

CALIFORNIA COASTAL COMMISSION

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Filed:	August 29, 2008
49 th Day:	October 17, 2008
Staff:	Robert S. Merrill
Staff Report:	October 3, 2008
Hearing Date:	October 17, 2008

STAFF REPORT: APPEALSUBSTANTIAL ISSUE

APPEAL NO.:	A-1-DNC-08-038
APPLICANT:	Nichols Jager
LOCAL GOVERNMENT:	County of Del Norte
DECISION:	Approval with Conditions
PROJECT LOCATION:	312 Humboldt Road, east of Crescent City, Del Norte County (APNs 115-280-16 and 17).
PROJECT DESCRIPTION:	Construct an approximately 1,917-square-foot single-family home and attached 1,610-square-foot garage and entertainment room with driveway.
APPELLANTS:	Friends of Del Norte
SUBSTANTIVE FILE: DOCUMENTS	1) Del Norte County Permit Application No. UP0640C; 2) Del Norte County Local Coastal Program.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that a SUBSTANTIAL ISSUE exists with respect to the grounds on which the appeal has been filed and that the Commission hold a de novo hearing, because the appellant has raised a

substantial issue with the local government's action and its consistency with the certified Local Coastal Program (LCP).

The development, as approved by the County, consists of the construction of an approximately 1,917-square-foot single-family home and attached 1,610-square-foot garage and entertainment room with a driveway on an approximately 0.59-acre parcel located at 312 Humboldt Road, approximately one mile east of Crescent City.

The appellants contend that the project as approved does not adequately protect wetland environmentally sensitive habitat areas and is inconsistent with the ESHA and water quality protection policies of the LCP in three main respects, including (1) providing inadequate buffers to wetlands on the adjacent properties to the south, (2) inaccurately delineating wetland on the subject property and understating the true extent of the wetland area on the property itself, thereby allowing development to be sited too close to the wetlands, and (3) inadequately mitigating for impacts of the project on the water quality of on-site and downstream wetlands.

Staff recommends that the Commission find that the contention raised in the appeal regarding the adequacy of wetland buffers to buffer potential wetlands on the adjacent properties to the south raises a substantial issue of the development's conformance to the ESHA and wetland protection policies of the certified LCP.

A wetland delineation and buffer width analysis was prepared for the project in May of 2008, by a consulting wildlife biologist who prepared a biological assessment report (Exhibit 6). The wetland delineation identified a wetland drainage swale that flows through the south side of the parcel. The feature conveys drainage from lands east of Humboldt Road via a culvert under the County Road to the Crescent City Marsh complex that extends to the southwest of the site. Wetland plants are found in and around the swale, including skunk cabbage (*Lysichiton americanum*) and slough sedge (*Carex obnupta*). The biological assessment indicates the wetland area varies in width, extending approximately 60 feet north of the south property line near the eastern boundary of the property but only 33 feet north of the south property line near the western boundary of the property. The extent of the identified wetland area on the parcel is shown in Exhibit 3 of the staff report.

The approved development is situated on the subject parcel such that a wetland buffer averaging 77 feet in width would be provided between the structures and the delineated wetland on the site. The Del Norte County LUP policies require a 100-foot buffer be provided between new development and wetlands, but the policies provide that a buffer of less than 100 feet may be utilized where it can be determined that there is no adverse impact on the wetland habitat of a reduced buffer.

The biological assessment includes an analysis of the adequacy of the reduced buffer provided with the project, concluding that the small drainage is not likely to be utilized by wildlife, and that therefore a 77-foot average buffer is sufficient to protect the limited biological resources associated with the wetland.

The appellants contend that the wetland buffers incorporated into the project fail to adequately protect the wetlands on adjacent lands, including the Crescent City Marsh, considered a Resource of National Importance (ARNI) by the Environmental Protection Agency. The biological assessment does not delineate or otherwise identify the extent of wetlands bordering the subject parcel on adjoining lands, and does not analyze whether a reduced buffer between the approved development and any wetlands on adjoining property would be adequate to protect the resources of such wetlands. After receiving the appeal, Commission staff visited the subject property to determine if there are any indications that wetlands may border the site that were not addressed in the biological assessment. The site visit revealed that hydrophytic plants are growing along the western boundary of the parcel and that these plant species extend further southward off the property. Commission staff observed a predominance of slough sedge (*Carex obnupta*,) in the understory layer along the western edge of the property as close as 39 feet from the proposed home outside of the delineated wetland (and outside of the portion of the property zoned RCA-2r). The slough sedge is an obligate wetland plant, meaning that the plant generally only grows in wetlands. Along with slough sedge, the dominant plants included four other facultative wetland plant species.

The LUP policies on ESHA state that development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas and require that buffers be established between wetlands and new development. These policies do not limit the protection of ESHA to only ESHA that exists on parcels where development is proposed. ESHA on adjacent lands that might be affected by the proposed development must also be considered.

The approved development is located as close as 39 feet from the southern property line where Commission staff observed the wetland plants noted above. As this area was not addressed by the biological assessment, staff believes a substantial issue exists as to whether all of the wetlands that might be affected by the development in this area have been identified and whether a reduced 39-foot buffer would be adequate to protect this potential wetland ESHA from the impacts of the approved development. Thus, the degree of legal and factual support for the local government's decision that the development is consistent with the ESHA and wetland protection policies of the certified LCP requiring that development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas and that buffers be established between wetlands and new development is low. Therefore, staff recommends that the Commission find that the project as approved raises a substantial issue of conformance with the ESHA and wetland protection provisions

contained in the certified Del Norte County LCP, including, but not limited to (1) the certified LUP Chapter on Marine and Water Resources Chapter, Section VI. General Policies, Sub-Section C, Policy 6 and (2) LUP Marine and Water Resources Chapter, Section VII. Specific Area Policies and Recommendations, Sub-Section D, Wetlands Policy 4.

Staff further recommends that the Commission continue the de novo portion of the hearing because the Commission does not have sufficient information to determine what development can be approved consistent with the LCP. Continuing the hearing would enable the applicant to provide; (1) supplemental wetland delineation information and a revised buffer width adequacy analysis that (a) re-evaluates the delineation of wetlands on the property where the property shows a dominance of obligate wetland species, (b) identifies and delineates wetlands bordering the property to the west, and (c) analyzes the adequacy of the buffer provided between the development and wetlands that may border the property, particularly to the south; (2) an analysis of alternative siting locations and residence designs that might provide for greater wetland setbacks; and (3) information regarding whether denial of the project would result in an unconstitutional taking of private property for public use. Such information is needed to enable the staff to complete its analysis of the development and its consistency with the certified LCP and develop a de novo recommendation.

The motion to adopt the staff recommendation of Substantial Issue is found on Page No. 6.

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 one hundred feet of a wetland or stream or three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a 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

constituting 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 development is located between the first public road and the sea, the public access and public recreation policies set forth in the Coastal Act.

The approved development is appealable to the Commission pursuant to Section 30603(a)(2) of the Coastal Act because it is located within 100 feet of a wetland.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that the appeal raises no substantial issue of conformity of the approved project with the certified LCP. Since the staff is recommending substantial issue, unless three Commissioners object, it is presumed that the appeal raises a substantial issue and the Commission may proceed to its *de novo* review.

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

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

Unless it is determined that there is no substantial issue, the Commission will proceed to the *de novo* 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, because the proposed development is located between the first public road and the sea, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program and with the public access and public recreation policies of the Coastal Act.

2. Filing of Appeal

One appeal was filed by the Friends of Del Norte (see Exhibit No. 5). The appeal to the Commission was filed in a timely manner on August 29, 2008, within 10 working days of receipt by the Commission on August 19, 2008 of the County's Notice of Final Local Action.

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-DNC-08-038 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. Following the staff recommendation 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-DNC-08-038 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 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 one appeal of the County of Del Norte's decision to conditionally approve the development from the Friends of Del Norte. The project as approved by the County involves the construction of an approximately 1,917-square-foot single-family home and attached 1,610-square-foot garage and entertainment room with a driveway located at 312 Humboldt Road, approximately one mile east of Crescent City, (APNs 115-280-16 and 17).

The appellant raises one basic contention in their appeal. The appellants' contentions are summarized below; the full text of the appeal is included in Exhibit No. 5.

1. Inadequate Protection of Environmentally Sensitive Wetland Habitat Areas

The appellants contend that the project as approved does not adequately protect wetland environmentally sensitive habitat areas (ESHA). The project fails to protect wetland ESHA in three main respects. First, the wetland buffers incorporated into the project fail to adequately protect the wetlands on adjacent lands, including the Crescent City Marsh, considered a Resource of National Importance (ARNI) by the Environmental Protection Agency. Second, the project's wetland delineation is inaccurate and understates the true extent of the wetland area on the property itself, allowing development to be sited too close to the wetlands to ensure protection of the wetlands. Finally, the project as approved does not adequately mitigate for impacts of the project on the water quality of on-site and adjoining wetlands including the Crescent City Marsh. These water quality impacts include (1) sedimentation from destabilization and erosion of the slope along the periphery of the on-site wetlands that will result from the approved removal of 23 large trees from the slope, (2) the discharge of surface water runoff containing residential pollutants from the development site. Therefore, the approved project is inconsistent with the policies of the certified Del Norte County Local Coastal Program (LCP) requiring the protection of environmentally sensitive wetland habitat and water quality.

B. LOCAL GOVERNMENT ACTION

On August 6, 2008, the Del Norte County Planning Commission conditionally approved the coastal development permit for the project with 16 special conditions. (M3473C) (Exhibit No. 4). Among other requirements, the conditions require that the applicant: (1) ensure that the development conforms with the project approved by the Planning Commission; (2) ensure that no plant species listed as problematic and/or invasive by used; (3) record a deed restriction that precludes development within the delineated wetland area and a prescribed wetland buffer area averaging 77 feet in width except for the removal of flammable vegetation within 30 feet of the buildings, the removal of trees from the slope that transitions between the development site and the wetlands, and the removal of non-native vegetation; (4) plant a minimum of 85 willow and alder trees within the buffer; (5) submit a vegetation monitoring plan; and (6) submit an erosion and runoff control plan that provides for the implementation of certain temporary erosion control measures during construction and permanent erosion and runoff control measures to avoid adverse impacts on adjacent properties and water resources.

The decision of the Planning Commission was not appealed at the local level to the County Board of Supervisors. The County's Notice of Final Action was received by the

Commission staff on August 19, 2008 (Exhibit No. 4). Section 13573 of the Commission's regulations allows for appeals of local approvals to be made directly to the Commission without first having exhausted all local appeals when, as here, the local jurisdiction charges an appeal fee for the filing and processing of local appeals.

The County's approval of the project was appealed to the Coastal Commission in a timely manner on August 29, 2008, within 10-working days after receipt by the Commission of the Notice of Final Local Action.

C. SITE DESCRIPTION

The project site is an undeveloped 0.59-acre parcel located on the west side of Humboldt Road and approximately 180 feet south of State Street, approximately one mile east of Crescent City. The subject property consists of two separate parcels that were recently merged into one rectangular-shaped parcel that is approximately 150 feet wide by 170 feet long.

The project site is located within the urban boundary of Crescent City in a low density neighborhood designated as Urban Residential and Resource Conservation Area in the certified Land use Plan. The property has a split zoning of R1-B6(One-family Residence-B Combining District-6,000-square-foot minimum parcel size) and RCA-2r (Designated Resource Conservation Area – Riparian Habitat). Existing residences are located to the north, south and northwest, with Humboldt Road to the east, and Crescent City Marsh to the southwest.

An intermittent stream or drainage swale flows through the south side of the parcel. The feature conveys drainage from lands east of Humboldt Road via a culvert under the County Road to the Crescent City Marsh complex that extends to the southwest of the site. Wetland plants are found in and around the swale, including skunk cabbage (*Lysichiton americanum*) and slough sedge (*Carex obnupta*). Other plants found around the swale include twinberry (*Lonicera involucrata*), native blackberry (*Rubus ursinus*), and common lady fern (*Athyrium filix-femina*), all of which are facultative species, meaning they are equally likely to be found in wetlands and in non-wetlands. Certain invasive species such as Himalayan blackberry, scotch broom and cotoneaster are also found around the swale. The remainder of the parcel consists of a stand of second-growth spruce (*Picea sitchensis*) and Douglas-fir (*Pseudotsuga menziesii*) on an elevated slope that rises to the east of the swale to a relatively flat, approximately 35-foot wide area along the north side of the parcel where the approved residence would be located.

D. PROJECT DESCRIPTION

The approved project consists of the installation of one-story 27-foot-wide by 71-foot-long manufactured home with an attached two-story 27-foot-wide by 30-foot-long garage and entertainment room. A driveway would extend 30 feet from the garage to Humboldt Road. The manufactured home and garage/entertainment room would be aligned parallel to the north property line, approximately five feet away. The development would be located 39 feet from the west property line, and approximately 118 feet from the south property line.

The project site is within the urban boundary around Crescent City and the residence would be served by municipal water and sewer services.

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.

As noted above, 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, as in this case, the public access policies set forth in the Coastal Act. Therefore, the contentions raised in this appeal present potentially valid grounds for appeal in that the contentions allege that the approval of the project by the County raises significant issues regarding consistency with the standards set forth in the certified local coastal program.

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:

- 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;
- The extent and scope of the development as approved or denied by the local government;
- The significance of the coastal resources affected by the decision;
- The precedential value of the local government's decision for future interpretations of its LCP; and
- 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 allegations raised in the appeal that the project as approved does not adequately protect wetland environmentally sensitive habitat areas (ESHA) due to lack of adequate buffers from wetland on adjacent lands, inaccuracies of the wetland delineation, and inadequate measures to mitigate for impacts of the project on the water quality of on-site and adjoining wetlands, the appeal raises a substantial issue with regard to the approved project's conformance with the policies of the certified Del Norte County LCP requiring the protection of environmentally sensitive wetland habitat and water quality.

1. Allegations Raising Substantial Issue:

a. Inadequate Protection of Wetland ESHA

The appellants contend that the project as approved does not adequately protect wetland environmentally sensitive habitat areas (ESHA).

LCP Policies and Standards:

LUP Marine and Water Resources Chapter, Section IV. Sensitive Coastal Habitat, Sub-Section C Sensitive Habitat Types, states in applicable part:

Several biologically sensitive habitat types, designated though the application of the above criteria, are found in the coastal zone of Del Norte County. These include: offshore rocks; intertidal areas; estuaries; wetlands; riparian vegetations systems; sea cliffs; and coastal sand dunes. A brief description of these sensitive habitat types is given below:

4. Wetlands: Also termed marshes, swamps and bogs, wetlands in the coastal zone vary from brackish to freshwater and range from seasonally flooded swales to year-round shallow lakes. Like estuaries, wetlands tend to be highly productive regions and are important habitats and feeding grounds for numerous wildlife species.

LUP Marine and Water Resources Chapter, Section VI. General Policies, Sub-Section C LCP Policies, state in applicable part:

- 1. The County seeks to maintain and where feasible enhance the existing quality of all marine and water resources.*
- 2. The County encourages programs (e.g., fish hatcheries, habitat rehabilitation) designed to improve the quality of coastal fisheries and other marine resources.*
- 3. All surface and subsurface waters shall be maintained at the highest level of quality to insure the safety of public health and the biological productivity of coastal waters.*
- 4. Wastes from industrial, agricultural, domestic or other uses shall not impair or contribute significantly to a cumulative impairment of water quality to the extent of causing a public health hazard or adversely impacting the biological productivity of coastal waters...*
- 6. Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

LUP Marine and Water Resources Chapter, Section VII. Specific Area Policies and Recommendations, Sub-Section D, Wetlands, state in applicable part:

- 1. Definition: "Wetland" means lands within the Coastal Zone which may be covered periodically or permanently with shallow water and include saltwater*

marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, bogs, and fens. The land use category will be Resource Conservation Area...

4. Policies and Recommendations:

- f. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of one-hundred feet in width. A buffer of less than one-hundred feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to utilize a buffer area of less than one-hundred feet shall be done in cooperation with the California Department of Fish and Game and the County's determination shall be based upon specific findings as to the adequacy of the proposed buffer to protect the identified resource. Firewood removal by owner for on site use and commercial timber harvest pursuant to CDF timber harvest requirements are to be considered as allowable uses within one-hundred foot buffer areas.*
- g. Due to the scale of the constraints maps, questions may arise as to the specific boundary limits of an identified environmentally sensitive habitat area. Where there is a dispute over the boundary or location of an environmentally sensitive habitats area, the following may be requested of the applicant:*
 - i.) A base map delineating topographic lines, adjacent roads, location of dikes, levees, flood control channels and tide gates.*
 - ii.) Vegetation map.*
 - iii.) Soils map.*

Review of this information shall be in cooperation with the Department of Fish and Game and the County's determination shall be based upon specific findings as to whether an area is or is not an environmentally sensitive habitat area based on land use plan criteria, definition, and criteria included in commission guidelines for wetland and other wet environmentally sensitive habitat areas as adopted February 4, 1981. The Department of Fish and Game shall have up to fifteen days upon receipt of County notice to provide review and cooperation.

The appellants contend that the project as approved does not adequately protect wetland environmentally sensitive habitat areas and is inconsistent with the ESHA and water quality protection policies of the LCP in three main respects, including (1) providing inadequate buffers to wetlands on the adjacent properties to the south, (2) inaccurately delineating wetland on the subject property and understating the true extent of the wetland area on the property itself, thereby allowing development to be sited too close to the wetlands, and (3) inadequately mitigating for impacts of the project on the water quality of on-site and downstream wetlands.

Inadequate Buffers to Potential Wetlands on Adjoining Lands

The wetland delineation and buffer width analysis prepared for the project is included in a biological assessment prepared in May of 2008, by a consulting wildlife biologist. The biological assessment is included as Exhibit 6. The biological assessment states that the wetland delineation was conducted in accordance with the currently applicable U.S. Army Corps of Engineers (ACOE) 1987 Wetland Delineation Manual. The ACOE utilizes a three-parameter method for making wetland determinations based on the presence of three wetland indicators: (1) wetland hydrology (periodic inundation for a minimum of seven consecutive days during the growing season), (2) a predominance of hydrophytic vegetation (plants adapted to anaerobic conditions resulting from a prolonged inundation with water) and (3) hydric soils (soils that become saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions that favor the growth of hydrophytic vegetation). As the project site is within the coastal zone, wetland delineations must conform with the Del Norte County LCP and Coastal Act definitions of wetlands. The biological assessment states that conform to those requirements, a one-parameter method of wetland delineation was used.

The wetland delineation identified a wetland drainage swale that flows through the south side of the parcel. The feature conveys drainage from lands east of Humboldt Road via a culvert under the County Road to the Crescent City Marsh complex that extends to the southwest of the site. Wetland plants are found in and around the swale, including skunk cabbage (*Lysichiton americanum*) and slough sedge (*Carex obnupta*). Other plants found around the swale include twinberry (*Lonicera involucrata*), native blackberry (*Rubus ursinus*), and common lady fern (*Athyrium filix-femina*), all of which are facultative species, meaning they are equally likely to be found in wetlands and in non-wetlands. Certain invasive species such as Himalayan blackberry, scotch broom and cotoneaster are also found around the swale. The biological assessment indicates the wetland area varies in width, extending approximately 60 feet north of the south property line near the eastern boundary of the property but only 33 feet north of the south property line near the western boundary of the property. The extent of the identified wetland area on the parcel is shown in Exhibit 3 of the staff report.

The approved development is situated on the subject parcel such that a wetland buffer averaging 77 feet in width would be provided between the structures and the delineated wetland on the site. The above cited Del Norte County LUP policies require a 100-foot buffer be provided between new development and wetlands, but the policies provide that a buffer of less than 100 feet may be utilized where it can be determined that there is no adverse impact on the wetland habitat of a reduced buffer.

The biological assessment includes an analysis of the adequacy of the reduced buffer provided with the project, concluding that the small drainage is not likely to be utilized by wildlife, and that therefore a 77-foot average buffer is sufficient to protect the limited biological resources associated with the wetland.

The appellants contend that the wetland buffers incorporated into the project fail to adequately protect the wetlands on adjacent lands, including the Crescent City Marsh, considered a Resource of National Importance (ARNI) by the Environmental Protection Agency. The appellants submitted information with the appeal indicating that the Crescent City Marsh consists of 335 acres of wetlands, open water, beach and dunes, prairie scrub, and spruce forest and is home to dozens of plants that are rare along the California Coast. According to correspondence contained in the appeal from the U.S. Fish & Wildlife Service, the Crescent City Marsh contains the largest known population of the western lily (*Lilium occidentale*).

The biological assessment does not delineate or otherwise identify the extent of wetlands bordering the subject parcel on adjoining lands, and does not analyze whether a reduced buffer between the approved development and any wetlands on adjoining property would be adequate to protect the resources of such wetlands. After receiving the appeal, Commission staff visited the subject property to determine if there are any indications that wetlands may border the site that were not addressed in the biological assessment. The site visit revealed that hydrophytic plants are growing along the western boundary of the parcel and that these plant species extend further southward off the property. Commission staff observed a predominance of slough sedge (*Carex obnupta*, OBL) in the understory layer along the western edge of the property as close as about 39 feet from the proposed home outside of the delineated wetland (and outside of the portion of the property zoned RCA-2r). The slough sedge is an obligate (OBL) wetland plant, meaning that the plant generally only grows in wetlands. Along with slough sedge, the dominant plant species in this area include Sitka spruce (*Picea sitchensis*, FAC), cascara (*Frangula purshiana*, FACU*), twinberry (*Lonicera involucrata*, FAC), salmonberry (*Rubus spectabilis*, FAC+), English holly (*Ilex aquifolium*, NL), Pacific bramble (*Rubus ursinus*, FAC+), and English ivy (*Hedera helix*, NL). Four of these plant species are facultative plants, meaning they are found both in wetland and non-wetland areas. Thus, the predominant plant species in this area is generally found only in wetlands, and four of the next dominant species (63%) are wetland oriented plants.

The LUP policies on ESHA state that development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas and require that buffers be established between wetlands and new development. These policies do not limit the protection of ESHA to only ESHA that exists on parcels where development is proposed. ESHA on adjacent lands that might be affected by the proposed development must also be considered.

The approved development is located as close as 39 feet from the southern property line where Commission staff observed the wetland plants noted above. As this area was not addressed by the biological assessment, a substantial issue exists as to whether all of the wetlands that might be affected by the development in this area have been identified and whether a reduced 39-foot buffer would be adequate to protect this potential wetland ESHA from the impacts of the approved development. Thus, the degree of legal and factual support for the local government's decision that the development is consistent with the ESHA and wetland protection policies of the certified LCP requiring that development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas and that buffers be established between wetlands and new development is low. Therefore, the Commission finds that the project as approved raises a substantial issue of conformance with the ESHA and wetland protection provisions contained in the certified Del Norte County LCP, including, but not limited to (1) the certified LUP Chapter on Marine and Water Resources Chapter, Section VI. General Policies, Sub-Section C, Policy 6 and (2) LUP Marine and Water Resources Chapter, Section VII. Specific Area Policies and Recommendations, Sub-Section D, Wetlands Policy 4.

F. 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 hearing to a subsequent date. The *de novo* portion of the appeal must be continued because the Commission does not have sufficient information to determine what, if any, 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 development. Staff notes that as of the date of this report, Commission staff has not received a copy of the local record from the County which may contain some of the following information.

1. Supplemental Wetland Delineation and Revised Buffer Analysis Information

The wetland delineation prepared for the project does not fully address why certain areas on the property showing a dominance of obligate wetland species and seemingly meeting the criteria for delineation as wetlands were not delineated as wetlands. In addition, the wetland delineation prepared for the project does not identify and delineate wetlands bordering the property. Moreover, the analysis in biological assessment of the adequacy of a reduced buffer does not address the adequacy of reduced buffers between the proposed development and the wetlands on the adjoining property to the west. The policies of the Marine Resources Chapter of the certified LCP require that all wetlands and environmentally sensitive habitat be maintained and that development shall be sited and designed to avoid disruption and degradation of the habitat. Therefore, to evaluate the consistency of the proposed project with LCP policies regarding new development adjacent to wetlands and ESHA, a supplemental wetland delineation information and a revised buffer width adequacy analysis prepared to Coastal Act and LCP standards that (1) re-evaluates the delineation of wetlands on the property where the property shows a dominance of obligate wetland species, (2) identifies and delineates wetlands bordering the property to the west, and (3) analyzes the adequacy of the buffer provided between the development and wetlands that may border the property, particularly to the south, is required. The supplemental delineation information and revised buffer analysis should be prepared by a qualified wetland biologist and should include a final site map depicting the full extent of all wetlands on and bordering the property and the full extent of buffer area needed to protect the wetlands. The supplemental delineation information should include complete field notes taken to determine the extent of the wetlands.

2. Alternatives Analysis

As discussed above, the LCP requires that development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. To implement this policy in part, the LCP requires a 100-foot wetland buffer from new development. However, a buffer of less than one-hundred feet may be utilized where it can be determined that there is no adverse impact on the wetland. An analysis of alternative siting locations and residence designs is necessary to fully evaluate the project's consistency with the LCP wetland buffer policies and its potential impact on the wetland habitat.

The alternatives analysis should quantify the potential setback from all wetlands associated with each alternative and include a biological assessment of the potential direct and indirect impacts to the wetland for each alternative. The analysis should evaluate alternatives such as, but not limited to, (1) reducing the size of the residence and garage/entertainment room structures, (2) eliminating the garage/entertainment room structure from the project, and (3) reconfiguring the design of the residence and site layout to provide a greater setback from the wetlands. The analysis should discuss whether these and other alternatives are feasible and whether they are more or less protective of the wetland habitat than the preferred alternative.

3 Information Needed to Evaluate Project Consistency with Coastal Act
Section 30010

If the information derived from the requested supplemental wetland delineation documentation and the alternatives analysis indicates that the project cannot be found consistent with the ESHA and ESHA buffer policies of the certified Del Norte County Local Coastal Program, the Commission will need to evaluate whether an alternative proposal could be approved, and if not, whether denial of the project would result in an unconstitutional taking of private property for public use. In order to make that evaluation, the Commission will need to request additional information from the applicant concerning alternative proposals and the applicant's reasonable investment-backed expectations to make such determinations prior to holding a *de novo* hearing on the project. The landowner of the property that is the subject of A-1-DNC-08-033 must provide the following information for the property that is subject to A-1-DNC-08-033 as well as all property in common contiguous ownership, i.e. any immediately adjacent property also owned by the applicant:

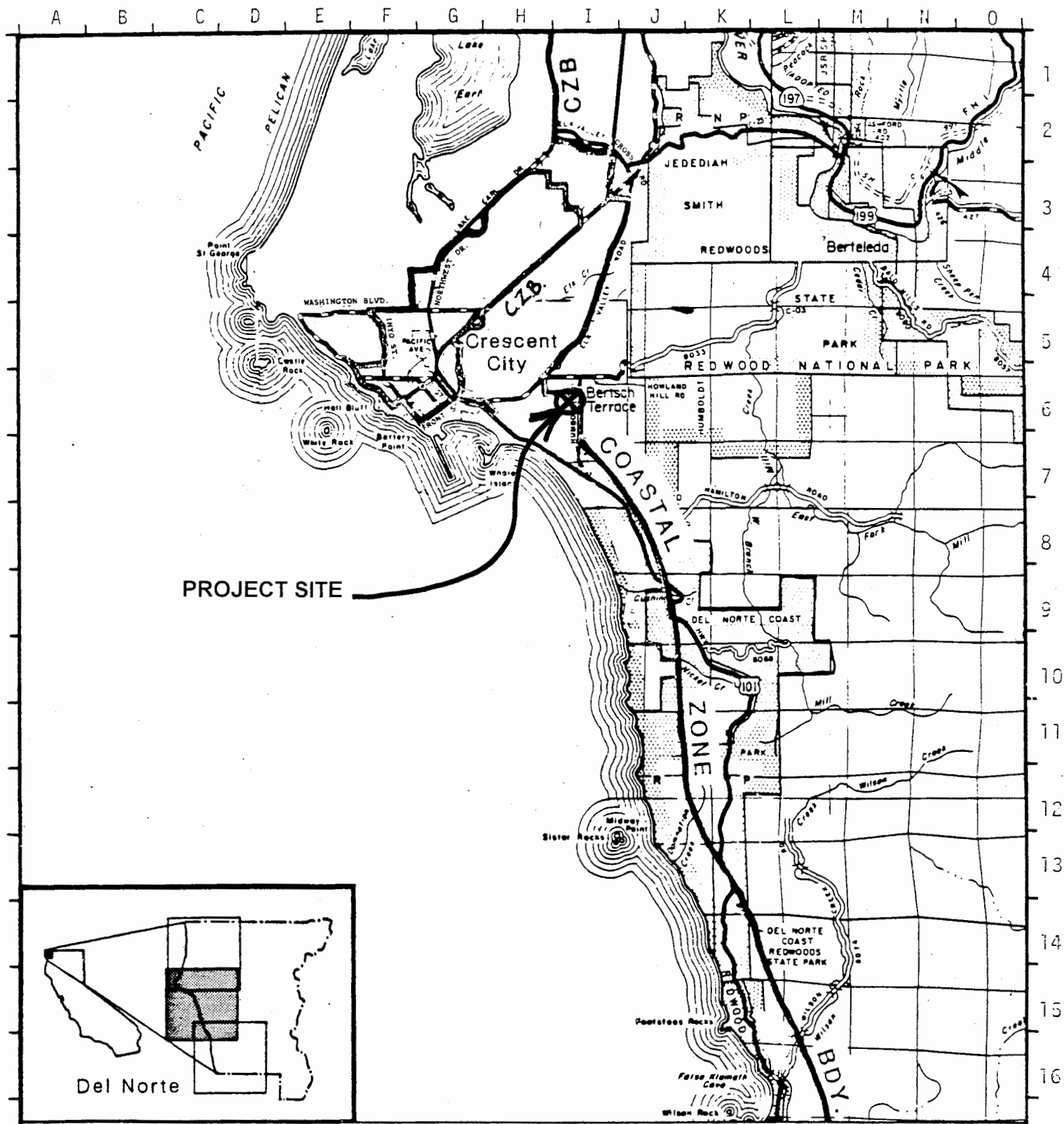
1. When the property was acquired, and from whom;
2. The purchase price paid for the property;
3. The fair market value of the property at the time it was acquired and the basis upon which fair market value was derived;
4. Whether a general plan, zoning, or similar land use designations applicable to the property changed since the time the property was purchased. If so, identify the particular designation(s) and applicable change(s);
5. At the time the property was purchased, or at any subsequent time, whether the project been subject to any development restriction(s) (e.g., restrictive covenants, open space easements, etc.), other than the land use designations referred to in the preceding question;

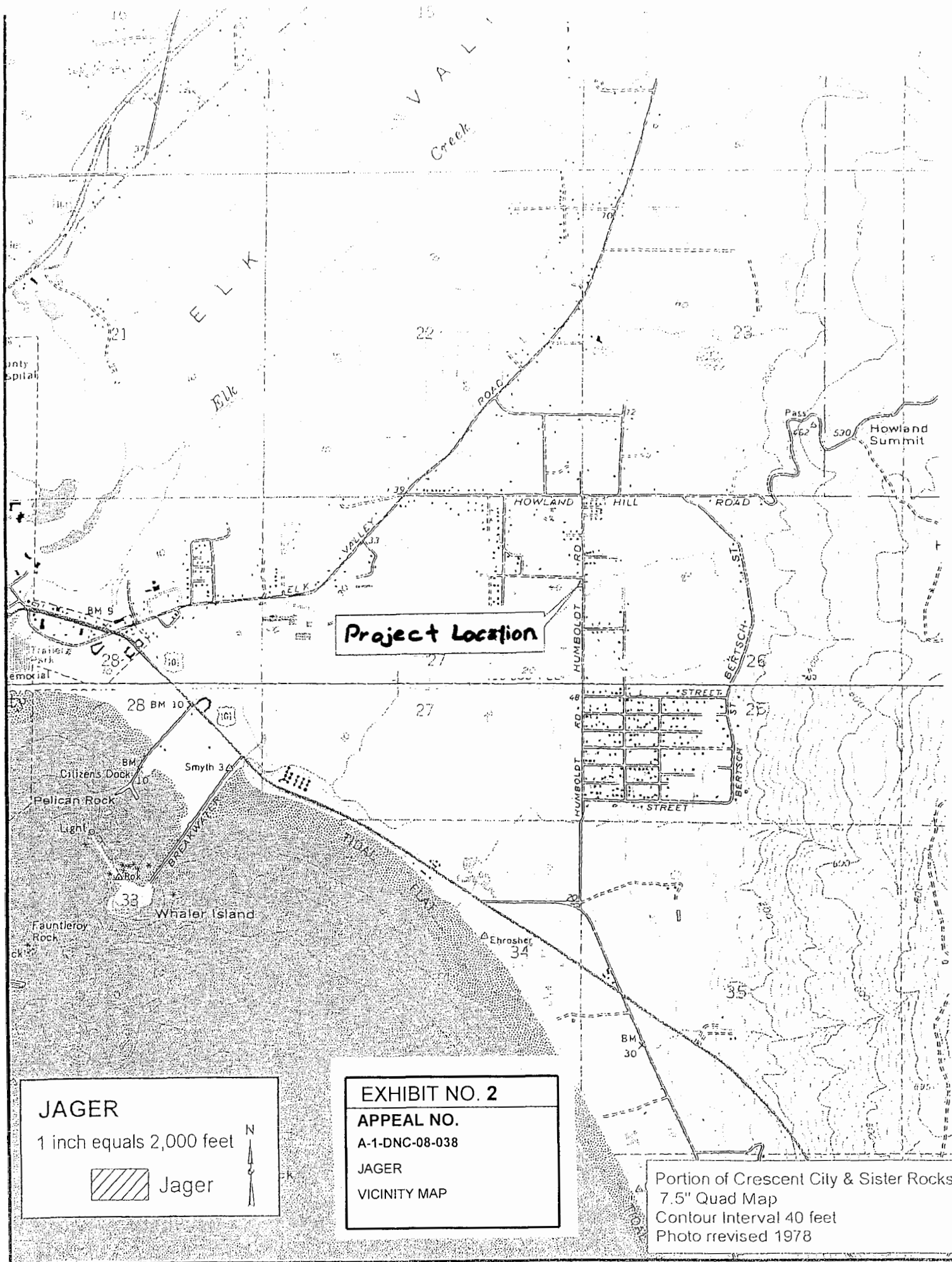
6. Whether the size or use of the property changed in any way since it was purchased. If so, identify the nature of the change, the circumstances and the relative date(s);
7. Whether a portion of, or interest in, the property was sold or leased since the time the applicants purchased it, and the relevant date(s), sales price(s), rent assessed, and the nature of the portion or interest sold or leased;
8. A copy of any title report, litigation guarantee or similar document that might have been prepared in connection with all or a portion of the property, together with a statement of when the document was prepared and for what purpose (e.g., refinancing, sale, purchase, etc.);
9. The approximate date and offered price of any offers to buy all or a portion of the property since the time the applicants purchased the property;
10. The costs associated with ownership of the property on an annualized basis for the last five calendar years. These costs should include, but not necessarily be limited to, the following:
 - property taxes
 - property assessments
 - debt service, including mortgage and interest costs; and
 - operation and management costs; and
11. Whether apart from any rent received from leasing all or a portion of the property (see question #7 above), current or past use of the property generates any income. If the answer is yes, the amount of generated income on an annualized basis for the past five calendar years and a description of the use(s) that generates or has generated such income.

Without the above information, the Commission cannot reach a final determination concerning the consistency of the project with the LCP provisions regulating development near Environmentally Sensitive Habitat Areas (ESHA), the establishment of appropriate buffer areas, and the project's consistency with Coastal Act Section 30010. Therefore, before the Commission can act on the proposed project *de novo*, the applicant must submit all of the above-identified information.

EXHIBITS

1. Regional Location Map
2. Vicinity Map
3. Site Plan
4. Notice of Final Local Action
5. Appeal
6. Biological Assessment





Project Location

JAGER

1 inch equals 2,000 feet

Jager

EXHIBIT NO. 2

APPEAL NO.

A-1-DNC-08-038

JAGER

VICINITY MAP

Portion of Crescent City & Sister Rocks
7.5" Quad Map
Contour Interval 40 feet
Photo revised 1978

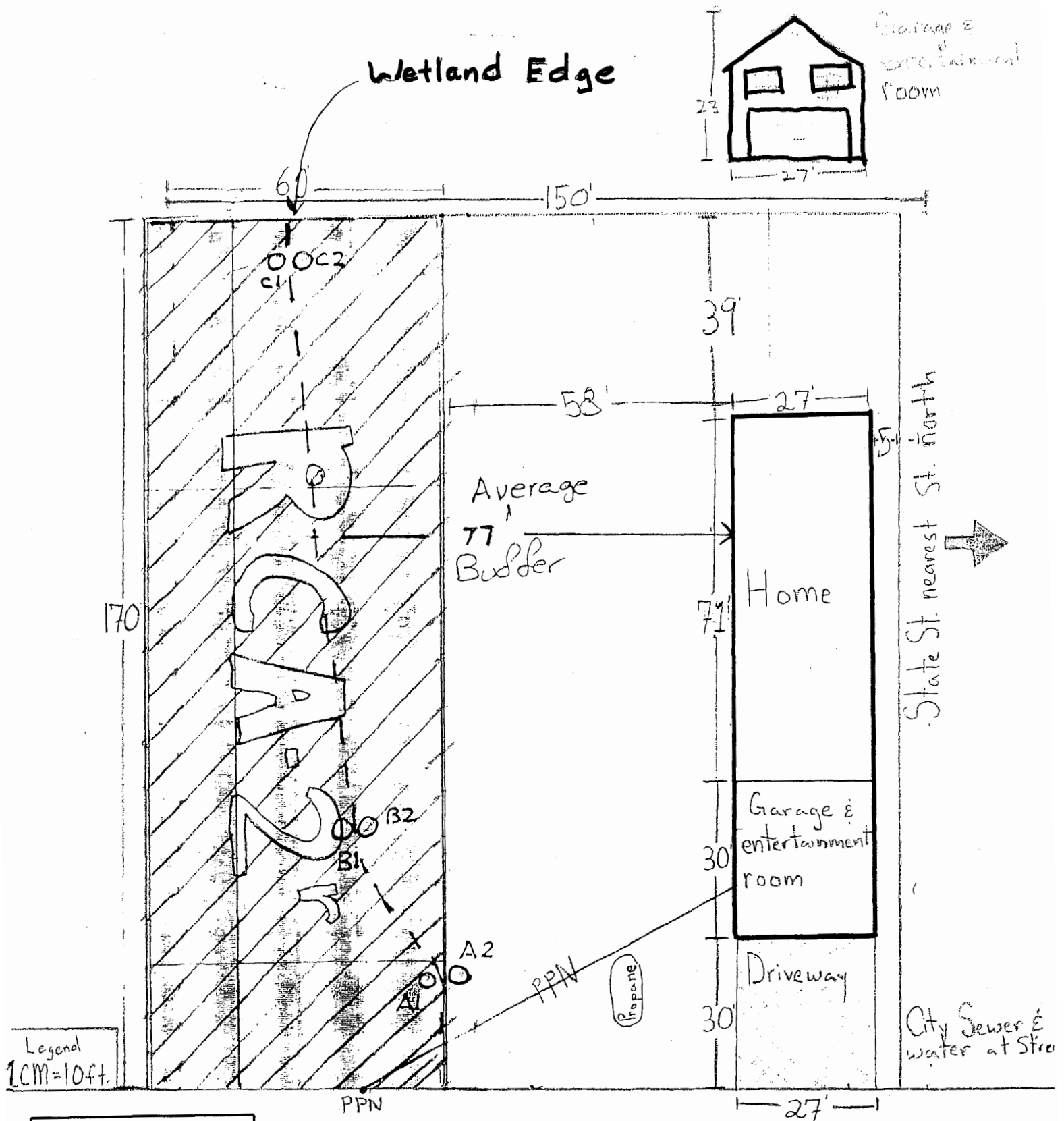


EXHIBIT NO. 3

APPEAL NO.

A-1-DNC-08-038

JAGER

SITE PLAN

Humboldt Road

Figure 3. Location of proposed homesite relative to zoned RCA-2r, wetland edge with average 77 foot buffer, and sample plot locations (A,B&C). Scale 1 cm. = 10 feet.

DEL NORTE COUNTY COMMUNITY DEVELOPMENT DEPAF
981 H STREET, SUITE 110
CRESCENT CITY, CA 95531

NOTICE OF ACTION

EXHIBIT NO. 4

APPEAL NO.

A-1-DNC-08-038

JAGER

NOTICE OF FINAL ACTION
(1 of 32)

- I. Notice is hereby given that the **Planning Commission** of Del Norte County took the following action on **August 6, 2008** regarding the application for development listed below:

Action: ☒ Approved ☐ Denied ☐ Continued ☐ Recommended EIR
☐ Forwarded to Board of Supervisors

Application Number: M3473C

Project Description: Coastal Development Permit for a New Residence and Attached Garage

Project Location: 312 Humboldt Street, Crescent City

Assessor's Parcel Number: 115-280-16 and 17

Applicant: Nicholas Jager

Applicant's Mailing Address: 1403 Inyo Street, #90, Crescent City, CA 95531

Agent's Name & Address: , ,

RECEIVED

AUG 11 2008

CALIFORNIA
COASTAL COMMISSION

A copy of any conditions of approval and/or findings adopted as part of the above action is attached.

II. If Approved:

- ☒ This County permit or entitlement serves as a Coastal permit. No further action is required unless an appeal is filed in which case you will be notified.

This County permit or entitlement DOES NOT serve as a Coastal permit. Consult the Coastal Zone Permit procedure section of your NOTICE OF APPLICATION STATUS or the Planning Division of the Community Development Department if you have questions.

III. Notice is given that this project:

Is not appealable to the California Coastal Commission, however, a local appeal period does exist.

- ☒ Is appealable to the California Coastal Commission.

- ☒ Any appeal of the above decision must be filed with the Clerk of the Board of Supervisors by Aug 18, 2008 for consideration by the Board of Supervisors.

- ☒ Any action of the Board of Supervisors on this item may be appealed to the California Coastal Commission within 10 working days or 21 calendar days subject to the requirements of Chapter 21.52 DNCC and Coastal Regulations.

Must be forwarded to the California Coastal Commission for final action. You will be notified of its status by the Coastal Commission Office.

(Continued on the next page)

Is not subject to Coastal Commission regulations, however, a local appeal process is available. Written appeals must be filed with the Clerk of the Board of Supervisors by N/A. Consideration will be by the Board of Supervisors.

Requests for deferment of road improvement standards or for modification of road improvement standards must be filed in writing with the Clerk of the Board of Supervisors by Aug 18, 2008, with a copy provided to the Secretary of the Planning Commission. Consideration will be by the Board of Supervisors.

Parcel map must be filed within 24 months of the date of approval.

Record of Survey and new deeds must be filed within 24 months of the date of approval.

New deeds must be filed within 24 months of the date of approval.

EXTENSIONS – MAJOR & MINOR SUBDIVISIONS OR BOUNDARY ADJUSTMENTS – Maps (or Records of Survey/Deeds) must be filed within 12 months after the original date of expiration.

NOTICE – SECTION 1.40.070

The time within which review of this decision must be sought is governed by the California Code of Civil Procedure, Section 1094.6, and the Del Norte County Ordinance Code, Chapter 1.40. Any petition seeking judicial review must be filed in the appropriate court not later than the 90th day following the date on which this decision was made; however, if within 10 days after the decision was made, a request for the record of the proceedings is filed and the required deposit in an amount sufficient to cover the estimated cost of preparation of such record is timely deposited, the time within which such petition may be filed in court is extended to no later than the 30th day following the date on which the record is either personally delivered or mailed to you or your attorney of record.

FISH AND GAME FILING FEES

Projects subject to CEQA are also subject to the following fees as required by the California Department of Fish and Game:

Applicable Fee - ☐ Neg. Dec. (\$1,926.75) ☐ EIR (\$2,656.75) ☐ Exempt

Previous Neg. Dec. Applies # 91023077
This fee is due and payable to the County Clerk's Office. The applicant or agent is responsible for paying the current Fish and Game fee, which is subject to change. If not paid within 5 working days of the date of action of the Planning Commission, your project may be invalid by law (PRC 21089(b)) and will be referred to Fish and Game's Department of Compliance and External Audits in the Clerk's monthly deposit and report to Fish and Game.

ATTENTION APPLICANT

As a subdivider or adjuster of property, this notice is to advise you that **all taxes** must be paid in full prior to the recordation of your map or deeds. If the map or deeds are filed **after December 16th**, you must pay **all taxes due PLUS NEXT YEAR'S TAXES** before the map or deeds can be recorded.

BELOW ARE LISTED THE CONDITIONS OF APPROVAL FOR YOUR PROJECT. PLEASE BE AWARE THAT COMPLIANCE WITH THESE CONDITIONS, AS WELL AS ANY APPLICABLE COUNTY STANDARDS, IS YOUR RESPONSIBILITY AS THE APPLICANT. NEITHER THE PLANNING COMMISSION NOR ANY OTHER AGENCY OF THE COUNTY OF DEL NORTE WILL TAKE ANY ACTION TO COMPLY WITH THE CONDITIONS OR DO ANY OTHER WORK TO FINALIZE YOUR PROJECT. YOUR PROJECT WILL NOT BE FINALIZED UNTIL THESE CONDITIONS AND/OR STANDARDS HAVE BEEN MET. IF YOU HAVE ANY QUESTIONS REGARDING THE CONDITIONS AND/OR STANDARDS FOR YOUR PROJECT, YOU SHOULD CONTACT THE DEPARTMENT OR AGENCY WHICH REQUIRED THAT CONDITION AND/OR STANDARD

- 1) The project shall be developed in substantial accord with the submitted plot plan and elevation plans as submitted. Changes in the project may require additional review by the Planning Division and/or Planning Commission;
- 2) The project shall comply with the requirements of the California Fire Code applicable at the time of complete application (7/2008);
- 3) The proposed residence shall connect to community water per the Bertsch Ocean View Community Services District (City of Crescent City) and pay any applicable fees;
- 4) The proposed residence shall connect to community sewer per the Bertsch Ocean View Community Services District (City of Crescent City) and pay any applicable fees;
- 5) Exterior lighting is required to comply with Title 21 Coastal Zoning – General Provisions- Chapter 21 Section 46.050 which requires that all direct light be confined to the subject premises. All exterior lights, including any lights attached to the outside of the buildings, shall be the minimum necessary for the safe ingress, egress, and use of the structures, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward;
- 6) It is the policy of the County of Del Norte that should any archaeological resources be found during site excavation for the proposed addition, construction activities shall be halted until an evaluation of the find is made either by a qualified archaeologist or a representative of a local Rancheria or Rancherias;
- 7) No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist at the site of the proposed development. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property;
- 8) No development, as defined in Section 21.04.195 of Del Norte County Code shall occur within the areas labeled "AREA A", "AREA B" and "AREA C" on Exhibit H attached to this staff report except for:
 - A. The portion of the open space area labeled "Area C", 30 feet from the residence and attached garage and entertainment room toward the ESHA, will be permitted to remove flammable vegetation and other combustible growth within 30 feet of each building allowing single specimens of trees or other vegetation is to be retained provided they are well-spaced, well pruned, and create a condition that avoids spread of fire to other vegetation or to a building or structure.
 - B. The area of the property labeled as "Area B" within 58 feet of the permitted structures can remove the selected trees as shown on the trees and any invasive plant species.
- 9) Prior to final issuance of the building permit, the applicant shall submit for the review and approval of the County, a deed restriction with a legal description and graphic depiction of the portion of the subject property affected by condition 8 above, as generally described above and shown on Exhibit H attached to this staff report. Upon approval by the County, the deed restriction shall be recorded at the applicant's expense;
- 10) Prior to final inspection or occupancy, the applicant shall plant the following:
 - a. for every 20 square feet of area, approximately 1 alder or willow tree should be planted for the entire distance between the east and west property line in the area labeled "Area B" on Exhibit H;
 - b. a minimum of 85 plants should be planted of which they should be a mix of willow or alder.

- 11) Prior to final inspection or occupancy, the applicant shall submit a biology monitoring report to the Planning Division for approval verifying completion of all necessary field work and monitoring. This report will be forwarded to the California Fish Department of Fish and Game for review;
- 12) Monitoring of the planting shall be required for a minimum of 3 years. A biology monitoring report shall be submitted to the County Community Development Department, Planning Division annually, on or before August 6 of each year. The report shall be prepared by a qualified biologist or botanist and contain reporting information related to the revegetation plan. The report will be forwarded to the California Department of Fish and Game for review. If the rate of success of the planting is not deemed adequate, the revegetation plan may require modification;
- 13) Prior to the issuance of the Building Permit, an Erosion and runoff control plan shall be submitted to the Community Development Department, Engineering and Surveying Division for review and approval by the County Engineer. The Erosion and Runoff Control Plan Component shall have the following;
 - A. The Erosion and Runoff Control Plan shall demonstrate that:
 - 1) During construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and water resources;
 - 2) The following temporary erosion control measures, as described in detail within the January 2003 "California Stormwater BMP Handbook – Construction", developed by Camp, Dresser & McKee, *et al.* For the Storm Water Quality Task Force, shall be used during construction: *Scheduling* (EC-a), *Preservation of Existing Vegetation* (EC-2), *Velocity Dissipation Devices* (EC-10), *Stabilized Construction Roadway* (TC-2), *Silt Fences* (SE1), and *Storm Drain Inlet Protection* (SE-10); and
 - 3) Following construction, erosion and runoff on the site shall be controlled to avoid adverse impacts on adjacent properties and water resources.
 - B. The Plan shall include, at a minimum, the following components:
 - 1) A narrative report describing all temporary runoff and erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control;
 - 2) A site plan showing the location of all temporary erosion control measures;
 - 3) A schedule for installation and removal of the temporary erosion control measures;
 - 4) A site plan showing the location of all permanent erosion control measures; and,
 - 5) A schedule for installation and maintenance of the permanent erosion control measures.
 - C. The applicant shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the County Engineer;
- 14) An encroachment permit must be obtained for any work in the County right of way on Humboldt Road;
- 15) A Notice of Conditional Approval shall be recorded at the time of issuance of the building permit at the applicant's expense. Such notice shall contain a signature block of the owners of record of the subject property and shall be notarized at the applicant's expense; and
- 16) This entitlement is specifically conditioned on the applicant agreeing to indemnify and hold harmless the County of Del Norte, the Planning Commission of the County of Del Norte, the Board of Supervisors of the County of Del Norte, their officers, employees and agents against any and all claims arising out of the issuance of the entitlement and specifically against any expense arising from defending any legal actions challenging the value of time devoted to such defense by County officers, employees and agents and the amount of any judgment, including costs of suit and attorney fees, recovered against the County or any of its officers, employees or agent in such legal action. The County of Del Norte reserves the option to either undertake the defense to the applicant or to tender such defense to the applicant. Should the County tender such defense to the applicant and the applicant fail or neglect to diligently defend such legal action, the County may consider such failure or neglect to be a material breach of this condition and forthwith revoke this entitlement.

Agent: None

APP# M3473C

STAFF REPORT

APPLICANT: Nicholas and Christina Jager

APPLYING FOR: Coastal Development Permit for a New Residence with Attached Garage

AP#: 115-280-16 and 17

LOCATION: 312 Humboldt Road, Crescent City

PARCEL(S)
SIZE: .59 acre

EXISTING
USE: Vacant

EXISTING
STRUCTURES: None

PLANNING AREA: 41

GENERAL PLAN: UR(6/1), RCA

ADJ. GEN. PLAN:

ZONING: R1B6 & RCA-2(r)

ADJ. ZONING: Same, RCA-1

1. PROCESSING CATEGORY: NON-COASTAL APPEALABLE COASTAL X
NON-APPEALABLE COASTAL PROJECT REVIEW APPEAL

2. FIELD REVIEW NOTES: DATE: 1/4/08 HEALTH DEPT X BUILDING INSP X
PLANNING X ENGINEERING/SURVEYING X

ACCESS: Humboldt Road ADJ. USES: Residential
TOPOGRAPHY: Relatively Flat and Wooded DRAINAGE: Surface

DATE OF COMPLETE APPLICATION: July 11, 2008

3. ERC RECOMMENDATION: Previously adopted Negative Declaration applies (State Clearinghouse #91023077. Post Public Hearing Notice. Approval with conditions listed below:

4. STAFF RECOMMENDATION:

Project Overview

Nicholas and Christina Jager have submitted a Coastal Development Permit to place a manufactured home with a stick built garage addition on their undeveloped parcel. The parcel is located on the west side of Humboldt Road approximately 180 feet south of the Humboldt Road and State Street intersection and is located between two parcels that are developed with single family residences. Existing sewer collection lines and public water lines are in place and will provide services to the proposed residence. Primary access to the parcel will be from a new encroachment from Humboldt Road as shown on the attached plot plan. The project site is composed of two separate legal parcels acquired by the applicants that were recently merged into a single parcel (not reflected on Assessor Parcel Map at this time). The southerly parcel (APN 115-280-17) is approximately 125 feet wide and 170 feet long and the northerly parcel (APN 115-280-16) is 25 ft wide by 170 feet long. The northerly parcel was purchased November 9, 2007 by the applicants in an effort to locate their proposed residence as far as possible away from a

small drainage swale located on the southerly portion of the parcel. The combined acreage of the project area is 25, 500 square feet or .59 acre. A copy of the Assessor's Parcel Map for the project is attached as Exhibit A.

The project site is located in a substantially developed urban area, with residences located to the north, south, northwest and a major County Road (Humboldt Road) along its east boundary. The project area has a split zoning of R1-B6 (One-Family Residence – B Combining District – 6,000 square feet minimum lot size) and RCA-2(r) (Designated Resource Conservation Area – Riparian Habitat). Exhibit B shows the boundary between the zoning designations. The project site is over 1000 feet from the nearest State-owned property and is located over 1500 feet downstream (diagonally) to State-owned property.

The R1-B6 zone district is found in Chapter 21.19 of the implementing zoning of the Local Coastal Plan (LCP). A single-family residence is the principal permitted use in this zone district. Accessory buildings and accessory uses appurtenant to the single-family residence and home occupations are also included in conjunction with the one-family residence. Building height maximum is twenty-five feet and the minimum lot area is to be not less than 6,000 square feet. The proposed residence as submitted is a permitted use under Chapter 21.19 of the Del Norte County Code.

The RCA-2 (r) zone district is found in Chapter 21.11A of the implementing zoning of the LCP. The designated resource conservation area zone is intended to designate the location and type of resource conservation areas for which specific data has been reviewed, set forth uses and development guidelines for the various sensitive habitat areas and establish any special requirements for development permits in order to protect and enhance the quality and productivity of these sensitive resources areas as mandated by state and federal regulations. In the case of the subject parcel, the southern portion is designated to protect riparian habitat associated with an intermittent drainage swale. Riparian habitat is usually located adjacent to rivers and streams with a differing density, diversity, and productivity of plant and animal species relative to nearby uplands. Pursuant to our adopted LCP, permitted uses within a designated riparian area include:

- 1) nature study, fish and wildlife management, hunting and fishing;
- 2) firewood removal by the property owner for on-site residential use;
- 3) commercial timber harvest of conifers pursuant to California Department of Forestry Forest Practice Rules for special treatment areas and stream protection zones where:
 - a. heavy equipment is not used; and
 - b. at least fifty percent of the coniferous tree canopy and all of the hardwood tree canopy is retained.
- 4) wells, within rural areas;
- 5) maintenance of existing flood-control and drainage channels;
- 6) roads, road maintenance and repair. (§21.11A.030E)

The General Plan Land Use designations for the project site are Urban Residential – 0 to 6 dwelling units per acre and Resource Conservation Area, located along the drainage swale. The land use and zoning designations are consistent for the project site.

With respect to the parcel's physical characteristics, the south portion of the parcel includes a narrow (1-2 feet) drainage swale running in an east-west direction with no evident bank. The swale is subject to seasonal flow during the rainy months. Hydrophytic plants including skunk cabbage and slough sedge immediate the swale while Red alder and understory of salmonberry are located in a transitional area to its north. Mixed in with these hydrophytic species were upland plant species including swordfern,

Himalayan blackberry, scotch broom and cotoneaster. The remainder of the parcel consists of a stand of second-growth spruce and Douglas-fir on an elevated slope above the drainage swale. Beginning above the salmonberry area is an infestation of English Ivy, which covers most of the understory up the slope into the large trees, which are also covered with this invasive plan.

Project Area Background

In 1991, Rafael Ramirez, then owner, applied for a RCA Rezone of the southerly parcel in order to designate a future building site on the parcel. Exhibit C illustrates the zoning on the parcel prior to his approval. As part of the rezone application the applicants submitted information delineating the parcel's topography, drainages and vegetation groups. The property was characterized by mild to moderate, south facing slopes terminating at a swale which contained some standing water and wetland plant species. The drainage swale was bisected by the construction of Humboldt Road.

The applicants' original submittal was to designate or rezone the southern 40 feet of the parcel as riparian habitat (RCA-2(r) with the remaining acreage being zoned for residential use (R1-B6-MFH). As part of the staff review of the project, it was recommended that the riparian buffer be expanded an additional 20 feet (to 60 feet) in order to include the area from the edge of the lowest portion of the swale to the upper slope of the swale which is approximately 5 feet higher in elevation. The buffer was also expanded to include the north 10 feet of the APN 115-280-18 which is located immediately south of the project site. The expanded riparian buffer would protect fill or other types of development from abutting directly against the wetland area. With approximately 60 feet wide by 170 feet long designated as RCA-2 (r), the remaining 65 feet wide by 170 feet long would be available for future development. The area is served by public water and sewer, therefore the area would be adequately sized for a residence. The project, with the 60 riparian buffer, was approved by the County Planning Commission, Board of Supervisors and the California Coastal Commission as a Minor Amendment to the County's Local Coastal Program (LCP Amendment No. 3-91). The California Department of Fish and Game were also in concurrence with the buffer of 60 feet on the subject parcel and 10 feet on the parcel to the south for a total riparian buffer of 70 feet. A copy of the Planning Commission Staff Report and Action of the Coastal Commission are attached as Exhibits D and E.

Project Proposal

In 2004, Mr. Ramirez deeded the property to his daughter and her husband (the present applicants) so that they could develop the parcel with a residence as he had originally intended. As mentioned earlier, the present applicants purchased the adjoining parcel to the north in 2007 as a way to expand their potential building area. In January 2008, the applicants submitted plans to place a 40.5 foot wide by 60 long (2,430 sq. ft.) manufactured home with an attached 24 foot wide by 24 foot long (576 sq. ft.) garage on the northern portion of the parcel. The proposal would have the residence located approximately 37.5 feet from the north edge of the designated RCA-2 (r) portion of their parcel. Due to the parcel's proximity to a designated Resource Conservation Area, the applicants were required to file their building permit as a Coastal Development Permit and to submit supplemental information regarding the current biological conditions on the parcel.

In March 2008, the applicants submitted a revised plot plan that replaced the originally proposed manufactured home with a 27 foot wide by 71 foot long manufactured home with an attached 27 foot wide by 30 foot long garage and entertainment room. The maximum height of the structure is 23 feet high which allows for a second story on the garage for an entertainment room. The total structure would be located approximately 5 feet from their north property line. The plot plan was accompanied with a Biological Assessment prepared by Galea Wildlife Consulting (GWC). The Assessment found that

wetland habitat extended approximately 18 feet north of the property line and that a 100 foot wetland/riparian buffer measured from the wetland habitat edge be placed on the project. The residence as proposed would be exactly 100 feet from the "wetland edge" and 58 feet from the edge of the RCA-2(R) zoned area. Because the wetland edge was described as an "average", staff requested GWC revisit the site and perform a formal delineation to supplement his original findings. The current proposal exceeds the previously approved RCA-2 (r) zoned area (R9109C), adding additional protection to the drainage area and related habitat. Below is a discussion of the final Biological Assessment/Wetland Delineation submitted in July 2008. The full Assessment is included as Exhibit F.

Biological Assessment and Wetland Delineation

The methodology used by GWC to prepare the report included a records search of the California Department Fish and Game's (CDFG) Natural Diversity Data Base (2008) to determine if any additional special-status plant or wildlife species had been previously reported within or near the project area, a field investigation of the project area and wetland delineation.

A summary of those federal and state-listed and sensitive wildlife species and their map locations are shown on Figure 2 and listed in Table 1 of the GWC Assessment which is included with this report. Table 2 of the GWC is a summary of the federal and state-listed sensitive plant species that potentially occur within the assessment area.

According to the GWC Assessment, several potentially sensitive plants were recorded as occurring in the general area, especially in the wetland complex (Crescent City Marsh) located to the south near Highway 101. They include the Western Lily, Marsh pea, Arctic starflower, Lyngbye's sedge, maple leaved checkerbloom, Great burnet and vanilla-grass. Although not listed in the CNDDDB as occurring in the assessment area, the cutthroat trout and the northern red-legged frog are included in GWC's report as potentially occurring in the assessment area, due to experience with local species and conditions.

GWC's field investigation did not reveal the potential for any Federally listed threatened or endangered wildlife species within the project area. No occurrences of threatened, endangered or otherwise sensitive wildlife species are listed in the CNDDDB for the project site or in the immediate area (1-mile). Furthermore, GWC finds that the small size of the stand of trees on the property does not provide habitat for species dependent upon mid or late seral habitats.

The field investigation revealed large, broken tree tops and branches that demonstrated the exposure to wind by these trees, which makes them poor nesting habitat for larger birds. No nest structures were observed.

With regard to fish, the drainage swale is too small and shallow for fish to utilize. The creek located approximately ¼ mile to the south, however, likely contains coastal cutthroat trout. According to GWC, it is likely that the drainage swale drains into this creek some distance southwest of the property. The proposed 70 foot buffer, which is discussed below, is recommended by GWC is sufficient to protect the local fisheries population. The northern red-legged frog, a California Species of Concern (CSC), has the potential to occur on the project site. While GWC did not identify any frogs during the field investigation, potential habitat does exist in the drainage swale. The proposed 77 foot buffer, says GWC, will insure protection of habitat for this species.

GWC reviewed the property for the sensitive plant species included in Table 2. the only Federally listed species is the western lily, which occurs in specific habitat types not found on the property. The remainder of the listed plants are primarily associated with marshes, such as those found the southwest,

where most of the records of these plants are occurring from. GWC notes that the drainage swale is the only potential for habitat for any sensitive species on the property and that it will be protected with the 77 foot buffer.

Wetland Delineation

As stated earlier, GWC performed a wetland delineation of the project site to determine the extent of wetland adjacent to the drainage swale. The wetland delineation was conducted in accordance with the currently applicable U.S. Army Corps of Engineers (ACOE) 1987 Wetland Delineation Manual. The ACOE utilizes a three-parameter method for making wetland determinations. It is based on the presence of three wetland indicators: wetland hydrology, predominance of hydrophytic plants and hydric soils. Within the California Coastal Zone, a 1-parameter method is used to determine the existence of wetlands. As such, the subject parcel, which is located within the Coastal Zone, was examined using the 1-parameter method.

The delineation determined that the wetland was widest in proximity to Humboldt Road which GWC explains is likely due to non-natural drainage conditions at the site, caused by the berming of Humboldt Road. Wetlands extended to approximately 60 feet north of the south property line, 20 feet west of Humboldt Road as shown on Plot A1 on Exhibit G. Farther west on the property, the wetland line becomes more restricted toward the drainage swale, extending only 40 feet north of the south property line as shown on Plot B1 on Exhibit G. The wetland line then continued at the same distance, as at the west end of the property to a distance of 33 feet north of the property corner. Based on GWC's calculations, the project would have a minimum of 55 feet of buffer to wetlands at the east end of the property (Plot A1) and a maximum of 93 feet at the west end (near Plot C1). The overall average, which is calculated from four points, would be a buffer width of 77 feet. A full copy of the GWC Biological Assessment with the wetland delineation data forms is attached to this Staff Report.

Request for a Reduced Buffer

The recommended setback from wetlands is 100 feet within the standards of the County Local Coastal Plan. This project would not comply with the recommended setback of 100 feet. The LCP also provides that a buffer of less than 100 feet may be utilized where it can be determined that there is no adverse impact on the wetland. The Coastal Commission has provided guidance on the criteria for reviewing proposed development adjacent to wetland and other environmentally sensitive habitats (ESHA) and a standard of review for reduced buffers. The applicable LCP policies regarding reduced buffers are as follows:

The Marine and Water Resources Policy VII.D.4f

f. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of one-hundred feet in width. A buffer of less than one-hundred feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to utilize a buffer area of less than one-hundred feet shall be done in cooperation with the California Department of Fish and Game and the County's determination shall be based upon specific findings as to the adequacy of the proposed buffer to protect the identified resource. Firewood removal by owner for on site use and commercial timber harvest pursuant to the CDF timber harvest requirements are to be considered as allowable uses within one-hundred foot buffer areas.

In order to address the reduction in the width of the buffer, GWC responded to the seven standards of review required by the California Coastal Commission in its interpretative guidelines for buffers of less than 100 feet. A discussion of the standards for a reduced width of a buffer as prepared by GWC is as follows:

1. Biological significance of adjacent lands: Immediately north, west and south of the small drainage are homes and residential areas. A major road separates the small drainage from similar habitats to the east. The resource is a very small, narrow drainage with a narrow strip of wetlands. There are therefore no lands adjacent with biological significance.
2. Sensitivity of species to disturbance: The resource is very small and is dry during summer months. It has little potential for use by wildlife due to the proximity of several homes and a major road. The most likely species using this resource area would be small frogs, which likely do not have a high sensitivity to disturbance if they are there as there is an existing home within 20 feet of the drainage already. A 77 foot buffer from this project would be sufficient to prevent disturbance.
3. Susceptibility of parcel to erosion: The small amount of water which moves seasonally through the resource is minimal with no potential for erosion. A 77 foot buffer would be more than sufficient to prevent erosion from development such as a single family residence.
4. Use of natural, topographic features to locate development: The Applicants are proposing a house site as physically distant from the RCA area as possible. There are no topographic features to utilize other than the top of the slope found at the far north end of the property, which is the location planned for the home site.
5. Use of existing cultural features to locate buffer zones: There are no existing cultural features to aid in screening the resource.
6. Lot configuration and location of existing development: This project is very limited in design capability. Two lots were already combined to allow for one building site. Project designers are using the only flat area as the location for the home site. The house site has been configured to be the maximum distance from the resource.
7. Type and scale of development proposed: This project proposes to create one residential homesite out of two lots. Homesite location is limited due to RCA buffers, and the locations of a suitable, flat building site. The scale of the project is directly comparable to other homes in the immediate area.

Furthermore, GWC states that the project area does not meet the definition of an "environmentally sensitive area" as defined in Public Resource Code Section 30107.5. The Coastal Act definition of environmentally sensitive habitat, or environmentally sensitive habitat area (the two descriptions are the same) is:

30107.5: *"Environmentally sensitive area" means any area 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. "*

According to GWC, examples of areas with a "special nature" include unusually pristine habitat types that contain either an unusual mix of species, support species at the edge of their range, or contain species

with extreme variation. GWC states that the wetland habitat found on the subject parcel provides little or no habitat to wildlife, and does not support rare species. With respect to the parcels role in an ecosystem, GWC notes that the project site area does not provide essential habitat for rare, threatened or endangered species nor does it provide contiguous to or provide direct connectivity between preserves or property that meet ESHA criteria and therefore contribute to the long-term viability of an area by providing buffers and/or corridors for species migration and movements. Lastly, GWC explains that the average buffer of 77 that is comprised of dense, brushy vegetation would be more than adequate to protect the resources within the drainage swale and therefore prevent disturbance or degradation by human activities.

A field review of the project site was conducted on July 16, 2008 by Michael van Hattem, an Environmental Scientist with the California Department of Fish and Game staff and Heidi Kunstal of the County Planning staff. Based on the field review, Mr. van Hattem was in agreement with the wetland boundary line assuming it was located between the pits that he and Ms. Kunstal evaluated in the field. Mr. van Hattem was generally in agreement with the reduced buffer assuming that the conditions of approval related to the revegetation plan were strictly adhered to. Specifically, at his request, condition 11 was amended to include CDFG review of the biology reporting plan prior to issuance of the Certificate of Occupancy. Additionally, condition 12 was added that requires the applicant to submit annually for a minimum of 3 years a monitoring report that would assess the rate of success of the revegetation plan. The report would be reviewed by the County and CDFG staff. If the revegetation plan was not achieving a reasonable plant survival goal, the plan may require modification.

Vegetation Removal

As noted earlier, the proposed building site is located at the top of the upland on the north side of the property. As most of the wind in the area comes from the south, the majority of the tall trees on the hillside would have to be removed, primarily as a safety issue. The conifer stand on the property would be located immediately south of the home, which would be very unsafe during high wind events as there is no wind-break for this stand. According to GWC, post-harvest, the open ground would likely result in a dense stand of brush growing between the house and the wetlands, provided an excellent vegetative buffer. Exhibit H illustrates the trees by location and type that the applicants propose to remove as part of the project. While 19 trees are located within the recommended wetland buffer, no trees are proposed to be removed within the designated RCA-2(r) zoned area. GWC states in its report that the stand of trees is relatively narrow and small and is not connected to any other woodlands. As mentioned earlier, there was no evidence of nesting birds in this stand during a search for nests and other sign during GWC's field investigation. In GWC's opinion, the harvesting of this stand would have no significant impacts to wildlife in the area.

As a mitigation plan for the tree removal, the applicants propose to supplement the buffer to wetlands by removing invasive, non-native plants and planting additional willows and alders adjacent to the wetlands. It is recommended that planting of the trees not occur within 30 feet of the structure for fire safety considerations. Outside of the 30 foot area, a dense screen of willows and alders will be planted at approximately 1 planting for every twenty square feet of area for the entire distance between the east and west property line. According to GWC this would result in the planting of approximately 85 saplings, mixed between the two species. The new trees will (1) increase the screening between wetlands and the project area; (2) replace and compensate for the removal of conifers in proximity to the wetlands; (3) provide for nesting habitat for avian species; and (4) replace and remove non-native invasive plants and prevent their becoming re-established adjacent to the wetlands. Conditions 7 and 10 reflect this

requirement. The plantings will be required to be made prior to the issuance of the Certificate of Occupancy for the residence.

In April 2008, the applicants received a Less than 3 Acre Conversion Exemption from the California Department of Forestry and Fire Protection (Exhibit I). The permit was issued to develop the lot and to removal possible hazard trees to this parcel. The map that accompanies the Exemption identifies the wetland area and identifies a 50 foot Equipment Exemption Zone (EEZ). According to the California Forest Practice Rules (Section 916.9), vegetation removal or heavy equipment used to removal vegetation is not permitted within this area. This area corresponds with the 60 foot riparian buffer established by the RCA-2(r) zone designation. While Mr. Jager received this permit, at the County's request he chose not to remove any trees until he receives approval for his Coastal Development Permit.

Grading, Drainage, and Erosion Control

The County Engineering and Surveying Division reviewed the project for compliance regulations related to grading and drainage. Condition 13 reflects their requirements that must be met prior to issuance of the Building Permit. The primary requirement is that an erosion and runoff control plan be prepared and submitted to the County Engineer for review and approval. The purpose of the plan is to identify the measures to be implemented to protect water resources and adjacent properties from the potential adverse impacts caused by the project during and after the construction period. In particular, the plan shall include a narrative report describing all temporary and erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control, a site plan showing the location of all temporary erosion control measures; a schedule for installation and removal of the temporary erosion control measures, a site plan showing the location of all permanent erosion control measures; and, a schedule for installation and maintenance of all permanent erosion control measures. According to the County Engineer, Condition 13 address item 2 in the Recommendations and Mitigations section of GWC's Biological Assessment.

Light Glare

Although the current LUP does not have any specific policies related to light emissions and the night sky, the General Provisions of Title 21 – Coastal Zoning includes a section related to lighting (§21.46.050). In order to minimize potential glare from any exterior lighting, a condition has been recommended that requires that all exterior lights be the minimum necessary for the safe ingress and egress of structures and be low-wattage, non-reflective, shielded, and be cast downward.

Visual Resources and Public Access

The proposed development is located within an existing residential area and subdivision (Lot 12 of Block 6 Metropolitan Tract No. 2 – Book 2 of Maps Page 68). The property is not located in a designated highly scenic area as listed in the LCP. As proposed, the project will not involve substantial alteration of the natural landform. There is no public access to the shoreline affected by this project nor are there any established trails on the property that provide public access to the shoreline. The proposed development will not create any new demand for public access or otherwise significantly impact any existing public access.

Environmental Review

Pursuant to State California Environmental Quality Act (CEQA) Guidelines Section 15303 (a) One-single family residence and (e) an appurtenant structures, the project qualifies as categorically exempt from the provisions of CEQA. As described above, the project has been located and conditioned so as to not have a significant effect on the environment. Furthermore, a Negative Declaration (SCH#91023077)

was previously posted for the project site as part of the Ramirez RCA Rezone. GWC states in the Biological Assessment that the site conditions of the project have not changed since 1991. CEQA does not require additional environmental review for projects when the environmental conditions have not changed since the original environmental review (Moss vs. County of Humboldt).

Conclusion and Recommendation

While none of the residential development is located within the RCA-2 (r) zoned area, the County's coastal zoning ordinance, Title 21, permits a single family residence and appurtenant structures within an RCA-2 (r) designated area with a conditional use permit where denial of such would otherwise substantially deny all reasonable use of the parcel and where such development will be sited and designed to prevent impacts which would significantly degrade the environmentally sensitive habitat area (§21.11A.040A). The applicants have taken every effort to site their residence outside of any designated wetland or riparian protection buffer as well as propose to re-vegetate within the non-RCA-2 (r) designated riparian protection buffer (i.e. 28 ft. beyond the wetland edge) to maintain the habitat value of the buffer in a manner that allows them to still develop their parcel. In the County's opinion denial of the permit, would substantially deny all reasonable use of a parcel that was previously approved with a building site by the County and the California Coastal Commission as part of LCP amendment No. 3-91. The project as currently proposed exceeds the setbacks established as part of the previously approved LCP amendment (3-91).

Staff recommends that after consideration of the staff report and its attachments, and after receipt of any public comment and the consideration of such comment, the Commission adopt the recommended findings and approve the issuance of the building permit/Coastal Development Permit (CDP) for the subject parcel with the recommended conditions listed below.

5. FINDINGS:

- A. The issuance of the building permit as a coastal development permit (CDP) conforms with the standards set forth in local coastal plan and exceeds the setback provisions of LCP amendment 3-91.
- B. The Commission finds that pursuant to the Marine and Water Resources policy 4f of the County's certified Local Coastal Program, a determination to utilize a buffer area of less than one-hundred feet has been done in cooperation with the California Department of Fish and Game.
- C. A biological assessment(s) has been prepared regarding the biological significance of adjacent lands, sensitivity of species to disturbance, the susceptibility of the parcel to erosion, and the type and scale of the development proposed. The proposed buffer and deed restrictions in conjunction with the implementation of the listed conditions requiring erosion and sedimentation control and the prohibition of the planting of invasive exotic species is adequate to protect the environmentally sensitive habitat adjacent to the project site from possible disruption generated by the development proposed;
- D. The project, as conditioned and sited on the parcel, is consistent with the policies and standards of the Local Coastal Plan Land Use Plan and Title 21 Zoning for a R1B6 Zone 2;
- E. The building site has been relocated as far as possible from the ESHA and still allow the residence and attached garage/entertainment room to be in compliance with the standards for the R1B6 zone district;
- F. The Notice of Conditional Approval which will formalize acceptance and acknowledgement of the conditions of approval by the applicants and provide constructive notice to subsequent owners and other parties of interest;

- G. The project site is not located between the first public road and the ocean, therefore, the proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act;
- H. Natural features and topography have been considered in the design and siting of all proposed physical improvements and setbacks are adequate to preserve habitat related to the drainage and wetland area;
- I. The proposed clearing of the trees within the areas labeled "Area B" and "Area C" on Exhibit H, are the minimum necessary to achieve a safe and convenient access and siting for the project, and will not create significant adverse effects on the identified sensitive resource;
- J. As conditioned, the project requires revegetation within "Area B" as shown on Exhibit H with native trees which mitigates the removal of the selected trees within this area required to removed for safety purposes;
- K. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage improvements will be designed to prevent soil erosion, and sedimentation of the drainage through undue surface runoff;
- L. The Planning Commission finds that based on the staff report, its attachments and the project design that for the issuance of this building permit for a single-family residence (Approximately 1910 sq. ft. foot print) and attached garage/entertainment room (810 sq. ft. foot print) has been sited and designed to prevent impacts that would significantly degrade the ESHA without otherwise substantially denying the reasonable use of the residentially zoned parcel.

6. CONDITIONS:

- 1) The project shall be developed in substantial accord with the submitted plot plan and elevation plans as submitted. Changes in the project may require additional review by the Planning Division and/or Planning Commission;
- 2) The project shall comply with the requirements of the California Fire Code applicable at the time of complete application (7/2008);
- 3) The proposed residence shall connect to community water per the Bertsch Ocean View Community Services District (City of Crescent City) and pay any applicable fees;
- 4) The proposed residence shall connect to community sewer per the Bertsch Ocean View Community Services District (City of Crescent City) and pay any applicable fees;
- 5) Exterior lighting is required to comply with Title 21 Coastal Zoning – General Provisions- Chapter 21 Section 46.050 which requires that all direct light be confined to the subject premises. All exterior lights, including any lights attached to the outside of the buildings, shall be the minimum necessary for the safe ingress, egress, and use of the structures, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward;
- 6) It is the policy of the County of Del Norte that should any archaeological resources be found during site excavation for the proposed addition, construction activities shall be halted until an evaluation of the find is made either by a qualified archaeologist or a representative of a local Rancheria or Rancherias;
- 7) No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist at the site of the proposed development. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property;
- 8) No development, as defined in Section 21.04.195 of Del Norte County Code shall occur within the areas labeled "AREA A", "AREA B" and "AREA C" on Exhibit H attached to this staff report except

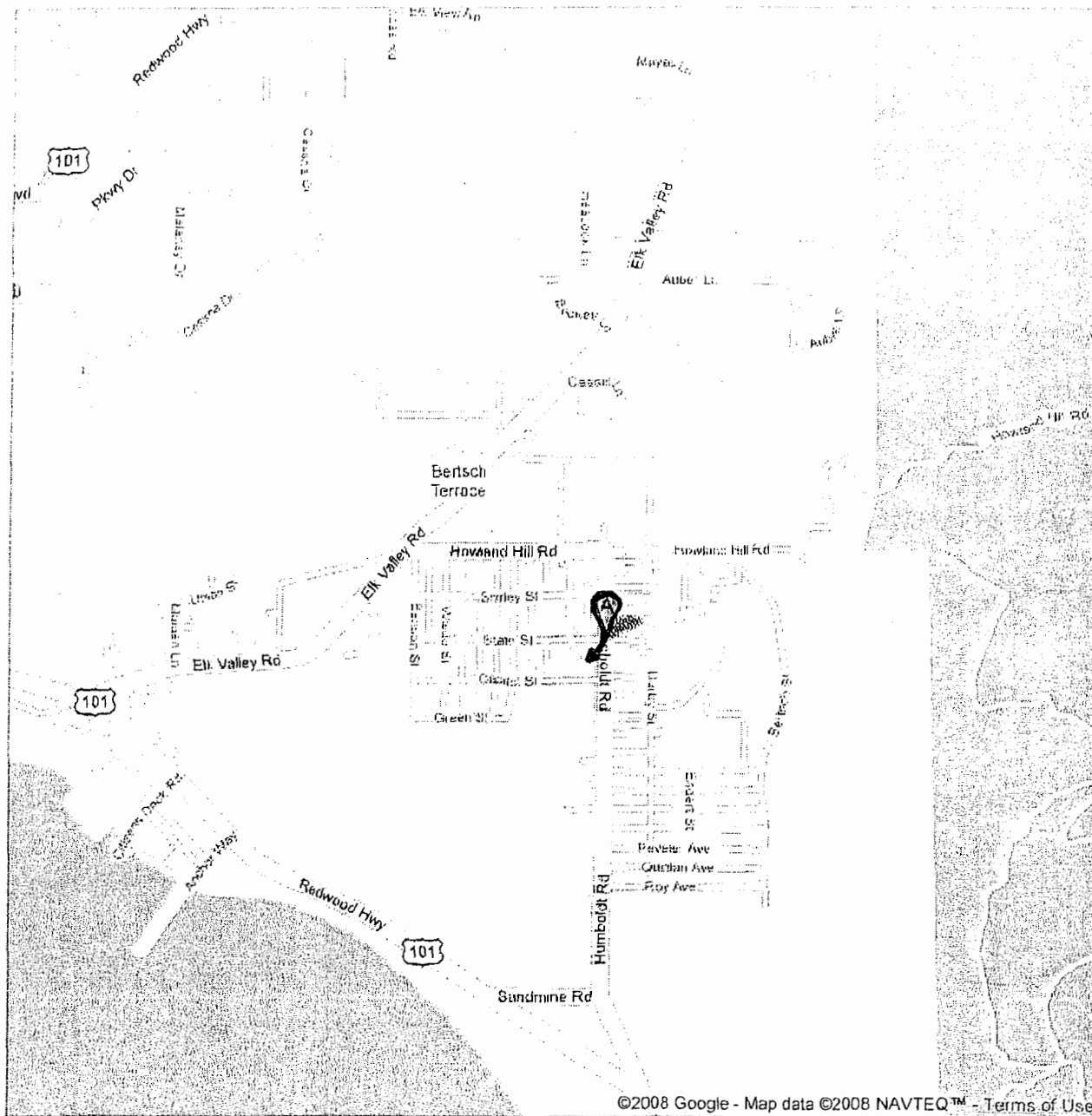
for:

- A. The portion of the open space area labeled "Area C", 30 feet from the residence and attached garage and entertainment room toward the ESHA, will be permitted to remove flammable vegetation and other combustible growth within 30 feet of each building allowing single specimens of trees or other vegetation is to be retained provided they are well-spaced, well pruned, and create a condition that avoids spread of fire to other vegetation or to a building or structure.
 - B. The area of the property labeled as "Area B" within 58 feet of the permitted structures can remove the selected trees as shown on the trees and any invasive plant species.
- 9) Prior to final issuance of the building permit, the applicant shall submit for the review and approval of the County, a deed restriction with a legal description and graphic depiction of the portion of the subject property affected by condition 8 above, as generally described above and shown on Exhibit H attached to this staff report. Upon approval by the County, the deed restriction shall be recorded at the applicant's expense;
 - 10) Prior to final inspection or occupancy, the applicant shall plant the following:
 - a. for every 20 square feet of area, approximately 1 alder or willow tree should be planted for the entire distance between the east and west property line in the area labeled "Area B" on Exhibit H;
 - b. a minimum of 85 plants should be planted of which they should be a mix of willow or alder.
 - 11) Prior to final inspection or occupancy, the applicant shall submit a biology monitoring report to the Planning Division for approval verifying completion of all necessary field work and monitoring. This report will be forwarded to the California Fish Department of Fish and Game for review;
 - 12) Monitoring of the planting shall be required for a minimum of 3 years. A biology monitoring report shall be submitted to the County Community Development Department, Planning Division annually, on or before August 6 of each year. The report shall be prepared by a qualified biologist or botanist and contain reporting information related to the revegetation plan. The report will be forwarded to the California Department of Fish and Game for review. If the rate of success of the planting is not deemed adequate, the revegetation plan may require modification;
 - 13) Prior to the issuance of the Building Permit, an Erosion and runoff control plan shall be submitted to the Community Development Department, Engineering and Surveying Division for review and approval by the County Engineer. The Erosion and Runoff Control Plan Component shall have the following;
 - A. The Erosion and Runoff Control Plan shall demonstrate that:
 - 1) During construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and water resources;
 - 2) The following temporary erosion control measures, as described in detail within the January 2003 "California Stormwater BMP Handbook – Construction", developed by Camp, Dresser & McKee, *et al.* For the Storm Water Quality Task Force, shall be used during construction: *Scheduling* (EC-a), *Preservation of Existing Vegetation* (EC-2), *Velocity Dissipation Devices* (EC-10), *Stabilized Construction Roadway* (TC-2), *Silt Fences* (SE1), and *Storm Drain Inlet Protection* (SE-10); and
 - 3) Following construction, erosion and runoff on the site shall be controlled to avoid adverse impacts on adjacent properties and water resources.
 - B. The Plan shall include, at a minimum, the following components:
 - 1) A narrative report describing all temporary runoff and erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control;
 - 2) A site plan showing the location of all temporary erosion control measures;
 - 3) A schedule for installation and removal of the temporary erosion control measures;

- 4) A site plan showing the location of all permanent erosion control measures; and,
 - 5) A schedule for installation and maintenance of the permanent erosion control measures.
- C. The applicant shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the County Engineer;
- 14) An encroachment permit must be obtained for any work in the County right of way on Humboldt Road;
 - 15) A Notice of Conditional Approval shall be recorded at the time of issuance of the building permit at the applicant's expense. Such notice shall contain a signature block of the owners of record of the subject property and shall be notarized at the applicant's expense; and
 - 16) This entitlement is specifically conditioned on the applicant agreeing to indemnify and hold harmless the County of Del Norte, the Planning Commission of the County of Del Norte, the Board of Supervisors of the County of Del Norte, their officers, employees and agents against any and all claims arising out of the issuance of the entitlement and specifically against any expense arising from defending any legal actions challenging the value of time devoted to such defense by County officers, employees and agents and the amount of any judgment, including costs of suit and attorney fees, recovered against the County or any of its officers, employees or agent in such legal action. The County of Del Norte reserves the option to either undertake the defense to the applicant or to tender such defense to the applicant. Should the County tender such defense to the applicant and the applicant fail or neglect to diligently defend such legal action, the County may consider such failure or neglect to be a material breach of this condition and forthwith revoke this entitlement.

Google

Address 312 Humboldt Rd
Crescent City, CA 95531



① PROJECT SITE

Overview of Project Area

Plot Plan (July 2008)

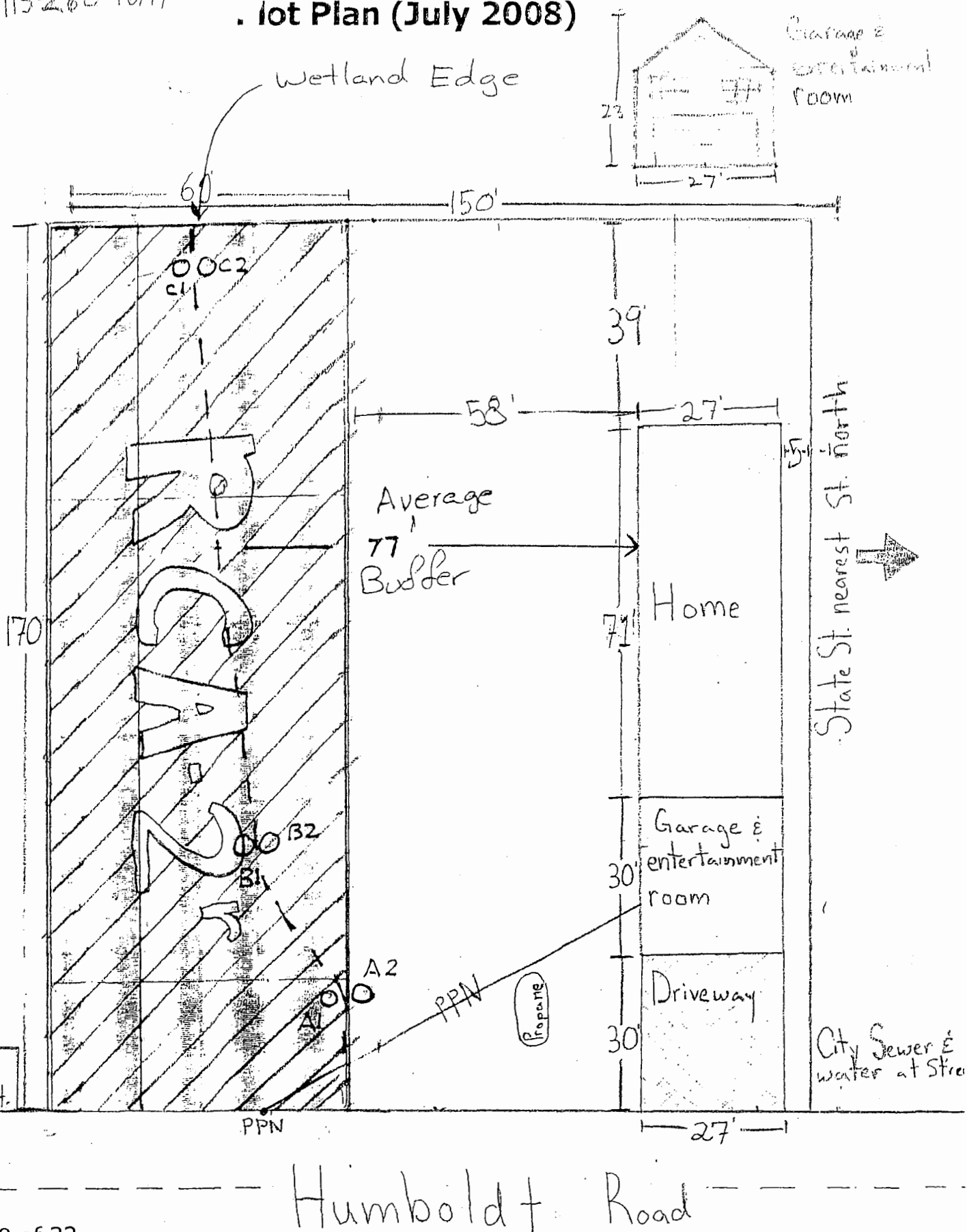


Figure 3. Location of proposed homesite relative to zoned RCA-2r, wetland edge with average 77 foot buffer, and sample plot locations (A,B&C). Scale 1 cm. = 10 feet.

EXHIBIT B

Current Zoning Map

PROJECT SITE

RCA-2(F)
B9109C

-B6-MFH R9502C

1-B20-D
ZONE 6
8709C

Section 21.06.050 Ordinance 83-03
DEL NORTE CO. ZONING MAP
AREA C-10

SECTIONS 27, 28, 34
TWP 16 N RGE 1 W HB 8 M
CRESCENT CITY AREA

APPROVED BY PLANNING COMMISSION *Mike E. Donahue*
APPROVED BY BOARD OF SUPERVISORS *Richard L. Brown*

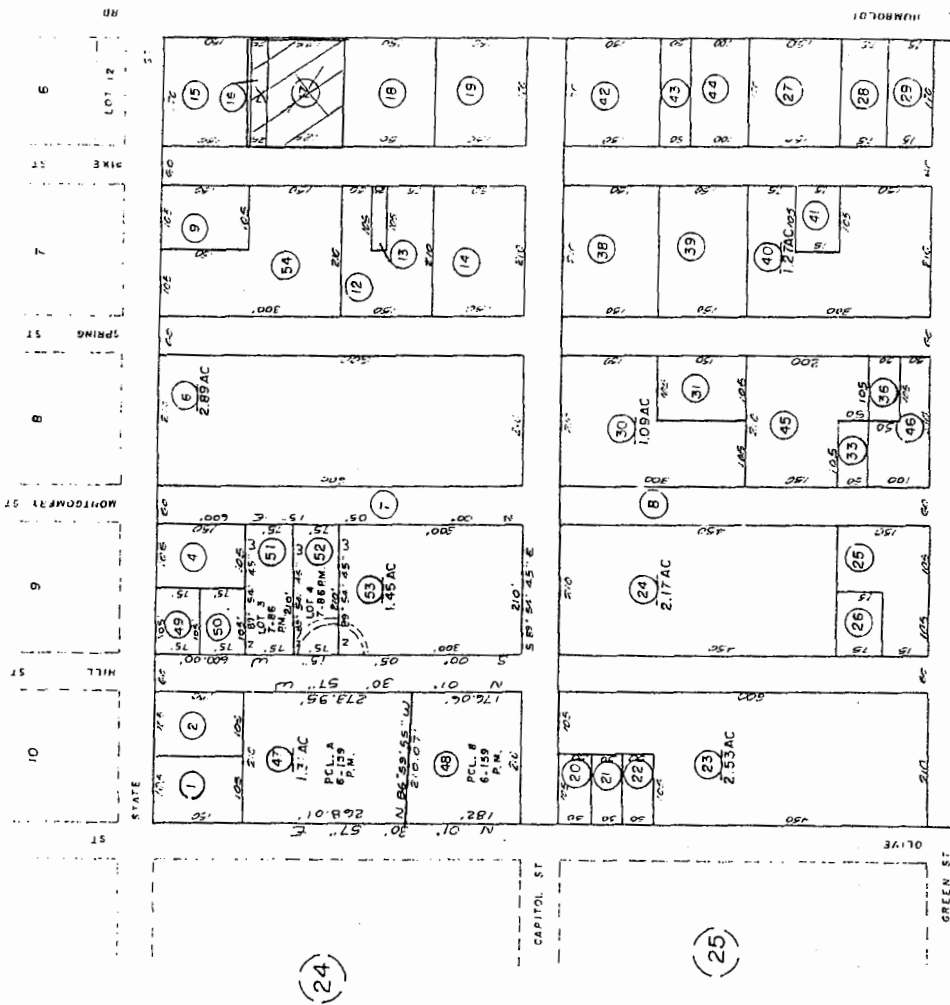
Yard Widths B Districts
Zone Front Rear Side
2 25' 10' 5'
6 As per basic residential zone

Round Rock

THIS IS NOT AN OFFICIAL MAP
FOR ASSESSMENT PURPOSES ONLY

(27)

METROPOLITAN TRACT NO. 2



(02)

EXHIBIT A

Assessor Parcel Map

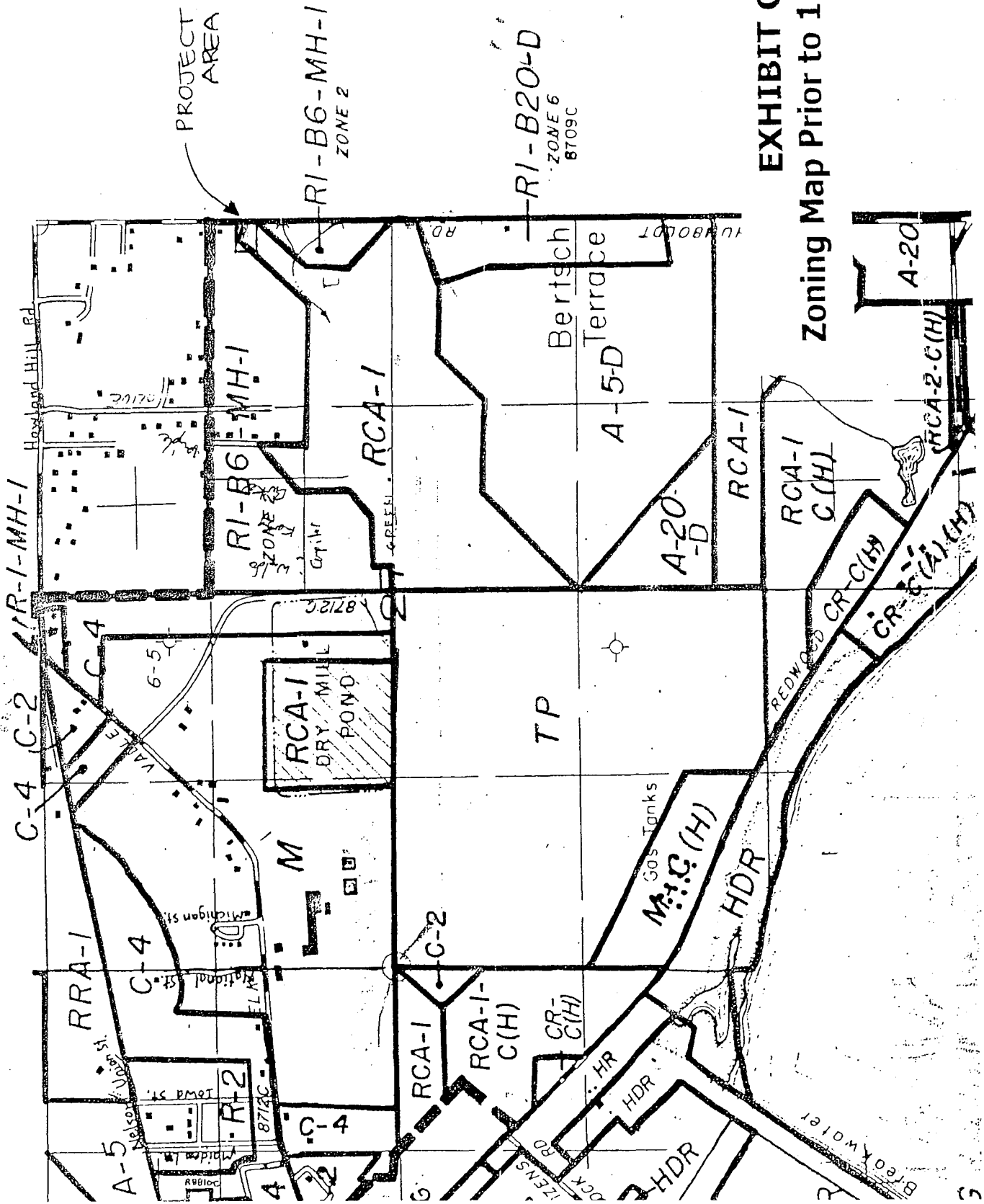


EXHIBIT C
Zoning Map Prior to 1991 Rezone

EXHIBIT D
Planning Commission Staff Report
Rafael Ramirez RCA Rezone R9109C

Agent: Mike Young

STAFF REPORT

APP# R9109C

APPLICANT: Rafael Ramirez

APPLYING FOR: RCA Rezone

AP#: 115-280-17,18 LOCATION: Humboldt Rd. South of State St.

PARCEL(S)

EXISTING

EXISTING

SIZE: .48 acres

USE: none

STRUCTURES: vacant

PLANNING AREA: 07 GENERAL PLAN: UR (6dw./acre), RCA

ADJ. GEN. PLAN: same

ZONING: RCA-1, R1-B6-MH

ADJ. ZONING: same

1. PROCESSING CATEGORY: NON-COASTAL APPEALABLE COASTAL X
NON-APPEALABLE COASTAL PROJECT REVIEW APPEAL

2. FIELD REVIEW NOTES: DATE: 03/08/91 HEALTH DEPT BUILDING DEPT X
PLANNING DEPT X PUBLIC WORKS DEPT X

ACCESS: Humboldt Rd.

ADJ. USES: Res.

TOPOGRAPHY: Gently sloping to south DRAINAGE: Surface

3. ERC RECOMMENDATION: Negative Declaration and approval of staff revised proposal.

4. STAFF RECOMMENDATION:

Rafael Ramirez has applied for a Rezone of the portion of his .48 acre parcel currently zoned RCA-1 (General Resource Conservation Area) to RCA-2r (Designated Resource Conservation Area - Riparian) and R1-B6-MH (Residential - 6,000sq.ft. minimum - mobiles permitted). The parcel is located on the west side of Humboldt Road, 180' south of State Street. The property is presently vacant and the rezone is necessary for placement of a single family residence on the site.

Adequate data has been submitted by the applicant's agent, Mike Young, delineating topography, drainages and vegetation groups. The property is characterized by mild to moderate, south facing slopes terminating at a swale which contains some standing water and wetland plant species (ie. sedges, skunk cabbage). The swale, along the south parcel boundary, was bisected by the construction of Humboldt Road. The swale is now the origin of a drainage which flows to the wetlands south of the "Tank Farm" on Highway 101.

The applicant's rezone proposal consisted of RCA-2r zoning along the south 40' of the property. Staff has expanded the proposed RCA-2r area to include the south 60' of the applicants property (see attached rezone map). The additional 20' by 170' area of RCA zoning includes the area from the edge of the lowest portion of the swale to the upper

03/26/91

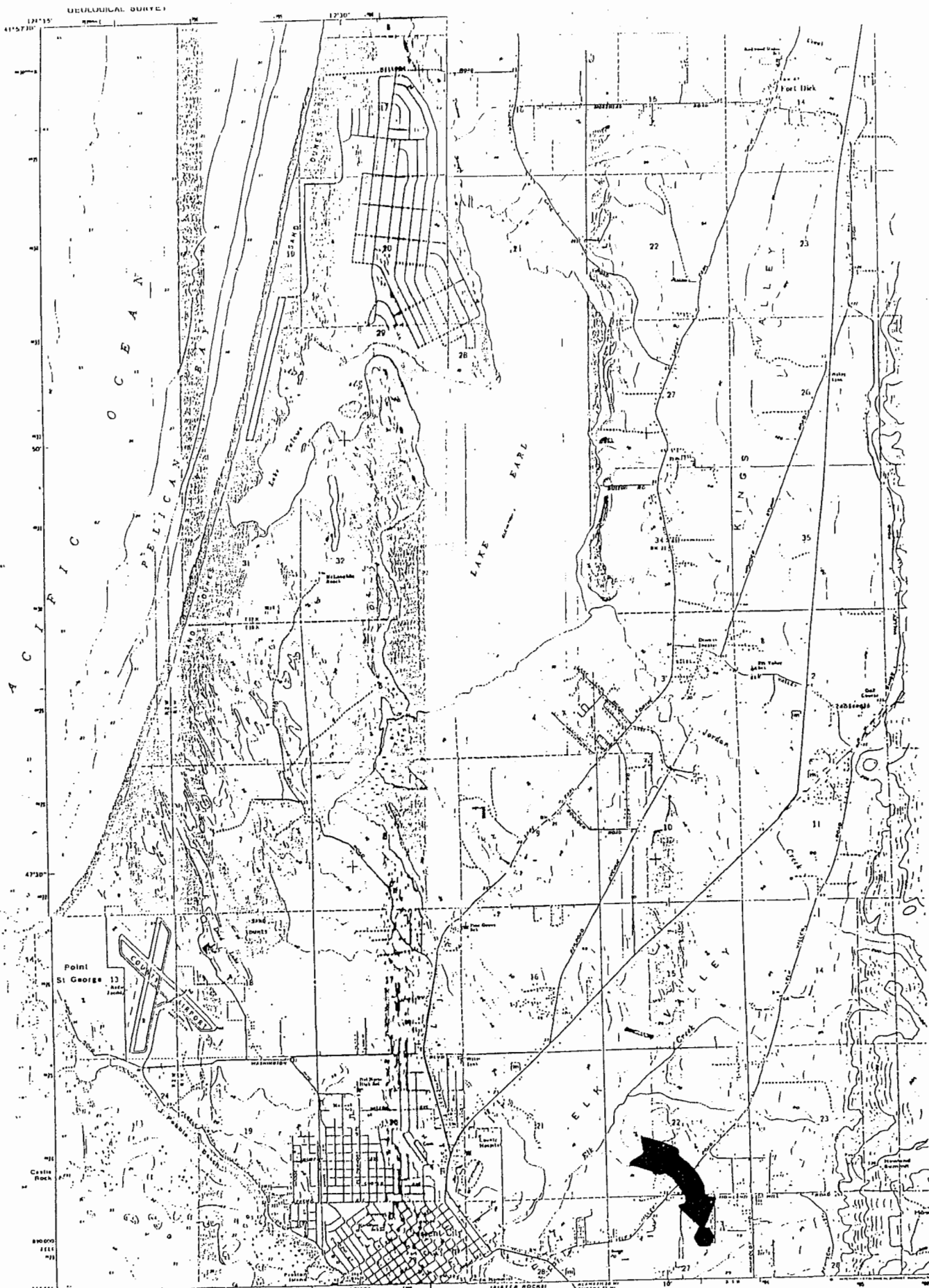
slope of the swale which is approximately 5' higher in elevation. The expanded area prevents fill or other types of development from abutting directly against the wetland area. The applicant's agent expressed no objection to the expanded area, which allows a 65' by 170' building area which is serviced by community sewer and water.

Adequate data, based on the applicants information and Staff field review, has been made available to include the adjacent parcel to the south (parcel 18) within the Rezone proposal. The property is generally flat, clear of natural vegetation, and developed with a residence. All development preceded the RCA zoning. Staff has proposed a rezone of the northern 10' of the parcel to RCA-2r. This includes area from the edge of fill adjacent to an existing driveway to the low portion of the swale. The remaining portion of the existing RCA-1 zone would be rezoned to R1-B6-MH as is consistent with the County General Plan. The property owner, Mr. Burk, indicated support of the Staff proposal.

The project has been circulated to the State Clearinghouse for review and no comments have been received to date. Staff recommends the Commission adopt the Negative Declaration and forward the staff expanded proposal to the Board of Supervisors with a recommendation of approval.

5. FINDINGS:

- A) The project is consistent with the policies and standards of the General Plan and Title 21 Zoning;
- B) A Negative Declaration has been prepared pursuant to the California Environmental Quality Act which the Commission has considered in reviewing the project and making its decision;
- C) Adequate data has been submitted regarding soils, vegetation, topography, and drainages for determining RCA-2 designations;



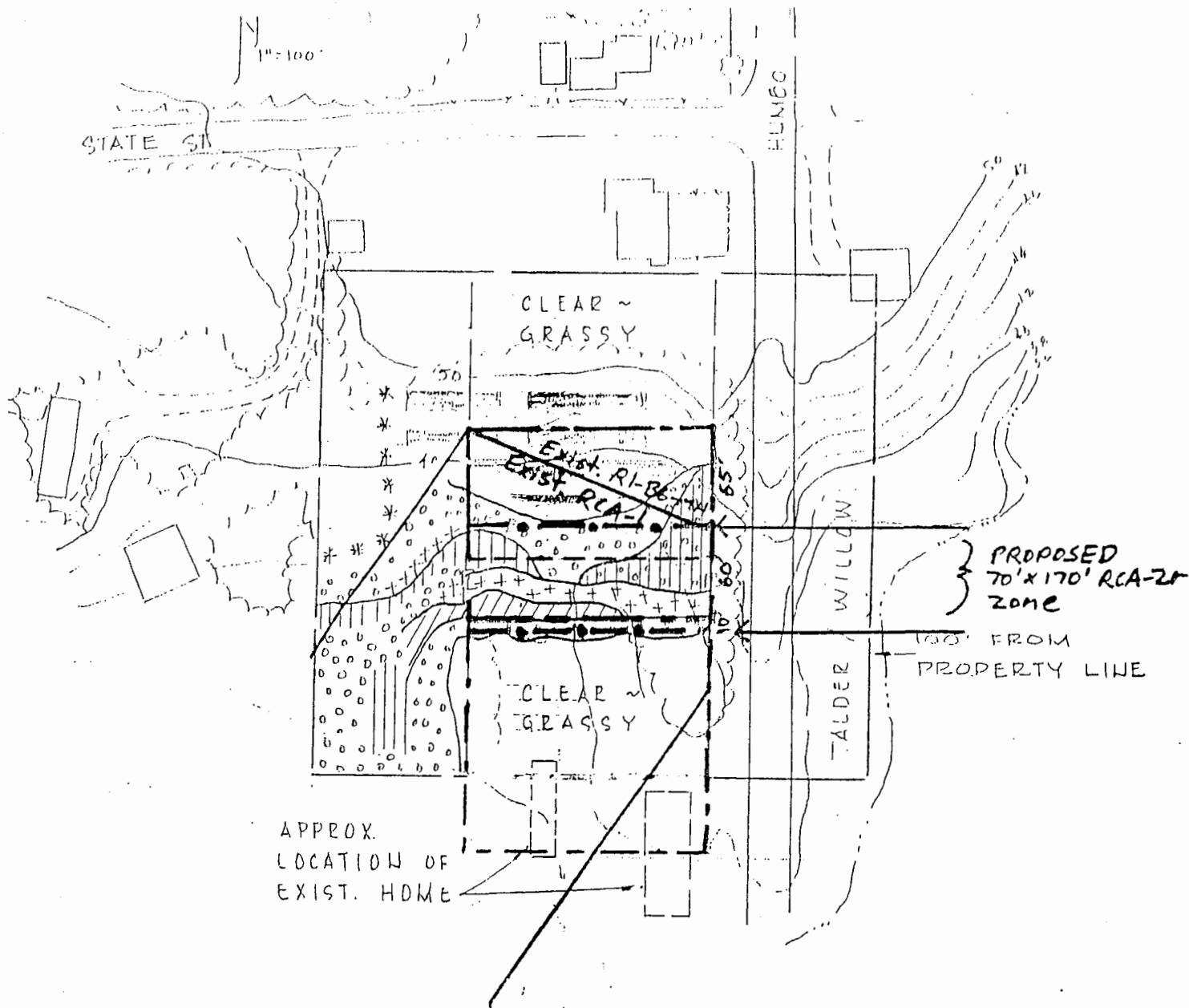
Mapped, edited, and published by the Geological Survey
 Conducted by USGS, USCAGS, and State of California

R9109C







115-280-17

ROAD CLASSIFICATION
 Heavy Duty Light Duty
 Medium Duty Unimproved
 U.S. Route

CRESCENT I
 1:24,000
 115-280-17



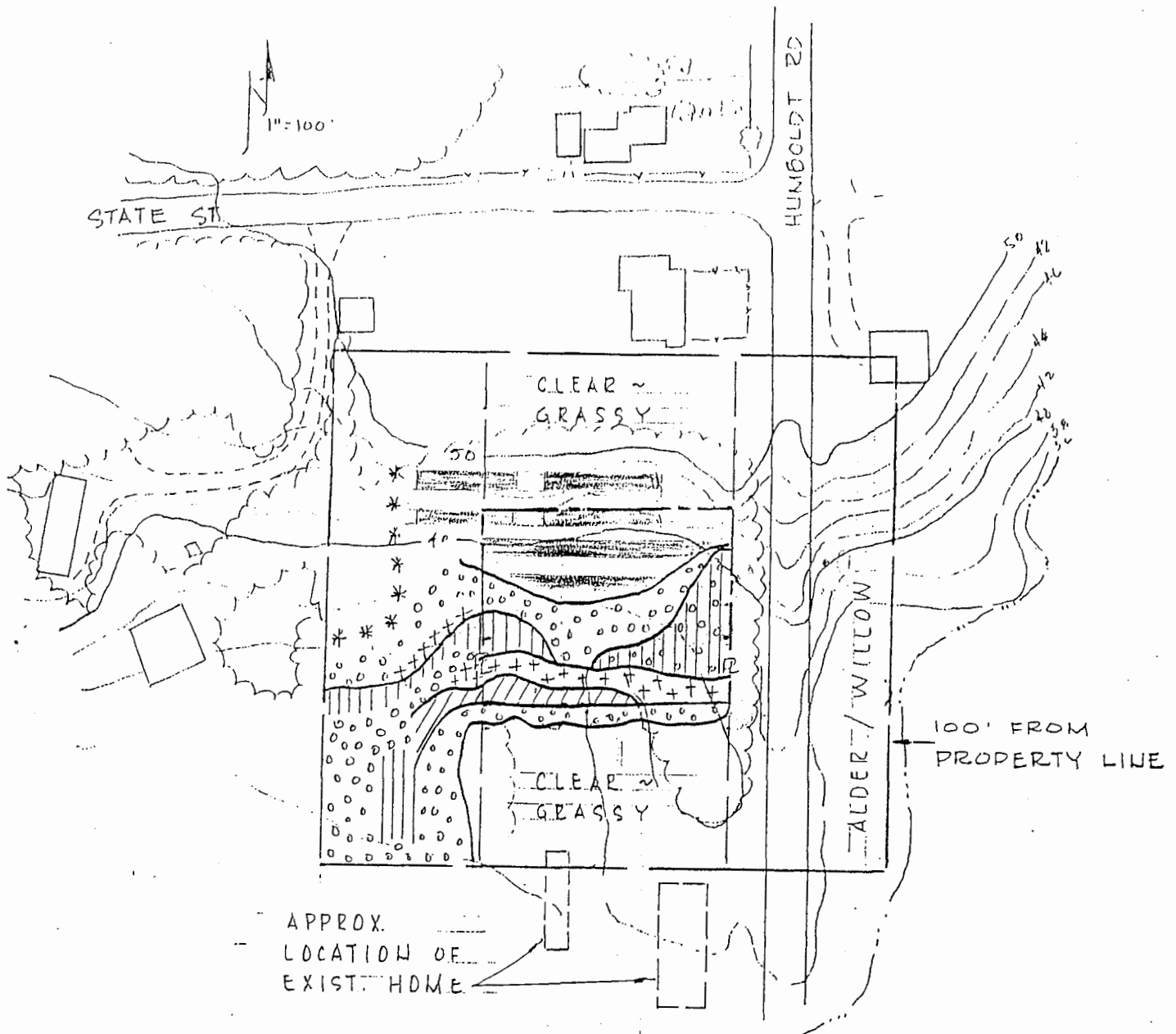
VEGETATION

-  - ALDER
-  - SPRUCE
-  - BLACK BERRY
-  - FERNS
-  - SOME WETLAND GRASS
-  - BULL PINE
- PROPERTY BOUNDARY
- EXISTING ZONING
- PROPOSED RCA-2r ZONING







BY _____ DATE _____
CHKD. BY _____ DATE _____

SUBJECT RAFAEL RAMER
RCA REZONE

SHEET NO. _____ OF _____
JOB NO. 0237



VEGETATION

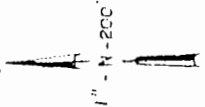
-  - ALDER
-  - SPRUCE
-  - BLACK BERRY
-  - FERNS
-  - SOME WETLAND GRASS
-  - BULL PINE

RAMIREZ, RAFAEL
Rezone

R9109C
115-280-17

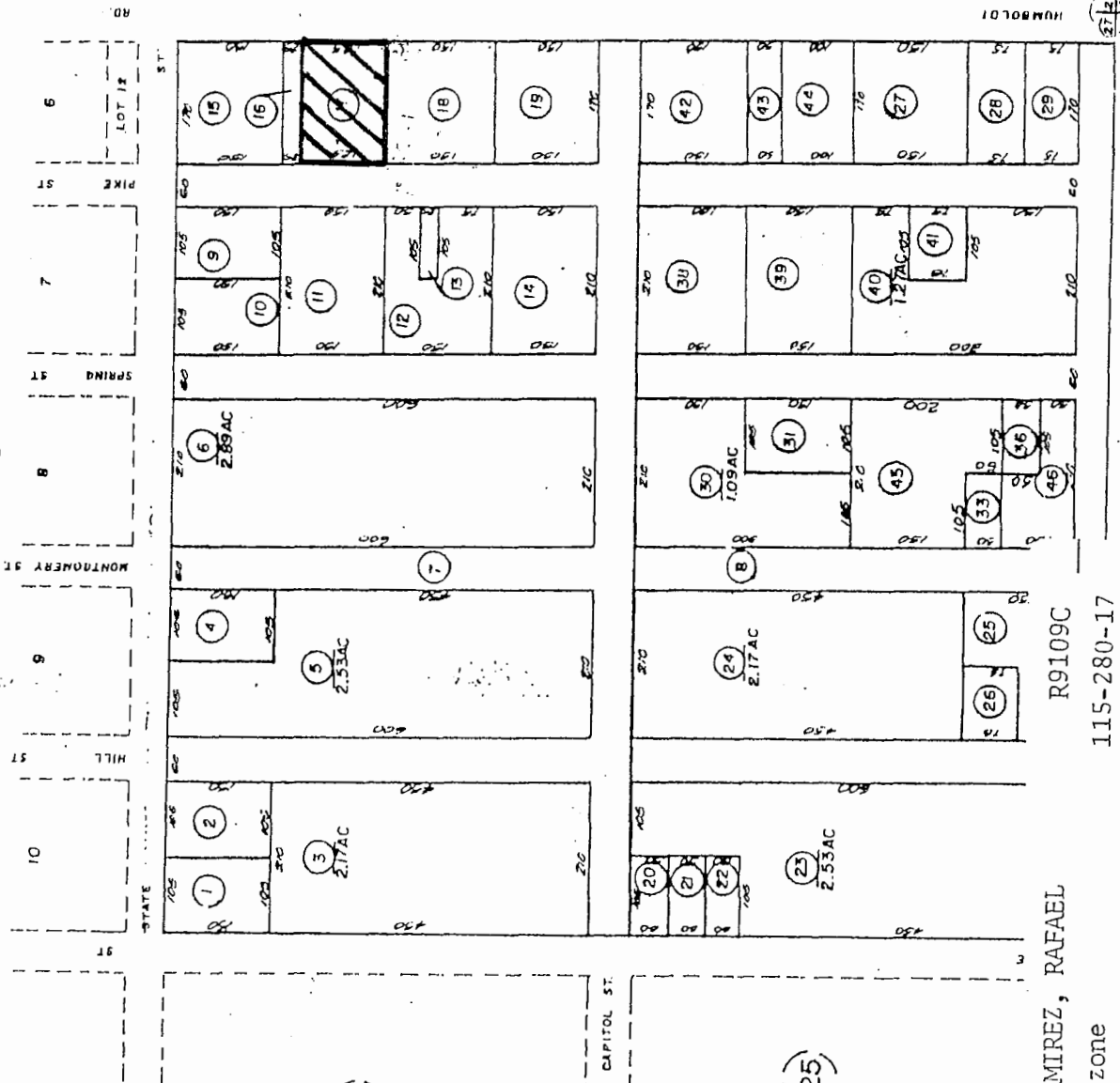
SE 1/4 NE 1/4 SEC. 27 T.16N., R.1W., H.B. & M.

This plat is furnished for information. It is compiled from data which we believe to be accurate, but no liability is assumed as to the correctness of such data.



(27)

METROPOLITAN TRACT NO. 2



EAST QTR COR.

R9109C
115-280-17

RAMIREZ, RAFAEL
Rezone

(02)

(25)

(15)

(14)

California Coastal Commission Memo for LCP
Amendment No. 3-91 (minor rezone)

STATE OF CALIFORNIA—THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION
NORTH COAST AREA
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
(415) 904-5260

Th 8a

2511



Filed: May 20, 1991
60th Day: July 19, 1991
Staff: James Muth
Staff Report: May 31, 1991
Hearing Date: June 13, 1991

TO: COMMISSIONERS AND INTERESTED PARTIES

FROM: Tom Crandall, Deputy Director
Steve Scholl, Assistant District Director
James Muth, Coastal Planner

SUBJECT: LCP Amendment No. 3-91 (minor) to Del Norte County's certified Local Coastal Program (for Commission review and action at its meeting of June 13, 1991 in San Francisco).

Background

The RCA-1 zone is used in the County's certified Local Coastal Program (LCP) to identify lands that may contain wetlands, farmed wetlands, riparian areas, estuaries, and coastal sand dunes. Because the County has extensive environmentally sensitive resource areas, it was not possible to conduct precise, site-specific resource mapping for every property within the County's coastal zone when the County's LCP was prepared and adopted. Thus, under Chapters 21.11 and 21.11A of the County's LCP, the RCA-1 area serves as a transition zone until more precise resource mapping can be done. The LCP also requires that an RCA-1 area must be rezoned to an appropriate RCA-2 zoning designation, with Commission approval as an LCP amendment, before any subsequent development proposal can go forward.

The proposed RCA-1 to RCA-2 zoning map changes do not create or add any other non-RCA zoning district designation. The non-RCA area may shrink or expand as a result of the RCA-1 to RCA-2 mapping. In this case, however, the adjustment is not so great as to allow for the creation of any new parcels beyond existing certified land use plan densities.

LCP Amendment Location, Description, and Discussion.

The LCP amendment area affects a riparian area on the west side of Humboldt Road, about 180 feet south of State Street, over a portion of a 21,250-square foot, residentially designated property, APN 115-280-17 and 18. See Exhibits No. 1 and 2.

The subject property is being rezoned from RCA-1 (General Resource Conservation Area) and R1-B6-MH (Single family Residential, 6,000 sq. ft. lots, mobile homes permitted) to RCA-2(r) (Designated Resource Conservation Area - riparian) and R1-B6-MH.

As determined by County, Coastal Commission, and California Department of Fish and Game staff, the RCA-2(r) area consists of a 70 to 170-foot wide riparian corridor along an unnamed tributary to Elk Creek. The RCA-2(2) area consists of a low, partially inundated area of standing water having a canopy layer of alder and spruce and an understory groundcover of blackberry and associated wetland grasses and ferns.

Public Participation and Commission Review

The proposed LCP amendment was the subject of local public hearings before the County Planning Commission and the Board of Supervisors. All of these public hearings were properly noticed to provide for adequate public participation. The LCP amendment submittal from the County to the Coastal Commission was filed as complete on May 20, 1991. The submittal is consistent with Coastal Act Section 30514 and Section 13553 of the Commission's Administrative Regulations. The Board of Supervisor's Resolution is attached as Exhibit No. 3. Commission action must occur by July 19, 1991 (within 60 days of filing).

As a result of the mapped refinement of the environmentally sensitive resources areas, the Executive Director has determined that the proposed LCP amendment is "minor" in nature under Sections 13554 and 13555 of the Commission's Administrative Regulations as the proposed LCP amendment will not result in a change to the kind, location, density, or intensity of use of the land on the subject parcel. On May 31, 1991, the Executive Director informed all interested parties by mail of his determination. The Deputy Director is scheduled to inform the Commission of the Executive Director's determination at the June 13, 1991 meeting in San Francisco. The Deputy Director will also report to the Commission any objection to the Executive Director's determination which is received at this office within ten (10) days of the posting of this notice. If you wish to register an objection to the proposed "minor" LCP amendment determination, please contact James Muth at (415) 904-5260 at the Commission's North Coast Area Office in San Francisco by June 11, 1991.

If one-third of the appointed members of the Commission so requests, the determination of a minor amendment shall not become effective and the amendment shall be processed as a "major" LCP amendment under Section 13555(b) of the Commission's Administrative Regulation. If the Commission concurs with the Executive Director's determination that the LCP amendment is minor in nature, the amendment shall take effect ten (10) working days after the Commission meeting and notice to Del Norte County under Section 30514(c) of the Coastal Act.

Staff Recommendation

Staff recommends that the Commission concur with the Executive Director's determination that the LCP amendment is minor.

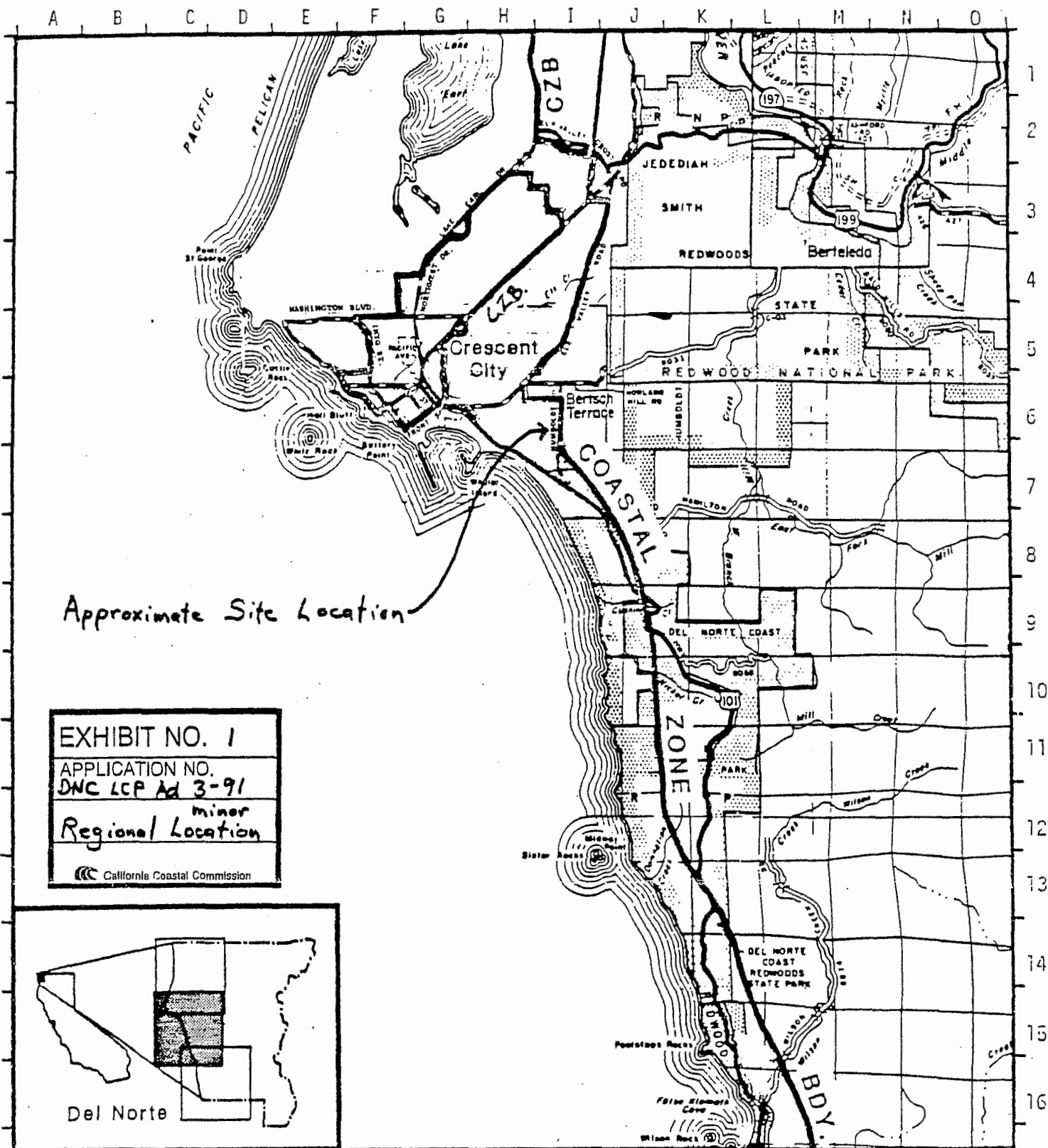
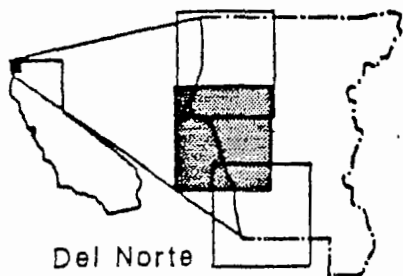


EXHIBIT NO. 1
 APPLICATION NO.
 DNC LCP Ad 3-91
 minor
 Regional Location

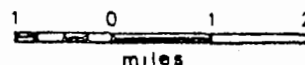
California Coastal Commission



Del Norte

30 of 32

LOCATION MAP

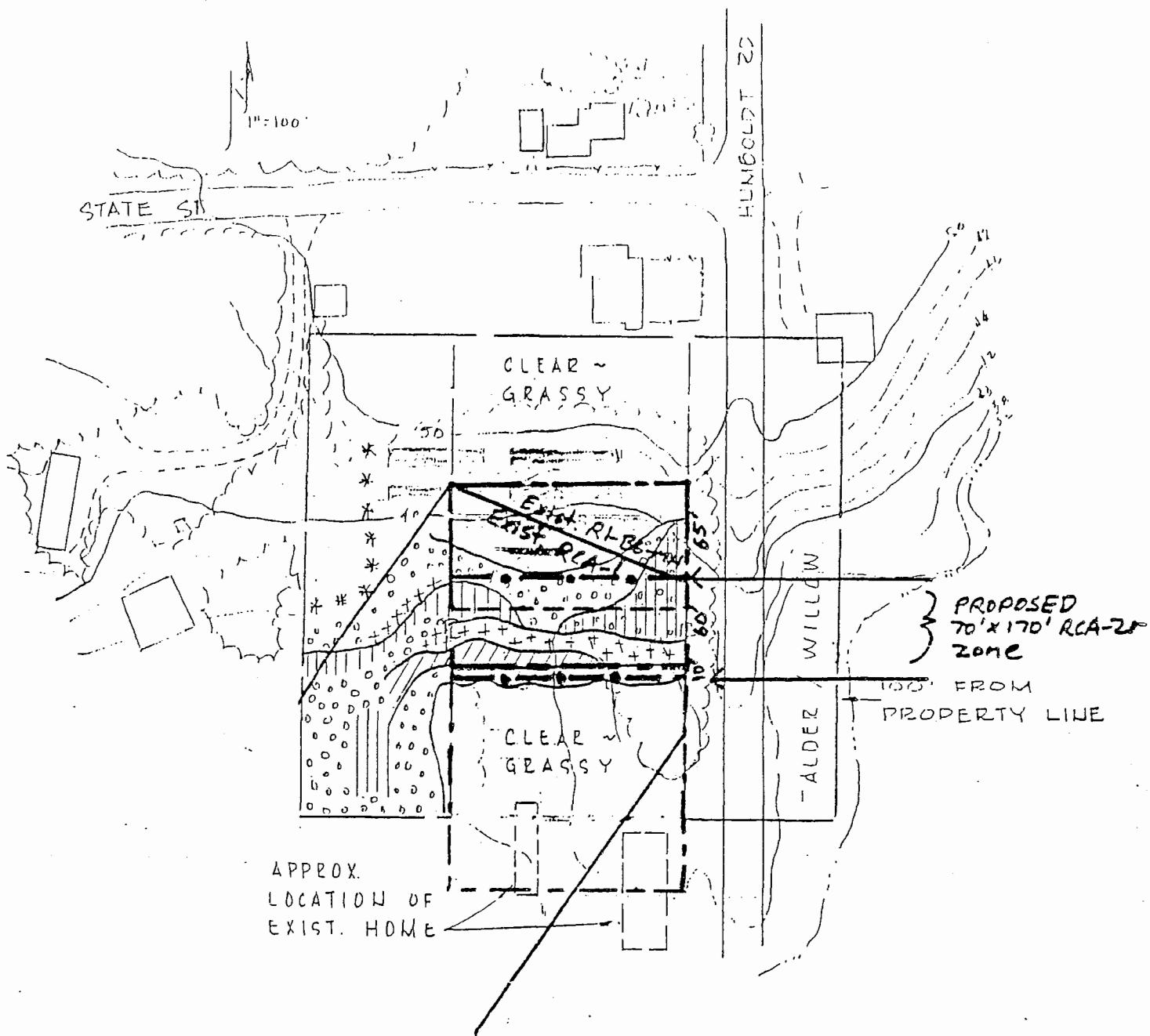


California Coastal Commission

BY.....DATE.....
 CHKD. BY.....DATE.....

SUBJECT RAFAEL RAMERI
RCA REZONE

SHEET NO. OF
 JOB NO. 0227



VEGETATION

- (•••••) - ALDER
- (|||||) - SPRUCE
- (|||||) - BLACK BERRY
- (+++++) - FERNS
- (/////) - SOME WETLAND GRASS
- (****) - BULL PINE
- PROPERTY BOUNDARY

EXHIBIT NO. 2

APPLICATION NO.
 DNC LCP Ad. 3-91

Rezone Area ^{minor}

BOARD OF SUPERVISORS
COUNTY OF DEL NORTE
STATE OF CALIFORNIA

RESOLUTION NO. 91-50

A RESOLUTION SUBMITTING THE RAMIREZ
RCA REZONE TO THE COASTAL COMMISSION FOR
CERTIFICATION AS AN LCP AMENDMENT

WHEREAS, a property-owner has petitioned for an RCA rezone pursuant to the provision of the local General Plan Coastal Element and Title 21 Coastal Zoning Ordinance.

WHEREAS, this amendment has been reviewed and processed pursuant to the provisions of the Local General Plan Coastal Element and Title 21 (Coastal Zoning); and

WHEREAS, the proposal has been determined to be exempt from the California Environmental Quality Act; and

WHEREAS, this rezone is intended to be carried out in a manner in conformity with the Coastal Act and the implementing Local Coastal Plan; and

WHEREAS, this amendment shall take effect and be enforced thirty (30) days after the date of the passage of the Companion Ordinance and after approval of the amendment by the Coastal Commission, whichever is the latter.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of Del Norte, State of California do hereby approve the rezone, from RCA-1 (General Resource Conservation Area) to RCA-2r (Designated Resource Conservation Area-riparian) and R1-B6-MH (Residential-6,000 sq. ft. minimum-mobiles permitted) as shown on Exhibit A, and submit such changes to the Coastal Commission for certification.

PASSED AND ADOPTED this 13th day of May, 1991, by the following polled vote:

EXHIBIT NO. 3
APPLICATION NO.
DNC LCP Ad. 3-91
Resolution 91-50

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

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: Friends of Del Norte

Mailing Address: P.O. Box 229

City: Gasquet, CA

Zip Code: 95543

Phone: 707-465-8904

SECTION II. Decision Being Appealed

1. Name of local/port government: Del Norte County
2. Brief description of development being appealed:
Development permit for a New Residence
3. Development's location (street address, assessor's parcel no., cross street, etc.):
312 Humboldt Rd, APN 115-280-16 & 17
4. Description of decision being appealed (check one.):
☐ Approval; no special conditions
☒ Approval with special conditions:
☐ Denial

RECEIVED

AUG 29 2008

CALIFORNIA
COASTAL COMMISSION

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-DNC-08-038
DATE FILED	8/29/08
DISTRICT	North Coast

EXHIBIT NO. 5
APPEAL NO. A-1-DNC-08-038
JAGER
APPEAL (1 of 30)

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: hearing date Aug 6, 20087. Local government's file number (if any): M3473**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:

Lot 16: Nicholas and Christina Jager
306 Humboldt Rd Crescent City, CA 95531Lot 17: Nicholas G Jager
4988 Valley East, Apt E, Arcata, CA 95521

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) Eileen Cooper
1093 Hwy 101 N #18
Crescent City, CA 95531

(2)

(3)

(4)

Section IV Reasons Supporting this Appeal (Page 3)

As attached.

Text - pages 1-6

2 Attachments pages 7 & 8

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.

E Signature on File FDN
Signature of Appellant(s) or Authorized Agent Boardmember
Date: Aug 29 '08

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

Section VI. Agent Authorization

I/We hereby
authorize

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

E Signature on File FDN
Boardmember
Date: Aug 29, 08

Friends of Del Norte, *Committed to our environment since 1973. A nonprofit, membership based conservation group advocating sound environmental policies for our region.*
PO Box 229, Gasquet, CA 95543, e-mail: friendsdelnorte@yahoo.com

August 29, 2008

ATT: California Coastal Commission, Jim Baskin, FAX: 707-445-7877

Regarding: Jager, M3473C, 312 Humboldt Rd., APN 115-280-16, and 17

Total pages
11 including
appeal form

Summary

The project area is part of and adjacent to an extensive and important wetland area, Crescent City Marsh. Crescent City Marsh is considered an ARNI (a Resource of National Importance) by the EPA, because the Marsh contains a unique wetland plant community with rare and threatened/endangered plants, especially Western Lily as Federally listed.

The project is inconsistent with Del Norte County LCP because

- The project description of the surrounding area is misleading (top of page 6 of staff report, page 14 of commission packet), and fails to identify the importance of the adjacent extensive wetlands to the southwest, in an attempt to provide a basis for reducing the 100 foot wetland buffer, which is standard LCP practice for such an important wetland ESHA. This parcel is part of and contiguous with Crescent City Marsh.
- The wetland buffer as shown is insufficient, in that the residential building area is approximately 55 feet from this wetland area of Crescent City Marsh.
- The accuracy of the project's wetland delineation is in question, and likely understates the true extent of the wetland area. The wetland buffer is likely significantly less than 55 feet.
- The project will significantly disturb the buffer by removing 23 spruce trees including large spruce trees that grow within the narrow buffer on the periphery of the Crescent City Marsh, and along a natural protective slope. The protective slope will be degraded, and the old spruce roots that hold the sloping ground together, will be killed.
- The entire property consists of a wetland and what should have been properly designated as a minimum 100 foot wetland buffer, as required by our LCP, but is now being proposed to be flattened for houses and a driveway.
- This area was incorrectly zoned in 1991, as riparian buffer for an Elk Creek drainage. The area drains away from Elk Creek, southwest, and is part of Crescent City Marsh.
- The reduced buffer and lack of other mitigation measures does not sufficiently protect water quality of the marsh from residential pollutants. Our LCP requires adequate protection of water quality.
- The cumulative impacts of hard surfacing surrounding Crescent City Marsh, severely disrupts the natural hydrology of the marsh and is threatening a rare plant community.
- The approved 3 acre CDF conversion exemption shows the wetland area grossly sketched, where the entire buffer upto the edge will be logged, though equipment will be excluded in the first 50 feet.

- The Ramirez/Jager family's past ownership and development of adjacent land may have exhausted the development potential of this parcel in conjunction with the surrounding area. Past development and ownership issues should be examined.

Crescent City Marsh is a wetland resource of National Importance, and the disturbed narrow buffer and lack of mitigation measures fail to protect the Crescent City Marsh wetlands and listed species from cumulative negative developmental impacts.

There are critical problems surrounding Crescent City Marsh.

Crescent City Marsh is the broad wetland area in the attached photo that extends from this property near the corner of State Street and Humboldt Road, southwest to the ocean. The Federally listed endangered Western Lily is very sensitive to and finely adapted to the natural hydrological regime of this marsh. The Western Lily has been in severe decline for the following reasons, that we have learned about through the US Fish and Wildlife Service, in their concerns about development impacts of Elk Valley Rancheria Resort adjacent to the Crescent City Marsh.

- The natural hydrology of the Marsh is already severely impacted by surrounding development, in that hard surfacing has cumulatively and severely limited the permeability of surrounding soils within the relatively small watershed that feeds into the marsh. Loss of surrounding soil permeability significantly changes the natural hydrology, by creating undesired excessive runoff, where lilies can be drowned out.
- Summertime irrigation cumulatively and significantly disturbs the natural dry season that lilies need to flower.
- Invasive plants and brush encroaching into the marsh crowd out the lily habitat.
- Significant changes in hydrological patterns also occur do to changes in drainage routes to facilitate development.
- The fragile plants of the Marsh are also at risk because of pesticides/herbicides and pollutants entering the marsh, do to the large urban interface directly adjacent to the Marsh, as encroaching residential development proceeds.

The cumulative detrimental effects of such development has reached a critical tipping point, in which the Western Lily is losing ground. About 50% of the entire World's population is located at the Crescent City Marsh and this population is in severe decline. Because of this acute situation, every project within the immediate watershed, no matter how small, must be looked at with a very critical eye, to lessen and alleviate the already severe cumulative impacts of development. This is especially true directly adjacent to the marsh.

The strategy for protection of Crescent City Marsh ESHA wetland should include:

- Reducing the scale of necessary projects to reduce hard surfaces in the watershed
- Requiring permeable roadways and driveways to reduce hard surfaces
- Requiring maximum undisturbed wetland buffers directly adjacent to the marsh
- Requiring drainage plans to minimize pollutants from entering the marsh and to protect water quality
- Restricting the use of herbicides/fertilizers on adjacent properties
- Requiring native vegetation for residential landscaping adjacent to the marsh, and
- Restricting irrigation, which cumulatively can disrupt natural hydrologic cycles of the marsh during the dry season.

Jager Project Profile

Unfortunately, Del Norte County has inherited an unacceptable land use pattern of paper subdivisions, with tiny lots drawn across and through outstanding, rare and precious coastal wetlands without regard for these resources. This has lead to a band-aid approach for correction, that has left the Crescent City Marsh at risk.

It would have been more appropriate to organize a D-overlay, combining development within the upland area that is on parcel 15, thus retaining a 100' undisturbed buffer around the wetland, as is standard practice of Del Norte LCP. A Marsh of this significance, where an obvious naturally protective periphery slope exists surrounding the wetland, should have been provided with at least 100 feet of undisturbed buffer, inclusive of this slope.

As part of the biological recommendations and CDFG's understanding (phone conversation VanHatten), the RCA-2 zone should retain vegetation and trees. The RCA-2 zone is the wetland itself. However, at the public hearing, an adjacent property owner expressed concerned that the remaining trees (alders) will become prone to high wind blow down and will pose a threat to his property. Therefore it is highly likely that the result of this project will be the removal of most of the trees in this area as well, and trees on the south side of the wetland drainage on parcel 18. This is contrary to biological recommendations, to leave this area of the marsh undisturbed. It is probable that there will be little to no undisturbed buffer left, and the marsh itself will be disturbed.

As conditioned now, the project will significantly disturb the buffer by removing about 23 spruce trees within the buffer. This includes large spruce trees that grow within the narrow buffer, along a natural protective slope that surrounds the periphery of the marsh. The protective slope will be degraded, and the old spruce roots that hold the sloping ground together, will be killed.

There will be no buffer at the top of the slope, as is a standard best management practice. It will be developed, leveled for house pad, driveway, garage, etc. along with part of the naturally sloped area that contains spruce trees.

Recommendations

As stated earlier, the entire area of both parcels 16 and 17 consists of the wetland and about 100 feet of what should be designated as an important wetland buffer to an ESHA of national importance. Therefore, the entire parcel should be dedicated to resource conservation, consistent with Del Norte LCP.

First we request that the wetland delineation be formally reviewed on site by coastal wetland biologists. And past development actions for the surrounding area and ownership issues of the Ramirez/Jager family be resolved.

If development is allowed to proceed, the mobile home should be reduced to a single wide mobile, instead of a double wide mobile, thus gaining an additional 15 feet of disturbed buffer, and reducing the home's hard surface area from 1917 sq feet to half as much. Single wide residential mobiles are numerous and a very common style, if not the most common style residence throughout this area. The garage is another 810 sq feet of hard surface, and should be replaced by a carport, so that both the soil of the carport as well as the soil of the large driveway can remain unpaved and permeable. There should be a drainage plan. There should be restrictions of use of pesticides/herbicides. The buffer should be revegetated with native vegetation.

The wetland delineation is inaccurate, and understates the true extent of the wetland area. It is likely that the wetland buffer is significantly less than 55 ft.

The wetland delineation criteria is dismissive of standard criteria, as stated in Frank Galea's Biological Assessment (page 47 of planning commission packet):

*"Hydric plants such as skunk cabbage (*Lysichiton americanum*) and slough sedge (*Carex obnupta*) were found. Although considered an obligate wetland species in California, slough sedge can be found in upland sites in Del Norte... Slough sedge, therefore, while an indicator of mesic conditions, is not a definitive indicator of wetland habitat."*

It is my experience in Del Norte County that, without exception, wherever there is skunk cabbage a wetland exists. And, whenever there is a significant growth of slough sedge, there exists a wetland.

Upon ground truthing, there obvious wetland areas. By walking the property to test pits, Aug. 28, 2008, it appears that there are moist, dark, mucky soils within two test pits that are dug to 10 inches deep. If these test pits are B-1 and B-2, the wetland limits have not been determined. This site is about 33 feet from a large tree shown in the center of the buffer, which would place them on the RCA northern boundary. A mapping of these trees is shown in commission packet as exhibit H. It is my understanding upon recently conversing with CDFG agent Michael VanHatten, who visited the site, that the test pits were not dug deep enough.

Plot B-2 does lists 75% facultive species rather than the 47% stated in the remarks. Again Frank Galea is dismissive of wetland indicators, and in the conclusion is unsure of this area, as evidenced by checking both yes and no for wetland determination. If B-2 is a wetland, the limits of the wetland are not yet defined.

Plot C-2 does list 60% facultive species rather than 44% stated in the remarks. Again, Frank Galea is dismissive of wetland indicators. If C-2 is a wetland, the limits of the wetland are not yet defined.

The attached detailed topography map was copied from the project file at the County. If wetlands follow natural contours, then the extent of wetland at A-2 would follow a contour that actually widens the wetland area towards the west, rather than narrowing towards the west.

The 3 acre conversion exemption permit from CDF, shows the wetland area in a gross sketch. The 3 acre conversion exemption incorrectly states (page 78 planning packet):

"1. Erosion hazard rating: The area of proposed conversion activity and harvesting contains no watercourses or wet areas. The parcel is well drained. The topography of the harvest location along with the adjacent parcels is flat. Erosion hazard rating is estimated to be low."

We request that the wetland delineation be formally reviewed by Coastal staff.

LCP Policy, Marine and Water Resources,

LCP VII.D: Wetlands, 4: Policies and Recommendations

f.) Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of 100 feet in width. A buffer of less than 100 feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to be done in cooperation with the California Dept. of Fish and Game and the County's determination shall be based on specific findings as to the adequacy of the proposed buffer to protect the identified resource.

LCP Policy, Marine and Water Resources, VII. D. Wetlands:

4. g. Due to the scale of the constraints maps, questions may arise as to the specific boundary limits of an identified environmentally sensitive habitat area. Where there is a dispute over boundary or location of an environmentally sensitive habitats area, the following may be requested of the applicant:

- i.) A base map delineating topographic lines, adjacent roads, location of dikes, levees, flood control channels and tide gates.*
- ii.) Vegetation map*
- iii.) Soils map*

Review of this information shall be in cooperation with the Dept. of Fish and Game and the County's determination shall be based upon specific findings as to whether an area is or is not an environmentally sensitive habitat area based on land use plan criteria, definition, and criteria included in commission guidelines for wetland and other wet environmentally sensitive habitat areas as adopted February 4, 1981. The Dept. of Fish and Game shall have up to fifteen days upon receipt of County notice to provide review and cooperation.

LCP Policy, Marine and Water Resources, VI. C:

- 1. The County seeks to maintain and where feasible enhance the existing quality of all marine and water resources.*
- 3. All surface and subsurface waters shall be maintained at the highest level of quality to insure the safety of the public health and the biological productivity of coastal waters.*
- 4. Wastes from industrial, agricultural, domestic or other uses shall not impair or contribute significantly to a cumulative impairment of water quality to the extent of causing a public health hazard or adversely impacting the biological productivity of coastal waters.*
- 5. Water conservation measures (e. g., flow restrictors, industrial recycling of usable waste waters) should be considered by present users and required in new development to lessen cumulative impacts on existing water systems and supplies.*
- 6. Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

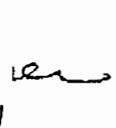
LCP Marine and Water Resources VII. E. Riparian Vegetation 4.a

Riparian vegetation shall be maintained along streams, creeks, and sloughs and other water courses within the Coastal Zone for their qualities as wildlife habitat, stream buffer zones, and bank stabilization.

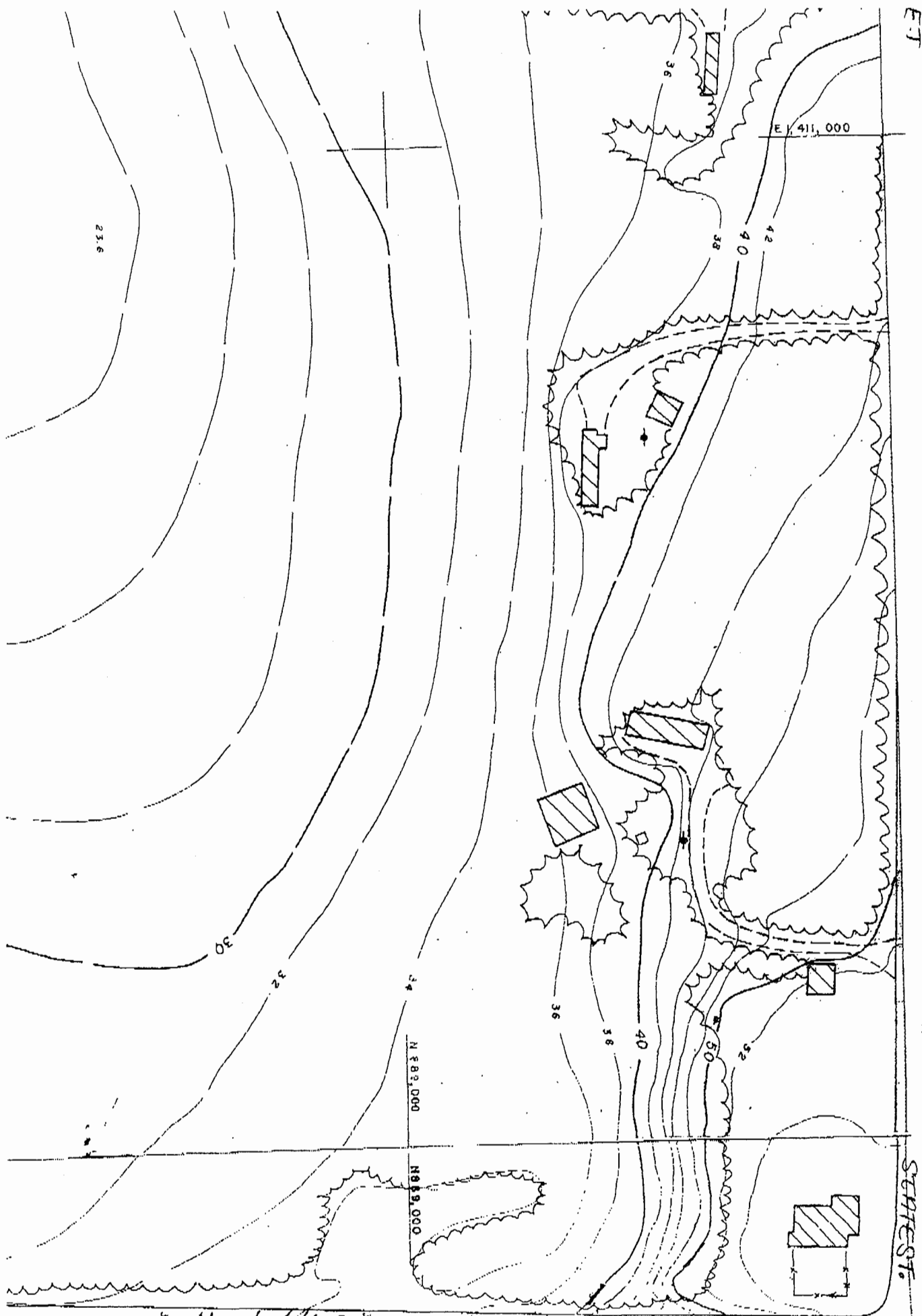
Thank you,



Signature on File

 (upsprout@yahoo.com)

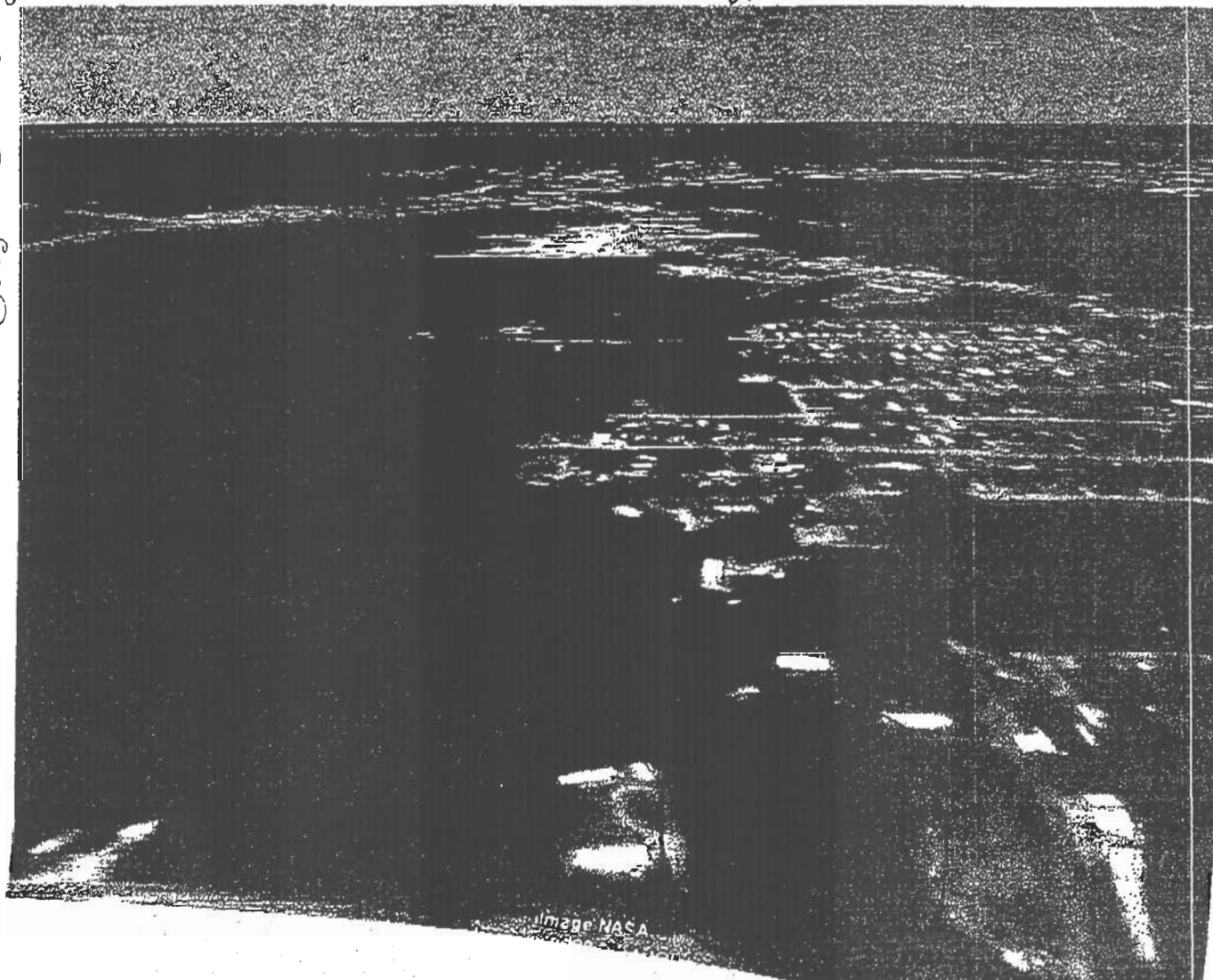
Eileen Cooper



Attachment - Page 7

Project Site in Circle. View to the West

Attachment - page 8 Photo - Google Earth



Att: California Coastal Commission:

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

RECEIVED

SECTION IV. Reasons Supporting This Appeal

SEP 23 2008

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.

CALIFORNIA
COASTAL COMMISSION

RE: Additional Information: Jager Appeal

Local Permit M 3473C; Commission A-1-DNC-08-038

From: Appellant: Friends of Del Norte

Attachments: Supportive Information

- Alert: Crescent City Marsh - Here Today, Gone Tomorrow?
- US Fish & Wildlife, Jul 7, 2004, { To US Army Corps, Re: Elk Valley Rancheria
- US Fish & Wildlife Mar 24, 2005, { Consult Request to Elk Valley R.
- US EPA, July 12, 2004, { to US Army Corps Regarding Elk Valley R.

Thank you, Eileen Cooper, Friends of Del Norte Board

Signature on File

Sept 22, 08

Eileen Cooper, Friends of Del Norte Board

1093 Hwy 101 N #18

Crescent City, CA 95531

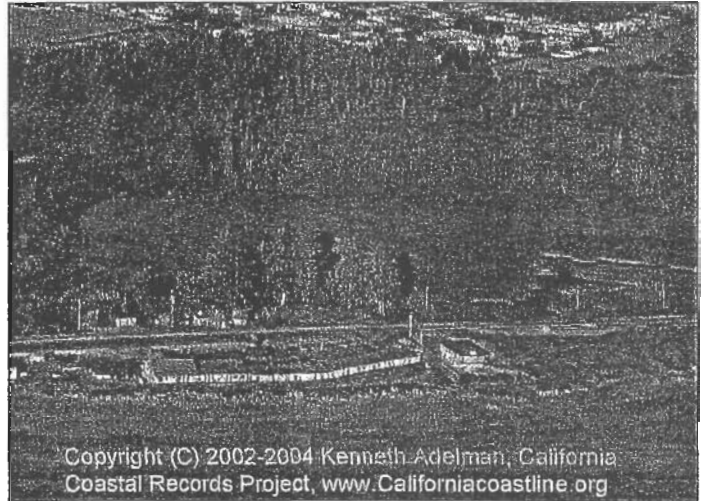
707-465-8904

FDN
POB: 229, Gasquet, CA 95543

CRESCENT CITY MARSH: Here Today, Gone Tomorrow?

"This marsh is arguably the most botanically-unique wetland complex in northwest California and perhaps the entire State."

-U.S. Fish & Wildlife Service

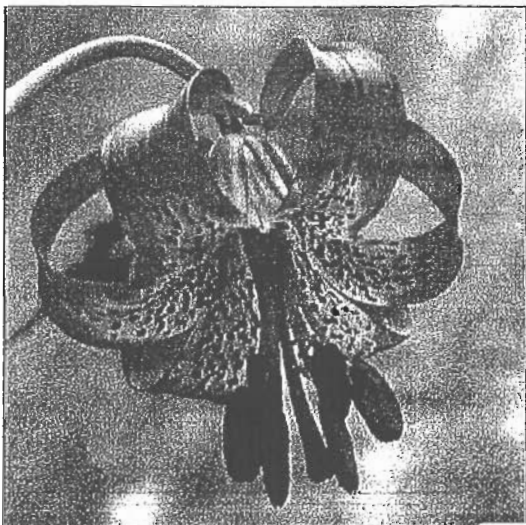


Copyright (C) 2002-2004 Kenneth Adelman, California Coastal Records Project, www.Californiacoastline.org

The Crescent City Marsh is home to dozens of plants that are absent or rare elsewhere along California's coast. Many of these species are more common in high mountains or more northern latitudes. The cool, wet soils of the Crescent City Marsh have allowed these plants to survive in a coastal environment.

The Marsh consists of 335 acres of wetlands, open water, beach and dunes, prairie, scrub and spruce forest. Nearly 200 acres are located within the Crescent City Marsh Wildlife Area, managed by the Department of Fish & Game.

More than two-thirds of this 1500-acre watershed is already developed for residential and commercial uses. A proposal to build a golf course, casino, and resort would eliminate an estimated 50% of the remaining undeveloped watershed.



The Endangered Western Lily

The Marsh's unique soils and hydrology makes it home to the world's largest population of the western lily, an endangered plant on the brink of extinction.

The western lily - *Lilium occidentale* - is a federally listed endangered species. More than half of all known flowering plants occur at the Crescent City Marsh, which harbors the only recovery-level population as defined by the federal recovery plan for the species.

The Crescent City Marsh and environs are home to more than 230 plant species, at least a dozen of which are considered rare, threatened, or endangered.

Several rare plant communities occur in the Marsh, at least one of which is found nowhere else in California. Known as buckbean marsh, this plant community is dominated by the buckbean (*Menyanthes trifoliata*), more common in the Sierra Nevada and Cascade Mountains of Oregon (right).



Threats to the Crescent City Marsh include:

- **Illegal filling and dumping in wetlands**
- **Altered hydrology caused by further development in the watershed**
- **Pesticide runoff from proposed golf course**

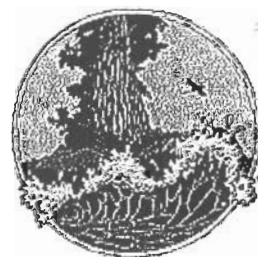
What can you do?

- **Urge Del Norte County officials to rigorously enforce their Local Coastal Plan and protect these important wetlands.**
- **Make your voice heard on management within the watershed.**
- **Be on the lookout for illegal filling or other activities in the area.**
- **Write letters to the editor (tripnews@triplicate.com, letters@times-standard.com, ncjour@northcoast.com).**
- **Submit letters to the organizations listed below, in support of conserving the Crescent City Marsh wetlands and biodiversity, that will be forwarded during critical comment periods.**



California Native Plant Society
North Coast Chapter
P.O. Box 1967, Arcata, CA 95518

Northcoast Environmental Center
575 H Street, Arcata, CA 95521
(707) 822-6918





United States Department of the Interior

FISH AND WILDLIFE SERVICE

Arcata Fish and Wildlife Office
1655 Heindon Road
Arcata, CA 95521-5582
Phone: (707) 822-7201 Fax: (707) 822-8411



In Reply Refer To:
1-14-2003-1858.6

JUL 07 2004

Lieutenant Colonel Michael McCormick
District Engineer
San Francisco District, U.S. Army Corps of Engineers
333 Market Street
San Francisco, California 94105-2197

Subject: Elk Valley Rancheria, Martin Ranch, 203.5 Acre Fee-to-Trust Transfer and Casino/Resort Project, Del Norte County, California (Public Notice 28433N)

Dear Mr. McCormick:

This correspondence is provided in response to your request for comments on Public Notice 28433N (Notice), dated June 4, 2004, related to a project at the former Martin Ranch, located 1 mile south of Crescent City, Del Norte County, California. The Elk Valley Rancheria proposes to place fill in 9.46 acres of jurisdictional wetlands in conjunction with development of a golf course and casino at the site. The following comments are provided to you pursuant to our authorities under the Fish and Wildlife Coordination Act, section 404 of the Clean Water Act, and section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.)(ESA).

1. The Notice for the Elk Valley Rancheria, Martin Ranch, 203.5 Acre Fee-to-Trust Transfer and Casino/Resort Project indicates the Bureau of Indian Affairs intends to request informal consultation with respect to the Federally-listed endangered western lily (*Lilium occidentale*), for which the largest known population occurs in the Crescent City Marsh, hydrologically downstream from the property. Based on the magnitude of the potential impacts on the Crescent City Marsh and the western lily as a result of the proposed development, we anticipate formal consultation may be necessary. Therefore, please be aware that the time required to complete the consultation may exceed that suggested in the Notice.
2. In our EIS scoping input for this project, we requested an analysis that describes in detail all potential hydrological impacts on the Crescent City Marsh. The proposed development occupies 40 percent or more of the remaining undeveloped watershed to the marsh. Beyond

the potential for hydrological impacts on the Crescent City Marsh associated with any further development of this small watershed, to our knowledge it has not been determined how the specific wetlands proposed for filling function in the hydrology of the Marsh. For example, these wetlands may provide delayed subsurface flow into the Marsh, in addition to channeling surface flow through culverts located under Humboldt Road. Maintaining the historical flow regime and balance of surface and subsurface inputs to this Marsh could be important to maintaining the sensitive botanical and wildlife resources located there. In this case, any wetlands constructed or conserved offsite as part of the project mitigation, especially if constructed outside the immediate watershed, would have no benefit to the Crescent City Marsh in mitigating the potential hydrologic impacts of filling wetlands. Additionally, any constructed wetlands onsite may have little or no mitigation value in terms of replacing subsurface flow to the Marsh, if such exists. Therefore, a detailed hydrological analysis which describes wetlands functions in the context of the entire watershed is needed prior to any assessment of relative importance of the wetlands proposed for filling compared to artificially constructed wetlands.

3. Based on information in your Public Notice, the Service suspects that suitable habitat for the Federally threatened marbled murrelet (*Brachyramphus marmoratus*), northern spotted owl (*Strix occidentalis caurina*), and bald eagle (*Haliaeetus leucocephalus*) may occur in the vicinity of the project, and that these species may be affected. We recommend that a biologist familiar with these species and their habitat requirements review existing information regarding suitability of the habitat and known species' locations near the project. Based on this analysis, the lead Federal agency should make a determination whether the species or their habitats may be affected by the proposed action. Staff from the Arcata Fish and Wildlife Office are available to discuss the specific requirements of the effects analysis in more detail, since these requirements differ according to species.

Depending on the outcome of this effects analysis, informal or formal consultation under the Endangered Species Act may be necessary for these species.

4. A determination of presence of suitable habitat for the Federally-listed endangered tidewater goby (*Eucyclogobius newberryi*) is needed for any seasonal or permanent aquatic area of the project, as well as any such areas downstream of the actual construction site that are affected by the project.

If suitable habitat is present, the action agency may choose to complete surveys for gobies. If presence/absence surveys are conducted, we strongly recommend they be accomplished according to the current draft protocol standard developed by the Arcata Fish and Wildlife Office. This survey should be accomplished within the time frame required to be valid for the timing of project implementation. In the event that gobies are detected, the action agency will need to make an effects determination, and request informal or formal consultation with the Service if appropriate.

If surveys for tidewater goby are not conducted, all unsurveyed suitable habitat will be assumed to be occupied by the species. The lead action agency will be required to assess the

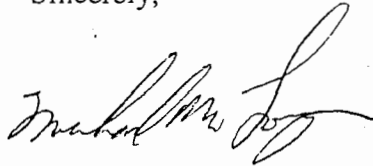
effects to the species, and consult with the Service if the project may affect the tidewater goby.

Because of their high value to fish and wildlife, and their scarcity, conservation of wetlands is a high priority to the Fish and Wildlife Service. To conserve these valuable natural resources, the Service generally recommends against construction of non-water dependent projects in valuable wetlands. We do not consider the proposed golf course and casino to be water-dependent. Moreover, a thorough analysis of the impacts of the proposed project on fish and wildlife and their habitat, including the Crescent City Marsh, has not been completed.

For these reasons, the Service recommends that no permit be issued for the proposed work at this time. We may reconsider our position if it demonstrated that there are no less damaging, practicable alternatives to the proposed work, and that all unavoidable impacts to fish and wildlife and their habitat are fully mitigated.

Thank you for the opportunity to comment on the proposed project. Please contact David Solis at the letterhead address or phone number if you have any questions regarding this correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael M. Long". The signature is fluid and cursive, with a large, stylized "L" at the end.

Michael M. Long
Field Supervisor

cc:

Bureau of Indian Affairs, Sacramento, CA (Attn: Bill Allen)
Elk Valley Rancheria, Crescent City (Attn: Ray Martell)
California Department of Fish and Game, Eureka (Attn: Karen Kovacs)
USFWS, Regional Office, External Affairs, Portland, OR (Attn: Scott Aikin)



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Arcata Fish and Wildlife Office

1655 Heindon Road

Arcata, California, 95521

Phone: (707) 822-7201 FAX: (707) 822-8411

In Reply Refer To:

1-14-2003-1858

MAR 24 2005

FILE COPY

Memorandum

To: Acting Regional Director, Bureau of Indian Affairs,
Sacramento, California

From: *Aikin* Field Supervisor, Arcata Fish and Wildlife Office,
Arcata, California *Ray Aikin*

Subject: Consultation Request, Elk Valley Rancheria, Martin Ranch Fee-to-Trust Project,
Del Norte County, California

This letter responds to the Biological Resources Assessment (BA) and your request to initiate consultation for the 203.5 acre fee-to-trust and casino/resort project in Del Norte County, California. This project is proposed by the Elk Valley Rancheria.

The Fish and Wildlife Service (Service) previously provided scoping comments for this project in a memorandum dated January 14, 2004. Our comments included recommendations regarding the appropriate biological studies and surveys needed to assess the environmental impacts of the project. Since that date, we have agreed to be a cooperating agency in preparation of the Environmental Impact Statement for the project. The following comments are provided to you pursuant to our authorities under the Fish and Wildlife Coordination Act (16 U.S.C. 661-667e) and section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), as amended.

We reviewed the BA prepared by AES Consulting. Our comments and a list of information necessary to conduct section 7 consultation are included as Attachment A. Information necessary for us to provide comments under the Fish and Wildlife Coordination Act and the Mitigation Policy (Fed. Reg. 46[15]7644-7663) are included as Attachment B. We are available to meet with representatives from the Bureau of Indian Affairs (Bureau) and the Elk Valley Rancheria to discuss the additional information needs as necessary. Please be aware that the timeline for the Service to complete the consultation will not start until we receive the required information as outlined in the regulations governing interagency consultations (50 CFR § 402.14). Please contact Amedee Brickey at (707) 822-7201 if you have any questions regarding this correspondence.

Attachments

18 of 30

cc:

FWS, RO, External Affairs, Portland, OR (Attn: Scott Aikin)
Elk Valley Rancheria, Crescent City, CA (Attn: Ray Martell)
CDFG, Eureka (Attn: Karen Kovacs)

ATTACHMENT A

Comments Pertaining to Section 7 Consultation under the Endangered Species Act

Biological Resources Assessment (BA), Elk Valley Rancheria, Martin Ranch Fee-to-Trust Project, August 2004

Section 1.1: Project Location and Description

The BA should describe the action area, defined as all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action (50 CFR § 402.14 and U.S. Fish and Wildlife Service and National Marine Fisheries Service 1998). Indirect effects are those effects that are caused by or will result from the proposed action and are later in time. In this case, since the project area is hydrologically linked to the Crescent City Marsh, west of Humboldt Road, the action area appears to include Crescent City Marsh.

The BA needs to describe the manner in which the proposed action may affect the hydrological conditions of the onsite wetlands, and the Crescent City Marsh to the west. The Crescent City Marsh contains the largest known population of the western lily (*Lilium occidentale*), Federally listed as endangered, and contains potentially suitable habitat for the tidewater goby (*Eucyclogobius newberryi*), also Federally listed as endangered. In particular, the more detailed project description should indicate any proposed improvements to the access road, how stormwater will be routed and treated, and the designated setbacks from onsite wetlands. Although this information will likely be included in the Environmental Impact Statement prepared for the project, it is needed to adequately complete our consultation with regard to the western lily and tidewater goby, and provide recommendations to avoid or minimize impacts.

Section 1.3: Regulatory Setting

The BA indicates a single factor wetlands delineation, as opposed to the 3 factor method required by the U.S. Army Corps of Engineers (Corps), may be required if the Elk Valley Rancheria chooses to develop land within the coastal zone. However, due to our concerns for further modifications in the very limited watershed of Crescent City Marsh, particularly wetlands, we will require a more complete accounting of affected wetlands utilizing the Service's classification system (Cowardin *et al.* 1979). Even single factor wetlands provide many important functions, including groundwater recharge, erosion control, water purification, and temporary water storage. A comprehensive inventory of wetlands is needed to conduct an adequate effects analysis of the proposed action on both onsite and offsite wetlands and Federally-listed species that may occur in those wetlands. The northern portion of the project area flows directly into Crescent City Marsh. The majority of the southern portion of the property, and the area proposed for the casino and parking lot also appears hydrologically connected to Crescent City Marsh. Therefore, development on the property has the potential to affect the hydrology of Crescent City Marsh.

Section 4.3: Special Status Species

Although not discussed in the BA, habitat for the bald eagle (*Haliaeetus leucocephalus*), Federally listed as threatened, may occur in the vicinity of the project. Please provide an assessment of potential suitable habitat in the vicinity, and a clearly stated analysis of the likely effects of the action on the bald eagle or its habitat.

Page 19: Marbled Murrelet and Northern Spotted Owl:

The BA stated that additional studies of the marbled murrelet (*Brachyramphus marmoratus*) and northern spotted owl (*Strix occidentalis caurina*), both Federally listed as threatened, are not warranted for this project. On October 21, 2004 we conducted a site visit and determined that no habitat for either the marbled murrelet or northern spotted owl occurs in the action area. However, to be consistent with section 7(c) of the Act, the BA should include a determination of effects for the marbled murrelet and northern spotted owl, and the rationale for each determination. This statement should take the form of "no effect"; "may affect, but not likely to adversely affect", or "may affect, and likely to adversely affect".

Page 20: Tidewater Goby

In our letter dated July 7, 2004, we noted that a portion of Crescent City Marsh may provide habitat for tidewater gobies. This species occupies coastal lagoons, lower reaches of coastal streams, and coastal bays.

The BA states that the proposed project will not affect any land draining into Crescent City Marsh. Based upon the information currently available, we can not agree with this conclusion. It appears that the two northern drainages located on the property pass beneath Humboldt Road directly into Crescent City Marsh. One of these drainages receives runoff from a lateral ditch that intersects the access road that will be widened to access the development. The remainder of the site runoff, with the exception of the two southernmost drainages, flows into a large wetland complex in the lower portion of the project area, and then crosses under Humboldt Road into a triangular wetland area surrounded by Highway 101, Sandmine Road and Humboldt Road. That wetland is connected by at least one culvert to Crescent City Marsh in the vicinity of potential tidewater goby habitat. We do not know how this hydrological link to the Marsh functions, or how activities in the project area may influence Crescent City Marsh. However, potential impacts of the proposed development include changes in water quality, and a change in the amount and timing of surface runoff and percolation. Due to the relatively large area of the watershed altered directly by the proposed action, the direct and indirect impacts of this project on the hydrology of Crescent City Marsh must be assessed in order to determine the potential for impacts on tidewater goby, in the absence of specific surveys for the occurrence of goby in the Marsh. In order to accomplish that assessment, a detailed hydrological analysis that describes all site wetland functions in the context of the watershed appears necessary. Finally, a clearly stated effects determination and adequate supporting rationale should be included in the BA for tidewater goby.

Pages 27-28: Western Lily

The discussion of habitat within the project area and its suitability for the western lily does not mention the high quality habitat located in the northwest portion of the site, in which Labrador tea (*Ledum glandulosum*), *Hypericum formosum*, and other species generally unique to habitat occupied by western lily, in the project area, were observed by Service staff on June 4, 2004. It is not clear that this habitat was surveyed, since the above species were not included in the vascular plant checklist (Appendix D). During our joint field visit on June 4, 2004, we noted that this specific habitat had a very high potential for supporting the western lily, and that a very careful inspection would be needed since the lily could exist in a diminutive juvenile stage. Due to its close similarity to vegetation located in the nearby Crescent City Marsh, which is completely unique to

the region, there is good reason to believe this habitat was previously contiguous with habitat occupied by western lily in the recent past. Since the BA does not indicate that a careful inventory was conducted within the Labrador tea habitat we request a clarification of the degree to which this habitat was inspected.

Based on a more complete assessment of the hydrological connection between the development and Crescent City Marsh, an effects determination with supporting rationale should be included for the western lily.

Status of Section 7 Consultation

In summary, the Service will require the following specific, additional information, in order to initiate and conduct section 7 consultation with the Bureau for those Federally-listed species that may be affected by the proposed action. A description of the action area, defined as all areas to be affected directly or indirectly by the Federal action.

- A more complete project description, including how the proposed construction will affect both surface and subsurface runoff from the site.
- An assessment of the degree of hydrological connection between the project area and the Crescent City Marsh, known to be occupied by the western lily and potentially occupied by tidewater goby.
- A description of the manner in which the action may affect each listed species, an analysis of any cumulative effects, and an effects determination for each species.

Literature Cited

- U.S. Fish and Wildlife Service and National Marine Fisheries Service. 1998. Endangered species consultation handbook. Procedures for conducting consultation and conference activities under section 7 of the Endangered Species Act.
- Cowardin, L.M., V. Carter, F.C. Golet, and E.T. LaRoe. 1979. Classification of wetlands and deepwater habitats of the United States. Department of the Interior, Fish and Wildlife Service, Office of Biological Services. FWS/OBS-79/31. 131pp.

ATTACHMENT B

Comments and Recommendations Pursuant to the Fish and Wildlife Coordination Act and the Fish and Wildlife Service Mitigation Policy

Biological Resources Assessment, Elk Valley Rancheria, Martin Ranch Fee-to-Trust Project, August 2004

Section 1.3: Regulatory Setting

The BA indicates at least 4 acres of red alder/mixed deciduous woodland, which covers a large portion of the upper site, would be eliminated by the current proposed development. Although this habitat was not mapped as Corps jurisdictional wetland, we anticipate at least a portion, if not most, of this habitat would be classified as palustrine-forested wetland using the Service's wetland criteria (Cowardin *et al.* 1979). These wetlands provide important wetland functions and may be valuable in maintaining the integrity of the Crescent City Marsh. In order for the Service to recommend appropriate mitigation for their loss, both the extent and the value of these wetlands should be described in the document.

The current regulatory setting appears to be having a significant influence on the current design and scope of the proposed action. The current project has been designed to largely be physically located outside of the coastal zone, which delimits that area subject to regulatory oversight by the California Coastal Commission under the Coastal Zone Management Act (16 U.S.C. 1451-1464 et sec.) This has implications for mitigation of project impacts to fish and wildlife resources, both in the current action, and should future actions be proposed once the Ranch has been transferred into Trust status. It will be important for any environmental review that will be conducted pursuant to the National Environmental Policy Act (42 U.S.C. 4321-4347 et sec.) to describe the impacts of changes in regulatory oversight on fish and wildlife habitats in the project area that may result from the Fee to Trust Transfer.

Section 4.3: Special Status Species (Pages 25-32):

Special status species such as the rare sedges (*Carex* spp.), vanillagrass (*Hierochloa odorata*), marsh pea (*Lathyrus palustris*), Arctic starflower (*Trientalis arctica*), marsh violet (*Viola palustris*), great burnett (*Sanguisorba officinalis*), and northern red-legged frog (*Rana aurora aurora*) that occupy Crescent City Marsh could be potentially affected by changes in hydrology as a result of the proposed action and any future developments. These impacts should be addressed.

Section 4.5: Coastal Commission Wetlands

The project includes road widening and replacement of a culvert along the access road located within the coastal zone. The BA states that a wetland delineation for this site utilizing single factor criteria (Cowardin *et al.* 1979) would be problematic, and in any case, would be similar to the Corps jurisdictional delineation. Single factor delineations are routinely conducted in Del Norte County that involve professional decisions about complex hydrology and soils not yet described in any soil inventory. The great majority of plant species onsite are included in the official Corps list of wetland indicator plants, and are useful for determining presence of hydrophytic vegetation, tempered by professional decisions regarding local compensating factors. There is evidence that the results of a single factor delineation would be quite different from the Corps based delineation.

For example, the National Wetlands Inventory map, which currently covers the western side of the property, identifies a somewhat greater extent of wetlands than are included in the Corps delineation for the same area. We anticipate most or all of the red alder/mixed hardwood habitat on the eastern side of the project would also be mapped as wetlands using the Cowardin single factor method.

Section 5.3: Impacts and Mitigation - Waters of U.S.

Page 36: Potential Impact #2

The proposed mitigation for losses of wetlands from direct impacts to red alder/mixed hardwood forest and wetland prairie only address one function of that habitat, i.e., nesting habitat for migratory birds. Mitigation measures should also include measures to offset the other beneficial functions of wetlands, including groundwater recharge, water purification, maintenance of downstream hydrology, etc.

Page 37: Potential Impact #3

The Corps wetland delineation has not been confirmed, a comprehensive wetland delineation following Cowardin *et al.* (1979) has not been completed, and the degree of impacts to onsite and offsite wetland resources have not yet been analyzed. Recommended measures 3A-3C appear to propose mitigation for wetland impacts that may be appropriate with respect to sequence, beginning with avoidance, and degree of compensation. However, we can not comment or offer additional recommendations until the information detailed above is available for consideration and review. Once this information has been collected, the Service can provide additional feedback on mitigation for the proposed action.

Status of Coordination Act Comments and Recommendations

In summary, the Service will require the following specific, additional information, in order to provide Coordination Act comments including appropriate mitigation recommendations for the proposed action.

- A detailed project description which includes changes in regulatory environment as a result of the fee-to-trust transfer and how that may affect fish and wildlife resources through future direct development of wetlands or by changing the quality, quantity and timing of runoff, both above and below ground, to adjacent wetlands.
- A comprehensive wetland delineation utilizing the Cowardin method (Cowardin *et al.* 1979) for the entire project area.
- An assessment, using an accepted valuation methodology, of fish and wildlife habitats affected by the proposed action. This assessment is necessary to determine the type and extent of mitigation that will be appropriate for the proposed action.

Literature Cited

23 of 30

Cowardin, L.M., V. Carter, F.C. Golet, and E.T. LaRoe. 1979. Classification of wetlands and deepwater habitats of the United States. Department of the Interior, Fish and Wildlife Service, Office of Biological Services. FWS/OBS-79/31. 131pp.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

JUL 12 2004

Colonel Michael McCormick
District Engineer
U.S. Army Corps of Engineers
San Francisco District
333 Market Street
San Francisco, California 94105-2197

Subject: Public Notice No. 28433N, Elk Valley Rancheria, Del Norte County, California

Dear Colonel McCormick:

We have reviewed the subject public notice regarding an application for a Department of Army permit to fill wetlands and other waters of the United States as part of the Elk Valley Rancheria resort project near Crescent City, California. We are submitting these comments under the authority of, and in accordance with, the provisions of the Federal Guidelines (40 CFR 230) promulgated under Section 404(b)(1) of the Clean Water Act. Our comments are based on the information in your June 4, 2004 Public Notice, on reports provided by the applicant, on our May 20 meeting with the applicant and the Bureau of Indian Affairs, and on our inspection of the project site on June 30, 2004. On July 1, staff of your Regulatory Branch extended the deadline for our comments to July 14, 2004.

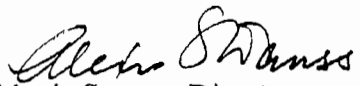
We respectfully recommend that you do not authorize the proposed project at this time because the applicant has not demonstrated project compliance with the Section 404(b)(1) Guidelines. We are also taking this opportunity to inform you, in accordance with the procedures at Part 3(a) of the Section 404(q) Memorandum of Agreement between the Environmental Protection Agency and the Department of the Army, that **the proposed project may result in substantial and unacceptable impacts to aquatic resources of national importance (ARNI)**. Thus, we consider this permit application to be a candidate for elevation to headquarters offices of the Corps and EPA if Section 404-related issues cannot be addressed at the District level.

The Corps, U.S. Fish and Wildlife Service, and EPA are cooperating agencies with the Bureau of Indian Affairs for the proposed project under the National Environmental Policy Act. The BIA currently is preparing a Draft Environmental Impact Statement, and we understand this DEIS may be circulated for public comment later this year. Accordingly, we recommend you defer any final decisions on this project until the public has an opportunity to comment on the DEIS and the applicant demonstrates project compliance with the Section 404(b)(1) Guidelines.

We appreciate the opportunity to review the subject public notice. We are available to work with you, your staff, and the applicant to try to resolve our concerns and the relevant concerns of the

other resource and regulatory agencies and the public. If you have questions regarding these comments or would like to discuss this matter, please call me at (415) 972-3572, or have your staff call Michael Monroe of my staff at (415) 972-3453.

Sincerely,

 12 July 2004
Alexis Strauss, Director
Water Division

Enclosure: Comments on Public Notice 28433N

cc: Mr. Bill Allan
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

Mr. Mark Delaplaine
California Coastal Commission
45 Fremont Street, Suite 2200
San Francisco, CA 94105-2219

Ms. Karen Kovacs
California Department of Fish and Game
619 Second Street
Eureka, CA 95501

Mr. Mike Long
U.S. Fish and Wildlife Service
1655 Heindon Road
Arcata, CA 95521

Honorable Dale Miller
Elk Valley Tribal Council
2332 Howland Hill Road
Crescent City, CA 95531

RECEIVED

JUL 16 2004

CALIFORNIA
COASTAL COMMISSION

Enclosure

EPA Comments on Public Notice 28433N Elk Valley Rancheria Resort Project Del Norte County, California

Setting

The project site is approximately one mile southeast of Crescent City in Del Norte County, California. It is adjacent to State Route 101 and Humboldt Road. The 203.5-acre site, known as Martin Ranch, is located on a gently sloping coastal plain and ranges in elevation from approximately 20 feet above mean sea level to approximately 300 feet above mean sea level. Nearby land uses are generally undeveloped rural with the exception of some residential housing near the project site's northern boundary.

The project site supports a mix of vegetation types including Sitka spruce forest, red alder/mixed deciduous woodland, wetland prairie, and annual grassland/pasture. Several intermittent streams extend across the site in an east-west direction; some drain into the adjacent Crescent City Marsh Wildlife Area. Currently, the site is grazed by cattle and supports one residence and associated outbuildings.

Project Description

The proposed project consists of placing the Martin Ranch property into federal trust status and developing upon it a destination resort. Proposed resort features include a golf course, hotel, conference facilities, and casino/bingo facility. The 18-hole golf course would have a driving range, practice putting and chipping greens, maintenance area, and a 2500-square foot clubhouse. The three-story hotel would have 156 rooms and would include nine detached, bungalow-style fourplex buildings at ground level. The 20,000-square foot conference facility would serve large and small groups in non-fixed seating. The 40,000-square foot casino/bingo facility would include slot machines and table games, a 500-seat bingo/multi-function facility, a restaurant, and administrative/support space. Also included would be 1100 parking spaces on ground level.

Discharges to Waters of the United States

According to the public notice, and based on the applicant's March 2004 Delineation of Waters of the United States, the project site supports 30.33 acres of waters of the United States. These waters include 2.01 acres of intermittent streams and 28.32 acres of wetlands. Project construction would involve the discharge of some 60,000 cubic yards of fill material to 9.46 acres of these streams and wetlands. This discharge would be for access road construction, utility lines, and golf course construction.

Compliance CWA Section 404(b)(1) Guidelines

The Corps can authorize the discharge of dredged or fill material to waters of the United States only for projects that comply with EPA's Section 404(b)(1) Guidelines (Guidelines). The Guidelines at 40 CFR 230.10(a)-(d) provide independent tests against which an application for a Section 404 permit must be measured. Applicants must comply with the restrictions on discharges described in the Guidelines related to: (a) the analysis of alternatives; (b) water quality and other environmental effects; (c) aquatic ecosystem degradation; and (d) the mitigation of impacts. Based on the information provided, we believe the proposed project does not comply with the Guidelines.

Analysis of Alternatives -- 40 CFR 230.10(a)

To comply with 40 CFR 230.10(a), the Corps may only authorize a project that it determines to be the Least Environmentally Damaging Practicable Alternative (LEDPA) that achieves the basic project purpose. The Guidelines prohibit the discharge of dredged or fill material if there is a practicable alternative to the proposed discharge that would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences. Further, when a project that proposes to discharge fill material is located in a special aquatic site (such as the wetlands at Martin Ranch) and is not water dependent (casinos, hotels, and golf courses are not water dependent), it is presumed that practicable alternatives are available. An alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose.

The Corps public notice contains figures of several alternatives that the applicant has presumably evaluated. These include: (A-1) Year 2003 golf course design; (A-2) Year 2002 golf course design; (B) Non-gaming alternative; (C) No golf course alternative; and Endert's Beach alternative. Alternative A-1 is the alternative for which the applicant is seeking a permit. The public notice does not include any descriptions or analyses of these alternatives and, according to the Corps Project Manager, the applicant has not submitted to the Corps a formal alternatives analysis. Until the applicant submits an adequate alternatives analysis, it will be impossible for the Corps to identify the LEDPA.

We understand the applicant is developing additional alternatives that will be included in its Section 404(b)(1) alternatives analysis. We encourage the applicant to evaluate all practicable alternatives that further minimize or avoid altogether discharges of fill material to waters of the United States.

The Bureau of Indian Affairs (BIA) is preparing an Environmental Impact Statement for the project. The Corps public notice indicates that the Section 404(b)(1) Guidelines will be addressed in the alternatives section of the DEIS. As a cooperating agency on this EIS, EPA will work with BIA and the Corps to ensure that the document adequately analyzes a range of alternatives -- onsite and offsite -- to meet both the requirements of NEPA and the Section

404(b)(1) Guidelines.

Water Quality -- 40 CFR 230.10(b)

Project construction will entail extensive grading for roads, building pads, and the golf course. Given the scale of the project, stormwater pollutant loadings such as oil and grease, heavy metals, nutrients, organic chemicals, pesticides and herbicides, petroleum hydrocarbon components, and sediment could increase significantly. Additional constituents of concern in stormwater discharges, such as total suspended solids, biochemical oxygen demand (BOD) and chemical oxygen demand (COD), may contribute to the degradation of the nearby Crescent City Marsh Wildlife Area and other areas that receive runoff from the site.

As indicated in the public notice, EPA is responsible for certifying under Section 401 of the Clean Water Act that the proposed project will not adversely affect water quality. The applicant has applied to EPA Region 9 for this certification, and we are processing that application. We cannot, however, issue a certification for a project that does not comply with the Section 404(b)(1) Guidelines. EPA also will be responsible for ensuring that the project complies with federal stormwater regulations under purview of Section 402 of the Clean Water Act.

Endangered Species -- 40 CFR 230.10(b)

The Guidelines prohibit the authorization of discharges of dredged or fill material into waters of the United States, including wetlands, if it would jeopardize the continued existence of any federally listed threatened or endangered species. According to the U.S. Fish and Wildlife Service (Service), the proposed project may impact the federally endangered western lily. The Service, therefore, has requested formal consultation under the federal Endangered Species Act on this species. The Service also has determined that suitable habitat for the federally threatened marbled murrelet, northern spotted owl, and bald eagle may occur in the project vicinity, and that the proposed project may affect these species. Consultation may be necessary for these three species, as well as for the federally endangered tidewater goby.

We defer to the Service in its recommendations under Section 7 of the Endangered Species Act.

Significant Degradation -- 40 CFR 230.10(c)

The Guidelines prohibit discharges that would cause or contribute to significant degradation of the aquatic ecosystem. Not only would the project result in the loss of onsite wetlands, especially in the large areas designated K and N in the applicant's wetland delineation, it also would adversely affect the small, intermittent streams that feed these wetlands.

The project also may induce changes in the hydrological conditions in the nearby Crescent City Marsh Wildlife Area. This area, managed by the California Department of Fish and Game, is comprised of 339 acres of wetlands, grasslands, and other habitats. It is located on the west side

of Humboldt Road and, according to the California Native Plant Society, is home to more than half the global distribution of western lily and at least a dozen other State or federally listed plant species, and plant communities found nowhere else in Northern California. The project site represents about 40 percent of the Crescent City Marsh Wildlife Area's undeveloped watershed. Construction of project features, especially the golf course, have the potential to adversely affect hydrological conditions in the Marsh.

We believe the project may cause adverse and permanent impacts to several of the "significant degradation" factors listed in the Guidelines (*i.e.*, life stages of aquatic and other wildlife; aquatic ecosystem stability, including loss of habitat and loss of nutrient assimilation and water purification functions; and aesthetic values). Accordingly, we conclude that the project has the potential to significantly degrade waters of the United States onsite and offsite.

Mitigation -- 40 CFR 230.10(d)

The Guidelines require compensatory mitigation for unavoidable project impacts to waters of the United States. As described in the Conceptual Wetland Mitigation and Monitoring Plan (March 2004), the applicant proposes to undertake compensatory mitigation at Martin's Ranch and at nearby Endert's Beach. Mitigation at Martin's Ranch would consist of creating 3.67 acres of wetland pond. At Endert's Beach, the applicant proposes to create four acres of wetland habitat, establish a one-acre buffer strip, and preserve 17 acres of coastal wetlands and dunes. The applicant also proposes to deed the entire 22-acre Endert's Beach parcel to the National Park Service or other suitable conservation entity.

Implementation of the conceptual mitigation plan would result in the creation of 7.67 acres of wetlands. Because the proposed project would fill nearly ten acres of jurisdictional wetlands and other waters, we believe the conceptual mitigation plan is inadequate to offset unavoidable project impacts to these aquatic resources.

The National Research Council and the Corps' mitigation Regulatory Guidance Letter 02-02 prescribe a "watershed approach" which considers entire systems and their constituent parts to successfully offset environmental losses resulting from permitted activities. In keeping with this approach, it would be preferable for the mitigation to be in the same watershed as Martin's Ranch rather than at Endert's Beach. Although the Endert's Beach site has potential for wetlands restoration, we see little benefit of enhancing a site that already has high habitat diversity and is relatively well protected by environmental laws. It would be preferable to undertake any necessary offsite mitigation closer to Martin's Ranch and adjacent to the Crescent City Marsh Wildlife Area. We understand there may be parcels adjacent to, or within, the Marsh that may be suitable for acquisition and habitat improvement.

Insufficient Information -- 40 CFR 230.12(a)(3)(iv)

The District Engineer may not make a finding of compliance with the Guidelines if there is

insufficient information to determine whether a proposed discharge complies with the substantive requirements related to alternatives analysis, water quality, endangered species, significant degradation, and/or mitigation. Based on the information presented to date, the applicant has not demonstrated that the project complies with any of the restrictions to discharges. We, therefore, conclude that there is insufficient information upon which to make a finding of compliance at this time.



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BIOLOGICAL ASSESSMENT, JAGER BUILDING PERMIT, HUMBOLDT ROAD, DEL NORTE COUNTY (APN # 115-280-16&17)

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Submitted: May, 2008

By:

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PLANNING
COUNTY OF DEL NORTE

EXHIBIT NO. 6
APPEAL NO. A-1-DNC-08-038 JAGER BIOLOGICAL ASSESSMENT (1 of 46)

EXHIBIT F
Biological Assessment

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A biological assessment was conducted for a building permit on the Jager property. The property is located within the jurisdiction of the California Coastal Commission. No sensitive wildlife species or habitats were found on or near the property. A drainage swale exists on the south boundary of the property and wetland habitats were delineated within. Although the south sixty feet of the property is zoned Rural Conservation Area (RCA), the swale does not meet the criteria as an Environmentally Sensitive Habitat Area (ESHA). A 100 foot buffer to a small wetland area was not possible due to lot size constraints. As proposed, the project would retain an average buffer of 77 feet between wetlands and development. Overall, this project would have no impacts upon any sensitive or rare wildlife species or to wetland habitats.

The Applicant proposes to build a single family home on property near the corner of Humboldt Road and State Street, near Crescent City, California (Figure 1). The southern sixty feet of the property is zoned RCA-2r. During the creation of this property in 1991, the original landowner requested a smaller RCA zoning for the drainage swale, however, **as a mitigation for the limited wetland habitats within the drainage swale**, the county mandated a sixty-foot wide zoning from the south edge of the property (plus ten feet on another property to the south). In essence, protective mitigation was therefore previously provided to wetland habitats. Biological conditions have not changed since 1991.

Galea Wildlife Consulting (GWC) Incorporated was contracted to provide a biological assessment to determine the potential impacts on sensitive wildlife species, including federally or state listed species, and species of special concern, and determine the extent of wetland habitats.

2.1 Environmental Setting

The Jager property is located on the west side of Humboldt Road, very near the corner with State Street. The .5 acre property contains part of a drainage swale on the south side, which has been zoned as Resource Conservation Area- 2r. The remainder of the property consists of a stand of second-growth spruce (*Picea sitchensis*) and Douglas-fir (*Pseudotsuga menziesii*) on an elevated slope above the drainage swale. The property is located in a residential area adjacent to major roads. Homes are located immediately north, south and west of the property, with a major road immediately east.

A small drainage swale runs through the south side of the property. Lowlands to the east are drained via a small culvert which extends under Humboldt Road and deposits into the drainage swale. This swale eventually drains into a creek which empties into the marsh complex located south of Crescent City on the north side of Highway 101, via an unnamed creek.

2.2 Physical Environment

The climate of northern California is characterized as Mediterranean, with cool, wet winters and warm, dry summers with frequent fog. Along the coastline, proximity to the Pacific Ocean produces high levels of humidity and results in abundant fog and fog drip precipitation. The maritime influence diminishes with distance from the coast, resulting in lesser amounts of fog, drier summer conditions and more variable temperatures. Annual precipitation in the project watershed ranges from 60 - 150 inches occurring primarily as rain during the winter months. Air temperatures measured in Crescent City area vary from 41°F to 67°F annually.

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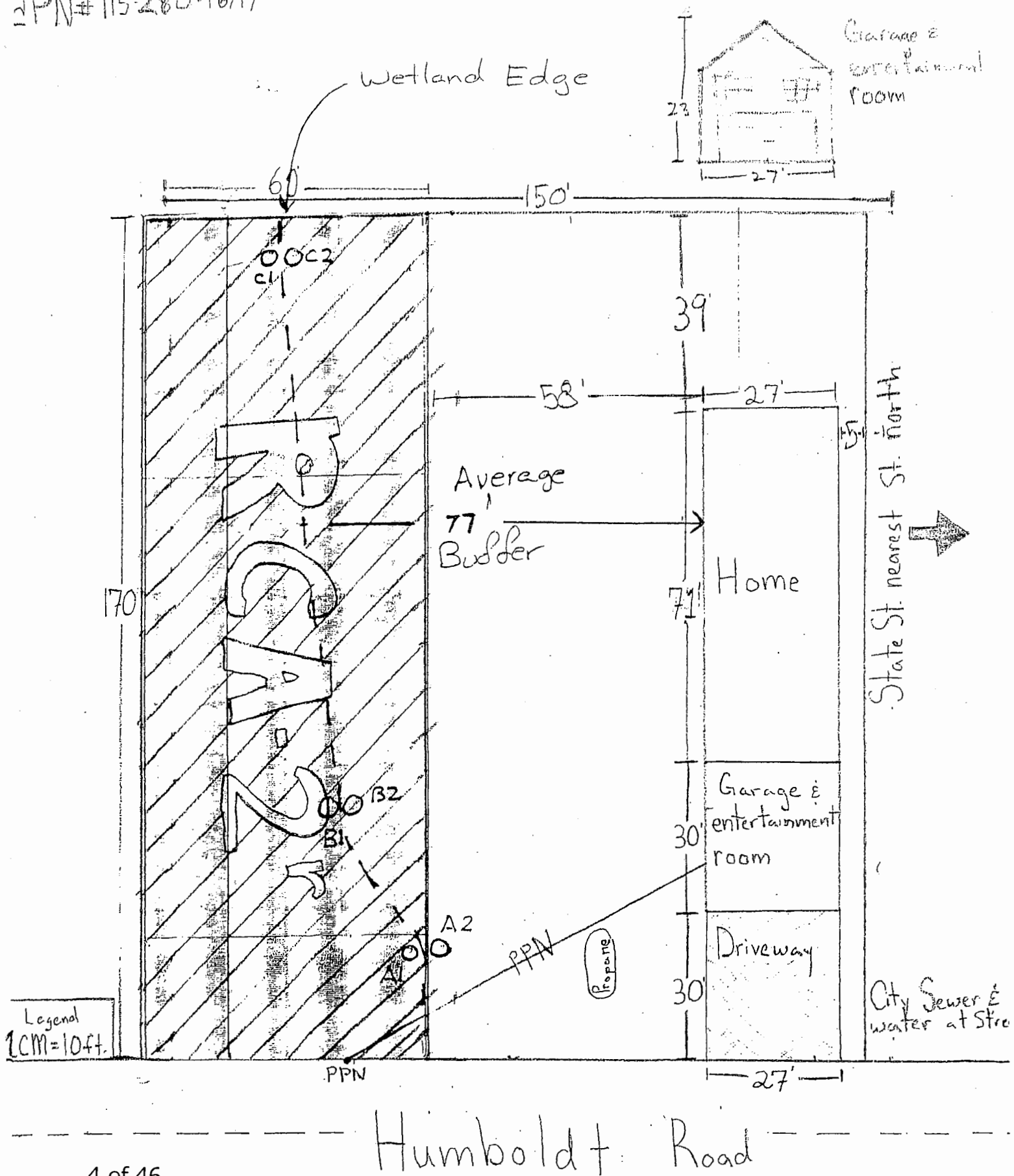


Figure 3. Location of proposed homesite relative to zoned RCA-2r, wetland edge with average 77 foot buffer, and sample plot locations (A,B&C). Scale 1 cm. = 10 feet.

3.1 Records Search

A records search of the California Department of Fish and Game's (CDFG) Natural Diversity Data Base (2008) was conducted to determine if any additional special-status plant or animal species had been previously reported within or near the project area. An assessment area of approximately two square miles around the property was used to search the database. This size assessment area was used as 1) the subject property is small, consists of only two habitat types and is located in the midst of a residential area 2) this size assessment area covers local habitat types such as are found on the property and 3) constraining the assessment area size excluded habitats such as marine, open pastureland or non-fragmented forest lands in the general area, which are not reflective of habitat types found on or near this property.

For the purposes of this report, special-status plant and animal species are defined as those listed in the California Fish and Game Code as Rare, Threatened or Endangered, those listed as Threatened or Endangered under the Federal Endangered Species Act, candidates for state or federal listing, and unlisted species that may be significantly affected and warrant consideration. Listed and sensitive wildlife species potentially occurring within the general area are presented in Table 1.

3.2 Field Investigation

A field investigation of the project area was conducted in February of 2008. Certified Wildlife Biologist Frank Galea conducted the field review. All potential wildlife habitats within the project area and within 1/4 mile around the project area were assessed for their potential for listed wildlife and plant species. Trees were searched with 8x power binoculars for nest structures, and the ground under the trees was searched for evidence of avian occupancy.

3.3 Wetland Delineation

A wetland delineation was performed during February of 2008. The wetland delineation was conducted in accordance with the currently applicable U.S. Army Corps of Engineers (ACOE) 1987 Wetland Delineation Manual. The ACOE utilizes a three-parameter method for making wetland determinations. It is based on the presence of three wetland indicators: wetland hydrology (periodic inundation for a minimum of seven consecutive days during the growing season), a predominance of hydrophytic (water-loving) vegetation (plants adapted to anaerobic conditions resulting from a prolonged inundation with water) and hydric soils (soils that become saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions that favor the growth of hydrophytic vegetation). As this project is located within the coastal zone a one-parameter method of wetland delineation was used.

Sample plots ten feet in diameter were assessed using the routine wetland delineation method. The location of wetland habitats was relatively easy to assess due to lower elevation, hydric vegetation and muddy ground. Sample plots were placed on the uphill edge of the wetland to determine where upland habitats began. A 200 foot measurement tape was used to locate all sample plots.

Each sample plot was assessed for percentage of wetland plants. A soil test pit was dug to determine soil type, water and moisture depth, and if soil reduction was occurring at the location, as determined by gleyed soils or other hydric indicators. Soil color was determined using Munsell soil color charts. All data collected was recorded on Routine Wetland Determination forms as provided in the U.S. Army

Corp of Engineers 1987 Manual. Once a delineation between upland and wetland habitats was determined, the delineation line was marked with flagging hung on vegetation along the line. Distances to known points (property corner, road, fence, etc.) was measured from the upland sample point nearest the wetland edge, not from the presumed wetland edge itself.

Wetland plant classifications for California and the Pacific Northwest were taken from the most recent update of the National List of Plant Species That Occur in Wetlands: 1988 National Summary (Reed), as defined below:

OBL = Obligate Wetland. Occurs in wetlands under natural conditions at an estimated probability > 99%.

FACW = Facultative Wetland. Usually occur in wetlands (estimated probability 67%-99%), but occasionally found in non-wetlands.

FAC = Facultative. Equally likely to occur in wetlands or non-wetlands (estimated probability 34% - 66%).

FACU = Facultative Upland. Usually occur in non-wetlands (estimated probability 67%-99%), but occasionally found in wetlands (estimated probability 1%-33%).

UPL = Obligate Upland. Occur in wetlands in another region, but occur almost always (estimated probability >99%) under natural conditions in non-wetlands in the region specified.

NL = Not Listed, generally considered upland.

NI = Not Indicated. Recorded for those species for which insufficient information was available to determine an indicator status.

Wetland status for each species using Pacific Northwest criteria were considered as Crescent City receives on the average 67 inches of rain per year and is one of the wettest places in California. The ample amount of water available for hydric plants may allow them to grow in uplands where, in other regions of the state, they cannot. The amount of precipitation received as well as the coastal environment leads to a greater distribution of facultative species and sometimes "facultative wet" species in areas that do not exhibit hydric soils or wetland hydrology.

4.0 RESULTS AND POTENTIAL IMPACTS

4.1 Records Search

The CDF&G Natural Diversity Data Base (CNDDDB, 2008) provided a summary of those federal and state-listed and sensitive wildlife species and their mapped locations (Figure 2), reported to have occurred at least once within the assessment area. No sensitive terrestrial species was noted to occur within 1 mile of the project area. Several potentially sensitive plants were recorded as occurring in the general area, especially in the wetland complex located to the south near Highway 101. Coastal cutthroat trout (*Oncorhynchus clarki clarki*) were noted as occurring in the Elk Creek drainage to the west, but not in the small creek to the south. Although not in the CNDDDB as occurring in the assessment area, the cutthroat trout and the northern red-legged frog (*Rana aurora aurora*) are included in this report as potentially occurring in the assessment area, due to experience with local species and conditions.

A list of those sensitive or listed animal species potentially occurring in the vicinity of the project area is presented in Table 1, including the common and scientific names for each. The listing status of each species and if potential habitat (as determined by GWC, based upon a review of habitat available within the project area) was located within the project area is also indicated in Table 1.



Info: Site available at <http://imaps.dfg.ca.gov>

Author: Galea Wildlife Consulting
Date: 3/2/2008 8:05 AM

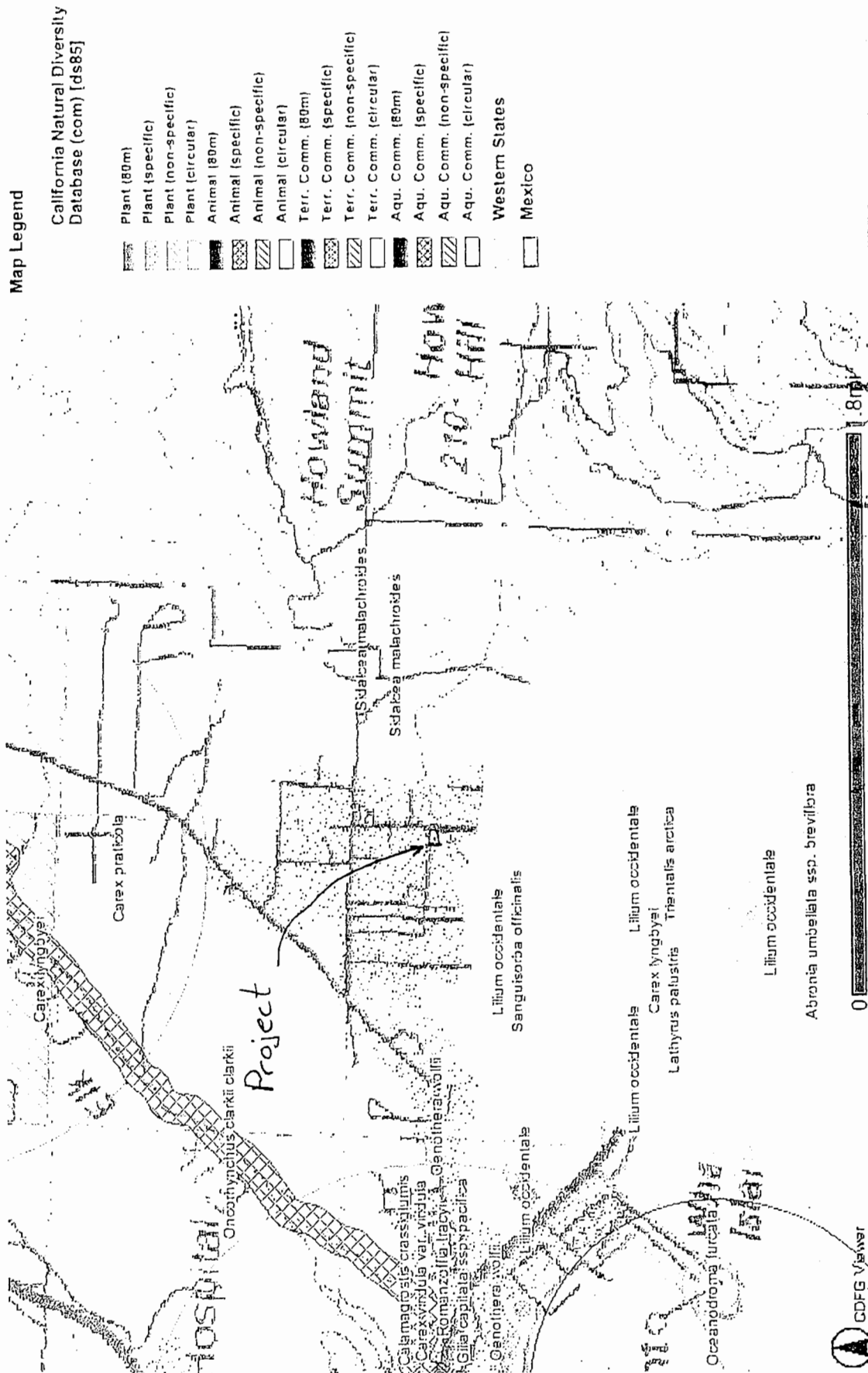


Table 1 . Sensitive Wildlife Species Occurring or with the Potential to Occur Within the Region of the Project Area (From CNDDB 2008 Quad search, USFWS Del Norte County list, and GWC sources)					
Common Name	Scientific Name	Federal Status	State Status	Breeding Habitat in Project Area?	Forage Habitat in Project Area?
FISH					
Coastal cutthroat trout	<i>Oncorhynchus clarki clarki</i>	SC	None	No	No
AMPHIBIANS					
Northern red-legged frog	<i>Rana aurora aurora</i>	None	CSC	Yes	Yes

Codes:

Federal Status

FE Federally endangered
 FT Federally threatened
 FC Federal candidate for listing
 FSC Federal species of concern
 FPE Federally proposed for endangered listing
 FPT Federally proposed for threatened listing

State Status

CE California endangered
 CT California threatened
 CCE California candidate for endangered listing
 CSC California species of concern (CDFG)
 CFP California fully protected

4.2 Field Investigation

A field review conducted in February found very little flow of water in the drainage swale. Although there is a brushy, seasonal wetland area on the east side of Humboldt Road, most of this area appears to drain to the south into the established creek rather than the shallow drainage swale on this property, based on evidence from visible hydrology.

Adjacent to the muddy channel was a thin, transitional area dominated by red alder (*Alnus rubra*) with an understory of salmonberry (*Rubus spectabilis*). However, mixed in with these hydric species were upland plant species such as swordfern (*Polystichum munitum*), Himalayan blackberry (*Rubus discolor*), scotch broom (*Cytisus scoparius*) and cotoneaster (*Cotoneaster sp.*). Beginning just above the salmonberry zone was an infestation of English Ivy (*Hedera helix*), which covered most of the understory up the slope into the large trees, which were also covered with this invasive plant. Himalayan blackberry (*Rubus discolor*), another invasive, was more prevalent near the road.

The upper slope was covered with mid-seral spruce and fir. Large, broken tree tops and branches demonstrated the exposure to wind by these trees, which makes them poor nesting habitat for larger birds. No nest structures were observed, nor white-wash, feathers or other indications of occupancy. Almost every tree was heavily infested with ivy.

As the Applicant proposes to place his home-site as far from the drainage swale as possible, it would be located at the top of the hill on the north side of the property. As most of the wind in the area comes from the south, the majority of the tall trees on the hillside would have to be removed, primarily as a safety issue. Post-harvest, the open ground would likely result in a dense stand of brush growing between the house and the wetlands, providing an excellent vegetative buffer.

4.3 Habitat Analysis and Impact Assessment for Fish and Wildlife

An assessment of potential habitats and impacts for sensitive wildlife species was conducted in of February of 2008.

4.3a Threatened or Endangered Species: The project area was found to contain no potential for the Federally listed threatened or endangered wildlife species. No occurrences of threatened, endangered or otherwise sensitive wildlife species are listed in the CNDDDB for the project site or in the immediate area, out to over one mile. The small size of the stand of trees on the property do not provide habitat for species dependant upon mid or late seral habitats. This project, therefore, would have no potential impacts upon any threatened or endangered species.

4.3b Non-Listed Sensitive Species

Fish: The drainage swale located on the south side of this property is obviously too small and shallow for fish to utilize. The creek located approximately 1/4 mile to the south, however, likely contains coastal cutthroat trout (*Oncorhynchus clarki clarki*), and the drainage swale likely drains into this creek some distance southwest of the property. The Applicant proposes to maintain a minimal 70 foot no-development buffer to the drainage swale, which is more than appropriate for protection as the vegetation in the buffer is dense, providing adequate screening of the drainage swale creek from potential development. This project as proposed should have no significant impact upon local fisheries populations if buffers as proposed are maintained.

Amphibians: Table 1 lists the northern red-legged frog as potentially occurring on the property. No red-legged frogs were observed during surveys, however potentially suitable habitat was located in the drainage swale. This species is not a protected species in Del Norte County and is locally relatively abundant, however they are becoming increasingly rare outside of this county and therefore should be protected wherever possible. Wetland buffers as proposed are appropriate as this will insure protection of habitat for this species.

4.3c Sensitive Plants

The California Native Plant Society Inventory includes five lists for categorizing plant species of concern. The plants on the CNPS list 1B and 2 are considered rare, endangered, and threatened plants pursuant to Section 15380 of the California Environmental Quality Act (CEQA). The plants on these lists meet the definitions under the Native Plant Protection Act and/or the California Endangered Species Act of the California Department of Fish and Game Code and are eligible for state listing.

Table 2 lists several sensitive plant species which were recorded in the CNDDDB as potentially occurring in the assessment area, based on the database printout and the map. The only Federally listed species is the western lily, which occurs in specific habitat types not found on this property.

The maple-leaved checkerbloom (*Sidalcea malachroides*) was mapped as occurring approximately one mile northeast of the project area and was on the CNDDDB map, but somehow it was not included in the CNDDDB printout (Appendix A). This species is found in broad-leaved woodlands and clearings, habitat which is not found on this property or in the immediate area.

The remainder of the sensitive plant species from the CNDDDB are plants primarily associated with marshes, such as those found to the southwest, where most of the records of these plants occurring are from. The

drainage swale is the only potential habitat for any sensitive species on the property should they be there, and this will be protected with a buffer of 70 feet.

Table 2. Sensitive Plant Species Potentially Occurring in Assessment Area Based On 2008 CNDDDB Records.					
Common Name	Scientific Name	Federal Status	CNPS List	Preferred Habitat	Habitat in Project Area?
Western Lily	<i>Lilium occidentale</i>	End.	End.	Bogs, fens, wet gaps in coastal conifer forest	No
Marsh pea	<i>Lathyrus palustris</i>	None	2.2	Bogs & fens	Limited
Arctic starflower	<i>Trientalis arctica</i>	none	2.2	Coastal bogs, seeps, fens	Limited
Lyngbye's sedge	<i>Carex lyngbyei</i>	None	2.2	Marshes and swamps	No
Maple-leaved checkerbloom	<i>Sidalcea malachroides</i>	None	4.2	Broad-leaved woodlands and clearings	No
Great burnet	<i>Sanguisorba officinalis</i>	None	2.2	Rocky serpentine seeps streams	No
vanilla-grass	<i>Hierochloa odorata</i>	None	2.3	Meadows, seeps, wet areas	No

4.3d Wetland Delineation

The drainage swale consists of a narrow (1-2 feet), muddy channel with standing water evident only during the rainy season. Although rainfall had been prevalent before the field visit, no flow was observed and there was little standing water. No bank was evident. The drainage swale was located directly against the south property line, in a direct east - west lineage.

Hydric plants such as skunk cabbage (*Lysichiton americanum*) and slough sedge (*Carex obnupta*) were found. Although considered an obligate wetland species in California, slough sedge can be found in upland sites in Del Norte (pers. experience) and Humboldt (Tony LaBanca, Calif. Dept. Fish and Game biologist, pers. comm.) counties. Slough sedge, therefore, while an indicator of mesic conditions, is not a definitive indicator of wetland habitat.

Other plants located near the drainage swale wetland included twinberry (*Lonicera involucrata*), native blackberry (*Rubus ursinus*) and common lady fern (*Athyrium filix-femina*). All are facultative species, meaning they are equally likely to be found in wetlands as in non-wetlands. In this area they are not good wetland indicator species, as the prevalent rainfall allows them to become well established in almost all local habitats, including upland habitats.

The delineation determined that the wetland was widest in proximity to Humboldt Road (Figure 3). This is likely due to non-natural drainage conditions at the site, caused by the berming of Humboldt Road. Wetlands extended to approximately 60 feet north of the south property line, 20 feet west of Humboldt Road (Plot A1).

Farther west on the property, the wetland line became more restricted toward the drainage swale, extending only 40 feet north of the south property line (Plot B1). The wetland line then continued at the same

distance, as at the west end of the property the wetland delineation line was 33 feet north of the property corner (located by recent survey).

As proposed, therefore, the project would have a minimum of 55 feet of buffer to wetlands at the east end of the property, and a maximum of 93 feet at the west end. The overall average (calculated from four points) would be a buffer width of 77 feet.

4.3c Buffers to Wetlands

Wetland habitats are typically considered environmentally sensitive habitat areas (ESHA) by the California Coastal Commission due to the special significance and importance of wetlands. However, in this case, the wetlands on the property are a thin line of wetland plants found along the edges of a small drainage swale in a residential area.

The Coastal Act definition of environmentally sensitive habitat, or environmentally sensitive habitat area (the two descriptions are the same) is:

30107.5: *“Environmentally sensitive area” means any area 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.”*

In order for an area to be designated ESHA, the species or habitat must be rare or especially valuable. Areas may be valuable because of their “special nature,” such as being an unusually pristine example of a habitat type, containing an unusual mix of species, supporting species at the edge of their range, or containing species with extreme variation. Although wetland complexes are special and important, the wetland habitat found on this property provides little or no habitat to wildlife, and does not support rare species.

ESHA sites may also be valuable because of their role in the ecosystem, such as providing essential habitat for rare, threatened or endangered species. For example, existing preserves and critical habitat for federally listed species typically meet the definition of ESHA. Sites that are contiguous to or provide direct connectivity between preserves or properties that meet ESHA criteria may contribute to the long-term viability of an area by providing buffers and/or corridors for species migration and movements. The drainage swale on the property does not meet any of these criteria.

Finally, to qualify as ESHA an area must be easily disturbed or degraded by human activities. In this case an average buffer of 77 feet comprised of dense, brushy vegetation would be more than adequate to protect resources within the drainage swale, and the site could not be disturbed or degraded with such a buffer in place. Immediately south of the drainage swale an existing home, driveway and shop exists within 20 feet of the drainage swale, therefore a 77 foot buffer to the north would be over three times the existing buffer along the south side of the resource.

Therefore, the drainage swale and associated wetland adjacent to it do not necessarily qualify as an ESHA and do not necessarily merit a 100 foot non-development protection buffer.

The RCA-2r zoning extends 60 feet north of the south property line and the Applicant is willing to leave the designation as it is. The project as proposed would provide an average 77 foot buffer to the edge of the wetlands by placing his house at the maximum distance from the wetlands as he can. A buffer of 77 feet is more than sufficient to protect resources, as the resource is a small drainage swale with a minimal amount of wetlands in the midst of a residential area.

As per section VII.D.4 of the LUP's Marine and Water Resources chapter, section f: *A buffer of less than one-hundred feet may be utilized where it can be determined there is no adverse impact on the wetland.*

The following criteria are used to determine if significant impacts to resources would occur from a reduced buffer:

1. Biological significance of adjacent lands: Immediately north, west and south of the small drainage are homes and residential areas. A major road separates the small drainage from similar habitats to the east. The resource is a very small, narrow drainage with a narrow strip of wetlands. There are therefore no lands adjacent with biological significance.

2. Sensitivity of species to disturbance: The resource is very small and is dry during summer months. It has little potential for use by wildlife due to the proximity of several homes and a major road. The most likely species using this resource area would be small frogs, which likely do not have a high sensitivity to disturbance if they are there as there is an existing home within 20 feet of the drainage already. A 77 foot buffer from this project would be sufficient to prevent disturbance.

3. Susceptibility of parcel to erosion: The small amount of water which moves seasonally through the resource is minimal with no potential for erosion. A 77 foot buffer would be more than sufficient to prevent erosion from development such as a single family residence.

4. Use of natural, topographic features to locate development: The Applicant is proposing a house site as physically distant from the RCA area as possible. There are no topographic features to utilize other than the top of the slope found at the far north end of the property, which is the location planned for the home site.

5. Use of existing cultural features to locate buffer zones: There are no existing cultural features to aid in screening the resource.

6. Lot configuration and location of existing development: This project is very limited in design capability. Two lots were already combined to allow for one building site. Project designers are using the only flat area as the location for the home site. The house site has been configured to be the maximum distance from the resource.

7. Type and scale of development proposed: This project proposes to create one residential homesite out of two lots. Homesite location is limited due to RCA buffers, and the locations of a suitable, flat building site. The scale of the project is directly comparable to other homes in the immediate area.

Summary: Building location is restricted due to the resources. The project design places the home as far from the resource as possible, which can be accomplished with an average 77 foot buffer to the resource. The small drainage is not likely to be utilized by wildlife, therefore a 77 foot buffer is sufficient to protect the limited biological resources associated with this RCA.

4.3f Conifer Habitat & Mitigation

The Applicant plans to place a single-family residence on the north side of the property. Prevalent winds during storms typically come from the south, but can also bounce off of hills in the immediate east and come from the northeast, according to a local landowner. The conifer stand on the property would be located south of the home, which would be very unsafe during high wind events as there is no wind-break

for this stand. Impacts of wind are evident in large limbs and broken tops of trees lying on the ground. The Applicant, therefore, may elect to remove all or a majority of these trees as a safety consideration before building the home.

The stand is relatively narrow and small, and is located in the midst of a residential area with homes all around it. It is therefore not connected to any other woodlands. There was no evidence of nesting birds in this stand during a search for nests and other sign during field review. The harvesting of this stand would have no significant impacts to wildlife in the area.

To mitigate the removal of these conifers, primarily due to safety concerns, the Applicant proposes to supplement the buffer to wetlands by removing invasive, non-native plants and planting additional willows and alders adjacent to the wetlands. Planting of these species should not occur within 30 feet of the structure due to fire safety considerations, however there is sufficient space outside of 30 feet from structures to allow the planting of a dense screen of willows and alders. Willow and alder plantings should approximate 1 planting for every twenty square feet of area, for the entire distance between the east and west property line. This would result in the planting of approximately 85 saplings, mixed between the two species. The planting of these trees will 1) increase the screening between wetlands and the project area 2) replace and compensate for the removal of conifers in proximity to the wetlands, 3) provide for nesting habitat for avian species and 4) replace and remove non-native invasive plants and prevent their becoming re-established adjacent to the wetlands.

5.0

RECOMMENDATIONS AND MITIGATIONS

1. The drainage swale and associated wetlands shall be protected with an average 77 foot, non-development buffer, beginning at the wetland edge, with a minimum buffer of 55 feet and the east end of the property and a maximum 94 foot buffer at the east end.
2. During logging or construction, including foundations for homes and outbuildings, plus all road building activities, silt fences should be used between construction and the drainage swale to limit the potential for sediment transport to the wetlands.
3. Conifer removal and reduced buffers should be mitigated by the planting of approximately 85 willows and alders along the north edge of the wetland boundary.
4. English ivy vines should be cut on any trees left standing post timber harvest or post construction. The ivy reproduces and disperses through seeds produced by flowers off the ground only; therefore cutting the climbing vines kills the plant above the cut without the need to removed the plant off the tree.

6.0

STAFF QUALIFICATIONS

Habitat assessment and report writing for this project was conducted by Principal Biologist, Frank Galea. Frank is the primary Biological Consultant and owner of Galea Wildlife Consulting, established in 1989. Frank is Certified as a Wildlife Biologist through the Wildlife Society. Frank's qualifications include a Master of Science Degree in Wildlife Management from Humboldt State University and a Bachelor of Science in Zoology from San Diego State University. Frank has been assessing habitat and conducting field surveys for Threatened and Endangered species for over 12 years. Frank has taken an accredited class on wetland delineation through the Wetland Training Institute, and has successfully completed a Watershed Assessment and Erosion Treatment course through the Salmonid Restoration Federation.

APPENDIX A
CNDDB DATABASE FORMS

California Department of Fish and Game - California Natural Diversity Database

Map Index Number: 27973	EO Index: 29210
Key Quad: Sister Rocks (4112462)	Element Code: PDFAB250P0
Occurrence Number: 5	

Scientific Name: <i>Lathyrus palustris</i>	Common Name: marsh pea
Listing Status:	CNPS List: 2.2
Federal: None	Other Lists:
State: None	
CNDDDB Element Ranks:	
Global: G5	
State: S2S3	

General Habitat: Bogs & fens, lower montane conif. forest, marshes & swamps, N. Coast coniferous forest, coastal prairie, coastal scrub.	Micro Habitat: Moist coastal areas. 1-100m.
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Last Date Observed: 19920716	Occurrence Type: Natural/Native occurrence
Last Survey Date: 19920716	Occurrence Rank: B-Good
Owner/Manager: DFG-CRESCENT CITY MARSH WA	Trend: Unknown
Presence: Presumed Extant	

Location:

ABOUT 1.5 MILES SOUTH OF CRESCENT CITY ALONG THE EAST SIDE OF HIGHWAY 101 AND NORTH OF THE JUNCTION WITH SANDMINE ROAD.

Detailed Location:

JUST NORTH OF OPEN WATER LAKE AND BETWEEN DEEPWATER MARSH AND HWY. SITE IS MAPPED WITHIN THE NE 1/4 OF THE NW 1/4 OF SECTION 34. THIS OCCURRENCE INCLUDES COLLECTIONS FROM "CRESCENT CITY" AND "BOWERS SWAMP".

Ecological:

FRESHWATER MARSH AND COASTAL PRAIRIE. CALAMAGROSTIS NUTKAENSIS, ASTER, ATHYRIUM, ROSA, CAREX, SPIRAEA, SALIX, POTENTILLA PALUSTRIS, LYSICHITON AMERICANUM, ANGELICA, AND OENANTHE SARMENTOSA. CLOSER TO THE ROAD IS THE RARE OENOTHERA WOLFII.

Threats:

General:

FEWER THAN 50 PLANTS OBSERVED IN 1992. SITE CONSISTS OF UNDEVELOPED LAND AND CRESCENT CITY MARSH WILDLIFE AREA ADJACENT TO THE HIGHWAY.

Meridian: Humboldt	Accuracy: Specific bounded area	UTM:	Zone10/N4621898/E402942
TRS: T16N, R01W Sec. 34 NW	Elevation: 15 ft.	Acres:	Latitude/Longitude: 41.74298/-124.16725

County: Del Norte	Quad: Sister Rocks (4112462)
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Source Code: Source Description:

IMP92F0009	IMPER, D. FIELD SURVEY FORM FOR LATYRUS PALUSTRIS 1992-07-16
PAR20S0001	PARKE, H.E. PARKE #8389 UC 1920-06-20
VAN38S0003	VAN DEVENTER, R. VAN DEVENTER #303 JEPS #64863 1938-05-30
VAN59S0002	VAN DEVENTER, R. VAN DEVENTER SN HSC #61097 1959-05-22

California Department of Fish and Game - California Natural Diversity Database

Map Index Number:	06915	EO Index:	20089
Key Quad:	Sister Rocks (4112462)	Element Code:	PDPRIOA030
Occurrence Number:	2		

Scientific Name:	<i>Trientalis arctica</i>	Common Name:	arctic starflower
Listing Status:	Federal: None	CNPS List:	2.2
	State: None	Other Lists:	
CNDDB Element Ranks:	Global: G5		
	State: S1.2		

General Habitat:	Micro Habitat:
Meadows and seeps, bogs and fens.	Coastal boggy areas. 0-15m.

Last Date Observed:	19380530	Occurrence Type:	Natural/Native occurrence
Last Survey Date:	19380530	Occurrence Rank:	U-Unknown
Owner/Manager:	PVT	Trend:	Unknown
Presence:	Presumed Extant		

Location:
BOWERS SWAMP; APPROX 1 MILE (OR MORE) SOUTHEAST OF CRESCENT CITY.

Detailed Location:
MAY BE IN SECTION 34 OR 35. VICINITY OF JUNCTION OF HIGHWAY 101 AND ENDERTS BEACH ROAD (BLUFF ROAD).

Ecological:

Threats:

General:

Meridian:	Humboldt	Accuracy:	Circular feature with a 1600 meter radius (1 mile)	UTM:	Zone10/N4621322/E403716
TRS:	T16N R01W Sec. 34 XX	Elevation:		Acres:	Latitude/Longitude: 41.73789/-124.15785
County:	Del Norte, Pacific Ocean	Quad:	Sister Rocks (4112462), Crescent City (4112472)		

Source Code:	Source Description:
VAN38S0001	VAN DEVENTER, R. VAN DEVENTER #225 HSC #63919 (PROBABLY SAME # AS JEPS COLL =VAN38S02) 1938-XX-XX
VAN38S0002	VAN DEVENTER, R. VAN DEVENTER #225 JEPS SN (PROBABLY SAME COLL AS VAN38S01) 1938-XX-XX

California Department of Fish and Game - California Natural Diversity Database

Map Index Number:	23007	ED Index:	61463
Key Quad:	Sister Rocks (4112462)	Element Code:	PDROS1L060
Occurrence Number:	11		

Scientific Name: *Sanguisorba officinalis* **Common Name:** great burnet

Listing Status: **Federal:** None **CNPS List:** 2.2
State: None **Other Lists:**

CNDDB Element Ranks: **Global:** G5?
State: S2.2

General Habitat: Bogs & fens, meadows & seeps, broadleaved upland forest, marshes & swamps, North Coast coniferous forest, ripar. forest.
Micro Habitat: Rocky serpentine seepage areas and along stream borders. 60-1400m.

Last Date Observed:	19920717	Occurrence Type:	Natural/Native occurrence
Last Survey Date:	19920717	Occurrence Rank:	U-Unknown
Owner/Manager:	DFG-CRESCENT CITY MARSH WA	Trend:	Unknown
Presence:	Presumed Extant		

Location:
 SOUTHEAST OF CRESCENT CITY, 0.1-0.4 MILE WEST OF HUMBOLDT ROAD OPPOSITE ROY STREET.

Detailed Location:
 ROY STREET IS SIX STREETS SOUTH OF "L" STREET ON TOPO. MAPPED AS TWO POLYGONS LOCATED ALONG S 1/2 OF THE SE 1/4 OF SECTION 27 AND EXTENDING INTO SECTION 34.

Ecological:
 HABITAT IS COASTAL PRAIRIE/SCRUB MIX WITH WETLAND AND DISTURBED PASTURE. ASSOCIATES INCLUDE SANGUISORBA, HOLCUS, RHODODENDRON, CALAMAGROSTIS, DESCHAMPSIA, EPIACTIS, LOTUS, POTENTILLA, ROSA, JUNCUS, ATHYRIUM, RANUNCULUS, ASTER, ULNUS, ETC.

Threats:
 POSSIBLE DISTURBANCE BY FOOT TRAFFIC.

General:
 UNKNOWN NUMBER OF PLANTS SEEN IN 1992. SITE IS BORDERED TO THE NORTH AND EAST BY RANCHLAND AND DEVELOPMENT. RARE PLANT LILIUM OCCIDENTALE ALSO OCCURS HERE.

Meridian:	Humboldt	Accuracy:	Specific bounded area	UTM:	Zone10/N4621939/E403322
TRS:	T16N R01W Sec. 27 SE	Elevation:	15 ft.	Acres:	
				Latitude/Longitude:	41.74339/-124.16269
County:	Del Norte	Quad:	Sister Rocks (4112462)		

Source Code:	Source Description:
IMP92F0010	IMPER, D. FIELD SURVEY FORM FOR SANGUISORBA OFFICINALIS 1992-07-15
IMP92F0011	IMPER, D. FIELD SURVEY FORM FOR SANGUISORBA OFFICINALIS 1992-07-17

California Department of Fish and Game - California Natural Diversity Database

Map Index Number: 23011	EO Index: 61474
Key Quad: Crescent City (4112472)	Element Code: PDROS1L060
Occurrence Number: 17	

Scientific Name: <i>Sanguisorba officinalis</i>	Common Name: great burnet
Listing Status: Federal: None	CNPS List: 2.2
State: None	Other Lists:
CNDDDB Element Ranks: Global: G5?	
State: S2.2	

General Habitat:	Micro Habitat:
Bogs & fens, meadows & seeps, broadleaved upland forest, marshes & swamps, North Coast coniferous forest, ripar. forest.	Rocky serpentine seepage areas and along stream borders. 60-1400m.

Last Date Observed: 19920717	Occurrence Type: Natural/Native occurrence
Last Survey Date: 19920717	Occurrence Rank: A-Excellent
Owner/Manager: PVT, DFG	Trend: Unknown
Presence: Presumed Extant	

Location:
EAST OF CRESCENT CITY, ABOUT 0.5 MILES SOUTH OF HOWLAND HILL ROAD AND 0.2-0.6 MILES WEST OF HUMBOLDT ROAD.

Detailed Location:
NEAR THE CENTER OF SECTION 27, ALONG OLD ROAD AND TRAIL AT END OF WALDO STREET.

Ecological:
GROWING ON DEEP PEAT SOILS WITHIN WET MARSH, WET SCRUB, SPRUCE FOREST, AND COASTAL PRAIRIE PLANT COMMUNITIES. ASSOCIATES INCLUDE PICEA SITCHENSIS, SALIX SPP, DESCHAMPSIA, LEDUM GLANDULOSUM, CAREX SPP., AND CALAMAGROSTIS NUTKAENSIS.

Threats:
MINOR FOOT TRAFFIC, POTENTIAL LIGHT DEVELOPMENT.

General:
UNKNOWN NUMBER OF PLANTS SEEN IN 1992. RARE PLANTS LILIUM OCCIDENTALE AND TRIENTALIS EUROPEA SSP. ARCTICA ALSO OCCUR HERE.

Meridian: Humboldt	Accuracy: Specific bounded area	UTM:	Zone10/N4622846/E403198
TRS: T16N R01W Sec. 27 XX	Elevation: 15 ft.	Acres:	Latitude/Longitude: 41.75155/-124.16433
County: Del Norte	Quad: Crescent City (4112472)		

Source Code:	Source Description:
IMP92F0012	IMPER, D. FIELD SURVEY FORM FOR SANGUISORBA OFFICINALIS 1992-07-16
IMP92F0013	IMPER, D. FIELD SURVEY FORM FOR SANGUISORBA OFFICINALIS 1992-07-17
IMP92F0014	IMPER, D. FIELD SURVEY FORM FOR SANGUISORBA OFFICINALIS 1992-07-17

California Department of Fish and Game - California Natural Diversity Database

Map Index Number: 45802		EO Index: 45802
Key Quad: Sister Rocks (4112462)		Element Code: PMCYP037Y0
Occurrence Number: 13		

Scientific Name: <i>Carex lyngbyei</i>	Common Name: Lyngbye's sedge
Listing Status:	CNPS List: 2.2
Federal: None	Other Lists:
State: None	
CNDDDB Element Ranks:	
Global: G5	
State: S2.2	

General Habitat:	Micro Habitat:
Marshes and swamps (brackish or freshwater).	0m.

Last Date Observed: 1992XXXX	Occurrence Type: Natural/Native occurrence
Last Survey Date: 1992XXXX	Occurrence Rank: U-Unknown
Owner/Manager: DFG-CRESCENT CITY MARSH WA	Trend: Unknown
Presence: Presumed Extant	
Location:	
CRESCENT CITY MARSH WILDLIFE AREA, E OF HWY 101.	
Detailed Location:	
Ecological:	
FRESHWATER MARSH.	
Threats:	
General:	
NEEDS FIELDWORK.	

Meridian: Humboldt	Accuracy: Circular feature with a 300 meter radius (1/5 mile)	UTM: Zone10/N4621927/E403193
TRS: T16N R01W Sec. 34 NW	Elevation: 13 ft.	Acres:
		Latitude/Longitude: 41.74327/-124.16424
County: Del Norte	Quad: Sister Rocks (4112462)	

Source Code:	Source Description:
IMP92S0001	IMPER, D. IMPER SN UNK HERB (CITED IN IMP99U01) 1992-XX-XX
IMP99U0001	IMPER, D. EMAIL TO: D. TIBOR RE: TOO LATE FOR Carex lyngbyei? 1999-04-28

California Department of Fish and Game - California Natural Diversity Database

Map Index Number:	23011	EO Index:	7714
Key Quad:	Crescent City (4112472)	Element Code:	PMLIL1A0G0
Occurrence Number:	28		

Scientific Name:	<i>Lilium occidentale</i>	Common Name:	western lily
Listing Status:	Federal: Endangered	CNPS List:	1B.1
	State: Endangered	Other Lists:	
CNDDB Element Ranks:	Global: G1		
	State: S1.2		

General Habitat:

Coastal scrub, freshwater marsh, bogs and fens, coastal bluff scrub, coastal prairie, No. Coast coniferous forest.

Micro Habitat:

Well-drained, old beach washes overlain w/wind-blown alluvium & org. topsoil; usu near margins of Sitka spruce. 2-185m.

Last Date Observed:	19920713	Occurrence Type:	Natural/Native occurrence
Last Survey Date:	19920713	Occurrence Rank:	A-Excellent
Owner/Manager:	PVT, DFG	Trend:	Unknown
Presence:	Presumed Extant		

Location:

EAST OF CRESCENT CITY, 0.7 KM (0.5 MI) SOUTH OF HOWLAND HILL ROAD AND 0.6 KM (0.4 MI) WEST OF HUMBOLDT ROAD.

Detailed Location:

NEAR THE CENTER OF SECTION 27, ALONG OLD ROAD AND TRAIL AT END OF WALDO STREET.

Ecological:

GROWING ON DEEP PEAT SOILS WITHIN WET MARSH, WET SCRUB, SPRUCE FOREST, AND COASTAL PRAIRIE PLANT COMMUNITIES. ASSOCIATES INCLUDE PICEA SITCHENSIS, SALIX SPP, DESCHAMPSIA, LEDUM GLANDULOSUM, CAREX SPP., AND CALAMAGROSTIS NUTKAENSIS.

Threats:

MINOR FOOT TRAFFIC, POTENTIAL LIGHT DEVELOPMENT.

General:

APPROXIMATELY 3700 PLANTS OBSERVED IN 1992.

Meridian:	Humboldt	Accuracy:	Specific bounded area	UTM:	Zone10/N4622846/E403198
TRS:	T16N R01W Sec. 27 XX	Elevation:	20 ft.	Acres:	Latitude/Longitude: 41.75155/-124.16433
County:	Del Norte	Quad:	Crescent City (4112472)		

Source Code: Source Description:

IMP92F0001	IMPER, D. Field survey form & map for Lilium occidentale 1992-07-16
IMP92F0002	IMPER, D. Field survey form & map for Lilium occidentale 1992-07-17
IMP92F0003	IMPER, D. Field survey form & map for Lilium occidentale 1992-07-17

California Department of Fish and Game - California Natural Diversity Database

Map Index Number: 23006	EO Index: 21433
Key Quad: Sister Rocks (4112462)	Element Code: PMLIL1A0G0
Occurrence Number: 29	

Scientific Name: <i>Lilium occidentale</i>	Common Name: western lily
Listing Status:	CNPS List: 1B.1
Federal: Endangered	Other Lists:
State: Endangered	
CNDDDB Element Ranks:	
Global: G1	
State: S1.2	

General Habitat: Coastal scrub, freshwater marsh, bogs and fens, coastal bluff scrub, coastal prairie, No. Coast coniferous forest.	Micro Habitat: Well-drained, old beach washes overlain w/wind-blown alluvium & org. topsoil; usu near margins of Sitka spruce. 2-185m.
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Last Date Observed: 19920716	Occurrence Type: Natural/Native occurrence
Last Survey Date: 19920716	Occurrence Rank: C-Fair
Owner/Manager: PVT	Trend: Unknown
Presence: Presumed Extant	

Location:

SOUTHEAST OF CRESCENT CITY JUST NORTH OF HIGHWAY 101, 1.2 KM (0.8 MILE) DUE WEST OF HUMBOLDT ROAD.

Detailed Location:

ABOUT 80 FEET EAST OF HIGHWAY 101 AT DRAINAGE DITCH JUST SOUTH OF OLD TANK FARM.

Ecological:

RIPARIAN CORRIDOR AT EDGE OF DRAINAGE DITCH IN SPRUCE STAND. 90% SPRUCE CANOPY COVER WITH UNDERSTORY OF MAIANTHEMUM DILATATUM, CALAMAGROSTIS NUTKAENSIS, POLYSTICHUM MUNITUM, AND IRIS DOUGLASIANA. OENOTHERA WOLFII FOUND NEARBY.

Threats:

UNDEVELOPED SITE USED AS CAMPSITE BY TRANSIENTS. ENCROACHMENT BY SPRUCE MAY PROVIDE PROBLEM FOR THIS POPULATION.

General:

5 PLANTS OBSERVED IN 1990 AND IN 1992. SHADING BY SPRUCE MAY CAUSE PRODUCTION OF INVIALE FRUITS. SITE IS DESCRIBED AS SIMILAR TO THAT AT TABLE BLUFF ECOLOGICAL RESERVE (OCCURRENCE #22).

Meridian: Humboldt	Accuracy: Specific bounded area with an 80 meter radius	UTM: Zone10/N4622082/E402631	
TRS: T16N R01W Sec. 27 SW	Elevation: 10 ft.	Acres:	Latitude/Longitude: 41.74460/-124.17102
County: Del Norte	Quad: Sister Rocks (4112462)		

Source Code: Source Description:

IMP90F0002	IMPER, D. Field survey form & map for Lilium occidentale 1990-04-21
IMP92F0005	IMPER, D. Field survey form & map for Lilium occidentale 1992-07-16

California Department of Fish and Game - California Natural Diversity Database

Map Index Number:	23007	EO Index:	20009
Key Quad:	Sister Rocks (4112462)	Element Code:	PMLIL1A0G0
Occurrence Number:	30		

Scientific Name:	<i>Lilium occidentale</i>	Common Name:	western lily
Listing Status:	Federal: Endangered	CNPS List:	1B.1
	State: Endangered	Other Lists:	
CNDDB Element Ranks:	Global: G1		
	State: S1.2		

General Habitat:

Coastal scrub, freshwater marsh, bogs and fens, coastal bluff scrub, coastal prairie, No. Coast coniferous forest.

Micro Habitat:

Well-drained, old beach washes overlain w/wind-blown alluvium & org. topsoil; usu near margins of Sitka spruce. 2-185m.

Last Date Observed:	19920717	Occurrence Type:	Natural/Native occurrence
Last Survey Date:	19920717	Occurrence Rank:	A-Excellent
Owner/Manager:	DFG-CRESCENT CITY MARSH WA	Trend:	Unknown
Presence:	Presumed Extant		

Location:

CRESCENT CITY MARSH WILDLIFE AREA; SOUTHEAST OF CRESCENT CITY, 0.1-0.4 MILE WEST OF HUMBOLDT ROAD OPPOSITE ROY STREET.

Detailed Location:

ROY STREET IS SIX STREETS SOUTH OF "L" STREET ON TOPO. SITE IS LOCATED ALONG S 1/2 OF THE SE 1/4 OF SECTION 27 AND EXTENDS INTO SECTION 34.

Ecological:

HABITAT IS COASTAL PRAIRIE/SCRUB MIX WITH WETLAND AND DISTURBED PASTURE. ASSOCIATES INCLUDE SANGUISORBA, HOLCUS, RHODODENDRON, CALAMAGROSTIS, DESCHAMPSIA, EPIACTIS, LOTUS, POTENTILLA, ROSA, JUNCUS, ATHYRIUM, RANUNCULUS, ASTER, ULNUS, ETC.

Threats:

POSSIBLE DISTURBANCE BY FOOT TRAFFIC.

General:

12 PLANTS SEEN IN 1990, 44 IN 1992. SITE IS BORDERED TO THE NORTH AND EAST BY RANCHLAND AND DEVELOPMENT. AREA OWNED AND MANAGED BY CDFG AS WILDLIFE AREA.

Meridian:	Humboldt	Accuracy:	Specific bounded area	UTM:	Zone10/N4621939/E403322
TRS:	T16N R01W Sec. 27 SE	Elevation:	10 ft.	Acres:	
				Latitude/Longitude:	41.74339/-124.16269
County:	Del Norte	Quad:	Sister Rocks (4112462)		

Source Code: Source Description:

IMP90F0002	IMPER, D. Field survey form & map for Lilium occidentale 1990-04-21
IMP92F0006	IMPER, D. Field survey form & map for Lilium occidentale 1992-07-15
IMP92F0007	IMPER, D. Field survey form & map for Lilium occidentale 1992-07-17

California Department of Fish and Game - California Natural Diversity Database

Map Index Number: 68414	EO Index: 68647
Key Quad: Crescent City (4112472)	Element Code: PMPOA35040
Occurrence Number: 5	

Scientific Name: *Hierochloe odorata* **Common Name:** vanilla-grass

Listing Status:	Federal: None	CNPS List: 2.3
	State: None	Other Lists:

CNDDDB Element Ranks: **Global:** G5
 State: S1.3?

General Habitat: Meadows and seeps.	Micro Habitat: Wet sites. 1500-1895m.
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Last Date Observed: XXXXXXXX	Occurrence Type: Natural/Native occurrence
Last Survey Date: XXXXXXXX	Occurrence Rank: U-Unknown
Owner/Manager: DFG-CRESCENT CITY MARSH WA	Trend: Unknown

Presence: Presumed Extant

Location:
CRESCENT CITY MARSH WILDLIFE AREA, WEST OF CRESCENT CITY.

Detailed Location:
ABOUT 300' SOUTH OF THE SOUTH END OF WALDO STREET, NEAR THE CENTER OF SECTION 27.

Ecological:
IN 4 TO 6 INCHES OF DECOMPOSED MUCK. ASSOCIATED WITH LILIUM OCCIDENTALE, LEDUM GLANDULOSUM, MENYANTHES TRIFOLIATA, ANGELICA GENUFLEXA, LYSICHITON, HYPERICUM FORMOSUM, SANGUISORBA OFFICINALIS, ALNUS VIRIDUS SINUATA, AND PICEA SITCHENSIS.

Threats:

General:
OBSERVATION DATES UNKNOWN, PROBABLY AROUND 2000.

Meridian: Humboldt	Accuracy: Specific bounded area with an 80 meter radius	UTM: Zone10/N4622804/E403111
TRS: T16N R01W Sec. 27 XX	Elevation: 10 ft.	Acres:
County: Del Norte	Latitude/Longitude: 41.75115/-124.16535	Quad: Crescent City (4112472)

Source Code: IMP07U0001 **Source Description:** Imper, D. Email communication between D. Imper & K. Lazar regarding occurrence of Hierochloe odorata, including site map 2007-01-08

DATA FORM- ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: <u>Jaeger</u> Applicant/Owner: <u>Jaeger</u> Investigator: <u>F. Galea</u>	Date: 02-20- 2008 County: Del Norte State: CA
Do Normal Circumstances exist on the site? Yes <input checked="" type="radio"/> No Is the site significantly disturbed (Atypical Situation)? Yes <input checked="" type="radio"/> No Is the area a potential Problem Area? Yes <input checked="" type="radio"/> No (If needed, explain on reverse.	Community ID: _____ Transect ID: <u>A</u> Plot ID: <u>A1</u>

VEGETATION

	Dominant Plant Species	Stratum	Indicator		Dominant Plant Species	Stratum	Indicator
30	1. <u>Sword Fern</u>	<u>H</u>	<u>NI</u>	9.			
10	2. <u>Equisetum</u>	<u>H</u>	<u>FAC</u>	10.			
10	3. <u>R. ursinus</u>	<u>H</u>	<u>FAC⁺, FACW</u>	11.			
20	4. <u>Him. blackberry</u>	<u>H</u>	<u>FAC⁺, FACW</u>	12.			
20	5. <u>Common Lady Fern</u>	<u>H</u>	<u>FAC</u>	13.			
	6.			14.			
	7. <u>Alder</u>	<u>T</u>		15.			
	8.			16.			
Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-).							
Remarks:							

HYDROLOGY

<input type="checkbox"/> Recorded Data (Describe in Remarks): <input type="checkbox"/> Stream, Lake, or Tide Gauge <input type="checkbox"/> Aerial Photographs <input type="checkbox"/> Other <input type="checkbox"/> No Recorded Data Available Field Observations: Depth of Surface Water: <u>18</u> (in.) Depth to Free Water in Pit: <u>—</u> (in.) Depth to Saturated Soil: <u>12</u> (in.) <u>Moist @ 12"</u>	Wetland Hydrology Indicators: Primary Indicators: <input type="checkbox"/> Inundated <input type="checkbox"/> Saturated in Upper 12 Inches <input type="checkbox"/> Water Marks <input type="checkbox"/> Drift Lines <input type="checkbox"/> Sediment Deposits <input type="checkbox"/> Drainage Patterns in Wetlands Secondary Indicators (2 or more required): <input type="checkbox"/> Oxidized Root Channels in Upper 12 Inches <input type="checkbox"/> Water-Stained Leaves <input type="checkbox"/> Local Soil Survey Data <input type="checkbox"/> FAC-Neutral Test <input type="checkbox"/> Other (Explain in Remarks)
Remarks:	

Jaeger

(Plot #, A1 cont'd)

Soils

Map Unit Name (Series and Phase): <u>Not Available</u>		Drainage Class: <u>Not Available</u>	
Taxonomy (Subgroup): <u>Not Available</u>		Field Observations <u>Not Applicable</u>	
		Confirm Mapped Type? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Profile Description:			
Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist) Mottle Abundance/ Size / Contrast Texture, Concretions, Structure, etc.
1-11	A	2/1 10 YR	
12	B	2/2 10 YR	- Gleyed, moist soil
Hydric Soil Indicators:			
<input type="checkbox"/> Histosol		<input type="checkbox"/> Concretions	
<input type="checkbox"/> Histic Epipedon		<input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils	
<input type="checkbox"/> Sulfidic Odor		<input type="checkbox"/> Organic Streaking in Sandy Soils	
<input type="checkbox"/> Aquic Moisture Regime		<input type="checkbox"/> Listed on Local Hydric Soils List	
<input checked="" type="checkbox"/> Reducing Conditions		<input type="checkbox"/> Listed on National Hydric Soils List	
<input checked="" type="checkbox"/> Gleyed or Low-Chroma Colors		<input type="checkbox"/> Other (Explain in Remarks)	
Remarks:			

Pit Wetland Determination

Hydrophytic Vegetation Present? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is this Sampling Point Within a Wetland? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Wetland Hydrology Present? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>not readily evident</i>	
Hydric Soils Present? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Remarks:	

Approved by HQ USAGE3/92

DATA FORM- ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: <u>Jaeger</u> Applicant/Owner: <u>Jaeger</u> Investigator: <u>F. Galea</u>	Date: 02-20- 2008 County: Del Norte State: CA
Do Normal Circumstances exist on the site? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Is the site significantly disturbed (Atypical Situation)? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Is the area a potential Problem Area? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (If needed, explain on reverse.	Community ID: _____ Transect ID: _____ Plot ID: <u>AZ</u>

VEGETATION

	Dominant Plant Species	Stratum	Indicator		Dominant Plant Species	Stratum	Indicator
0%	1. <u>Sword Fern</u>	<u>H</u>	<u>NI</u>		9.		
60	2. <u>Him. blackberry</u>	<u>H</u>	<u>FAC⁺</u>		10.		
10	3. <u>Equisetum</u>	<u>H</u>	<u>FAC</u>		11.		
5	4. <u>A. ursinus</u>	<u>H</u>	<u>FAC⁺</u>		12.		
5	5.				13.		
20	6. <u>Alder</u>	<u>T</u>			14.		
	7.				15.		
	8.				16.		
Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-).							
Remarks: <u>AZ is several feet upslope of A1, next to raised road bed.</u>							

HYDROLOGY

<input type="checkbox"/> Recorded Data (Describe in Remarks): <input type="checkbox"/> Stream, Lake, or Tide Gauge <input type="checkbox"/> Aerial Photographs <input type="checkbox"/> Other <input type="checkbox"/> No Recorded Data Available Field Observations: Depth of Surface Water: <u>none</u> (in.) Depth to Free Water in Pit: <u>none</u> (in.) Depth to Saturated Soil: <u>moist @ 18"</u> (in.)	Wetland Hydrology Indicators: Primary Indicators: <input type="checkbox"/> Inundated <input type="checkbox"/> Saturated in Upper 12 Inches <input type="checkbox"/> Water Marks <input type="checkbox"/> Drift Lines <input type="checkbox"/> Sediment Deposits <input type="checkbox"/> Drainage Patterns in Wetlands Secondary Indicators (2 or more required): <input type="checkbox"/> Oxidized Root Channels in Upper 12 Inches <input type="checkbox"/> Water-Stained Leaves <input type="checkbox"/> Local Soil Survey Data <input type="checkbox"/> FAC-Neutral Test <input type="checkbox"/> Other (Explain in Remarks)
Remarks	

Jaeger

(Plot #, A2 cont'd)

Soils

Map Unit Name (Series and Phase):		Not Available		Drainage Class:	Not Available
Taxonomy (Subgroup):		Not Available		Field Observations	Not Applicable
				Confirm Mapped Type?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Profile Description:					
Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/ Size / Contrast	Texture, Concretions, Structure, etc.
4	A	Duff + root layer			
4-9	B	3/2 10YR - dark brown mineral soil, dry			
at 15"	C	5/4 10YR mixed in w B color. clay layer but no mottles or signs of reduc.			
Hydric Soil Indicators:					
<input type="checkbox"/> Histosol		<input type="checkbox"/> Concretions			
<input type="checkbox"/> Histic Epipedon		<input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils			
<input type="checkbox"/> Sulfidic Odor		<input type="checkbox"/> Organic Streaking in Sandy Soils			
<input type="checkbox"/> Aquic Moisture Regime		<input type="checkbox"/> Listed on Local Hydric Soils List			
<input type="checkbox"/> Reducing Conditions		<input type="checkbox"/> Listed on National Hydric Soils List			
<input type="checkbox"/> Gleyed or Low-Chroma Colors		<input type="checkbox"/> Other (Explain in Remarks)			
Remarks:					

Pit Wetland Determination

Hydrophytic Vegetation Present?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is this Sampling Point Within a Wetland?
Wetland Hydrology Present?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Hydric Soils Present?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Remarks:		

Approved by HQ USAGE3/92

DATA FORM- ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: <u>Jaeger</u> Applicant/Owner: <u>Jaeger</u> Investigator: <u>F. Galea</u>	Date: 02-20- 2008 County: Del Norte State: CA
Do Normal Circumstances exist on the site? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Is the site significantly disturbed (Atypical Situation)? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Is the area a potential Problem Area? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (If needed, explain on reverse.	Community ID: _____ Transect ID: <u>B</u> Plot ID: <u>B1</u>

0%

VEGETATION

40
20
10
10

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. <u>R. ursinus</u>	<u>H</u>	<u>FAC+</u>	9.		
2. <u>Twinberry</u>	<u>S</u>	<u>FAC</u>	10.		
3. <u>Common Lady Fern</u>	<u>H</u>	<u>FAC</u>	11.		
4. <u>Equisetum</u>	<u>H</u>	<u>FAC</u>	12.		
5.			13.		
6. <u>Alder</u>	<u>T</u>		14.		
7. <u>Rhamnus</u>	<u>T</u>		15.		
8.			16.		
Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-).					
Remarks:					

HYDROLOGY

<input type="checkbox"/> Recorded Data (Describe in Remarks): <input type="checkbox"/> Stream, Lake, or Tide Gauge <input type="checkbox"/> Aerial Photographs <input type="checkbox"/> Other <input type="checkbox"/> No Recorded Data Available Field Observations: Depth of Surface Water: <u>none</u> (in.) Depth to Free Water in Pit: <u>na</u> (in.) Depth to Saturated Soil: <u>12"</u> (in.)	Wetland Hydrology Indicators: Primary Indicators: <input type="checkbox"/> Inundated <input type="checkbox"/> Saturated in Upper 12 Inches <input type="checkbox"/> Water Marks <input type="checkbox"/> Drift Lines <input type="checkbox"/> Sediment Deposits <input type="checkbox"/> Drainage Patterns in Wetlands Secondary Indicators (2 or more required): <input type="checkbox"/> Oxidized Root Channels in Upper 12 Inches <input type="checkbox"/> Water-Stained Leaves <input type="checkbox"/> Local Soil Survey Data <input type="checkbox"/> FAC-Neutral Test <input type="checkbox"/> Other (Explain in Remarks)
Remarks	

Jaeger

(Plot #, B1 cont'd)

Soils

Map Unit Name (Series and Phase): <u>Not Available</u>		Drainage Class: <u>Not Available</u>		Field Observations <u>Not Applicable</u>	
Taxonomy (Subgroup): <u>Not Available</u>		Confirm Mapped Type? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Profile Description:					
Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/ Size / Contrast	Texture, Concretions, Structure, etc.
2	A	Duff, roots			
12	B	w 3 / Gleyed, dark gray, mottles, evid. of reduction			
Hydric Soil Indicators:					
<input type="checkbox"/> Histosol		<input type="checkbox"/> Concretions			
<input type="checkbox"/> Histic Epipedon		<input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils			
<input type="checkbox"/> Sulfidic Odor		<input type="checkbox"/> Organic Streaking in Sandy Soils			
<input checked="" type="checkbox"/> Aquic Moisture Regime		<input type="checkbox"/> Listed on Local Hydric Soils List			
<input checked="" type="checkbox"/> Reducing Conditions		<input type="checkbox"/> Listed on National Hydric Soils List			
<input checked="" type="checkbox"/> Gleyed or Low-Chroma Colors		<input type="checkbox"/> Other (Explain in Remarks)			
Remarks:					

Pit Wetland Determination

Hydrophytic Vegetation Present? <input type="checkbox"/> Yes <input type="checkbox"/> No	Is this Sampling Point Within a Wetland? <input type="checkbox"/> Yes <input type="checkbox"/> No
Wetland Hydrology Present? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Hydric Soils Present? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Remarks:	

Approved by HQ USAGE3/92

DATA FORM- ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: <u>Jaeger</u> Applicant/Owner: <u>Jaeger</u> Investigator: <u>F. Galea</u>	Date: 02-20- 2008 County: Del Norte State: CA
Do Normal Circumstances exist on the site? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Is the site significantly disturbed (Atypical Situation)? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Is the area a potential Problem Area? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (If needed, explain on reverse.	Community ID: _____ Transect ID: <u>B</u> Plot ID: <u>B2</u>

% VEGETATION

	Dominant Plant Species	Stratum	Indicator		Dominant Plant Species	Stratum	Indicator
40	1. Twinberry	H	FAC	9.			
20	2. Sword Fern	H	NI	10.			
30	3. R. ursinus	H	FAC+	11.			
5	4. Equisetum	H	FAC	12.			
	5.			13.			
	6. Rhamnus	T		14.			
	7.			15.			
	8.			16.			
Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-). <u>47%</u>							
Remarks: <u>R. ursinus + twinberry are not good wetland indicators.</u>							

HYDROLOGY

<input type="checkbox"/> Recorded Data (Describe in Remarks): <input type="checkbox"/> Stream, Lake, or Tide Gauge <input type="checkbox"/> Aerial Photographs <input type="checkbox"/> Other <input type="checkbox"/> No Recorded Data Available Field Observations: Depth of Surface Water: <u>none</u> (in.) Depth to Free Water in Pit: <u>none</u> (in.) Depth to Saturated Soil: <u>none</u> (in.)	Wetland Hydrology Indicators: Primary Indicators: <input type="checkbox"/> Inundated <input type="checkbox"/> Saturated in Upper 12 Inches <input type="checkbox"/> Water Marks <input type="checkbox"/> Drift Lines <input type="checkbox"/> Sediment Deposits <input type="checkbox"/> Drainage Patterns in Wetlands Secondary Indicators (2 or more required): <input type="checkbox"/> Oxidized Root Channels in Upper 12 Inches <input type="checkbox"/> Water-Stained Leaves <input type="checkbox"/> Local Soil Survey Data <input type="checkbox"/> FAC-Neutral Test <input type="checkbox"/> Other (Explain in Remarks)
Remarks: <u>Dry soil to 16"</u>	

Jaeger
(Plot #, ^{B2} cont'd)

Soils

Map Unit Name (Series and Phase):		Not Available		Drainage Class:	<u>Not Available</u>
Taxonomy (Subgroup):		Not Available		Field Observations	<u>Not Applicable</u>
				Confirm Mapped Type? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Profile Description:					
Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/ Size / Contrast	Texture, Concretions, Structure, etc.
2	A	Duff, roots			
2-16	B	3/2 10YR dry, loose			
at 12"		clay layer, thin, 3/4 10YR			
Hydric Soil Indicators:					
<input type="checkbox"/> Histosol		<input type="checkbox"/> Concretions			
<input type="checkbox"/> Histic Epipedon		<input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils			
<input type="checkbox"/> Sulfidic Odor		<input type="checkbox"/> Organic Streaking in Sandy Soils			
<input type="checkbox"/> Aquic Moisture Regime		<input type="checkbox"/> Listed on Local Hydric Soils List			
<input type="checkbox"/> Reducing Conditions		<input type="checkbox"/> Listed on National Hydric Soils List			
<input type="checkbox"/> Gleyed or Low-Chroma Colors		<input type="checkbox"/> Other (Explain in Remarks)			
Remarks:					

Pit Wetland Determination

Not definitive due to poor indicators

Hydrophytic Vegetation Present?	<input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is this Sampling Point Within a Wetland? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Wetland Hydrology Present?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Hydric Soils Present?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Remarks:		

Approved by HQ USAGE3/92

DATA FORM- ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: <u>Jaeger</u> Applicant/Owner: <u>Jaeger</u> Investigator: <u>F. Galea</u>	Date: 02-20- 2008 County: Del Norte State: CA
Do Normal Circumstances exist on the site? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Is the site significantly disturbed (Atypical Situation)? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Is the area a potential Problem Area? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (If needed, explain on reverse.	Community ID: _____ Transect ID: <u>C</u> Plot ID: <u>C1</u>

0/0
80
30
20

VEGETATION

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. <u>Equisetum</u>	<u>H</u>	<u>FAC</u>	9.		
2.			10.		
3.			11.		
4.			12.		
5. <u>Willows</u>	<u>T</u>		13.		
6. <u>Rhynchos</u>	<u>T</u>		14.		
7.			15.		
8.			16.		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-). 80

Remarks: Pure equisetum stands at this point.

HYDROLOGY

<input type="checkbox"/> Recorded Data (Describe in Remarks): <input type="checkbox"/> Stream, Lake, or Tide Gauge <input type="checkbox"/> Aerial Photographs <input type="checkbox"/> Other <input type="checkbox"/> No Recorded Data Available Field Observations: Depth of Surface Water: <u>—</u> (in.) Depth to Free Water in Pit: <u>—</u> (in.) Depth to Saturated Soil: <u>—</u> (in.)	Wetland Hydrology Indicators: Primary Indicators: <input type="checkbox"/> Inundated <input type="checkbox"/> Saturated in Upper 12 Inches <input type="checkbox"/> Water Marks <input type="checkbox"/> Drift Lines <input type="checkbox"/> Sediment Deposits <input type="checkbox"/> Drainage Patterns in Wetlands Secondary Indicators (2 or more required): <input type="checkbox"/> Oxidized Root Channels in Upper 12 Inches <input type="checkbox"/> Water-Stained Leaves <input type="checkbox"/> Local Soil Survey Data <input type="checkbox"/> FAC-Neutral Test <input type="checkbox"/> Other (Explain in Remarks)
Remarks: <u>Gravel too root messed to dig into.</u>	

Jaeger
(Plot #, C1 cont'd)

Soils

Map Unit Name (Series and Phase): <u>Not Available</u>		Drainage Class: <u>Not Available</u>			
Taxonomy (Subgroup): <u>Not Available</u>		Field Observations <u>Not Applicable</u>			
		Confirm Mapped Type? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Profile Description:					
Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/ Size / Contrast	Texture, Concretions, Structure, etc.
<u>Too Root - messed to dig!</u>					
<u>Default wetland due to veg.</u>					
Hydric Soil Indicators:					
<input type="checkbox"/> Histosol		<input type="checkbox"/> Concretions			
<input type="checkbox"/> Histic Epipedon		<input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils			
<input type="checkbox"/> Sulfidic Odor		<input type="checkbox"/> Organic Streaking in Sandy Soils			
<input type="checkbox"/> Aquic Moisture Regime		<input type="checkbox"/> Listed on Local Hydric Soils List			
<input type="checkbox"/> Reducing Conditions		<input type="checkbox"/> Listed on National Hydric Soils List			
<input type="checkbox"/> Gleyed or Low-Chroma Colors		<input type="checkbox"/> Other (Explain in Remarks)			
Remarks:					

Pit Wetland Determination

Hydrophytic Vegetation Present?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is this Sampling Point Within a Wetland? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Wetland Hydrology Present?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Hydric Soils Present?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Remarks:		

Approved by HQ USAGE3/92

DATA FORM- ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: <u>Jaeger</u>	Date: 02-20- 2008
Applicant/Owner: <u>Jaeger</u>	County: Del Norte
Investigator: <u>F. Galea</u>	State: CA
Do Normal Circumstances exist on the site? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Is the site significantly disturbed (Atypical Situation)? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Is the area a potential Problem Area? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (If needed, explain on reverse.	Community ID: _____ Transect ID: <u>C</u> Plot ID: <u>CZ</u>

VEGETATION

	Dominant Plant Species	Stratum	Indicator		Dominant Plant Species	Stratum	Indicator
30	1. <u>Swordfern</u>	<u>H</u>	<u>NI</u>	9.			
20	2. <u>R. ursinus</u>	<u>H</u>	<u>FAC+</u>	10.			
20	3. <u>Twinberry</u>	<u>H</u>	<u>FAC</u>	11.			
20	4. <u>Oregon grape</u>	<u>S</u>	<u>NI</u>	12.			
	5.			13.			
	6.			14.			
	7.			15.			
	8.			16.			
Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-). <u>44</u>							
Remarks: <u>R. ursinus + twinberry not good wetland indicators for this area.</u>							

HYDROLOGY

<input type="checkbox"/> Recorded Data (Describe in Remarks): <input type="checkbox"/> Stream, Lake, or Tide Gauge <input type="checkbox"/> Aerial Photographs <input type="checkbox"/> Other <input type="checkbox"/> No Recorded Data Available Field Observations: Depth of Surface Water: <u>none</u> (in.) Depth to Free Water in Pit: <u>none</u> (in.) Depth to Saturated Soil: <u>none</u> (in.)	Wetland Hydrology Indicators: Primary Indicators: <input type="checkbox"/> Inundated <input type="checkbox"/> Saturated in Upper 12 Inches <input type="checkbox"/> Water Marks <input type="checkbox"/> Drift Lines <input type="checkbox"/> Sediment Deposits <input type="checkbox"/> Drainage Patterns in Wetlands Secondary Indicators (2 or more required): <input type="checkbox"/> Oxidized Root Channels in Upper 12 Inches <input type="checkbox"/> Water-Stained Leaves <input type="checkbox"/> Local Soil Survey Data <input type="checkbox"/> FAC-Neutral Test <input type="checkbox"/> Other (Explain in Remarks)
Remarks	

Jaeger

(Plot #, cont'd)

Soils

Map Unit Name (Series and Phase): <u>Not Available</u>		Drainage Class: <u>Not Available</u>	
Taxonomy (Subgroup): <u>Not Available</u>		Field Observations <u>Not Applicable</u>	
		Confirm Mapped Type? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Profile Description:			
Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist) Mottle Abundance/ Size / Contrast Texture, Concretions, Structure, etc.
3	A	Duff + roots	
15	B	4/2 7.5 4/2, dry, loose mineral soil	
Hydric Soil Indicators:			
<input type="checkbox"/> Histosol		<input type="checkbox"/> Concretions	
<input type="checkbox"/> Histic Epipedon		<input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils	
<input type="checkbox"/> Sulfidic Odor		<input type="checkbox"/> Organic Streaking in Sandy Soils	
<input type="checkbox"/> Aquic Moisture Regime		<input type="checkbox"/> Listed on Local Hydric Soils List	
<input type="checkbox"/> Reducing Conditions		<input type="checkbox"/> Listed on National Hydric Soils List	
<input type="checkbox"/> Gleyed or Low-Chroma Colors		<input type="checkbox"/> Other (Explain in Remarks)	
Remarks:			

Pit Wetland Determination

Hydrophytic Vegetation Present?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is this Sampling Point Within a Wetland?
Wetland Hydrology Present?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Hydric Soils Present?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Remarks:		

Approved by HQ USAGE3/92

Plot Plan for Biological Assessment

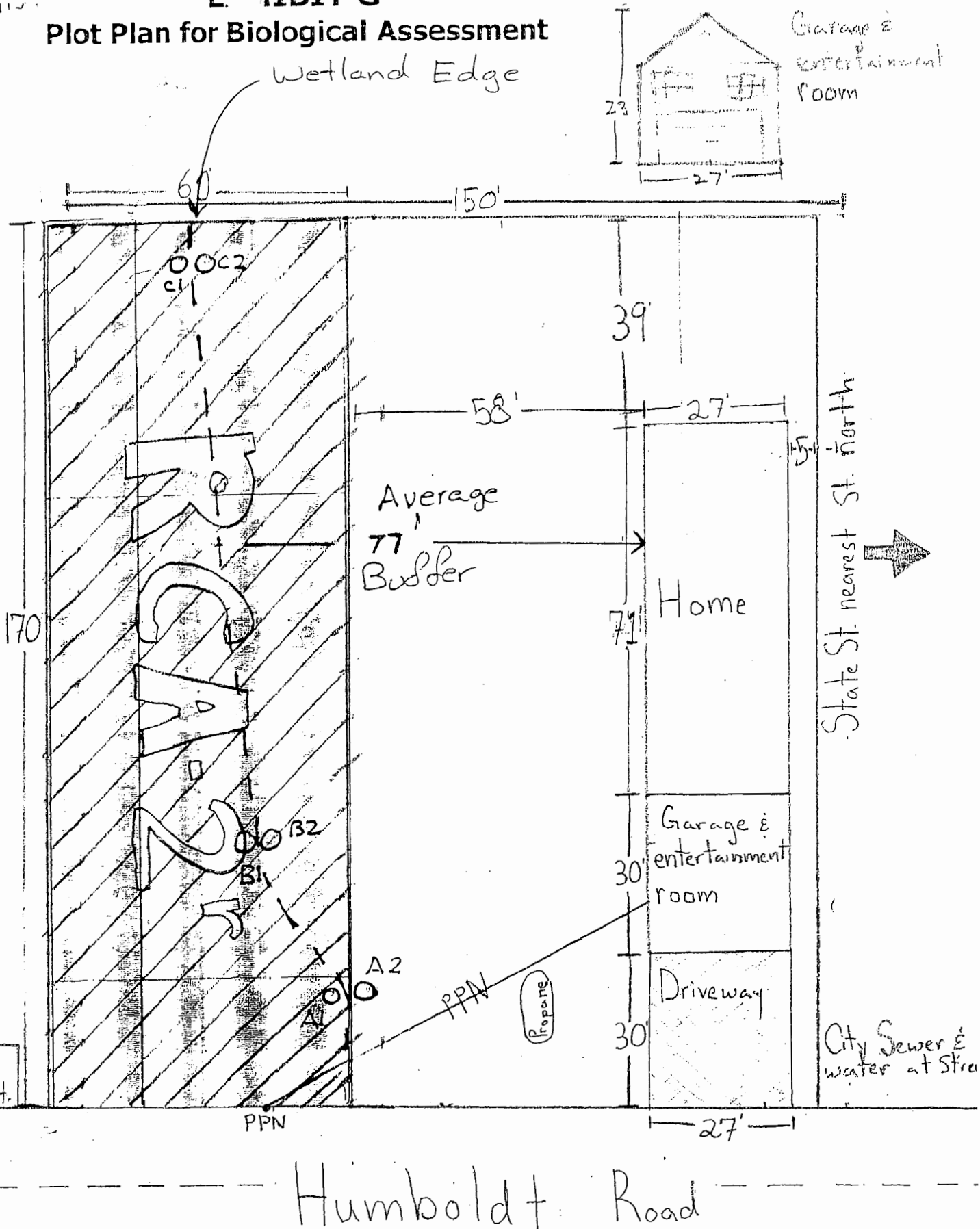
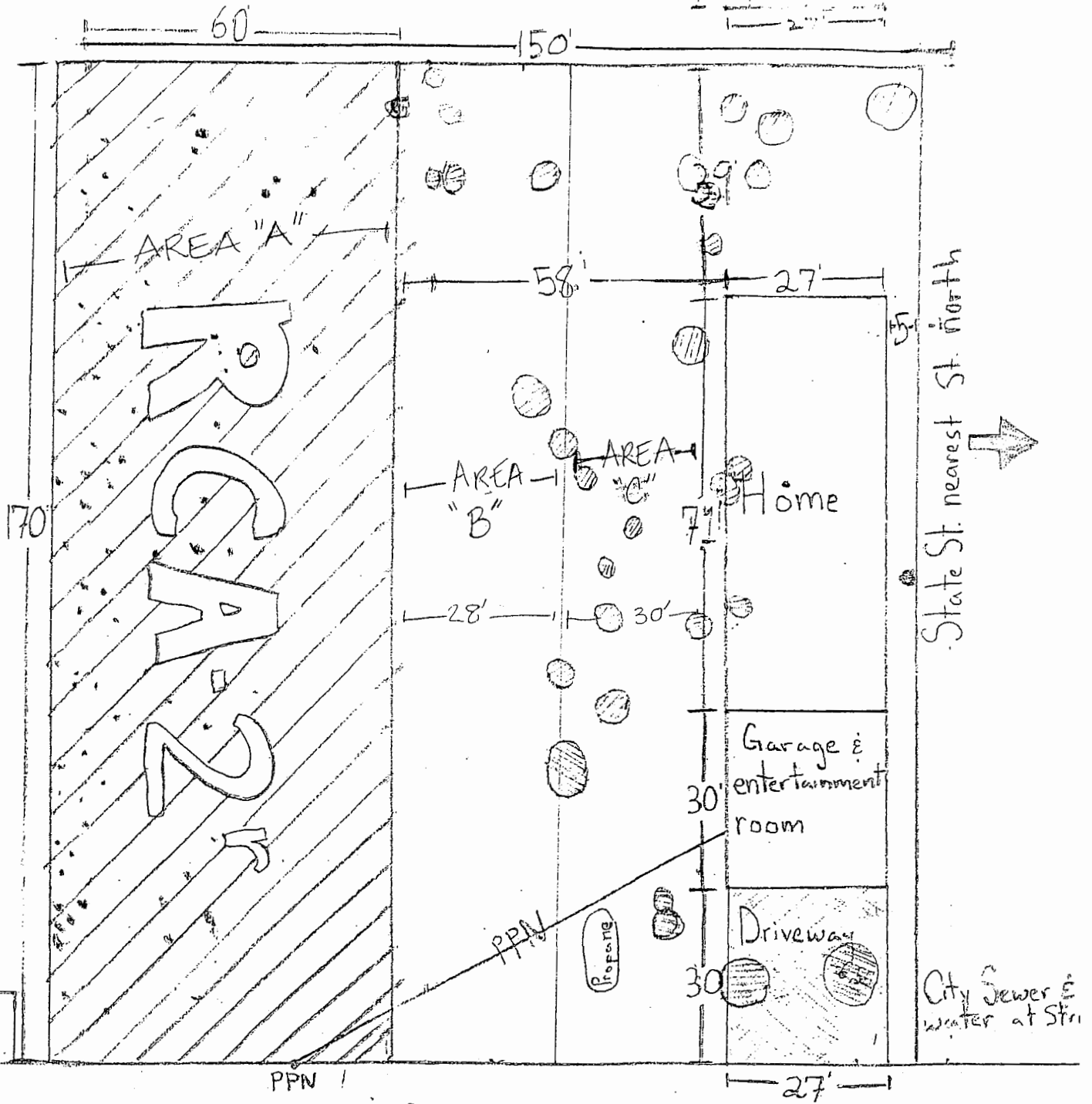
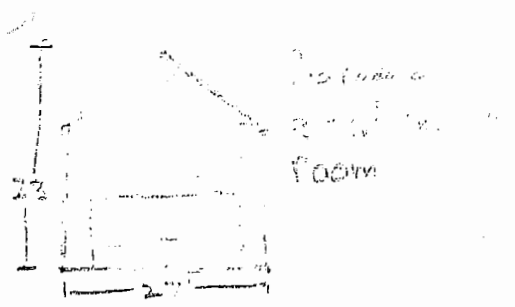


Figure 3. Location of proposed homesite relative to zoned RCA-2r, wetland edge with average 77 foot buffer, and sample plot locations (A,B&C). Scale 1 cm. = 10 feet.

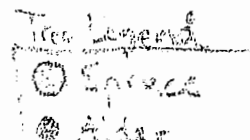
PPN-115-240-1611

EXHIBIT H



Humboldt Road

PI + PI



DEPARTMENT OF FORESTRY AND FIRE PROTECTION
NORTHERN REGION HEADQUARTERS
135 RIDGWAY AVENUE
SANTA ROSA, CA 95401
WEBSITE: www.fire.ca.gov
(707) 576-2959



EXHIBIT I

Less Than 3 Acre Conversion Exemption

Date: April 1, 2008
Ref.: 1-08EX-072-DEL

JAMES ERLER
1100 MALANEY DRIVE
CRESCENT CITY, CA 95531

DEAR MR. ERLER:

This is to acknowledge that your Less Than 3 Acre Conversion Exemption was accepted on April 1, 2008. It has been assigned the above listed Exemption number. All timber operations must be complete within one year. All conversion activities must be complete within two years, unless under permit by local jurisdiction.

Please familiarize yourself with the enclosed Notice of Slash Clean-up Requirements noting that there are rule changes as of January 1, 1998. These requirements must be strictly adhered to once operations commence. In addition, please note the requirement for submittal of the Timber Operations Work Completion and/or Stocking Report (blue form) upon completion of the project.

Compliance with all provisions of the Forest Practice Act, rules pursuant to Section 1104.1(a)--Title 14 of the California Code of Regulations, will be determined by future inspection(s).

Please note enclosed notice regarding COHO Listing
Please note enclosed notice regarding Winter Operations

If you have any questions you may contact your local CDF Forest Practice Inspector or me at (707) 576-2959.

Sincerely,

Donald Morse
Staff Forester, Forest Practice
RPF #2158

Enclosure(s)

cc: CDF Unit
DFG
Water Quality
County Planning
Board of Equalization
TLO-Nicholas Jager
LTO-Richard Brown
File

38 of 46

LESS THAN 3 ACRE CONVERSION EXEMPTION

STATE OF CALIFORNIA
DEPARTMENT OF FORESTRY AND FIRE PROTECTION
NOTICE OF TIMBER OPERATIONS THAT ARE EXEMPT FROM
CONVERSION AND TIMBER HARVESTING PLAN REQUIREMENTS
RM-73(1104.1a) (9/99)

FOR ADMIN. USE ONLY
Ex. # 1-08EX-072 DEL
Date of Receipt MAR 27 2008
Date Accepted 4-1-2008
Date Expires 3-31-2009

VALID FOR ONE YEAR FROM DATE OF RECEIPT BY CDF
TIMBER OPERATIONS CANNOT START UNTIL VALID COPY
OF A NOTICE OF ACCEPTANCE IS RECEIVED FROM CDF

The Director of the Department of Forestry and Fire Protection is hereby notified of timber operations under the requirements of 14 CCR 1104.1(a). Harvesting of trees which is a single conversion to a non-timber growing use of timberland of less than three acres. (See 14 CCR 1104.1(a) for a description of the conditions on the conduct of this type of timber operation, and additional information that is *required* to be submitted.) Complete Items 1. through 8. on both pages of this notice.

1. TIMBER OWNER(S) OF RECORD: Name Nicholas Jager

Address 1403 Inyo St. Apt 90

City Crescent City State CA Zip 95531 Phone (707) 954-8111

SIGNATURE Nicholas Jager Date 3-25-08

TIMBER TAX EXEMPTION: Timber owners owe timber yield tax when they harvest trees unless the harvest is exempt (Revenue and Taxation Code sec. 38116). Some small or low value harvests may be exempt from timber yield tax: Timber removed from an operation whose value does not exceed \$3,000 within a quarter, according to BOE Harvest Value Schedules, Rule 1024. If you believe your harvest may qualify for this exemption, please complete Items A and B below. For timber yield tax information or for further assistance with these questions call the state Board of Equalization, 1-800-400-7115, or write: Timber Tax Section, MIC: 60, State Board of Equalization, P.O. Box 942879, Sacramento, California 94279-0060; or contact the BOE Web Page on the Internet at <http://www.boe.ca.gov>.

A. Circle the option that most closely estimates the total volume for this harvest, in thousands of board feet (mbf - Net Scribner short log):
Under 8 mbf 8-15 mbf 16-25 mbf Over 25 mbf

B. Estimate what percentage of timber to be removed during this harvest will be:
Redwood _____%; Ponderosa pine/Sugar _____%; Douglas-fir _____%; Fir _____%;
Port-Orford Cedar _____%; Cedar (IC, WRC) _____%; Other, conifer 100%; Other, hardwood _____%

2. TIMBERLAND OWNER(S) OF RECORD: Name Nicholas Jager

Address 1403 Inyo St. Apt 90

City Crescent City State CA Zip 95531 Phone (707) 954-8111

I certify, under penalty of perjury, that this is a one-time conversion to a non-timberland use, that there is a "bona fide intent" [14 CCR 1100 (b)] to convert to House Site, and that I have mailed a letter of notice of intent to harvest timber, prepared by the Registered Professional Forester, to all adjacent landowners within 300 feet of the boundaries of the exemption.

SIGNATURE Nicholas Jager Date 3-25-08

3. LICENSED TIMBER OPERATOR(S): Name Richard Brown Lic. No. A-7426

Address P. O. Box 1078

City Crescent City State CA Zip 95531 Phone (707) 464-3932

SIGNATURE Richard Brown Date 3-25-08

4. Designate the legal land description of the location of timberland conversion. A map showing the location of the timberland conversion MUST be attached. The map must show the ownership boundaries, the location of the timber operation, boundaries of the conversion, location and classification of all watercourses, and landing locations.

Section Township Range Base & Meridian County Acreage to be Converted Assessors Parcel Number

27 16 N 1 W HBM Del Norte 1/2 acre 115-280-16, 115-280-17

Page 1. NOTE: This form has two pages. Continue on and complete Page 2. Read the instructions before attempting to complete.

Location: 312 Humboldt Rd.

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MAR 27 2008

COAST AREA OFFICE
RESOURCE MANAGEMENT

5. The following are limitations or requirements for timber operations conducted under a Less Than Three Acre Conversion Exemption (Notice, Notice of Conversion Exemption, Conversion Exemption):

- A. Timber operations shall comply with all other applicable provisions of the Forest Practice Act and regulations, county general plans, zoning ordinances, and any implementing ordinances; copies of the state rules and regulations may be found on CDF's Web Page on the Internet at <http://www.fire.ca.gov>.
- B. All timber operations shall be complete within one year from the date of acceptance by the Director.
- C. All conversion activities shall be complete within two years from the date of acceptance by the Director unless under permit by local jurisdiction. Failure to complete the conversion requires compliance with stocking standards and stocking report requirements of the Act and board regulations.
- D. The timber operator shall remove or dispose of all slash or woody debris in accordance with 14 CCR 1104.1 (a) (2) (D). The timberland owner may assume responsibility for the slash treatment, provided the landowner acknowledges in writing to the Director such responsibility at the time of submission of this notice. The specific requirements shall be included with the acknowledgement.
- E. Timber operations shall not be conducted during the winter period unless a winter operation plan or in lieu practices required by Forest Practice regulations are specified within (attached to) this Notice.
- F. No timber operations are allowed within a Watercourse and Lake Protection Zone unless specifically approved by local permit (e.g. county, city).
- G. No timber operations shall be conducted until the Director's notice of acceptance is received and a valid copy of this Notice and the Director's acceptance shall be kept on site during timber operations.
- H. No sites of rare, threatened or endangered plants or animals or species of special concern shall be disturbed, threatened, or damaged.
- I. No timber operations are allowed on significant historical or archeological sites.
- J. Within one month of the completion of timber operations, including slash disposal, the timberland owner shall submit a Work Completion Report to the Director.

6. I, N/A, declare as the authorized designee of the County Board of Supervisors that this conversion exemption is in conformance with all county regulatory requirements, including public notice. (If the county has authorized a designee this item MUST be completed. If it has not, see item 7.)

SIGNATURE _____ Date _____

7. Registered Professional Forester preparing Notice: Name James Erler Number 2323

Address 1100 Malaney Drive

City Crescent City State CA Zip 95531 Phone (707) 954-2143

I certify that I, or my supervised designee: prepared this Notice of Conversion Exemption Timber Operations; visited the site and flagged the boundaries of the conversion exemption, applicable WLPZ's and equipment limitation zones; prepared a notice according to 14 CCR 1104.1(a)(3) to be mailed by the landowner and that a copy of the notice was posted and dated on the ownership, visible to the public, at least 5 days prior to the postmark date of submission of the Notice of Conversion Exemption; and that if the county Board of Supervisors has not designated a representative authorized to sign in Item 6., that I, or my supervised designee, contacted county and the Notice is in conformance with county regulations.

SIGNATURE of RPF James Erler Date 3-25-08

8. NOTICE SUBMITTER(S): Name Nicholas Jager

Address 1403 Inyo St. Apt 90

City Crescent City State CA Zip 95531 Phone (707) 954-8111

Submitter must be either 1, 2, or 3 above, and must sign. SIGNATURE

Nicholas Jager

Date 3-25-08

FILE THIS NOTICE WITH THE NEAREST CDF OFFICE BELOW FOR THE COUNTY IN WHICH THE OPERATION WILL OCCUR:

Humboldt, Del Norte, Mendocino, Sonoma, Marin, Lake, Napa, Colusa, Solano, Alameda,
San Mateo, Santa Cruz, Santa Clara, Contra Costa, and western Trinity Counties.

=> 135 Ridgway Avenue

=> Santa Rosa, CA 95401

Siskiyou, Modoc, Shasta, eastern Trinity, Lassen, Tehama, Glenn, Butte, Sutter, Plumas,
Yuba, Sierra, Nevada, and Placer Counties.

=> 6105 Airport Road

=> Redding, CA 96002

El Dorado, Amador, Alpine, Calaveras, Tuolumne, Mariposa, Merced, Madera, Fresno, Tulare,
Kern, Stanislaus, San Benito, Monterey, King, San Joaquin and Sacramento Counties.

=> 1234 East Shaw Avenue

=> Fresno, CA 93710

Ventura, Los Angeles, San Bernardino, Orange, Riverside, Inyo, Mono, San Diego and
Imperial Counties.

=> 2524 Mulberry Street

=> Riverside, CA 92501

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Exemption Item 5(E) Winter Operations:

The operation of tractors or other equipment may occur between October 15th and May 1st under the following conditions.

1. During dry rainless periods where saturated soil conditions (as defined in 14CCR 895.1) are not present. Erosion control structures shall be installed on all constructed skid trails and tractor roads prior to sunset if the National Weather Service forecast is a "chance" of rain within the next 24 hours. Chance of rain is defined as a 30% or more forecast for rain by the National Weather Service.

2. When ground conditions in the conversion exemption area and appurtenant road satisfy the hard and frozen definition found in 14CCR 895.1.

Winter Operations Plan:

Specific measures to be taken when operating during the period of October 15th and May 1st. These specific practices are needed to minimize soil disturbance and erosion. This shall be accomplished by operating only during periods of dry weather or when soils are dry and controllable. The following considerations are given to minimize impacts that may occur when operating during the period outlined above.

1. **Erosion hazard rating:** The area of proposed conversion activity and harvesting contains no watercourses or wet areas. The parcel is well drained. Topography of the harvest location along with the adjacent parcels is flat. The erosion hazard rating is estimated to be low.

2. **Mechanical site preparation methods:** Site preparation may be conducted, but shall only be done by hand and /or excavator or front end loader. Material shall be placed in piles and burned or the material can be hauled off site for disposal.

3. **Yarding system:** Log yarding may be conducted but only during dry periods as outlined above. No constructed skid trails will be utilized.

4. **Operating Period:** For this conversion exemption the winter time operating period will be from October 15th to May 1st.

5. **Timing of erosion control facilities:** Erosion control facilities and structures shall be installed on all constructed skid trails and tractor roads prior to sunset if the National Weather Service forecast is a "chance" of rain within the next 24 hours.

6. **Consideration of form of precipitation (Rain or Snow):** The area of the exemption is subjected to rainfall only. There is no significant amount of snowfall. Annual rainfall is approximately 60 to 70 inches. The intensity if the rainfall does not usually exceed one inch per hour.

Addendum: Less than 3 acre conversion exemption
March 19, 2008

7. Ground Conditions (soil moisture, frozen soils): The operation of trucks and heavy equipment on roads and landings shall be limited to those areas with a stable running surface.

8. Silviculture and ground cover: It is the intent of the timberland owner to remove a significant amount of the existing ground cover and all of the timber.

9. WLPZ operations: No operations will occur within the WLPZ.

10. Equipment use limitations: There are no limitations on equipment use other than the limitations outlined above for winter period operations.

11. Unstable areas: There are no known unstable areas within the proposed area of operations.

Conversion Feasibility [14CCR 1104.1(a)(6)] Conversion of these parcels appears feasible based on the following information.

The existing land usage of the surrounding properties in the immediate area is for residential. The proposed conversion parcel has been zoned by the County of Del Norte as Residential Usage.

Vegetation currently growing on the parcel consists of second growth spruce. Most of the ground is covered by salmon berry, ferns, or a thick layer of ground litter and duff. A majority of the timber will be removed, to create space for the home site. Removal is warranted and necessary in order to develop the lot and remove any possible hazard trees to this parcel or any adjacent ownership. There are no large old trees present within the conversion area which existed prior to 1800 A.D.

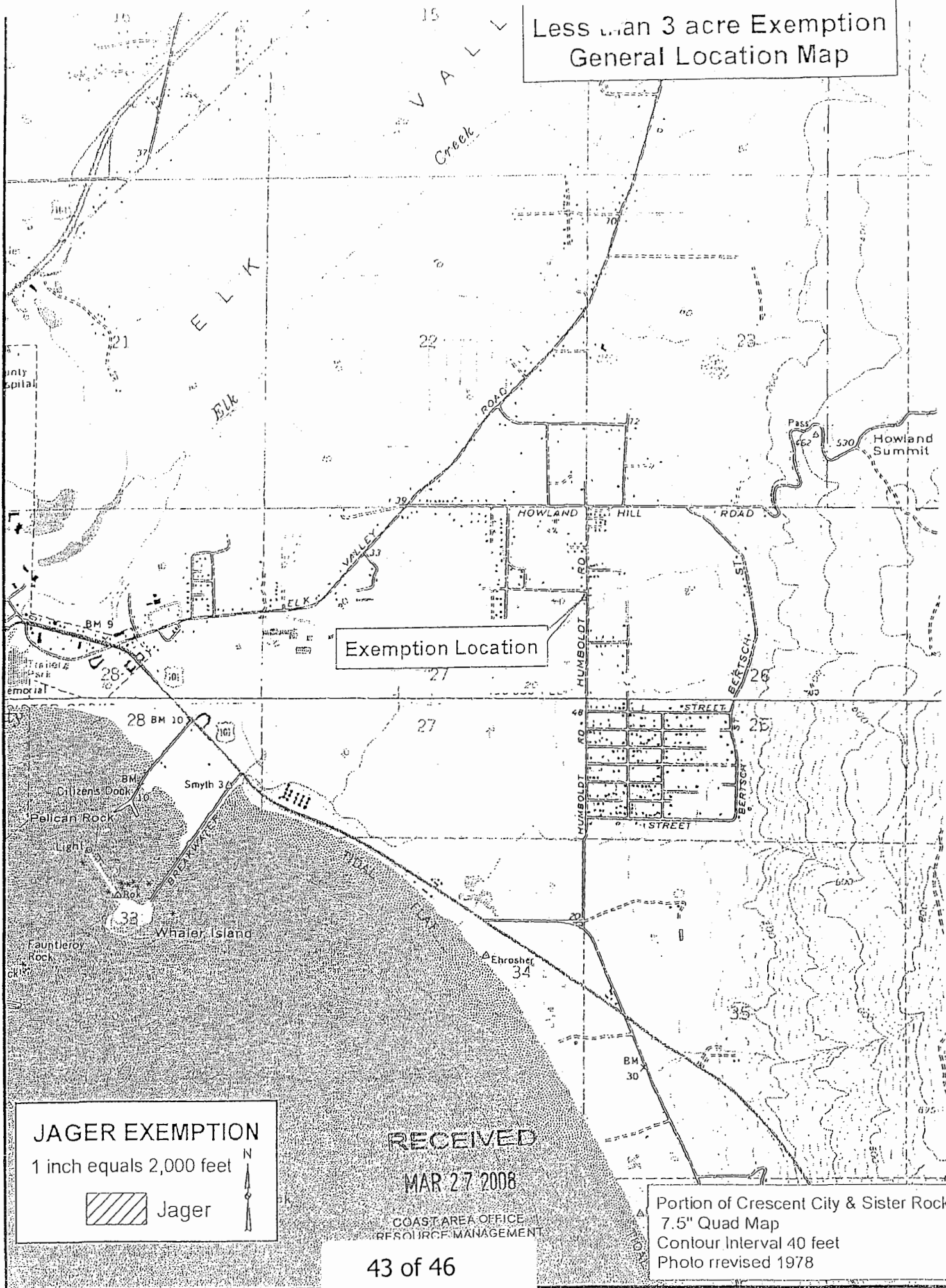
Site preparation will conform to the requirements of the Forest Practice Rules. Piling and burning or removal from the site will be utilized for the disposal of the logging slash and debris.

The parcel along with the surrounding topography is virtually flat. Slopes in the area do not exceed 3 percent. The soil in this area is classed as the Arcata Loam (0 to 3 percent slopes). This soil type is very compatible with residential usage as seen by the existing residences in the area. The microclimate changes as a result of the conversion will reflect increased amounts of sunlight. This sunlight increase will be beneficial in the area because of the moist conditions resulting from the large amount of annual rainfall.

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MAR 27 2008

Less than 3 acre Exemption
General Location Map



JAGER EXEMPTION

1 inch equals 2,000 feet

 Jager

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RESOURCE MANAGEMENT

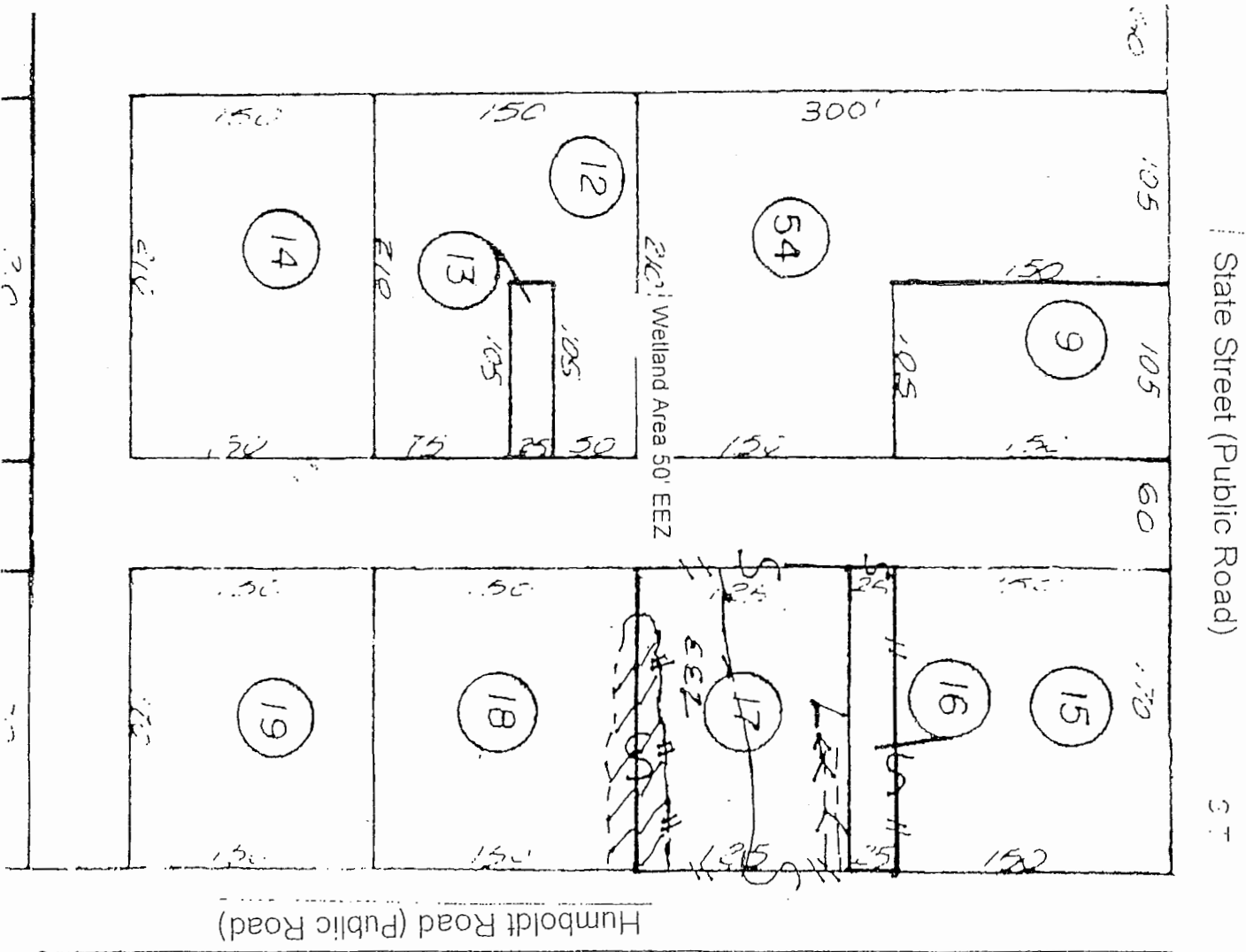
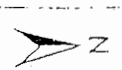
Portion of Crescent City & Sister Rock
7.5" Quad Map
Contour Interval 40 feet
Photo revised 1978

Jager Less than 3 acre Exemption

Enlarged portion of Del Norte County Assessor's Parcel Map
Book 115 Page 28
Approximate Scale 1" = 100 ft.

Legend

- Ownership
- Conversion Area
- Access Route
- Permanent Road (New const)
- Landing



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COAST AREA OFFICE
RESOURCE MANAGEMENT

PACIFIC INVESTMENT COMPANY
2180 OLD MILL ROAD
CRESCENT CITY CA 95531

SHARON HINDS
2097 ROGUE RIVER HWY #14
GOLD HILL OR 97525

SHRILEY L AMBELANG
2712 LAFAYETTE ST
SOQUEL CA 95073

C D CRAGER
320 DARBY STREET
CRESCENT CITY CA 95531

PAMELA MEIRNDORF
2315 STATE STREET
CRESCENT CITY CA 95531

LLOYD O & PAM MEIRNDORF
2315 STATE STREET
CRESCENT CITY CA 95531

BURKE JOHN & DENEACE TRUST
PO BOX 576
CRESCENT CITY CA 95531

FELIX & VICTORIA PABLO
1257 BERTHA LN
SANTA ROSA CA 95405

BURKE JOHN & DENEACE TRUST
PO BOX 576
CRESCENT CITY CA 95531

JOHN R & ROSA M DAVIS
P O BOX 430
CRESCENT CITY CA 95531

NICHOLAS G JAGER
4988 VALLEY EAST APT E
ARACTA CA 95521

BURKE JOHN J 2003 TRUST &
PO BOX 576
CRESCENT CITY CA 95531

PAUL C STUDER
2996 CARMEN COURT
NEWBURY PARK CA 91320

FLORENCE HOWARD
320 PIKE ST
CRESCENT CITY CA 95531

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MAR 27 2008

COAST AREA OFFICE
RESOURCE MANAGEMENT

Eileen Cooper
1093 Hwy 101N
Crescent City, CA 95531

Aug 6, 2008

ATT: Del Norte County Planning Commission

Regarding: Jager, M3473C, APN 115-280-16, 17; 312 Humboldt Rd.

The wetland buffer is insufficient. The driveway is about 55 feet from a drainage and wetland area that is contiguous with Crescent City Marsh. Crescent City Marsh is considered an ARNI (a Resource of National Importance) by the EPA, because the main body of the Marsh contains unique and endangered plants, especially Western Lily. The hydrology of the Marsh is severely impacted by surrounding development, in that hard surfacing has limited the permeability of surrounding soils within this relatively small watershed that drains into the marsh.

It would be more appropriate to organize a D-overlay, combining development within the upland area that is on parcel 15, thus retaining a 100' buffer around the wetland, as is standard practice of Del Norte LCP, and required where feasible.

If this is not possible, the mobile home could be reduced to a single wide mobile, instead of a double wide mobile, thus gaining an additional 15 feet of buffer.

The garage should be replaced by a carport., so that both the soil of the carport as well as the soil of the driveway can remain unpaved and permeable.

Thank you,


Eileen Cooper

*It is unfortunate to remove
the large spruce trees that are
within what should be a buffer.
They are straight & strong and
would probably ~~last~~ live 700 years.*