

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
710 E STREET • SUITE 200
EUREKA, CA 95501-1865
VOICE (707) 445-7833
FACSIMILE (707) 445-7877



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Filed: November 4, 2008
49th Day: December 23, 2008
Staff: Melissa B. Kraemer
Staff Report: November 25, 2008
Hearing Date: December 12, 2008
Commission Action:

STAFF REPORT: APPEAL
NO SUBSTANTIAL ISSUE

APPEAL NO.: **A-1-HUM-08-045**

APPLICANT: **Roland & Roxanna Zee**

LOCAL GOVERNMENT: County of Humboldt

DECISION: Approval with Conditions

PROJECT LOCATION: 425 Orange Drive, Manila, Humboldt County
(APN 400-121-07).

PROJECT DESCRIPTION
OF APPROVED
DEVELOPMENT: A two-year extension of a coastal development permit (CDP) originally approved with conditions by Humboldt County on July 6, 2006 and modified on March 7, 2007. The previous approvals for the CDP and CDP Modification authorize development of a 1,085-square-foot, 30-foot-high single family residence; 504 square feet of decking; 320 linear feet of 6-foot-high fencing; and a 291-square-foot circular observation deck on a 3-acre parcel. The approved two-year extension will expire on August 4, 2010.

APPELLANT: Daniel Edrich

SUBSTANTIVE FILE:
DOCUMENTS

- 1) Humboldt County File Nos. CDP-04-94/SP-05-87, CDP-04-94-XM/SP-05-87-XM, CDP-04-94-XXM/SP-05-087-XXM;
- 2) Humboldt County Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION: NO SUBSTANTIAL ISSUE

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed.

The Commission received an appeal of the County of Humboldt's decision to conditionally approve a two-year time extension to a previously approved development from Mr. Daniel Edrich on November 4, 2008 (Exhibit No. 5). The County's action on the coastal development permit application consists of a two-year extension of a coastal development permit (CDP) originally approved with conditions by Humboldt County on July 6, 2006 and modified on March 7, 2007. The previous County approvals for the CDP and CDP Modification authorize development of a 1,085-square-foot, 30-foot-high single family residence; 504 square feet of decking; 320 linear feet of 6-foot-high fencing; and a 291-square-foot circular observation deck on a 3-acre parcel. At the time the County modified the permit in March of 2007, it also granted a two-year extension. None of the prior local actions were appealed. The approved two-year extension that is the subject of this appeal will expire on August 4, 2010.

The subject site is located at 425 Orange Drive, in the unincorporated community of Manila, along the Samoa Peninsula of Humboldt Bay (Exhibit No. 1). The parcel is approximately three acres in size and is currently developed with a shed. The property is planned and zoned for residential use. The site is located between the first public road (Peninsula Drive) and the sea, adjacent to coastal dune habitats.

The appeal does not allege any inconsistency of the approved time extension with the specific standards of the certified LCP that govern whether a permit time extension may be granted (see Exhibit Nos. 4 and 5). Instead, the appeal addresses an inconsistency of the County's past project approvals (see Exhibit Nos. 6 and 7) with the public access, visual resources, and natural resources policies of the certified LCP. The appellant's contentions are summarized below, and the full text of the contentions is included as Exhibit No. 5.

Essentially, the appellant alleges that the County's 2006 and 2007 approvals of the single family residence will result in the closure of an "ages old trail" through the subject property to the beach that the appellant has used for decades. The appellant lives approximately 450 feet east of the subject property and alleges that the trail that will be closed due to the approved development runs from the front door of his house, which is an old grange hall, westward along Orange Drive and through the eastern end of the subject property out through the dunes to the beach. The appellant claims that he has used and cared for the trail for 20 years, and that the trail is "in fine shape and is not damaged." The appellant also alleges that the height of the approved development "is inconsistent with the neighborhood." Finally, the appellant suggests that approval of the observation deck will result in erosion to coastal dunes through vegetation trampling by "invite[ing] feet where they don't belong."

The property contains portions of informal trails, but does not contain any formal accessways that have been accepted by a managing entity and that have been opened for public use. A portion of the informal trail known as the "Peninsula Drive Trail" crosses the southwestern portion of the property. This trail begins at Peninsula Drive a few hundred feet south of Orange Drive, heads westward across private property, and forks on the southwestern side of the subject property, with one fork heading westward towards the beach and the other fork heading northward towards the Manila Community Center. The certified Access Inventory in the Land Use Plan (LUP) recommends development of "a pedestrian/equestrian trail with additional signing and interpretive improvements" for the Peninsula Drive Trail. Thus, the County's approval of the original permit contained a special condition requiring the applicant to make an Irrevocable Offer to Dedicate the portion of the Peninsula Drive Trail that crosses the property heading westward for public pedestrian and equestrian use (see Exhibit No. 2). Another informal trail, known as the "Orange Drive Trail," bisects the eastern portion of the property near the approved building site, winds downhill through a dune hollow wetland on the property, and then back up the dunes off the property towards the beach. Due to potential conflicts with sensitive dune habitat areas and the presence of adequate access nearby, this trail was not recommended for formal development in the Access Inventory that was originally certified by the Commission in its 1982 certification of the LUP. In addition, when the original project and permit modification were approved by the County in 2006 and 2007 respectively, the findings for approval do not indicate that evidence of substantial public use of the Orange Drive Trail or any other trail on the site had been collected demonstrating that potential prescriptive rights of public access had accrued at the site.

Staff also notes that a formal public accessway leading to the beach and dunes managed by the Manila Community Services District exists approximately 200 feet north of Orange Drive at the Manila Community Center.

Section 312-11.3.2 of the Humboldt County certified Coastal Zoning Regulations (CZR) regulates permit time extensions and states that extensions may be granted if two findings can be made: (1) the development has not changed from that for which the permit or variance was granted; and (2) the findings made when the permit or variance was granted can still be made.

Staff believes that the development has not changed from that for which permit modification approval was granted in March of 2007. Since approval of the permit modification in March 2007, there have been no additional changes to the project. As the development has not yet commenced, there is no indication at the site that the project has changed in any way from the plans that were approved as part of the permit modification processed in 2007. Additionally, the local record for the appeal indicates that the applicant has stated to the County that no further changes to the project are proposed. Finally, the Commission has not received any notices from the County that any further coastal development permit amendment is proposed. Thus, staff believes that the subject time extension is consistent with Section 312-11.3.2.1 of the certified CZR.

Staff further believes that the findings made when the permit modification was granted can still be made that the development is consistent with the LCP policies on public access (and Coastal

Act public access policies as well), visual resources, and natural resources. There are no indications that circumstances have changed that would require the County to make different findings than the ones adopted in the 2006 or 2007 approvals, nor have the policies of the LCP changed since the 2006 or 2007 approvals. The local record contains no references to new evidence of substantial public use of the Orange Drive Trail or any other trail on the property. The vegetation and trees on and around the subject property that may partially screen the approved house do not appear to have changed, the dunes that block views of the ocean from Orange Drive and Peninsula Drive in this location have not significantly changed, and there has been no other significant new development in the immediate area that has changed the surrounding setting. Furthermore, the conditions previously imposed by the County in the modified coastal development permit relating to public access, visual resources, and natural resources protection have not been amended. Finally, there are no indications in the local record or from Commission staff's site visit that conditions on the ground have changed.

Thus, staff believes that there is a high degree of factual support for the County's determination that granting the time extension is consistent with the permit time extension provisions of Section 312-11.3.2 of the certified Coastal Zoning Regulations because (a) the development has not changed from that for which the permit modification was granted in 2007, and (b) the findings made by the County for consistency of the project with the public access policies of the LCP and Coastal Act and the visual and natural resources protection policies of the LCP can still be made. Therefore, staff recommends that the Commission find that the appeal of the County's approval of the coastal development permit time extension raises no substantial issue with respect to the approved project's conformance with the policies of the certified LCP and the public access policies of the Coastal Act.

The Motion to adopt the Staff Recommendation of No Substantial Issue is found on Pages 5-6.

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 100 feet of a wetland or stream or 300 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 of a local government action are limited to an allegation that the approved development does not conform to the standards set forth in the certified local coastal program and, if approved development is located between the first public road and the sea¹, the public access and public recreation policies set forth in the Coastal Act.

The approved development is appealable to the Commission because (a) the development is located between the sea and the first public road paralleling the sea [Section 30603(a)(1)], and (b) the development is located within 100 feet of a wetland [Section 30603(a)(2)].

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. In this case, because the staff is recommending no substantial issue, the Commission will 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. The only persons qualified to testify before the Commission on the substantial issue question are the applicant, the appellant, and persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. It takes a majority of Commissioners present to find that no substantial issue is raised.

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 at a 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 of the local government action was filed by Mr. Daniel Edrich (see Exhibit No. 5). The appeal was filed in a timely manner, within 10 working days of receipt by the Commission, on October 21, 2008, of the County's Notice of Final Local Action² (Exhibit No. 4). The appellant filed the appeal on November 4, 2008.

¹ Per Section 13011 of the California Code of Regulations, the "first public road paralleling the sea" means that road nearest to the sea, as defined in Section 30115 of the Public Resources Code, which: (a) Is lawfully open to uninterrupted public use and is suitable for such use; (b) Is publicly maintained; (c) Is an improved, all-weather road open to motor vehicle traffic in at least one direction; (d) Is not subject to any restrictions on use by the public except when closed due to an emergency or when closed temporarily for military purposes; and (e) Does in fact connect with other public roads providing a continuous access system, and generally parallels and follows the shoreline of the sea so as to include all portions of the sea where the physical features such as bays, lagoons, estuaries, and wetlands cause the waters of the sea to extend landward of the generally continuous coastline.

² Pursuant to 14 CCR §13110, the appeal period commenced on October 22, 2008, the next working day following the receipt of the County's *Notice of Final Local Action* on October 21, 2008, and ran for the 10-working day period (excluding weekends and holidays) from October 22, 2008 through November 4, 2008.

I. MOTION, STAFF RECOMMENDATION, & RESOLUTION

Pursuant to Section 30603(b) of the Coastal Act and as discussed below, the staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal has been filed. The proper motion is:

MOTION:

*I move that the Commission determine that Appeal No. A-1-MEN-08-045 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 ON NO SUBSTANTIAL ISSUE:

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application *de novo* and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission finds that Appeal No. A-1-HUM-08-045 presents no substantial issue with respect to the grounds on which the appeal has been filed under § 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 & DECLARATIONS

The Commission hereby finds and declares the following:

A. APPELLANT'S CONTENTIONS

The Commission received an appeal of the County of Humboldt's decision to conditionally approve a two-year time extension to a previously approved development from Mr. Daniel Edrich on November 4, 2008 (Exhibit No. 5).

The development, as approved by the County, consists of a two-year extension of a coastal development permit (CDP) originally approved with conditions by Humboldt County on July 6, 2006 and modified on March 7, 2007. The previous County approvals for the CDP and CDP Modification authorize development of a 1,085-square-foot, 30-foot-high single family residence; 504 square feet of decking; 320 linear feet of 6-foot-high fencing; and a 291-square-foot circular observation deck on a 3-acre parcel. The approved two-year extension will expire on August 4, 2010.

The subject site is located at 425 Orange Drive, in the unincorporated community of Manila (Exhibit No. 1). The site is located between the first public road (Peninsula Drive) and the sea, adjacent to coastal dune habitats.

The appeal does not allege any inconsistency of the approved time extension with the specific standards of the certified LCP that govern whether a permit time extension may be granted (see Exhibit Nos. 4 and 5). Instead, the appeal addresses an inconsistency of the County's past project approvals (see Exhibit Nos. 6 and 7) with the public access, visual resources, and natural resources policies of the certified LCP. As stated above, the County approved the original permit for the single family residential development in 2006 and approved a permit modification and time extension in 2007. The appellant's contentions are summarized below, and the full text of the contentions is included as Exhibit No. 5.

Essentially, the appellant alleges that the County's 2006 and 2007 approvals of the single family residence will result in the closure of an "ages old trail" through the subject property to the beach that the appellant has used for decades. The appellant lives approximately 450 feet east of the subject property and alleges that the trail that will be closed due to the approved development runs from the front door of his house, which is an old grange hall, westward along Orange Drive and through the eastern end of the subject property out through the dunes to the beach. The appellant claims that he has used and cared for the trail for 20 years, and that the trail is "in fine shape and is not damaged." The appellant also alleges that the height of the approved development "is inconsistent with the neighborhood." Finally, the appellant suggests that approval of the observation deck will result in erosion to coastal dunes through vegetation trampling by "invite[ing] feet where they don't belong."

B. LOCAL GOVERNMENT ACTION

On October 2, 2008, the Humboldt County Planning Commission conditionally approved CDP-04-94XMX/SP-05-087XMX, a two-year time extension to the previously approved development on the basis that the findings and conditions of the original project have not changed significantly. The Planning Commission attached one special condition to the approval of the subject time extension: "The conditions of the modified project approval effective March 1, 2007, shall remain in full force and effect and are not affected by this extension."

The decision of the Planning Commission was not appealed at the local level to the County Board of Supervisors. The County then issued a Notice of Final Action, which was received by the Commission staff on October 21, 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 by Mr. Daniel Edrich on November 4, 2008 (Exhibit No. 5). The appeal was filed in a timely manner, within 10-working days after receipt by the Commission of the Notice of Final Local Action.

C. ENVIRONMENTAL SETTING

The subject site is located at 425 Orange Drive, in the unincorporated community of Manila, on the North Spit of Humboldt Bay (Exhibit No. 1). The parcel is approximately three acres in size and is currently developed with a shed. The property is planned and zoned for residential use; the present zoning is Residential Single Family with a minimum lot size of 20,000 square feet, and with Manufactured Home and Beach/Dune Area Combining Zones (RS-20-M/B).

The property contains portions of informal trails, but does not contain any formal accessways that have been accepted by a managing entity and are open for public use. A portion of the trail informally known as the “Peninsula Drive Trail” crosses the southwestern portion of the property. This trail begins at Peninsula Drive a few hundred feet south of Orange Drive, heads westward across private property, and forks on the southwestern side of the subject property, with one fork heading westward towards the beach and the other fork heading northward towards the Manila Community Center. The certified Access Inventory in the Land Use Plan (LUP) recommends development of “a pedestrian/equestrian trail with additional signing and interpretive improvements” for the Peninsula Drive Trail. Thus, the County’s approval of the original permit contained a special condition requiring the applicant to make an Irrevocable Offer to Dedicate the portion of the Peninsula Drive Trail that crosses the property heading westward for public pedestrian and equestrian use (see Exhibit No. 2). Another trail, informally known as the “Orange Drive Trail,” bisects the eastern portion of the property near the approved building site, winds downhill through a dune hollow wetland on the property, and then back up the dunes off the property towards the beach. Due to potential conflicts with sensitive dune habitat areas and the presence of adequate access nearby, this trail was not recommended for formal development in the Access Inventory that was originally certified by the Commission in its 1982 certification of the LUP.

A formal public accessway leading to the beach and dunes managed by the Manila Community Services District exists approximately 200 feet north of Orange Drive at the Manila Community Center.

D. PROJECT DESCRIPTION

The approved “project” involves a two-year extension of a coastal development permit previously approved by the County on July 6, 2006 and modified (and approved by the County) on March 7, 2007 for the development of a 1,085-square-foot, 30-foot-high single family residence; 504 square feet of decking; 320 linear feet of 6-foot-high fencing; and a 291-square-foot circular observation deck on a 3-acre parcel in the unincorporated community of Manila (Exhibit No. 3). The approved two-year extension will expire on August 4, 2010. The approved extension did not authorize any changes to the previously approved project, nor were any changes proposed by the applicant. The approved extension contains one special condition, which states: “The conditions of the modified project approval effective March 1, 2007, shall remain in full force and effect and are not affected by this extension.”

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.

The allegations that were raised in the appeal present potentially valid grounds for appeal in that the contentions allege the approved project's inconsistency with public access, visual resources, and hazard policies of the certified LCP, and the appeal was filed in a timely manner.

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" (Title 14, Section 13115(b), California Code of Regulations.) 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 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 concerning the consistency of the approved project with the provisions of the LCP regarding public access, visual resources, and hazards, the appeal raises no substantial issue with regard to the approved project's conformance with the certified Humboldt County LCP and the public access policies of the Coastal Act.

1. Allegations Raising No Substantial Issue

The appeal does not allege any inconsistency of the approved time extension with the specific standards of the certified LCP that govern whether a permit time extension may be granted. Instead, the appeal addresses the inconsistency of the County's past project approvals with, among other things, the public access policies of the certified LCP and the Coastal Act. Essentially, the appellant alleges that the County's 2006 and 2007 approvals of the single family residence will lead to closure of an "ages old trail" through the subject property to the beach that the appellant has used for decades. The appellant lives approximately 450 feet east of the subject property and alleges that the trail that will be closed due to the approved development runs from the front door of his house, which is an old grange hall, westward along Orange Drive and through the eastern end of the subject property out through the dunes to the beach. The appellant claims that he has used and cared for the trail for 20 years, and that the trail is "in fine shape and is not damaged." The appellant also alleges that the height of the approved development "is inconsistent with the neighborhood." Finally, the appellant implies that approval of the observation deck will result in erosion to coastal dunes through vegetation trampling by "invite[ing] feet where they don't belong." As stated above, the County approved the original permit for the single family residential development in 2006 and approved a permit modification and time extension in 2007. The appellant's contentions are summarized above, and the full text of the contentions is included as Exhibit No. 5.

The County's approval of the subject time extension includes a standard condition stating, in part, that "This permit shall expire and become null and void at the expiration of one (1) year after all appeal periods have lapsed...except where construction under a valid building permit or use in reliance on the permit has commenced prior to such anniversary date...". As stated above, the approved two-year extension will expire on August 4, 2010. Section 312-11.3 of the Humboldt County certified Coastal Zoning Regulations (CZR) pertain to extensions of permits and variances and state the following, in applicable part:

...

11.3.2 Any number of extensions may be granted, but each extension shall be for no more than a total of two years. Extensions may be granted by the Hearing Officer if the following findings are made:

11.3.2.1 The development has not changed from that for which the permit or variance was granted; and

11.3.2.2 The findings made when the permit or variance was granted can still be made.

As stated above, the appeal does not allege any inconsistency of the approved time extension with the specific standards of the certified LCP that govern whether a permit time extension may be granted. Section 312-11.3.2 regulates permit time extensions and states that extensions may be granted if two findings can be made: (1) the development has not changed from that for which the permit or variance was granted; and (2) the findings made when the permit or variance was granted can still be made.

a.) No Changes to the Approved Development

The permit modification approved by the County in March of 2007 (Exhibit No. 6) addressed changes to the development originally approved by the County in July of 2006 including an increase in the size of the approved (1) residence from 850 to 1,085 square feet; (2) decking from 75 to 504 square feet; and (3) observation deck from 201 to 291 square feet. In March of 2007, the County also approved a permit time extension. None of the prior local actions were appealed. Since approval of the permit modification, there have been no additional changes to the project. As the development has not yet commenced, there is no indication at the site that the project has changed in any way from the plans that were approved as part of the permit modification processed in 2007. Additionally, the local record for the appeal indicates that the applicant has stated to the County that no further changes to the project are proposed. Finally, the Commission has not received any notices from the County that any further coastal development permit amendment is proposed.

Therefore, the Commission finds that the development has not changed from that for which the permit modification was granted in March of 2007, and the subject time extension is consistent with Section 312-11.3.2 of the certified Coastal Zoning Regulations.

b.) Findings for County Approval Still Can Be Made

The appeal raises contentions relating to public access, visual resources, and natural resources. In its approval of the subject time extension, the County found that all the findings made when the permit modification was granted in 2007 still apply today. The County's findings for approval are attached in Exhibit No. 7 (for the 2006 permit), Exhibit No. 6 (for the 2007 permit modification), and Exhibit No. 4 (for the subject time extension on appeal) and are summarized below. Essentially, the County found that with the conditions imposed by the County, the original project approved in 2006 and in the modified project approved in 2007 were consistent with the LCP policies on public access, visual resources, and natural resources for the reasons summarized below (see Exhibit Nos. 4, 6, and 7 for full details).

(i) *Public Access*

As discussed above, the property contains portions of informal trails, but does not contain any formal accessways that have been accepted by a managing entity and that have been opened for public use. A formal vertical public access trail leading to the beach and dunes accepted and managed by the Manila Community Services District exists approximately 200 feet north of Orange Drive at the Manila Community Center. When the original project and permit modification were approved by the County in 2006 and 2007 respectively, the findings for approval do not indicate that evidence of substantial public use of the Orange Drive Trail or any other trail on the site had been collected demonstrating that potential prescriptive rights of public access had accrued at the site.

A portion of the informal trail known as the "Peninsula Drive Trail" crosses the southwestern portion of the property. This trail begins at Peninsula Drive a few hundred feet south of Orange Drive, heads westward across private property, and forks on the

southwestern side of the subject property, with one fork heading westward towards the beach and the other fork heading northward towards the Manila Community Center. The certified Access Inventory in the Land Use Plan (LUP) recommends development of “a pedestrian/equestrian trail with additional signing and interpretive improvements” for the Peninsula Drive Trail. Thus, the County’s approval of the original permit contained a special condition requiring the applicant to make an Irrevocable Offer to Dedicate the portion of the Peninsula Drive Trail that crosses the property heading westward for public pedestrian and equestrian use (see Exhibit No. 2).

A portion of the informal trail known as the “Orange Drive Trail,” which is the subject trail referenced by the appellant, bisects the eastern portion of the property near the approved building site, winds downhill through a dune hollow wetland on the property, and then back up the dunes off the property towards the beach. Due to potential conflicts with sensitive dune habitat areas and the presence of adequate access nearby, this trail was not recommended for formal development in the Access Inventory that was originally certified by the Commission in its 1982 certification of the LUP.

There are no indications that circumstances have changed that would require the County to make different public access findings than the ones adopted in the 2006 or 2007 approvals. The public access policies and the certified Access Inventory of the LCP and the public access policies of the Coastal Act have not changed since the 2006 or 2007 approvals. Additionally, the local record contains no references to new evidence of substantial public use of the Orange Drive Trail or any other trail on the property. The public access condition previously imposed by the County in the modified coastal development permit has not been amended. Finally, there are no indications in the local record or from Commission staff’s site visit that conditions on the ground have changed.

Thus, there is thus a high degree of factual support for the County’s determination that the findings made by the County for consistency of the project with the public access policies of the LCP and the Coastal Act can still be made. Therefore, the Commission finds that the appeal of the County’s approval of the subject time extension raises no substantial issue with respect to the approved project’s conformance with the public access policies of the LCP and Coastal Act.

(ii) *Visual Resources*

The County findings state that “The subject parcel is not located within a designated coastal view/scenic area on any County land use maps.” The parcel is not readily visible from Peninsula Drive, the closest through public roadway to the site, as it is situated approximately 400 feet west of the public road at the end of the unimproved, dead-end Orange Drive. The approved residence will have a maximum height of 30 feet. As the maximum building height allowable under Section 313-6.1 of the certified Coastal Zoning Regulations is 35 feet, the approved residence is within the maximum height limit allowed by the zoning regulations. Although the approved maximum 30-foot-high house will be clearly visible from Peninsula Drive, the development will not block views to and

along the ocean and scenic coastal areas because of the intervening dunes, and will be compatible with the character of the surrounding area, as there are other buildings of similar height along Peninsula Drive south of Orange Drive. Therefore, the approved development is consistent with Section 30251 of the Coastal Act which has been incorporated into the certified LUP.

There are no indications that circumstances have changed that would require the County to make different visual resource findings now than the ones the County adopted in approving the original project. The visual resource policies of the LCP have not changed since the original project and the permit modification were approved. Additionally, there have been no changes in the height and bulk of the approved house since the permit modification. There are no indications in the local record or from Commission staff's site visit that conditions on the ground have changed. The Commission notes that the vegetation and trees on and around the subject property that may partially screen the approved house do not appear to have changed, the dunes that block views of the ocean from Orange Drive and Peninsula Drive in this location have not significantly changed, and there has been no other significant new development in the immediate area that has changed the surrounding setting.

Thus, there is thus a high degree of factual support for the County's determination that the findings made by the County for consistency of the project with the visual resources policies of the LCP can still be made. Therefore, the Commission finds that the appeal of the County's approval of the subject time extension raises no substantial issue with respect to the approved project's conformance with the visual resource protection policies of the LCP.

(iii) *Natural Resources Impacts*

The County determined in its original approval in 2006 and in its approval of the permit modification in 2007 that the development would not have significant adverse impacts on habitat. The County, in reviewing the original project proposal, solicited comments from the Department of Fish and Game on the project, who stated (in comments submitted to County staff in an e-mail from Bob Williams of DFG dated May 13, 2005) that the development would unlikely affect listed threatened or endangered species or their habitats, and "it does not appear the project has a potential to adversely affect wildlife resources...through impacts to vegetation." In its approval of the original permit in 2006 and permit modification in 2007, the County imposed a special condition requiring, in part, that the applicant provide:

"a site mitigation plan...in consultation with the California Department of Fish and Game...[identifying]...a qualified specialist who will monitor construction activities to insure that the following mitigation measures have been incorporated:

- Recommendations contained in the geologic evaluation;
- Minimized disturbances to vegetated dunes;

- Planting of native trees to increase the vegetation buffer of the slough wetland areas;
- Exterior lighting is not illuminating the dune areas beyond the site improvement.”

There are no indications that circumstances have changed that would require the County to make different natural resource/habitat protection findings than the ones they adopted in approving the original project. The natural resource protection policies of the LCP have not changed since the original project and the permit modification were approved, and there have been no changes since the permit modification in the location or design of the observation deck. Additionally, the natural resources protection condition previously imposed by the County in the modified coastal development permit has not been amended. Furthermore, there are no indications in the local record or from Commission staff’s site visit that conditions on the ground have significantly changed.

Thus, there is a high degree of factual support for the County’s determination that the findings made by the County for consistency of the project with the natural resources/habitat protection policies of the LCP can still be made. Therefore, the Commission finds that the appeal of the County’s approval of the subject time extension raises no substantial issue with respect to the approved project’s conformance with the natural resources protection policies of the LCP.

Conclusion:

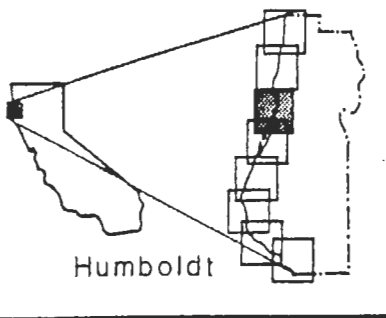
Therefore, for all of the reasons discussed above, the Commission finds that (a) the development has not changed from that for which the permit modification was granted in 2007, and (b) the findings made by the County in granting the permit modification in 2007 can still be made. Therefore, the Commission further finds that the subject time extension is consistent with Section 312-11.3.2 of the certified Coastal Zoning Regulations which specifies, in part, that permit time extensions may be granted if both (a) the development has not changed from that for which the permit was granted; and (b) the findings made when the permit was granted can still be made. The Commission concludes that the appeal of the approved time extension raises no substantial issue with respect to the approved project’s conformance with the policies of the certified LCP and the public access policies of the Coastal Act.

III. EXHIBITS

1. Regional Location Map
2. Air Photo of the Site
3. Approved Plot Plan
4. Notice of Final Local Action & County Findings
5. Appeal, filed November 4, 2008 by Daniel Edrich
6. County Findings of Approval of Permit Modification in 2007
7. County Findings of Approval of Original Permit in 2006

A B C D E F G H I J K L M N O

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PROJECT SITE

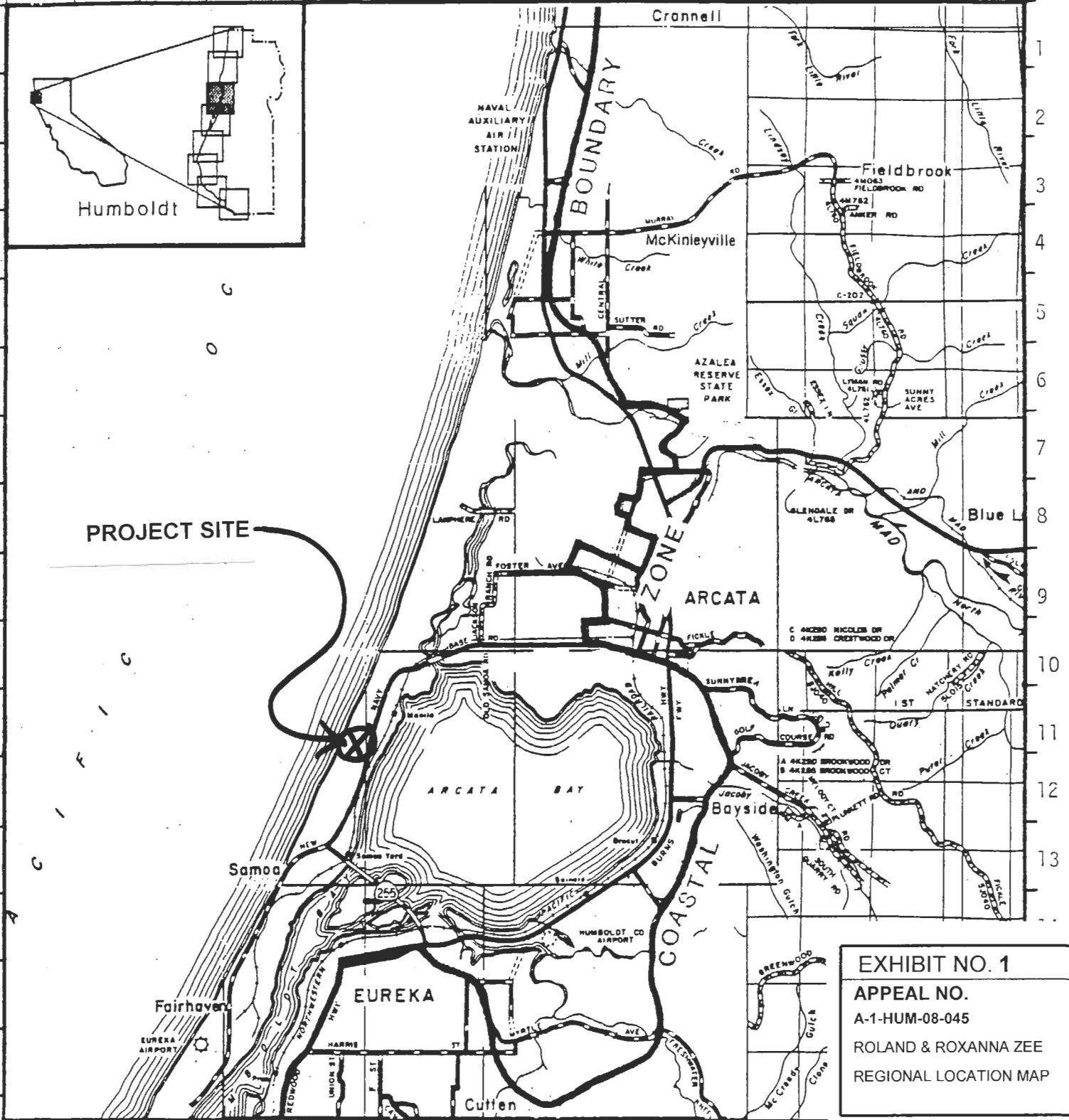


EXHIBIT NO. 1
APPEAL NO.
A-1-HUM-08-045
ROLAND & ROXANNA ZEE
REGIONAL LOCATION MAP



LOCATION MAP



17
18

ATTACHMENT 6
Air Photo of the Site and Trail Segments

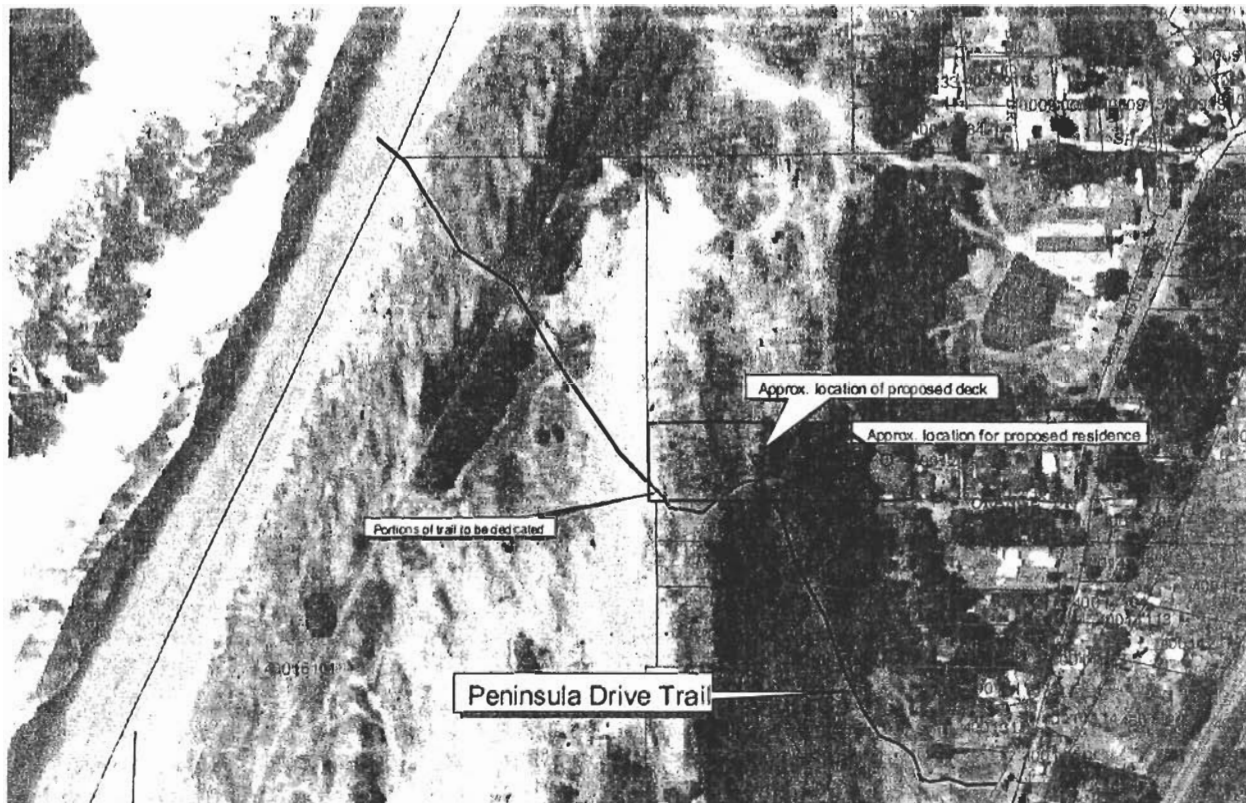


EXHIBIT NO. 2
APPEAL NO. A-1-HUM-08-045
ROLAND & ROXANNA ZEE
AIR PHOTO OF SITE

RECEIVED
AUG 2008

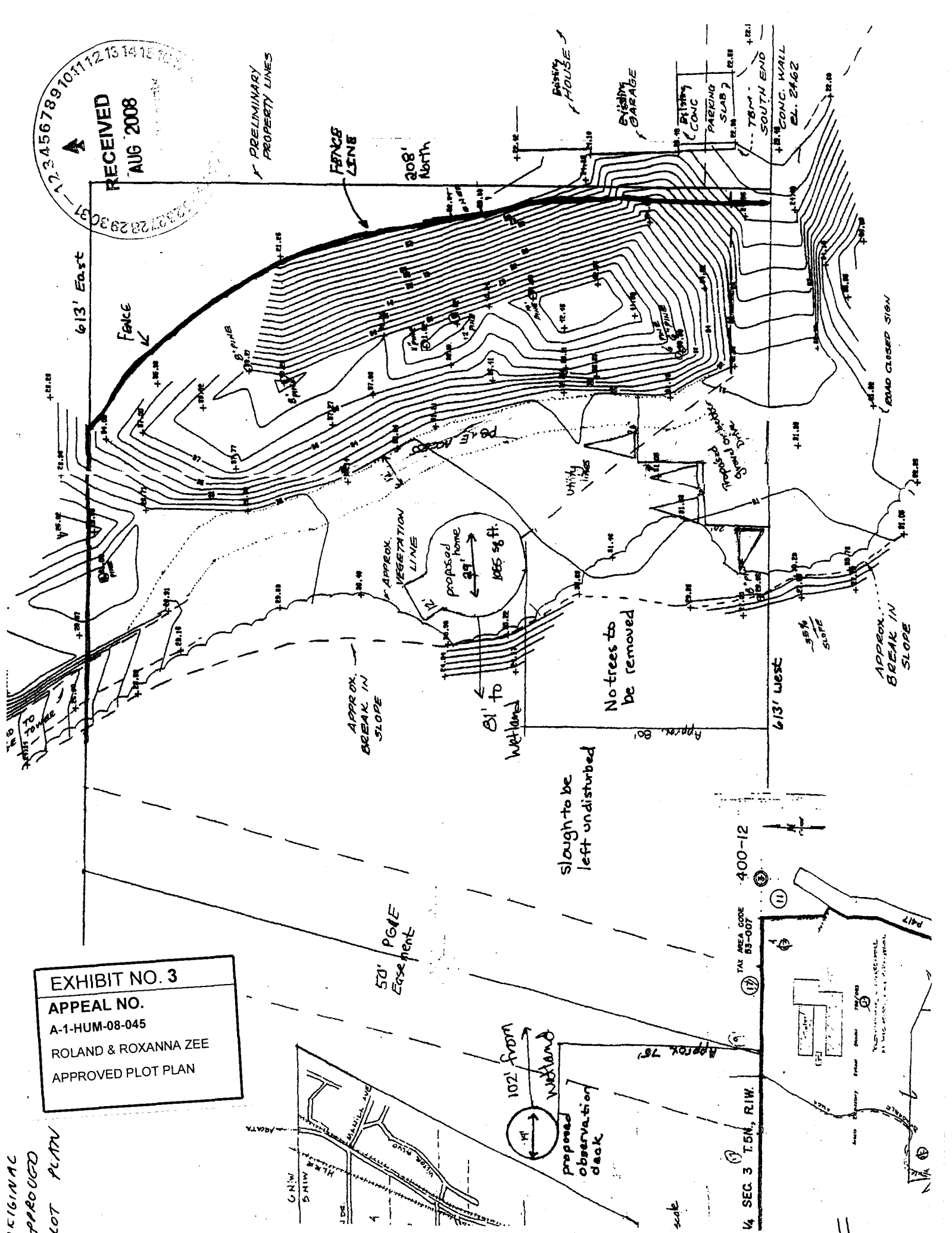
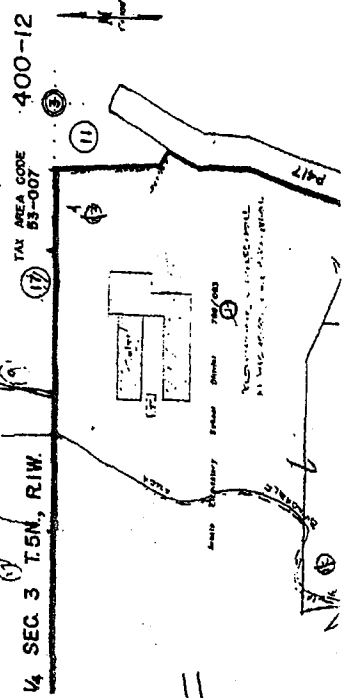


EXHIBIT NO. 3
APPEAL NO.
A-1-HUM-08-045
ROLAND & ROXANNA ZEE
APPROVED PLOT PLAN



ORIGINAL
PARROGGD
LOT PLATN



PLANNING DIVISION
COMMUNITY DEVELOPMENT SERVICES

COUNTY OF HUMBOLDT

3015 H STREET
EUREKA, CALIF. 95501-4484 PHONE (707) 445-7541

Appealable Status: APPEALABLE

October 20, 2008

CALIFORNIA COASTAL COMMISSION
Eureka Office
P.O. Box 4908
Eureka, CA 95502-4908

RECEIVED

OCT 21 2008

CALIFORNIA
COASTAL COMMISSION

Subject: Coastal Development Permit
Notice of Expiration of Planning Commission Appeal Period

Contact: Marcella Clem

Applicant: Roland & Roxanna Zee
Address: 4228 Pocono Ct, Fair Oaks, CA 95628

Case No.: CDP-04-94XMX (filed 8/4/08) & SP-05-87XMX
File No.: APN 400-121-07

The appeal period for this project expired October 17, 2008, and no appeals have been received.

Sincerely,

Marcella Clem, Senior Planner
Humboldt County Planning Division
Humboldt County Community Development Services

EXHIBIT NO. 4
APPEAL NO. A-1-HUM-08-045 ROLAND & ROXANNA ZEE NOTICE OF FINAL LOCAL ACTION & COUNTY FINDINGS (1 of 17)



COMMUNITY DEVELOPMENT SERVICES
PLANNING DIVISION
COUNTY OF HUMBOLDT

3015 H Street, Eureka, CA 95501
Phone (707) 445-7541 • Fax (707) 445-7446
www.co.humboldt.ca.us/planning

October 3, 2008

NOTICE OF PLANNING COMMISSION DECISION

APPLICANT(S):

Roland & Roxanna Zee
4228 Pocono Court
Fair Oaks, CA 95628

PERMIT(S) FOR APN 400-121-07

Coastal Development Permit Extension - CDP-04-94XMX
Special Permit Extension - SP-05-87XMX

PROJECT DESCRIPTION:

A two year extension for a Coastal Development Permit and Special Permit application approved on July 6, 2006 and Modified on March 1, 2007. This extension will make no changes to the project as previously modified. If approved, the project will expire on August 4, 2010. Manila Area 425 Orange Dr.

DECISION:

The project was approved by the Planning Commission on October 2, 2008 by Resolution 08-109 and is subject to the attached conditions. Please review these conditions because other permits may be required before the project commences. *In accordance with County Code, this approval may be revoked or rescinded, in whole or in part, if certain grounds are found to exist (See Humboldt County Code §312-14)*

REVISED APPEALS:

This project may be appealed by any aggrieved person within 10 working days. The last day to appeal to Board of Supervisors is 5 PM, October 17, 2008. Additional information regarding appeals is included with this notice.

This project is also subject to a California Coastal Commission (Coastal Commission) appeal period which begins at the end of the County appeal process. If appealed, the Coastal Commission may deny the project or impose other conditions on the project.

REVISED EFFECTIVE DATE:

Once the County appeal process has ended, the result will be mailed to the Coastal Commission. The Coastal Commission appeal period begins the day after the result has been received. If no appeal has been initiated, the day after this appeal period ends becomes the effective date. If an appeal has been initiated, the effective date will depend on the outcome of the appeal.

Conditions of Approval

1. **The conditions of the modified project approval effective March 1, 2007, shall remain in full force and effect and are not affected by this extension.**

NOTE: ALL STAFF REPORTS AND SUPPORTING DOCUMENTATION IS ON FILE WITH THE PLANNING DIVISION AND AVAILABLE FOR PUBLIC INSPECTION.

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT
Resolution Number 08-109**

**MAKING THE REQUIRED FINDINGS FOR CERTIFYING COMPLIANCE WITH THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT AND CONDITIONALLY APPROVING THE HURST
CONDITIONAL USE PERMIT AND SPECIAL PERMIT EXTENSION APPLICATION.
CASE NUMBERS: CDP-04-94XMX/SP-05-87XMX; ASSESSOR PARCEL NUMBER 400-121-07**

WHEREAS, Roland and Roxanna Zee, submitted an application and evidence in support of approving the Coastal Development Permit and Special Permit Extension; and

WHEREAS, the County Planning Division has reviewed the submitted application and evidence and has referred the application and evidence to involved reviewing agencies for site inspections, comments and recommendations; and

WHEREAS, the project is subject to environmental review pursuant to the California Environmental Quality Act (CEQA); and

WHEREAS, the Planning Commission, on July 6, 2006, adopted a Mitigated Negative Declaration; and the Planning Commission, on March 1, 2007, adopted an addendum to said Mitigated Negative Declaration; and

WHEREAS, the Planning Division staff report includes evidence in support of making all of the required findings for approving the proposed Coastal Development Permit and Special Permit Extension request;

NOW, THEREFORE, be it resolved, determined, and ordered by the Planning Commission that:

1. The Planning Commission did adopt an addendum to a previously adopted Mitigated Negative Declaration for the original project on March 1, 2007, pursuant to CEQA and finds that there is no substantial evidence that the proposed project extension will have a significant effect on the environment;
2. The Planning Commission makes the findings in H.C.C. § 312-11.3 in the Planning Division staff report for Case Numbers: CDP-04-94XMX/SP-05-87XMX based on the submitted evidence.
3. The Planning Commission approves the proposed Coastal Development Permit and Special Permit Extension as recommended and conditioned in the Planning Division staff report for Case Numbers: CDP-04-94XMX/SP-05-87XMX.

Adopted after review and consideration of all the evidence on

The motion was made by COMMISSIONER HERMAN and seconded by COMMISSIONER EMAD.

AYES: Commissioners: EMAD, GEARHEART, HANSIS, HERMAN, KELLY, MURGUIA & SMITH


NOES: Commissioners: NONE

ABSTAIN: Commissioners: NONE

ABSENT: Commissioners: NONE

I, Kirk Girard, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above-entitled matter by said Commission at a meeting held on the date noted above.

Kirk Girard, Director of Community Development Services

By: 
Betty Webb, Clerk



COMMUNITY DEVELOPMENT SERVICES
PLANNING DIVISION
COUNTY OF HUMBOLDT

<http://co.humboldt.ca.us/CDS/Planning>

DATE: September 15, 2008
TO: Humboldt County Planning Commission
FROM: Kirk Girard, Director of Community Development Services
SUBJECT: **Zee Coastal Development Permit and Special Permit Extension
CDP-04-94XMX/SP-05-87XMX
Manila Area**

The attached staff report was prepared for your consideration of the Zee Coastal Development Permit and Special Permit Extension application at the public hearing on October 2, 2008. The staff report includes the following:

Table of Contents	Page
Agenda Item Transmittal Form	2
Recommended Commission Action and Staff Analysis	3
Draft Planning Commission Resolution	5
Attachments	
Attachment 1: Vicinity, Zoning, and Assessor Parcel Maps	7-9
Attachment 2: Plot Plan	11
Attachment 3: Original Conditions of Approval	13
Attachment 4: Notice of Determination	14

Please contact Marcella Clem, Senior Planner, at (707) 268-3721 if you have any questions about the scheduled public hearing item.

cc: Applicant

AGENDA ITEM TRANSMITTAL

TO: Kirk A. Girard, Director of Community Development Services

FROM: Steve Werner, Supervising Planner

HEARING DATE: October 2, 2008	SUBJECT: <input type="checkbox"/> Public Hearing Item <input checked="" type="checkbox"/> Consent Agenda COASTAL DEVELOPMENT PERMIT & SPECIAL PERMIT EXTENSION	CONTACT: Marcella Clem
----------------------------------	--	---------------------------

Before you is the following:

PROJECT: A two year extension of a Coastal Development Permit and Special permit originally approved on July 6, 2006 and modified on March 1, 2007. The changes approved with the modification are indicated by ~~strike through~~ and **bold** type. The project is for the development of a single-family residence built to a maximum of ~~850~~ **1,085** square feet in addition to a maximum of ~~75~~ **504** square feet of decking. The average height of the structure will be to a maximum of 30 feet. The applicant also proposes to construct approximately 320 feet of fencing not over 6 feet in height and an approximately ~~204~~ **291** square foot circular observation deck. A Special Permit was required to reduce the wetland setback for placement of the residence. **All additional proposed square footage will not be in the direction of the wetlands on the parcel and no further reduction to the wetland setback will be required.** The approximately 3-acre parcel is currently developed with a shed. No trees are to be removed and minimal grading is required for this project. The Manila Community Services District will provide water and sewer services. As part of the project proposal, the applicant is voluntarily contributing to the Tsunami Ready Program for the Manila area. No changes to the modified project are proposed. If approved, the extension will expire on August 4, 2010.

PROJECT LOCATION: The project site is located in the Manila area, at the end of Orange Drive, approximately 420 feet west from the intersection of Orange Drive with Peninsula Drive, on the property known as 425 Orange Drive.

PRESENT PLAN DESIGNATION: Residential Estates (RE). Humboldt Bay Area Plan (HBAP).
Density: 0 to 2 units per acre. Slope Stability: Moderate and Low Instability (A₀;A₂). Note: All proposed development is within the low instability area.

PRESENT ZONING: Residential Single Family specifying a minimum lot size of 20,000 square feet, in addition to the Manufactured Home and the Beach/Dune area combining zones (RS-20-M/B).

ASSESSOR PARCEL NUMBER: 400-121-07

APPLICANTS
Roland & Roxanna Zee
4228 Pocono Court
Fair Oaks, CA 95628
Phone: 916-961-1606

OWNER(S)
Same as Applicants

AGENT

ENVIRONMENTAL REVIEW: A Mitigated Negative Declaration of Environmental Impact (SCH# 2006062069) adopted July 6, 2006. An addendum to the document was adopted March 1, 2007.

MAJOR ISSUES:

Potential Issue: Building site is approximately 350 feet from Dune Habitat.

STATE APPEAL STATUS:

Project is appealable to the California Coastal Commission.

ZEE COASTAL DEVELOPMENT PERMIT & SPECIAL PERMIT EXTENSION
Case Nos.: CDP-04-94XXMX/SP-05-87XXMX; File No.: APN 400-121-07

RECOMMENDED COMMISSION ACTION:

1. Describe the application as part of the Consent Agenda;
2. Survey the audience for any person who would like to discuss the application;
3. If no one requests discussion, make the following motion to approve the application as a part of the consent agenda:

"I move to make all of the required findings, based on evidence in the staff report, and approve the application(s) on the Consent Agenda subject to the recommended conditions of approval."

Staff Analysis of the Evidence Supporting the Required Findings

Sections 312-11 (Extension of an Approval of a Development Permit or Variance) of the Humboldt County Code Zoning Regulations establishes the authority to grant time extensions for approved or conditionally approved development permits, including Coastal Development Permits and Special Permits, when it can be found that the findings and conditions of the original project have not changed significantly.

Recommendation:

The findings and conditions of the original project have not changed significantly based on the following analysis.

Staff Analysis:

A two year extension of a Coastal Development Permit and Special permit originally approved on July 6, 2006 and modified on March 1, 2007. The changes approved with the modification are indicated by ~~strikethrough~~ and **bold** type. The project is for the development of a single-family residence built to a maximum of ~~850~~ **1,085** square feet in addition to a maximum of ~~75~~ **504** square feet of decking. The average height of the structure will be to a maximum of 30 feet. The applicant also proposes to construct approximately 320 feet of fencing not over 6 feet in height and an approximately ~~204~~ **291** square foot circular observation deck. A Special Permit was required to reduce the wetland setback for placement of the residence. **All additional proposed square footage will not be in the direction of the wetlands on the parcel and no further reduction to the wetland setback will be required.** The approximately 3-acre parcel is currently developed with a shed. No trees are to be removed and minimal grading is required for this project. The Manila Community Services District will provide water and sewer services. As part of the project proposal, the applicant is voluntarily contributing to the Tsunami Ready Program for the Manila area. No changes to the modified project are proposed.

Applicant states the conditions of the property have not changed since the application/approval of CDP-04-94XXMX/SP-05-87XXMX. This is the second extension and, **if approved, this extension will expire on August 4, 2010.**

The Planning Department has circulated requests for input relative to the extension petition and has received no comments against the petition being granted. It is staff's opinion that **the findings and conditions of the modified project, effective August 4, 2006, have not changed significantly based on the following staff analysis, and are applicable to the proposed extension because:**

1. The Residential Estates (RE) land use designation, for which a consistency finding was made, has not changed.
2. The Residential Single Family specifying a minimum lot size of 20,000 square feet, in addition to the Manufactured Home and the Beach/Dune area combining zones (RS-20-M/B), for which a conformance finding was made, have not changed.
3. The applicable development standards, for which the original project was evaluated, have not changed.

4. The applicable design standards, for which the project was evaluated, have not changed.
5. All other standards and requirements, to which the project is subject and as administered by other departments or agencies, have not changed.
6. A Mitigated Negative Declaration of Environmental Impact (SCH# 2002062069) was adopted on July 6, 2006. An addendum to the document was adopted on March 1, 2007. No new evidence has arisen to indicate that additional review under CEQA is necessary.

Referral agencies have recommended approval of the extension.

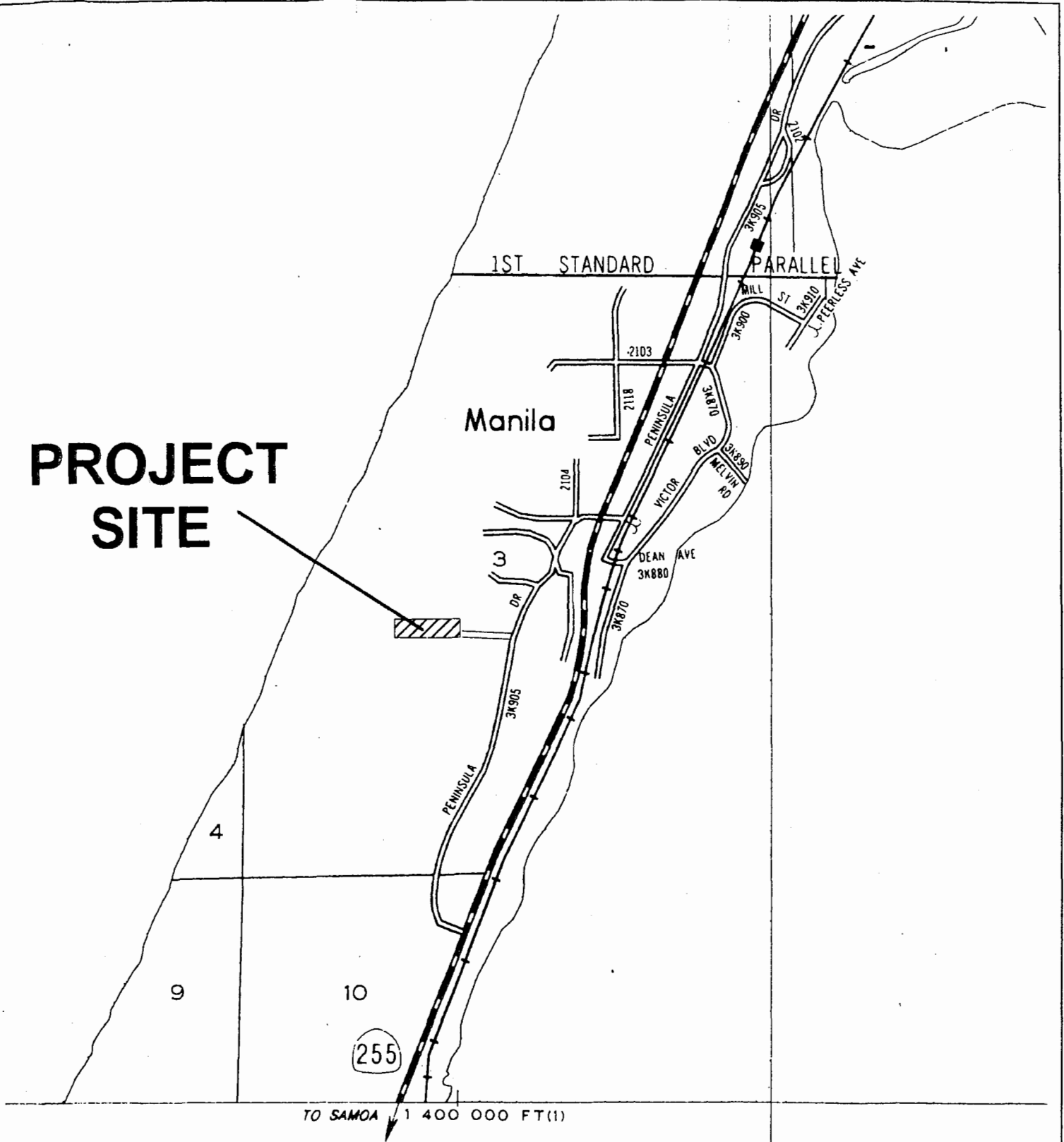
ALTERNATIVES: The Planning Commission could elect not to approve the extension. This alternative should be implemented if your Commission is unable to make all of the required findings per H.C.C. Section 312-11.3. Planning Division staff has found that the required findings can be made. Consequently, planning staff does not recommend further consideration of this alternative.

Conditions of Approval

1. **The conditions of the modified project approval effective March 1, 2007, shall remain in full force and effect and are not affected by this extension.**

NOTE: ALL STAFF REPORTS AND SUPPORTING DOCUMENTATION IS ON FILE WITH THE PLANNING DIVISION AND AVAILABLE FOR PUBLIC INSPECTION.

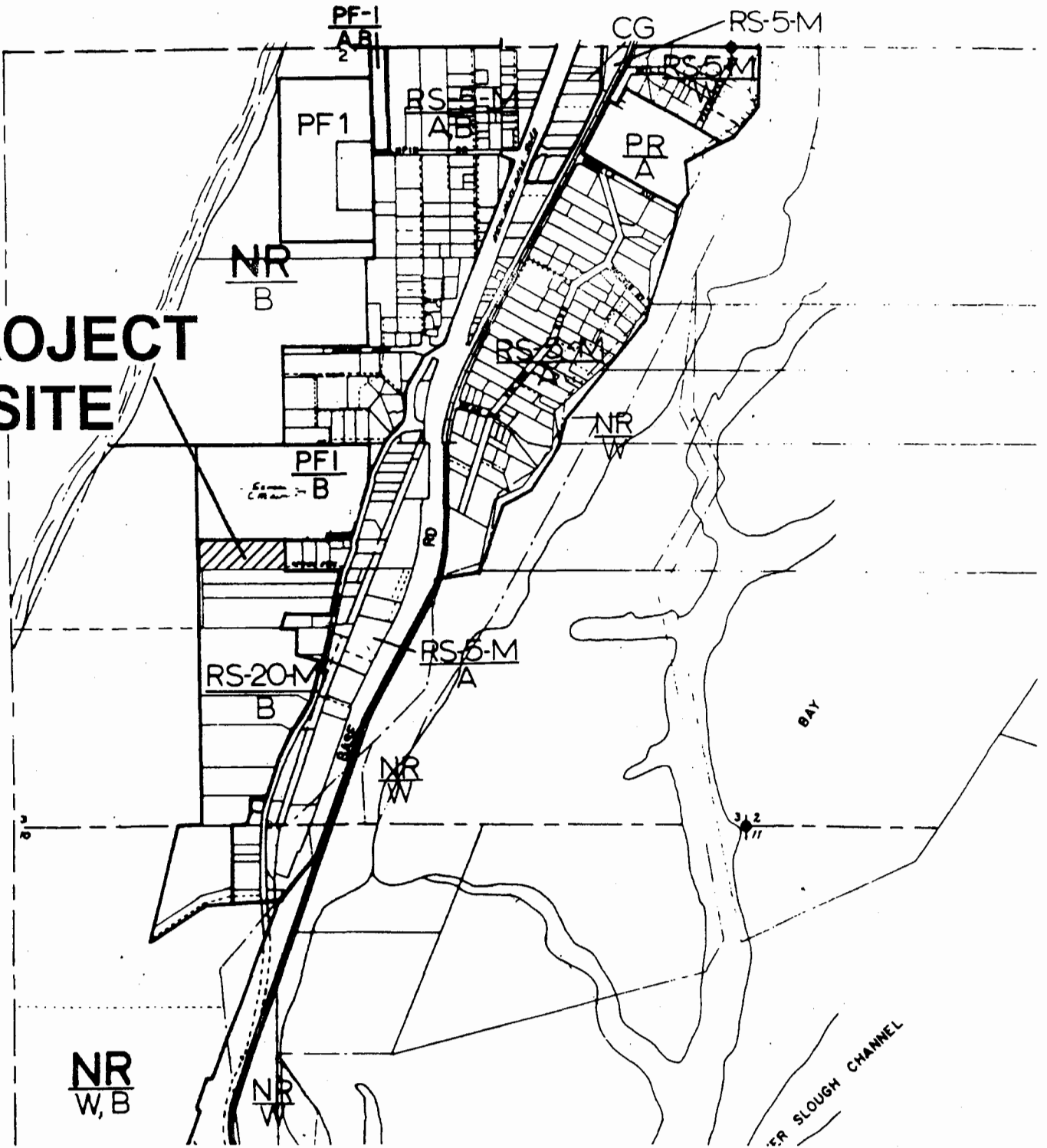
PROJECT SITE



PROPOSED ROGERS COASTAL DEVELOPMENT PERMIT & SPECIAL
MANILA AREA CDP-04-94.XMX/SP-05-87XMX
APN: 400-121-07
SECTION 3 T5N R1W H. B. & M.
LOCATION MAP



PROJECT SITE



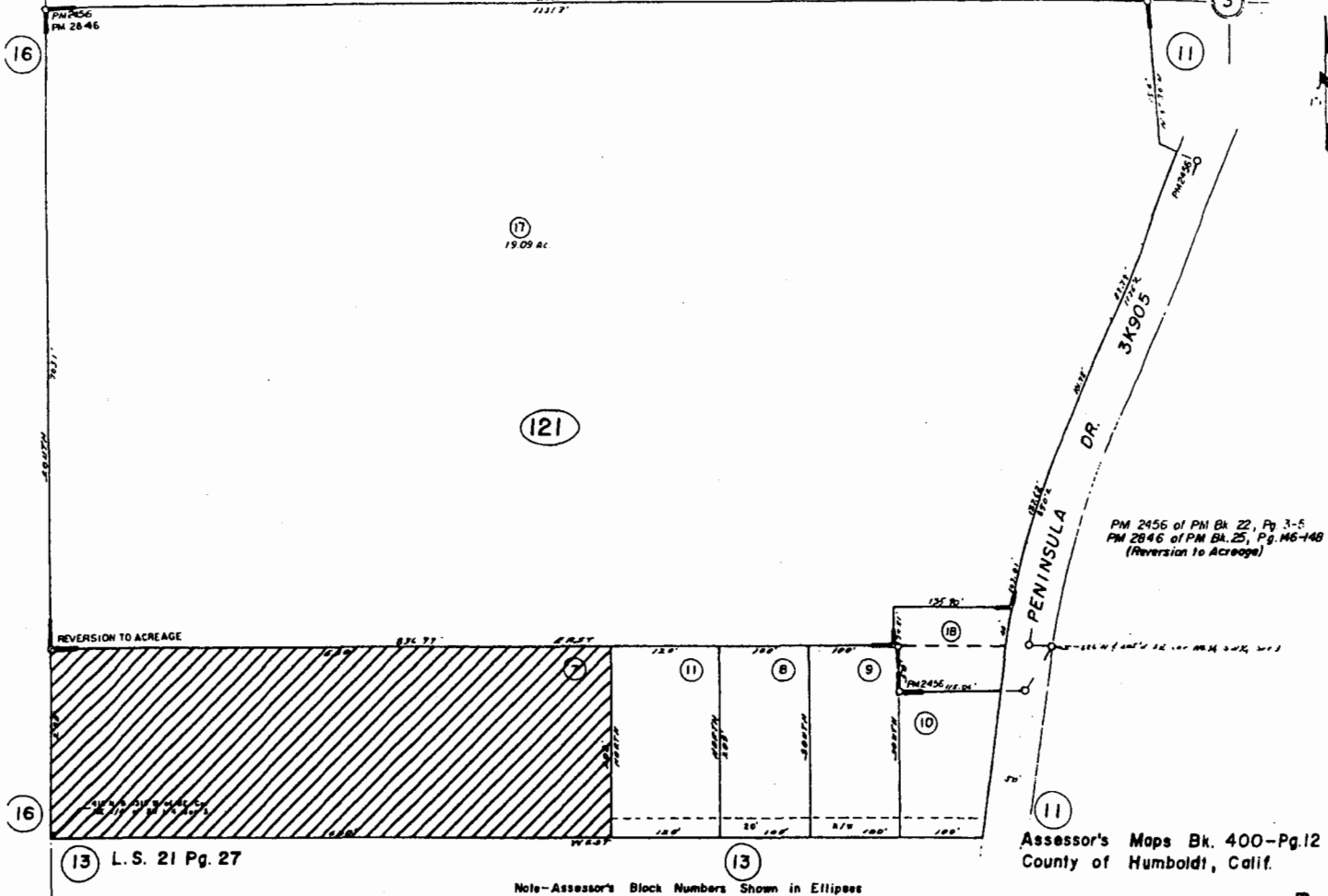
**PROPOSED ROGERS COASTAL DEVELOPMENT PERMIT & SPECIAL
MANILA AREA CDP-04-94XM/SP-05-87XM PERMIT SECOND
APN: 400-121-07 EXTENSION
SECTION 3 T5N R1W H. B. & M.
ZONING MAP**



POR. SW 1/4 SEC. 3 T 5N, R 1W HB & M

TAX AREA CODE
53-007

400-12



Note-Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles

Assessor's Maps Bk. 400-Pg.12
County of Humboldt, Calif.

**PROPOSED ROGERS COASTAL DEVELOPMENT PERMIT & SPECIAL
 MANILA AREA CDP-04-94 XMX/SP-05-87XMX PERMIT SECOND
 APN: 400-121-07 EXTENSION**

SECTION 3 T5N R1W H. B. & M.

ASSESSOR PARCEL MAP

ATTACHMENT 2

Plot Plan

ATTACHMENT 3

Conditions of Approval

RECOMMENDED CONDITIONS OF APPROVAL

APPROVAL OF THE COASTAL DEVELOPMENT PERMIT AND SPECIAL PERMIT IS CONDITIONED UPON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE FULFILLED BEFORE A BUILDING PERMIT MAY BE ISSUED:

Conditions of Approval:

- 1. Applicant shall submit verification of connection to community water and sewer from the Manila Community Services District prior to occupancy of the structure.
- 2. Four (4) non-tandem, independently accessible parking spaces, outside of the front yard setback, shall be constructed on-site before a "final" is issued for the building permit. **This requirement shall be clearly identified on the plot plan submitted for the building permit.**
- 3. Driveway access shall be improved with a surface of gravel or better in order to support a 58,000 pound fire apparatus and shall be maintained for the life of the project.
- 4. All portions of the residence must be within 150 feet of access road.
- 5. The applicant shall provide two (2) copies of a site mitigation plan to be approved by the Planning Director in consultation with the California Department of Fish and Game. The plan shall identify a qualified specialist who will monitor construction activities to insure that the following mitigation measures have been incorporated:
 - Recommendations contained in the geologic evaluation;
 - Minimized disturbances to vegetated dunes;
 - Planting of native trees to increase the vegetation buffer of the slough wetland areas;
 - Exterior lighting is not illuminating the dune areas beyond the site improvement;

The plan shall also contain a provision for a report to be filed with the Planning Division after completion of each construction phase stating that the work has been performed in compliance with the mitigation plan. Approval of this report by the Planning Division shall satisfy this requirement.

- 6. Within five (5) days of the effective date of the approval of this permit, the applicant shall submit a check to the Planning Division in the amount of \$25.00 (document handling fee) pursuant to Section 711.4 of the Fish and Game Code.
- 7. The applicant shall make an irrevocable Offer to Dedicate to the County of Humboldt for public use the portions of the Peninsula Drive trail as depicted in Attachment 6 consistent with Section 313-95.1 of the Coastal Zoning Regulations. In order to allow for pedestrian and equestrian use, the easement may have a width of 20 feet.
- 8. All recommendations in the R-2 Engineering and Geologic Report (LACO Associates, 2005) shall be followed to the satisfaction of the Building Inspections Division.
- 9. This parcel, as well as all others in the Manila area, are shown on the Planning Scenario for a Great Earthquake on the Cascadia Subduction Zone (CSZ, CDMG, 1995, Map S-1) as being within the zone of potential inundation by a tsunami. As part of the project proposal, the applicant is voluntarily contributing to the Tsunami Ready Program Fund for the Manila area. Evidence of applicant's contribution to the Tsunami Ready Fund administered by the County Office of Emergency Services (OES) and the National Weather Service shall be provided prior to building permit issuance. Use of the funds shall include but not be limited to installation of an active warning system (i.e., warning sirens) or for other Tsunami Ready activities such as tsunami education, identification of evacuation routes, and signage.

BID
10/10/07
BB

BID
BT

BB
10/10/07

8/4/06
M

BID

R# BB
165869
2/4/08

10. The applicant shall submit an engineering report/letter demonstrating compliance with the following mandatory mitigation measures for development in Coastal Wetland Buffer areas: 1) the release rate of stormwater shall not exceed natural rate for runoff for a 50 year storm of 10 minute duration; 2) stormwater outfalls to be dissipated; and 3) development to minimize cut and fill and provide erosion/sediment controls. **This requirement shall be clearly identified on the plot plan submitted for the building permit.**

BB
1/9/06

On-going Requirements/Development Restrictions Which Must Continue to be Satisfied for the Life of the Project:

1. All new and existing outdoor lighting shall be compatible with the existing setting and directed within the property boundaries. Exterior lighting shall be shielded so as to not illuminate the dune areas beyond the site improvement.
2. Where feasible, new utilities shall be underground or sited unobtrusively if above ground.

Informational Notes:

1. If buried archaeological or historical resources are encountered during construction activities, the contractor on-site shall call all work in the immediate area to halt temporarily, and a qualified archaeologist is to be contacted to evaluate the materials. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, dietary bone, and human burials. If human burial is found during construction, state law requires that the County Coroner be contacted immediately. If the remains are found to be those of a Native American, the California Native American Heritage Commission will then be contacted by the Coroner to determine appropriate treatment of the remains.

The applicant is ultimately responsible for ensuring compliance with this condition.
2. The applicant is responsible for receiving all necessary permits and/or approvals from other state and local agencies.
3. This permit shall expire and become null and void at the expiration of one (1) year after all appeal periods have lapsed (see "Effective Date"); except where construction under a valid building permit or use in reliance on the permit has commenced prior to such anniversary date. The period within which construction or use must be commenced may be extended as provided by Section 312-11.3 of the Humboldt County Code.
4. The January 1, 2004 document, "Project Review Input Basic to All Development Projects" is considered part of any input from the California Department of Forestry and Fire Protection (CDF) regarding this project. CDF suggests that the applicant have access to that document's input at the earliest contact possible. Handouts which describe that document are available from the Planning Division.
5. NEW DEVELOPMENT TO REQUIRE PERMIT. Any new development as defined by Section 313-139 of the Humboldt County Code (H.C.C.), shall require a coastal development permit or permit modification, except for Minor Deviations from the Plot Plan as provided under Section 312-11.1 of the Zoning Regulations.
6. Nothing in this permit shall be construed to constitute a waiver of any public rights established through use which may exist on the parcel itself or on the designated easement.

ATTACHMENT 4

Notice of Determination

NOTICE OF DETERMINATION

TO: Office of Planning and Research
P O Box 3044
Sacramento, CA 95812-3044

FROM: Planning Division of Humboldt County
Community Development Services
3015 H Street
Eureka, CA 95501-4484

County Recorder, County of Humboldt

Subject: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

FILE COPY

Project Title: Jane Rogers
Case Number: CDP-04-94 & SP-05-87
Assessor Parcel Number: 400-121-07
State Clearinghouse Number: 2006062069
Lead Agency Contact Person: Elizabeth Burks
Area Code/Telephone/Extension: 707-268-3708

Applicant's Name: Jane Rogers
Applicant's Address: 1825 Hyland St
Bayside, CA 95524
Applicant's Phone: 707-826-5106

Project Location: The project site is located in the Manila area, at the end of Orange Drive, approximately 420' west from the intersection of Orange Drive with Peninsula Drive, on the property known as 425 Orange Drive.

Project Description: A Coastal Development Permit and Special Permit for the development of a single-family residence built to a maximum of 850 sf in addition to a maximum of 75 sf of decking. The average height of the structure will be to a maximum of 30'. The applicant also proposes to construct approximately 320' of fencing not over 6' in height and an approximately 201 sf circular observation deck. A Special Permit is required to reduce the wetland setback for placement of the residence. The approximately 3-acre parcel is currently developed with a shed. No trees are to be removed and minimal grading is required for this project. The Manila Community Services District will provide water and sewer services. As part of the project proposal, the applicant is voluntarily contributing to the Tsunami Ready Program for the Manila area.

This is to advise that the Humboldt County Planning Commission has approved the above described project on July 6, 2006 and has made the following determinations regarding the above described project:

1. The project will not have a significant effect on the environment.
2. A Mitigated Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures were made a condition of the approval of the project.
4. A Statement of Overriding Considerations was not adopted for this project.
5. Findings were made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval is available to the General Public at: N/A

Elizabeth Burks 7/18/06
Signature (Public Agency) Date

Planner I
Title

Date received for filing at OPR:

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: DANIEL EDRICH
 Mailing Address: 1574 PENINSULA DR.
 City: ARCATA Zip Code: 95521

Phone:

RECEIVED

NOV 04 2008

CALIFORNIA
COASTAL COMMISSIONSECTION II. Decision Being Appealed

1. Name of local/port government:

Humboldt county

2. Brief description of development being appealed:

my ages old trail to the beach,
is closing due to house construction

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

425 ORANGE, MANILA, Humboldt County
AP# 400-121-07

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

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

EXHIBIT NO. 5

APPEAL NO.

A-1-HUM-08-045

ROLAND & ROXANNA ZEE

APPEAL, FILED NOVEMBER 4,

2008 BY DANIEL EDRICH

(1 of 4)

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-HUM-08-045

DATE FILED: 11/4/08

DISTRICT: North Coast

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

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

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

6. Date of local government's decision: _____

7. Local government's file number (if any): 1-HUM-08-212

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:

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

(1)

(2)

(3)

(4)

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

My home is an old garage-hall.
The trail that is being considered
for closure stems from the front-door
of my house.

I've used and cared for that trail
for twenty years - it is in fine shape
and is not damaged.

Interestingly the trail I'd be directed
to is RAVAGED overused and abused
to the point of erosion and dead

Pinus contorta.

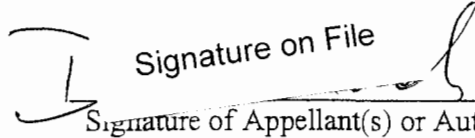
→ the height of project is inconsistent
with the neighborhood.

→ there is an 'observation deck' - these are known
to invade feet where they do not belong.
TAKE A LOOK AT THE 'OBSERVATION DECK'
AT THE COMM. CENTER - JUST NORTH OF PROJECT.

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

SECTION V. Certification

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

 Signature on File

Signature of Appellant(s) or Authorized Agent

Date: 11/4/08

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

Section VI. Agent Authorization

I/We hereby
authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

Staff Analysis of the Evidence Supporting the Required Findings

To approve this project, the Hearing Officer must determine that the applicant has submitted evidence in support of making all of the following required findings.

Changes related to the proposed modification are reflected in bold italic type face.

Project Modification Findings

1. The proposed development must be consistent with the General Plan. The following table identifies the evidence which supports finding that the proposed development is in conformance with all applicable policies and standards of the Humboldt Bay Area Plan (HBAP).

Plan Section(s)	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
Land Use §4.10 (HBAP)	Residential Estates: Residential Development with limited density. Density: 0-2 units per acre.	The proposed project is for the development of a single-family residence on a vacant lot. <i>The modification increases the size of the residence from 850 sq. ft. to 1,085 sq. ft. with 291 sq. ft. of deck. Additionally, the size of the observation deck will increase from 201 sq. ft. to 291 sq. ft.</i>
Housing §3.16 (HBAP)	New housing in the Coastal Zone shall be consistent with the standards, policies, and goals of the Humboldt County Housing Element.	The project meets the goals and policies of the Housing Element because it adds one additional home to the housing inventory.

EXHIBIT NO. 6
APPEAL NO. A-1-HUM-08-045 ROLAND & ROXANNA ZEE COUNTY FINDINGS FOR APPROVAL OF 2007 PERMIT MODIFICATION (1 of 10)

<p>Hazards §3.17 (HBAP)</p>	<p>Minimize risks to life and property in areas of high geologic, flood, and fire hazard.</p>	<p>Based on County hazard maps, the property is located in an area of nil fire hazard risk. It is in an area of moderate to low geologic instability. The development is to occur in the area of low geologic instability. A geologic report has been submitted and the recommendations of this report have been incorporated into the conditions of approval for this project. The project site is located in an area of minimal flooding (per FIRM Map # 060060 0775C). All referral agencies have reviewed the proposed project and recommended approval.</p> <p>The parcel is located in an area of potential tsunami hazard. Although it is not within the 100 year tsunami run-up elevation described in <u>Tsunami Predictions for the West Coast of the Continental United States</u>, it is shown on the Planning Scenario for a Great Earthquake on the Cascadia Subduction Zone (CSZ, CDMG, 1995, Map S-1) as being within the zone of potential inundation by a tsunami. This parcel, as well as all others on the Samoa Peninsula, are shown on the Planning Scenario for a Great Earthquake on the Cascadia Subduction Zone (CSZ, CDMG, 1995, Map S-1) as being within the zone of potential inundation by a tsunami. The scenario earthquake is assumed to generate a local tsunami that will arrive just minutes after the earthquake occurs. Strong shaking should be taken as a warning of a potential tsunami, and individuals should immediately move to higher ground. Much of Manila lies east of the 1.5 mile long by 300 foot wide ridge of wooded dunes which may afford refuge from a potential tsunami; however, the degree of protection for individual properties is unknown and direct and indirect effects of tsunami run-up (e.g., flooding, wave and debris impacts, and access disruption) could result in significant adverse impacts to persons and property. Studies prepared for the Samoa Town Master Plan EIR show that relative risk is greatest for lands at or below the 30 foot elevation above mean sea level (msl). To mitigate for these impacts; the National Weather Service and the County Office of Emergency Services (OES) are working to establish an active warning system and evacuation plans for tsunami hazard areas, including Manila. As part of the project proposal, the applicant is voluntarily contributing to the Tsunami Ready Program Fund administered through OES.</p>
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<p>Biological Resource §3.30 (HBAP)</p>	<p>Protect designated sensitive and critical resource habitats.</p>	<p>There are established and stable wetlands in the project area. The project area falls within the 100 foot wetland buffer. A biological report has been prepared and found that although development is proposed within the buffer there will not be a negative impact on the wetland resource due to the character of the wetlands and the small scale of the proposed development. There are no known species of special concern located on the project site. Provisions have been made to survey for sensitive floral species during blooming periods. A Mitigated Negative Declaration has been prepared as part of this project.</p>
<p>Archaeological and Paleontological Resources §3.18 (HBAP)</p>	<p>Protect cultural, archeological and paleontological resources.</p>	<p>Both the North Coast Information Center (NCIC) and the Wiyot Tribe were referred for this project. NCIC recommended approval. Initially the Wiyot Tribe recommended cultural monitoring. However, after a meeting with a Tribal Cultural Director, Marnie Atkins and the applicant at the project site, it was determined that there was no need for a Cultural Survey or Native American Cultural Monitoring for this project. An informational note has been added to the conditions for this project in case of the unlikely event that archaeological resources are uncovered during construction activities. The informational note requires work to be stopped and a qualified archeologist be contacted.</p>
<p>Visual Resource §3.40 (HBAP)</p>	<p>Protect and conserve scenic and visual qualities of coastal areas.</p>	<p>The subject parcel is not located within a designated coastal view/scenic area on any County land use maps.</p>
<p>Access 3.50 (HBAP)</p>	<p>New development shall not interfere with the public's right of access to the shoreline.</p>	<p>Two segments of Peninsula Drive trail bisect the subject property. This trail extends northwest from Peninsula Drive into the dunes area. It crosses several parcels of private property. This trail falls under the provisions of the Coast Act pertaining to access established through public use; no recorded easement currently exists. Although this access was originally deleted from the Humboldt Bay Area Plan, the access was reinstated in the Access Inventory with adoption of the Beach and Dune Management Plan amendments in 1994, with the recommendation to "Develop a pedestrian/equestrian trail with additional signing and interpretative improvements." The applicant is willing to make an irrevocable Offer to Dedicate an easement for public access across the property where a commonly used trail already exists. (See attached air photo).</p>

2. The proposed development is consistent with the purposes of the existing zone in which the site is located; and 3. The proposed development conforms with all applicable standards and requirements of these regulations. The following table identifies the evidence which supports finding that the proposed development is in conformance with all applicable policies and standards in the Humboldt County Coastal Zoning Regulations.

Zoning Section	Summary of Applicable Requirement	Evidence That Supports the Zoning Finding
§313-6.1 Residential Single Family	Single family residential use is principally permitted.	A single family residence is proposed.
Min. Lot Size	20,000 square feet	Approximately 3 acres
Min. Lot Width	75 feet	Approximately 208 feet
Max. Density	One dwelling unit per lot or two dwelling units per lot with approval of a Special Permit.	The project is for the development of a single family residence on a vacant lot.
Max. Lot Depth	3 x 208 feet = 642 feet	Approximately 630 feet
Yard Setbacks	Front: 20 feet Rear: 10 feet Interior Side: 5 feet Exterior Side: 20 feet or 10 feet if the main building is at least 25 feet from the rear lot line.	Front: ± 98 88 feet Rear: ± 503 493 feet Interior Side: ± 98 88 feet Exterior Side: ± 75 65 feet
Max. Lot Coverage	35%	Less than 1 %
Max. Bldg. Height	35 feet	30 feet maximum
Parking §313-109.1	Four (4) off-street parking spaces required, or two (2) on-site and the development of a parking lane along the frontage of the lot.	Four (4) on-site parking spaces are indicated on the revised plot plan.
§313-28.1 Manufactured Homes Combining Zone		
	To allow manufactured homes as permitted building types.	A manufactured home is not proposed, however the home will be prefabricated.

§313-17.1 Beach and Dune Area Combining Zone

Protect beach and dune areas to ensure that development will not detract from the areas natural resource value or the potential for recreational opportunities.

The biological report that was prepared indicates that the proposed development will not adversely impact the natural resources of the area. The applicant is willing to make an irrevocable Offer to Dedicate an easement for public access across the property where a commonly used trail already exists (A portion of the Peninsula Drive Trail, see attached air photo). With the Offer to Dedicate this access, the proposed development will not result in a loss of potential recreation opportunities.

Zoning Section	Summary of Applicable Requirement	Evidence That Supports the Zoning Finding
<p>§313-125 Coastal Wetland Buffer Areas</p>	<p>To ensure that development permitted in land adjacent to coastal wetlands will not degrade the wetland or detract from its natural resource value, and will incorporate such features into the development site design to minimize impacts on wetland areas</p> <p>Required mitigation for development in wetland buffer:</p> <ul style="list-style-type: none"> • coverage to be less than 25% of lot area • release rate of stormwater to not exceed natural rate for runoff for a 50 year storm of 10 minute duration • stormwater outfalls to be dissipated • areas disturbed during construction to be promptly replanted • development to minimize cut and fill and provide erosion/sediment controls 	<p>The property is located between the Pacific Ocean and Humboldt Bay. The elevation of the proposed project site is 30 feet at the location of the proposed residence and 40 feet at the proposed location of the observation deck. The required wetland buffer is 100'. According to the biological report (LBJ Enterprises 2006), the observation deck will be sited 102 feet from the wetland and does not require a reduction to the wetland buffer. The proposed location of the residence will require a reduction of the wetland buffer to 81 feet. The proposed increase in building floor area will not reduce this buffer setback.</p> <p>The project will not exceed 25% lot coverage; coverage will be less than 1%.</p> <p>The site has established and stable wetland areas. The slough marked on the plot plan has a vegetation buffer between it and the proposed residence that will be left undisturbed. There should not be a significant increase in the natural rate of runoff on the site.</p> <p>The impact from the proposed development will be limited because of the small size of the residence and observation deck. Also the residence is a prefabricated structure, which will allow the building to be erected in a short period of time and will not require the use of heavy equipment. No trees will be removed and minimal grading is required for the project.</p> <p>As an additional measure the applicant will plant native trees on the edge of the slough to enhance the buffer vegetation and further protect the wetland from foot traffic, building and residential activities.</p> <p>Based on the above, the Department finds that the project will be consistent with the provisions for development in wetland buffer areas.</p>

Zoning Ordinance Sections	Summary of Applicable Requirement	Evidence Which Supports Making the Zoning Compliance Finding
§313-39.2 Public Access	Where dedication of public access is required by the Coastal Land Use Plan: The access way conforms with or is adequate to carry out the public access designations and development guidelines of the County's Coastal Land Use Plan.	A portion of the Peninsula Drive Trail crosses the subject property. This trail was added to the Access Inventory with the Beach and Dune master Plan amendments in 1994. The HBAP recommendation is to <i>"Develop a pedestrian/equestrian trail with additional signing and interpretative improvements."</i> The applicant is willing to make an irrevocable Offer to Dedicate an easement for public access across the property where a commonly used trail already exists. Conditions of project approval require dedication of a public access easement consistent with the design standards set forth in Section 313-95.1.5.
§313-95.3 Access Protection	Where there is substantial evidence of historic public use of the accessway, the proposed development shall be sited and designed so as not to block or interfere with the use of such accessway or an equivalent access shall be provided, including the dedication of an easement.	<p>The applicant will offer to dedicate one branch of the Peninsula Drive Trail that goes through the property (See Air Photo). Another branch, which appears to cross the property to meet up with trails that lead to the Manila Community Center, will not be offered through dedication. Although no offer of dedication will be made, this permit does not allow for any development that would prevent access.</p> <p>The applicant has expressed an interest in restoring dune habitat along the branch of the trail that will not be dedicated. Any management strategy that would limit the use of the trail including signage would need to be considered under a modification to this permit.</p>
§312-39.2 Public Access	Dedication of Public access Required by the Coastal Land Use Plan. Protect Coastal Access ways with substantial evidence of historic public use.	<p>The applicant is willing to make an irrevocable offer to dedicate the most heavily used branch of the Peninsula Drive Trail. This trail is on the access inventory of the Humboldt Bay Area Plan.</p> <p>The more lightly used branch of the Peninsula Drive Trail will not be dedicated as an easement. However, this permit does not allow any development that would obstruct use of this branch of the trail. Any development that would restrict the use of this portion of the trail would need to be considered under a modification to this permit.</p> <p>The Orange Drive Trail, which also crosses the property, has been deleted from the</p>

		<p>access inventory due to potential conflicts with sensitive dune habitat areas, and the presence of adequate access nearby. The wetland review submitted with this application confirms that wetlands are in the general vicinity of this trail. The Humboldt Bay Area Plan does not require that this access be secured, and no offer to dedicate is proposed.</p> <p>The following Informational Note has been added to the Conditions of Approval: "Nothing in this permit shall be construed to constitute a waiver of any public rights established through use which may exist on the parcel itself or on the designated easement."</p>
<p>§312-39.15 Supplemental Impact Findings - Coastal Wetland Buffers</p>	<p>Development will be sited and designed to prevent impacts which would significantly degrade wetland habitat area, and shall be compatible with the continuance of such habitat areas</p> <p>The biological productivity and quality of coastal waters, streams, wetlands, estuaries and lakes appropriate to maintain optimum populations of marine organisms shall be maintained, and where feasible, restored.</p>	<p>Although the proposed location of the residence is within the wetland buffer, it is situated in such a way to minimize potential impacts. The home will be sited in a fairly level grassy area. The area has been disturbed in the past, and currently is not supporting native species. The location is near the access road will not require intrusion or construction into a wetland.</p> <p>With the inclusion of the Wetland Buffer Mitigation per Section 313-125 (see above) and the recommendations in the biological report, it is believed that the construction of a single family residence will have no adverse impact on the quality of the wetland.</p>

4. Public Health, Safety and Welfare, and 5. Environmental Impact: The following table identifies the evidence which supports finding that the proposed location of the use and conditions under which it may be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity, and will not adversely impact the environment.

Code Section	Summary of Applicable Requirement	Evidence that Supports the Required Finding
§312-17.1.4	The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.	All reviewing referral agencies have approved the proposed development. As conditioned, the project is consistent with the general plan and zoning ordinances and the project will not cause significant environmental damage. All utilities are available to the site and all parking is provided on-site. The proposed structure will be compatible with the immediate neighborhood in terms of building size, height and design.
CEQA	Environmental review is required.	<p>As lead agency, the Department prepared and noticed the Initial Study and Mitigated Negative Declaration for review. The initial study evaluated the project for any adverse effects on fish and wildlife resources. Based on the information in the application, and a review of relevant references in the Department, staff has determined that there is no evidence before the Department that the project will have any potential adverse effect either individually or cumulatively, on fish and wildlife resources or the habitat upon which wildlife depends. The environmental document on file includes a detailed discussion of all relevant environmental issues. Staff has also determined that the project, as approved and conditioned, will not result in a change to any of the resources listed in subsections (A) through (G) of Section 753.5(d) of the California Code of Regulations [Title 14, Chapter 4]. Therefore, staff is supportive of a <i>di minimis</i> finding regarding the waiver of environmental review fees subject to Section 711.4 of the Fish and Game Code. The Department will file a "Certificate of Fee Exemption" with the County Clerk pursuant to Section 753.5(c) of the California Code of Regulations. The \$25.00 document handling fee required by the statute will be paid by the applicant.</p> <p>NOTE: An addendum to the adopted Mitigated Negative Declaration has been prepared. There are no significant changes to the project that would result in adverse impacts not already discussed in the adopted Mitigated Negative Declaration.</p>

Permit Extension Findings

Permit Extension: Section 312-11 (Extension of an Approval of a Development Permit or Variance) of the Humboldt County Code Zoning Regulations establishes the authority to grant time extensions for approved or conditionally approved development permits, including Coastal Development Permits and Special Permits, when it can be found that the findings and conditions of the original project have not changed significantly.

The applicant has requested a one (1) year extension to the approved Coastal Development permit and Special Permit. **If granted the extension will expire on August 4, 2008.**

The Planning Department has circulated requests for input relative to the extension petition and has received no comments against the petition being granted. It is staff's opinion that **the findings and conditions of the original project, effective August 3, 2006, have not changed significantly based on the following staff analysis, and are applicable to the proposed extension because:**

1. The parcel's zoning, Residential Single Family, specifying a 20,000 sq. ft. minimum parcel size, in addition to a Manufactured Home and Beach/Dunes Area combining zones (RS-20-M/B), for which a conformance finding was made, has not changed.
2. The General Plan Land Use designation, Residential Estates (RE), for which a consistency finding was made, has not changed.
3. The applicable design standards, for which the project was evaluated, have not changed.
4. All other standards and requirements to which the project is subject and as administered by other departments or agencies have not changed.
5. The original project was subject to environmental review per the California Environmental Quality Act (CEQA). A Mitigated Negative Declaration was prepared and adopted. This project includes an Addendum to this MND pursuant to Section 15164 of the CEQA Guidelines. The County has received no evidence indicating that preparation of a Subsequent MND under CEQA is necessary.

Referral agencies have recommended approval of the extension.

Staff Analysis of the Evidence Supporting the Required Findings

To approve this project, the Hearing Officer must determine that the applicant has submitted evidence in support of making all of the following required findings.

1. The proposed development must be consistent with the General Plan. The following table identifies the evidence which supports finding that the proposed development is in conformance with all applicable policies and standards of the Humboldt Bay Area Plan (HBAP).

Plan Section(s)	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
Land Use §4.10 (HBAP)	Residential Estates: Residential Development with limited density. Density: 0-2 units per acre.	The proposed project is for the development of a single-family residence on a vacant lot.
Housing §3.16 (HBAP)	New housing in the Coastal Zone shall be consistent with the standards, policies, and goals of the Humboldt County Housing Element.	The project meets the goals and policies of the Housing Element because it adds one additional home to the housing inventory.

EXHIBIT NO. 7
APPEAL NO. A-1-HUM-08-045 ROLAND & ROXANNA ZEE COUNTY FINDINGS FOR APPROVAL OF 2006 PERMIT (1 of 9)

<p>Hazards §3.17 (HBAP)</p>	<p>Minimize risks to life and property in areas of high geologic, flood, and fire hazard.</p>	<p>Based on County hazard maps, the property is located in an area of nil fire hazard risk. It is in an area of moderate to low geologic instability. The development is to occur in the area of low geologic instability. A geologic report has been submitted and the recommendations of this report have been incorporated into the conditions of approval for this project. The project site is located in an area of minimal flooding (per FIRM Map # 060060 0775C). All referral agencies have reviewed the proposed project and recommended approval.</p> <p>The parcel is located in an area of potential tsunami hazard. Although it is not within the 100 year tsunami run-up elevation described in <u>Tsunami Predictions for the West Coast of the Continental United States</u>, it is shown on the Planning Scenario for a Great Earthquake on the Cascadia Subduction Zone (CSZ, CDMG, 1995, Map S-1) as being within the zone of potential inundation by a tsunami. This parcel, as well as all others on the Samoa Pencilina, are shown on the Planning Scenario for a Great Earthquake on the Cascadia Subduction Zone (CSZ, CDMG, 1995, Map S-1) as being within the zone of potential inundation by a tsunami. The scenario earthquake is assumed to generate a local tsunami that will arrive just minutes after the earthquake occurs. Strong shaking should be taken as a warning of a potential tsunami, and individuals should immediately move to higher ground. Much of Manila lies east of the 1.5 mile long by 300 foot wide ridge of wooded dunes which may afford refuge from a potential tsunami; however, the degree of protection for individual properties is unknown and direct and indirect effects of tsunami run-up (e.g., flooding, wave and debris impacts, and access disruption) could result in significant adverse impacts to persons and property. Studies prepared for the Samoa Town Master Plan EIR show that relative risk is greatest for lands at or below the 30 foot elevation above mean sea level (msl). To mitigate for these impacts, the National Weather Service and the County Office of Emergency Services (OES) are working to establish an active warning system and evacuation plans for tsunami hazard areas, including Manila. As part of the project proposal, the applicant is voluntarily contributing to the Tsunami Ready Program Fund administered through OES.</p>
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<p>Biological Resource §3.30 (HBAP)</p>	<p>Protect designated sensitive and critical resource habitats.</p>	<p>There are established and stable wetlands in the project area. The project area falls within the 100 foot wetland buffer. A biological report has been prepared and found that although development is proposed within the buffer there will not be a negative impact on the wetland resource due to the character of the wetlands and the small scale of the proposed development. There are no known species of special concern located on the project site. Provisions have been made to survey for sensitive floral species during blooming periods. A Mitigated Negative Declaration has been prepared as part of this project.</p>
<p>Archaeological and Paleontological Resources §3.18 (HBAP)</p>	<p>Protect cultural, archeological and paleontological resources.</p>	<p>Both the North Coast Information Center (NCIC) and the Wiyot Tribe were referred for this project. NCIC recommended approval. Initially the Wiyot Tribe recommended cultural monitoring. However, after a meeting with a Tribal Cultural Director, Marnie Atkins and the applicant at the project site, it was determined that there was no need for a Cultural Survey or Native American Cultural Monitoring for this project. An informational note has been added to the conditions for this project in case of the unlikely event that archaeological resources are uncovered during construction activities. The informational note requires work to be stopped and a qualified archeologist be contacted.</p>
<p>Visual Resource §3.40 (HBAP)</p>	<p>Protect and conserve scenic and visual qualities of coastal areas.</p>	<p>The subject parcel is not located within a designated coastal view/scenic area on any County land use maps.</p>
<p>Access 3.50 (HBAP)</p>	<p>New development shall not interfere with the public's right of access to the shoreline.</p>	<p>Two segments of Peninsula Drive trail bisect the subject property. This trail extends northwest from Peninsula Drive into the dunes area. It crosses several parcels of private property. This trail falls under the provisions of the Coast Act pertaining to access established through public use; no recorded easement currently exists. Although this access was originally deleted from the Humboldt Bay Area Plan, the access was reinstated in the Access Inventory with adoption of the Beach and Dune Management Plan amendments in 1994, with the recommendation to "Develop a pedestrian/equestrian trail with additional signing and interpretative improvements." The applicant is willing to make an irrevocable Offer to Dedicate an easement for public access across the property where a commonly used trail already exists. (See attached air photo).</p>

2. The proposed development is consistent with the purposes of the existing zone in which the site is located; and 3. The proposed development conforms with all applicable standards and requirements of these regulations. The following table identifies the evidence which supports finding that the proposed development is in conformance with all applicable policies and standards in the Humboldt County Coastal Zoning Regulations.

Zoning Section	Summary of Applicable Requirement	Evidence That Supports the Zoning Finding
§313-6.1 Residential Single Family	Single family residential use is principally permitted.	A single family residence is proposed.
Min. Lot Size	20,000 square feet	Approximately 3 acres
Min. Lot Width	75 feet	Approximately 208 feet
Max. Density	One dwelling unit per lot or two dwelling units per lot with approval of a Special Permit.	The project is for the development of a single family residence on a vacant lot.
Max. Lot Depth	3 x 208 feet = 642 feet	Approximately 630 feet
Yard Setbacks	Front: 20 feet Rear: 10 feet Interior Side: 5 feet Exterior Side: 20 feet or 10 feet if the main building is at least 25 feet from the rear lot line.	Front: ± 98 feet Rear: ± 503 feet Interior Side: ±98 feet Exterior Side: ±75 feet
Max. Lot Coverage	35%	Less than 1 %
Max. Bldg. Height	35 feet	30 feet maximum
Parking §313-109.1	Four (4) off-street parking spaces required, or two (2) on-site and the development of a parking lane along the frontage of the lot.	Four (4) on-site parking spaces are indicated on the revised plot plan.
§313-28.1 Manufactured Homes Combining Zone		
To allow manufactured homes as permitted building types.		A manufactured home is not proposed, however the home will be prefabricated.

§813.47(d) Beach and Dune Area Combining Zone	
Protect beach and dune areas to ensure that development will not detract from the areas natural resource value or the potential for recreational opportunities.	The biological report that was prepared indicates that the proposed development will not adversely impact the natural resources of the area. The applicant is willing to make an irrevocable Offer to Dedicate an easement for public access across the property where a commonly used trail already exists (A portion of the Peninsula Drive Trail, see attached air photo). With the Offer to Dedicate this access, the proposed development will not result in a loss of potential recreation opportunities.

Zoning Section	Summary of Applicable Requirement	Evidence That Supports the Zoning Finding
<p>§313-125 Coastal Wetland Buffer Areas</p>	<p>To ensure that development permitted in land adjacent to coastal wetlands will not degrade the wetland or detract from its natural resource value, and will incorporate such features into the development site design to minimize impacts on wetland areas</p> <p>Required mitigation for development in wetland buffer:</p> <ul style="list-style-type: none"> • coverage to be less than 25% of lot area • release rate of stormwater to not exceed natural rate for runoff for a 50 year storm of 10 minute duration • stormwater outfalls to be dissipated • areas disturbed during construction to be promptly replanted • development to minimize cut and fill and provide erosion/sediment controls 	<p>The property is located between the Pacific Ocean and Humboldt Bay. The elevation of the proposed project site is 30 feet at the location of the proposed residence and 40 feet at the proposed location of the observation deck. The required wetland buffer is 100'. According to the biological report (LBJ Enterprises 2006), the observation deck will be sited 102 feet from the wetland and does not require a reduction to the wetland buffer. The proposed location of the residence will require a reduction of the wetland buffer to 81 feet.</p> <p>The project will not exceed 25% lot coverage; coverage will be less than 1%.</p> <p>The site has established and stable wetland areas. The slough marked on the plot plan has a vegetation buffer between it and the proposed residence that will be left undisturbed. There should not be a significant increase in the natural rate of runoff on the site.</p> <p>The impact from the proposed development will be limited because of the small size of the residence and observation deck. Also the residence is a prefabricated structure, which will allow the building to be erected in a short period of time and will not require the use of heavy equipment. No trees will be removed and minimal grading is required for the project.</p> <p>As an additional measure the applicant will plant native trees on the edge of the slough to enhance the buffer vegetation and further protect the wetland from foot traffic, building and residential activities.</p> <p>Based on the above, the Department finds that the project will be consistent with the provisions for development in wetland buffer areas.</p>

Zoning Ordinance Sections	Summary of Applicable Requirement	Evidence Which Supports Making the Zoning Compliance Finding
§313-39.2 Public Access	Where dedication of public access is required by the Coastal Land Use Plan: The access way conforms with or is adequate to carry out the public access designations and development guidelines of the County's Coastal Land Use Plan.	A portion of the Peninsula Drive Trail crosses the subject property. This trail was added to the Access Inventory with the Beach and Dune master Plan amendments in 1994. The HBAP recommendation is to <i>"Develop a pedestrian/equestrian trail with additional signing and interpretative improvements."</i> The applicant is willing to make an irrevocable Offer to Dedicate an easement for public access across the property where a commonly used trail already exists. Conditions of project approval require dedication of a public access easement consistent with the design standards set forth in Section 313-95.1.5.
§313-95.3 Access Protection	Where there is substantial evidence of historic public use of the accessway, the proposed development shall be sited and designed so as not to block or interfere with the use of such accessway or an equivalent access shall be provided, including the dedication of an easement.	<p>The applicant will offer to dedicate one branch of the Peninsula Drive Trail that goes through the property (See Air Photo). Another branch, which appears to cross the property to meet up with trails that lead to the Manila Community Center, will not be offered through dedication. Although no offer of dedication will be made, this permit does not allow for any development that would prevent access.</p> <p>The applicant has expressed an interest in restoring dune habitat along the branch of the trail that will not be dedicated. Any management strategy that would limit the use of the trail including signage would need to be considered under a modification to this permit.</p>
§312-39.2 Public Access	Dedication of Public access Required by the Coastal Land Use Plan. Protect Coastal Access ways with substantial evidence of historic public use.	<p>The applicant is willing to make an irrevocable offer to dedicate the most heavily used branch of the Peninsula Drive Trail. This trail is on the access inventory of the Humboldt Bay Area Plan.</p> <p>The more lightly used branch of the Peninsula Drive Trail will not be dedicated as an easement. However, this permit does not allow any development that would obstruct use of this branch of the trail. Any development that would restrict the use of this portion of the trail would need to be considered under a modification to this permit.</p> <p>The Orange Drive Trail, which also crosses the property, has been deleted from the</p>

		<p>access inventory due to potential conflicts with sensitive dune habitat areas, and the presence of adequate access nearby. The wetland review submitted with this application confirms that wetlands are in the general vicinity of this trail. The Humboldt Bay Area Plan does not require that this access be secured, and no offer to dedicate is proposed.</p> <p>The following Informational Note has been added to the Conditions of Approval: "Nothing in this permit shall be construed to constitute a waiver of any public rights established through use which may exist on the parcel itself or on the designated easement."</p>
<p>§312-39.15 Supplemental Impact Findings - Coastal Wetland Buffers</p>	<p>Development will be sited and designed to prevent impacts which would significantly degrade wetland habitat area, and shall be compatible with the continuance of such habitat areas</p> <p>The biological productivity and quality of coastal waters, streams, wetlands, estuaries and lakes appropriate to maintain optimum populations of marine organisms shall be maintained, and where feasible, restored.</p>	<p>Although the proposed location of the residence is within the wetland buffer, it is situated in such a way to minimize potential impacts. The home will be sited in a fairly level grassy area. The area has been disturbed in the past, and currently is not supporting native species. The location is near the access road will not require intrusion or construction into a wetland.</p> <p>With the inclusion of the Wetland Buffer Mitigation per Section 313-125 (see above) and the recommendations in the biological report, it is believed that the construction of a single family residence will have no adverse impact on the quality of the wetland.</p>

4. Public Health, Safety and Welfare, and 5. Environmental Impact: The following table identifies the evidence which supports finding that the proposed location of the use and conditions under which it may be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity, and will not adversely impact the environment.

Code Section	Summary of Applicable Requirement	Evidence that Supports the Required Finding
§312-17.1.4	The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.	All reviewing referral agencies have approved the proposed development. As conditioned, the project is consistent with the general plan and zoning ordinances and the project will not cause significant environmental damage. All utilities are available to the site and all parking is provided on-site. The proposed structure will be compatible with the immediate neighborhood in terms of building size, height and design.
CEQA	Environmental review is required.	As lead agency, the Department prepared and noticed the Initial Study and Mitigated Negative Declaration for review. The initial study evaluated the project for any adverse effects on fish and wildlife resources. Based on the information in the application, and a review of relevant references in the Department, staff has determined that there is no evidence before the Department that the project will have any potential adverse effect either individually or cumulatively, on fish and wildlife resources or the habitat upon which wildlife depends. The environmental document on file includes a detailed discussion of all relevant environmental issues. Staff has also determined that the project, as approved and conditioned, will not result in a change to any of the resources listed in subsections (A) through (G) of Section 753.5(d) of the California Code of Regulations [Title 14, Chapter 4]. Therefore, staff is supportive of a <i>di minimis</i> finding regarding the waiver of environmental review fees subject to Section 711.4 of the Fish and Game Code. The Department will file a "Certificate of Fee Exemption" with the County Clerk pursuant to Section 753.5(c) of the California Code of Regulations. The \$25.00 document handling fee required by the statute will be paid by the applicant.