms, one kitchen, and a bathroom. The final two guest units were approved as individual cottages of 915 square feet and 778 square feet, each containing two bedrooms and one bathroom. In approving the project, the County conditioned the permit to eliminate three additional guest units that would have been constructed in a rectangular wing extending east from the north end of the main building. Total lot coverage for Phase II as approved is 4,662 square feet.

Water would be supplied from wells located on the same parcel but east of Highway One. A septic system would be installed with the leach field located between the inn and the highway, north of the entrance driveway. The approved project also includes the removal of various smaller structures such as an existing water tank, pumps, and sheds.

Access from Highway one would occur over a 20-foot-wide, all weather surfaced driveway. Fourteen parking spaces were approved with an additional 22 spaces in an overflow area outside of the resort compound.

The project includes the planting of a line of trees along the east side of the complex to partially screen the development from view from Highway One. Other areas would be landscaped with additional trees, hedges, and grass.

The conditions of approval also allow for unlimited numbers of special events to be held at the approved facility, such as weddings. Special condition No. B-16 limits the events to a maximum of 99 persons. Gatherings totaling between 100 and 1,000 persons shall require a coastal development permit, and those over 1,000 persons shall require a coastal development use permit. Eating and drinking establishments for on-premises consumption by non-paying guests of the facility shall require a coastal development use permit separate than that issued for this project..

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.

All 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.

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 (1) allowable development under the *1C land use designation that applies to the subject property which allows for development of a 10-unit inn, (2) the protection of visual resources in highly scenic areas, including requirements for development to be subordinate to the character of its setting, (3) height limitations in highly scenic areas, (4) the protection of views to the ocean and scenic coastal areas, (5) the provision of lower cost visitor serving facilities, (6) the protection of Environmentally Sensitive Habitat Areas (ESHA) from the impacts of approved development, (7) the provision of adequate water and septic services to accommodate approved development, and (8) traffic impacts on the use of Highway One, 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 (1) consistency with the California Environmental Quality Act, and (2) the protection of historic and archaeological resources from the impacts of approved development, the development as approved by the County raises no substantial issue with the certified LCP.

1. Allegations Raising Substantial Issue

a. Approved Development Not Subordinate to the Character of its Setting

Appellants 1, 2, and 3 contend that the approved development is inconsistent with the visual resource protection policies of the LCP that regulate development within highly scenic areas, particularly requirements that development be subordinate to the character of its setting.

LCP Policies:

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)

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 the natural setting and minimize reflective surfaces..." (emphasis added)

Coastal Zoning Ordinance Section 20.504.015 states in applicable part:

(C) Development Criteria.

- (1) Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.*
- (2) In highly scenic areas west of Highway 1 as identified on the Coastal Element land use plan maps, new development shall be limited to eighteen (18) feet above natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures.*
- (3) New development shall be subordinate to the natural setting and minimize reflective surfaces. In highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings."*

Discussion

LUP Policy 3.5-3 designates the area where the project is located as a highly scenic area. LUP Policies 3.5-1 and 3.5-3 and CZC Section 20.504.010 require that permitted development within highly scenic areas subordinate to the character of its setting.

Appellants 1, 2, and 3 contend that the approved development is not subordinate to the character of its setting and is therefore inconsistent with these policies and standards. The appellants contend that a number of factors cause the approved development to not be subordinate to the character of its setting including (a) the large size of the development in this largely undeveloped area, (b) the fortress like appearance of the fenced inn compound, (c) the visual effect of planting a number of trees for screening purposes in the middle of a largely treeless terrace where the planted tree themselves would appear out of character with the landscape around it, and (d) the visual prominence and glare from cars parked at the site, portable restrooms, signs, lighting, tents, and other temporary structures that would be associated with the unlimited number of weddings and other special events accommodating up to 99 people that the approved permit allows to occur on the grounds of the facility.

The subject site is located on a flat, open coastal terrace to the west of the highway vegetated with low-growing grasses and a single mature Cypress tree (See Exhibit 2). The site is developed with a ranch house and several associated clustered structures bordered by a white fence that contrasts starkly against the surrounding undeveloped terrace. The land surrounding the existing fenced development is used for grazing cattle. Due to the flat terrain and lack of tall vegetation or varied topography, the project site is highly visible from Highway One in both directions. The views to and along the coast from this stretch of Highway One are sweeping and vast due to the largely 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 on the east side of the highway, and a winery located approximately two miles north of the project site on the west side of the highway. The open coastal terrace to the west and steep, grassy hillsides to the east create the rural, agricultural character of the area.

The County's approval of CDU #6-2006 includes several special conditions intended, in part, to protect visual resources. These special conditions require (1) submittal of a parking plan, (2) submittal of a revised lighting plan to remove upcast lighting, (3) deletion of units 4-6 from the development, (4) undergrounding of utility lines, and (5) use of exterior building materials of earth tone colors.

However, the approximately 16,000 square feet of total new development would be significant and a substantial issue is raised as to whether the conditions intended to protect visual resources would not effectively reduce the prominence of the approved development in a manner that would cause the development to be subordinate to the character of the highly scenic area as required by LUP Policies 3.5-1 and 3.5-3 and

Coastal Zoning Ordinance Section 20.504.015(C)(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 project as approved involves the construction of nine new buildings at the site totaling over 16,000 square feet including two project elements as tall as 25 feet. In addition, the approved project involves planting eight trees to screen the inn from Highway One as well as additional landscaping involving several hedgerows, gardens, grass fields, and rocks/boulders throughout the project area. The County's findings of approval state that although the development will include more structures and trees than what currently exists at the site, impacts to ocean views are considered to be insignificant because of the broad coastal terrace that the County indicates is large enough to accommodate the inn development without interfering with the public's ability to enjoy the coastal view beyond. However, the vastness of the viewscape is part of what makes the area highly scenic. As discussed above, the character of the area is defined by the vast expanse of undeveloped, grassy coastal terrace. In addition, unlike forested or heavily vegetated areas of the Mendocino coast where new development can be sited and designed to be screened with existing or new vegetation and trees in a manner that enables the development to be subordinate to the character of its setting, at this site, the character of the area is largely defined by the lack of trees. A substantial issue is raised as to whether the introduction of trees intended to partially screen portions of the nine proposed structures, and extensive manicured lawns and landscaping would be subordinate to the expansive coastal terrace dominated by low-growing natural grasses.

Furthermore, in its approval of the project, the County included a special condition to set a maximum limit of 99 persons for any special event held at the approved inn without the need for a coastal development permit (CDP). The condition requires that special events involving between 100 and 1,000 persons shall require a CDP and events involving over 1,000 persons and/or eating and drinking establishments for on-premises consumption by non-paying guests of the inn shall require a use permit. While this special condition required by the County sets criteria for when additional permits are required for special events, the County's approval does not set any controls on the total number of special events allowable at the site, or on accessory development associated with such gatherings. Without specific controls on the number of special events and the manner in which they are conducted, development associated with these events would result in significant adverse visual impacts. For example, special events involving up to, or more than, 99 persons would introduce a significant number of cars parked at the site, thereby significantly increasing the intensity of use of the site. Such events would also involve placement of portable restrooms, signs, lighting, and tents and other temporary structures. The addition of these temporary features to the landscape for an unlimited number of days per year raise a substantial issue as to whether the approved development would be subordinate to the character of the open coastal terrace setting as required by LUP Policy 3.5-1 and 3.5-3 and Coastal Zoning Ordinance Section 20.504.015(C)(3).

Finally, the County's findings of approval do not include any specific analysis of how the project would be subordinate to the character of the setting as required by LUP Policy 3.5-1 and 3.5-3 and Coastal Zoning Code Section 20.504.015(C)(3).

The coastal resources affected by the decision are significant, given the area's "highly scenic" designation, and that the appeal raises an issue of regional and statewide significance – namely, the protection of views in areas designated as "highly scenic." Section 20.308.110(6) of the Mendocino County CZC and Section 30116 of the Coastal Act identify "highly scenic areas" as a type of "Sensitive Coastal Resource Area" that is of "vital interest and sensitivity."

Therefore, the Commission finds that the approved project raises a substantial issue of conformance with the requirements of LUP Policies 3.5-1 and 3.5-3 and Coastal Zoning Ordinance Section 20.504.015(C)(3) that new development be subordinate to the character of the natural setting.

b. Approved Development Does not Protect Environmentally Sensitive Habitat

Appellants 1 and 3 contend that the approved development fails to adequately protect environmentally sensitive habitat inconsistent with the ESHA protection policies of the LCP because no current botanical survey of the site has been performed that would enable the County to find that all ESHA on the site would be protected.

LCP Policies:

Environmentally Sensitive Habitat Areas (ESHA) are defined on page 38 of the Mendocino County LUP as:

Any areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Coastal Zoning Code Section 20.496.010 "Environmentally Sensitive Habitat and other Resource Areas—Purpose" states (emphasis added):

...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.

LUP Policy 3.1-7 states: (emphasis added)

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 and the adjacent upland transitional habitat function of the buffer 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.*

Coastal Zoning Code Section 20.496.020 “Environmentally Sensitive Habitat and other Resource Areas—Development Criteria” states (emphasis added):

*(A) **Buffer Areas.** 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 degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.*

*(1) **Width.** The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (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 fifty (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.

Standards for determining the appropriate width of the buffer area are as follows:

(a) Biological Significance of Adjacent Lands. Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they are functionally related to these habitat areas. Functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance depends upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding, or resting).

Where a significant functional relationship exists, the land supporting this relationship shall also be considered to be part of the ESHA, and the buffer zone shall be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer shall be measured from the edge of the wetland, stream, or riparian habitat that is adjacent to the proposed development.

(b) Sensitivity of Species to Disturbance. The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination shall be based on the following after consultation with the Department of Fish and Game or others with similar expertise:

(i) Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species;

(ii) An assessment of the short-term and long-term adaptability of various species to human disturbance;

(iii) An assessment of the impact and activity levels of the proposed development on the resource.

(c) Susceptibility of Parcel to Erosion. The width of the buffer zone shall be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, and vegetative cover of the parcel and to what degree the development will change the potential for erosion. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development should be provided.

(d) Use of Natural Topographic Features to Locate Development. Hills and bluffs adjacent to ESHA's shall be used, where feasible, to buffer habitat areas. Where otherwise permitted, development should be located on the sides of hills away from ESHA's. Similarly, bluff faces should not be developed, but shall be included in the buffer zone.

(e) Use of Existing Cultural Features to Locate Buffer Zones. Cultural features (e.g., roads and dikes) shall be used, where feasible, to buffer habitat areas. Where feasible, development shall be located on the side of roads, dikes, irrigation canals, flood control channels, etc., away from the ESHA.

(f) Lot Configuration and Location of Existing Development. Where an existing subdivision or other development is largely built-out and the buildings are a uniform distance from a habitat area, at least that same distance shall be required as a buffer zone for any new development permitted. However, if that distance is less than one hundred (100) feet, additional mitigation measures (e.g., planting of native vegetation) shall be provided to ensure additional protection. Where development is proposed in an area that is largely undeveloped, the widest and most protective buffer zone feasible shall be required.

(g) Type and Scale of Development Proposed. The type and scale of the proposed development will, to a large degree, determine the size of the buffer zone necessary to protect the ESHA. Such evaluations shall be made on a case-by-case basis depending upon the resources involved, the degree to which adjacent lands are already developed, and the type of development already existing in the area...

(2) Configuration. The buffer area shall be measured from the nearest outside edge of the ESHA (e.g., for a wetland from the landward edge of the wetland; for a stream from the landward edge of riparian vegetation or the top of the bluff).

(3) Land Division. New subdivisions or boundary line adjustments shall not be allowed which will create or provide for new parcels entirely within a buffer area.

(4) Permitted Development. Development permitted within the buffer area shall comply at a minimum with the following standards:

(a) Development shall be compatible with the continuance of the adjacent habitat area by maintaining the functional capacity, their ability to be self-sustaining and maintain natural species diversity.

(b) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel.

(c) Development shall be sited and designed to prevent impacts which would degrade adjacent habitat areas. The determination of the best site shall include consideration of drainage, access, soil type, vegetation, hydrological characteristics, elevation, topography, and distance from natural stream channels. The term "best site" shall be defined as the site having the least impact on the maintenance of the biological and physical integrity of the buffer strip or critical habitat protection area and on the maintenance of the hydrologic capacity of these areas to pass a one hundred (100) year flood without increased damage to the coastal zone natural environment or human systems.

(d) Development 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.

(e) 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.

(f) Development shall minimize the following: impervious surfaces, removal of vegetation, amount of bare soil, noise, dust, artificial light, nutrient runoff, air pollution, and human intrusion into the wetland and minimize alteration of natural landforms.

(g) Where riparian vegetation is lost due to development, such vegetation shall be replaced at a minimum ratio of one to one (1:1) to restore the protective values of the buffer area.

(h) Aboveground structures shall allow peak surface water flows from a one hundred (100) year flood to pass with no significant impediment.

(i) Hydraulic capacity, subsurface flow patterns, biological diversity, and/or biological or hydrological processes, either terrestrial or aquatic, shall be protected.

(j) Priority for drainage conveyance from a development site shall be through the natural stream environment zones, if any exist, in the development area. In the drainage system design report or development plan, the capacity of natural stream environment zones to convey runoff from the completed development shall be evaluated and integrated with the drainage system wherever possible. No structure shall interrupt the flow of groundwater within a buffer strip. Foundations shall be situated with the long axis of interrupted impermeable

vertical surfaces oriented parallel to the groundwater flow direction. Piers may be allowed on a case by case basis.

(k) If findings are made that the effects of developing an ESHA buffer area may result in significant adverse impacts to the ESHA, mitigation measures will be required as a condition of project approval. Noise barriers, buffer areas in permanent open space, land dedication for erosion control, and wetland restoration, including off-site drainage improvements, may be required as mitigation measures for developments adjacent to environmentally sensitive habitats. (Ord. No. 3785 (part), adopted 1991)

Discussion:

As cited above, Coastal Zoning Code Section 20.496.010 defines environmentally sensitive habitat areas (ESHA) and includes among other habitats, wetlands, riparian areas, and habitats of rare and endangered plants. LUP Policy 3.1-7 and Coastal Zoning Code Section 20.496.020 require that a buffer area of a minimum of 100 feet shall be established adjacent to all ESHAs, unless an applicant can demonstrate, after consultations and agreement with the California Department of Fish and Game (DFG) 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 policies state that in that event, the buffer shall not be less than 50 feet in width. Coastal Zoning Code Section 20.496.020 states that the standards for determining the appropriate width of the buffer area are the seven standards of subsections (a) through (g) of subsection (A)(1) of that section, including (a) the biological significance of adjacent lands, (b) sensitivity of species to disturbance, (c) susceptibility of parcel to erosion, (d) use of natural topographic features to locate development, (e) use of existing cultural features to locate buffer zones, (f) lot configuration and location of existing development, and (g) the type and scale of the development proposed.

LUP Policy 3.1-7 and CZC Section 20.496.020(A)(4)(b) further require that development permitted within an ESHA buffer area shall generally be the same as those uses permitted in the adjacent environmentally sensitive habitat area, and that structures are allowable within the buffer area only if there is no other feasible site available on the parcel. Consistent with Section 30240 of the Coastal Act, residential and inn development of the kind approved by the County are not identified within the LCP as uses allowed within ESHA.

Appellants 1 and 3 contend that the approved development fails to adequately protect environmentally sensitive habitat inconsistent with the ESHA protection policies of the LCP. The appellants assert that the County considered and approved the development despite the outdated 15-year old botanical study submitted for the project. The appellants note that vehicles associated with special events at the facility would likely be parking in

fields that may contain sensitive species that have only been identified as ESHA species in recent years and were not addressed in the 15-year old botanical study. Appellant 3 asserts that without a new botanical survey to locate new rare plants, it is impossible to even identify an acceptable building envelope.

The County staff report indicates that the only botanical surveys relied upon by the County in approving the project was a botanical survey prepared by Gordon McBride dated June 8, 1991 and a supplemental study prepared in September 1992. Both of these studies were used for the previously approved version of the inn at the project site. The staff report notes that the 1991 botanical survey identified the existence of rare and endangered Mendocino Paintbrush along the top and face of the ocean bluffs, with one plant located about 50 feet from the edge of the bluff. Each survey indicated that the blufftop setbacks were sufficient buffers to protect the habitat from the impacts of development of the original inn project. The surveys noted seasonal watercourses in the surrounding region outside of the project envelope, but were determined not to be wetlands because they lacked the “botanical characteristics” of a wetland or a watercourse due to a lack of riparian vegetation associated with them.

In approving the current project, the County findings state that County staff did not believe additional botanical studies were necessary because (a) the approved development site has been disturbed by decades of use as a working ranch, (b) the current inn project is more compact and occupies less overall area than the inn project approved in 1996, and (c) the development envelope of the current project has been moved further east by 50 to 100 feet, increasing the buffer area that would be provided between the development and the Mendocino Paintbrush habitat identified in 1991 and 1992.

The factors cited by the County do not preclude the possibility that the development site could contain ESHA or be located in an area that the LCP buffer policies indicate should be reserved for a buffer between ESHA and any development. The fact that the development site has been disturbed by ranch use does not necessarily mean the development site is devoid of environmentally sensitive habitat. Many rare plant species are opportunistic in that they thrive in disturbed areas where they don’t have to contend with larger more abundant plant species that can out compete the rare plants for sunlight and other resources necessary for survival. For example, botanists for other Mendocino coast projects have indicated that the rare coastal morning glory plant actually benefits when the coastal terrace lands that the plant often grows in are periodically mowed. The mowing helps control the growth of competing plants that would otherwise displace the coastal morning glory. The fact cited by the County that the project area of the current project is somewhat smaller than the area of the 1996 inn project approved on the same property does not preclude the possibility that opportunistic rare plant species occupy the area. The fact that the development site for the current project is farther east than that of the 1996 project does not necessarily mean that the rare Mendocino paintbrush plant previously identified on the property would be avoided and an adequate buffer between

the development and the Mendocino paintbrush habitat would be provided. The aerial extent of Mendocino paintbrush does not remain static over time. The species can spread or retract within an area from year to year. The fact that the approved development may be sufficiently far away from the location of Mendocino paintbrush identified in 1991 and 1992 does not mean that the development is sufficiently far away from where the plant exists today, 15 years later.

In addition, as noted by the appellants, the County's finding do not take into account the fact that new species on the Mendocino Coast have been determined to be ESHA since 1991 and 1992. The coastal morning glory has only been determined by the County and the Commission to be ESHA since approximately 2001. The memorandum submitted by Appellant 3 from botanist Teresa Sholars, Rare Plant Coordinator for the DKY Chapter of the California Native Plant Society notes that many new species have been added to the rare plant inventory since 1992, including some species reportedly found on the site. The memorandum notes that one such rare plant is the *Lotus formosissimus*, which is also the food plant for federally listed *Lotis Blue Butterfly*. The memorandum also indicates that the 1991 and 1992 surveys did not mention that the site contains rare plant communities including the Coastal Terrace Prairie and Northern Coastal Bluff Scrub. Furthermore, the memorandum indicates that the 1991 and 1992 surveys did not follow the California Department of Fish & Game guidelines, implying that greater amounts of ESHA may have been present on the site even in 1991 and 1992 than were identified by the botanical survey.

The Commission also notes that the rationale cited in the 1991 and 1992 botanical surveys for determining that the small seasonal watercourses were not wetlands is not definitive. The rationale attributed by the County's findings to the 1991 and 1992 surveys is that the water courses did not exhibit riparian plants. Although the presence of hydrophytic vegetation is a necessary component for a site to delineate as wetlands under the 3-parameter federal Clean Water Act definition of wetlands, the presence of wetland plants is not an essential component for a site to delineate as a wetland under the Mendocino LCP and Coastal Act. A site devoid of wetland plants such as the approved project site that exhibits the wetland parameters of hydric soils or hydrology could still be characterized as a wetland. Wetlands are identified as ESHA under Coastal Zoning Code Section 20.496.010.

Therefore, a substantial issue is raised as to whether the development site and areas around the development site contain ESHA. As a result, findings cannot be substantiated that the development would not be located either within ESHA or in areas needed as ESHA buffer.

As (1) no current botanical survey of the site that would identify plants determined to be ESHA within the last 15 years and identify the current extent of Mendocino paintbrush and other rare plants has been performed and (2) the wetland delineations performed in

the past indicating no wetlands existed on the site were not based on LCP and Coastal Act wetland definitions, the legal and factual support for the local government's decision that the development would not affect ESHA is low. Furthermore, as the cumulative impact of the loss of rare and endangered plants over time throughout the coastal zone has been significant, the appeal raises issues of statewide significance rather than just a local issue. Therefore, for all of the above reasons, the Commission finds that the project as approved by the County raises a substantial issue of conformance with the provisions of LUP Policy 3.1-7, and Coastal Zoning Code Section 20.496.020.

c. Traffic Impacts

LCP Policies and Standards:

LUP Policy 3.8-1 states in applicable part:

Highway 1 capacity, availability of water and sewage disposal system and other known planning factors shall be considered when considering applications for development permits. [emphasis added]

Coastal Zoning Coastal Zoning Code Section 20.532.095 states:

Section 20.532.095 Required Findings for all Coastal Development Permits.

(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish 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 this Division 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. [emphasis added]

(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. [emphasis added]

(B) If the proposed development is located between the first public road and the sea or the shoreline of any body of water, the following additional finding must be made:

(1) 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. (Ord. No. 3785 (part), adopted 1991)

Discussion:

Appellant 3 contends that the impacts of the development on vehicle and bicycle use of Highway One were not adequately evaluated, inconsistent with LCP policies designed to avoid significant impacts to Highway One. The appellants note that there has been a significant increase in non-resident vehicle and bicycle use of Highway One since the 1994 State Route One Corridor Study cited in the County's findings for project approval was prepared. The appellants suggest that the project as approved by the County would result in potential significant impacts on the use of Highway One and that the capacity of this public roadway is not adequate to serve the proposed development.

As cited above, LUP Policy requires that Highway One capacity be considered when reviewing applications for development permits. Additionally, CZC Section 20.532.095 sets forth required findings for all coastal development permits and requires, in applicable part, that public services, including public roadway capacity, be considered and be found adequate to serve the proposed development.

In its findings for the proposed project, the County cites a State Route One Corridor Study that was prepared in 1994 to address issues of traffic carrying capacity from the build-out of the County Coastal Element of the General Plan along Highway One. The County's findings describe the criteria used in the study to evaluate projected traffic along the road segment relevant to the proposed project as being a 75/50 development scenario with an estimated time horizon through the year 2020 (i.e., "existing development + development on 75% of existing vacant parcels + development on 50% of new parcels + 75% of commercial, industrial, and visitor-serving facility build-out potential"). The County indicates that estimated peak hour trips generated for the project are 6.48 on summer weekdays and 12.42 during summer weekends. The County then concludes that as the estimates "*fall below the threshold of 25 peak hour trips for this segment of the highway, further traffic studies are not required according to the Corridor Study. Therefore, no significant impacts are expected in this area.*"

Although the County *considered* Highway One capacity in its review of the proposed project as required by LUP Policy 3.8-1 and CZC Section 20.532.095(A)(6), it is not clear from the County's findings that the capacity of Highway One is *adequate* to serve the proposed development as further required by CZC Section 20.532.095(A)(6). The County's findings regarding traffic impacts do not include a discussion of how the cited estimated peak hour trips generated for the project were determined. Thus, it is not clear what criteria were used to calculate the estimated peak hour trips or whether the entire scope of the project as approved by the County was included in the traffic impact calculations.

For example, in its approval of the project, the County included a special condition to set a maximum limit of 99 persons for any special event held at the approved inn without the need for a coastal development permit (CDP). The condition requires that special events involving between 100 and 1,000 persons shall require a CDP and events involving over 1,000 persons and/or eating and drinking establishments for on-premises consumption by non-paying guests of the inn shall require a use permit. While this special condition required by the County sets criteria for when additional permits are required for special events, the County's approval does not set any controls on the total number of special events allowable at the site. Without specific controls on the number of special events and the manner in which they are conducted, such events have the potential to generate a significant amount of traffic along this stretch of rural Highway One in a manner that could exceed the capacity of the roadway and cause significant traffic and bicycle safety issues. Additionally, it is not clear from the County's findings that the traffic impacts from use of the inn itself have been addressed, as the findings do not include a discussion of how the peak traffic estimates were calculated. For example, it is not clear whether the number of inn units and the related total guest capacity of the inn as approved by the County were taken into account to determine the potential traffic impacts on Highway One.

As the County did not require a project-specific traffic study, the potential impacts to Highway One from the increase in intensity of use of the site as an inn, and for special events at the inn, have not been considered. Thus, the degree of legal and factual support for the local government's decision is low.

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 impacts to Highway One, including, but not limited to, LUP Policy 3.8-1 and CZC Section 20.532.095(A)(6), as the approved development raises a substantial issue as to whether the roadway capacity is adequate to serve the proposed development.

2. Allegations Not Raising Substantial Issue

a. Archaeological Resources

LCP Policies and Standards:

LUP Policy 3.5-10 states as follows:

The County shall review all development permits to ensure that proposed projects will not adversely affect existing archaeological and paleontological resources. Prior to approval of any proposed development within an area of known or probable archaeological or paleontological significance, a limited field survey by a qualified professional shall be required at the applicant's expense to determine the extent of the resource. Results of the field survey shall be transmitted to the State Historical Preservation Officer and Cultural Resource Facility at Sonoma State University for comment. The County shall review all coastal development permits to ensure that proposed projects incorporate reasonable mitigation measures so the development will not adversely affect existing archaeological/paleontological resources. Development in these areas are subject to any additional requirements of the Mendocino County Archaeological Ordinance.[emphasis added]

Coastal Zoning Code Section 20.532.095(A)(5) states in applicable part:

Section 20.532.095 Required Findings for all Coastal Development Permits.

(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish 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 this Division 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. [emphasis added]

(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.

(B) If the proposed development is located between the first public road and the sea or the shoreline of any body of water, the following additional finding must be made:

(1) 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. (Ord. No. 3785 (part), adopted 1991)

Discussion:

The contention raised by Appellant 3 regarding the development's failure to adequately protect archaeological and historic resources does not raise a substantial issue of conformity of the approved project with the certified LCP. The appellants include a memorandum from a registered professional archaeologist asserting that the 1990 archaeological survey submitted by the applicant for the project is flawed and inadequate to inform a decision about the potential impacts of the approved development on archeological and historic resources, particularly potential historic buildings and structures. The memorandum states that consideration of adverse impacts to historical resources is required by LUP Policy 3.5-10.

As cited above, LUP Policy 3.5-10 requires the County to review all development permits to ensure that proposed projects will not adversely affect existing archaeological and paleontological resources. LUP Policy 3.5-10 further requires that (1) prior to approval of any proposed development within an area of known or probable archaeological or paleontological significance, a field survey must be prepared by a qualified professional to determine the extent of the resource, (2) results of the field survey be transmitted to the State Historical Preservation Officer and Cultural Resource Facility at Sonoma State University for comment, and (3) proposed projects incorporate reasonable mitigation measures so the development will not adversely affect existing archaeological/paleontological resources. Coastal Zoning Code Section 20.532.095 sets forth findings required for all coastal development permits and includes, in part, that the proposed development will not have any adverse impacts on any known archaeological or paleontological resource. However, contrary to the contention contained in the memorandum submitted by Appellant 3, LUP Policy 3.5-10 does not address the protection of historic buildings or structures. As indicated in the memorandum submitted by Appellant 3, the protection of significant historical resources, including historic buildings and structures, is required under the California Environmental Protection Act (CEQA). Additionally, the Mendocino County LCP includes historic preservation policies that pertain specifically to the Town of Mendocino. However, the LCP is silent with regard to historic structures in the remainder of the County outside of the Town.

Therefore, the contention raised in the memorandum submitted by Appellant 3 that the proposed project as approved by the County does not adequately protect historic buildings and structures does not raise a substantial issue of conformity of the approved project with the certified LCP.

With regard to the protection of archaeological resources, the memorandum submitted by Appellant 3 contends that the archaeological survey prepared in 1990 for the subject site, as required by LUP Policy 3.5-10, is flawed in that the survey methodology was incomplete and poorly described and thus, the extent and significance of potential archaeological resources and the potential impacts from the proposed project cannot be adequately determined. The memorandum further contends that the archaeological study does not address the approximately 900 acres under the applicant's ownership that extend beyond the 34 acres that are the subject of the proposed development.

As noted above, LUP Policy 3.5-10 and CZC Section 20.532.095(A)(5) require that new development not adversely affect existing archaeological and paleontological resources and that proposed projects incorporate reasonable mitigation measures to ensure the protection of such resources. In its findings for the proposed project, the County indicates that the 1990 archaeological survey submitted by the applicant, and referenced in the memorandum submitted by Appellant 3, was accepted by the County Archaeological Commission for the subject development. The County's findings further state that no archaeological resources were discovered as a result of the survey. However, to ensure the protection of any archaeological resources that may be encountered during project development, the County included Special Condition No. 11 requiring that should such resources be discovered, all work must halt until County requirements regarding archaeological discoveries have been satisfied. As the project approved by the County does not involve ground disturbance or any other form of development outside of the 34 acres addressed by the 1990 archaeological survey, the County had no basis to require that the approximately 900 acres under the applicant's ownership adjacent to the project site be surveyed for the proposed project as suggested in the memorandum submitted by Appellant 3.

Therefore, there is a high degree of factual support for the County to find that the approved project, as conditioned, is consistent with LUP Policy 3.5-10, as (1) the applicant submitted an archaeological survey of the area affected by the proposed development, (2) the survey did not discover any archaeological resources, and (3) the project included a mitigation measure requiring that all work halt in the event that archaeological resources are discovered. Thus, the contention raised by the appellant regarding the protection of archaeological resources does not raise a substantial issue of conformance with the requirements of LUP Policy 3.5-10.

b. Approval of the Development Violated the California Environmental Quality Act (CEQA)

LCP Policies and Standards:

Coastal Zoning Code Section 20.532.040 states:

Upon acceptance of an application as complete, the Director or his designee shall complete an environmental review of the project as required by the California Environmental Quality Act (CEQA), shall study the project for conformance with all applicable requirements of this Chapter. The Director shall refer relevant portions of the completed application to those departments, agencies or individuals who received copies of the application during application check, or other individual/group that the department believes may have relevant authority or expertise. The Director or designee shall prepare a written report and recommendation for action on the application with findings and evidence in support thereof.

Discussion

Appellants 3 and 4 contend the County's approval of the development violated the California Environmental Quality Act (CEQA). Appellant 4 asserts that the project was approved by the County Planning Commission before a negative declaration was adopted, contrary to CEQA requirements, and that an EIR should have been prepared because the record includes substantial evidence that the approved project will cause significant adverse impacts to coastal views, traffic and water availability. Appellant 3 asserts that the environmental review conducted by the County failed to assess the potential for cumulative adverse effects of the project as required by CEQA. In addition, Appellant 3 asserts that the County's approval of the project is inconsistent with CEQA because with the County's reliance on outdated studies and special conditions requiring the submittal of future plans by the applicants for mitigating potentially significant effects, the environmental review conducted by the County failed to demonstrate that potentially significant adverse effects of the development would be reduced to a level of insignificance.

Coastal Zoning Code Section 20.532.040 requires the County to complete an environmental review of the proposed project as required by CEQA, but CEQA is not itself a substantive LCP policy by which the consistency of the approved development is measured. Rather, the requirement of CZC Section 20.532.040 deals with the procedure leading up to the County action, and does not deal with the project as approved. Thus, the contention raises a procedural inconsistency and not a substantial or substantive inconsistency of the approved project with the certified LCP.

Therefore, the Commission finds that the contention raised by the appellant does not raise a substantial issue of conformance of the approved project with provisions of the certified Local Coastal Program and the public access policies of the Coastal Act.

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, for the reasons discussed above, the Commission finds that the project as approved by the County raises a substantial issue of conformance of the approved project with the certified Mendocino County LCP with respect to contentions concerning the consistency of the project as approved with the provisions of the LCP regarding (1) allowable development under the *1C land use designation that applies to the subject property which allows for development of a 10-unit inn, (2) the protection of visual resources in highly scenic areas, including requirements for development to be subordinate to the character of its setting, (3) height limitations in highly scenic areas, (4) the protection of views to the ocean and scenic coastal areas, (5) the provision of lower cost visitor serving facilities, (6) the protection of Environmentally Sensitive Habitat Areas (ESHA) from the impacts of approved development, (7) the provision of adequate water and septic services to accommodate approved development, and (8) traffic impacts on the use of Highway One.

E. INFORMATION NEEDED FOR *DE NOVO* REVIEW OF APPLICATION

As stated above, Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed. Section 30621 of the Coastal Act instructs the Commission to provide for a *de novo* hearing on all appeals where it has determined that a substantial issue exists with respect to the grounds on which an appeal has been filed. If the Commission finds substantial issue as recommended above, staff also recommends that the Commission continue the *de novo* portion of the appeal hearing to a subsequent date. The *de novo* portion of the appeal hearing must be continued, because the Commission does not have sufficient information to determine how development can be approved consistent with the certified LCP.

Given that the project the Commission will be considering *de novo* has come to the Commission after an appeal of a local government action, the Commission has not previously been in the position to request information from the applicant needed to determine if the project can be found to be consistent with the certified LCP. Following is a discussion of the information needed to evaluate the proposed development.

1. Current Botanical and Wetland Survey

As discussed above, the project raises a substantial issue of conformance with the policies of the LCP regarding the protection of environmentally sensitive habitat areas (ESHA), as (1) no current botanical survey of the site that would identify plants determined to be ESHA within the last 15 years and identify the current extent of Mendocino paintbrush and other rare plants has been performed, and (2) the wetland delineations performed in the past indicating no wetlands existed on the site were not based on LCP and Coastal Act wetland definitions. Therefore, to determine the presence and extent of all potential rare plant and wetland habitat at and adjacent to the project site, a current botanical and wetland survey prepared consistent with Section 20.532.060 of the Coastal Zoning Ordinance should be provided. The survey should be prepared by a qualified biologist and should include, but not be limited to: (1) a map of all environmentally sensitive habitat areas (ESHA) identified by the survey, (2) an evaluation of the potential impacts and disturbance to the ESHA as a result of all elements of the proposed development, and (3) a discussion of any recommended mitigation measures to ensure that the development would be sited and designed in a manner that would prevent impacts that would significantly degrade the area and provide for the continuance of the ESHA. The biological report should also include a determination of adequate buffers as prescribed in Coastal Zoning Code 20.496.020(A)(1)(a-g). Additionally, consultation and agreement by DFG that a protective buffer of less than 100 feet as determined pursuant to CZC 20.496.020 is adequate to protect the ESHA resource is required if development would occur within 100 feet of any delineated ESHA.

2. Demonstration of Proof of Water

As discussed above, the project raises a substantial issue of conformance with the policies of the LCP regarding locating new development in areas with adequate services. LUP Policy 3.8-1, 3.9-1, and Coastal Zoning Code Section 20.532.095 require that the approving authority consider whether an adequate on-site water source to serve proposed development is available before approving a coastal development permit. The hydrological study that the County relied on in approval of the proposed project was prepared 13 years ago and does not reflect the current site conditions or evaluate the water demands of the currently proposed project. Therefore, a current hydrological study demonstrating that the quantity and quality of water yielded by the proposed well(s) or some other source available to the applicant meets the standards of the County Health Department is needed to evaluate whether adequate water will be available to serve the proposed development. The hydrological study should evaluate (1) the adequacy of the on-site water source(s) to serve the proposed development, (2) potential impacts to surface and groundwater supplies at and surrounding the project site, and (3) potential impacts to coastal resources from surface and/or groundwater extraction (i.e., impacts to surrounding wetlands or watercourses, geologic stability, etc.).

3. Demonstration of Adequate Sewage Disposal

LUP Policies 3.8-1, 3.8-7, 3.9-1, and Coastal Zoning Code Section 20.532.095 require that the approving authority consider whether adequate sewage disposal capacity exists to serve the proposed development. In its findings for approving the proposed project, the County indicates that a septic system design has been submitted to the County Division of Environmental Health (DEH), but that approval by DEH had not been received at the time of project approval. Therefore, the applicant must provide evidence that DEH has reviewed the proposed septic system and determined that the proposed septic system meets all current standards and is adequate to serve the proposed development.

4. Updated Geotechnical Analyses

The Mendocino County LCP requires that authorization of development on a bluff top lot is contingent on making findings that (a) the approved project site will be stable over the life of the project, and (b) that threats to the development from geologic hazards will be minimized and mitigated. Because the existing geotechnical information prepared for the project site is several years out of date and does not address the currently proposed project as sited and designed, an updated geotechnical report is necessary to make these findings. The updated geotechnical report should be prepared by a registered geologist or a certified engineering geologist and should evaluate the current geologic conditions of the site and the effect of the proposed development on geologic stability. The report should include, but not be limited to: (1) a discussion of historic, current and foreseeable bluff erosion; (2) the impact of the proposed development on the stability of the site and adjacent area for the economic life of the project (i.e. 75 years); (3) ground surface water conditions and potential impacts on the bluff from site drainage; and (4) recommendations regarding construction, drainage, and siting and design of the proposed project to minimize geologic hazards.

5. Traffic Analysis

As discussed above, the project raises a substantial issue with respect to conformance of the approved project with LCP policies regarding impacts to Highway One, including, but not limited to, LUP Policy 3.8-1 and CZC Section 20.532.095(A)(6), as the approved development raises a substantial issue as to whether the roadway capacity is adequate to serve the proposed development. To determine the potential impacts to Highway One from the proposed project, including the increase in intensity of use of the site as an inn, and for special events at the inn, the applicant must provide a project-specific traffic study, including a detailed analysis of estimated peak hour traffic generated by the proposed project and the associated impacts on vehicle and bicycle safety and use of Highway One in the project area.

6. Evidence of Valid Certificate of Compliance

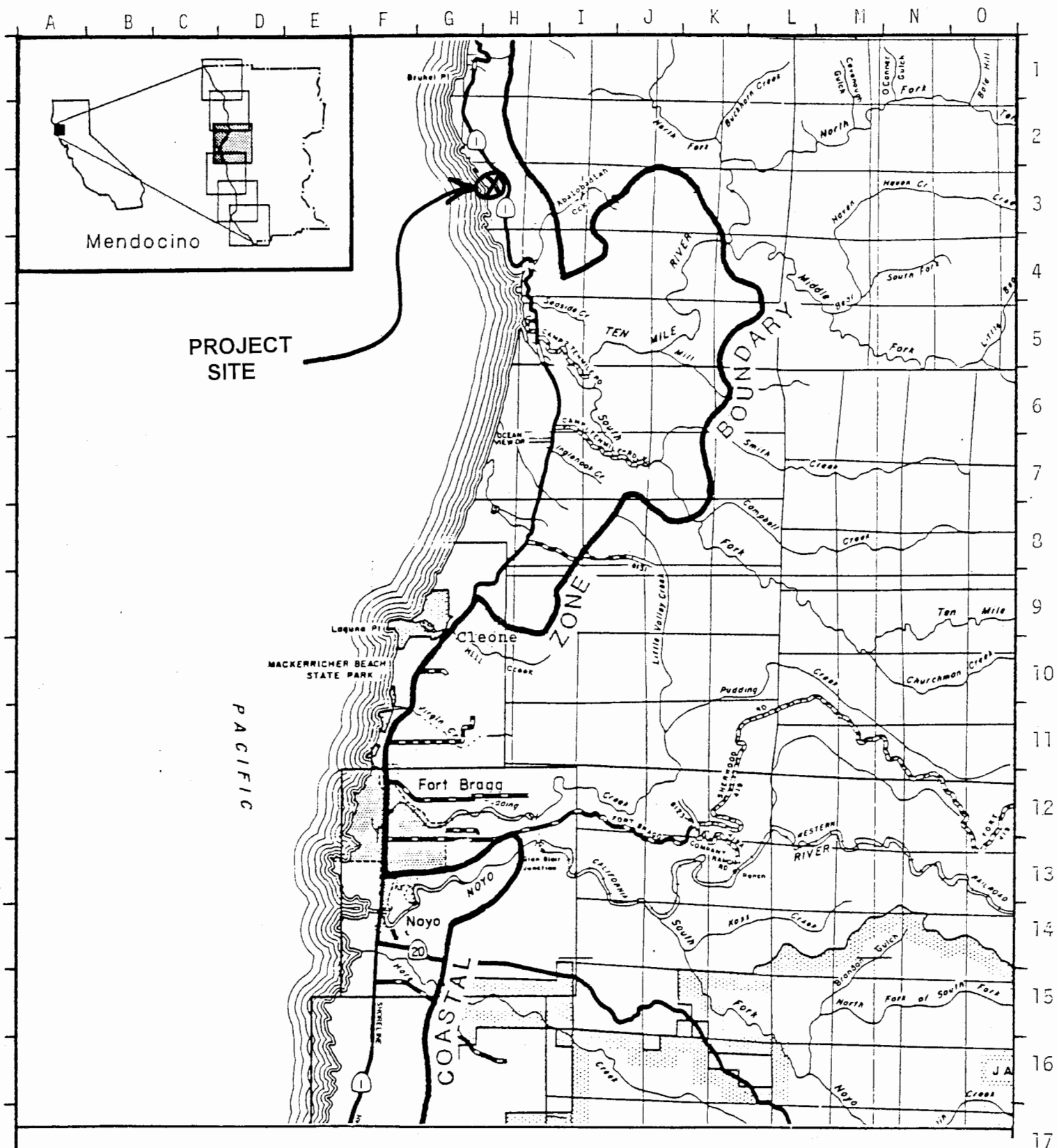
The proposed project raises questions as to the number of legal parcels that actually exist on the site which affects whether the approved development increases or decreases the potential density of development of the site, the impacts of the development on visual and other coastal resources, and the degree of consistency of the development with the certified LCP policies. Therefore, an analysis of the legality of the lots as separate parcels is needed to help determine the legal development potential on the subject property. This analysis must include, but is not limited to, the following:

- A. The historic chain of title for the subject property;
- B. Whether the real property in question complies with the provisions of the Subdivision Map Act and County Ordinances enacted pursuant.

Without the above information, the Commission cannot reach a final determination concerning the project's consistency with the policies of the LCP. Therefore, before the Commission can act on the proposed project *de novo*, the applicant must submit the above-identified information.

Exhibits:

- 1. Regional Location Map
- 2. Aerial Photos
- 3. Location Map
- 4. Site Plans
- 5. Elevations
- 6. Appeal No. 1 (Molly Warner & Britt Bailey)
- 7. Appeal No. 2 (Commissioners Kruer & Wan)
- 8. Appeal No. 3 (Sierra Club & Friends of the Ten Mile River)
- 9. Appeal No. 4 (Margery S. Cahn Trust & Whiting Family Trust)
- 10. Notice of Final Local Action
- 11. Correspondence



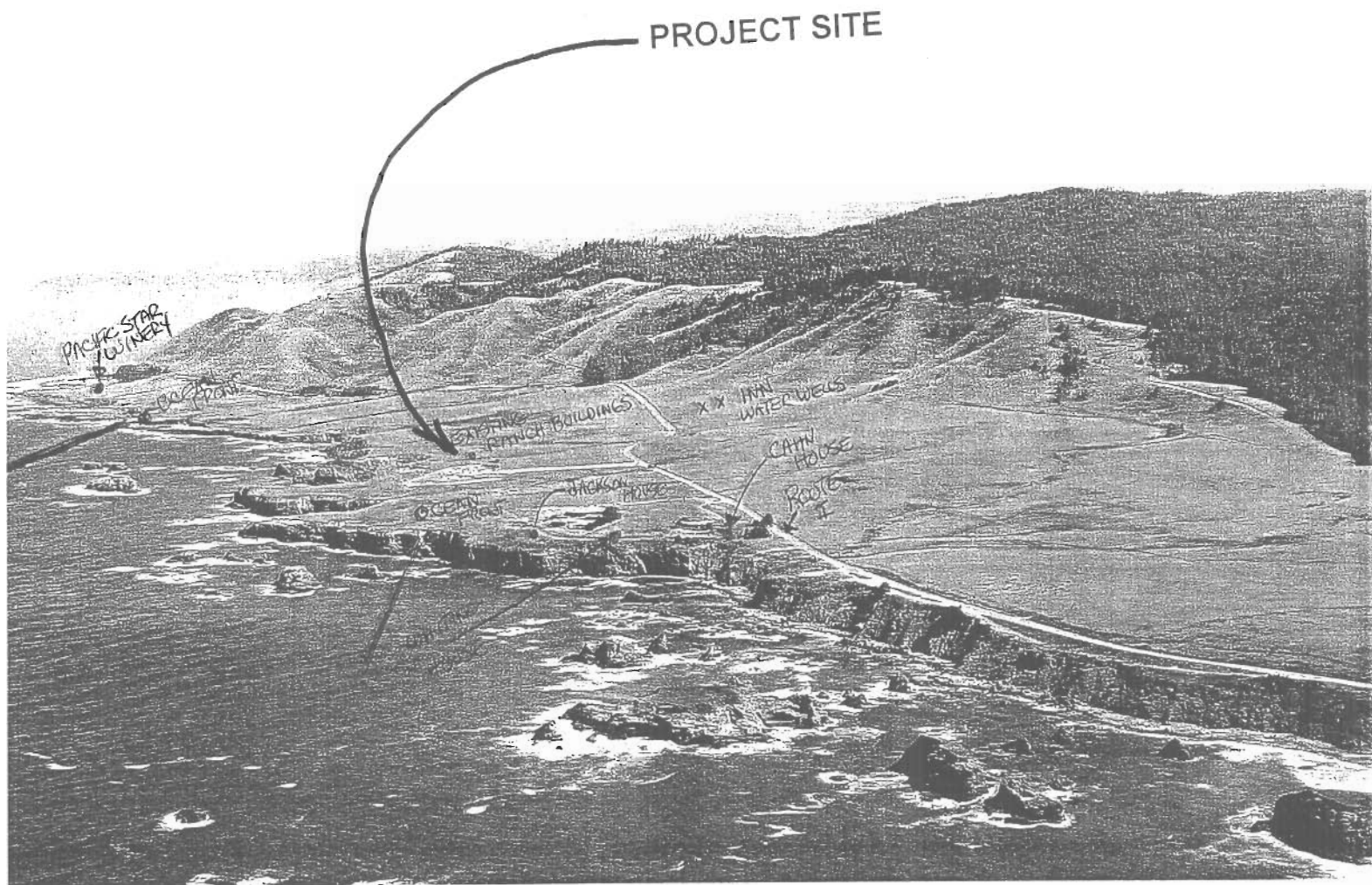


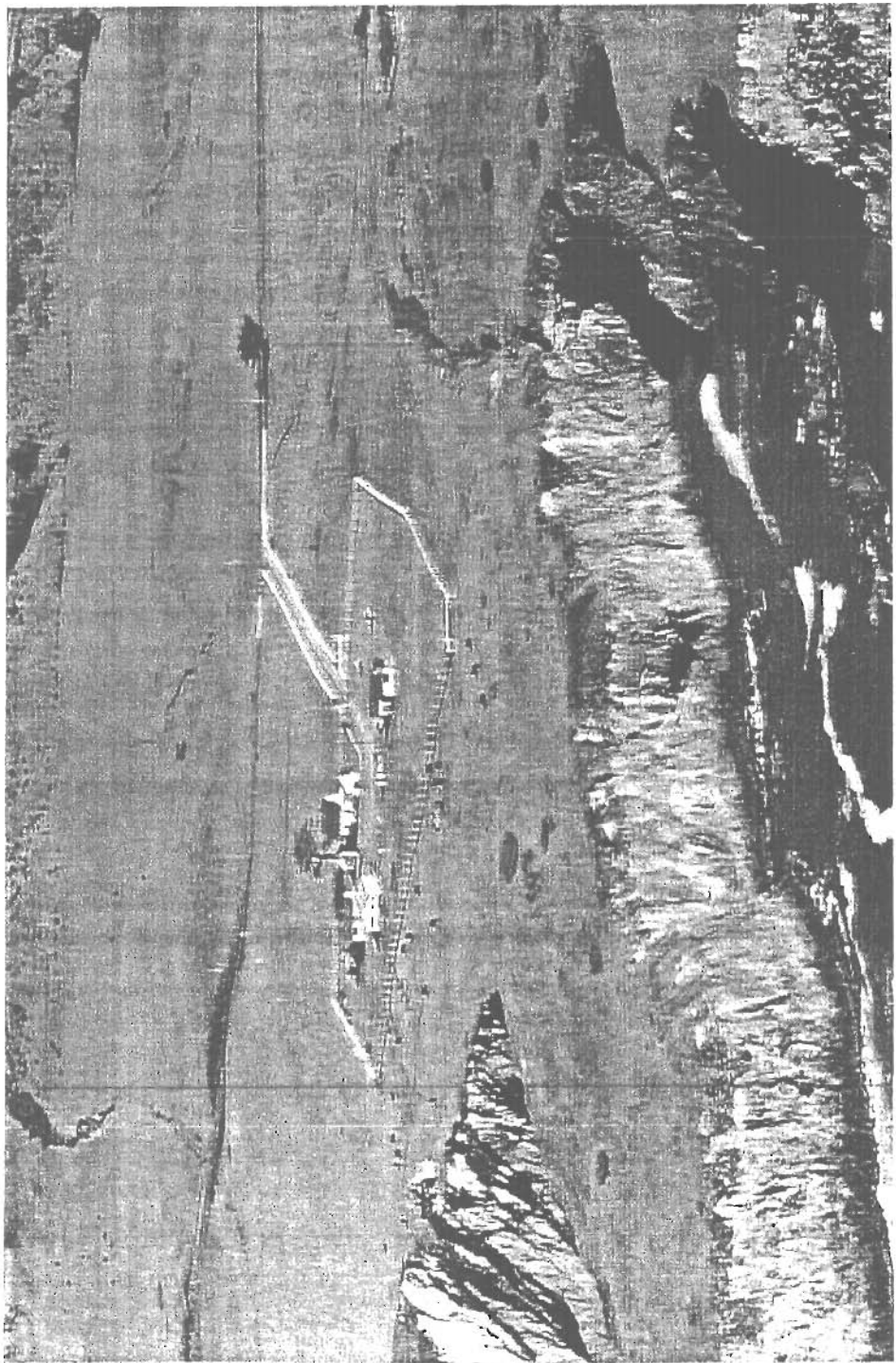
EXHIBIT NO. 2

APPEAL NO.

A-1-MEN-07-028

JACKSON-GRUBE FAMILY, INC.

AERIAL PHOTOS (1 of 2)



2 of 2

NOTE
THE ABOVE DRAWINGS, IDEAS
AND DESIGNS ARE THE PROPERTY
OF SELLERS AND COMPANY. SELLERS
ACCEPTS NO LIABILITY FOR THE
USE OF THESE DRAWINGS IN
ANY MANNER. SELLERS
DOES NOT WARRANT OR
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THE INFORMATION CONTAINED
HEREIN. THE INFORMATION IS
FOR INFORMATION ONLY AND
SHOULD NOT BE USED FOR
ANY OTHER PURPOSES WITHOUT THE WRITTEN
CONSENT OF THE ARCHITECTS.

EXHIBIT NO. 3

APPEAL NO.

A-1-MEN-07-028

JACKSON-GRUBE FAMILY, INC.

LOCATION MAP

INN AT NEWPORT RANCH
Mendocino, California

SELLERS & COMPANY ARCHITECTS

3000 North Street, Mendocino, CA 94550
707.461.1111
SANFORD STRAUSS ARCHITECTS
714 Main Street, Malibu, CA 90263
805.455.7400

DATE

08.28.06

REVISIONS



TITLE

LOCATION
MAP

SHEET NO.

LM

STATE ROUTE #1

APPROVED PLAN PERIMETER
(BUILDINGS SHOWN DASHED)

AMENDED PLAN PERIMETER
(BUILDINGS SHOWN SHADED)

470 FT.
APPROVED PLAN
340 FT.
AMENDED PLAN





150 FT.
AMENDED PLAN
150 FT.

PHASE 1 & 2
OVERLAIN ON APPROVED LOCATION MAP

- | LEGEND | | | |
|-------------------------|---------------------------|---------------------|--|
| 1. Existing Ranch House | 4. Greenhouse/Pump Shed | 7. Refreshed 3-Hole | |
| 2. Main House | 5. Ranch Maintenance Shop | 8. South Cottage | |
| 3. Annex | 6. Ranch Equipment Barn | 9. North Cottage | |
| | | 10. Spa | |

AMENDED LOCATION MAP ~ PHASES-1&2
Overlain on Approved Location Map

2

| L E G E N D | | |
|---------------------------|------------------------------------|---|
| 1. Existing Ranch House | a. Existing Large Monterey Cypress |  Grass/ Field/ Garden |
| 2. Main House | b. Overflow Parking (22 spaces) |  Hedge/ Planting |
| 3. Bunkhouse | c. New Water Tank |  New Tree |
| 4. Generator/ Pump Shed | d. New Propane Tank |  Rocks |
| 5. Ranch Manager Unit | e. Plunge | |
| 6. Ranch Maintenance Shop | | |
| 7. Ranch Equipment Barn | | |
| 8. Refurbished 3-Holer | | |
| 9. South Cottage | | |
| 10. North Cottage | | |
| 11. Spa | | |

PROPOSED SITE MAP (AMENDED) ~ PHASES-1&2 Overlaid on Approved Site Map (#CDU 9-95)

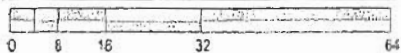


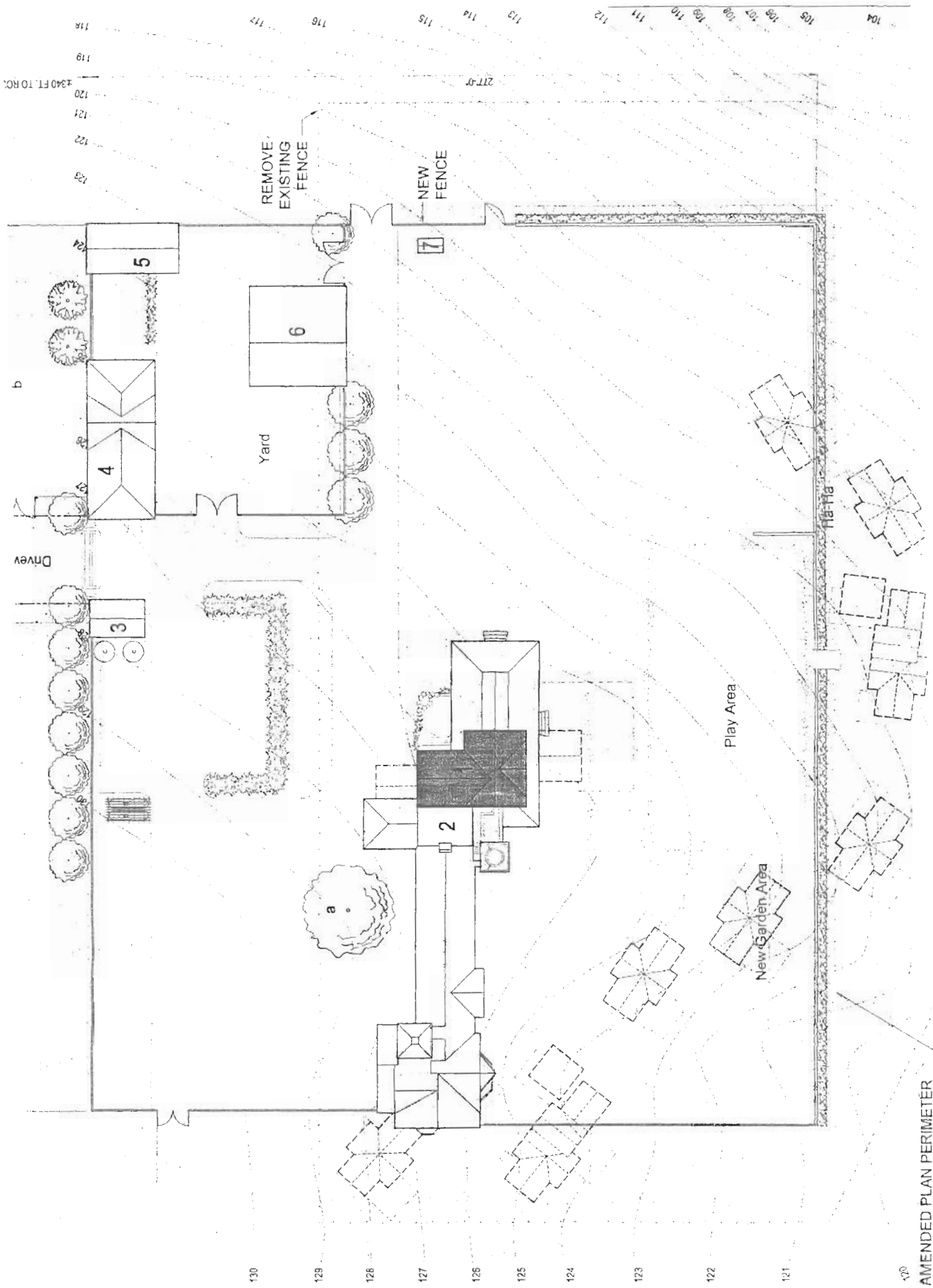
EXHIBIT NO. 4

APPEAL NO.

A-1-MEN-07-028

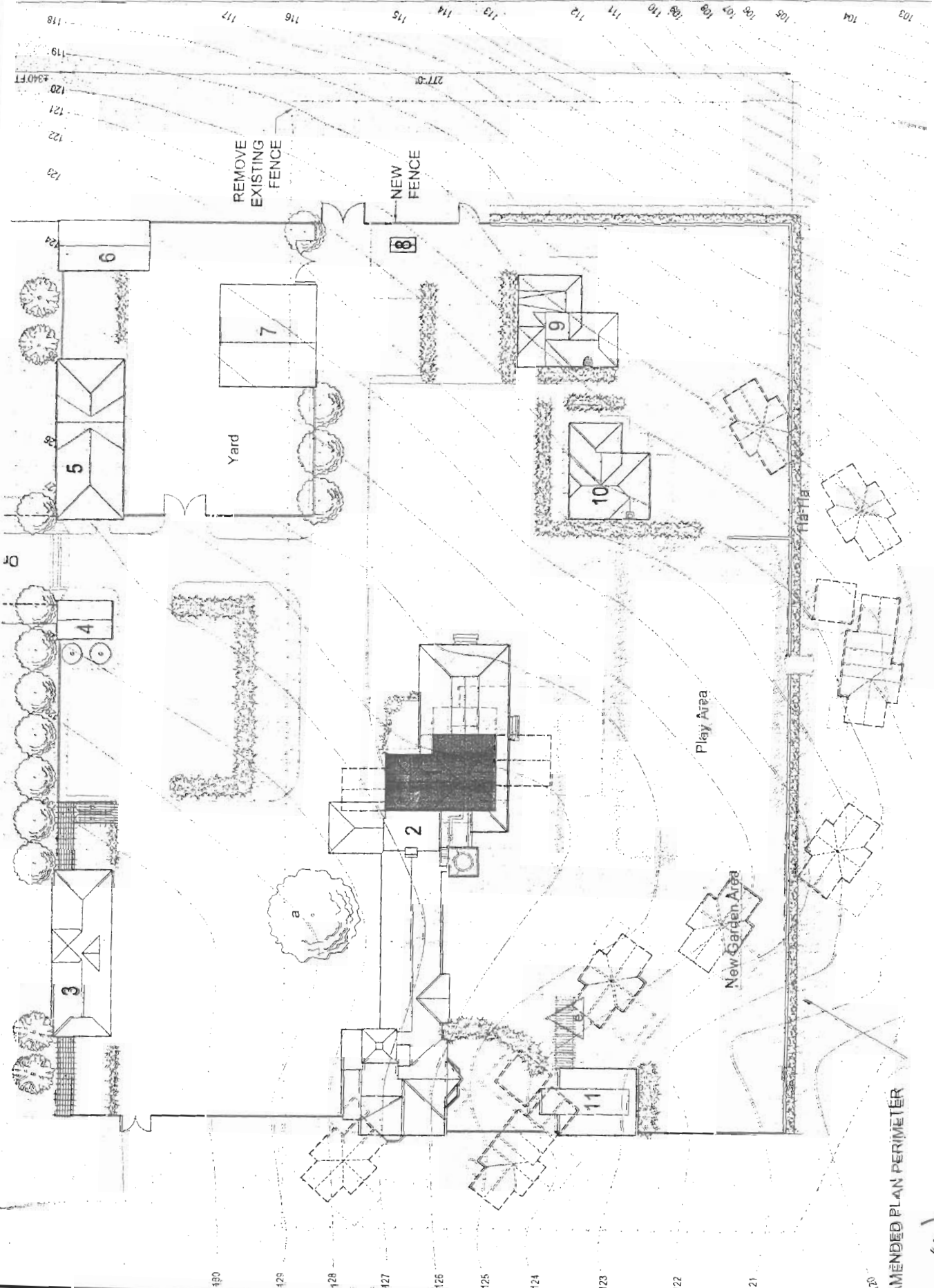
JACKSON-GRUBE FAMILY, INC.

SITE PLANS (1 of 3)



PHASE 1

AMENDED PLAN PERIMETER



PHASE 2

AMENDED PLAN PERIMETER

323

INN AT NEWPORT RANCH
Mendocino, California
Sellers & Company Architects
Sanford Strauss Architects

08.28.06
REVISED

SITE
ELEVATIONS

SE

1 EAST ELEVATION (View from Route #1)
Phase-1 - Trees not shown



2 EAST ELEVATION (View from Route #1)
Phase-1 - Trees shown



3 EAST ELEVATION (View from Route #1)
Phase-1&2 - Trees not shown



4 EAST ELEVATION (View from Route #1)
Phase-1&2 - Trees shown



EXHIBIT NO. 5

APPEAL NO.

A-1-MEN-07-028

JACKSON-GRUBE FAMILY, INC.

ELEVATIONS

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: Molly Warner & Britt Bailey, Mendocino Planning Commissioners

Mailing Address:

21251 So. Petaluma Ave.

City: Fort Bragg

Zip Code: 95437

Phone: 707- 9964-5472

EXHIBIT NO. 6

APPEAL NO.

A-1-MEN-07-028

JACKSON-GRUBE FAMILY, INC.

APPEAL NO. 1 (MOLLY WARNER
& BRIT BAILEY (1 of 6))SECTION II. Decision Being Appealed

1. Name of local/port government:

Mendocino County, Planning Commission

2. Brief description of development being appealed:

Coastal Development Use Permit to establish a *1C., Visitor Accommodations and Services. In two phases, total lot coverage of 17,186 square feet would include a bunkhouse, main house, guest rooms each having a bath per bedroom and a kitchen, and some of 3 bedrooms/baths plus kitchen and reception rooms. Also a conference center and a spa, and out buildings for tractors, ATV's, and mechanic/maintenance barn, and a 1200 square foot caretaker unit.

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

In Mendocino County within the Coastal Zone, 4+or- miles south of Westport, 1+or- mile north of Abalobadiah Creek, approx. 700 feet west of Highway 1; various AP numbers, a 3.7 acre portion of a 407 acre parcel.

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

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

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-07-028

RECEIVED

JUL 23 2007

CALIFORNIA
COASTAL COMMISSION

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

710 E STREET, SUITE 200

EUREKA, CA 95501

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



DATE FILED: 7/23/07

DISTRICT: North Coast

2 of 2

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: June 21, 2007

7. Local government's file number (if any): CDU 6-2006

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:

Owner/Applicant: Willard T. Jackson, President, Jackson-Grube Family, Inc.
PO Box 430, Middlebury, VT 05753

Agent: Bud Kamb
101 Boatyard Drive, STE. D, 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)

(2)

(3)

(4)

3 of 2

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.

Reasons for Appeal

1. *1C Zoning Designation

Ms. Warner's comments:

One major issue is the interpretation of the size and intensity of use that is appropriate for a *1C designation. As per pages 21 and 22 of Mendocino County General Plan Coastal Element, this designation is for one of the least intensive uses of the visitor serving categories, from 5 to 10 units. Page 21 indicates that a health spa is an example of a use in the far more intensive "resort" category. Page 22 uses only the word "unit" where maximum unit size is listed. Although the word "suites" is used in the Mendocino County Zoning Code, Coastal Zone, in Sec. 20.436.015, the most common understanding of a "suite" is a bedroom with a sitting room. The proposal from Jackson-Grube is far, far beyond that. There was a total of 18 bedrooms proposed, each bedroom with it's own bathroom (18 BATHROOMS!). One "unit" includes 3 bedrooms, 3 bathrooms, kitchen, dining room, sitting room and porch totalling 2,961 square feet. Even the manager's unit is too big, with 3 bathrooms.

Accordingly, Ms. Bailey includes the following comments:

The zoning for the Jackson-Grube project allows for Inns and Bed & Breakfasts. Both the Mendocino County Local Coastal Plan and the Coastal Zoning Code are consistent in defining the uses within this zoning in a more diminutive rather than substantial way. *1C represents the least intensive use for visiting serving facilities. Both the adopted Plan and Ordinance define limitations for guest rooms or suites. Bed & Breakfasts are allowed a maximum of 4 rooms or suites. Inns are allowed a maximum of 10 rooms or suites. In addition, the Inn designation limits food vending. The dining facilities should not accommodate more than three people per room/suite.

Sec. 20.436.015 Coastal Zoning Code

(a) Inn - *1 or *1C: 10 guest rooms or suites. Note: A bed and breakfast accommodation is limited to four (4) guest rooms or suites. Dining facilities for guests shall not exceed three (3) chairs per guest room or suite.

Definitions According to Section 20.308 of the Coastal Zoning Code

*1C Bed & Breakfast/Inn

Bed and Breakfast Accommodations: Any building or portion thereof or group of buildings containing two but no more than four guest rooms or suites each used, designed or intended to be used, let or hired out for occupancy by transient guests for compensation or profit wherein breakfast may be provided for compensation or profit. A use permit shall be required for the establishment of bed and breakfast accommodations.

4 of 6

Inn: Any building or portion thereof or group of buildings containing five or more guest rooms or suites each used, designed or intended to be used, let or hired out for occupancy by transient guests for compensation or profit, and where regular meals may be provided for compensation or profit.

I am of the opinion that in the case of the Jackson-Grube project, the intent of the *1C zoning regulations has been seriously misinterpreted. I doubt that the drafters of the *1C designation considered 3 bedroom, 3 bathroom, kitchen, living room, dining room (total sq. 2600) one "suite." The Jackson-Grube project, while architecturally outstanding, should be considered to be more of a resort than an Inn and as such should carry the proper zoning. As a neighboring Commissioner, I am very concerned that the project as approved by the Mendocino Planning Commission, would do a great disservice to nearby communities with identical zoning within coastal scenic and highly scenic areas. In my district alone, I know of 2 undeveloped coastal properties with the *1C zoning designation.

2. Intensity of Use

Above and beyond the concern about size and densities of these units, is the added intensity of uses such as the large maintenance barn, spa, conference room, and the applicant's intention to frequently hold weddings of up to 99 people. This project needs to be scaled back to fit the intent of a *1C, especially given that it is in one of the few remaining relatively remote sections of our coastline where there are NO services, not even a fire district, and that is designated highly scenic and, as page 141 of the Mendocino Coastal Element informs us, "no additional traffic capacity on Highway 1 will be available". Weddings and conferences are not appropriate here. It is not a precedent to set for a *1C in a resource area.

3. Visual Effects

Another issue regarding the Jackson-Grube project is the visuals of the project as proposed, even with the removal of the 3 single bedroom units on the north. Because there are so many buildings in the cluster, closed off from all ocean views toward the west by a fence, it gives the appearance of a faux Fort Ross. While the architecture of each building is well done, the total is not compatible with the open character of the surrounding area, as called for in Sec.30251 of the Coastal Act. Were it smaller, with a view corridor, it might fit the area.

4. Outdated hydrological and botanical studies

The project was considered and approved despite the outdated hydrological and botanical studies. For example, the botanical study submitted was over 13 years old. Especially in view of the proposed wedding and conference events where parking would need to occur in the fields surrounding the compound, it is imperative to have up to date knowledge of what the fields and drainages now contain.

5. Both the Local Coastal Plan and the Coastal Act stress the importance of providing low-cost visitor facilities. The Jackson-Grube project is a high-end facility and as such fails to address these requirements to encourage and provide low-cost accommodations. When asked to address this failure, Mr. Jackson could not identify a way to create an economically scaled range of facilities for the proposed project.

Chapter 3.7 County Coastal Element, Section 30213

Recreation and Visitor Serving Facilities

Section 30213 (Part). Lower cost visitor and recreational facilities...shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

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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 on File

Signature of Appellant(s) or Authorized Agent
Date: July 19, 2007

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: _____

6 of 6

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:

Mailing Address: SEE ATTACHMENT I

City:

Zip Code:

Phone:

RECEIVED

JUL 25 2007

CALIFORNIA
COASTAL COMMISSIONSECTION II. Decision Being Appealed

1. Name of local/port government:

County of Mendocino

2. Brief description of development being appealed:

Coastal Development Use Permit to build a 10-unit inn in 2 phases. Phase I to consist of the demolition and reconstruction of the former Orca Inn into a main unit of 2,961 square feet (3 bedrooms / 3 bathrooms / downstairs area including kitchen, dining and reception rooms). The north end of the structure would include an upstairs unit of 1,089 square feet (2 bedrooms / 2 bathrooms / kitchen) and downstairs unit of 833 square feet (1 bathroom / kitchen). In addition, a 1,276 square foot two floored managers unit (2 bedrooms / 3 bathroom / kitchen); 1,269 square foot equipment barn; 648 square foot maintenance shop; and a 240 square foot generator/pump shed are proposed as part of the first phase. Phase II would consist of 7 units with 3 added to the main building in two storied units of 954 square feet (1 bedroom / 1 bathroom / kitchen); 951 square feet (1 bedroom / 1 bathroom / kitchen); and 820 square feet (1 bedroom / 1 bathroom / kitchen); 2 units within a detached bunkhouse of 531 square feet (1 bedroom / 1 bathroom / kitchen) and 757 square feet (2 bedrooms / 1 bathroom / kitchen); and 2 separate cottages of 835 square feet (2 bedrooms / 1 bathroom) and 915 square feet (2 bedrooms / 1 bathroom), respectively. A 778 square foot spa, wells, septic system, roads and underground utilities are also proposed within the approximate 3.7-acre area of development.

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

Approximately four miles south of Westport on the west side of Highway 1 at 31502 North Highway One, Mendocino County, (APN 015-380-03, -4, -05, 015-330-13, -19-27, a portion of 015-330-28, 015-070-45, -49, -51, portions of 015-070-47, -52).

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

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

EXHIBIT NO. 7

APPEAL NO.

A-1-MEN-07-028

JACKSON-GRUBE FAMILY, INC.

APPEAL NO. 2 (COMMISSIONERS
KRUER & WAN) (1 of 10)

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-07-028

DATE FILED:

7/25/07

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: June 21, 2007

7. Local government's file number (if any): CDU #6-2006

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:

Jackson-Grube Family, Inc.
Willard T. Jackson, President
P.O. Box 430
Middlebury, VT 05753

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)

(2)

(3)

(4)

2 of 10

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.

See ATTACHMENT 2

3910

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 4

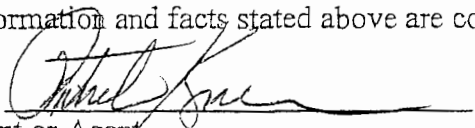
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment 2

Note: The above description 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.

SECTION V. Certification

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

Signed: 
Appellant or Agent

Date: July 25, 2007

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

4 of 10

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 5

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.)

See Attachment 2

Note: The above description 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.

SECTION V. Certification

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

Signed: Sara Han
Appellant or Agent

Date: July 25, 2007

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

ATTACHMENT 1

SECTION I. Appellant(s)

1. Patrick Kruer
The Monarch Group
7727 Herschel Avenue
LaJolla, CA 92037

Phone: (858) 551-4390

2. Sara J. Wan
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Phone: (415) 904-5201

ATTACHMENT 2

REASONS FOR APPEAL

The approval of Coastal Development Permit Application No. 6-2006 by Mendocino County is inconsistent with the certified Local Coastal Program (LCP), including LCP provisions regarding the protection of visual resources.

VISUAL RESOURCES

The approval of the coastal development permit by Mendocino County encompasses property within a highly scenic area designation, and is in conflict with visual resource policies and standards contained in the Mendocino LCP, including, but not limited to, LUP Policies 3.5-1 and 3.5-3, and Coastal Zoning Ordinance Section 20.504.015(C)(3).

Policies

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)

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 the natural setting and minimize reflective surfaces..." (emphasis added)

7910

Coastal Zoning Ordinance Section 20.504.015 states in applicable part:

(C) Development Criteria.

- (1) Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.*
- (2) In highly scenic areas west of Highway 1 as identified on the Coastal Element land use plan maps, new development shall be limited to eighteen (18) feet above natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures.*
- (3) New development shall be subordinate to the natural setting and minimize reflective surfaces. In highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings."*

Discussion

The County of Mendocino approved Coastal Development Permit # 6-2006 for the construction of a 10-unit Inn in two Phases. Phase I consists of the demolition and reconstruction of the former Orca Inn into a main unit of 2,961 square feet (3 bedrooms / 3 bathrooms / downstairs area including kitchen, dining and reception rooms). The north end of the structure would include an upstairs unit of 1,089 square feet (2 bedrooms / 2 bathrooms / kitchen) and downstairs unit of 833 square feet (1 bathroom / kitchen). In addition, a 1,276-square-foot, two-story manager's unit (2 bedrooms / 3 bathroom / kitchen); 1,269-square-foot equipment barn; 648-square-foot maintenance shop; and a 240-square-foot generator/pump shed. Phase II would consist of the construction of 7 units with 3 added to the main building in two-story units of 954 square feet (1 bedroom / 1 bathroom / kitchen); 951 square feet (1 bedroom / 1 bathroom / kitchen); and 820 square feet (1 bedroom / 1 bathroom / kitchen); 2 units within a detached bunkhouse of 531 square feet (1 bedroom / 1 bathroom / kitchen) and 757 square feet (2 bedrooms / 1 bathroom / kitchen); and 2 separate cottages of 835 square feet (2 bedrooms / 1 bathroom) and 915 square feet (2 bedrooms / 1 bathroom), respectively. The project also involves the construction of a 778-square-foot spa, wells, septic system, roads and underground utilities.

The project site encompasses approximately 3.7 acres of an approximately 407-acre parcel located in a designated "highly scenic" area on the west side of Highway One, approximately four miles south of Westport. The parcel is planned and zoned Remote Residential-20 acre minimum with Planned Unit Development Combining District and *1C (Visitor-serving Inn) designations (RMR 20:PD*1C).

The subject site is located on a flat, open coastal terrace to the west of the highway vegetated with low-growing grasses and a single mature Cypress tree. The site is developed with a ranch

house and several associated clustered structures bordered by a white fence that contrasts starkly against the surrounding undeveloped terrace. The land surrounding the existing fenced development is used for grazing cattle. Due to the flat terrain and lack of tall vegetation or varied topography, the project site is highly visible from Highway One in both directions. The views to and along the coast from this stretch of Highway One are sweeping and vast due to the largely 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 on the east side of the highway, and a winery located approximately two miles north of the project site on the west side of the highway. The open coastal terrace to the west and steep, grassy hillsides to the east create the rural, agricultural character of the area.

The project as approved by the County in this designated highly scenic area is inconsistent with LUP Policies 3.5-1 and 3.5-3 and Coastal Zoning Ordinance Section 20.504.015(C)(3) which require, in part, that new development be subordinate to the character of the natural setting.

The County's approval of CDU #6-2006 includes several special conditions intended, in part, to protect visual resources and require (1) submittal of a parking plan, (2) submittal of a revised lighting plan to remove upcast lighting, (3) deletion of units 4-6 from the development, (4) undergrounding of utility lines, and (5) use of exterior building materials of earthtone colors. However, the approximately 16,000 square feet of total new development would be significant and the conditions intended to protect visual resources would not effectively reduce the prominence of the approved development in a manner that would cause the development to be subordinate to the character of the highly scenic area as required by LUP Policies 3.5-1 and 3.5-3 and Coastal Zoning Ordinance Section 20.504.015(C)(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 project as approved involves the construction of nine new buildings at the site totaling over 16,000 square feet including two project elements where the 18-foot-height standard required by Coastal Zoning Code Section 20.504.015(C)(2) would be exceeded, including the replacement of an existing 26'-5" structure with one of equal height, and the construction of an approximately 25-foot-high roof over a portion of the main structure. In addition, the approved project involves planting eight trees to screen the inn from Highway One as well as additional landscaping involving several hedgerows, gardens, grass fields, and rocks/boulders throughout the project area. The County's findings of approval state that although the development will include more structures and trees than what currently exists at the site, impacts to ocean views are considered to be insignificant because of the broad coastal terrace that the County indicates is large enough to accommodate the inn development without interfering with the public's ability to enjoy the coastal view beyond. However, the County's findings of approval do not include an analysis of the project's subordination to the character of the setting as required by LUP Policy 3.5-1 and 3.5-3 and Coastal Zoning Code Section 20.504.015(C)(3). As discussed above, the character of the area is defined by the vast expanse of undeveloped, grassy coastal terrace. Unlike forested or heavily vegetated areas of the Mendocino coast where new development can be sited and designed to be screened with existing or new vegetation and trees in a manner that enables the development to be subordinate to the character of its setting, at this site, the character of the area is largely defined by the lack of trees. The introduction of trees intended to partially screen

9 of 10

portions of the nine proposed structures, and extensive manicured lawns and landscaping would not be subordinate to the expansive coastal terrace dominated by low-growing natural grasses.

Furthermore, in its approval of the project, the County included a special condition to set a maximum limit of 99 persons for any special event held at the approved inn without the need for a coastal development permit (CDP). The condition requires that special events involving between 100 and 1,000 persons shall require a CDP and events involving over 1,000 persons and/or eating and drinking establishments for on-premises consumption by non-paying guests of the inn shall require a use permit. While this special condition required by the County sets criteria for when additional permits are required for special events, the County's approval does not set any controls on the total number of special events allowable at the site, or on accessory development associated with such gatherings. Without specific controls on the number of special events and the manner in which they are conducted, development associated with these events would result in significant adverse visual impacts. For example, special events involving up to, or more than, 99 persons would introduce a significant number of cars parked at the site, thereby significantly increasing the intensity of use of the site. Such events would also involve placement of portable restrooms, signs, lighting, and tents and other temporary structures that would not be subordinate to the character of the open coastal terrace setting as required by LUP Policy 3.5-1 and 3.5-3 and Coastal Zoning Ordinance Section 20.504.015(C)(3).

CONCLUSION

The Commission finds that the project as approved by the County is inconsistent with, and raises substantial issues, with respect to its conformance with LCP standards and policies pertaining to visual resource protection.

10810

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: Mendocino Group Sierra Club, & Friends Of The Ten Mile

Mailing Address: 27401 Albion Ridge Rd. & Box 1006

City: Albion & Fort Bragg

Zip Code: 95410 & 95410 Phone: 937-2709 & 964-2742

SECTION II. Decision Being Appealed

1. Name of local/port government:

Mendocino County Planning Dept.

2. Brief description of development being appealed:

RECEIVED

JUL 26 2007

CALIFORNIA
COASTAL COMMISSION

EXHIBIT NO. 8

APPEAL NO.

A-1-MEN-07-028

JACKSON-GRUBE FAMILY, INC.

APPEAL NO. 3 (SIERRA CLUB &
FRIENDS OF THE TEN MILE RIVER)
(1 of 14)

The applicant is requesting approval of a Coastal Development Use Permit to establish a 10-unit Visitor Accommodations and Services (VAS) (with an additional manager's unit) in two phases on a portion of a 400± acre parcel approximately four miles south of Westport. Phase I would include the demolition and reconstruction of an existing two-story ranch house, operating in the past as the Orca Inn, into a main 2,961 square foot unit with three upstairs bedrooms, each with its own bathroom, and downstairs areas including a kitchen, dining and reception rooms. The roofline of the structure would extend north covering an enclosable 831 square foot "outdoor activity area," and continue to a 693 square foot conference room. Two additional guest units, 1,089 and 833 square feet, respectively, would be included at the north end of the building on separate floors, containing a single and a double bedroom design, one kitchen apiece and bathrooms. Also included in the Phase I proposal is a 255 square foot caterer's kitchen attached to the activities area, a 1,276 square foot, two-storied, two-bedroom, one kitchen and three-bathroom manager's unit, a 1,269 square foot equipment barn, a 648 square foot maintenance shop and a 240 square foot generator/pump shed. Total lot coverage for this phase would be 9,766 square feet.

Phase II of the project would add the final seven guest units as well as a 778 square foot spa. Three of the units would be attached in an "L" shape to the main building constructed in Phase I. These would consist of 954, 951 and 820 square foot units, each two storied with one bedroom, a kitchen and bathroom. An additional two units would be in the form of a detached bunkhouse consisting of one 531 square foot unit with a single bedroom, kitchen and bathroom and another 757 square foot facility with two bedrooms, one kitchen and a bathroom. The final two guest units are proposed as individual cottages of 915 and 778 square feet, each containing two bedrooms and one bathroom. The project will include the removal of various smaller structures such as an existing water tank, pumps and sheds. Total lot coverage for Phase II would be 7,420 square feet.

Fourteen parking spaces are proposed with an additional 22 spaces in an overflow area outside of the immediate resort grounds. Excluding the overflow parking lot, the overall resort region would be confined to an area approximately 277' x 335', surrounded by new fencing on three sides and a sunken wall "ha-ha" on the westernmost (as well as a portion of the southern) boundary. Access is to be taken from Highway One via a 20 foot wide, all weather surfaced driveway. Landscaping would consist of a view shielding line of trees as well as additional on site trees, hedges and grass areas.

[As presented above this project entails over 18,000 sq. ft. of building construction--nearly 4 acres. There is additional project coverage in parking, landscaping and a "ha-ha". The project footprint is twice as large as the original incarnation. During the Planning Commission Hearing 3 small units were deleted. But because we have no amended site plans we're unable to assess the visual or any other impacts of this change. Therefore all below comments & concerns are based on the original proposal.]

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
710 E STREET, SUITE 200
EUREKA, CA 95501
VOICE (707) 445-7833 FAX (707) 445-7877



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

Within the Coastal Zone, 4± miles south of Westport, 1± north of Abalobadiah Creek, approximately 700 feet west of Highway 1, located at 31502 North Highway 1; APNs 015-380-03, 015-380-04, 015-380-05, 015-330-13, 015-330-19, 015-330-27 and a portion of 015-330-28, 015-070-45, 015-070-49, 015-070-51, and portions of 015-070-47, and 015-070-52.

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

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

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-07-028

DATE FILED:

7/26/07

DISTRICT:

North Coast

2 of 14

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: June 21, 2007

7. Local government's file number (if any): CDU 6-2006

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:

WILLARD T. JACKSON, PRESIDENT
JACKSON-GRUBE FAMILY, INC.
P.O. BOX 430
MIDDLEBURY, VT 05753

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) BUD KAMB
101 BOATYARD DRIVE, STE. D
FORT BRAGG, CA 95437

(2) MARK MASSARA
Director Sierra Club Coastal Program
85 Second Street, 2nd Floor _San Francisco, CA 94105

(3)

(4)

3914

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.

This proposal conflicts with 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 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 highly scenic areas [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. The Coastal Commission has recently reviewed and denied two projects in this HSA primarily on the basis of visual impacts.]

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. [It is located on the west side of Highway One in the middle of a large open area, highly visible from Highway One and the Coastal Trail being developed in that area.]

LCP 3.5-6

Development on a parcel located partly within the HSA... shall be located on the portion outside the viewshed if feasible.

[While the entire parcel is located within the HSA, the developer also owns the land across the Highway. Relocating the project across the Highway and demolishing the existing buildings (as planned by the developer anyway), would enhance & restore an already degraded viewshed, satisfying LCP policy 3.5-1. CEQA requires an exploration of such project alternatives if a project has the potential to produce significant impacts as this one will according to the Environmental Checklist.]

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... [This project is miles from anywhere, it's unreasonable to assume patrons will spend their time

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solely on site. How will multiple trips to service and commercial centers by patrons, participants in events, delivery vehicles, affect traffic? Will all this driving back & forth to this remote area add to Mendocino County's "carbon budget"? Does this project further the goals of the State to reduce our impact on global warming.]

This project also violates the County Zoning Code as it is identified in the Staff Report as a "Resort" (PC pg. 3. "Resort" is a specific visitor accommodation service (VAS) zoning designation and is described on LCP pg. 21. It is classified by *5 denoting the most intensive use of a VAS. *1 is for VAS facilities with the least intensive use.

"Resort" is an apt description of this project. The project's scope and scale is massive, encompassing nearly 4 acres and 17,784 sq. ft.--nearly 4 acres of just building construction (now, with deletion of units 4-6, 15,059 square feet of construction.) There are thousands of additional square feet of landscaping and parking. Most of the buildings are two-story, violating the 1-story regulation. It is excessive--most of the "units" have multiple bedrooms for a total of 18 (now 15) bedrooms, each bedroom with its own bathroom. It includes a total of 21 (now 18 toilets, 9 (6) kitchens, several hot tubs, a spa, an event center consisting of a caterer's kitchen, conference room, and an outdoor activity area. With hundreds of acres for potential parking, and with Condition B 16, up to 1000 people could be using this 10 (7) unit country "inn". Where are the restrooms for event participants? Will they be using Porta-Potties? If so, what will be the visual impacts of bright blue porta-potties? What about visual impacts from over-flow parking? Glare from cars parked at McKerricher State Park are highly visible from Seaside Beach 6 miles north. Lights at night will eliminate one of the areas left on our precious coast where you can actually see the stars.

This project is to be advertised and promoted as an "Event Center". This is of deep concern. Condition B 16 would conceivably allow for "events" of 99 people any day of the year and between 100-1000 people 5 times a year. Is this an appropriate use in a highly scenic area? What is the precedent for such use in a highly scenic area? If there are none, would this not set the precedent for similar use in other highly scenic areas?

Re precedents: just what is an inn "unit"? The previous incarnation of this project had 1 bedroom per unit with no kitchens. This one, with a couple of units as big as or bigger than many local houses, seems to stretch any reasonable definition of "unit" beyond recognition. The Planning Commission had the opportunity to provide some sense to this issue, but chose not to. Instead, they approved the project and established a precedent for units of virtually unlimited size.

Of further concern is the developer's admission that there would be no on-site manager. The so-called "managers quarters" are reserved for the fellow caretaking the land. Who will be the responsible party in case of emergency? The closest emergency responders are the Westport Fire Dept. which is as yet barely functional. The nearest hospital is in Fort Bragg, 30 minutes or more south. While condition B12 requires the developer to submit a contract for service, no amount of compensation was required.

Re out-dated and inadequate environmental studies. County is relying on studies that are between 13 & 16 years old. The hydrologic study was done when the Coast experienced relatively "normal" rainfall patterns. We haven't had normal rainfall conditions for years and are in fact experiencing our 5th year of

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drought. Also, here on the Coast underground water circulation can change for no apparent reason. Without an updated study, it's impossible to determine if there is sufficient water for this excessively thirsty project.

The Planning Commission minutes reflect the developer was "encouraged" to agree to share water with the neighbors if their water was affected by his development. Commissioner Calvert recommended this be made a condition of approval. It wasn't. The LCP requires proof of water & forbids water resources to be negatively impacted by development.

The botanical study is also inadequate and outdated according to CNPS rare plant specialist, Teresa Sholars (see attached letter). Since the previous study was conducted, a plant listed in the survey has become classified as "Rare" requiring protection. Without a new botanical survey, to plot and perhaps locate additional rare plants species, it is impossible to even identify an acceptable building envelope.

See attached letter from Archeologist Thad Van Buren re inadequacies of the original archeological study.

The Traffic Study is from 1994. Future traffic impacts are assessed based only on full build-out of the area. As local residents, we have seen an enormous increase in traffic generated by visitors and people driving Highway One from one destination to another along the Coast. We've also seen an increase in bicycle traffic. This is a very narrow and winding road--designated as a bicycle route. What are the current rates of useage ? How will this project, with its potential for attracting possibly hundreds of more people to this remote area, affect auto and bicycle traffic safety?

Also of serious concern is the potential significant adverse cumulative effects from build out of the rest of the Jackson-Grube contiguous holdings. While this issue was touched on at the Planning Commission hearing, none of the County Planners seemed to know what the potential full build out was. CEQA requires a discussion of possible future projects to assess the potential for cumulative adverse effects. Given the sensitivity of the area, this discussion needs to happen before this project is approved. If, as he said, Mr. Jackson doesn't plan on building anything else, then perhaps a deed restriction formalizing such could be made as a further condition of approval--as was done with the "Ten Mile River Inn".

Visual Impacts:

County incorrectly alledges this project will have no significant adverse effects on the highly scenic visual resource area visual. In attempting to minimize patently significant impacts to a level of insignificance the planner makes several contentions that are misleading and unsupported by a documented visual analysis or even common sense. Among them are: "[v]isual impacts are expected to be reduced as a result of the units being clustered into fewer structures," "the façade of the development does not significantly exceed that which currently exists at the site in relation to the overall area views of the bluffs and ocean." And, "the project proposes to cluster the inn units into fewer structures than the previously approved version of the plan, which consisted of several detached cottages, making for a more 'compact' configuration overall." (PC pg. 8) "Visual impacts will be reduced compared to the previous plan; allowing reconstruction of the 26' roof-line and construction of an additional 26' structural element won't affect the view to the ocean or be out of character with surrounding structures (all of which, with the exception of the farm house, are low and of a single story); exceeding the 18' limitation will not block the view."

The 26 foot height of the existing farm house is already inconsistent with the 18 foot height limitation mandated by the Coastal Act. The visual resource is already appreciably degraded by the abandoned and unmaintained farm buildings. The developers plan to demolish and rebuild the farm house. This would

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provide an excellent opportunity to satisfy LCP 3.5-1 regarding restoring degraded coastal views and reduce the roof-line to be compatible with the 18 ft. rule.

The landscaping plan calls for several trees to be planted to obscure the visual impacts of the massive and continuous building facades. The facades (275 feet long approximately) themselves are blocking the coastal view and no amount of trees can conceal that impact. Besides, the trees themselves would block the ocean view.

LPC 3.5-5 Providing that trees will not block coastal views from public areas..., tree planting to screen buildings shall be encouraged...
new development shall not allow trees to block ocean views.

Perhaps the most egregious contention is this: "Although the proposal will include more structures and trees than what currently exists at the site, when seen from Highway One, impacts on ocean views are still considered by staff to be insignificant. The vista along the broad coastal terrace is believed to be large enough to accommodate the inn development without greatly interfering with the public's ability to enjoy the vast seascape beyond. Aside from the existing buildings and lone Cypress tree, there is little along the terrace which would obscure the inn from public view."

What neither the developers, nor the Planners seem to understand is that it is because there is so little development on this coastal terrace that makes this area special and deserving of the highly scenic area designation. And it is not just the ocean view that is protected by the Coastal Act, but the coastal view as well. This is one of the very few areas remaining where people can experience a relatively unobstructed view of the coast and ocean. Saying this is like James Watt saying oil wells off the coast would be OK because you could them block them out of your view by holding up a dime.

However, all of these contentions are only speculation as the architect's drawings of the project submitted with the application are the only document we have on which to make an analysis of the potential visual impacts. Is this adequate for a CEQA review and the Staff determination that there will be no significant negative effects?

This project is nearly twice as big as the one previously approved; it has a 272' facade located 90' closer to Highway One & the Coastal Trail. It has been granted variances and exceptions re building heights. How can these changes possibly reduce the visual impacts? The original project never had a thorough visual analysis; neither does this one. Without such an analysis there is no way to determine if indeed the significant adverse visual impacts are reduced to a level of significance as required by CEQA.

Compounding the difficulties of assessing visual impacts is that 3 units have been deleted. Will this reduce or exacerbate the already significant visual impacts? How can we tell?

Such a massive development, with such intensive use is completely out of character in this remote and rural highly scenic area.

Re County's concerns that the project will be used to serve transient visitors only: In 2005 in a personal

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conversation with Mr. Jackson, he said the facility would also be used to house his family when they came for extended visits. That would explain why "unit" 1 is nearly 3000 sq. ft. and consists of 3 bedrooms, living room, dining room, 3 bathrooms and "Owner's Kitchen" --a whole house. (Sheet UD-1 of the site plan).

CEQA issues: The Environmental Checklist shows 6 issues that can potentially produce significant adverse environmental effects: Air, Water, Plant Life, Light & Glare, Land Use, Aesthetics. Many of the mitigations for these potentially significant effects are based on submission by developer of future plans, making it impossible to determine if, indeed, impacts are reduced to a level of insignificance before the project was approved. Many of the assertions there would be no significant effects are: 1) based on outdated studies (Plant Life, Water, Traffic, Cultural Resources; or, 2) highly debateable (as above, plus: Noise, Public Services--Fire, Police, Parks & Other Recreational Facility [Seaside Beach], Energy; or, 3) not supported by documentation (as above, plus: Water B., Plant Life A., C., Land Use, Utilities, Human Health--no DEH report at time of approval.)

Protecting the natural and highly scenic visual resources of this most scenic of areas is important enough to pursue either a boundary line adjustment or a General Plan Amendment to relocate the 1*C designation to a less visible site on the East side of the Highway, also owned by the applicant. This would satisfy

LCP 3.5-1 ... where feasible, to restore and enhance visual quality in visually degraded areas.

This beautiful area would be much more visually spectacular devoid of the structures currently on that site. Since the applicant plans on demolishing the structures anyway, he wouldn't suffer from relocating the project. FOTTM would support scaling down the project to ten units of 1 bedroom per unit, eliminating the event center and relocating the project to the East side of Highway on land also owned by the applicant. Short of that, given the deficiencies of this proposal, a thorough EIR is appropriate.

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

(FOTM) Signature on File

Signature of Appellant(s) or Authorized Agent

Sierra Clot

Date:

July 24, 2007

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: _____

9914

To: Judith Vidaver
From: Thad M. Van Bueren
Date: July 18, 2007

Re: Appeal of Mendocino County Planning Commission approval of CDU 6-2006 for the proposed Jackson-Grube development near Westport

General Issues

- 1) Zoning: The current zoning of the 34 acre property where development is proposed is RMR20PD. The baseline zoning (RMR) under the County's Coastal Zoning Code allows "major impact services" as a conditional use, although that term is not defined (Chapter 20.380). There is no specific allowance under the RMR zoning for a resort or major visitor-serving facility, but a bed and breakfast facility is allowed as a conditional use. The secondary zoning is Planned Unit Development Combining District (Chapter 20.428). Under that zoning "no permit shall be issued except in accord with an approved development plan" Sec. 20.428.010(A). The purpose of the plan for the entire ownership is to inform the design and siting of the development in a manner that avoids significant impacts to the environment and achieves among other objectives "maximum preservation of open space, protection of public views, . . . [and] resource protection" (Sec. 20.148.010(C)). No such plan has been developed for the 12 contiguous parcels totaling about 900 acres owned by the Jackson Grube Family, Inc. Instead, the proposed development considers only a single small parcel, ignoring the impacts that this major proposed change in land use will have on the rest of the property. There are strong reasons to question why the most visually and historically sensitive location within the Jackson Grube ownership is appropriate for this development.

Historical Resources

- 2) This proposed development has not given adequate consideration to significant adverse impacts to historical resources either within the 34 acre parcel where development is currently proposed, nor within the larger \pm 900 acre Jackson Grube ownership as a required element of the Development Plan mandated by the RMR20PD zoning discussed above. Consideration of impacts to historical resources is required under Section 21084.1 of the California Environmental Quality Act (CEQA), Section 3.5-10 of the Coastal Element of the Mendocino County General Plan, and the Mendocino County Archaeological Ordinance. Historical resources include archaeological sites and historical buildings, structures, objects, and districts as defined in the California Public Resources Code (Section 5024.1). The only study conducted to inform planning of the proposed development is an archaeological survey of the 34 acre parcel by Jay Flaherty (1990). That study is seriously flawed and inadequate to inform a decision about the potential impacts of the development on historical resources. Compounding that problem is the fact that absolutely no professional attention has been given to the presence of other types of historical resources such as historic buildings and structures. These deficiencies are detailed below.
 - a) Archaeology: The Flaherty survey is seriously flawed for several reasons. First, the survey methodology did not include routine inspection of historic maps and other historical information that is a standard component of a professional archaeological survey. Second, the field inspection methods are so poorly described it is unclear how intensively the parcel was inspected and whether that level of scrutiny was sufficient to discover archaeological resources that could be anticipated in this highly sensitive



10414

location. No information is provided concerning how closely transects were spaced. Third and most importantly, Flaherty's report acknowledges that the 34 acre parcel he surveyed was the site of the historic town of Newport, yet he did not record that site and he failed to specify that the town and archaeological deposits associated with the surviving nineteenth century farm need to be evaluated to determine if they qualify as historical resources for purposes of compliance with CEQA. A competent professional should be well aware that the lengthy historic use of this location first as a ship landing starting in the 1870s and later as a farm almost invariably imply the presence of buried deposits and features. Measures must be taken to identify the site Flaherty ignored and assess its status as a historical resource using the Criteria established in California PRC Section 5024.1. Lastly, no consideration has been given to the identification of archaeological resources on the other ± 860 acres owned by Jackson Grube. That information is needed to inform the creation of the Development Plan, plan a more suitable location for the development, and ensure the intensified land use that is proposed will not adversely impact resources on the larger property.

- b) Historical Resources: No consideration has been given to the potential for the project to create significant adverse impacts to historical resources other than the flawed archaeological findings mentioned above. Historic buildings, structures, objects, and districts also require consideration pursuant to Section 21084.1 of CEQA. Those resources must be evaluated by a competent professional architectural historian or historian. The proposed development site contains buildings reflecting historic use of this location as Newport Landing and later use as a farm. The Newport Cemetery is also located on the larger Jackson Grube property and other resources also may be present. If those resources are determined to be historical resources under CEQA, the project must be designed to avoid adverse changes to the integrity of those resources as defined in Section 5020.1(q) of the California Public Resources Code. Again, the identification and evaluation of these other historical resources should be conducted for the entire Jackson Grube ownership, not merely the 34 acres where they currently propose development.

I suggest the appeal should mention the historical resource deficiencies noted above were brought to the attention of the Mendocino County Planning Commission, but ignored.

Sincerely,

 Signature on File 

Thad M. Van Bueren, M.A.
Registered Professional Archaeologist
P.O. Box 326
Westport, CA 95488

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June 20, 2007

To: The Mendocino County Planning Commission (thompsoa@co.mendocino.ca.us)

Re: CDV#6-2006 jackson-Grube

From: Teresa Sholars
Rare Plant Coordinator; DKY Chapter
California Native Plant Society
tsholars@mcn.org
PO Box 2340
Mendocino, CA 95460

The 1991-2 Botanical Survey for the proposed project needs to be updated for 2 reasons.

1. It is too old (many new species have been added to the rare plant inventory since 1992; including some species present on the site [*Lotus formosissimus*; which is also the food plant for the federally listed Lotis Blue Butterfly (*Lycaeides argyrognomon lotis*)
2. The botanical survey itself was inadequate:
 - a. The plant list contains genera of rare taxa that were not identified to the species level; ie *Juncus* (*Juncus supiniformis* is a listed rare species)
 - b. The survey did not follow the California Dept. of Fish and Game guide lines in that: the list is not floristic; plant communities were not mapped, survey methodology was not described; copies of the CNDDDB forms were not included in the report and much more.
 - c. The Federally listed Behren's silverspot (*Speyeria zerene behrensii*) food plant *Viola adunca* was not addressed.
 - d. The survey did not mention that the site contains rare plant communities according to the California Department of Fish and Games natural plant community list: Coastal Terrace Prairie G2 S2.1; Northern Coastal Bluff Scrub G2 S2.2 (<http://www.dfg.ca.gov/whdab/pdfs/natcomlist.pdf>. Natural community list.)

Please require that a new botanical survey be done according to the current California Department of Fish and Game Guidelines for botanical surveys

Thank-you

Teresa Sholars

12 of 14

July 25, 2007

Please include this visual as part of
the Sierra Club, Friends of The Ten Mile
Appeal Re: Jackson-Grove resort

CDU 6-2006

RECEIVED

JUL 30 2007

CALIFORNIA
COASTAL COMMISSION

Thanks

(Signature on File ~

/

13414



before



after

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VIEWED FROM ROUTE 1
LOOKING WEST

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: Deborah Cahn, trustee of Margery S. Cahn Trust, and
Judith Whiting, trustee of Whiting Family Revocable Trust

Mailing Address: 444 North State Street

City: Ukiah

Zip Code: CA 95482

Phone: 707.462.6694

SECTION II. Decision Being Appealed

RECEIVED

JUL 26 2007

CALIFORNIA
COASTAL COMMISSION

1. Name of local/port government:

County of Mendocino

2. Brief description of development being appealed:

CDU 6-2006; Approval of Coastal Development Use Permit to allow construction of an inn on property zoned RMR20:PD*C1.

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

31502 North Highway 1; APNs 015-380-03, -04, -05; 015-330-13; 015-330-19; 015-330-27; 015-330-28; 015-070-45; 015-070-49; 015-070-51; 015-070-47; 015-070-52

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

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

EXHIBIT NO. 9

APPEAL NO.

A-1-MEN-07-028

JACKSON-GRUBE FAMILY, INC.

APPEAL NO. 4 (MARGERY S.
CAHN TRUST & WHITING FAMILY
TRUST) (1 of 42)

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-07-028

DATE FILED:

7/26/07

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:

June 21, 2007, but final permit &
notice not issued until July 10, 2007
(see Exhibit C hereto)

7. Local government's file number (if any):

CDU 6-2006

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:

Applicant: Willard Jackson
P.O. Box 430
Middlebury, VT 05753

Agent: Bud Kamb, Real Estate Service
101 Boatyard Drive
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) See attached Section 3 list.

(2)

(3)

(4)

RE: CDU -2006 – Appeal, Section III. Identification of Other Interested Persons

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the county hearing.

Spoke:

1. Judith Whiting, neighboring property owner
2. Steve Walker, neighbor
3. Deborah Cahn, trustee of Margery S. Cahn Trust
4. Judith Vidaver, Friends of Ten Mile; P.O. Box 1006, Fort Bragg, CA 95437

Sent in letter/email:

1. Judith Vidaver, Chief Environmental Officer, Friends of Ten Mile; P.O. Box 1006, Fort Bragg, CA 95437
2. Jill Lopate, jlope@mcn.org (no known address or ph#)
3. Henrietta Bensussen, gardnrz2@mcn.org ; P.O. Box 2435, Fort Bragg, CA 95437
4. K. Rudin, moxie@mcn.org; Westport, CA 95488. 707.962.0547
5. Irene D. Thomas, idthomas@mcn.org ; 26200 Spruce Lane, Fort Bragg, CA 95437
6. Pilar Gray, pgray@mcoe.us ; Resident of Cleone
7. Hyla Bolsta, hylajack@mcn.org ; 27760 North Hwy 1, Fort Bragg, CA 95437
8. Linda Jupiter, jupiter@mcn.org ; 30150 Sherwood Road, Fort Bragg, CA 95437, 707.964-8985
9. Elaine Kirkpatrick, studioek@mcn.org ; Mendocino coast resident
10. E. John Robinson, hylajack@mcn.org ; (no known address or ph#)
11. Lorraine Buranzon, Lorraine@mcn.org ; (no known address or ph#)
12. Margery S. Chan, margeryC@sonic.net ; 31400 Highway One, Fort Bragg, CA 95437
13. Rixanne Wehren, Sierra Club, Mendocino Group Trials Committee Chair, 27401 Albion Ridge Road, Albion, CA 95410
14. Judith G. Whiting, 31448 N. Hwy 1, Fort Bragg, CA 95437
15. Teresa Sholars, California Native Plant Society, Rare Plant Coordinator, DKY Chapter, tsholars@mcn.org ; P.O. Box 2340, Mendocino, CA 95460
16. Thad M. Van Bueren, M.A., Registered Professional Archaeologist, P.O. Box 326, Westport, CA 95488.

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.

See attached Section 4.

Section 4 Reasons Supporting This Appeal:
Re: CDU 6-2006

In Summary:

1. Approval violates CEQA because:
 - a. The project was approved before a negative declaration was adopted, demonstrating the Planning Commission's lack of concern for environmental issues; and
 - b. Approval of a negative declaration for this project was a prejudicial abuse of discretion because:
 - i. No new hydrological study, required by County Guidelines of 1989, was done for this "Critical Water Area" even though the 13 year old hydrological study relied upon was deficient in many respects and was performed for a project with a maximum demand of 1,800 gpd whereas this project's maximum demand would be approximately 3,000 gpd. The "project" being studied was not accurately described.
 - ii. The record includes substantial evidence that this project will cause significant impacts to coastal views, traffic and water availability that have not been adequately mitigated. An EIR was required by the "fair argument" test.
2. The approved development does not comply with the Mendocino Certified Local Program for these same reasons and for the additional reasons that:
 - a. The project is inconsistent with the zoning of the property (RMR20:PD*1C) and is not a permitted use within that zone.
 - b. The development may significantly alter existing natural land forms, that is, the existing natural recharge of the area's groundwater may be disrupted to the extent that existing wells are rendered inoperable. This potential significant adverse change should prompt a permit condition requiring the applicant to ensure that the appellants' water supplies are not lost, and if the appellants' wells go dry an alternate supply will be made available to them at no cost to them.
 - c. The development is not compatible with the established physical scale of the area, that is, developing a resort that features 15 bedrooms and as many bathrooms, 7 kitchens and a 733 square-foot spa and an "events center" that will serve 99 people is incompatible with the existing single-family homes in the area, as well as being inconsistent with the zoning. It's incompatibility in this respect is underscored by the County's designation of the area as a "Critical Water Area" in which water supplies are already stretched thin. Any approval of the resort must protect the existing uses; this can be accomplished by conditioning the permit on a water agreement that

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provides an alternate supply if existing wells are unable to provide water to their owners.

Discussion:

On June 21, 2007 the Mendocino Planning Commission approved project CDU6-2006, authorizing applicant Jackson-Grube Family Inc. to build a development, called an "Inn", on the property referenced above. As proposed the project encompassed 17 or 18 bedrooms, 18 bathrooms, 9 kitchens, 6 hot tubs, a plunge pool, and a spa. It also included a catering kitchen, an outdoor activity center and a large conference room (together apparently considered to be an "event center" that will accommodate at least 99 people). And, the project will create approximately 13,500 square feet of landscaping (about 1/3 of an acre). The project area is on land officially designated by Mendocino County as a "Critical Water Area". A hydrological study had been prepared for a similar, but much smaller, project on the same land in 1994; and over Appellants' and others' objections this hydrological study was relied upon for adoption of a negative declaration and for review and approval of this project, whose water demand is much greater, even though the County recognized that its own 1989 Coastal Groundwater Development Guidelines require a hydrological study for commercial projects that will use 1,500 gpd or more. CEQA requires the "project" being acted upon to be accurately described and its – not some smaller project's – impacts to be studied.

Appellants both attended the Mendocino Planning Commission's hearing on the project and objected to its approval without assurances that their water supplies, at adjoining homes they own, would be protected. They objected to the adequacy of the 13 year old hydrological study not only because of the passage of time and possible changes in surrounding circumstances but also because of the greatly increased size and scope of the proposed project from that contemplated in connection with the previous study. The same or similar concerns were also raised by other speakers: Steve Walker, another neighbor, and Judith Vidiver, speaking on behalf of the Friends of Ten Mile. Mrs. Cahn and Mrs. Whiting pointed out during the hearing that wells on single family home lots adjoining the proposed project area now sometimes go dry during the summer months, in dry years – i.e. Mrs. Whiting's well and Mr. Will Jackson's well – they said conditions would be exacerbated by this project.

Deficiencies in the old water study, attached as Exhibit A, include, but are not limited to, the facts that it was based only upon 72 hours of pumping, it contained several recognitions of its own deficiencies, and it contained no support for its bald assertion that operation of the project would not impact nearby wells. It contained no analysis of water supply and impacts in dry years, such as 2006-2007. Because the previous project was much smaller these and other deficiencies could perhaps be overlooked in 1994 or 1995. With a much bigger project and heightened awareness of water supply issues such lack of concern is now unacceptable.

The other major objections made to the project during the hearing centered around its excessive size and its overwhelming impact upon views from Highway 1 to the ocean in this pristine, undeveloped area. Consistently with the zoning of the parcel – RMR20:PD*1C, which

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allows development of a ten unit inn - the 1994 proposal called for "10 units", and a two bedroom manager's unit, which would authorize 10 rental "rooms". (See Exhibit A at page 3.) This proposed project, on the other hand, as mentioned, apparently¹ would have authorized 18 bedrooms and many other improvements, as mentioned above. Even as approved the project clearly has 14 or 15 "units". But, if this is not enough to prove its inconsistency with the definition of "inn-*1" in section 20.332.015 of the Mendocino County Coastal Zoning Code, the inconsistency is established beyond doubt by the fact that the "event center", including the "catering kitchen", will serve meals to up to 99 guests. An "inn", authorized by the zoning, can serve meals only to "guests occupying the overnight accommodations."

Protestants asserted several other reasons why the development does not conform to the Mendocino LCP. This appeal adopts those objections.

Appellants left the meeting on June 21 thinking their water problem had been solved and that the size of the project had been reduced. The Minutes of the June 21 meeting accurately reflect Mr. Jackson testifying as follows:

Mr. Jackson came back to the podium and stated they would be willing to comprise and give up three units on the north side of the building. He noted he has assured the neighbors he will share water,
(Emphasis added.)²

They were surprised to learn on July 13, when they received the County's notice to the Coastal Commission, dated July 10, that the County, while adopting a condition to reduce the number of units by 3, did not require the developer to enter into a watersharing agreement. As approved by the Planning Commission, the proposed project is subject to an added condition, #13, which provides that:

The Commission encourages the applicant offer [sic] a watersharing agreement to the immediate neighbors to ensure long term availability.
(Emphasis added.)

(The Minutes of the Planning Commission are attached hereto as Exhibit B); a Notice of Final Action dated July 10, 2007 is attached hereto as Exhibit C.)

Appellants did not appeal to the County within 10 days following June 21, because they thought their main issue - their water - had been taken care of. It is Appellants' position that if

¹ "Apparently" is used because the project descriptions in the published notice of the Planning Commission hearing, the Staff Report for the project, and the Notice of Final Action are so different as to preclude anyone from being able to understand them.

² In fact, no written agreement had at that time been offered. Since that time, Mr. Jackson has offered, through his agent, a written agreement that merely allows appellants to seek water on Jackson property if their wells become affected. In essence, this is a "hunting license" that would allow appellants to spend their own money to remedy a problem created by the Jackson resort, and to do so on land that would demonstrably have already been depleted of groundwater (otherwise, the recharge to appellants' wells would not already have been lost).

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they are denied the right of appeal to the Board of Supervisors by the Planning Commission's delay until July 10 in publishing a Notice of Final Decision, which reveals a decision different from what they reasonably thought had been made, and the County's publication of conflicting descriptions of the project, they have been denied due process of law.

Appellants intend to appeal to both the Board of Supervisors and to the Coastal Commission to protect their right to an appeal. They intend to raise all the issues available to them.

Appeal directly to the Commission within 10 working days of July 13, 2007, when the Commission received notice of the Planning Commission's action, is appropriate because the County imposes a fee for an appeal to the Board of Supervisors.

Appellants request that any hearing held on their appeal be held as near as possible to the site of the project.

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ORIGINAL

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:

7-24-07

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.

Carter, Vannucci & Homsen LLP

Signature on File

trustee of the
Signature of Appellant(s) Margery S. Cahn Trust

Date:

7/17/07

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07/13/2007 16:06 7074457

CA COASTAL COMMISSION

PAGE 07

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 of Appellant(s) or Authorized Agent

Date: _____

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

Section VI. Agent Authorization

I/We hereby
authorize

Carter, Vannucci & Homsen LLP
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature on File

*see Whiting Farm
see of the Rev. To*

Signature of Appellant(s) *Margery Stahn Trust*

Date: _____

7/17/07

10442

Clark Engineering & Hydrology

WATER TREATMENT WATER DISTRIBUTION HYDROLOGY FEASIBILITY STUDIES DESIGN/SPECIFICATIONS
(707) 743 2821 (800) 200 0426

APRIL 3, 1995

Dave Paoli
Paoli Professional Services
P.O. Box 737
Fort Bragg, CA 95437



Re: Hydrological Study - Jackson

Dear Mr. Paoli:

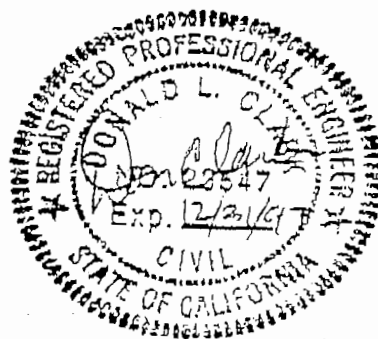
I have completed a hydrological study of Assessor Parcels 015 380 05, 015 070 45, and 015 070 51. In my opinion, there is an adequate supply of water for the proposed Inn facility. Pumping underlying groundwaters from the test well for your proposed Inn will not deplete adjacent groundwater supplies, nor will it cause an undesirable result.

Enclosed with this letter is the study report.

Very truly yours,

 Signature on File 

Donald Clark, PE



CLARK ENGINEERING & HYDROLOGY
9470 MAIN
PO BOX 10
POTTER VALLEY, CALIFORNIA 95469

HYDROLOGICAL STUDY

of

AP 015 380 05
AP 015 070 45
AP 015 070 50
Mendocino County

31502 N. Highway 1
Fort Bragg, CA 95437

for

Jackson-Grube Family, Inc.
Willard Jackson, President
P.O. Box 430
Middlebury, VT 05753

OCTOBER 1994

RECEIVED
JUN 18 1995

BY
PLANNING & BUILDING SERVICES
Oriskany, CA 95422

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SUMMARY

This site-specific hydrologic study considers about 200 acres contained in 3 assessor parcels located north of Fort Bragg and along the ocean. The subject parcels will be developed as follows:

- * AP 015 380 05, the ocean front parcel, will contain the Inn at Newport, a two-story old home that will be remodeled to contain two guest rooms, managers quarter, office and dining area. The complex will also contain 8 separate guest cottages, several outbuildings, and two water storage tanks.
- * AP 015 070 45, east of Highway 1, is used for cattle grazing. Its function in this project is that a small section of pipeline from the well to the Inn complex will cross this parcel.
- * AP 015 070 51, east of Highway 1, is also used for cattle grazing. The existing spring serving the present Inn facility is located here, and the new well and observation well that were used in this study are also located here.

All three parcels, as well as neighboring parcels, depend upon groundwater for their supply. They lie within an area defined by the State Department of Water Resources as a "Critical Water Resource."

This report considers impacts upon the groundwater resource by a planned increase in groundwater consumption. Most of the groundwater lying beneath the subject parcels comes from rain which falls upon the parcels and percolates downward to refresh substrata called aquifers. Soil strata at or near the surface yields most of the groundwaters being pumped.

A pump test at a well provided principal resource data for this study. Aquifer characteristics were computed or estimated from collected data observed at the test well and at an observation well. At the time of testing, well yield was about 6 gpm or 8,640 gpd. Long-term yields, estimated from test data, exceeds anticipated demands for the planned development.

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Well yields in the area of the study (Hydrological Unit) normally are very small, 200 to 600 gpd. Some will, however, have higher yields. The well pumped for this report has a yield that exceeds 8,000 gpd, which exceeds the peak requirement of 2,000 gpd.

For reasons explained in the report, withdrawing groundwater for the planned developments will not adversely affect groundwater supplies in the area of the project nor significantly impact the environment. A significant interference with any neighboring well because of groundwater pumping will not occur -- the nearest well is about 1/2 mile away.

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INTRODUCTION

Project Location

The project lies adjacent to Highway 1, about 10 miles north of the City of Fort Bragg and within Section 20, T. 20 N., R. 17 W., M.D.M.. Figure 1 shows the USGS topographic map for the project area.

Water Source

Potable water supplies depend entirely upon groundwaters coming from wells and springs in the area of consideration. Development has been restricted to rural residential and ranching (livestock grazing). Subsurface disposal of domestic wastewater (domestic-strength sewage) influences water supplies local to the project.

The property lies within an area described by the State Department of Water Resources as Critical Water Resource or CWR.¹

Groundwater Source

The coastal zone sees recharge from rainfall generally from November through April. This rainfall, some of which infiltrates the surface soils and percolates downward, recharges the groundwater reservoir. After rainfall stops, water tables decline from evapotranspiration (ET), pumping, and drainage to the ocean. The higher elevation inland, away from land's end, see more decline than lower elevations near drainage ways, streams, or the ocean that are recharged from groundwaters originating, or recharged, at higher elevations. Aquifers tapped by domestic wells in the study area have a complex lithology. Homogeneity and isotropic conditions exist only over small areas. Near-surface groundwater depletion occurs by natural and artificial withdrawals and areal movement to surface water bodies.

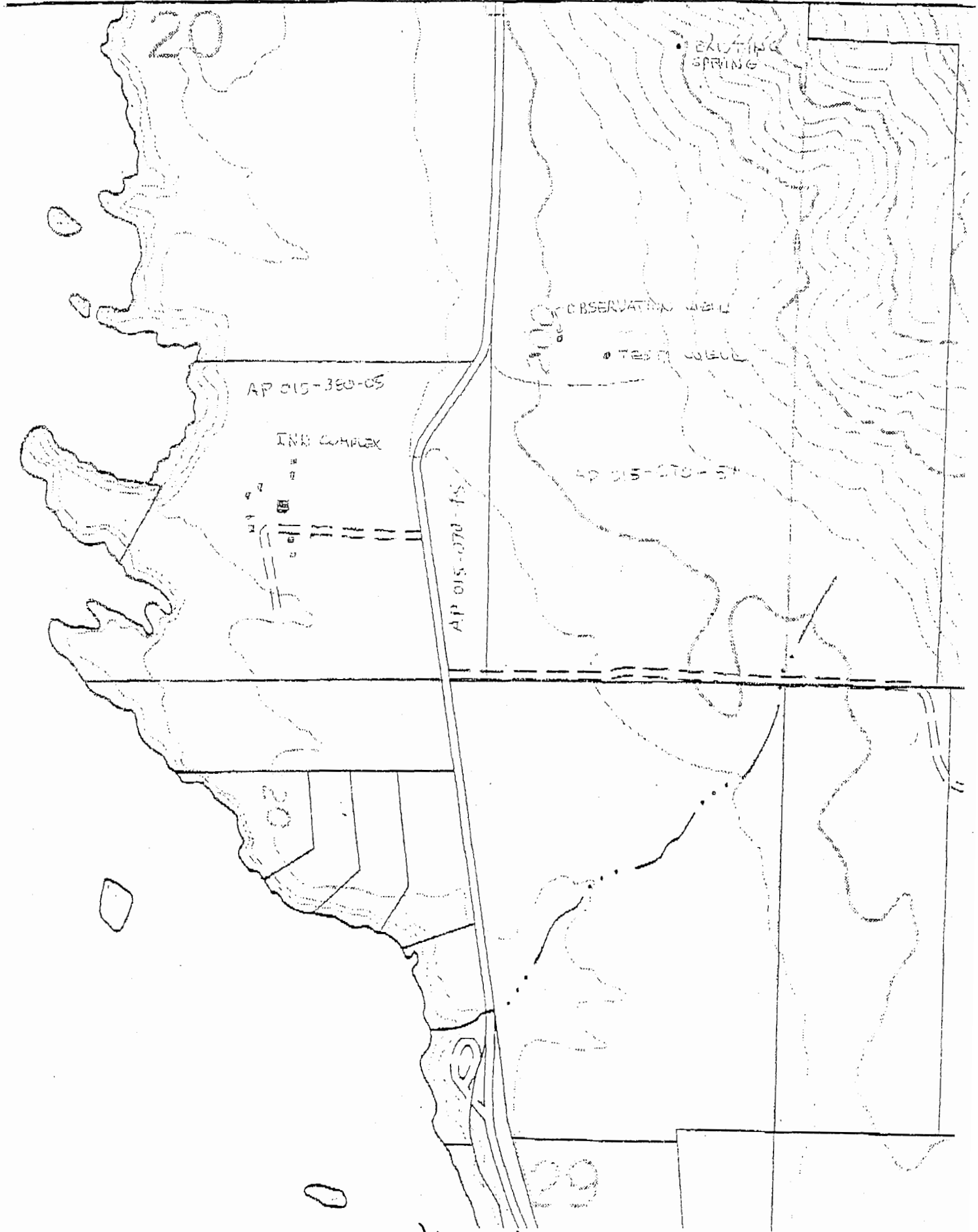
One study that addresses² groundwater hydrology on the coast of Mendocino County states:

"Average annual precipitation along the Mendocino County coast is about 97 cm (38 in), occurring mostly from October to May. Estimated average annual ET for this climatic zone, which is vegetated with grass, brush, and forest, is about 40 cm

¹ "Mendocino County Coastal Ground Water Study," State of California Department of Water Resources, June 1982

² *ibid*, page 10.

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(16 in). Thus, about 57 cm (22 in) of precipitation is, in normal rainfall years, available for ground water recharge and surface runoff. Runoff is slow to medium because of the soil type and vegetation and is estimated to about 26 cm (10 in). The remaining 31 cm (12 in) is available for ground water recharge."

From the same reference on page 29:

"Analyses of all ground water level data collected over the term of this investigation, beginning in July 1979, indicate that the terrace deposit aquifers and fractured and weathered bedrock reservoirs are fully recharged with normal rainfall. The factor that will determine if and when water shortages will occur is the timing of the last significant rainfall of the season. In the absence of sufficient rainfall, ground water discharge will exceed recharge and the water table will decline. If rainfall for the months of April and May are significantly below normal (7.5 cm [2.96 in] and 3.3 cm [1.29 in], respectively), one should expect a greater occurrence of dry wells along the coast. Conversely, if spring rainfall is above normal, with June receiving normal (1.2 cm [0.48 in]) rainfall or above, water shortages should be minimal or nonexistent."

Owner Needs

Livestock are presently watered by live surface streams, and continuance of this practice is anticipated. Livestock water source and demand will remain unchanged by the planned Inn. The planned Inn will have 10 units. The demand will be based upon Mendocino County guidelines:

Table 1
Maximum Day Demand

| Use | Quantity | Rate | Maximum Day Demand (gallons) |
|------------------------------|----------|--------------|------------------------------|
| Rooms | 10 | 140 gpd/unit | 1,400 |
| 2-bedroom Manager's Quarters | 1 | 300 gpd | 300 |
| Miscellaneous | | | 100 |
| | | Total | 1,800 |

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If the entire year used the maximum day demand, a total of 657,000 gallons or 2.02 acre-feet would need to be pumped. This can be compared with the average annual demand, estimated by scaling back the maximum demands:

Table 2
Average Annual Demand

| Source | Volume (gallons) |
|-----------------------------|--------------------------|
| Rooms @ 70% occupancy | 358,000 |
| Managers quarter @ 100% use | 110,000 |
| Miscellaneous @ 70% | 26,000 |
| Total | 494,000 (1.51 acre-feet) |

PHYSIOGRAPHY

An old ocean terrace sloping gently west and northwest from elevation 240 feet along the base of the hills east of the subject well to elevations of 100 feet at the ocean bluff. Weakly developed surface drainages trend southwesterly toward the Pacific Ocean. Reconnaissance of the site did not reveal evidence of slope instability problems.

GEOLOGY

Geology in the area of the project has been described as follows:

- The area east from the San Andreas Fault zone, located about 4 miles off the coast, is generally composed of Franciscan bedrock.
- Coastal Marine Terraces extending inland several miles in step like fashion. They evolved from a process of tectonic uplift and fluctuating sea levels interacting over geologic time.
- Coastal Marine Terrace deposits are composed of sands and gravel that overlie Franciscan bedrock.
- Shallow soils have developed on Terrace deposits.

Terrace deposits are reported to consist generally of well-sorted unconsolidated sands and sandy gravel, one and one-half to twenty feet thick. In and near the project, they have been cut down into minor swales by forces of erosion resulting from precipitation and surface runoff.

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GEOHYDROLOGY

The aquifer, at least down to the depth of sea level, in the study area is nonhomogeneous and nonisotropic, with some exceptions over small areas. It is made up of lenses of different materials formed by geologic processes over many millenniums. Water occupies the interstices of diverse materials, composition, and structural makeup. It therefore seems that wells penetrate individual aquifers having separate pockets of water, whereas in general, they really don't. It also explains why well yields can abruptly change in a short distance.

Permeable and non-permeable layers of the subsurface are of varying thickness, and are not necessarily horizontal. It is not unusual for the groundwater to be forced to the land surface forming ponds, springs, etc.

HYDROLOGY

Surface Water

The nearest major "blue-line" streams to the parcels are Abalobadiah and Kibesillah Creek. Kibesillah is $\pm 5,000$ feet to the north. Abalobadiah Creek, is some 4,000 feet to the south. Both perennial streams discharge to the Pacific Ocean.

A small perennial stream not shown as a blue line stream lies about 3,500 feet north of the subject well. This stream is the major source of water for the livestock. A small gulch about 2,500 feet from the subject well contains the developed spring presently serving the Inn complex. Yield from the spring was measured by David E. Paoli, P.E., in August of 1992 at 1,300 gpd.

Groundwater

Groundwater quality and movement beneath the project relate intricately with subsurface geology. Because the underlying Franciscan Complex is largely impermeable to groundwater movement, the major water-producing aquifer is the overlying Terrace deposit. Groundwater recharge in the Terrace aquifer comes when a significant amount (about 10") of rainfall has fallen, and, to a limited extent, from surface streams during periods of high flow. Groundwater moves through the study parcels in a west by northwest direction to the ocean.

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Groundwater quality in the area of the study suffers from the presence of iron. Seawater intrusion is not a problem in the study area.

WELL HYDROGEOLOGY

The pump test included observations of discharge with time and depths to water from the top of casing (TOC) at the test well. In addition, observations of depth to water were made at an observation well.

There are other wells in the project area. They were not monitored because they are a long distance (greater than 2,000 feet) from the tested wells. Test pumping probably would not draw down these wells.

Water Well Drillers Report for the test well shows clay to a depth of 20 feet, followed by gravel to a depth of 40 feet and then sandstone to 60 feet. For the observation well, clay occupies the top 22 feet which overlies gravel to a depth of 31 feet and then sandstone to 100 feet. Note that the observation well is deeper than the test well. Both wells were cased with 5 inch PVC, slotted at appropriate depths.

PUMP TESTS

Duration of pumping for the test well was 72 hours. During each test, pumped groundwater was conveyed to a point 200 feet away from the well. A hydrological study requires test pumping to answer two questions: What is the yield of the well under dry hydrological conditions? What impacts upon surrounding water

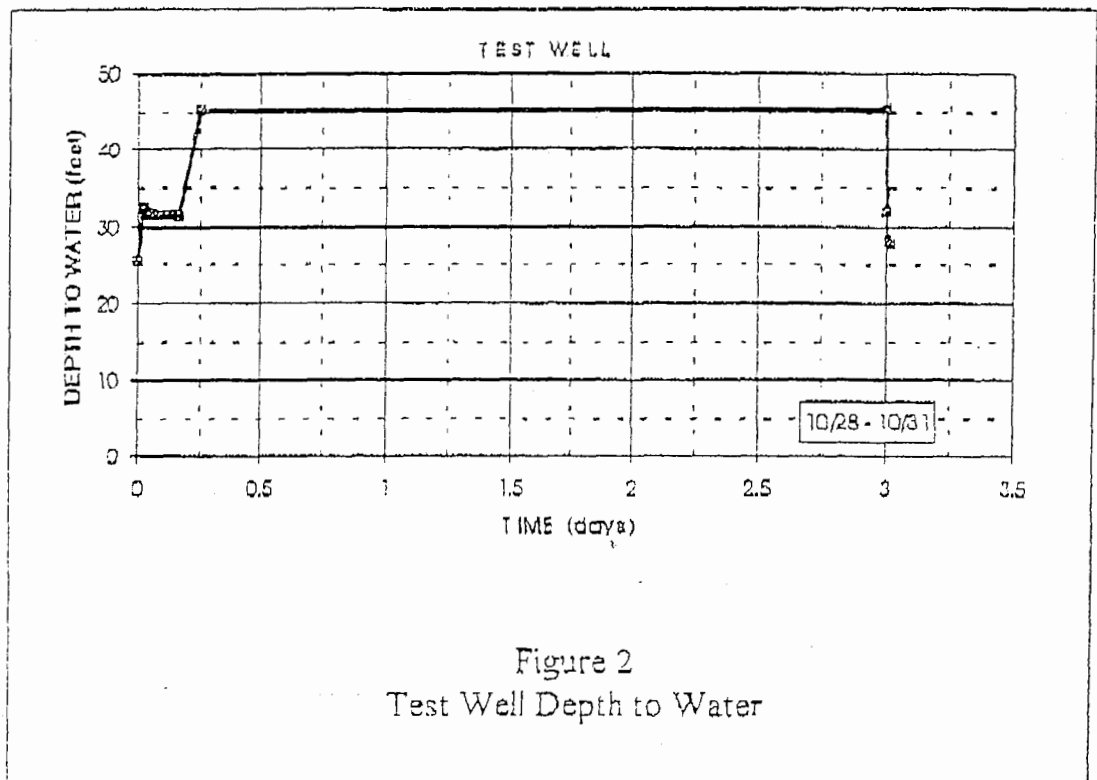


Figure 2
Test Well Depth to Water

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resources would occur if groundwater, pumped from the subject well, supplied the planned improvements?

FIELD OBSERVATIONS

Test Well

Depths to water are shown in Figure 2. It shows the depth to water decreasing after an initial pumpdown, and then it finally increases to about

45 feet where it stabilizes at the pump setting. This unusual behavior resulted from an attempt to do a step-drawdown pump test. Because the pumping rate was not constant, there are no drawdown data for computing transmissivity.

Figure 3 shows that during recovery 3 data points were obtained which can be analyzed for transmissivity and the ratio of storage during recovery to storage during drawdown. The derived value of transmissivity is comparable to that obtained from the observation well during drawdown. The

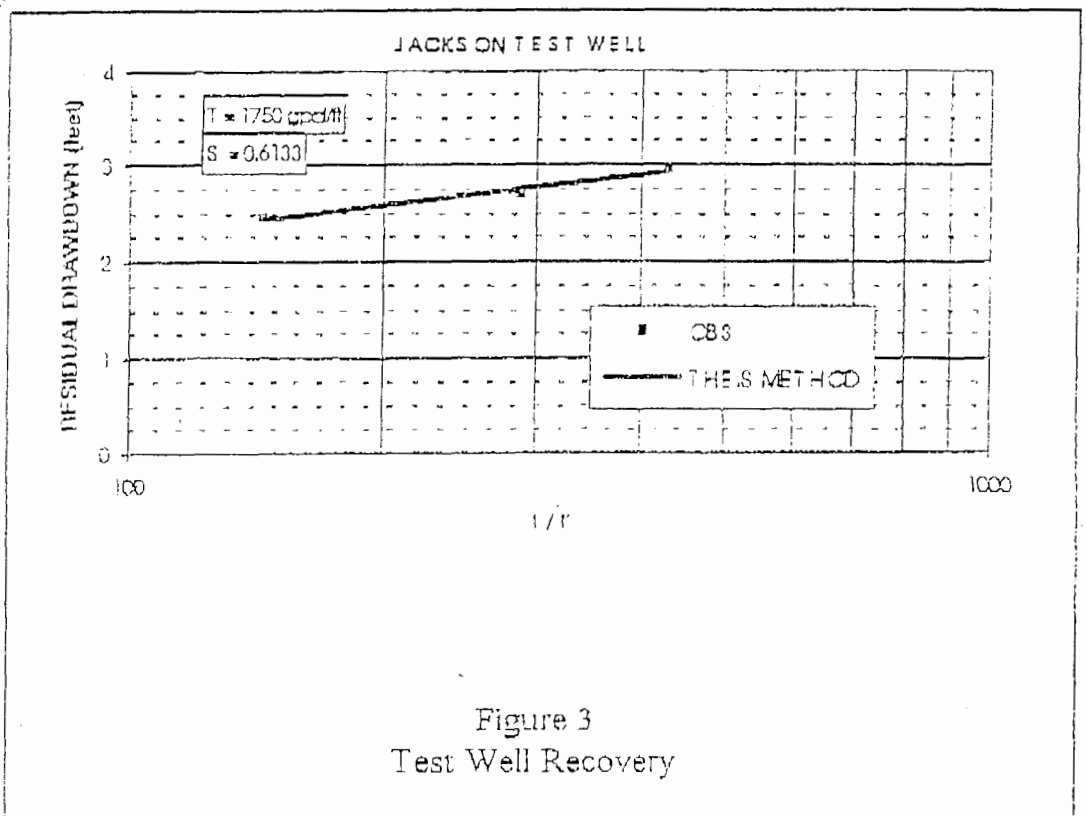


Figure 3
Test Well Recovery

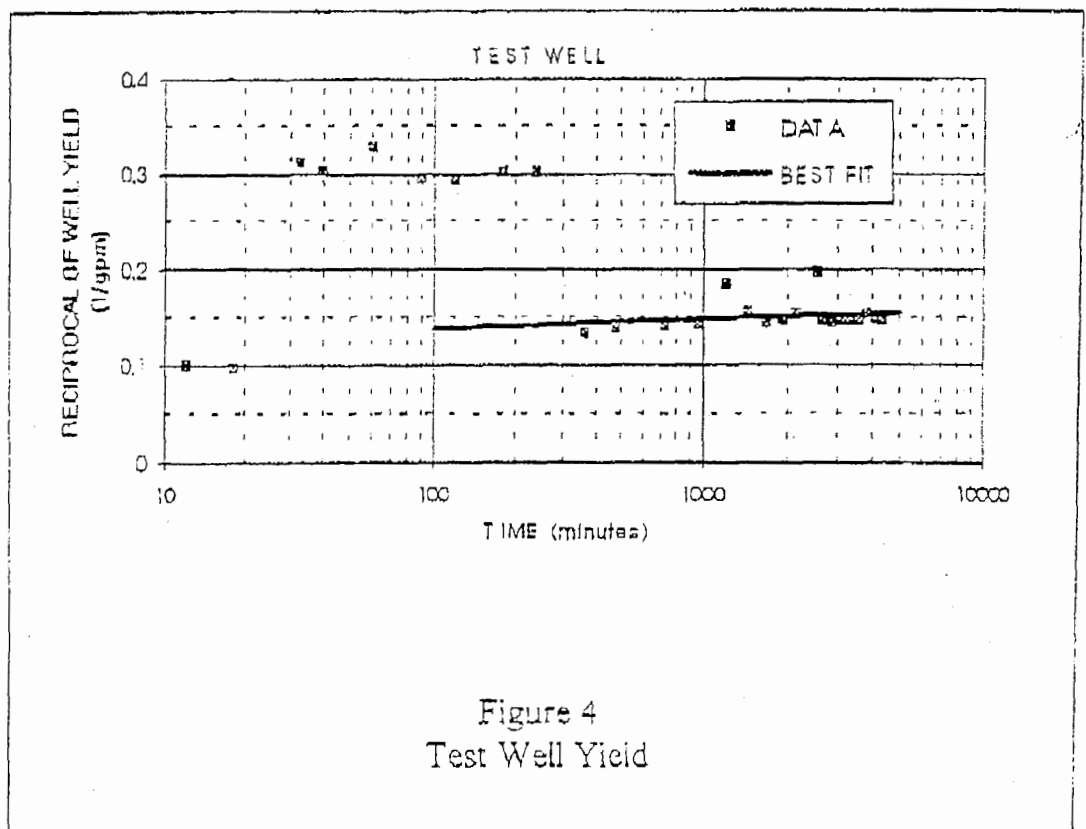


Figure 4
Test Well Yield

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analytical conclusions for only 3 data points cannot be considered as reliable, but it does reinforce the conclusions from analyzing other data.

Figure 4 shows how the yield of the well varied with time. The graph is typical of wells. The hydraulic grade line slope decreases with time and thus the yield decreases.

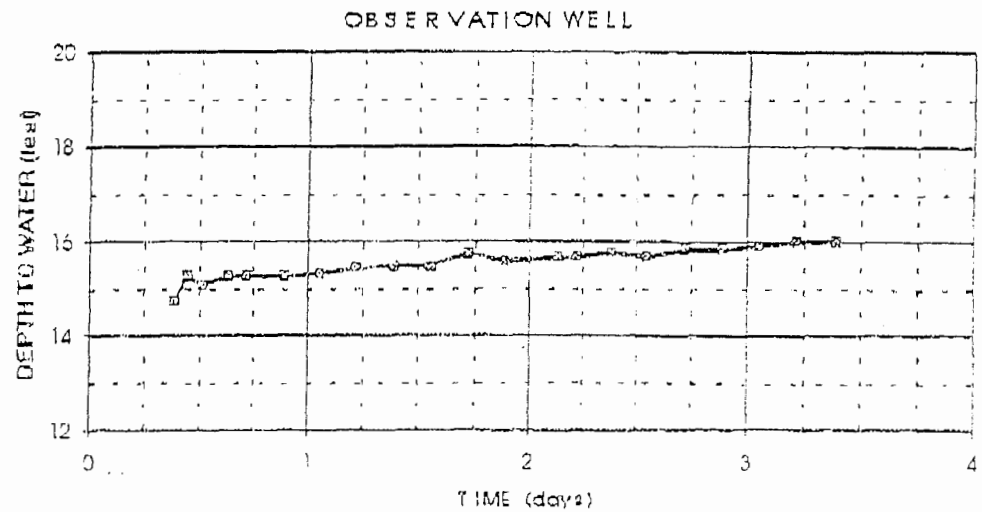


Figure 5
Observation Well Depth to Water

The data significantly changes after the first 300 minutes due to a change in equipment setting. The majority of the data, after 300 minutes, represents a time span of about 4,000 minutes, and it is consistent. It was therefore decided to use the data after 300 minutes to derive the yield of the well.

The apparent yield of the well depends upon the

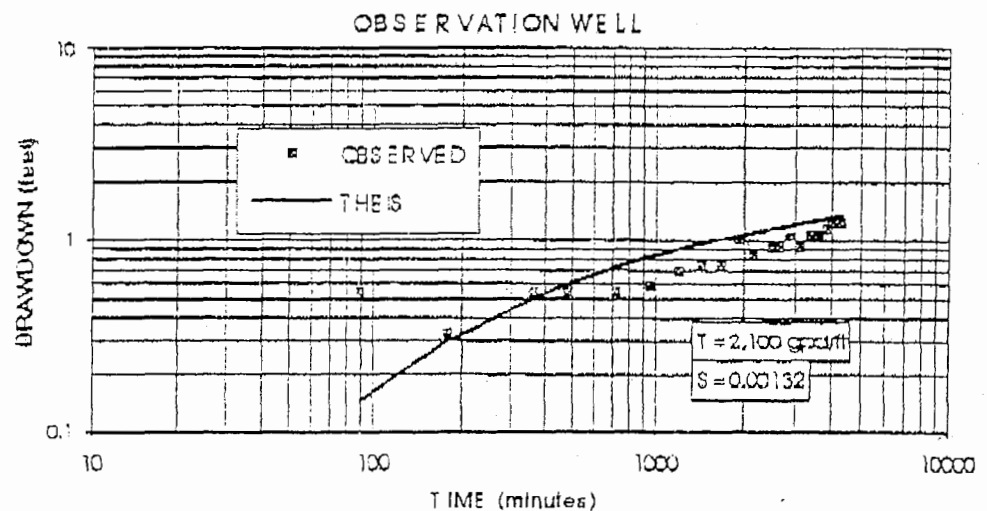


Figure 6
Observation Well Drawdown

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amount of pumpdown. In this case, the pump was set near the well bottom which would maximize the well yield.

Observation Well

Figure 5 shows the depth to water for the observation well. The depth began increasing almost immediately after pumping began, indicating that the test and observation wells share a confined aquifer. The total change in depth to water is about 1 foot. The deviation from a straight line are due to errors in measurement. The individual errors tend to cancel each other out and the overall analysis or "big picture" provides a reliable conclusion.

Figure 6 shows the drawdowns computed from the observations of depth to water. Recovery data was not collected.

DERIVED CHARACTERISTICS

Transmissivity was derived from the test well recovery data, from the well yield, and from drawdown data measured at the observation well. These derivations are based upon the Theis equation which assumes ideal aquifer conditions. The storage coefficient or storativity was derived from the drawdown data observed at the observation well.

Well yield derived by observing the pumping rate with time as the pumpdown within the well was kept at a nearly constant level.

Table 3
Derived Aquifer Characteristics

| | | Transmissivity (gpd/ft) | Storage Coefficient |
|------------------|----------|----------------------------|------------------------|
| Test Well | Recovery | 1,750 | -- |
| Test Well | Yield | 1,300 | -- |
| Observation Well | Drawdown | 2,100 | 0.00132 |

Table 4
Estimated Well Yield

Well Yield

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| Time After Pumping Begins (days) | (gpm) | (acre-foot/year) |
|-------------------------------------|-------|------------------|
| End of Test | 6.5 | 10.49 |
| 30 | 6.1 | 9.85 |
| 60 | 5.99 | 9.67 |
| 90 | 5.93 | 9.57 |
| 180 | 5.82 | 9.39 |

WATER BUDGET

A water budget accounts for water flowing into and out of a chosen area or volume of study. It offers a look at how a new well may affect existing water availability. A groundwater budget should consider at least the following factors:

| Discharge | Recharge |
|----------------------------|---------------------------------------|
| * Pumping | * Deep percolation from precipitation |
| * Diffuse groundwater flow | * Diffuse groundwater flow |
| * Evapotranspiration | * Irrigation |
| * Evaporation | * Septic leach fields |
| * Springs | |

In an unchanging, or static, environment, groundwater storage will change very little over a prolonged period, e.g., 10 years. The average level of the groundwater table thus will remain nearly constant. A change in any of the above inflows/outflows will cause an imbalance and subsequent change of storage or groundwater level until a new equilibrium occurs.

The test well has demonstrated adequate yield. The recovery rate being somewhat slow indicates the aquifer area within which the relatively high transmissivity was measured may be somewhat limited.

Demand

As discussed previously, the average demand will be about 1.5 acre-feet.

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Recharge

According to the reference discussed previously, about 32% of rainfall may be expected to become deep percolation and reach the water table. The area needed to recharge the average demand can be computed:

$$\frac{2.02 \text{ acre-feet}}{32\% \cdot 38''} \Rightarrow 1.99 \text{ acres}$$

Thus, only a relatively small area is needed to actively recharge the cone of influence. This supports the opinion the well can provide the average demand over a prolong period, including droughts, as a much larger area probably will be drawn upon by the well.

Aquifer Volume

The volume of groundwater storage available to the well for the above area can be computed:

$$20\text{ft saturated thickness} \cdot 5\% \text{ effective porosity} \cdot 1.99 \text{ acres} \Rightarrow 1.99 \text{ acre-feet}$$

This would be the minimal storage available as the influence of the well can be expected to extend beyond the minimally needed area

CONCLUSIONS AND RECOMMENDATIONS

Hydrological Studies

Other studies in the project area show conditions very similar to those at the subject parcel.

Water Source

Potable water comes from subsurface deposits known as aquifers. Rainfall replenishes (recharges) the aquifers each year. The amount of recharge depends upon the amount of rainfall and when precipitation occurs. Late spring rains are particularly beneficial in keeping water tables up during late summer and fall when their maximum decline occurs. Terrace deposits are the principal water-bearing strata, or aquifer. Some wells, however, depend upon rock for their source, and invariably they have small yields.

In the area studied, pumped groundwater frequently comes from shallow, dug wells. The newer wells, constructed by drilling, are deeper, and they usually are 60 feet or more in depth.

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Water Quality

Although water quality is not an issue, the presence of iron does irritate home owners. Taste can be a problem as well as stains on plumbing fixtures.

Derived Characteristics

The derived transmissivity is in the range of 1,500 to 2,000 gpd/ft, an excellent value. Storage is also very good

at 0.00132. These values do not correlate well with the slow recovery rate. According to Figure 7, about 6 days would be needed to recover to a residual drawdown of 1 foot. The observation well would recover slowly, also. Since the recovery well drawdown was small, its recovery would be small -- and initial values were within the accuracy of the observation measurements.

Owner Needs

The demand for an Inn planned for development will require 1.51 acre-feet/year.

Water Budget

Demand- 1.51 acre-feet/yr

Test well yield- at least 10 acre-feet/yr

Groundwater storage- 1.99 acre-feet

Impacts

Surface water runoffs do not pose a hazard at the project. Storing and using surface water to supply the planned Inn is feasible, but this would require treatment.

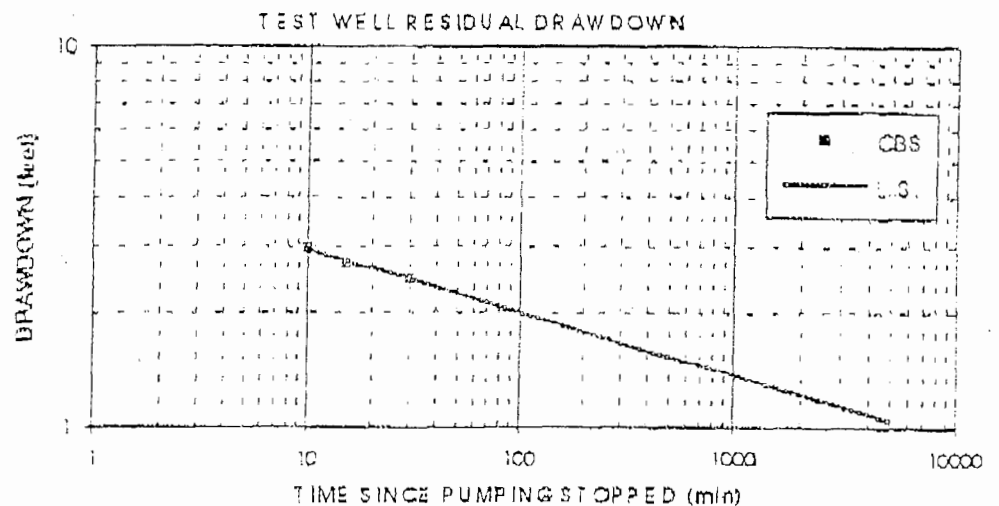


Figure 7
Test Well Recovery Rate

Developing groundwater removal for the planned development will not impact neighbors who also pump groundwater. Demands are small and distances and geohydrological conditions are such that neighboring wells will not be impacted.

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Permit No. 10700 Permit Date 24 Oct 94

PWR 03E QNLY - 20 40' FILLIN

STATS WELL NO./STATION NO.

LATITUDE LONGITUDE

APN/TB/OTHER

| ORIENTATION (2) | | | WELL OWNER | | |
|--|--|--|--|--|--|
| VERTICAL _____ HORIZONTAL _____ ANGLE _____ (SPECIFY) | | | Name <u>Will Jackson</u> | | |
| DEPTH TO FIRST WATER _____ (FL) BELOW SURFACE | | | Mailing Address <u>Bx 1430</u> | | |
| DESCRIPTION | | | City <u>Midvale, Utah</u> STATE <u>UT</u> ZIP <u>84057</u> | | |
| Describe material, grain size, color, etc. | | | WELL LOCATION | | |
| Address <u>31889 N. Hwy 1</u> | | | City <u>Fort Hays</u> | | |
| County <u>Finney</u> | | | APN Book <u>015</u> Page <u>070</u> Parcel <u>51</u> | | |
| Township <u>20N</u> Range <u>17W</u> Section <u>20</u> | | | Latitude _____ Longitude _____ | | |
| LOCATION SKETCH | | | ACTIVITY (2) | | |
| NORTH | | | NEW WELL | | |
| Observation Well | | | MODIFICATION/REPAIR | | |
| SOUTH | | | — Deepen | | |
| Illustrate or Describe Distance of Well from Landmarks such as Roads, Buildings, Fences, Rivers, etc. PLEASE BE ACCURATE & COMPLETE. | | | — Other (Specify) | | |
| BRILLING METHOD <u>Rotary</u> FLUID <u>air</u> | | | WATER LEVEL & YIELD OF COMPLETED WELL | | |
| WATER LEVEL _____ (FL) & DATE MEASURED <u>26 Oct 94</u> | | | ESTIMATED YIELD <u>2</u> (GPM) & TEST TYPE <u>Bar</u> | | |
| TEST LENGTH <u>1</u> (Hrs.) TOTAL DRAWDOWN <u>70</u> (FL) | | | TOTAL DEPTH OF BORING <u>100</u> (Feet) | | |
| TOTAL DEPTH OF COMPLETED WELL <u>99</u> (Feet) | | | * May not be representative of a well's long-term yield. | | |

[illegible]

CERTIFICATION STATEMENT

- Signed W. L. Miller 2804 94 325572
WELL DRILLER/AUTHORIZED REPRESENTATIVE DATE SIGNED 0.57 - 11/25/97 X.M.M.

WELL DRILLER/AUTHORIZED REPRESENTATIVE

IF ADDITIONAL SPACE IS NEEDED, USE NEXT CONSECUTIVELY NUMBERED FORM

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associated with the required inspection(s). Prior to performing any work in the County right-of-way, an encroachment permit shall be secured from the Department of Transportation.

20. 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.

- **21. The subdivider shall comply with the recommendations in the California Department of Forestry and the Fort Bragg Rural Fire Department of February 3, 2005 or other alternatives as acceptable to the Department of Forestry (CDFF 21-05) and the Fort Bragg Fire District. Written verification shall be submitted from the Department of Forestry and the Fort Bragg Fire District to the department of Planning and Building Services that this condition has been met to the satisfaction of the Department of Forestry and the Fort Bragg Fire District.

THIS DIVISION OF LAND IS DEEMED COMPLETE WHEN ALL CONDITIONS HAVE BEEN MET, AND THE APPROVED PARCEL MAP IS RECORDED BY THE COUNTY RECORDER.

ATTENDEES: Little, Calvert, Bailey, Moser, Edwards, Nelson, and Warner
NOES: None
ABSENT: None

5c- 5d. CASE#: CDU 6-2006

DATE FILED: 3/23/2006

OWNER: JACKSON-GRUBE FAMILY, INC.

AGENT: BUD KAMB REAL ESTATE SERVICES

REQUEST: Coastal Development Use Permit to build a 10-unit inn in 2 phases. Phase I to consist of the demolition and reconstruction of the former Orca Inn into a main unit of 2,961 square feet (3 bedroom /3 bathroom/downstairs area including kitchen, dining and reception rooms). The north end of the structure would include an upstairs unit of 1,089 square feet (2 bedroom/2 bathroom/kitchen) and downstairs unit of 833 square feet (1 bedroom/1 bathroom/kitchen). In addition, a 1,276 square foot two floored managers unit (2 bedroom/3 bathroom/kitchen); 1,269 square foot equipment barn; 648 square foot maintenance shop; and a 240 square foot generator/pump shed are proposed as part of the first phase. Phase II would consist of 7 units with 3 added to the main building in two storied units of 954 square feet (1 bedroom/1 bathroom/kitchen); 951 square feet (1 bedroom/1 bathroom/kitchen); and 820 square feet (1 bedroom/1 bathroom/kitchen); 2 units within a detached bunkhouse of 531 square feet (1 bedroom/1 bathroom/kitchen) and 757 square feet (2 bedroom/1 bathroom/kitchen); and 2 separate cottages of 835 square feet (2 bedroom/1 bathroom) and 915 square feet (2 bedroom/1 bathroom), respectively. A 778 square foot spa, wells, septic systems, roads and underground utilities are also proposed within the approximate 3.7-acre area of development.

LOCATION: Within the Coastal Zone, 4± miles south of Westport, 1± north of Abalobadlah Creek, approximately 700 feet west of Highway 1, located at 31502 North Highway 1; APNs 015-380-03, 015-380-04, 015-380-05, 015-330-13, 015-330-19, 015-330-27 and a portion of 015-330-28, 015-070-45, 015-070-49, 015-070-51, and portions of 015-070-47, and 015-070-52.

PROJECT COORDINATOR: JOHN SPEKA

Mr. John Speka, project coordinator, reviewed the staff report. He noted the dozen plus emails received from residents concerned with the size of the project, location in a scenic area, traffic impacts, inadequate hydro study and additional letters from a botanist and archaeologist, which stated the botanical survey and archaeological review were inadequate. Also noted was the memo dated June 15, 2007, which clarified condition #A8, the date of CDF letter, condition #B3 regarding the Air Quality Management District regulations to review and approve all wood burning appliances, and an additional condition to limit large gatherings to 99 persons, with anything larger requiring an additional permit. One final condition was also recommended to ensure that the recent recycle reuse ordinance is followed. Further introduced into the record was a revised encroachment approach concept currently under review by Caltrans.

Commissioner Bailey asked Mr. Speka to describe CDU 9-95 and the total buildout of the Orca Inn.

Mr. Speka noted the building was an old historical inn and once the previous use permit was approved only minor improvements were done. He noted the applicant desired additional changes over the next few years and it was determined he needed to apply for a new use permit, hence this application.

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MENDOCINO COUNTY PLANNING COMMISSION
MINUTES

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Commissioner Warner provided some background on the inn, which originally was an old farm house called Hemingway Ranch. She noted the property was not called the Orca Inn until after the general plan was completed.

Commissioner Bailey asked if the easement for public access had been recorded.

Chairman Little noted the settlement agreement on page PC 2 and the deed conveying title for a 1-acre portion to the county plus \$25,000, but he did not see any 1-acre parcel on the zoning map contained in the staff report.

Mr. Speka was not sure which acre had been deeded, however he noted the process had been completed.

Mr. Lynch stated he believed the 1-acre parcel was a parallel strip along the highway deeded for a trail.

Bud Kamb, agent for the applicant, noted Mr. Sellers, Mr. Sanford and Mr. Baker, had come from Vermont for the project. He gave a detailed history of the original case and lawsuit, denial by the Coastal Commission and the 1-acre given to the county with \$25,000 for deeded access. He felt through all the changes the applicants had created a better designed project.

Commissioner Edwards asked if Mr. Kamb had any comments on the age of the botanical survey and the archaeological review.

Mr. Kamb stated that the Archaeological Commission had accepted the previous report.

Mr. Lynch stated that the Archaeological Commission on January 18, 2007 accepted the previous survey with no further survey required.

Willard Jackson, owner, showed the Commission a picture from a book titled "Over California", text by Kevin Starr, photography by Reg Morrison, as the companion to the California Public Television Program, found on page 121. Mr. Jackson discussed when he had purchased the property and the work he and his family had done to repair/maintain the ranch comprising of 1,450 acres. He stated his family wanted to develop a program for cash flow for insurance, maintenance, property taxes, etc. so they could continue to own the property without a financial burden. He discussed the concern with water and his conversation to share with the 2 neighbors that had contacted him about a water shortage. He found the 26 conditions in the staff report acceptable and was willing to place a deed restriction on the property to ensure that it could not be split and developed with individual homes.

Dave Sellers, Architect of Record, discussed his qualifications and the kind of work the firm typically does. He felt this project was a good example of how to change the use of a building and keep the historical value and was a typical California coastal development.

Commissioner Edwards asked if there was a formal offer for a conservation easement since the Architect had discussed preservation.

Mr. Jackson noted there was no formal restriction on development, but he had put a majority of the acreage into agricultural preserve and there was a dedicated trail along Hwy 1 and he had given the county \$25,000 to improve access.

Commissioner Edwards noted the public comments regarding the destruction of views and asked how Mr. Jackson intended to preserve the highly scenic area.

Mr. Jackson stated they did not intend to build anything more in the area.

Chairman Little asked how the facility would be managed and who Mr. Jackson thought would be utilizing the inn, a group or individuals.

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Mr. Jackson stated he hired Mendocino Coast Reservations to manage the inn, which means there will not be an onsite manager and he hoped to have small events such as weddings and conferences at the facility as well as individual rentals of the units.

Commissioner Warner asked why there was a managers unit on the plans if there was to be no onsite manager and what the ranch activities were.

Mr. Jackson stated he would have a caretaker present, but that person does not have the responsibility to rent/manage the units. He noted there were numerous hiking trails, old logging roads for individuals to explore and a leased cattle operation on a portion of the property.

Scott Baker, Project Manager, stated that on condition #A8 the date on the CDF reports should be April 17, 2007; the April 14, 2006 was superseded. On condition #B10 in the staff report it was stated to remove all utility poles and bury the lines, but they would like to keep the first pole, which receives transmission lines from across the ranch. Also, the encroachment approach on the concept sketch was based upon recommendation of Caltrans, however the design would need updating to allow for a greater turning radius for fire trucks.

Chairman Little asked if the applicant knew who provided the fire protection for the area and noted that there is no fire district in the area. He stated there was no means to fund the district currently, but there was a group of volunteers. He also noted that applied to EMS as well. The property is located within the service area of Westport, but not within the district. He was worried about occupants in the inn and if the need should arise for emergency medical service, so he would like to see how a proposal from the applicant to help support the district to ensure there is emergency medical and fire services.

Mr. Baker noted that was a condition CalFire had imposed.

The public hearing was declared open.

Judy Whiting, neighboring property owner, asked why there are 12 parcels numbers listed on the permit. She was concerned that the water was coming from another parcel under the highway and how that would affect her water. She also stated neighbor, Margery Cahn was concerned with water. She felt the change between the original project, which did not have kitchens, and the new design was a considerably larger development. She was also concerned with the possible buildout if parcels were split in the future.

Mr. Lynch noted the 400+ acre parcel was recognized by a Certificate of Compliance and has multiple parcel numbers.

Steve Walker, neighbor, had two issues: (1) Would he be affected by the water, or lack there of water, and (2) The Westport Volunteer Fire Department is stretched very thin and that should be addressed before any construction is started.

Debra Cahn, owner of Navarro Vineyards and representing Margery Cahn, was concerned with the size of the units and did not understand how multiple bedrooms could be called a single unit. She felt that the Orca Inn was not actually an inn, but rather a farmhouse that would illegally rent out rooms and the Commission should not treat it as a historical precedent. She was concerned that there would be no onsite innkeeper, felt the zoning did not match and the special events would cause too much traffic for the area. While she appreciated that Mr. Jackson was thinking about the water issue, she felt the hydro study from 13 years ago was too old and the wells unpredictable.

[Lunch 12:02-1:19pm]

Judith Vidaver, Friends of Ten Mile, was concerned that the project is located in the heart of the highly scenic area where there is little development. She noted staff called the project a resort on page PC 8, not an inn, which is what the project is and should warrant an EIR. She felt the project needed updated archaeological, hydro, and botanical studies and had a serious concern with the lack

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of EMS and Fire services. She summarized her concerns to protect natural resources, contain sprawl, cumulative effects of potential full buildout and lack of an onsite manager.

The public hearing was declared closed.

Mr. Jackson responded to public comment that his family was concerned with conserving the property, but if they were forced to sell, another property owner might not care about the area and they could subdivide and buildout completely. He noted that eventually something would be developed on the *1C zoning. He stated he was concerned with the water and had proposed a water sharing agreement with Judy Whiting and Debra & Margery Cahn.

Commissioner Bailey asked if Mr. Jackson had contacted the Mendocino Land Trust about a conservation easement.

Mr. Jackson stated his children actually own the property, but he had given them the phone number. However, he felt it would be asking them to give up all rights to the property and that was not appropriate.

Commissioner Warner was confused about the deeded access and if it went to the ocean and where the \$25,000 went.

Mr. Jackson noted there was no access to the ocean, but the Coastal Commission, for 1-acre of land and \$25,000 had allowed them to move the trail from the shoreline to along the hwy.

Mr. Zotter stated the \$25,000 was paid to the county and the 1-acre parcel is located to the south, designated as Open Space, as depicted on page PC 17. He did not know the status of \$25,000 or the deeded access.

Commissioner Warner asked if an attempt had been made to preserve the historic farmhouse.

Mr. Sellers noted the farmhouse was in poor condition, but some parts were worth saving and it had been preserved in the center of the new structure.

Commissioner Nelson asked how many homes could be built in the area if the property were split.

Bud Kamb thought there could be one house per every 160-acres, but he was not positive.

Commissioner Nelson noted a worst-case scenario of at least 10 houses in the area, or more for the parcels, which are zoned RMR 20.

Commissioner Bailey asked why on the draft negative declaration #8, regarding land use, was checked yes significant unless mitigated.

Mr. Speka stated that he checked significant unless mitigated as precaution to future uses of the *1C designation.

Commissioner Edwards asked for clarification on the definition of a unit as it pertains to the *1C zoning.

Mr. Speka noted there was not a specific definition for units, but an inn is defined as 5-10 bedrooms or suites.

Commissioner Edwards asked if the 400 plus acres zoned Ag Preserve could be split into 20-acre parcels.

Mr. Lynch said it would be possible, but the RMR 20 zoning was across the Highway.

Commissioner Edwards noted there was no guarantee that more buildings would not follow this project and the coastline could be covered with houses.

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Mr. Lynch noted the RMR 20 is PD area and would require a master plan for development.

Commissioner Nelson echoed the concern with possible buildout, but he was sympathetic about the farmland.

Commissioner Warner added a final sentiment to the RMR 20 zoning that it should have more attention placed on it since it is within the view shed. She felt the project size was not appropriate for the coastline and she could not support the project in its current form. She thought she could support the project if they received updated reports, eliminated design features and limited the special events.

Commissioner Moser noted, on the positive side, he liked the clustering and the preservation of the footprint. He thought it would lower impact to the highly scenic area.

Commissioner Calvert agreed with the positive information from Commissioner Moser, but she also echoed the sentiment that a formalized EMS and Fire services agreement with Westport would be needed. She thought a condition should be made to formalize the water agreement with the neighbors and the upcast lighting should be eliminated.

Commissioner Bailey was surprised at the use of an old botanical study and deeply concerned with the interpretation of a unit.

Commissioner Warner suggested to continue the project to a later date to allow the applicant to redesign project and answer some of the outstanding questions.

Bud Kamb asked for a short break to discuss the project with the applicant.

Commissioner Moser asked if the Commission could discuss the redesign for the applicant to better understand what would be an approvable project.

Commissioner Warner stated the solidness of the clustering, the large main building too big, the view from Hwy 1 is too much like a wall and stone was not appropriate for the coastline. However, she did note that the 10-units should not be separated to prevent clustering.

[Break 2:26 pm-2:42 pm]

The Commission moved to the next agenda item to allow for the applicant and agent to discuss their case.

5d. 5e. **CASE#: UM 8-2000/2007**

DATE FILED: 6/15/2007

OWNER: CHRISTOPHER & MELINDA WALLS

APPLICANT: VERIZON WIRELESS-CRYSTAL WILLIS

AGENT: ON AIR, LLC PETER HILLIARD

REQUEST: Use Permit Modification to allow for the addition of a microwave dish (4-foot diameter) to an existing 55-foot high monopole.

LOCATION: 1.5+/- miles southwest of Ukiah, lying at the terminus of Oak Knoll Road (CR# 252), and at the summit of Cleland Mountain, located at 1880 Oak Knoll Road; APN 157-130-05.

PROJECT COORDINATOR: DUSTY DULEY

Mr. Dusty Duley, project coordinator, reviewed the staff report and the addition of the microwave dish. He noted the new condition regarding pre-assessment of the road to provide baseline data and that Verizon is to fix any damage done to the road after construction.

Peter Hilliard, agent for Verizon Wireless, stated he has reviewed the staff report and conditions of approval and is satisfied with the outcome.

Commissioner Warner asked how Verizon would sort out which damage was done by their company versus other cell companies that used the road.

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- b. That one or more of the conditions upon which the permit was granted have been violated.
- c. That the use for which the permit was granted is conducted in a manner detrimental to the public health, welfare or safety, or is a nuisance.

Any revocation shall proceed as specified in Title 22 of the Mendocino County Code.

17. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit boundaries are different than that which is legally required by this permit, this permit shall become null and void.
18. This permit is issued for a period of ten years and shall expire on June 21, 2017. The applicant has the sole responsibility for renewing this permit before the expiration date. The county will not provide a notice prior to the expiration date.
19. This permit shall become effective after all applicable appeal periods have expired or appeal processes have been exhausted. Failure of the applicant to make use of this permit within two years shall result in the automatic expiration of this permit.

AYES: Little, Calvert, Bailey, Moser, Nelson, and Warner
NOES: None
ABSTAIN: Edwards

(Continued from earlier- CASE#: CDU 6-2006)

Mr. Jackson came back to the podium and stated they would be willing to compromise and give up 3 units on the north side of the building. He noted he has assured the neighbors he will share water, he just learned of the botanical survey at the meeting, and they would do a new archaeological survey if it were deemed necessary.

Mr. Sanford hoped the compromise would not remove the ability for the property to be self-sustaining. He noted removing 3 units on the north side would create more visual lanes through the project and may help the view shed.

Commissioner Moser asked if they had considered removing the outdoor facility.

Mr. Sanford stated the outdoor area is an architectural feature and was the heart of project and the fireplaces are reinforced concrete chimneys not stone.

Chairman Little asked if Mr. Jackson would have a problem with a condition that would require a contract for service from the Westport Fire Department. He noted it would be an agreement for consideration to provide service to the extent the Department could and Mr. Jackson would help fund, to a reasonable extent that would show there would be proper emergency services to the facility.

Jan Walker noted she had received a letter from Westport Fire Dept. asking for \$100 donation per acre parcel.

Mr. Jackson noted they have 12,000-gallon water tank for fire protection.

Commissioner Bailey asked if the applicants had an opportunity to discuss price ranges for per unit and stated that the units that were deleted from the plans may have been the most affordable.

Mr. Jackson noted the most affordable units would be in the bunkhouse and the units they removed had a desirable view north, facing the water.

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Judith Vidaver, made the final comment that the Commission's decision would set a precedent in the highly scenic area and what constitutes a unit.

Commissioner Warner made a motion to deny CDU 6-2006 due to lack of mitigation for special events, activity located in an area without fire protection, the botanical study was outdated, and the applicants should submit a recent full analysis of archaeological history. The motion did not receive a second and did not carry.

Upon motion by Commissioner Moser, seconded by Commissioner Calvert and carried by the following roll call vote, IT IS ORDERED to approve CDU 6-2006 per the findings and conditions of approval contained in the staff report including Conditions of Approval #A1-15 and #B1-16 with the addition of #A12 prior to construction a contract for service with Westport Volunteer Fire Department shall be submitted to Planning and Building Services, #B16 memo dated June 15th, special event at the facility shall be limited to 99 persons gatherings between 100 or more shall be subject to permit. #A13 The Commission suggests the applicant offer a water sharing agreement to the immediate neighbors to ensure long term availability, change the date of the California Department of Forestry letter on #A8 to April 17, 2007, #A15 the project approved shall be Accepted to be modified as offered by applicant to delete units 4-6 as provided on page A1, #A14 The applicant shall submit a revised lighting plan to the Department of Planning & Building Services for review to ensure that all upcast lighting has been removed, and amend #B3 to include information from the memo dated June 15, 2007 regarding Air Quality Management District regulations:

General Plan Consistency Finding: The proposed project is consistent with applicable goals and policies of the Coastal Element of the General Plan as subject to the conditions being recommended by staff.

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.

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.

Project Findings: The Planning Commission, making the above findings, approves #CDU 6-2006 subject to the following conditions of approval recommended by staff.

RECOMMENDED CONDITIONS:

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A. Conditions which must be met prior to use and/or occupancy:

- **1. All grading and site preparation, at a minimum, shall adhere to the following "Best Management Practices":
 - a. That adequate drainage controls be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.
 - b. 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.
 - c. All concentrated water flows, shall be discharged into a functioning storm drain system or into a natural drainage area well away from the top of banks.
 - d. 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.
 - e. 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 1st.
 - f. All earth-moving activities shall be conducted between May 15th and October 15th of any given calendar year.
 - g. Pursuant to the California Building Code and Mendocino County Building Regulations a grading permit will be required unless exempted by the Building Official or exempt by one of the following:
 1. An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1,524 mm) in height and steeper than 1 unit vertical in 1.5 units horizontal (66.7% slope).
 2. A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to support structures, that does not exceed 50 cubic yards (38.3 m³) on any one lot and does not obstruct a drainage.
- **2. The application, supplemental exhibits and related material, including locations, sizes, materials and colors of structures shall be considered elements of this entitlement and compliance therewith shall be mandatory, except for changes or conditions approved by the Planning Commission.
- **3. The applicant shall submit a revised landscaping plan providing details as to the square footage, type, sizes and locations of all plantings and irrigated areas of the project site. Any and all such documentation must be provided to the satisfaction of Planning and Building Services. The revised plan shall include native and drought tolerant vegetation. Should the total irrigated area exceed 2,500 square feet, a Landscape Documentation Packet and appropriate fees shall be submitted pursuant to the County Water Efficient Landscape Ordinance.
4. Prior to commencement of operations the applicant shall submit a copy of a current Mendocino County Business License to the Department of Planning and Building Services. This license shall be kept active and if in the event that the license is inactive for a period of one (1) year or longer, the use permit and business will automatically expire.
5. A deed restriction shall be placed on the property prohibiting the individual sale of any of the visitor serving (or caretaker) units constructed for the project. The restriction shall be prepared to the satisfaction of Planning and Building Services and County Counsel, and shall include language that the 10-unit development is intended to be used for commercial transient occupancy purposes only

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and also that any future residential uses of the development will not be pursued. When and if the property ceases to be used as a Visitor Serving Facility (VSF), a coastal permit amendment shall be submitted to convert all the VSF units to legal accessory buildings per Section 20.308.015(F) of the Coastal Zoning Code. Specifically, all sleeping quarters and kitchen facilities shall be removed and all bathrooms shall be converted to ½ baths devoid of bathing facilities. The property shall not exceed the maximum number of residences allowed under the base zoning or the coastal zoning codes allowance for accessory living units per Section 20.456.005 of the Coastal Zoning Code.

- **6. The encroachment onto Highway One shall provide adequate sight distance and turning geometrics acceptable to the California Department of Transportation (Caltrans). The applicant shall secure from Caltrans, an encroachment permit for all work to be conducted within State Highway right-of-way.
- 7. The applicant shall submit a parking plan acceptable to Planning and Building Services providing details as to the size and locations of all parking areas to be used for the project. The plan shall include provisions for handicapped parking and shall comply with all requirements found in Section 20.472.010 of the County Coastal Zoning Code. The plan shall also include details of the area designated as an "overflow" parking lot which will ensure that development is held to a minimum with respect to visual resources (i.e. left in its original grass vegetated state, no lighting, etc.). Any additional plantings for the lot, such as hedgerows for screening purposes, shall be native and drought resistant.
- **8. The applicant shall comply with those recommendations in the letter of ~~April 14, 2007~~ April 17, 2007 or other alternatives as acceptable to the Department of Forestry (CDF# 120-06). Written verification shall be submitted from Cal-Fire to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Department of Forestry and Fire Protection. Prior to the development of Phase II of the project, a clearance letter shall be submitted to Cal-Fire with any conditions being set also becoming conditions of this permit.
- **9. Valid building and health permits must be obtained prior to commencing construction of the inn development. Written verification shall be submitted from the County Division of Environmental Health to Planning and Building Services that all necessary approvals have been obtained, including, but not limited to, those regarding consumer protection.
- 10. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the 10 working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and use of the property in reliance on such permit has been initiated prior to its expiration. To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.
- 11. 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 \$1,850.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to July 6, 2007. Any waiver of the fee shall be on a form issued by the Department of Fish and Game upon their finding that the project has "no effect" on the environment. 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 the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. The applicant has the sole responsibility to insure timely compliance with this condition.
- 12. Prior to construction a contract for service with Westport Volunteer Fire Department shall be submitted to the Department of Planning & Building Services.

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13. The Commission encourages the applicant offer a water sharing agreement to the immediate neighbors to ensure long term availability.
14. The applicant shall submit a revised lighting plan to the Department of Planning & Building Services for review to ensure that all upcast lighting has been removed.
15. The project approved shall be accepted to be modified as offered by the applicant to delete units 4-6 as provided on page A1.

B. Conditions which must be complied with for the duration of this permit:

- **1. Water efficient fixtures (e.g. low flow showerheads, toilets, etc.) and landscaping (e.g. rain barrels, diversion of stormwater to vegetated areas, etc.) shall be utilized throughout the project area. In addition, all parking areas shall be surfaced either with permeable materials or vegetation.
- **2. 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.
- ~~**3. Except for the replacement of existing wood burning stoves, new wood burning devices shall be prohibited pursuant to District Regulation 4.1 adopted December 5, 2006, by the Mendocino County Air Quality Management Board. Replacement woodstoves must be EPA certified and installed in a manner to ensure proper operation. All other heat sources must be fueled by propane or natural gas.~~
- **3. The applicant shall demonstrate to the satisfaction of the County Air Quality Management District (AQMD), compliance with all rules and regulations of the District, including but not limited to, District Regulation 4.1 adopted December 5, 2006, by the Mendocino County Air Quality Management Board. Replacement woodstoves must be EPA certified and installed in a manner to ensure proper operation. Written verification shall be submitted from AQMD to the Department of Planning & Building Services that this condition has been met to the satisfaction of AQMD.
- **4. Prior to obtaining a demolition permit for the former Orca Inn, National Emissions Standards for Hazardous Air Pollutants (NESHAP) clearance shall be issued by the County Air Quality Management District.
- **5. Any stationary onsite internal combustion engines over 50 horsepower (i.e. large power generator or pumps) may require a permit from the District, depending on fuel source and level of operation.
- **6. All grading activities shall comply with District Regulation 1 Rule 430 regarding fugitive dust emissions.
- **7. All roads shall be covered with an impermeable sealant or rocked at a bare minimum. Any rock material used for surfacing, including rock from onsite sources, must comply with Regulations regarding asbestos content.
- ~~**8. Lighting for the project shall adhere to the Landscaping and Lighting Plan plans dated March 7, 2007, on file at the Department of Planning and Building Services. All external lighting associated with the proposed development site and parking area shall be shielded and downcast to prohibit light from being cast beyond the property boundaries.~~
- **8. The applicant shall demonstrate continuous use of the property as a visitor serving facility. Documentation of applicable Transient Occupancy Tax (TOT) payable to the Mendocino County Tax Collector upon rental of the inn as a whole or portion thereof will be required on a yearly basis. Any and all such documentation must be provided to the satisfaction of PBS. Full-time (greater than 30 consecutive days) residential occupancies of any of the units (except for that of the designated caretaker unit) shall not be allowed.
- **9. All utility lines on the site, including the existing overhead utility lines from the east side of Highway One to the inn site, shall be placed underground, and existing poles removed.

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- ** 10. All exterior building materials, colors and finishes shall be of 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.
- ** 11. In the event that archaeological resources are encountered during development of 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.
12. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of Mendocino County Code unless modified by conditions of the use permit.
13. The application is subject to the securing of all necessary permits for the proposed development and eventual use from County, State, and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
14. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:
- a. That such permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which such permit was granted have been violated.
 - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.
- Any such revocation shall proceed as specified in Title 20 of the Mendocino County
15. This permit is issued without a legal determination having been made upon the number, size, or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size, shape or parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
16. Special events at the facility shall be limited to a maximum of 99 persons. Gatherings totaling between 100 and 1,000 persons shall require a Coastal Development Permit and those over 1,000 persons shall require a Coastal Development Use Permit per Section 20.460.020 of the Coastal Zoning Code. Eating and drinking Establishments for on premises consumption by non-paying guests of the facility shall require a Coastal Development Use Permit separate than that issued for this project.

AYES: Little, Calvert, Moser, Edwards, Nelson
NOES: Bailey, Warner
ABSENT: None

5e, 5f. CASE#: UM 13-2005/2007

DATE FILED: 5/2/2007

OWNER: JOHN KOLBERG

APPLICANT: TOM MILLER & CALCOM SYSTEMS

AGENT: TOM MILLER & CALCOM SYSTEMS

REQUEST: Modification of Use Permit # U 13-2005 to allow for an extension of time to complete Condition Number 14, which requires the property owner to bring the subject property into compliance with applicable sections of Chapter 20 of the Mendocino County Code including, removal of all trash and old vehicles, and legalization of all existing structures by obtaining all proper building and septic permits.

LOCATION: 10+/- miles north of Willits, in the vicinity of the community of Longvale, lying southeast of the intersection of Highway 101 and 162, via a private road which connects to Highway 162, located at 36121 Covelo Road; AP# 036-110-17.

PROJECT COORDINATOR: DUSTY DULEY

40942



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
501 LOW GAP ROAD · ROOM 1440 · UKIAH · CALIFORNIA · 95482

RAYMOND HALL, DIRECTOR
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www.co.mendocino.ca.us/planning

RECEIVED

JULY 10, 2007

JUL 13 2007

NOTICE OF FINAL ACTION

CALIFORNIA
COASTAL COMMISSION

Action has been completed by the County of Mendocino on the below described project located within the Coastal Zone.

CASE#: CDU 6-2008

DATE FILED: 3/23/2008

OWNER: JACKSON-GRUBE FAMILY, INC.

AGENT: BUD KAMB REAL ESTATE SERVICES

REQUEST: Coastal Development Use Permit to build a 10-unit inn in 2 phases. Phase I to consist of the demolition and reconstruction of the former Orca Inn into a main unit of 2,961 square feet (3 bedroom /3 bathroom/downstairs area including kitchen, dining and reception rooms). The north end of the structure would include an upstairs unit of 1,089 square feet (2 bedroom/2 bathroom/kitchen) and downstairs unit of 833 square feet (1 bedroom/1 bathroom/kitchen). In addition, a 1,276 square foot two floored managers unit (2 bedroom/3 bathroom/kitchen); 1,269 square foot equipment barn; 648 square foot maintenance shop; and a 240 square foot generator/pump shed are proposed as part of the first phase. Phase II would consist of 7 units with 3 added to the main building in two storied units of 954 square feet (1 bedroom/1 bathroom/kitchen); 951 square feet (1 bedroom/1 bathroom/kitchen); and 820 square feet (1 bedroom/1 bathroom/kitchen); 2 units within a detached bunkhouse of 531 square feet (1 bedroom/1 bathroom/kitchen) and 757 square feet (2 bedroom/1 bathroom/kitchen); and 2 separate cottages of 835 square feet (2 bedroom/1 bathroom) and 915 square feet (2 bedroom/1 bathroom), respectively. A 778 square foot spa, wells, septic systems, roads and underground utilities are also proposed within the approximate 3.7-acre area of development.

LOCATION: Within the Coastal Zone, 4± miles south of Westport, 1± north of Abalobadiah Creek, approximately 700 feet west of Highway 1, located at 31502 North Highway 1; APNs 015-380-03, 015-380-04, 015-380-05, 015-330-13, 015-330-19, 015-330-27 and a portion of 015-330-28, 015-070-45, 015-070-49, 015-070-51, and portions of 015-070-47, and 015-070-52.

PROJECT COORDINATOR: JOHN SPEKA

ACTION TAKEN:

The Planning Commission, on June 21, 2007, approved the above described project. See attached documents for the findings and conditions in support of this decision.

The above project was not appealed at the local level.

This project is appealable to the Coastal Commission pursuant to Public Resources Code, Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days following Coastal Commission receipt of this notice. Appeals must be in writing to the appropriate Coastal Commission district office.

Attachments

cc:

COASTAL COMMISSION
ASSESSOR


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I am employed in the County of Mendocino, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 444 North State Street, Ukiah, California.

California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501

Bud Kamb
Real Estate Service
101 Boatyard Drive
Fort Bragg, CA 95437


Cheryl Carter Murphy

42 of 42



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

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RECEIVED

JULY 10, 2007

JUL 13 2007

NOTICE OF FINAL ACTION

CALIFORNIA
COASTAL COMMISSION

Action has been completed by the County of Mendocino on the below described project located within the Coastal Zone.

CASE#: CDU 6-2006

DATE FILED: 3/23/2006

OWNER: JACKSON-GRUBE FAMILY, INC.

AGENT: BUD KAMB REAL ESTATE SERVICES

REQUEST: Coastal Development Use Permit to build a 10-unit inn in 2 phases. Phase I to consist of the demolition and reconstruction of the former Orca Inn into a main unit of 2,961 square feet (3 bedroom /3 bathroom/downstairs area including kitchen, dining and reception rooms). The north end of the structure would include an upstairs unit of 1,089 square feet (2 bedroom/2 bathroom/kitchen) and downstairs unit of 833 square feet (1 bedroom/1 bathroom/kitchen). In addition, a 1,276 square foot two floored managers unit (2 bedroom/3 bathroom/kitchen); 1,269 square foot equipment barn; 648 square foot maintenance shop; and a 240 square foot generator/pump shed are proposed as part of the first phase. Phase II would consist of 7 units with 3 added to the main building in two storied units of 954 square feet (1 bedroom/1 bathroom/kitchen); 951 square feet (1 bedroom/1 bathroom/kitchen); and 820 square feet (1 bedroom/1 bathroom/kitchen); 2 units within a detached bunkhouse of 531 square feet (1 bedroom/1 bathroom/kitchen) and 757 square feet (2 bedroom/1 bathroom/kitchen); and 2 separate cottages of 835 square feet (2 bedroom/1 bathroom) and 915 square feet (2 bedroom/1 bathroom), respectively. A 778 square foot spa, wells, septic systems, roads and underground utilities are also proposed within the approximate 3.7-acre area of development.

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PROJECT COORDINATOR: JOHN SPEKA

ACTION TAKEN:

The Planning Commission, on June 21, 2007, approved the above described project. See attached documents for the findings and conditions in support of this decision.

The above project was not appealed at the local level.

This project is appealable to the Coastal Commission pursuant to Public Resources Code, Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days following Coastal Commission receipt of this notice. Appeals must be in writing to the appropriate Coastal Commission district office.

Attachments

cc:
COASTAL COMMISSION
ASSESSOR

EXHIBIT NO. 10

APPEAL NO.

A-1-MEN-07-028

JACKSON-GRUBE FAMILY, INC.

NOTICE OF FINAL LOCAL
ACTION (1 of 44)

**COUNTY OF MENDOCINO
ENVIRONMENTAL REVIEW GUIDELINES
NEGATIVE DECLARATION**

I. DESCRIPTION OF PROJECT.

DATE: July 10, 2007

CASE#: CDU 6-2006

DATE FILED: 3/23/2006

OWNER: JACKSON-GRUBE FAMILY, INC.

AGENT: BUD KAMB REAL ESTATE SERVICES

REQUEST: Coastal Development Use Permit to build a 10-unit inn in 2 phases. Phase I to consist of the demolition and reconstruction of the former Orca Inn into a main unit of 2,961 square feet (3 bedroom /3 bathroom/downstairs area including kitchen, dining and reception rooms). The north end of the structure would include an upstairs unit of 1,089 square feet (2 bedroom/2 bathroom/kitchen) and downstairs unit of 833 square feet (1 bedroom/1 bathroom/kitchen). In addition, a 1,276 square foot two floored managers unit (2 bedroom/3 bathroom/kitchen); 1,269 square foot equipment barn; 648 square foot maintenance shop; and a 240 square foot generator/pump shed are proposed as part of the first phase. Phase II would consist of 7 units with 3 added to the main building in two storied units of 954 square feet (1 bedroom/1 bathroom/kitchen); 951 square feet (1 bedroom/1 bathroom/kitchen); and 820 square feet (1 bedroom/1 bathroom/kitchen); 2 units within a detached bunkhouse of 531 square feet (1 bedroom/1 bathroom/kitchen) and 757 square feet (2 bedroom/1 bathroom/kitchen); and 2 separate cottages of 835 square feet (2 bedroom/1 bathroom) and 915 square feet (2 bedroom/1 bathroom), respectively. A 778 square foot spa, wells, septic systems, roads and underground utilities are also proposed within the approximate 3.7-acre area of development.

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PROJECT COORDINATOR: JOHN SPEKA

II. DETERMINATION.

In accordance with Mendocino County's procedures for compliance with the California Environmental Quality Act (CEQA), the County has conducted an Initial Study to determine whether the proposed project may have a significant adverse effect on the environment. On the basis of that study, it has been determined that:

Although the project, as proposed, could have had a significant effect on the environment, there will not be a significant effect in this case because mitigation measures required for the project will reduce potentially significant effects to a less than significant level, therefore, a **NEGATIVE DECLARATION** is adopted.

The attached Initial Study and staff report incorporates all relevant information regarding the potential environmental effects of the project and confirms the determination that an EIR is not required for the project.



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

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FINAL FINDINGS AND CONDITIONS OF APPROVAL
CDU 6-2006- JACKSON-GRUBE
JUNE 21, 2007

The Planning Commission approves #CDU 6-2006 subject to the following findings and conditions of approval recommended by staff.

CONDITIONS OF APPROVAL:

A. Conditions which must be met prior to use and/or occupancy:

**1. All grading and site preparation, at a minimum, shall adhere to the following "Best Management Practices":

- a. That adequate drainage controls be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.
- b. 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.
- c. All concentrated water flows, shall be discharged into a functioning storm drain system or into a natural drainage area well away from the top of banks.
- d. 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.
- e. 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 1st.
- f. All earth-moving activities shall be conducted between May 15th and October 15th of any given calendar year.
- g. Pursuant to the California Building Code and Mendocino County Building Regulations a grading permit will be required unless exempted by the Building Official or exempt by one of the following:

1. An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1,524 mm) in height and steeper than 1 unit vertical in 1.5 units horizontal (66.7% slope).
2. A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to support structures, that does not exceed 50 cubic yards (38.3 m³) on any one lot and does not obstruct a drainage.

**2. The application, supplemental exhibits and related material, including locations, sizes, materials and colors of structures shall be considered elements of this entitlement and compliance therewith shall be mandatory, except for changes or conditions approved by the Planning Commission.

- **3. The applicant shall submit a revised landscaping plan providing details as to the square footage, type, sizes and locations of all plantings and irrigated areas of the project site. Any and all such documentation must be provided to the satisfaction of Planning and Building Services. The revised plan shall include native and drought tolerant vegetation. Should the total irrigated area exceed 2,500 square feet, a Landscape Documentation Packet and appropriate fees shall be submitted pursuant to the County Water Efficient Landscape Ordinance.
4. Prior to commencement of operations the applicant shall submit a copy of a current Mendocino County Business License to the Department of Planning and Building Services. This license shall be kept active and if in the event that the license is inactive for a period of one (1) year or longer, the use permit and business will automatically expire.
5. A deed restriction shall be placed on the property prohibiting the individual sale of any of the visitor serving (or caretaker) units constructed for the project. The restriction shall be prepared to the satisfaction of Planning and Building Services and County Counsel, and shall include language that the 10-unit development is intended to be used for commercial transient occupancy purposes only and also that any future residential uses of the development will not be pursued. When and if the property ceases to be used as a Visitor Serving Facility (VSF), a coastal permit amendment shall be submitted to convert all the VSF units to legal accessory buildings per Section 20.308.015(F) of the Coastal Zoning Code. Specifically, all sleeping quarters and kitchen facilities shall be removed and all bathrooms shall be converted to ½ baths devoid of bathing facilities. The property shall not exceed the maximum number of residences allowed under the base zoning or the coastal zoning codes allowance for accessory living units per Section 20.456.005 of the Coastal Zoning Code.
- **6. The encroachment onto Highway One shall provide adequate sight distance and turning geometrics acceptable to the California Department of Transportation (Caltrans). The applicant shall secure from Caltrans, an encroachment permit for all work to be conducted within State Highway right-of-way.
- ⑦ The applicant shall submit a parking plan acceptable to Planning and Building Services providing details as to the size and locations of all parking areas to be used for the project. The plan shall include provisions for handicapped parking and shall comply with all requirements found in Section 20.472.010 of the County Coastal Zoning Code. The plan shall also include details of the area designated as an "overflow" parking lot which will ensure that development is held to a minimum with respect to visual resources (i.e. left in its original grass vegetated state, no lighting, etc.). Any additional plantings for the lot, such as hedgerows for screening purposes, shall be native and drought resistant.
- **8. The applicant shall comply with those recommendations in the letter of April 17, 2007 or other alternatives as acceptable to the Department of Forestry (CDF# 120-06). Written verification shall be submitted from Cal-Fire to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Department of Forestry and Fire Protection. Prior to the development of Phase II of the project, a clearance letter shall be submitted to Cal-Fire with any conditions being set also becoming conditions of this permit.
- **9. Valid building and health permits must be obtained prior to commencing construction of the inn development. Written verification shall be submitted from the County Division of Environmental Health to Planning and Building Services that all necessary approvals have been obtained, including, but not limited to, those regarding consumer protection.
10. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the 10 working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and use of the property in reliance on such permit has been initiated prior to its expiration. To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.
11. 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 \$1,850.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to July 6, 2007. Any waiver of the fee shall be on a form issued by the Department of Fish and Game upon their finding that the project has "no effect" on the environment. 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 the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. The applicant has the sole responsibility to insure timely compliance with this condition.

12. Prior to construction a contract for service with Westport Volunteer Fire Department shall be submitted to the Department of Planning & Building Services.
13. The Commission encourages the applicant offer a water sharing agreement to the immediate neighbors to ensure long term availability.
14. The applicant shall submit a revised lighting plan to the Department of Planning & Building Services for review to ensure that all upcast lighting has been removed.
15. The project approved shall be accepted to be modified as offered by the applicant to delete units 4-6 as provided on page A1.

B. Conditions which must be complied with for the duration of this permit:

- ** 1. Water efficient fixtures (e.g. low flow showerheads, toilets, etc.) and landscaping (e.g. rain barrels, diversion of stormwater to vegetated areas, etc.) shall be utilized throughout the project area. In addition, all parking areas shall be surfaced either with permeable materials or vegetation.
- ** 2. 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.
- ** 3. The applicant shall demonstrate to the satisfaction of the County Air Quality Management District (AQMD), compliance with all rules and regulations of the District, including but not limited to, District Regulation 4.1 adopted December 5, 2006, by the Mendocino County Air Quality Management Board. Replacement woodstoves must be EPA certified and installed in a manner to ensure proper operation. Written verification shall be submitted from AQMD to the Department of Planning & Building Services that this condition has been met to the satisfaction of AQMD.
- ** 4. Prior to obtaining a demolition permit for the former Orca Inn, National Emissions Standards for Hazardous Air Pollutants (NESHAP) clearance shall be issued by the County Air Quality Management District.
- ** 5. Any stationary onsite internal combustion engines over 50 horsepower (i.e. large power generator or pumps) may require a permit from the District, depending on fuel source and level of operation.
- ** 6. All grading activities shall comply with District Regulation 1 Rule 430 regarding fugitive dust emissions.
- ** 7. All roads shall be covered with an impermeable sealant or rocked at a bare minimum. Any rock material used for surfacing, including rock from onsite sources, must comply with Regulations regarding asbestos content.
- ** 8. The applicant shall demonstrate continuous use of the property as a visitor serving facility. Documentation of applicable Transient Occupancy Tax (TOT) payable to the Mendocino County Tax Collector upon rental of the inn as a whole or portion thereof will be required on a yearly basis. Any and all such documentation must be provided to the satisfaction of PBS. Full-time (greater than 30 consecutive days) residential occupancies of any of the units (except for that of the designated caretaker unit) shall not be allowed.
- ** 9. All utility lines on the site, including the existing overhead utility lines from the east side of Highway One to the inn site, shall be placed underground, and existing poles removed.

10.

All exterior building materials, colors and finishes shall be of 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.

11. In the event that archaeological resources are encountered during development of 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.

12. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of Mendocino County Code unless modified by conditions of the use permit.

13. The application is subject to the securing of all necessary permits for the proposed development and eventual use from County, State, and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.

14. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:

- a. That such permit was obtained or extended by fraud.
- b. That one or more of the conditions upon which such permit was granted have been violated.
- c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

Any such revocation shall proceed as specified in Title 20 of the Mendocino County

15. This permit is issued without a legal determination having been made upon the number, size, or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size, shape or parcels within the permit described boundaries are different that that which is legally required by this permit, this permit shall become null and void.

16.

Special events at the facility shall be limited to a maximum of 99 persons. Gatherings totaling between 100 and 1,000 persons shall require a Coastal Development Permit and those over 1,000 persons shall require a Coastal Development Use Permit per Section 20.460.020 of the Coastal Zoning Code. Eating and drinking Establishments for on premises consumption by non-paying guests of the facility shall require a Coastal Development Use Permit separate than that issued for this project.

associated with the required inspection(s). Prior to performing any work in the County right-of-way, an encroachment permit shall be secured from the Department of Transportation.

20. 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.
- **21. The subdivider shall comply with those recommendations in the California Department of Forestry and the Fort Bragg Rural Fire District letter of February 3, 2005 or other alternatives as acceptable to the Department of Forestry (CDF # 21-05) and the Fort Bragg Fire District. Written verification shall be submitted from the Department of Forestry and the Fort Bragg Fire District to the department of Planning and Building Services that this condition has been met to the satisfaction of the Department of Forestry and the Fort Bragg Fire District.

THIS DIVISION OF LAND IS DEEMED COMPLETE WHEN ALL CONDITIONS HAVE BEEN MET, AND THE APPROVED PARCEL MAP IS RECORDED BY THE COUNTY RECORDER.

AYES: Little, Calvert, Bailey, Moser, Edwards, Nelson, and Warner
NOES: None
ABSENT: None

5c- 5d. CASE#: CDU 6-2006

DATE FILED: 3/23/2006

OWNER: JACKSON-GRUBE FAMILY, INC.

AGENT: BUD KAMB REAL ESTATE SERVICES

REQUEST: Coastal Development Use Permit to build a 10-unit inn in 2 phases. Phase I to consist of the demolition and reconstruction of the former Orca Inn into a main unit of 2,961 square feet (3 bedroom /3 bathroom/downstairs area including kitchen, dining and reception rooms). The north end of the structure would include an upstairs unit of 1,089 square feet (2 bedroom/2 bathroom/kitchen) and downstairs unit of 833 square feet (1 bedroom/1 bathroom/kitchen). In addition, a 1,276 square foot two floored managers unit (2 bedroom/3 bathroom/kitchen); 1,269 square foot equipment barn; 648 square foot maintenance shop; and a 240 square foot generator/pump shed are proposed as part of the first phase. Phase II would consist of 7 units with 3 added to the main building in two storied units of 954 square feet (1 bedroom/1 bathroom/kitchen); 951 square feet (1 bedroom/1 bathroom/kitchen); and 820 square feet (1 bedroom/1 bathroom/kitchen); 2 units within a detached bunkhouse of 531 square feet (1 bedroom/1 bathroom/kitchen) and 757 square feet (2 bedroom/1 bathroom/kitchen); and 2 separate cottages of 835 square feet (2 bedroom/1 bathroom) and 915 square feet (2 bedroom/1 bathroom), respectively. A 778 square foot spa, wells, septic systems, roads and underground utilities are also proposed within the approximate 3.7-acre area of development.

LOCATION: Within the Coastal Zone, 4± miles south of Westport, 1± north of Abalobadiah Creek, approximately 700 feet west of Highway 1, located at 31502 North Highway 1; APNs 015-380-03, 015-380-04, 015-380-05, 015-330-13, 015-330-19, 015-330-27 and a portion of 015-330-28, 015-070-45, 015-070-49, 015-070-51, and portions of 015-070-47, and 015-070-52.

PROJECT COORDINATOR: JOHN SPEKA

Mr. John Speka, project coordinator, reviewed the staff report. He noted the dozen plus emails received from residents concerned with the size of the project, location in a scenic area, traffic impacts, inadequate hydro study and additional letters from a botanist and archaeologist, which stated the botanical survey and archaeological review were inadequate. Also noted was the memo dated June 15, 2007, which clarified condition #A8, the date of CDF letter, condition #B3 regarding the Air Quality Management District regulations to review and approve all wood burning appliances, and an additional condition to limit large gatherings to 99 persons, with anything larger requiring an additional permit. One final condition was also recommended to ensure that the recent recycle reuse ordinance is followed. Further introduced into the record was a revised encroachment approach concept currently under review by Caltrans.

Commissioner Bailey asked Mr. Speka to describe CDU 9-95 and the total buildout of the Orca Inn.

Mr. Speka noted the building was an old historical inn and once the previous use permit was approved only minor improvements were done. He noted the applicant desired additional changes over the next few years and it was determined he needed to apply for a new use permit, hence this application.

Commissioner Warner provided some background on the inn, which originally was an old farm house called Hemingway Ranch. She noted the property was not called the Orca Inn until after the general plan was completed.

Commissioner Bailey asked if the easement for public access had been recorded.

Chairman Little noted the settlement agreement on page PC 2 and the deed conveying title for a 1-acre portion to the county plus \$25,000, but he did not see any 1-acre parcel on the zoning map contained in the staff report.

Mr. Speka was not sure which acre had been deeded, however he noted the process had been completed.

Mr. Lynch stated he believed the 1-acre parcel was a parallel strip along the highway deeded for a trail.

Bud Kamb, agent for the applicant, noted Mr. Sellers, Mr. Sanford and Mr. Baker, had come from Vermont for the project. He gave a detailed history of the original case and lawsuit, denial by the Coastal Commission and the 1-acre given to the county with \$25,000 for deeded access. He felt through all the changes the applicants had created a better designed project.

Commissioner Edwards asked if Mr. Kamb had any comments on the age of the botanical survey and the archaeological review.

Mr. Kamb stated that the Archaeological Commission had accepted the previous report.

Mr. Lynch stated that the Archaeological Commission on January 18, 2007 accepted the previous survey with no further survey required.

Willard Jackson, owner, showed the Commission a picture from a book titled "Over California", text by Kevin Starr, photography by Reg Morrison, as the companion to the California Public Television Program, found on page 121. Mr. Jackson discussed when he had purchased the property and the work he and his family had done to repair/maintain the ranch comprising of 1,450 acres. He stated his family wanted to develop a program for cash flow for insurance, maintenance, property taxes, etc. so they could continue to own the property without a financial burden. He discussed the concern with water and his conversation to share with the 2 neighbors that had contacted him about a water shortage. He found the 26 conditions in the staff report acceptable and was willing to place a deed restriction on the property to ensure that it could not be split and developed with individual homes.

Dave Sellers, Architect of Record, discussed his qualifications and the kind of work the firm typically does. He felt this project was a good example of how to change the use of a building and keep the historical value and was a typical California coastal development.

Commissioner Edwards asked if there was a formal offer for a conservation easement since the Architect had discussed preservation.

Mr. Jackson noted there was no formal restriction on development, but he had put a majority of the acreage into agricultural preserve and there was a dedicated trail along Hwy 1 and he had given the county \$25,000 to improve access.

Commissioner Edwards noted the public comments regarding the destruction of views and asked how Mr. Jackson intended to preserve the highly scenic area.

Mr. Jackson stated they did not intend to build anything more in the area.

Chairman Little asked how the facility would be managed and who Mr. Jackson thought would be utilizing the inn, a group or individuals.

Mr. Jackson stated he hired Mendocino Coast Reservations to manage the inn, which means there will not be an onsite manager and he hoped to have small events such as weddings and conferences at the facility as well as individual rentals of the units.

Commissioner Warner asked why there was a managers unit on the plans if there was to be no onsite manager and what the ranch activities were.

Mr. Jackson stated he would have a caretaker present, but that person does not have the responsibility to rent/manage the units. He noted there were numerous hiking trails, old logging roads for individuals to explore and a leased cattle operation on a portion of the property.

Scott Baker, Project Manager, stated that on condition #A8 the date on the CDF reports should be April 17, 2007; the April 14, 2006 was superseded. On condition #B10 in the staff report it was stated to remove all utility poles and bury the lines, but they would like to keep the first pole, which receives transmission lines from across the ranch. Also, the encroachment approach on the concept sketch was based upon recommendation of Caltrans, however the design would need updating to allow for a greater turning radius for fire trucks.

Chairman Little asked if the applicant knew who provided the fire protection for the area and noted that there is no fire district in the area. He stated there was no means to fund the district currently, but there was a group of volunteers. He also noted that applied to EMS as well. The property is located within the service area of Westport, but not within the district. He was worried about occupants in the inn and if the need should arise for emergency medical service, so he would like to see how a proposal from the applicant to help support the district to ensure there is emergency medical and fire services.

Mr. Baker noted that was a condition CalFire had imposed.

The public hearing was declared open.

Judy Whiting, neighboring property owner, asked why there are 12 parcels numbers listed on the permit. She was concerned that the water was coming from another parcel under the highway and how that would affect her water. She also stated neighbor, Margery Cahn was concerned with water. She felt the change between the original project, which did not have kitchens, and the new design was a considerably larger development. She was also concerned with the possible buildout if parcels were split in the future.

Mr. Lynch noted the 400+ acre parcel was recognized by a Certificate of Compliance and has multiple parcel numbers.

Steve Walker, neighbor, had two issues: (1) Would he be affected by the water, or lack there of water, and (2) The Westport Volunteer Fire Department is stretched very thin and that should be addressed before any construction is started.

Debra Cahn, owner of Navarro Vineyards and representing Margery Cahn, was concerned with the size of the units and did not understand how multiple bedrooms could be called a single unit. She felt that the Orca Inn was not actually an inn, but rather a farmhouse that would illegally rent out rooms and the Commission should not treat it as a historical precedent. She was concerned that there would be no onsite innkeeper, felt the zoning did not match and the special events would cause too much traffic for the area. While she appreciated that Mr. Jackson was thinking about the water issue, she felt the hydro study from 13 years ago was too old and the wells unpredictable.

[Lunch 12:02-1:19pm]

Judith Vidaver, Friends of Ten Mile, was concerned that the project is located in the heart of the highly scenic area where there is little development. She noted staff called the project a resort on page PC 8, not an inn, which is what the project is and should warrant an EIR. She felt the project needed updated archaeological, hydro, and botanical studies and had a serious concern with the lack

of EMS and Fire services. She summarized her concerns to protect natural resources, contain sprawl, cumulative effects of potential full buildout and lack of an onsite manager.

The public hearing was declared closed.

Mr. Jackson responded to public comment that his family was concerned with conserving the property, but if they were forced to sell, another property owner might not care about the area and they could subdivide and buildout completely. He noted that eventually something would be developed on the *1C zoning. He stated he was concerned with the water and had proposed a water sharing agreement with Judy Whiting and Debra & Margery Cahn.

Commissioner Bailey asked if Mr. Jackson had contacted the Mendocino Land Trust about a conservation easement.

Mr. Jackson stated his children actually own the property, but he had given them the phone number. However, he felt it would be asking them to give up all rights to the property and that was not appropriate.

Commissioner Warner was confused about the deeded access and if it went to the ocean and where the \$25,000 went.

Mr. Jackson noted there was no access to the ocean, but the Coastal Commission, for 1-acre of land and \$25,000 had allowed them to move the trail from the shoreline to along the hwy.

Mr. Zotter stated the \$25,000 was paid to the county and the 1-acre parcel is located to the south, designated as Open Space, as depicted on page PC 17. He did not know the status of \$25,000 or the deeded access.

Commissioner Warner asked if an attempt had been made to preserve the historic farmhouse.

Mr. Sellers noted the farmhouse was in poor condition, but some parts were worth saving and it had been preserved in the center of the new structure.

Commissioner Nelson asked how many homes could be built in the area if the property were split.

Bud Kamb thought there could be one house per every 160-acres, but he was not positive.

Commissioner Nelson noted a worst-case scenario of at least 10 houses in the area, or more for the parcels, which are zoned RMR 20.

Commissioner Bailey asked why on the draft negative declaration #8, regarding land use, was checked yes significant unless mitigated.

Mr. Speka stated that he checked significant unless mitigated as precaution to future uses of the *1C designation.

Commissioner Edwards asked for clarification on the definition of a unit as it pertains to the *1C zoning.

Mr. Speka noted there was not a specific definition for units, but an inn is defined as 5-10 bedrooms or suites.

Commissioner Edwards asked if the 400 plus acres zoned Ag Preserve could be split into 20-acre parcels.

Mr. Lynch said it would be possible, but the RMR 20 zoning was across the Highway.

Commissioner Edwards noted there was no guarantee that more buildings would not follow this project and the coastline could be covered with houses.

Mr. Lynch noted the RMR 20 is PD area and would require a master plan for development.

Commissioner Nelson echoed the concern with possible buildout, but he was sympathetic about the farmland.

Commissioner Warner added a final sentiment to the RMR 20 zoning that it should have more attention placed on it since it is within the view shed. She felt the project size was not appropriate for the coastline and she could not support the project in its current form. She thought she could support the project if they received updated reports, eliminated design features and limited the special events.

Commissioner Moser noted, on the positive side, he liked the clustering and the preservation of the footprint. He thought it would lower impact to the highly scenic area.

Commissioner Calvert agreed with the positive information from Commissioner Moser, but she also echoed the sentiment that a formalized EMS and Fire services agreement with Westport would be needed. She thought a condition should be made to formalize the water agreement with the neighbors and the upcast lighting should be eliminated.

Commissioner Bailey was surprised at the use of an old botanical study and deeply concerned with the interpretation of a unit.

Commissioner Warner suggested to continue the project to a later date to allow the applicant to redesign project and answer some of the outstanding questions.

Bud Kamb asked for a short break to discuss the project with the applicant.

Commissioner Moser asked if the Commission could discuss the redesign for the applicant to better understand what would be an approvable project.

Commissioner Warner stated the solidness of the clustering, the large main building too big, the view from Hwy 1 is too much like a wall and stone was not appropriate for the coastline. However, she did note that the 10-units should not be separated to prevent clustering.

[Break 2:26 pm-2:42 pm]

The Commission moved to the next agenda item to allow for the applicant and agent to discuss their case.

5d. 5e. CASE#: UM 8-2000/2007

DATE FILED: 3/15/2007

OWNER: CHRISTOPHER & MELINDA WALLS

APPLICANT: VERIZON WIRELESS-CRYSTAL WILLIS

AGENT: ON AIR, LLC-PETER HILLIARD

REQUEST: Use Permit Modification to allow for the addition of a microwave dish (4-foot diameter) to an existing 55-foot high monopole.

LOCATION: 1.5+/- miles southwest of Ukiah, lying at the terminus of Oak Knoll Road (CR# 252), and at the summit of Cleland Mountain, located at 1880 Oak Knoll Road; APN 157-130-05.

PROJECT COORDINATOR: DUSTY DULEY

Mr. Dusty Duley, project coordinator, reviewed the staff report and the addition of the microwave dish. He noted the new condition regarding pre-assessment of the road to provide baseline data and that Verizon is to fix any damage done to the road after construction.

Peter Hilliard, agent for Verizon Wireless, stated he has reviewed the staff report and conditions of approval and is satisfied with the outcome.

Commissioner Warner asked how Verizon would sort out which damage was done by their company versus other cell companies that used the road.

- b. That one or more of the conditions upon which the permit was granted have been violated.
- c. That the use for which the permit was granted is conducted in a manner detrimental to the public health, welfare or safety, or is a nuisance.

Any revocation shall proceed as specified in Title 20 of the Mendocino County Code.

- 17. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit boundaries are different than that which is legally required by this permit, this permit shall become null and void.
- 18. This permit is issued for a period of ten years, and shall expire on June 21, 2017. The applicant has the sole responsibility for renewing this permit before the expiration date. The county will not provide a notice prior to the expiration date.
- 19. This permit shall become effective after all applicable appeal periods have expired or appeal processes have been exhausted. Failure of the applicant to make use of this permit within two years shall result in the automatic expiration of this permit.

AYES: Little, Calvert, Bailey, Moser, Nelson, and Warner
NOES: None
ABSTAIN: Edwards

(Continued from earlier- CASE#: CDU 6-2006)

Mr. Jackson came back to the podium and stated they would be willing to compromise and give up 3 units on the north side of the building. He noted he has assured the neighbors he will share water, he just learned of the botanical survey at the meeting, and they would do a new archaeological survey if it were deemed necessary.

Mr. Sanford hoped the compromise would not remove the ability for the property to be self-sustaining. He noted removing 3 units on the north side would create more visual lanes through the project and may help the view shed.

Commissioner Moser asked if they had considered removing the outdoor facility.

Mr. Sanford stated the outdoor area is an architectural feature and was the heart of project and the fireplaces are reinforced concrete chimneys not stone.

Chairman Little asked if Mr. Jackson would have a problem with a condition that would require a contract for service from the Westport Fire Department. He noted it would be an agreement for consideration to provide service to the extent the Department could and Mr. Jackson would help fund, to a reasonable extent that would show there would be proper emergency services to the facility.

Jan Walker noted she had received a letter from Westport Fire Dept. asking for \$100 donation per acre parcel.

Mr. Jackson noted they have 12,000-gallon water tank for fire protection.

Commissioner Bailey asked if the applicants had an opportunity to discuss price ranges for per unit and stated that the units that were deleted from the plans may have been the most affordable.

Mr. Jackson noted the most affordable units would be in the bunkhouse and the units they removed had a desirable view north, facing the water.

Judith Vidaver, made the final comment that the Commission's decision would set a precedent in the highly scenic area and what constitutes a unit.

Commissioner Warner made a motion to deny CDU 6-2006 due to lack of mitigation for special events, activity located in an area without fire protection, the botanical study was outdated, and the applicants should submit a recent full analysis of archaeological history. The motion did not receive a second and did not carry.

Upon motion by Commissioner Moser, seconded by Commissioner Calvert and carried by the following roll call vote, IT IS ORDERED to approve CDU 6-2006 per the findings and conditions of approval contained in the staff report including Conditions of Approval #A1-15 and #B1-16 with the addition of #A12 prior to construction a contact for service with Westport Volunteer Fire Department shall be submitted to Planning and Building Services, #B16 memo dated June 15th, special event at the facility shall be limited to 99 persons gatherings between 100 or more shall be subject to permit. #A13 The Commission suggests the applicant offer a water sharing agreement to the immediate neighbors to ensure long term availability, change the date of the California Department of Forestry letter on #A8 to April 17, 2007, #A15 the project approved shall be Accepted to be modified as offered by applicant to delete units 4-6 as provided on page A1, #A14 The applicant shall submit a revised lighting plan to the Department of Planning & Building Services for review to ensure that all upcast lighting has been removed, and amend #B3 to include information from the memo dated June 15, 2007 regarding Air Quality Management District regulations:

General Plan Consistency Finding: The proposed project is consistent with applicable goals and policies of the Coastal Element of the General Plan as subject to the conditions being recommended by staff.

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.

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.

Project Findings: The Planning Commission, making the above findings, approves #CDU 6-2006 subject to the following conditions of approval recommended by staff.

RECOMMENDED CONDITIONS:

A. Conditions which must be met prior to use and/or occupancy:

- **1.** All grading and site preparation, at a minimum, shall adhere to the following "Best Management Practices":
- a. That adequate drainage controls be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.
 - b. 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.
 - c. All concentrated water flows, shall be discharged into a functioning storm drain system or into a natural drainage area well away from the top of banks.
 - d. 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.
 - e. 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 1st.
 - f. All earth-moving activities shall be conducted between May 15th and October 15th of any given calendar year.
 - g. Pursuant to the California Building Code and Mendocino County Building Regulations a grading permit will be required unless exempted by the Building Official or exempt by one of the following:
 1. An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1,524 mm) in height and steeper than 1 unit vertical in 1.5 units horizontal (66.7% slope).
 2. A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to support structures, that does not exceed 50 cubic yards (38.3 m³) on any one lot and does not obstruct a drainage.
- **2.** The application, supplemental exhibits and related material, including locations, sizes, materials and colors of structures shall be considered elements of this entitlement and compliance therewith shall be mandatory, except for changes or conditions approved by the Planning Commission.
- **3.** The applicant shall submit a revised landscaping plan providing details as to the square footage, type, sizes and locations of all plantings and irrigated areas of the project site. Any and all such documentation must be provided to the satisfaction of Planning and Building Services. The revised plan shall include native and drought tolerant vegetation. Should the total irrigated area exceed 2,500 square feet, a Landscape Documentation Packet and appropriate fees shall be submitted pursuant to the County Water Efficient Landscape Ordinance.
4. Prior to commencement of operations the applicant shall submit a copy of a current Mendocino County Business License to the Department of Planning and Building Services. This license shall be kept active and if in the event that the license is inactive for a period of one (1) year or longer, the use permit and business will automatically expire.
 5. A deed restriction shall be placed on the property prohibiting the individual sale of any of the visitor serving (or caretaker) units constructed for the project. The restriction shall be prepared to the satisfaction of Planning and Building Services and County Counsel, and shall include language that the 10-unit development is intended to be used for commercial transient occupancy purposes only

and also that any future residential uses of the development will not be pursued. When and if the property ceases to be used as a Visitor Serving Facility (VSF), a coastal permit amendment shall be submitted to convert all the VSF units to legal accessory buildings per Section 20.308.015(F) of the Coastal Zoning Code. Specifically, all sleeping quarters and kitchen facilities shall be removed and all bathrooms shall be converted to ½ baths devoid of bathing facilities. The property shall not exceed the maximum number of residences allowed under the base zoning or the coastal zoning codes allowance for accessory living units per Section 20.456.005 of the Coastal Zoning Code.

- **6. The encroachment onto Highway One shall provide adequate sight distance and turning geometrics acceptable to the California Department of Transportation (Caltrans). The applicant shall secure from Caltrans, an encroachment permit for all work to be conducted within State Highway right-of-way.
7. The applicant shall submit a parking plan acceptable to Planning and Building Services providing details as to the size and locations of all parking areas to be used for the project. The plan shall include provisions for handicapped parking and shall comply with all requirements found in Section 20.472.010 of the County Coastal Zoning Code. The plan shall also include details of the area designated as an "overflow" parking lot which will ensure that development is held to a minimum with respect to visual resources (i.e. left in its original grass vegetated state, no lighting, etc.). Any additional plantings for the lot, such as hedgerows for screening purposes, shall be native and drought resistant.
- **8. The applicant shall comply with those recommendations in the letter of ~~April 14, 2007~~ April 17, 2007 or other alternatives as acceptable to the Department of Forestry (CDF# 120-06). Written verification shall be submitted from Cal-Fire to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Department of Forestry and Fire Protection. Prior to the development of Phase II of the project, a clearance letter shall be submitted to Cal-Fire with any conditions being set also becoming conditions of this permit.
- **9. Valid building and health permits must be obtained prior to commencing construction of the inn development. Written verification shall be submitted from the County Division of Environmental Health to Planning and Building Services that all necessary approvals have been obtained, including, but not limited to, those regarding consumer protection.
10. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the 10 working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and use of the property in reliance on such permit has been initiated prior to its expiration. To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.
11. 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 \$1,850.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to July 6, 2007. Any waiver of the fee shall be on a form issued by the Department of Fish and Game upon their finding that the project has "no effect" on the environment. 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 the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. The applicant has the sole responsibility to insure timely compliance with this condition.
12. Prior to construction a contract for service with Westport Volunteer Fire Department shall be submitted to the Department of Planning & Building Services.

13. The Commission encourages the applicant offer a water sharing agreement to the immediate neighbors to ensure long term availability.
14. The applicant shall submit a revised lighting plan to the Department of Planning & Building Services for review to ensure that all upcast lighting has been removed.
15. The project approved shall be accepted to be modified as offered by the applicant to delete units 4-6 as provided on page A1.

B. Conditions which must be complied with for the duration of this permit:

- **1. Water efficient fixtures (e.g. low flow showerheads, toilets, etc.) and landscaping (e.g. rain barrels, diversion of stormwater to vegetated areas, etc.) shall be utilized throughout the project area. In addition, all parking areas shall be surfaced either with permeable materials or vegetation.
- **2. 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.
- ~~**3. Except for the replacement of existing wood burning stoves, new wood burning devices shall be prohibited pursuant to District Regulation 4.1 adopted December 5, 2006, by the Mendocino County Air Quality Management Board. Replacement woodstoves must be EPA certified and installed in a manner to ensure proper operation. All other heat sources must be fueled by propane or natural gas.~~
- **3. The applicant shall demonstrate to the satisfaction of the County Air Quality Management District (AQMD), compliance with all rules and regulations of the District, including but not limited to, District Regulation 4.1 adopted December 5, 2006, by the Mendocino County Air Quality Management Board. Replacement woodstoves must be EPA certified and installed in a manner to ensure proper operation. Written verification shall be submitted from AQMD to the Department of Planning & Building Services that this condition has been met to the satisfaction of AQMD.
- **4. Prior to obtaining a demolition permit for the former Orca Inn, National Emissions Standards for Hazardous Air Pollutants (NESHAP) clearance shall be issued by the County Air Quality Management District.
- **5. Any stationary onsite internal combustion engines over 50 horsepower (i.e. large power generator or pumps) may require a permit from the District, depending on fuel source and level of operation.
- **6. All grading activities shall comply with District Regulation 1 Rule 430 regarding fugitive dust emissions.
- **7. All roads shall be covered with an impermeable sealant or rocked at a bare minimum. Any rock material used for surfacing, including rock from onsite sources, must comply with Regulations regarding asbestos content.
- ~~**8. Lighting for the project shall adhere to the Landscaping and Lighting Plan plans dated March 7, 2007, on file at the Department of Planning and Building Services. All external lighting associated with the proposed development site and parking area shall be shielded and downcast to prohibit light from being cast beyond the property boundaries.~~
- **8. The applicant shall demonstrate continuous use of the property as a visitor serving facility. Documentation of applicable Transient Occupancy Tax (TOT) payable to the Mendocino County Tax Collector upon rental of the inn as a whole or portion thereof will be required on a yearly basis. Any and all such documentation must be provided to the satisfaction of PBS. Full-time (greater than 30 consecutive days) residential occupancies of any of the units (except for that of the designated caretaker unit) shall not be allowed.
- **9. All utility lines on the site, including the existing overhead utility lines from the east side of Highway One to the inn site, shall be placed underground, and existing poles removed.

- ** 10. All exterior building materials, colors and finishes shall be of 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.
- ** 11. In the event that archaeological resources are encountered during development of 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.
12. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of Mendocino County Code unless modified by conditions of the use permit.
13. The application is subject to the securing of all necessary permits for the proposed development and eventual use from County, State, and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
14. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:
- a. That such permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which such permit was granted have been violated.
 - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

Any such revocation shall proceed as specified in Title 20 of the Mendocino County

15. This permit is issued without a legal determination having been made upon the number, size, or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size, shape or parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
16. Special events at the facility shall be limited to a maximum of 99 persons. Gatherings totaling between 100 and 1,000 persons shall require a Coastal Development Permit and those over 1,000 persons shall require a Coastal Development Use Permit per Section 20.460.020 of the Coastal Zoning Code. Eating and drinking Establishments for on premises consumption by non-paying guests of the facility shall require a Coastal Development Use Permit separate than that issued for this project.

AYES: Little, Calvert, Moser, Edwards, Nelson
NOES: Bailey, Warner
ABSENT: None

5e. 5f. CASE#: UM 13-2005/2007

DATE FILED: 5/2/2007

OWNER: JOHN KOLBERG

APPLICANT: TOM MILLER & CALCOM SYSTEMS

AGENT: TOM MILLER & CALCOM SYSTEMS

REQUEST: Modification of Use Permit # U 13-2005 to allow for an extension of time to complete Condition Number 14, which requires the property owner to bring the subject property into compliance with applicable sections of Chapter 20 of the Mendocino County Code including, removal of all trash and old vehicles, and legalization of all existing structures by obtaining all proper building and septic permits.

LOCATION: 10+/- miles north of Willits, in the vicinity of the community of Longvale, lying southeast of the intersection of Highway 101 and 162, via a private road which connects to Highway 162, located at 36121 Covelo Road; AP# 036-110-17.

PROJECT COORDINATOR: DUSTY DULEY

STAFF REPORT FOR COASTAL DEVELOPMENT USE PERMIT

#CDU 6-2006
JUNE 21, 2007
PAGE PC-1

OWNER/APPLICANT: WILLARD T. JACKSON, PRESIDENT
JACKSON-GRUBE FAMILY, INC.
P.O. BOX 430
MIDDLEBURY, VT 05753

AGENT: BUD KAMB
101 BOATYARD DRIVE, STE. D
FORT BRAGG, CA 95437

REQUEST: Coastal Development Use Permit to build a 10-unit inn in 2 phases. Phase I to consist of the demolition and reconstruction of the former Orca Inn into a main unit of 2,961 square feet (3 bedroom /3 bathroom/downstairs areas including a kitchen, dining and reception rooms). The north end of the structure would include an upstairs unit of 1,089 square feet (2 bedroom/2 bathroom/kitchen) and downstairs unit of 833 square feet (1 bedroom/1 bathroom/kitchen). In addition, a 1,276 square-foot two floored manager unit (2 bedroom/3 bathroom/kitchen); 1,269 square-foot equipment barn; 648 square-foot maintenance shop; and a 240 square-foot generator/pump shed are proposed as part of the first phase. Phase II would consist of 7 units with 3 added to the main building in two storied units of 954 square feet (1 bedroom/1 bathroom/kitchen); 951 square feet (1 bedroom/1 bathroom/kitchen); and 820 square feet (1 bedroom/1 bathroom/kitchen); 2 units within a detached bunkhouse of 531 square feet (1 bedroom/1 bathroom/kitchen) and 757 square feet (2 bedroom/1 bathroom/kitchen); and 2 separate cottages of 835 square feet (2 bedroom/1 bathroom) and 915 square feet (2 bedroom/1 bathroom), respectively. A 778 square-foot spa, wells, septic systems, roads and underground utilities are also proposed within the approximate 3.7-acre area of development.

LOCATION: Within the Coastal Zone, 4± miles south of Westport, 1± north of Abalobadiah Creek, approximately 700 feet west of Highway 1; AP#'s 015-380-03; -04; -05; 015-330-13; -19; -27 and a portion of -28, 015-070-45; -49; -51; and portions of -47; -52.

TOTAL ACREAGE: 3.7± acres of a 407± acre parcel

ZONING: Remote Residential- 20 acre minimum: Planned Unit Development Combining District (RMR 20:PD *1C)

ADJACENT ZONING: North: Remote Residential- 20 acre minimum: Planned Unit Development Combining District, Range Land- 160 acre minimum, Timber Preserve- 160 acre minimum (RMR 20:PD, RL 160, TP 160)
East: Range Land- 160 acre minimum, Forest Land- 160 acre minimum, Timber Preserve- 160 acre minimum (RL 160, FL 160, TP 160)
South: Rural Residential- 5 acre minimum, Open Space, Range Land- 160 acre minimum (RR 5 (RR 2), OS, RL 160)
West: Remote Residential- 20 acre minimum: Planned Unit Development Combining District & Ocean (RMR 20:PD & Ocean)

GENERAL PLAN: Remote Residential- 20 acre minimum: Planned Unit Development
Combining District, Range Land

EXISTING USES: Former Residence/Inn, not currently in use, and grazing

SURROUNDING LAND USES: North: Rangeland and Timberland
East: Rangeland and Timberland
South: Residential
West: Vacant and Ocean

SURROUNDING LOT SIZES: North: 300+ acres
East: 160+ acres
South: 2-300+ acres
West: 1± acre & Ocean

SUPERVISORIAL DISTRICT: 4

OTHER RELATED APPLICATIONS ON SITE OR SURROUNDING AREA: Use Permit #U 124-81 requesting approval of an inn and recreational vehicle park was continued indefinitely by the Planning Commission in February 1982, and has since expired.

Preliminary Approval #PA 84-48 was granted in June of 1984 for use of an existing single family residence as a four unit bed and breakfast inn, subject to approval of a use permit.

In September 1984, the California Coastal Commission approved an application for conversion of a single-family residence into a four-unit bed and breakfast inn, subject to conditions including an offer of dedication of coastal access. Conditions were never met and the permit was never issued.

Certificate of Compliance #CC 39-90 resulted in certificates for four parcels of approximately 120, 160, 160 and 400 acres recorded in April 1995, on the Jackson-Grube Family property. The site of this application is on the 400± acre parcel.

On February 1, 1996, the Planning Commission approved Coastal Development Use Permit #CDU 9-95, allowing for a 10 unit inn including a remodel of the former Orca Inn into two guest units and the construction of eight new individual guest cottages. The project was subsequently appealed and ultimately approved by the Board of Supervisors on May 13, 1996.

Coastal Development Permit #CDP 101-99, for storm damage repair on Highway One, was approved by the Coastal Permit Administrator on May 25, 2000. The permit was a follow-up to Emergency Permit #EM 05-98, which was granted to allow Caltrans to relocate the highway easterly due to erosion and subsidence on the bluff.

On August 3, 2000, Coastal Development Use Permit Modification #CDUM 9-95/2000 was approved by the Planning Commission as a means of implementing the terms of a settlement agreement between the County and Jackson-Grube Family. In essence, the approval by the Board of Supervisors of #CDU 9-95 was challenged in court over a condition requiring coastal access on the ground that it violated the nexus requirement of *Nolan v. Coastal Commission*. A settlement was reached where the condition requiring an offer of dedication was dropped in exchange for the following: (1) The Jackson-Grube Family was to execute a deed conveying fee title to the County of a one acre portion of the 400± acre property (AP# 015-330-05) and (2) The Jackson-Grube family was to pay the County the sum of \$25,000.00 toward the development of coastal access in the area. A condition was also added requiring an offer to dedicate an easement for public access through the property along a 15 foot strip on the west side of the Caltrans right-of-way of Highway One.

BACKGROUND INFORMATION: The above referenced approval of Coastal Development Use Permit #CDU 9-95 allowed for the development of 10 visitor serving units on the site which featured the remodeling of the former Orca Inn into two guest units and a manager's quarters and the construction of eight individual guest cottages. Substantial modification of the approved design was proposed by the applicant prior to the start of construction on the approved project. As a result of the significant alterations to both the site layout and interior design concepts,

it was determined by the Department of Planning and Building Services that an entirely new application would be required for the project.

PROJECT DESCRIPTION: The applicant is requesting approval of a Coastal Development Use Permit to establish a 10-unit Visitor Accommodations and Services (VAS) (with an additional manager's unit) in two phases on a portion of a 400± acre parcel approximately four miles south of Westport. Phase I would include the demolition and reconstruction of an existing two-story ranch house, operating in the past as the Orca Inn, into a main 2,961 square foot unit with three upstairs bedrooms, each with its own bathroom, and downstairs areas including a kitchen, dining and reception rooms. The roofline of the structure would extend north covering an enclosable 831 square foot "outdoor activity area," and continue to a 693 square foot conference room. Two additional guest units, 1,089 and 833 square feet, respectively, would be included at the north end of the building on separate floors, containing a single and a double bedroom design, one kitchen apiece and bathrooms. Also included in the Phase I proposal is a 255 square foot caterer's kitchen attached to the activities area, a 1,276 square foot, two-storied, two-bedroom, one kitchen and three-bathroom manager's unit, a 1,269 square foot equipment barn, a 648 square foot maintenance shop and a 240 square foot generator/pump shed. Total lot coverage for this phase would be 9,766 square feet.

Phase II of the project would add the final seven guest units as well as a 778 square foot spa. Three of the units would be attached in an "L" shape to the main building constructed in Phase I. These would consist of 954, 951 and 820 square foot units, each two storied with one bedroom, a kitchen and bathroom. An additional two units would be in the form of a detached bunkhouse consisting of one 531 square foot unit with a single bedroom, kitchen and bathroom and another 757 square foot facility with two bedrooms, one kitchen and a bathroom. The final two guest units are proposed as individual cottages of 915 and 778 square feet, each containing two bedrooms and one bathroom. The project will include the removal of various smaller structures such as an existing water tank, pumps and sheds. Total lot coverage for Phase II would be 7,420 square feet.

Fourteen parking spaces are proposed with an additional 22 spaces in an overflow area outside of the immediate resort grounds. Excluding the overflow parking lot, the overall resort region would be confined to an area approximately 277' x 335', surrounded by new fencing on three sides and a sunken wall "ha-ha" on the westernmost (as well as a portion of the southern) boundary¹. Access is to be taken from Highway One via a 20 foot wide, all weather surfaced driveway. Landscaping would consist of a view shielding line of trees as well as additional on site trees, hedges and grass areas.

Water would be supplied from wells located on the same parcel east of Highway One. A septic system has been designed utilizing the area between the inn and the highway, north of the entrance driveway, as a leach field.

ENVIRONMENTAL REVIEW: The following issues were identified in the Initial Study Environmental Checklist:

Earth and Water (Items 1B, 3B, 3F and 3G): The proposed Visitor Accommodations and Services (VAS) facilities are not expected to result in significant amounts of soil disruption during or after the construction of new structures and related landscaping. The site is comprised of mildly sloping terrain (approximately 3-5% grade) and few issues related to surface erosion are anticipated.

Section 20.500.020(B)(1) of the County Coastal Zoning Code states, in part, that, "[n]ew structures shall be setback a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (seventy-five (75) years)." The closest proposed structure to the bluff on the property (a spa to be developed in Phase II) is 170± feet. This is approximately the same distance as the closest structure proposed for the formerly approved project which was found to be "more than adequate" in a letter provided for the original project by the engineer who prepared the plans. Staff believes that this assessment can be applied to the current project as well. It is recommended, overall, that standard Best Management Practices (BMPs) be employed to ensure that potential impacts related to erosion or other earth moving activities are held to a less than significant level (see Condition Number A-1).

Policy Number 3.8-9 of the General Plan's Coastal Element states in part that, "[c]ommercial developments and other potential major water users that could adversely affect existing surface or groundwater supplies shall be

¹ A "ha-ha," according to *The American Heritage* dictionary, is defined as "a walled ditch or sunken obstacle, such as a hedge, serving especially as a barrier to livestock without impairing the view or scenic appeal."

required to show proof of an adequate water supply, and evidence that the proposed use shall not adversely affect contiguous or surrounding water sources/supplies." Furthermore, the project is shown to lie within an area containing Critical Water Resources (CWR) as designated by the 1982 County Coastal Ground Water Study, which, when combined with Coastal Groundwater Development Guidelines adopted by the County in 1989 requires a hydrological study for commercial projects proposing 1,500 gallons per day (gpd) or more.

While the current project estimates a maximum demand of approximately 2,600 gpd, it was determined that a new hydrological study would not be necessary based on the conclusions of a study prepared in 1994 by Clark Engineering and Hydrology for the previously approved version of the project. The study estimated well yield in the area to be more than 8,000 gpd, significantly exceeding the proposed water demand for the inn. Comments received from the County Water Agency (CWA) concurred with staff's determination noting that, "[i]n many areas of the County, the results from a 12-year old Hydrological Study would be obsolete; however, [CWA staff was] not aware of any significant change in groundwater use in the area," and, as a result, felt the study to be valid for the purposes of the current project. Additional comments from CWA recommended that appropriate water conservation techniques and stormwater retention features be incorporated into the overall design of the project. Conditions Number A-1 and B-1 are recommended to ensure that these and other erosion related concerns are held to a less than significant level.

Air (Item 2A): Construction and grading involved with the project has the potential to impact air quality in the region. The demolition of an existing commercial structure (former Orca Inn) will require a demolition permit which, according to comments received by the County Air Quality Management District (AQMD), must first obtain clearance from the District to address asbestos and other dust related matters. Additional impacts on air quality could result from the use of pumps or generators on site, which may also require permits from AQMD, depending on the size or horsepower of the individual pieces of equipment.

A final item that must be considered concerns the implementation of the recently adopted particulate emissions reduction measures, known as Regulation 4 (adopted December 5, 2006). According to regulation language, the purpose of the ordinance is to "reduce the impact of particulate emissions from wood burning appliances on public health and air quality in the Mendocino County Air Quality Management District." Rule 4.1-400 states, in part, that:

- (a) *No person shall install an open wood burning fireplace in any new residential, commercial or public building or accessory building, or as part of a renovation of any residential, commercial or public building or accessory building.*
- (b) *No person shall install a wood-fired outdoor boiler to provide heat for any residential, commercial or public building or accessory building.*
- (c) *No person shall install wood burning appliances in any new, remodeled or renovated multifamily residence, commercial or public building or accessory building, except as a replacement for an existing wood burning appliance.*

The project as proposed includes wood burning appliances. Replacement of a woodstove removed from the demolition of the former Orca Inn would be allowed under the new rules. All other fireplaces would be required to be fueled by natural gas. Conditions Number B-3 through B-7 are recommended to ensure compliance with the newly adopted regulations as well as to hold other potential air quality impacts to a less than significant level.

Plant Life (Item 4A, 4B and 4C): No species of interest were noted in the California Natural Diversity Database as occurring on the project site and comments were not received from either the Department of Fish and Game or the California Native Plant Society regarding the project. A botanical survey dated June 8, 1991 (prepared by Gordon McBride) was used for the previously approved version of the inn which did identify the existence of rare and endangered Mendocino Paintbrush along the top and face of the ocean bluffs with one plant located about 50 feet from the edge of the bluff. A supplemental study was also prepared in September 1992 focusing on areas west of the former project site. Each survey noted that the blufftop setbacks were sufficient buffers for the former project to protect against potential impacts in this area. Small, seasonal watercourses were alluded to in the surrounding region outside of the project envelope, although they were found to lack the "botanical characteristics" of a wetland or a watercourse due to a lack of riparian vegetation associated with them.

The property has been used as a working ranch for several decades, with the area around the currently proposed inn site having itself been thoroughly disturbed during its existence as a ranch house and inn. Furthermore, the current proposal is a more compact version of the originally approved site design with the envelope of development moved further east by 50 to 100 feet, increasing the buffer area typically associated with Mendocino Paintbrush habitat. As a result, staff did not feel that additional botanical studies would be necessary for the current project.

Landscaping and Lighting Plans dated March 7, 2007 prepared by Sellers & Company Architects and Sanford/Strauss Architects were submitted providing details as to the sizes and locations of various plantings proposed for the site. The plan was intended primarily to illustrate the extent of landscaping for the project, especially with respect to potential visual impacts from public vantage points. According to the plans, approximately eight trees (species to be determined) of 12-14 feet are to be planted as a means of screening public views of the inn from Highway One with an additional four trees of the same height to be planted within the project boundaries. Four trees (species to be determined) of 8-10 feet are also proposed to supplement the east-facing tree line. An existing Cypress of approximately 35 feet in height will remain on site. Several hedgerow plantings, gardens, grass fields and rocks/boulders are planned throughout the project area and along the perimeter rounding out the landscaping design.

The application packet listed the landscaped area as 1,500 square feet. However, the March 7 landscaping plan revised the area to be irrigated to include quite a bit of additional square footage. The plan shows approximately 1,908 square feet of sprinklered landscaping directly west and adjacent to the activities area of the project's main structure. Other proposed landscaping includes approximately 10,900 square feet in sprinkler-covered area with 600± more in various plantings around buildings to be watered by hand. The County Water Efficient Landscape Ordinance requires commercial projects with over 2,500 square feet of landscaping to submit a documentation packet detailing the irrigation methods used to ensure efficiency in this area. When informed of the required documentation, project architects chose to scale back the amount of landscaped area to include only the region adjacent to the main building and the miscellaneous plantings. Staff will recommend that proper landscaping documentation and fees be provided for any irrigation over the 2,500 square foot threshold that would trigger a landscape documentation plan and also that the use of native and drought tolerant vegetation be used.

Overall impacts resulting from the development are not expected to be significant. Conditions Number A-2, A-3, B-1 and B-2 are recommended to ensure that the project boundaries are maintained as well as to ensure that the above noted landscaping criteria have been met.

Noise (Item 6A): The location is relatively remote and is expected to have few impacts with respect to noise in the sparsely populated region of the coast. Although an increase in noise levels will most likely result from the grading, driveway construction and construction phases of the inn development itself, overall, staff does not believe they will approach a level of significance in this area. No mitigation is required.

Light and Glare (Item 7A): As mentioned above, a Landscaping and Lighting Plan dated March 7, 2007, was submitted along with the project materials. The plan consists of various lighting fixtures including solar luminaries along the onsite parking borders, recessed and directional downlights surrounding most of the project structures with the exception of the east (Highway One) facing building sides, and fence mounted rope lights separating the ranch manager unit from the rest of the accommodation facilities. Two "upward" shining lights are also proposed. One will spotlight the existing onsite Cypress tree in the courtyard of the main visitor units and the other is to highlight an "archaeological item" described as a centerpiece reflecting the area's agricultural history.

Policy 3.5-15 of the Coastal Element states, in part, that "no lights shall be installed so that they distract motorists and they shall be shielded so that they do not shine or glare beyond the limits of the parcel wherever possible." The lighting as proposed in the Landscaping and Lighting Plan would appear to meet these standards, as the "upward" lights will be mostly shielded by project structures and trees. Condition Number B-8 is recommended to ensure adherence to the proposed lighting design keeping light and glare impacts to a minimum.

Land Use (Item 8A): Chapter 4.2 of the Coastal Element has designated the site of the proposed project as one to be used as a conditional visitor serving facility within the Rockport to Little Valley Road Planning Area. Section 20.436.015(B)(1) of the County Coastal Zoning Code permits certain types of Visitor Accommodations and Services (VAS) facilities subject to a coastal development use permit. Parcels designated for such use are noted on the Land Use Maps and Coastal Zoning Maps with certain asterisk and number symbols specifying the types

of accommodations and services allowed. In the case of this project, an *1C has been noted on the parcel, which allows for a 10-unit inn. This is defined under Section 20.332.015 of the code as:

Any building or portion thereof or group of buildings containing five (5) but no more than ten (10) guest rooms or suites each used, designed or intended to be used, let or hired out for occupancy by transient guests for compensation or profit, and where regular meals may be provided for compensation or profit to guests occupying the overnight accommodations. Provision of regular meals to other than transient occupants of the facility shall require a coastal development use permit.

The nature of the project proposal (e.g. multiple-roomed units, potential use as a non-compensating "private retreat," etc.) raises concerns in three discrete areas with respect to permitted land uses in the Coastal Zoning Code and Coastal Element of the General Plan. The first involves the number of "units" allowed in a combining district carrying an *1C designation. Secondly, the matter of "compensation" should be properly addressed to ensure that the intent of a VAS Combining District is being met. Finally, explicit disclosure will need to be made regarding allowances in the combining district so that proposals for future uses are not substituted which conflict with current policies of the General Plan. The following discussion will focus on each of the three issues individually.

Maximum Allowed Units under an *1C Designation- As proposed, the project is comprised of 10 units and an additional caretaker unit provided for in Chapter 2.2 of the Coastal Land Use Element. The sizes or number of bedrooms allowed per "unit" is not specified under County policies regarding visitor serving uses. In any case, four of the units contain two bedrooms and the main facility proposes three bedrooms and three bathrooms. Initial discussions with the applicant raised the question as to the potential for renting separate individual rooms within units, which would, of course, run counter to the allowed uses in an *1C Combining District. A "Unit Designation Plan" dated April 13, 2007 partially addressed these concerns with a note stating that "[a]ll units with multiple bedrooms provide entrance through respective common living areas" and consequently act as "suite[s]" to be rented as... single unit[s]." However, staff feels that further assurances are necessary to ensure that no more than 10 units can be considered when rental arrangements are made. Documentation by means of requiring annual Transient Occupancy Tax (TOT) records is recommended to determine the number of units rented out in a given time period (see Conditions Number A-4 and B-9). *- to ensure no more than 10 units*

Assurances that the Inn will be Utilized by "Transient Guests for Compensation or Profit"- Coastal Element narrative describes the development of Visitor Serving Facilities as a "priority use," especially those made available to the public at a low cost. Chapter 3.7-5 of the Coastal Element states that:

The locations designated and types of use permitted are intended to result in accommodations of all price ranges, including lower cost ones such as campgrounds and hostels. Lower-cost visitor and recreational facilities for persons and families of low and moderate income shall be protected, encouraged and, where feasible, provided...

While the rental costs associated with the project units are not expected to appear on the "lower end" of the scale, the development does provide amenities within the Rockport to Little Valley Road Planning Area which is, otherwise, virtually devoid of such services. However, once developed there should be some type of guarantee that the facilities will not be used as a "private retreat," which excludes the public and runs counter to the intended purpose of the VAS Combining District. Conditions Number A-4 and B-9, as recommended above, would similarly act to provide the documentation needed to ensure that compensation for use of the accommodations has been received.

Potentially Inappropriate Future Uses of the Inn Development- Viewed from a "long range" perspective, the potential for failure of the inn development as a viable commercial operation must be considered within the realm of possibility. The current zoning of the property already restricts uses more intense than Visitor Serving Facilities or single-family residential development. However, what could potentially become of a vacant 10-unit Inn may be open to debate. For example, because the project proposes a design which will essentially create several self contained units (1-3 bedrooms apiece, bathrooms, kitchen units, etc.), enterprising individuals could feasibly see an opportunity to subdivide the "airspace" of the facilities into a complex of condominiums. Such designs would, of course, entail substantial amendments to the LCP which is highly unlikely in this remote and scenic region of the County. However unlikely this or other scenarios may be, it should be made explicitly clear prior to the development of the project that uses not furthering the intent of the Visitor Accommodation and Services

Combining District will be allowed. Staff recommends Condition Number A-5 putting a deed restriction on the parcel that would preclude potential misuses of the property.

Transportation/Circulation (Items 12B, 12C and 12F): The project takes access directly from Highway One along a driveway of approximately 340 feet. The California Department of Transportation (Caltrans) provided comments calling for the existing highway access to be upgraded to current standards and also noting that work within the State right-of-way would require an encroachment permit. The County Department of Transportation (DOT) had no comment to make while recommending approval of the project. Condition Number A-6 is recommended to ensure compliance with the permitting requirements of Caltrans.

A State Route One Corridor Study was prepared in 1994 by TJKM Consultants to address issues of traffic carrying capacity from the buildout of the County Coastal Element of the General Plan along Highway One. The road segment relevant to this project was evaluated using the 75/50 development scenario which includes an estimated time horizon through the Year 2020 and projects "existing development + development on 75% of existing vacant parcels + development on 50% of potential new parcels + 75% of commercial, industrial, and visitor-serving facility buildout potential." Estimated peak hour trips generated for the project are 6.48 on summer weekdays and 12.42 during summer weekends. As the estimates fall below the threshold of 25 peak hour trips for this segment of the highway, further traffic studies are not required according to the Corridor Study. Therefore, no significant impacts are expected in this area.

With respect to parking for the project, 14 spaces have been provided for within the main boundaries of the development. Approximately 22 additional spaces are proposed in an "overflow" lot outside of the main project site adjacent to the south side of the entrance driveway and the east face of the Ranch Manager's Unit. Section 20.472.010 of the Coastal Zoning Code describes the required surface types, sizes and allotments for handicap parking of projects involving commercial uses. Section 20.472.020(H) further specifies that one parking space per room must be provided with two additional spaces for a manager unit within the development. In all, 36 spaces (each approximately 9 x 20 feet) are proposed. While this appears to meet the requirements in size and number for standard spaces (one for each of the 16 rooms plus two for the Manager Unit), there does not appear to be the minimum one designated space for handicap parking (14 x 20 feet) as required under this portion of the code. Staff recommends Condition Number A-7 which would require a revised "Parking Plan" to show that standard parking criteria of the Coastal Code have been met.

Public Services (Item 13A): The property is located within a moderate fire hazard area and lies within the California Department of Forestry and Fire Protection (Cal-Fire) service district. A copy of the Preliminary Clearance requirements from Cal-Fire, dated April 14, 2006 (file #120-06), was submitted by the applicant along with the rest of the application materials. A list of minimum standards were required to be met regarding addressing, roads, driveways, emergency water supply and defensible space, prior to "final clearance" and "approval of occupancy" from that agency. Comments from the April 14 clearance letter also stated that the "project is approved for phase one only" and that "phase two must make a separate application to receive a final." In addition, a copy of a letter from Cal-Fire to the applicant was provided, dated June 8, 2006, which clarifies comments made in the original clearance letter. Condition Number A-8 is recommended as a means of ensuring the conditions from each of the submitted documents are met to the satisfaction of Cal-Fire. No other mitigation is required.

Utilities (Item 15A): As stated in an earlier portion of this report, water is to be provided from wells located on the same parcel, east of Highway One. Also discussed under the Earth and Water section above is the topic of water availability in which the County Water Agency has determined that adequate supplies exist in the area for the purposes of the project. A septic system design has been submitted to the County Division of Environmental Health (DEH), which, as of the writing of this report, has yet to comment on. Policy 3.8-7 of the Coastal Plan partially states that, "[e]ach field approval shall require satisfactory completion of a site evaluation on the site of each proposed septic system." While DEH has not yet given approval of the septic design, it is anticipated that a review will have been completed by the time the Planning Commission hears the subject case. Condition Number A-9 is recommended to ensure DEH approval of the septic plans and subsequent inspections have been obtained prior to occupancy of the inn development. No other mitigation measures are required.

Human Health (Item 16A): The project proposes catering kitchens and spas which may be subject to permits from the Consumer Protection (CP) program of Division of Environmental Health. In addition, the water system proposed may require a state small permit from CP or other permits from the State with respect to Non-

Community systems. Condition Number A-9 would require that all permits from interested agencies be adhered to as an overall condition of the project. As such, potential impacts to human health are not expected to be significant.

Aesthetics (Item 17A): The project site is located within an area designated "highly scenic" and is subject to the policies within the Coastal Element relating to visual resources. Policy 3.5-1 requires that development within highly scenic regions of the coast be "sited and designed to protect views to and along the ocean and scenic coastal areas," and also be "...visually compatible with the character of surrounding areas." Policy 3.5-3 goes further to include that "new development shall be subordinate to the character of its setting" and "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." Other relevant policies in the Coastal Element addressing visual impacts include Policy 3.5-4, which establishes criteria for development within "highly scenic areas"; Policy 3.5-5, encouraging tree planting to screen buildings provided that coastal views from public areas are not blocked as a result; and Policy 3.5-8, requiring the non-obtrusive location of power lines.

The blufftop expanse on which the project has been proposed is highly visible from Highway One in both directions. Vegetation on the project site is comprised of a single Cypress tree combined with plush coastal grasses. The site has remained semi-defined over the years by a cluster of structures bordered by a white board fence, which was formerly used as the "Orca Inn." An existing driveway to the complex is lined by the same fencing as well as by an overhead utility line extending to the highway.

Considerable revisions were made to the design of the project between the time of the original approval in February 1996 and the current application. The primary change was seen in the project layout. The original plan consisted of the remodeling of the former Orca Inn into two guest units and the construction of eight individual guest cottages, whereas the current proposal is a reduction in terms of total visitor serving structures. In this version, eight units would be contained in two main buildings and two other units would be in the form of individual cottages. The new version would also shift much of the development envelope away from the blufftop side of the Orca Inn and have it placed closer to Highway One by approximately 90 feet. Visual impacts are expected to be reduced as a result of the units being clustered into fewer structures.

Existing structures to be removed include a garage, two sheds, an existing water tank and a pump. The rest of the project will entail the demolition and replacement of an existing ranch house with additional units attached in a main "L" shaped structure and others constructed into detached bunkhouses and individual cottages. Building heights proposed for most of the structures are held at or below the 18-foot limit allowed for in a highly scenic area under Section 20.504.015(C)(2) of the Coastal Zoning Code. Exceptions to the height standard are allowed for in cases where public views to the ocean aren't affected or where the additional height would not "be out of character with surrounding structures." The two areas where the 18-foot standard would be exceeded for this project are the replacement of an existing 26-foot, 5-inch structure with one of equal height, and the construction of an approximately 25-foot ventilation-enclosing roof over a bedroom unit of 13 feet in width at the "knuckle" portion of the "L" shaped structure.

? The replacement of a non-conforming structure does not conflict with current allowances under the Coastal Element. Thus, the proposed height of the project's main unit should not be an issue in terms of the 18-foot height allowance. As for the second area exceeding the limit, the project architects contend that the height of the 25-foot "knuckle" portion of the structure is necessary as a balance to the non-conforming height of the main replacement unit on the south end of the structure, essentially serving an aesthetic function. Staff believes the proposed design to be consistent with applicable code in this area with the height exception remaining "in character with [its] surrounding structures." Allowing the additional height for the knuckle portion of a larger contiguous structure would provide for architectural harmony within the development area and should not significantly impact visual resources as a result.

Although the proposal will include more structures and trees than what currently exists at the site, when seen from Highway One, impacts on ocean views are still considered by staff to be insignificant. The vista along the broad coastal terrace is believed to be large enough to accommodate the inn development without greatly interfering with the public's ability to enjoy the vast seascape beyond. Aside from the existing buildings and lone Cypress tree, there is little along the terrace which would obscure the inn from public view. A row of trees is proposed to shield many of the structures immediately visible from the highway which is encouraged in the above referenced

if trees coastal

Coastal policy. However, the façade of the development does not significantly exceed that which currently exists at the site in relation to the overall area views of the bluffs and ocean.

The design of the development would have several of the units consisting of two stories. Development criteria found in Section 20.504.015(C)(3) of the Coastal Zoning Code states that "[n]ew development shall be subordinate to the natural setting and minimize reflective surfaces." Section 20.504.015(C)(8) speaks of minimizing the visual impacts of development "on ridges" within a Highly Scenic Area (HSA). The same section further states that "development shall be sited and designed to reduce visual impacts by utilizing existing vegetation, structural orientation, landscaping, and shall be limited to a single story above the natural elevation." While two story units are proposed as part of the project, they are for the most part contained within an 18-foot structure (see discussion above regarding the noted exceptions). Impacts resulting from second stories (e.g. additional reflective window surfaces) would be largely shielded upon completion of Phase II with the construction of the east-facing bunkhouse. The bunkhouse itself was initially proposed to contain a second story. However, to partially address the concerns of staff in this area, the applicant volunteered revisions to the initial design of the east-facing bunkhouse which removed the manager's quarters from the structure and substantially reduced the amount of reflective surfacing visible from the highway. Section 20.504.015(C)(7)(b) calls for development on terraces to "[m]inimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms." The project proposes to cluster the inn units into fewer structures than the previously approved version of the plan, which consisted of several detached cottages, making for a more "compact" configuration overall. In addition, artificial berms have been proposed to lessen many of the publicly visible portions of the structures, essentially "sinking" the base elevations and blending them into the natural contours of the coastal terrace.

Additional aesthetic issues concern existing utility lines and poles, proposed signage, the "overflow" parking area and appropriate surface materials and colors to be used for the project. The first issue has been addressed by the applicant through a proposal to bury existing overhead utility lines, as was the case for the previously approved project, with any new lines also to be placed underground to the east side of Highway One. Existing utility poles are to be removed within the project site and along the entrance driveway. Condition Number B-10 is recommended to ensure adherence to this proposal.

As for signage, a plan was submitted dated May 3, 2007, which proposes signs displayed on two slabs of Douglas Fir (each two feet in width, six feet in height), to be located on either side of a proposed 24-foot entrance gate to the site. The signs would be situated between wooden driveway fence posts and larger stone pillars approximately two feet wide and 15 feet high on either side of the proposed entrance gate. Carved into one of the sign faces would be the wording, "Newport Chute Ranch," and "Accommodations and Events by Reservation," along with an informational phone number. The opposite sign would consist of the logo for the inn. Setback requirements of the RMR zoning (90 feet from centerline of Highway One) would be met for the display as required by Section 20.476.025(I) of the Coastal Zoning Code.

With respect to the overflow parking area proposed for the project (as noted above under the Transportation/Circulation section of this report), staff did not feel that it would be used frequently enough to be considered a significant visual concern. However, "improvements" of this region should be kept to a minimum to avoid it becoming an issue. Condition Number A-7 (requiring revisions to the parking plan) is recommended to address potential visual impacts from the overflow lot as well.

Finally, Section 20.504.015(C)(3) of the Coastal Zoning Code states, in part, that "[i]n highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings." As specific details have not been provided with respect to color schemes or materials for the project, staff will recommend that prior to issuance of a building permit, appropriate standards be met to the satisfaction of the Coastal Permit Administrator (see Condition Number B-11).

It should be noted that, with respect to visual resources for the project, Planning staff has requested and received several revisions to the submitted plans throughout the various stages of processing the application. The applicant has consistently demonstrated a willingness to cooperate with County staff by incorporating many changes to the design where warranted and making concerted efforts to improve upon the plans' overall visual impacts. As a result of the evolving design (and despite the project's wide open location), staff believes that the structural layout of the project has been improved upon to a point where potential visual impacts will remain less than significant.

Recreation (Item 18A): The project site is located within an area designated as a coastal access point in Chapter 4.2 of the Coastal Plan. Coastal Policies relevant to coastal access for this project include 3.6-5, 3.6-6, 3.6-9, 3.6-11 and 3.6-28, each specifying various details and methods on requirements for obtaining access through Visitor Accommodations and Services development permits.

As mentioned above under the Other Related Applications section, an agreement between the County and the Jackson-Grube Family was reached in which the condition requiring coastal access for the previously approved Coastal Development Use Permit #CDU 9-95 was relinquished. (The settlement agreement was implemented through the approval of Coastal Development Use Permit Modification #CDUM 9-95/2000). In return for dropping the condition, the Jackson-Grube Family conveyed fee title to a one-acre portion of the 400± acre property and also forfeited \$25,000.00 for coastal access development in the area. A condition was included for approval of CDUM 9-95/2000 requiring an offer to dedicate an easement for public access through the property along a 15 foot strip on the west side of the Caltrans right-of-way of Highway One.

Staff considers the settlement agreement to be applicable to the current project where coastal access is concerned and, as a result, satisfies the requirements of the above referenced Coastal Element policies. No other mitigation is required.

Cultural Resources (Items 19A and 19C): Coastal Element Policy 3.5-10 states, in part, that "[t]he County shall review all development permits to ensure that proposed projects will not adversely affect existing archaeological and paleontological resources." An archaeological survey prepared in December 1990 by Jay Flaherty and used for the previously approved project site was accepted by the County Archaeological Commission for the currently proposed inn development. While no archaeological resources were discovered as result of the survey, the Commission cautioned the project agent that any construction work at the site must cease immediately should "any signs of resources [be] found" during this phase. Condition Number B-12 (Discovery Clause) is recommended to ensure adherence to Chapter 22.12 of the County Code with respect to archaeological resources.

No significant environmental impacts are anticipated which cannot be adequately mitigated, therefore, a Negative Declaration is recommended.

GENERAL PLAN CONSISTENCY RECOMMENDATION: Facilities for visitors are a priority use in the County's Coastal Plan as required by the Coastal Act. Coastal Act Section 30222 states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agricultural or coastal-dependent industry.

The County's Coastal Plan (Policies 3.7-1 and 3.7-4) has designated sites for visitor-serving facilities, of which the Newport Ranch site is one, and restricts other use of the site to development no more intense than a single family residence, and then only if a visitor-serving facility may still be placed on the site.

The site has been reserved by the Coastal Plan for development of a visitor-serving facility of up to 10 units. The site is not appropriate for coastal-dependent industrial use, but the land around the existing buildings has been used for cattle grazing. Development of the proposed visitor facility would reduce the area used for grazing. However, the change of use would not be inconsistent with the agricultural priority policies because the site is zoned Remote Residential, not Rangeland or Agricultural.

The proposed project is consistent with applicable goals and policies of the Coastal Element of the General Plan subject to the recommended conditions.

RECOMMENDED MOTION:

General Plan Consistency Finding: The proposed project is consistent with applicable goals and policies of the Coastal Element of the General Plan as subject to the conditions being recommended by staff.

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.

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.

Project Findings: The Planning Commission, making the above findings, approves #CDU 6-2006 subject to the following conditions of approval recommended by staff.

RECOMMENDED CONDITIONS:

A. Conditions which must be met prior to use and/or occupancy:

- ** 1. All grading and site preparation, at a minimum, shall adhere to the following "Best Management Practices":
 - a. That adequate drainage controls be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.
 - b. 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.
 - c. All concentrated water flows, shall be discharged into a functioning storm drain system or into a natural drainage area well away from the top of banks.
 - d. 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.
 - e. 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 1st.

- f. All earth-moving activities shall be conducted between May 15th and October 15th of any given calendar year.
- g. Pursuant to the California Building Code and Mendocino County Building Regulations a grading permit will be required unless exempted by the Building Official or exempt by one of the following:
 - 1. An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1,524 mm) in height and steeper than 1 unit vertical in 1.5 units horizontal (66.7% slope).
 - 2. A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to support structures, that does not exceed 50 cubic yards (38.3 m³) on any one lot and does not obstruct a drainage.
- **2. The application, supplemental exhibits and related material, including locations, sizes, materials and colors of structures shall be considered elements of this entitlement and compliance therewith shall be mandatory, except for changes or conditions approved by the Planning Commission.
- **3. The applicant shall submit a revised landscaping plan providing details as to the square footage, type, sizes and locations of all plantings and irrigated areas of the project site. Any and all such documentation must be provided to the satisfaction of Planning and Building Services. The revised plan shall include native and drought tolerant vegetation. Should the total irrigated area exceed 2,500 square feet, a Landscape Documentation Packet and appropriate fees shall be submitted pursuant to the County Water Efficient Landscape Ordinance.
- 4. Prior to commencement of operations the applicant shall submit a copy of a current Mendocino County Business License to the Department of Planning and Building Services. This license shall be kept active and if in the event that the license is inactive for a period of one (1) year or longer, the use permit and business will automatically expire.
- 5. A deed restriction shall be placed on the property prohibiting the individual sale of any of the visitor serving (or caretaker) units constructed for the project. The restriction shall be prepared to the satisfaction of Planning and Building Services and County Counsel, and shall include language that the 10-unit development is intended to be used for commercial transient occupancy purposes only and also that any future residential uses of the development will not be pursued. When and if the property ceases to be used as a Visitor Serving Facility (VSF), a coastal permit amendment shall be submitted to convert all the VSF units to legal accessory buildings per Section 20.308.015(F) of the Coastal Zoning Code. Specifically, all sleeping quarters and kitchen facilities shall be removed and all bathrooms shall be converted to ½ baths devoid of bathing facilities. The property shall not exceed the maximum number of residences allowed under the base zoning or the coastal zoning codes allowance for accessory living units per Section 20.456.005 of the Coastal Zoning Code.
- **6. The encroachment onto Highway One shall provide adequate sight distance and turning geometrics acceptable to the California Department of Transportation (Caltrans). The applicant shall secure from Caltrans, an encroachment permit for all work to be conducted within State Highway right-of-way.
- 7. The applicant shall submit a parking plan acceptable to Planning and Building Services providing details as to the size and locations of all parking areas to be used for the project. The plan shall include provisions for handicapped parking and shall comply with all requirements found in Section 20.472.010 of the County Coastal Zoning Code. The plan shall also include details of the area designated as an "overflow" parking lot which will ensure that development is held to a minimum with respect to visual resources (i.e. left in its original grass vegetated state, no lighting,

etc.). Any additional plantings for the lot, such as hedgerows for screening purposes, shall be native and drought resistant.

- **8. The applicant shall comply with those recommendations in the letter of April 14, 2007 or other alternatives as acceptable to the Department of Forestry (CDF# 120-06). Written verification shall be submitted from Cal-Fire to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Department of Forestry and Fire Protection. Prior to the development of Phase II of the project, a clearance letter shall be submitted to Cal-Fire with any conditions being set also becoming conditions of this permit.
- **9. Valid building and health permits must be obtained prior to commencing construction of the inn development. Written verification shall be submitted from the County Division of Environmental Health to Planning and Building Services that all necessary approvals have been obtained, including, but not limited to, those regarding consumer protection.
- 10. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the 10 working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and use of the property in reliance on such permit has been initiated prior to its expiration. To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.
- 11. 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 \$1,850.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to July 6, 2007. Any waiver of the fee shall be on a form issued by the Department of Fish and Game upon their finding that the project has "no effect" on the environment. 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 the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. The applicant has the sole responsibility to insure timely compliance with this condition.

B. Conditions which must be complied with for the duration of this permit:

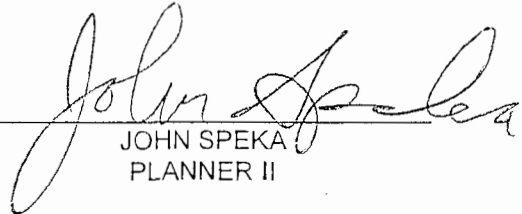
- **1. Water efficient fixtures (e.g. low flow showerheads, toilets, etc.) and landscaping (e.g. rain barrels, diversion of stormwater to vegetated areas, etc.) shall be utilized throughout the project area. In addition, all parking areas shall be surfaced either with permeable materials or vegetation.
- **2. 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.
- **3. Except for the replacement of existing wood-burning stoves, new wood-burning devices shall be prohibited pursuant to District Regulation 4.1 adopted December 5, 2006, by the Mendocino County Air Quality Management Board. Replacement woodstoves must be EPA certified and installed in a manner to ensure proper operation. All other heat sources must be fueled by propane or natural gas.
- **4. Prior to obtaining a demolition permit for the former Orca Inn, National Emissions Standards for Hazardous Air Pollutants (NESHAP) clearance shall be issued by the County Air Quality Management District.

- **5. Any stationary onsite internal combustion engines over 50 horsepower (i.e. large power generator or pumps) may require a permit from the District, depending on fuel source and level of operation.
- **6. All grading activities shall comply with District Regulation 1 Rule 430 regarding fugitive dust emissions.
- **7. All roads shall be covered with an impermeable sealant or rocked at a bare minimum. Any rock material used for surfacing, including rock from onsite sources, must comply with Regulations regarding asbestos content.
- **8. Lighting for the project shall adhere to the Landscaping and Lighting Plan plans dated March 7, 2007, on file at the Department of Planning and Building Services. All external lighting associated with the proposed development site and parking area shall be shielded and downcast to prohibit light from being cast beyond the property boundaries.
- **9. The applicant shall demonstrate continuous use of the property as a visitor serving facility. Documentation of applicable Transient Occupancy Tax (TOT) payable to the Mendocino County Tax Collector upon rental of the inn as a whole or portion thereof will be required on a yearly basis. Any and all such documentation must be provided to the satisfaction of PBS. Full-time (greater than 30 consecutive days) residential occupancies of any of the units (except for that of the designated caretaker unit) shall not be allowed.
- **10. All utility lines on the site, including the existing overhead utility lines from the east side of Highway One to the inn site, shall be placed underground, and existing poles removed.
- **11. All exterior building materials, colors and finishes shall be of 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.
- **12. In the event that archaeological resources are encountered during development of 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.
- 13. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of Mendocino County Code unless modified by conditions of the use permit.
- 14. The application is subject to the securing of all necessary permits for the proposed development and eventual use from County, State, and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
- 15. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:
 - a. That such permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which such permit was granted have been violated.
 - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

Any such revocation shall proceed as specified in Title 20 of the Mendocino County

16. This permit is issued without a legal determination having been made upon the number, size, or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size, shape or parcels within the permit described boundaries are different that that which is legally required by this permit, this permit shall become null and void.

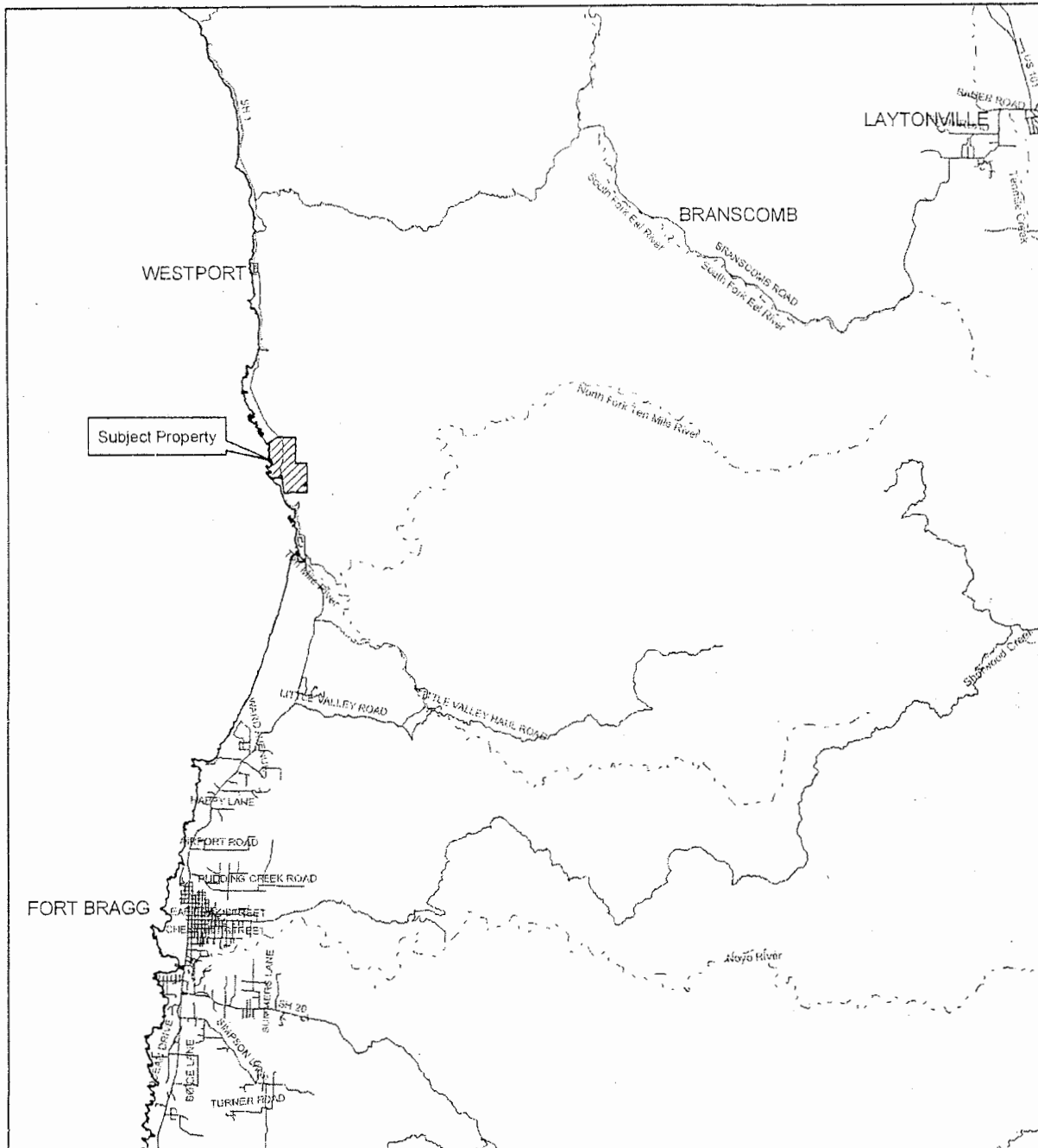
5/18/07
DATE


JOHN SPEKA
PLANNER II

JS:at
May 16, 2007

Negative Declaration
Appeal Fee - \$840.00
Appeal Period - 10 days

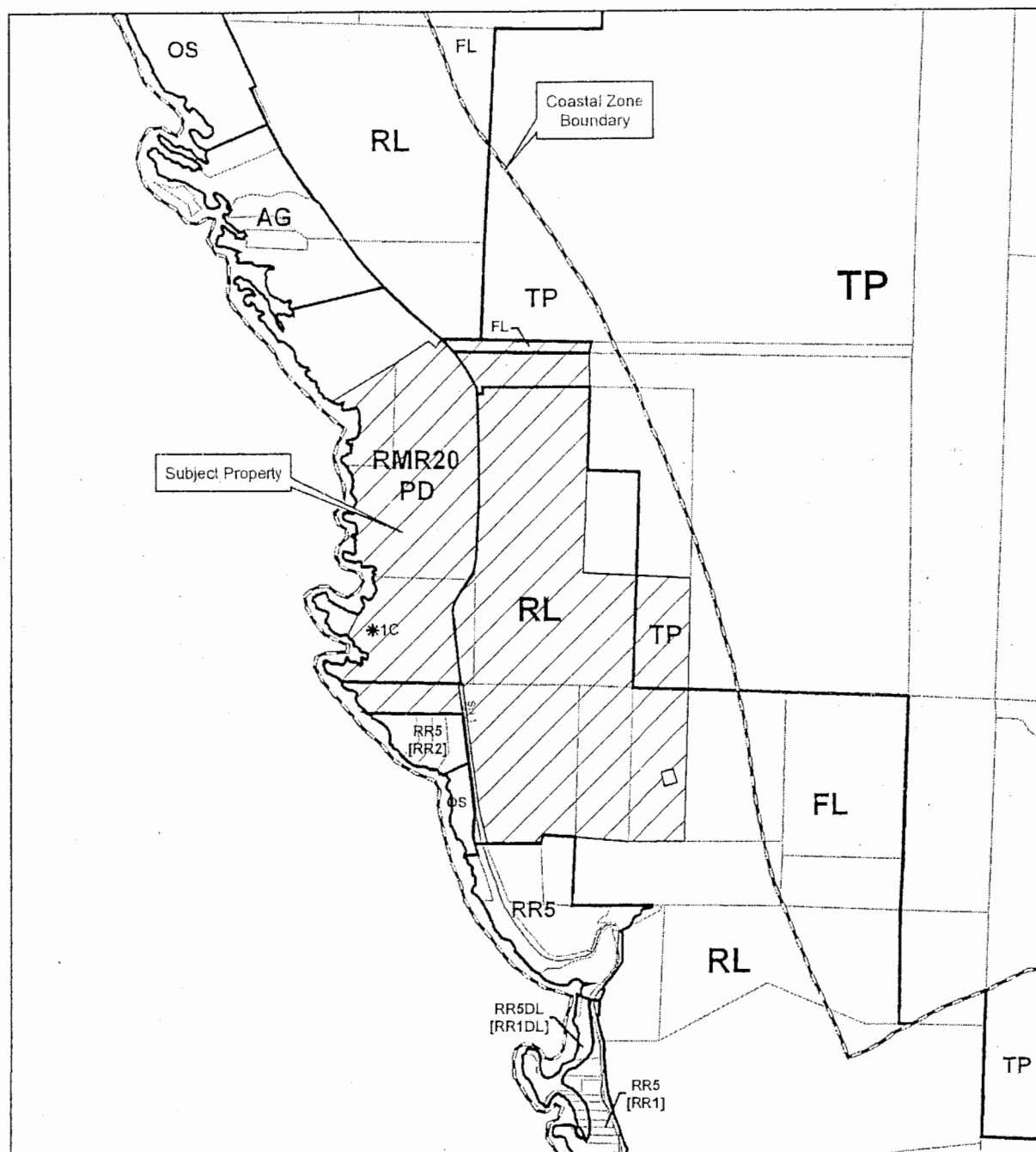
| REFERRAL AGENCIES | REFERRAL NOT RETURNED | REFERRAL RECEIVED "NO COMMENT" | COMMENTS RECEIVED |
|---------------------------------|--------------------------|--------------------------------------|----------------------|
| Planning- FB | | | X |
| Department of Transportation | | X | |
| Environmental Health | | | X |
| Building Inspection- UK | | X | |
| Agricultural Commissioner | X | | |
| Trails Advisory Committee | X | | |
| Native Plant Society | X | | |
| Caltrans | | | X |
| Department of Forestry | X | | |
| Department of Fish and Game | X | | |
| Coastal Commission | X | | |
| RWQCB | X | | |
| County Counsel | X | | |
| Westport Fire District | X | | |
| Sonoma State University | | | X |
| Archaeological Commission | | | X |
| County Water Agency | | | X |
| Air Quality Management District | | | X |



OWNER: JACKSON-GRUBE FAMILY, Inc.
APPLICANT: JACKSON, Willard
AGENT: KAMB, Bud
CASE #: CDU 6-2006
APN: 015-070-45, 015-070-49, 015-070-51, 015-330-13, 015-330-19, 015-330-27,
015-380-03, 015-380-04, 015-380-05,
and portions of 015-070-47, 015-070-52, & 015-330-28

LOCATION MAP





ZONING DISPLAY MAP

OWNER: JACKSON-GRUBE FAMILY, Inc.

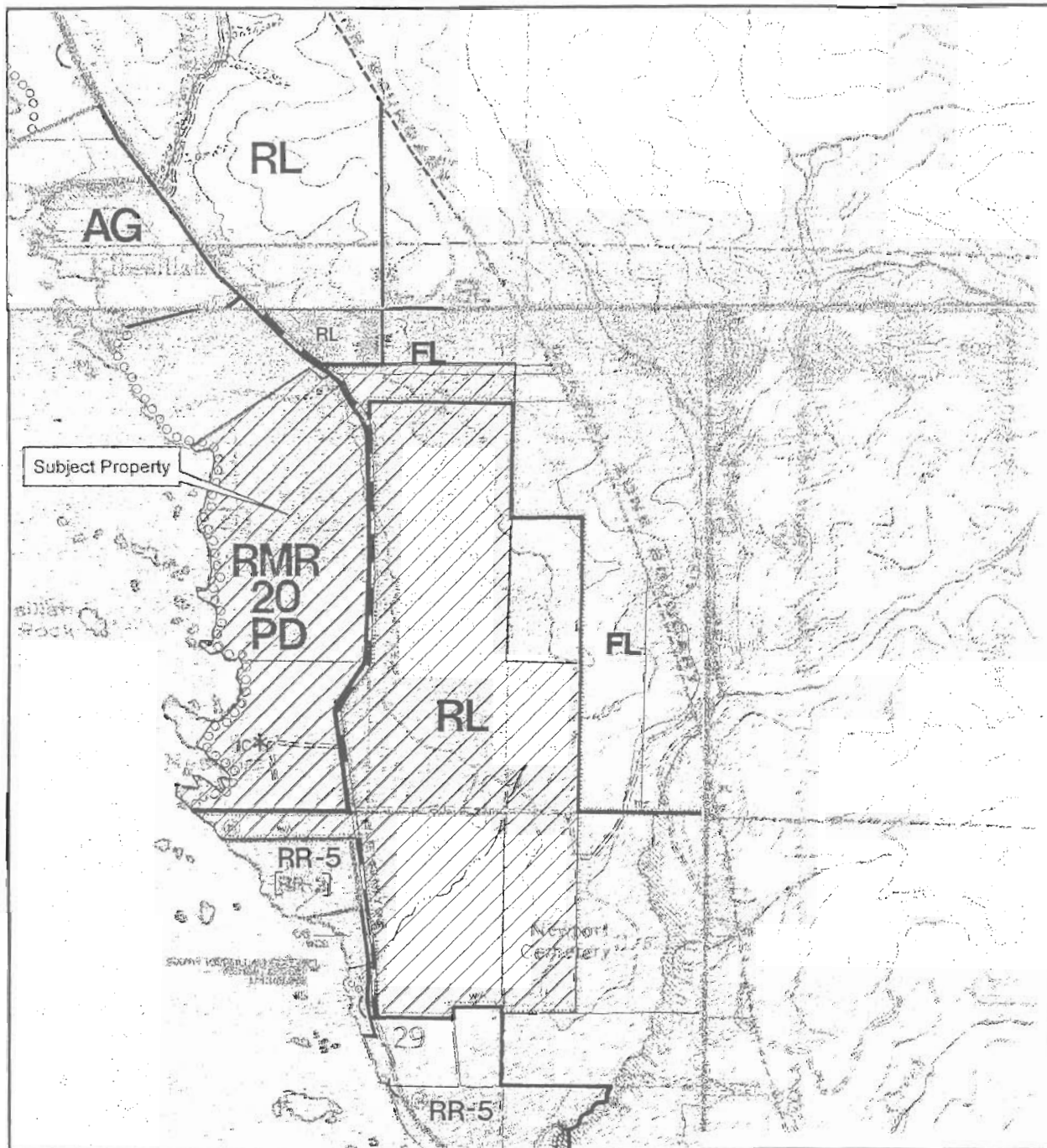
APPLICANT: JACKSON, Willard

AGENT: KAMB, Bud

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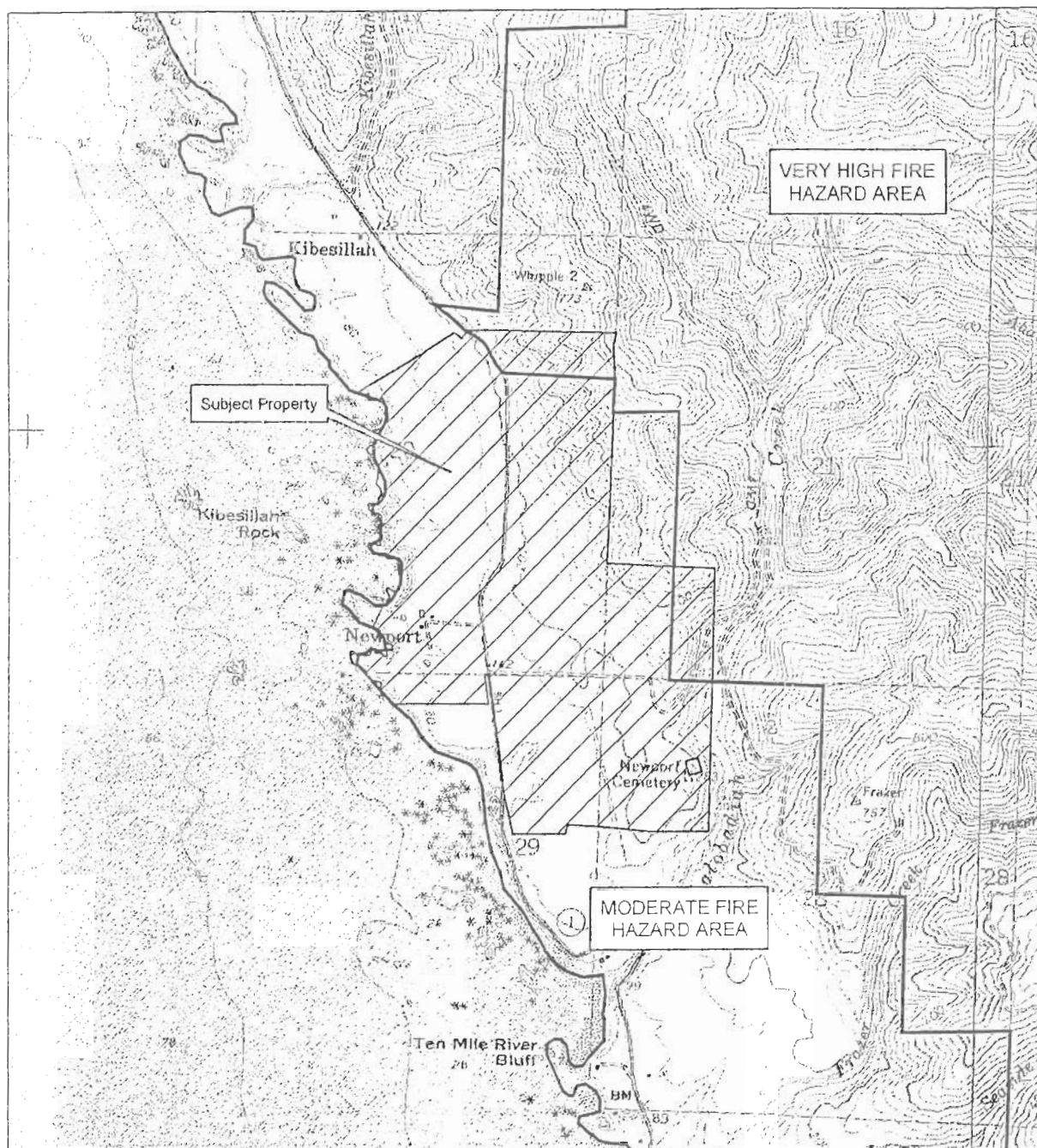


COASTAL PLAN LAND USE MAP No. 8, 9 & 10

OWNER: JACKSON-GRUBE FAMILY, Inc.
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 015-380-03, 015-380-04, 015-380-05,
 and portions of 015-070-47, 015-070-52, & 015-330-28

Not To Scale

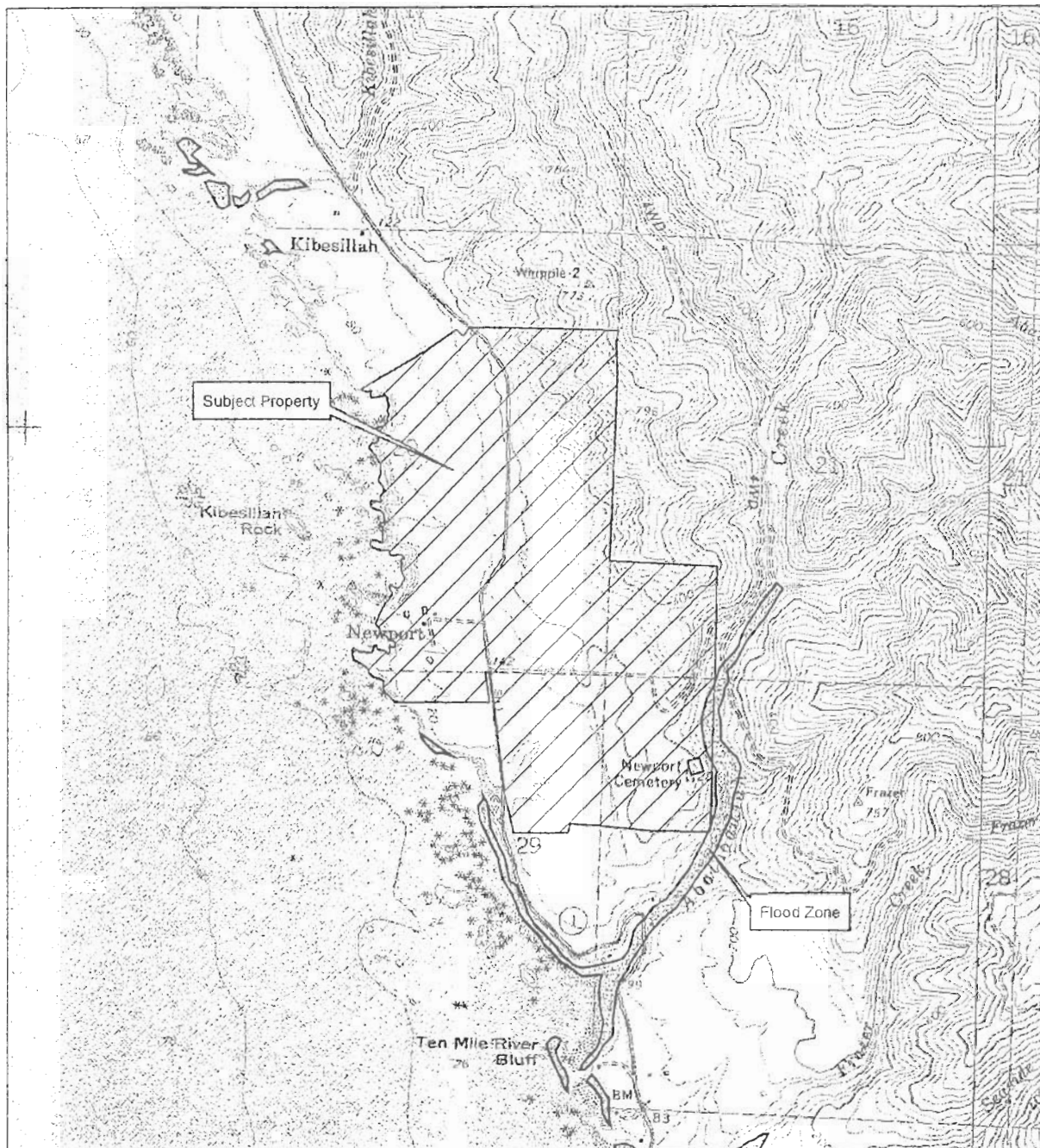




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and portions of 015-070-47, 015-070-52, & 015-330-28

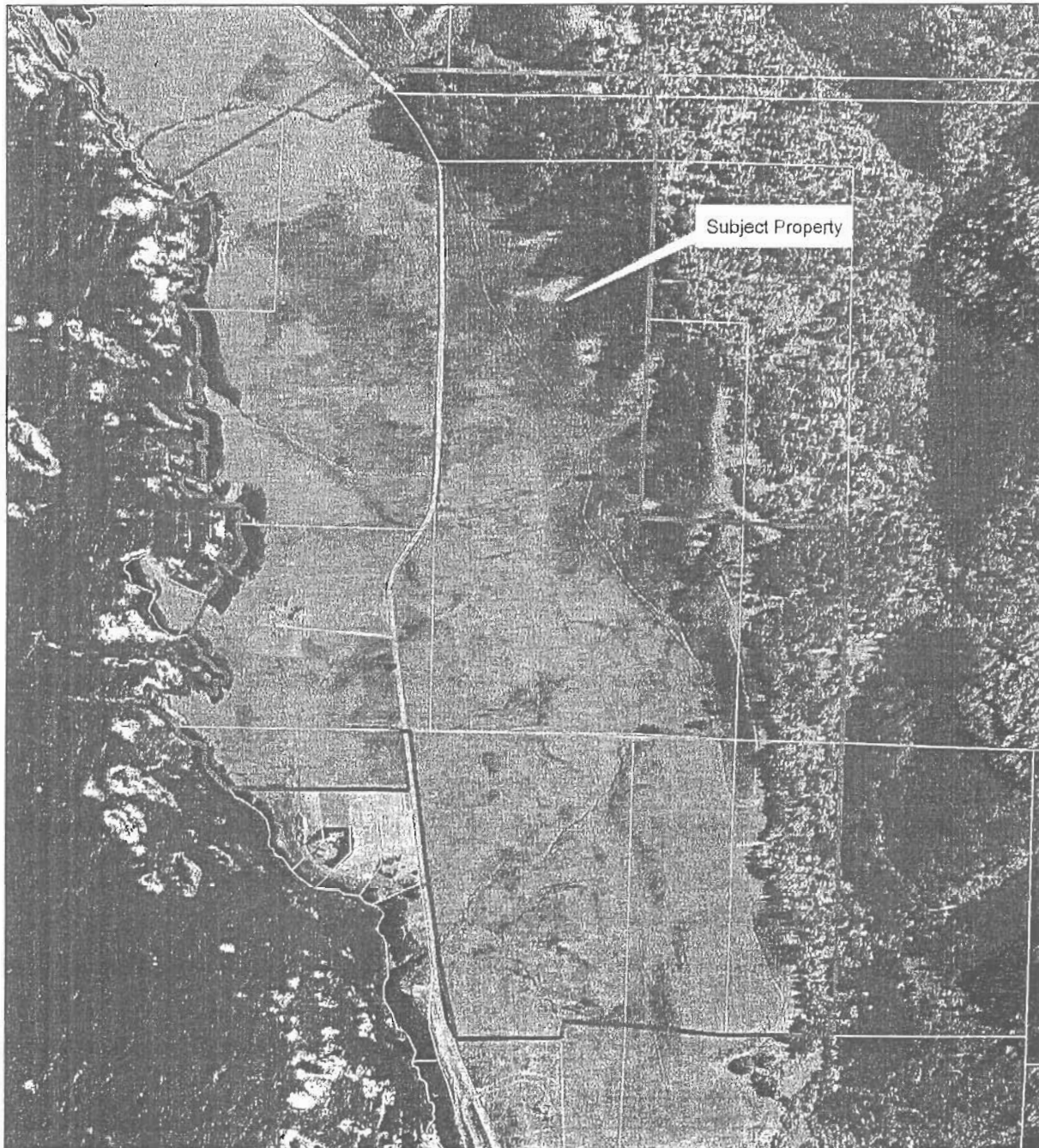
FIRE HAZARD SEVERITY ZONES
CDF FIRE PROTECTION AREA





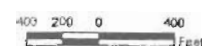
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and portions of 015-070-47, 015-070-52, & 015-330-28

100 YEAR FLOOD ZONE



OWNER: JACKSON-GRUBE FAMILY, Inc.
APPLICANT: JACKSON, Willard
AGENT: KAMB, Bud
CASE #: CDU 6-2006
APN: 015-070-45, 015-070-49, 015-070-51, 015-330-13, 015-330-19, 015-330-27,
015-380-03, 015-380-04, 015-380-05,
and portions of 015-070-47, 015-070-52, & 015-330-28

ORTHOPHOTO - 2005



**COUNTY OF MENDOCINO
ENVIRONMENTAL REVIEW GUIDELINES
DRAFT NEGATIVE DECLARATION**

I. DESCRIPTION OF PROJECT.

DATE: May 17, 2007

CASE#: CDU 6-2006

DATE FILED: 3/23/2006

OWNER: JACKSON-GRUBE FAMILY, INC.

AGENT: BUD KAMB REAL ESTATE SERVICES

REQUEST: Coastal Development Use Permit to build a 10-unit inn in 2 phases. Phase I to consist of the demolition and reconstruction of the former Orca Inn into a main unit of 2,961 square feet (3 bedroom /3 bathroom/downstairs area including kitchen, dining and reception rooms). The north end of the structure would include an upstairs unit of 1,089 square feet (2 bedroom/2 bathroom/kitchen) and downstairs unit of 833 square feet (1 bedroom/1 bathroom/kitchen). In addition, a 1,276 square foot two ~~floored~~ managers unit (2 bedroom/3 bathroom/kitchen); 1,269 square foot equipment barn; 648 square foot maintenance shop, and a 240 square foot generator/pump shed are proposed as part of the first phase. Phase II would consist of 7 units with 3 added to the main building in two storied units of 954 square feet (1 bedroom/1 bathroom/kitchen); 951 square feet (1 bedroom/1 bathroom/kitchen); and 820 square feet (1 bedroom/1 bathroom/kitchen); 2 units within a detached bunkhouse of 531 square feet (1 bedroom/1 bathroom/kitchen) and 757 square feet (2 bedroom/1 bathroom/kitchen); and 2 separate cottages of 835 square feet (2 bedroom/1 bathroom) and 915 square feet (2 bedroom/1 bathroom), respectively. A 778 square foot spa, wells, septic systems, roads and underground utilities are also proposed within the approximate 3.7-acre area of development.

LOCATION: Within the Coastal Zone, 4± miles south of Westport, 1± north of Abalobadiah Creek, approximately 700 feet west of Highway 1, located at 31502 North Highway 1; APNs 015-380-03, 015-380-04, 015-380-05, 015-330-13, 015-330-19, 015-330-27 and a portion of 015-330-28, 015-070-45, 015-070-49, 015-070-51, and portions of 015-070-47, and 015-070-52.

PROJECT COORDINATOR: JOHN SPEKA

II. DETERMINATION.

In accordance with Mendocino County's procedures for compliance with the California Environmental Quality Act (CEQA), the County has conducted an Initial Study to determine whether the proposed project may have a significant adverse effect on the environment. On the basis of that study, it has been determined that:

Although the project, as proposed, could have had a significant effect on the environment, there will not be a significant effect in this case because mitigation measures required for the project will reduce potentially significant effects to a less than significant level, therefore, it is recommended that a NEGATIVE DECLARATION be adopted.

The attached Initial Study and staff report incorporates all relevant information regarding the potential environmental effects of the project and confirms the determination that an EIR is not required for the project.

MENDOCINO COUNTY ENVIRONMENTAL REVIEW GUIDELINES INITIAL STUDY

Section I Description Of Project.

DATE: May 14, 2007

CASE#: CDU 6-2006

DATE FILED: 3/23/2006

OWNER: JACKSON-GRUBE FAMILY, INC.

AGENT: BUD KAMB REAL ESTATE SERVICES

REQUEST: Coastal Development Use Permit to build a 10-unit inn in 2 phases. Phase I to consist of the demolition and reconstruction of the former Orca Inn into a main unit of 2,961 square feet (3 bedroom /3 bathroom/downstairs area including kitchen, dining and reception rooms). The north end of the structure would include an upstairs unit of 1,089 square feet (2 bedroom/2 bathroom/kitchen) and downstairs unit of 833 square feet (1 bedroom/1 bathroom/kitchen). In addition, a 1,276 square foot two floored managers unit (2 bedroom/3 bathroom/kitchen); 1,269 square foot equipment barn; 648 square foot maintenance shop; and a 240 square foot generator/pump shed are proposed as part of the first phase. Phase II would consist of 7 units with 3 added to the main building in two storied units of 954 square feet (1 bedroom/1 bathroom/kitchen); 951 square feet (1 bedroom/1 bathroom/kitchen); and 820 square feet (1 bedroom/1 bathroom/kitchen); 2 units within a detached bunkhouse of 531 square feet (1 bedroom/1 bathroom/kitchen) and 757 square feet (2 bedroom/1 bathroom/kitchen); and 2 separate cottages of 835 square feet (2 bedroom/1 bathroom) and 915 square feet (2 bedroom/1 bathroom), respectively. A 778 square foot spa, wells, septic systems, roads and underground utilities are also proposed within the approximate 3.7-acre area of development.

LOCATION: Within the Coastal Zone, 4± miles south of Westport, 1± north of Abalobadiah Creek, approximately 700 feet west of Highway 1, located at 31502 North Highway 1; APNs 015-380-03, 015-380-04, 015-380-05, 015-330-13, 015-330-19, 015-330-27 and a portion of 015-330-28, 015-070-45, 015-070-49, 015-070-51, and portions of 015-070-47, and 015-070-52.

PROJECT COORDINATOR: JOHN SPEKA

Section II Environmental Checklist.

"Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change, may be considered in determining whether the physical change is significant (CEQA Guidelines, Section 15382).

Accompanying this form is a list of discussion statements for all questions, or categories of questions, on the Environmental Checklist (See Section III). This includes explanations of "no" responses.

| Will the project result in the following environmental effects: | No | Yes | | | |
|--|-------------------------------------|-------------------------------------|------------------------------------|--------------------------------------|--------------------------|
| | | Not Significant | Significant Unless It is Mitigated | Significant - No Apparent Mitigation | Cumulative |
| 1. EARTH: | | | | | |
| A. Unstable earth conditions or changes in geologic substructures? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| B. Disruptions, displacements, compaction, or overcovering of the soil? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| C. Change in topography or ground surface relief features? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| D. Destruction, covering, or modification of any unique geologic or physical features? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| E. Any increase in wind or water erosion of soils, either on or off the site? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| | | | | | |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| F. Changes in deposition or erosion of beach sands, or changes in siltation, deposition, or erosion that may modify a river channel, stream, inlet, or bay? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| G. Exposure of people or property to geologic hazards such as earthquakes, ground failure, or other hazards? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| Will the project result in the following environmental effects: | No | Yes | | | |
|--|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|
| | | Not Significant | Significant Unless It is Mitigated | Significant -No Apparent Mitigation | Cumulative |
| 2. AIR: | | | | | |
| A. Substantial air emissions or deterioration of ambient air quality? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| B. Creation of objectionable odors? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| C. Alteration of air movement, moisture, or temperature, or any change in climate, either locally or regionally? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. WATER: | | | | | |
| A. Changes in currents, or the course of water movements, in either fresh or marine waters? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| B. Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| C. Alterations to the course of flow of flood waters? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| D. Change in the amount of surface water in any water body? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| E. Discharge into surface waters, or any alteration of surface water quality, such as temperature, dissolved oxygen or turbidity? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| F. Alteration of the direction or rate of flow of ground water? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| G. Change in the quantity of ground water, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| H. Substantial reduction in the amount of water otherwise available for public water supplies? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| I. Exposure of people or property to water related hazards such as flooding or tsunamis? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. PLANT LIFE: | | | | | |
| A. Change in the diversity of species, or number of any species of plants including trees, shrubs, grass, crops, and aquatic plants? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| B. Reduction of the numbers of any unique, rare, or endangered species of plants? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| C. Introduction of a new plant species into an area, or creation of a barrier to the normal replenishment of existing species. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| D. Reduction in acreage of any agricultural crop? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| | | | | | |
|--|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 5. ANIMAL LIFE: | | | | | |
| A. Change in the diversity of species, or number of any species of animals including birds, land animals, reptiles, fish, shellfish, insects, and benthic organisms? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| B. Reduction in the number of any unique, rare, or endangered species of animals? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| Will the project result in the following environmental effects: | No | Yes | | | |
|--|-------------------------------------|-------------------------------------|-------------------------------------|------------------------------------|--------------------------|
| | | Not Significant | Significant Unless It is Mitigated | Significant-No Apparent Mitigation | Cumulative |
| C. Introduction of new species of animals into an area, or in a barrier to the migration or movement of animals? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| D. Deterioration of fish or wildlife habitat? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. NOISE: | | | | | |
| A. Increases in existing noise levels? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| B. Exposure of people to severe noise levels? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. LIGHT AND GLARE: | | | | | |
| A. Production of new light or glare? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. LAND USE: | | | | | |
| A. Substantial alteration of the present or planned land use of the area? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. NATURAL RESOURCES: | | | | | |
| A. Increased rate of use of any natural resources? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. POPULATION: | | | | | |
| A. Alterations to the location, distribution, density, or growth rate of human populations? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. HOUSING: | | | | | |
| A. Will the proposal affect existing housing or create a demand for new housing? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. TRANSPORTATION/ CIRCULATION: | | | | | |
| A. Generation of substantial additional vehicular movement? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| B. Effects on existing parking facilities, or demand for new parking? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| C. Substantial impact upon existing transportation systems? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| D. Alterations to present patterns of circulation or movement of people and/or goods? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| E. Alterations to waterborne, rail, or air traffic? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| F. Increase in traffic hazards to motor vehicles, bicyclists or pedestrians. | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. PUBLIC SERVICES: | | | | | |

| | | | | | |
|---|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------------------|--------------------------|
| A. Will the proposal have an effect upon, or result in a need for new or altered government services in any of the following areas: | | | | | |
| Fire protection? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Police protection? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Schools? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Parks and other recreational facilities? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Will the project result in the following environmental effects: | No | Yes | | | |
| | | Not Significant | Significant Unless It is Mitigated | Significant - No Apparent Mitigation | Cumulative |
| Maintenance of public facilities, and roads? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Other governmental services? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 14. ENERGY: | | | | | |
| A. Use of substantial amounts of fuel or energy? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| B. Substantial increase in demand upon existing sources of energy, or require development of new energy sources? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 15. UTILITIES: | | | | | |
| A. Will the project result in a need for new systems or substantial alterations to the following: | | | | | |
| Potable water? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Sewerage? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Energy or information transmission lines? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 16. HUMAN HEALTH: | | | | | |
| A. Creation of any health hazard or potential health hazard? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| B. Exposure of people to any existing health hazards? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| C. Risk of explosion or release of hazardous substances (i.e. pesticides, chemicals, oil, radiation) in the event of an accident or unusual conditions? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| D. Possible interference with emergency response plan or evacuation plan? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 17. AESTHETICS: | | | | | |
| A. Obstruction of any scenic vista or view open to the public, or create an aesthetically offensive site open to public view? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 18. RECREATION: | | | | | |
| A. Impact upon the quality or quantity of existing recreational opportunities? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 19. CULTURAL RESOURCES: | | | | | |
| A. Alteration or destruction of a prehistoric or historic archaeological site? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| | | | | | |
|--|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| B. Adverse physical or aesthetic effects to a prehistoric or historic building or structure? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| C. Cause a physical change that would affect the unique ethnic cultural values? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| D. Restrict existing religious or sacred uses within the potential impact area? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Section III Responses to Environmental Checklist.

For a discussion of each of the environmental effects listed in the Environmental Checklist along with related goals and policies of the General Plan, see the Environmental Review section of the attached staff report.

Section IV Mandatory Findings of Significance.

- A. As discussed in the preceding sections, the project ~~does~~ does not have the potential to significantly degrade the quality of the environment, including effects on animals or plants, or to eliminate historic or prehistoric sites.
- B. As discussed in the preceding sections, both short-term and long-term environmental effects associated with the project will be less than significant ~~significant~~.
- C. When impacts associated with the project are considered alone or in combination with other impacts, the project-related impacts are insignificant ~~significant~~.
- D. The above discussions do not identify any substantial adverse impacts to people as a result of the project.

Section V Determination.

On the basis of this initial evaluation, it has been determined that:

- ☐ The proposed project will not have a significant effect on the environment, and it is recommended that a NEGATIVE DECLARATION be adopted.
- ☒ Although the project, as proposed, could have had a significant effect on the environment, there will not be a significant effect in this case because mitigation measures required for the project will reduce potentially significant effects to a less than significant level, therefore, it is recommended that a NEGATIVE DECLARATION be adopted.
- ☐ The proposed project may have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

5/31/07
DATE


JOHN SPEKA
PLANNER II

July 28-2007

Dear Commissioners -


This letter refers to the massive-mega-development known as CDU #6-2006
The proposed resort at the old
Hemingway Ranch near Westport -

The developers are obnoxious in their
requests to defile a most beautiful
stretch of Mendocino coastline -

Coastal Views will be ruined, as will
the Natural beauty and serenity of the
coastline - Not to mention setting all
kinds of awful precedents!!

I Trust you will DENY this Project -
your Mandate is to protect our
Coastline, NOT the developers -

Thank you

 Signature on File *ma*

| |
|----------------------------|
| EXHIBIT NO. 11 |
| APPEAL NO. |
| A-1-MEN-07-028 |
| JACKSON-GRUBE FAMILY, INC. |
| CORRESPONDENCE (1 of 4) |

RECEIVED

JUL 30 2007

CALIFORNIA
COASTAL COMMISSION



Louise Mariana

Signature on File

707-937-4837

Dear California Coastal
Commission,

Please protect The
highly scenic Ten mile
area in Mendocino and
Keep CDU # 6-2006
out of The coastal zone and
appropriate to The setting
Melissa Hays

24806 Ponderosa Drive
Westport, CA 95488
707 964-3670
Facsimile: 707 964-4396
harvalan@mcn.org

Harvey Alan Hoechstetter

8/2/2007

California Coastal Commission
North Coast District Office
Attn: Bob Merrill
710-F Street, Suite 200
Eureka, CA 95501

RECEIVED

AUG 06 2007

CALIFORNIA
COASTAL COMMISSION

Dear Mr. Merrill,

I have enclosed a paper with my opinion on a project that was recently decided by the Mendocino County Planning Commission. Please add this letter to an appropriate file related to the Inn at Newport Ranch project.

I have also submitted this opinion to for the Community Forum in the Fort Bragg Advocate local newspaper.

I am supporting the CCC's decision and Will Jackson's plan for a B&B on his lands along the coastline south of Westport.

Cordially,

Signature on File
Harvey Hoechstetter

394

A Practical Approach to Preventing Further Development

By Harvey Hoechstetter

As much as I respect Judith Vidivar's opinions and admire her hard work to keep our north coast unspoiled, I strongly disagree with her regarding the proposed inn at the site of the old town of Newport. I do agree with the Mendocino County Planning Commission decision that the project, called the Inn at Newport Ranch should go forward. The property owner has owned this land for 20 years. He has not logged or developed his property. He keeps the fire roads open and leases grazing rights to a neighboring rancher. He's actively protected those 1600 hundred acres from development, logging, and subdivision. His purpose and goal in building a small Inn on 4 of his acres is to create just enough income to pay the taxes and upkeep for all the acreage, so that his heirs will not feel pressured to log the redwood forests or sell off the lands to developers. Thoughts of preserving this land as a whole for the future are on his mind.

The reason that he's designed multi-roomed units is that he wants to create a family-friendly place for folks to share the joys and beauty of these unspoiled lands he's protecting for all of us to enjoy seeing in perpetuity. Even though the County planners approved "unlimited events with up to 99 people", the owner's intent is much more limited in number and size, primarily for smaller groups such as family occasions like weddings and reunions. No rock and roll concerts!

The mile and a quarter of road frontage on both sides of Hwy 1 will be kept undeveloped as cattle grazing lands, with views over the Pacific unblocked except for in the area which traditionally has had many more buildings than exist there today. As a matter of fact, the building envelope is only 335 feet wide north to south, out of the mile and quarter (almost 7000 feet) of water frontage views. Landscaping will not be manicured, with only approximately 60 x 40 feet of irrigated lawn, and mowed trails through the natural fields. The town of Newport once housed over 5000 people. Gradually everything either burned or rotten down, except the four buildings left. The footprint of the Inn at Newport Ranch project will occupy just a miniscule part of the old settlement. This is a practical way to prevent this beautiful section of highway from Abalobadia Gulch to the rental properties just south of Pacific Star Winery from ever being developed. The many rental houses and the winery do constitute other low impact, environmentally sensitive "commercial" uses of land between Inglenook and Westport.

If you'd like an idea of the owner's low impact aesthetics of design, you should look at his own house, which is due south of the old Orca Inn homestead. I'll bet you never noticed it and might not even be able to find it if you look! It's built to be practically invisible, uses re-cycled and natural local materials, and literally melts into the landscape. I've seen the designs for his cozy Inn at Newport Ranch, and think it will fit in nicely. In truth, if the owner were to put in a camp ground, or log his lands, or sell off the various parcels separately to numbers of other families, these options would create much more damaging or even dangerous traffic on our Highway 1, and change our local environment to a much greater degree. My hope is that this family is able to complete their small dream project without any further delays, so that their many hundreds of acres of lands remain unspoiled for years to come.

Harvey Hoechstetter is a Westport resident and a member of Friends of the Ten Mile

4 of 4